

עץ חיים

ETZ HAYIM

TORAH AND COMMENTARY

THE RABBINICAL ASSEMBLY
THE UNITED SYNAGOGUE OF CONSERVATIVE JUDAISM



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¹⁸You shall appoint magistrates and officials for your tribes, in all the settlements that the LORD your God is giving you, and they shall govern the people with due justice. ¹⁹You shall not judge unfairly: you shall show no partiality; you shall not take bribes, for bribes blind the eyes of the discerning and upset the plea of the just. ²⁰Justice, justice shall you pursue, that you may

¹⁸ שֹׁפְטִים וְשֹׁטְרִים תִּתֵּן לָךְ בְּכָל־שְׁעָרֶיךָ
אֲשֶׁר יְהוָה אֱלֹהֶיךָ נֹתֵן לָךְ לְשִׁבְטֶיךָ
וְשָׁפְטוּ אֶת־הָעָם מִשְׁפָּט־צֶדֶק: ¹⁹ לֹא־
תִטָּה מִשְׁפָּט לֹא תִפְיֹר פָּנִים וְלֹא־תִקַּח
שֹׁחַד כִּי הַשֹּׁחַד יְעִוֵּר עֵינַי חֲכָמִים וַיְסַלֵּף
דְּבָרֵי צְדִיקָם: ²⁰ צֶדֶק צֶדֶק תִּרְדֹּף לְמַעַן

Moses' Second Discourse, Part 3: The Laws Given in Moab (continued)

CIVIL AND RELIGIOUS AUTHORITIES (16:18–18:22)

The Torah establishes limits to the powers of judges, kings, priests, and prophets. By making these limitations known to the public, the Torah lays the ground for public supervision and criticism of human authorities, thus preventing them from gaining absolute domination and prestige.

THE JUDICIARY (16:18–17:13)

The text assumes that the judicial system established in 1:13–17, to meet the military requirements of the trek through the wilderness and the conquest of the land, will not continue after the conquest because it is unsuitable for conditions in the land.

APPOINTING JUDGES AND OFFICIALS
(vv. 18–20)

18. The command to appoint judges and officials is addressed to the people, implying that they, or the elders on their behalf, are to make

the appointments. At first, judging probably was not separate from other aspects of leadership, carried out by the elders of a tribe or a village acting collectively. When a village chief was chosen from among the leading elders, he probably became the judge.

19. This and verse 20 state the three fundamental rules of judicial propriety, all of which are reiterated frequently in the Bible. These rules are addressed to the entire people.

show no partiality See Lev. 19:15.

bribes Hebrew: *shohad*, a gift for which something is expected in return, not necessarily one given with dishonest intent.

blind the eyes A gift or a fee would incline the judge in that party's favor.

upset the plea By influencing the judge against the claims of the innocent party.

20. justice, justice That is, justice alone; justice and only justice.

This *parashah* is devoted almost entirely to the theme of justice, from the obligations of judges to limitations on the power of kings. The well-being of society depends neither on the goodwill of the ruler nor on the ascendance of the most capable in a competitive environment but on the certainty that the law will treat all alike and will protect the most vulnerable against the most powerful. The absolute primacy of justice, a theme that occurs throughout the Torah, receives its greatest emphasis here. It has been said that "since the time of Abraham, Justice has spoken with a Hebrew accent" (Heine).

18. in all the settlements Literally, "at all your gates." We must set guardians at the gates

of our souls—our mouths (that we do not lie or speak malicious gossip), our ears (that we not be eager to hear malicious gossip), and our eyes (that we not form the habit of seeing the worst in others) (*Sh'nei Luhot Ha-B'rit*).

due justice Hebrew: *mishpat tzedek*. Berkovits distinguishes between these terms: *tzedek* is justice in the sense of doing the right thing in a legal procedure; *mishpat* is justice as a cosmic principle that maintains harmony in the world and makes possible the world's continued existence.

20. Justice, justice shall you pursue "The term 'pursue' carries strong connotations of effort, eagerness. This implies more than merely respecting or following justice"; we must ac-

thrive and occupy the land that the LORD your God is giving you.

²¹You shall not set up a sacred post—any kind of pole beside the altar of the LORD your God that you may make—²²or erect a stone pillar; for such the LORD your God detests.

תַּחֲיֶהּ וְיָרֶשֶׁת אֶת־הָאָרֶץ אֲשֶׁר־יְהוָה
אֱלֹהֶיךָ נָתַן לָךְ: ס
²¹לֹא־תִטֵּעַ לָךְ אֲשֶׁרָה כָּל־עֵץ אֲצֶל מִזְבֵּחַ
יְהוָה אֱלֹהֶיךָ אֲשֶׁר תַּעֲשֶׂה־לָּךְ: ס
²²וְלֹא־תִקֵּים לָךְ מַצֵּבָה אֲשֶׁר שָׂא יְהוָה
אֱלֹהֶיךָ: ס

17 You shall not sacrifice to the LORD your God an ox or a sheep that has any defect of a serious kind, for that is abhorrent to the LORD your God.

לֹא־תִזְבֹּחַ לַיהוָה אֱלֹהֶיךָ שׁוֹר וְשֶׂה
אֲשֶׁר יִהְיֶה בוֹ מוֹם כָּל דָּבָר רָע כִּי תִזְבַּח
יְהוָה אֱלֹהֶיךָ הוּא: ס

THREE WORSHIP PROHIBITIONS (16:21–17:1)

21. sacred post A standing wooden object at a place of worship. Such objects seem to have been associated with Canaanite deities. Deuteronomy bans them from sanctuaries of the Lord because their presence might eventually lead the Israelites to blur the distinctions between Israelite and Canaanite religions.

any kind of pole Literally, “any treelike object,” whether a natural or an artificial tree or a pole. This comprehensive ban prevents anyone from claiming that the prohibition covers only certain objects of this type, and that others are legitimate.

beside the altar . . . that you may make The

prohibition applies not only to the chosen sanctuary but also to the many local altars that had been legitimate before the centralization of Israelite worship in Jerusalem.

22. Unadorned pillars, like sacred posts, once were regarded as monuments to, or residences of, God and considered legitimate in Israelite religion. Jacob erected one to the Lord at Bethel, Moses set up 12 pillars at Mount Sinai, and Joshua put up one in the sanctuary at Shechem. The distinction between legitimate and idolatrous pillars, however, apparently was too difficult to maintain, and eventually all pillars were outlawed.

tively pursue it (Heschel). This command also means to “pursue justice justly,” for just goals can never be achieved by unjust means; the worthiest of goals will be rendered less worthy if we have to compromise justice to achieve it (Simḥah Bunem). Inspired by this verse, by the Torah’s vision of a just society, and by a history of living as a mistreated minority, Jews repeatedly have been in the forefront of struggles for social justice.

21. One may not plant a tree alongside an altar to God, lest observers think we are worshiping the tree, as some pagans do. True, God is the creator of the natural world’s beauty and order, and nature is an example of God’s handiwork; but God is not coterminous with the natural world as some sci-

entists and philosophers have believed. Nature may be beautiful, but it is not moral. Therefore, while we may admire nature, we are not to worship it. One commentator reminds us that Abraham planted trees at sites where he worshiped God (Gen. 21:33) and concludes that forms of worship that may have been appropriate at one time may not be appropriate for later generations (*Mei Ha-Shilo-ah*).

CHAPTER 17

1. The refusal to deify nature or be seduced by it should not lead us to conclude that we can sacrifice blemished or deformed animals on God’s altar, on the theory that God is not concerned with physical beauty.

HALAKHAH L'MA'ASEH

16:20. Justice, justice This verse is the classical source of the Jewish tradition’s demand that we advocate and practice both formal and distributive justice in our interpersonal relations and in society at large. That is, we must judge people using fair procedures (formal justice), and we must ensure that everyone gets at least the minimum of what is necessary to live (distributive justice). See the essay “Justice.”

²If there is found among you, in one of the settlements that the LORD your God is giving you, a man or woman who has affronted the LORD your God and transgressed His covenant—³turning to the worship of other gods and bowing down to them, to the sun or the moon or any of the heavenly host, something I never commanded—⁴and you have been informed or have learned of it, then you shall make a thorough inquiry. If it is true, the fact is established, that abhorrent thing was perpetrated in Israel, ⁵you shall take the man or the woman who did that wicked thing out to the public place, and you shall stone them, man or woman, to death.—⁶A person shall be put to death only on the testimony of two or more witnesses; he must not be put to death on the testimony of a single witness.—⁷Let the hands of the witnesses be the first against him to put him to death, and the hands of the rest of the people thereafter. Thus you will sweep out evil from your midst.

⁸If a case is too baffling for you to decide, be

PROSECUTION OF APOSTATES (17:2–7)

Worshiping gods violates the 1st commandment, the most fundamental rule of the Covenant. It is a crime that undermines the very existence of Israel as a nation, as reflected in its frequently stated punishment: destruction of the state and exile.

3. turning to the worship of other gods and bowing down to them The phrasing echoes the Decalogue: “you shall not bow down to [other gods] or serve them” (5:9).

to the sun or the moon or any of the heavenly host Heavenly bodies were worshiped in Syria and Canaan before the Israelites settled in Canaan. The practice became prevalent in Judah in the 7th century B.C.E., during the reign of King Manasseh, as a form of assimilation to the Assyrian-Aramean culture of the Assyrian Empire (see 2 Kings 21). Deuteronomy is the only book of the Torah to mention these practices.

² כִּי־יִמָּצָא בְּקִרְבְּךָ בְּאֶחָד שְׁעָרֶיךָ אִשָּׁה
יְהוָה אֱלֹהֶיךָ נָתַן לְךָ אִישׁ אוֹ-אִשָּׁה
אֲשֶׁר יַעֲשֶׂה אֶת־הָרַע בְּעֵינֵי יְהוָה אֱלֹהֶיךָ
לַעֲבֹד בְּרִיתוֹ: ³ וְיִלָּךְ וַיַּעֲבֹד אֱלֹהִים
אֲחֵרִים וַיִּשְׁתַּחֲוֶה לָהֶם וּלְשֶׁמֶשׁ | אוֹ לַיָּרֵחַ
אוֹ לְכָל־צֶבֶא הַשָּׁמַיִם אֲשֶׁר לֹא־צִוִּיתִי:
⁴ וְהִגַּדְתָּ לָּךְ וְשָׁמַעְתָּ וְדִרְשַׁת הֵיטֵב וְהִנֵּה
אָמַת נֹכַח הַדָּבָר נַעֲשִׂתָה הַתּוֹעֵבָה הַזֹּאת
בְּיִשְׂרָאֵל: ⁵ וְהוֹצֵאתָ אֶת־הָאִישׁ הַהוּא אוֹ
אֶת־הָאִשָּׁה הַהוּא אֲשֶׁר עָשָׂה אֶת־הַדָּבָר
הָרַע הַזֶּה אֶל־שְׁעָרֶיךָ אֶת־הָאִישׁ אוֹ
אֶת־הָאִשָּׁה וּסְקַלְתֶּם בָּאֲבָנִים וּמָתוּ:
⁶ עַל־פִּי | שְׁנַיִם עֵדִים אוֹ שְׁלֹשָׁה עֵדִים
יוֹמַת הַמָּת לֹא יוֹמַת עַל־פִּי עַד אֶחָד:
⁷ יָד הָעֵדִים תְּהִיָּה־בּוֹ בְּרֹאשֹׁנָה לַהֲמִיתוֹ
וְיָד כָּל־הָעָם בְּאַחֲרֹנָה וּבִעֲרַת הָרַע
מִקִּרְבְּךָ: פ

⁸ כִּי יִפְלֹא מִמֶּךָ דָּבָר לִמְשָׁפֵט בֵּין־דָּם |

5. See Comment to 13:11.

6. As a safeguard against dishonest or mistaken testimony, at least two witnesses are required. This applies to all types of cases, according to 19:15.

7. Let the hands of the witnesses be the first This requirement would impress on the witnesses that by their testimony they are in effect executing the accused. If their testimony is incorrect, initiating the stoning would make them murderers.

rest of the people The execution was performed by the people themselves; there were no appointed executioners.

HIGH COURT OF REFERRAL (vv. 8–13)

8. case is too baffling The judges in the local courts, addressed directly, are to bring such cases to the high court in the chosen place. This is not

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17:6. two . . . witnesses This verse is the source for Jewish law's requiring two witnesses for most public legal acts, such as witnessing documents of marriage. The Sages added many restrictions on who could be witnesses in capital cases as one way to make it virtually impossible to condemn someone to death (M Mak. 1:10).

it a controversy over homicide, civil law, or assault—matters of dispute in your courts—you shall promptly repair to the place that the LORD your God will have chosen,⁹ and appear before the levitical priests, or the magistrate in charge at the time, and present your problem. When they have announced to you the verdict in the case,¹⁰ you shall carry out the verdict that is announced to you from that place that the LORD chose, observing scrupulously all their instructions to you.¹¹ You shall act in accordance with the instructions given you and the ruling handed down to you; you must not deviate from the verdict that they announce to you either to the right or to the left.¹² Should a man act pre-

לְדָם בֵּין-דִּין לְדִין וּבֵין נֹגַע לְנֹגַע דְּבָרִי רִיבָת בְּשַׁעְרֶיךָ וְקָמַתְּ וְעָלִיתְּ אֶל-הַמָּקוֹם אֲשֶׁר יִבְחָר יְהוָה אֱלֹהֶיךָ בּוֹ: ⁹ וּבָאתָ אֶל-הַכֹּהֲנִים הַלְוִיִּם וְאֶל-הַשֹּׁפֵט אֲשֶׁר יִהְיֶה בַּיָּמִים הָהֵם וְדָרַשְׁתָּ וְהִגִּידוּ לָךְ אֶת דְּבַר הַמִּשְׁפָּט: ¹⁰ וְעָשִׂיתָ עַל-פִּי הַדָּבָר אֲשֶׁר יִגִּידוּ לָךְ מִן-הַמָּקוֹם הַהוּא אֲשֶׁר יִבְחָר יְהוָה וְשִׁמְרַתָּ לַעֲשׂוֹת כְּכֹל אֲשֶׁר יֹרֹךְ: ¹¹ עַל-פִּי הַתּוֹרָה אֲשֶׁר יֹרֹךְ וְעַל-הַמִּשְׁפָּט אֲשֶׁר-יֹאמְרוּ לָךְ תַּעֲשֶׂה לֹא תִסּוֹר מִן-הַדָּבָר אֲשֶׁר-יִגִּידוּ לָךְ יָמִין וּשְׂמָאל: ¹² וְהָאִישׁ אֲשֶׁר-יַעֲשֶׂה בְּזָדוֹן

v. 10. למערבאי חצי הספר בפסוקים

a court of appeals, but a court of referral for difficult cases.

homicide When the judge cannot decide whether a person accused of homicide is guilty or not or whether a homicide was intentional or accidental.

civil law Hebrew: *din* (case, lawsuit), here “civil or criminal law,” including cases of damage or theft (see Exod. 22:6–14).

assault Refers to cases of physical injury (Exod. 21:22–27; Lev. 24:19–20).

dispute Litigation.

courts Literally, “gates.” Refers to the local courts that met at city gates.

9. It is not clear whether the high court has one lay judge or more judges, whether it must always include both priests and lay judges, and whether or not all cases are heard by both types of judge acting together.

levitical priests This phrase and “the priests, sons of Levi” are Deuteronomy’s standard way of

referring to the priests, indicating that they are descended from Levi.

in charge at the time Priests and judges are described this way several times in Deuteronomy, perhaps to emphasize that the book is legislating for the future as well as the present.

present your problem Literally, “inquire (of the court).”

11. According to the Talmud, this verse not only refers to judicial verdicts but also serves as the warrant for the legislative authority of the *Sanhedrin* and its successors, the Sages. It empowered them to issue whatever laws and decrees they deemed necessary to uphold the Torah. This interpretation is as important in the development of Jewish law as Chief Justice John Marshall’s assertion of the right of judicial review is in U.S. constitutional history.

12. a man Refers to one of the parties to the case in question, not to the judges.

9. the magistrate in charge at the time The authority—even if less prestigious or less knowledgeable than previous judges (*Sifrei*). A judge needs to know not only the law but also its context in the society “at the time.” Only

a judge living in today’s world can understand how to apply the law today, even as only a religious leader living in today’s world can understand the religious needs of people today.

12. With regard to judges, this punishment

HALAKHAH L'MA'ASEH

17:9. the magistrate in charge at the time The Sages, understanding “judge” as the literal meaning of the Hebrew word translated as “magistrate,” explained that every generation requires a rabbinical court to apply Jewish law to that generation’s particular circumstances (BT RH 25a–b). Guided by the CJLS, the local rabbi (as *mara d'atra*, literally, “teacher of the place”) has this authority and fulfills this responsibility for Conservative Jews (see Exod. 18:21–22).

sumptuously and disregard the priest charged with serving there the LORD your God, or the magistrate, that man shall die. Thus you will sweep out evil from Israel: ¹³all the people will hear and be afraid and will not act presumptuously again.

¹⁴If, after you have entered the land that the LORD your God has assigned to you, and taken possession of it and settled in it, you decide, "I will set a king over me, as do all the nations about me," ¹⁵you shall be free to set a king over yourself, one chosen by the LORD your God. Be sure to set as king over yourself one of your own people; you must not set a foreigner over you, one who is not your kinsman. ¹⁶Moreover, he shall not keep many horses or send people back to

לְבַלְתִּי שְׂמַע אֶל-הַכֹּהֵן הָעֹמֵד לְשָׁרֵת
שֵׁם אֶת-יְהוָה אֱלֹהֶיךָ אוֹ אֶל-הַשֹּׁפֵט וּמֵת
הָאִישׁ הַהוּא וּבְעֶרְתָּ הָרָע מִיִּשְׂרָאֵל:
¹³ וְכָל-הָעָם יִשְׁמְעוּ וְיִרְאוּ וְלֹא יִזְדוֹן
עוֹד: ס

שני ¹⁴ כִּי-תָבֹא אֶל-הָאָרֶץ אֲשֶׁר יְהוָה אֱלֹהֶיךָ
נָתַן לָךְ וְיִרְשָׁתָהּ וַיִּשְׁבְּתָהּ בָּהּ וְאַמְרָתָּ
אֲשִׁימָה עָלַי מֶלֶךְ כְּכָל-הַגּוֹיִם אֲשֶׁר
סְבִיבְתָי: ¹⁵ שׁוּם תִּשֹּׂם עָלֶיךָ מֶלֶךְ אֲשֶׁר
יִבְחַר יְהוָה אֱלֹהֶיךָ בּוֹ מִקֶּרֶב אֲחֵיךָ תִּשֹּׂם
עָלֶיךָ מֶלֶךְ לֹא תוּכַל לָתֵת עָלֶיךָ אִישׁ
נָכְרִי אֲשֶׁר לֹא-אֲחִיךָ הוּא: ¹⁶ רֶק לֹא-
יִרְבֶּה-לּוֹ סוּסִים וְלֹא-יִשְׁיב אֶת-הָעָם

the priest . . . or the magistrate Whoever announces the court's decision.

that man shall die Even though the case in question may not have been a capital case, disobeying the nation's highest tribunal threatens the entire social order and is dealt with severely as a deterrent.

THE KING (vv. 14–20)

The law about the king continues Deuteronomy's policy of limiting the power and prestige of human authorities. It says nothing about the king's authority or obeying him or about any governmental functions performed by him. The only positive responsibility that Deuteronomy assigns the king is copying and studying God's Teaching. The aim of this law is to limit the king's power and to emphasize that he is as much subject to God's law as are the people as a whole. These aspects of the law were influential in the development of western constitutional monarchy.

The view of the monarchy expressed here contrasts sharply with that of neighboring Mesopotamia, where the monarchy was seen as an institution created by the gods early in human history

and indispensable for the welfare of society. The Mesopotamian king was the lawgiver; he was inspired by the gods with the wisdom to make laws, but the laws themselves were his. In neighboring Egypt, the king was believed to be a god; he was the law.

14. Most of the neighboring states had monarchies long before they came to Israel. When the people demanded that Samuel establish a monarchy, they stated that this would make them "like all the other nations" (1 Sam. 8:20). Deuteronomy, by mentioning only this motive for wanting a monarchy, characterizes the institution as unnecessary and unworthy.

15. The appointment of a king is optional. The monarchy is the only office so characterized. **one chosen by the LORD** God's choice would be communicated by a prophet.

one of your own people No reason is given for requiring that the king not be a foreigner. It is likely that a foreigner would be objectionable because he would not be a loyal monotheistic worshiper of the Lord and might lead the people into apostasy.

16. many horses For cavalry and chariots.

applies only if a judge decides a case contrary to the prior ruling of the high court; but a judge who as a teacher advocates contrary to that ruling is not punished (M Sanh. 11:2).

14–15. This passage also can be read as mandatory. Commentators differ as to whether having a king is a *mitzvah* (obligation) or a concession to human frailty. Note that an

Israelite king, unlike many other ancient kings, was not considered to be a god or of divine birth. He would be approved by God, and he would be a servant of the people and of God. The requirement that the king write (or have written for him) a scroll of the Torah (v. 18), symbolically makes the point that the king is not above the law. He is subject to the law.

Egypt to add to his horses, since the LORD has warned you, “You must not go back that way again.” ¹⁷And he shall not have many wives, lest his heart go astray; nor shall he amass silver and gold to excess.

¹⁸When he is seated on his royal throne, he shall have a copy of this Teaching written for him on a scroll by the levitical priests. ¹⁹Let it remain with him and let him read in it all his life, so that he may learn to revere the LORD his God, to observe faithfully every word of this Teaching as well as these laws. ²⁰Thus he will not act haughtily toward his fellows or deviate from the Instruction to the right or to the left, to the end that he and his descendants may reign long in the midst of Israel.

מִצְרַיִם לְמַעַן הָרְבוֹת סוּס וַיְהוּה אָמַר
לָכֶם לֹא תִסְפּוּן לָשׁוּב בַּדֶּרֶךְ הַזֶּה עוֹד:
¹⁷ וְלֹא יִרְבֶּה-לוֹ נָשִׁים וְלֹא יִסּוֹר לִבּוֹ
וְכֶסֶף וְזָהָב לֹא יִרְבֶּה-לוֹ מְאֹד:

¹⁸ וְהָיָה כִּשְׁבָתוֹ עַל כִּסֵּא מַמְלַכְתּוֹ וְכָתַב
לוֹ אֶת-מִשְׁנֵה הַתּוֹרָה הַזֹּאת עַל-סֵפֶר
מִלְּפָנֵי הַכֹּהֲנִים הַלְוִיִּם: ¹⁹ וְהָיְתָה עִמּוֹ
וְקָרָא בוֹ כָּל-יְמֵי חַיָּיו לְמַעַן יִלְמַד לִירְאֶה
אֶת-יְהוָה אֱלֹהָיו לְשָׁמֵר אֶת-כָּל-דִּבְרֵי
הַתּוֹרָה הַזֹּאת וְאֶת-הַחֻקִּים הָאֵלֶּה
לַעֲשׂוֹתָם: ²⁰ לְבַלְתִּי רוּם-לִבּוֹ מֵאֲחָיו
וּלְבַלְתִּי סוֹר מִן-הַמִּצְוָה יְמִין וּשְׂמֹאל*
לְמַעַן יֵאָרִיךְ יָמָיו עַל-מַמְלַכְתּוֹ הוּא
וּבָנָיו בְּקֶרֶב יִשְׂרָאֵל: ס

18 The levitical priests, the whole tribe of

יח לא־יִהְיֶה לַכֹּהֲנִים הַלְוִיִּם כָּל-שְׁלִישִׁי

20. v. מלא ו'

send people back to Egypt Egypt was an exporter of horses.

17. many wives A large harem would distract the king from God's teachings as well as from performing his responsibilities.

18. when he is seated on his throne As soon as he takes the throne.

he shall have a copy of this Teaching written for him on a scroll by the levitical priests Better: "he shall write a copy of this Teaching for himself on a scroll from the one that is in the charge of the levitical priests." The king makes his copy from the original given to the priests by Moses after he finished writing it (31:9,24–26), including the laws of chapters 12–16.

copy Hebrew: *mishneh*; literally, "a double," "a copy." A later interpretation, current in Second Temple and Rabbinic times, was "repetition." On that basis, the phrase "a copy of [the] Teaching" (*mishnei ha-torah*) was taken to mean "repetition of the Torah." Because Deuteronomy repeats law and history known from the earlier books of the Torah, talmudic literature aptly uses *Mishnei Torah* as the name of this book. This is also the meaning of the Septuagint's translation of the phrase: *deuteronomion*, "a second Law," which became the Greek name of the book and, ultimately, led to its English name, "Deuteronomy."

19. let him read in it The king is to be a constitutional monarch, subject to the laws of God's Teaching (*torah*). Nothing expresses this more clearly than the requirement that he personally make a copy of the Teaching and study it constantly. The practice of kings studying texts, in some cases expressly written for their guidance, is known from elsewhere in the ancient world. A noteworthy feature of this concept in Deuteronomy is that the king must study the same law that is addressed to the entire people rather than one applicable to himself alone.

to revere . . . to observe The two aims of studying the Torah are to inculcate reverence for God and to learn how to fulfill His commandments properly.

20. not act haughtily toward his fellows That is, so that he will not oppress them or engage in the excesses forbidden in verses 16–17.

fellows Literally, "brothers." This underscores the essential equality of the king and the other citizens. He is not their master.

or deviate from the Instruction That is, violate God's laws and worship other gods.

ENDOWMENTS OF THE CLERGY (18:1–8)

Deuteronomy differs significantly from the earlier books of the Torah with regard to who may be

Levi, shall have no territorial portion with Israel. They shall live only off the LORD's gifts as their portion,² and shall have no portion among their brother tribes: the LORD is their portion, as He promised them.

³This then shall be the priests' due from the people: Everyone who offers a sacrifice, whether an ox or a sheep, must give the shoulder, the cheeks, and the stomach to the priest.⁴You shall also give him the first fruits of your new grain and wine and oil, and the first shearing of your sheep.⁵For the LORD your God has chosen him and his descendants, out of all your tribes, to be in attendance for service in the name of the LORD for all time.

⁶If a Levite would go, from any of the settlements throughout Israel where he has been residing, to the place that the LORD has chosen,

a priest and what the public is required to give the priests (see Lev. 7:28–36; Num. 18:9). It considers not only descendants of Aaron but all Levites to be eligible for the priesthood, and it assigns them portions of sacrificial animals and first products that are different from those assigned by Leviticus and Numbers. Modern scholars view these differences as reflecting the practices of various periods and places in Israelite history.

1. See Comment to 17:9. Traditional commentators consider the absence of a distinction between priests and Levites in Deuteronomy more apparent than real. They assume that Moses takes the distinction for granted but does not repeat it because it would be superfluous and because he is not addressing the clergy, to whom the distinctions were most important, but the people as a whole.

territorial Refers to hereditary tribal territory, like the territories of the other tribes. Tribal territory is viewed here as a source of livelihood. The priests are given their sustenance directly so that they can devote their efforts to clerical duties instead of producing food and other necessities. Verses 3–5 make clear that only Levites serving as priests are supported in this way. That is why other Levites are indigent and depend on charity.

2. no portion No territorial portion, as in verse 1.

the LORD is their portion He is their source

שֶׁבֶט לְוִי חֶלֶק וְנַחֲלָה עִם־יִשְׂרָאֵל אֲשִׁי
יְהוָה וְנַחֲלָתוֹ יֹאכְלֹן: ²וְנַחֲלָה לֹא־
יִהְיֶה־לּוֹ בְּקָרֵב אָחִיו יְהוָה הוּא נַחֲלָתוֹ
כַּאֲשֶׁר דִּבֶּר־לּוֹ: ³

³וְזֶה יְהִי מִשְׁפֹּט הַכֹּהֲנִים מֵאֵת הָעָם
מֵאֵת זִבְחֵי הַזֶּבַח אִם־שׁוֹר אִם־שֶׂה וְנָתַן
לְכֹהֵן הַזֶּרַע וְהַלְחָיִים וְהַקֶּבֶה: ⁴רֵאשִׁית
דִּגְנָךְ תִּירֶשֶׁךָ וְיִצְהָרְךָ וְרֵאשִׁית גֶּזֶז צֹאנֶךָ
תִּתֶן־לּוֹ: ⁵כִּי בּוֹ בָחַר יְהוָה אֱלֹהֶיךָ
מִכָּל־שִׁבְטֶיךָ לַעֲמֹד לְשָׁרֵת בְּשֵׁם־יְהוָה
הוּא וּבָנָיו כָּל־הַיָּמִים: ⁶

⁶וְכִי־יָבֹא הַלְוִי מֵאַחַד שְׁעָרֶיךָ מִכָּל־
יִשְׂרָאֵל אֲשֶׁר־הוּא גָר שָׁם וּבָא בְּכָל־
אֶת נַפְשׁוֹ אֶל־הַמָּקוֹם אֲשֶׁר־יִבְחָר

of livelihood, as the end of verse 1 explains.

3. The priests' due Refers to the portions legally assigned to the priests as their entitlement, namely, portions of the sacrifice of well-being and the first products of produce and shearing. Because some of these endowments are from sacrificial animals, it is clear that they are given only to Levites serving as priests, not to all Levites.

4. The priests also receive the first products of the farmer and the herdsman, namely, the first grain, wine, and oil, and the first wool. Giving the first products to the priests is tantamount to giving them to God (see Num. 18:12–13). The endowments—food, drink, oil, and material for clothing—are often mentioned in ancient Near Eastern legal texts as the basic necessities that people supported by others must receive.

5. to be in attendance To minister to the Lord by offering sacrifices and by pronouncing blessings in His name.

6. Only Levites serving as priests receive the endowments listed in verses 3–5. Following the restriction of sacrifice to the chosen place, Levites living elsewhere would be unable to serve as priests and would therefore be cut off from their livelihood. This text remedies this situation by providing that any Levite who wishes to go to the chosen sanctuary and serve as a priest there is entitled to do so and to share in the endowments.

he may do so whenever he pleases. ⁷He may serve in the name of the LORD his God like all his fellow Levites who are there in attendance before the LORD. ⁸They shall receive equal shares of the dues, without regard to personal gifts or patrimonies.

⁹When you enter the land that the LORD your God is giving you, you shall not learn to imitate the abhorrent practices of those nations. ¹⁰Let no one be found among you who consigns his son or daughter to the fire, or who is an augur, a soothsayer, a diviner, a sorcerer, ¹¹one who casts spells, or one who consults ghosts or familiar spirits, or one who inquires of the dead. ¹²For anyone who does such things is abhorrent to the LORD, and it is because of these abhorrent things that the LORD your God is dispossessing them before you. ¹³You must be wholehearted with the LORD your God. ¹⁴Those nations that you are about to dispossess do indeed resort to soothsayers and augurs; to you, however, the LORD your God has not assigned the like.

8. without regard to personal gifts or patrimonies The share of individual priests is not to be reduced even though they may have other resources.

THE PROPHET (vv. 9–22)

Prophets were among the leaders of society, along with priests; elders; and, in monarchic times, kings and royal officials. Some prophets, in fact, were influential members of the royal court. Deuteronomy strengthens the authority of the prophet by affirming that he or she is the successor of Moses and the only legitimate channel of communication with God. This is in contrast to what Deuteronomy states of the king, whose power it limits.

9. abhorrent practices Procedures for practicing magic or divination, invoking occult powers. Such procedures are objectionable because they seek to circumvent God.

10. consigns his son or daughter to the fire Literally, “passes his son or daughter through the

יהוה: ⁷ וְשֵׁרַת בְּשֵׁם יְהוָה אֱלֹהָיו כָּכֹל-
אָחָיו הַלְוִיִּם הָעֹמְדִים שָׁם לִפְנֵי יְהוָה:
⁸ חֶלֶק כְּחֶלֶק יֹאכְלוּ לְבָד מִמִּכְרֵיו עַל-
הָאָבוֹת: ט

⁹ כִּי אַתָּה בָּא אֶל-הָאָרֶץ אֲשֶׁר-יְהוָה
אֱלֹהֶיךָ נָתַן לָךְ לֹא-תִלְמַד לַעֲשׂוֹת
כְּתוֹעֵבַת הַגּוֹיִם הָהֵם: ¹⁰ לֹא-יִמָּצֵא בְךָ
מַעֲבִיר בְּנוֹ-וּבִתּוֹ בָּאֵשׁ קֶסֶם קְסָמִים
מַעוֹנָן וּמִנְחָשׁ וּמִכֹּשֶׁף: ¹¹ וְחֹבֵר חֹבֵר
וְשֹׂאֵל אוֹב וַיִּדְעֹנִי וְדָרַשׁ אֶל-הַמֵּתִים:
¹² כִּי-תוֹעֵבַת יְהוָה כָּל-עֲשֵׂה אֱלֹהַ וּבִגְלָל
הַתוֹעֵבַת הָאֵלֹהַ יְהוָה אֱלֹהֶיךָ מוֹרִישׁ
אוֹתָם מִפְּנֵיךָ: ¹³ תָּמִים תִּהְיֶה עִם יְהוָה
אֱלֹהֶיךָ: ט ¹⁴ כִּי | הַגּוֹיִם הָאֵלֹהַ אֲשֶׁר
אַתָּה יוֹרֵשׁ אוֹתָם אֶל-מַעֲנָנִים וְאֶל-
קְסָמִים יִשְׁמְעוּ וְאַתָּה לֹא כֵן נָתַן לָךְ
יְהוָה אֱלֹהֶיךָ:

fire.” Refers either to child sacrifice or to a non-lethal ceremony, such as fire-walking while carrying a child.

an augur, a soothsayer, a diviner These individuals practice techniques as diverse as belomancy (interpreting the way arrows fall when shaken out of a quiver) and hepatoscopy (interpreting the configurations of the liver of a sacrificial animal).

11. one who casts spells A practitioner of magic, like a sorcerer in verse 10.

one who consults ghosts . . . one who inquires of the dead These are mediums, practitioners of necromancy, who act on the assumption that the spirits of the dead know hidden things and the future and can reveal them to those who know how to contact them.

12. abhorrent to the LORD It is because of such detestable practices that God is driving out the Canaanites.

13. wholehearted Undivided in your loyalty.

HALAKHAH L'MA'ASEH

18:10. an augur, a soothsayer, a diviner, a sorcerer The Torah prohibits such occult sciences as fortune-telling and satanism (BT Sanh. 65a). Magic for purposes of entertainment is permitted.

Etz Hayim: Torah and Commentary

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¹⁵The LORD your God will raise up for you a prophet from among your own people, like myself; him you shall heed. ¹⁶This is just what you asked of the LORD your God at Horeb, on the day of the Assembly, saying, "Let me not hear the voice of the LORD my God any longer or see this wondrous fire any more, lest I die." ¹⁷Whereupon the LORD said to me, "They have done well in speaking thus. ¹⁸I will raise up a prophet for them from among their own people, like yourself: I will put My words in his mouth and he will speak to them all that I command him; ¹⁹and if anybody fails to heed the words he speaks in My name, I Myself will call him to account. ²⁰But any prophet who presumes to speak in My name an oracle that I did not command him to utter, or who speaks in the name of other gods—that prophet shall

¹⁵נָבִיא מִקִּרְבְּךָ מֵאַחֶיךָ כָּמֹנִי יָקִים לְךָ
יְהוָה אֱלֹהֶיךָ אֵלָיו תִּשְׁמָעוּן: ¹⁶כָּכֹל
אֲשֶׁר-שָׁאַלְתָּ מֵעַם יְהוָה אֱלֹהֶיךָ בְּחֹרֵב
בְּיוֹם הַקָּהָל לֵאמֹר לֹא אֶסָּף לִשְׁמֹעַ
אֶת-קוֹל יְהוָה אֱלֹהֵי וְאֶת-הָאֵשׁ הַגְּדֹלָה
הַזֹּאת לֹא-אֶרְאֶה עוֹד וְלֹא אָמוּת:
¹⁷וַיֹּאמֶר יְהוָה אֵלַי הֵיטִיבוּ אֲשֶׁר דִּבַּרְוּ:
¹⁸נָבִיא אָקִים לָהֶם מִקִּרְבִּי אֶחָיֵהֶם כָּמוֹךָ
וְנִתַּנְתִּי דְבָרִי בְּפִיו וְדִבַּר אֲלֵיהֶם אֵת
כָּל-אֲשֶׁר אֶצְוֶנוּ: ¹⁹וְהָיָה הָאִישׁ אֲשֶׁר
לֹא-יִשְׁמָע אֶל-דְּבָרִי אֲשֶׁר יְדַבֵּר בִּשְׁמִי
אֲנִי אֶדְרֹשׁ מֵעַמּוֹ: ²⁰אֶךְ הַנָּבִיא אֲשֶׁר
יִזְדֹּךְ לְדַבֵּר דְּבָר בִּשְׁמִי אֵת אֲשֶׁר לֹא-
צִוִּיתִיו לְדַבֵּר וְאֲשֶׁר יְדַבֵּר בִּשְׁם אֱלֹהִים

15. This is the continuation of verse 14, indicating that Israelites are to turn to prophets for the services that pagans seek from diviners and magicians. Because prophets are raised up by God, who will put His word in their mouths, they are His agents. By turning to them one turns to God.

prophet . . . like myself No future prophet would ever be enough "like" Moses to be his equal. The comparison here refers only to the prophetic role that Moses played as God's spokesman.

16. The people's words at Horeb are quoted in a paraphrase from 5:22. Only the first words of the people are quoted. This method of quotation (common in the Midrash) presumes that the listeners or the readers are intimately familiar with the text and will fill in the rest.

18. I will raise up a prophet This statement by God is not found in chapter 5. The text must regard it either as a free paraphrase of 5:25–28, or as something additional that God said to Moses at the time.

all that I command him The prophet's primary role is as God's messenger and spokesman, communicating God's will in all matters. He or she is, in essence, the envoy through whom God, the divine king, governs Israel. As such, prophets play a major role in the religious, domestic, and political life of the nation.

19. if anybody fails to heed This declaration establishes the prophet as the highest authority in the land, higher even than the king, about whose orders no similar declaration is made.

20. Two types of false prophecy are punishable by death.

to speak . . . an oracle that I did not command The Bible records two cases (1 Kings 22:17–28; Jer. 26) in which proceedings were initiated against prophets, possibly on the basis of this law. They were accused of falsely attributing their prophecies to God. In both cases they were exonerated.

shall die In Deuteronomy, this phrase refers to execution by humans, as in 17:12.

CHAPTER 18

13. Hence the use of astrology is prohibited (BT Pes. 113b).

15–22. God promises to show enduring concern for Israel by sending them prophets. In the Bible, a prophet is not someone who tells the future, stealing knowledge from God and

sharing it with the people. (See the definition of a gentile prophet in vv. 10–11, "a soothsayer, a diviner, . . . one who casts spells, or . . . consults ghosts.") A prophet is someone who tells the truth. The prophet does not tell us what we want to know but rather tells us what God wants us to know, reminding us of our covenantal obligations. "The prophet is a person

die.” ²¹And should you ask yourselves, “How can we know that the oracle was not spoken by the LORD?”—²²if the prophet speaks in the name of the LORD and the oracle does not come true, that oracle was not spoken by the LORD; the prophet has uttered it presumptuously: do not stand in dread of him.

אַחֲרֵים וּמַת הַנְּבִיא הָהוּא: ²¹ וְכִי תֹאמַר בְּלִבְּךָ אִיכָּה נִדַּע אֶת־הַדָּבָר אֲשֶׁר לֹא־דִבְּרוּ יְהוָה: ²² אֲשֶׁר יְדַבֵּר הַנְּבִיא בְּשֵׁם יְהוָה וְלֹא־יְהִיָּה הַדָּבָר וְלֹא יָבוֹא הוּא הַדָּבָר אֲשֶׁר לֹא־דִבְּרוּ יְהוָה בְּזִדּוֹן דִּבְּרוּ הַנְּבִיא לֹא תִגּוֹר מִמֶּנּוּ: ט

19 When the LORD your God has cut down the nations whose land the LORD your God is assigning to you, and you have dispossessed

יט כִּי־יִכְרִית יְהוָה אֱלֹהֶיךָ אֶת־הַגּוֹיִם אֲשֶׁר יְהוָה אֱלֹהֶיךָ נָתַן לְךָ אֶת־אֶרֶצָם וִירִשְׁתָּם וַיִּשְׁבֹּתָ בְּעַרְיָהֶם

21. Because the people will rely on the instructions of prophets for vital matters, they need a criterion for identifying oracles that are not truly from God. Verse 22 answers that the false oracle is one that does not come true. The oracles in question must have included predictions foretell-

ing the consequences of obeying or disobeying the prophet's instructions. The failure of a prediction to materialize would show the oracle to be false.

22. do not stand in dread of him Because the prophet is a fraud, you need not be afraid to punish him or her.

JUDICIAL AND MILITARY MATTERS (19:1–21:9)

THREE LAWS PERTAINING TO THE COURTS (19:1–21)

ASYLUM CITIES (vv. 1–13)

The designation of three cities as asylums serves to control the ancient practice of blood vengeance. In tribal societies, where there is no strong central authority, the kinship group is the primary defender of its members' lives. When a person is killed, his or her kinsmen are obliged to “redeem”

the blood by slaying the killer. In its earliest form, blood vengeance was exacted whether or not the killing was intentional. Biblical law limits execution to cases of deliberate murder. Because victims' families may not recognize that a killing was accidental, asylum cities are established. Once safely inside an asylum city, the killer is protected until a court of law determines whether or not the act was intentional. This subject is also dealt with in Exod. 21:13–14 and Num. 35:9–34.

who sees the world with the eyes of God, who holds God and man in one thought at one time, at all times” (Heschel).

22. This passage intimates that a true prophet is one whose predictions come true, whereas the utterances of a false prophet do not. Centuries later, the prophet Jeremiah offered a more thoughtful distinction: If the message is painful for the prophet to utter and painful for the people to hear, it is likely authentically from God (Jer. 28:8–9). But if prophetic words are popularly received, we have reason to doubt them, and the prophet would have reason to doubt the authenticity of the message as well.

CHAPTER 19

Returning to the theme of administering jus-

tice, the Torah would have us judge the act of causing another's death not only by examining the deed but also by evaluating the motivation behind it. A deliberate murderer is punished severely because of the holiness of the life taken. An inadvertent manslayer is protected because his or her life is holy. Nehama Leibowitz points out that in the Torah, the cities of refuge were established to protect the inadvertent manslayer from vengeance at the hands of the dead person's family. By the time of the Talmud, the lust for vengeance had been reduced, and the cities of refuge came to represent not protection but the punishment of exile (perhaps modeled after Cain, the first manslayer, who was punished with exile).

Etz Hayim: Torah and Commentary

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them and settled in their towns and homes,² you shall set aside three cities in the land that the LORD your God is giving you to possess.³ You shall survey the distances, and divide into three parts the territory of the country that the LORD your God has allotted to you, so that any manslayer may have a place to flee to.—⁴Now this is the case of the manslayer who may flee there and live: one who has killed another unwittingly, without having been his enemy in the past.⁵ For instance, a man goes with his neighbor into a grove to cut wood; as his hand swings the ax to cut down a tree, the ax-head flies off the handle and strikes the other so that he dies. That man shall flee to one of these cities and live.—⁶Otherwise, when the distance is great, the blood-avenger, pursuing the manslayer in hot anger, may overtake him and kill him; yet he did not incur the death penalty, since he had never been the other's enemy.⁷ That is why I command you: set aside three cities.

⁸And when the LORD your God enlarges your territory, as He swore to your fathers, and gives

ובבתיהם: ²שלוש ערים תבדיל לך בתוך ארצך אשר יהיה אלהיך נתן לך לרשתה: ³תכין לך הדרך ושלשת את גבול ארצך אשר ינחילך יהיה אלהיך והיה לנוס שמה פל-רצח: ⁴וזה דבר הרצח אשר ינוס שמה וחי אשר יפה את-רעהו בבלי-דעת והוא לא-שנא לו מתמל שלשם: ⁵ואשר יבא את-רעהו ביער לחטב עצים ונדחה ידו בגרזן לכרת העץ ונשל הברזל מן-העץ ומצא את-רעהו ומת הוא ינוס אל-אחת הערים-האלה וחי: ⁶פן-ירדה גאל הדם אחרי הרצח בייחם לבבו והשיגו כי-ירבה הדרך והפכו נפש ולו אין משפט מות כי לא שנא הוא לו מתמול שלשום: ⁷על-כן אנכי מצוך לאמר שלש ערים תבדיל לך: ⁸

ואם-ירחיב יהיה אלהיך את-גבולך כאשר נשבע לאבותיך ונתן לך את-כל-

Three Original Cities and Their Function (vv. 1–7)

2. three cities in the land Literally, “in the midst of the land.” The three cities Moses set aside earlier are east of the Jordan and, therefore, not “in the midst” of the Promised Land (4:41–43). These three cities are Kedesh in the tribal territory of Naphtali, Shechem in Ephraim, and Hebron in Judah (Josh. 20:7).

3. survey the distances Measuring the distances will ensure that the cities are centrally located in the regions they serve.

4. and live That is, be granted protection in one of the cities. Deuteronomy does not state how long accidental killers stay in the asylum city. According to Num. 35:28, however, they must remain there until the death of the High Priest, after which they may leave.

6. blood-avenger Literally, “the redeemer of the blood,” the relative who executes the killer.

It was the ancient obligation of relatives to “redeem”—i.e., rectify—vital losses suffered by their kin when the latter were unable to do so. This included redeeming an enslaved kinsman, redeeming his real estate, marrying his widow, or receiving reparations due his estate.

Additional Cities (vv. 8–10)

8. enlarges your territory To Deuteronomy, the territory promised to the patriarchs reached as far as the Euphrates in the north (see 1:7–8, 11:24). The Book of Joshua states that Joshua conquered the land from the Negev in the south up to Mount Hermon in the north. This chapter indicates that conquest of the remaining territory, up to the Euphrates, was contingent on Israel's fulfilling God's commandments. According to Judg. 2:20–3:4, God eventually canceled the promise of the remaining territory because of Israel's disobedience.

4. in the past Literally, “yesterday or the day before,” suggesting that a quarrel normally lasts three days. After that, people can be as-

sumed to have overcome their conflict. If resentment lingers, it may be because the aggrieved party is deliberately prolonging it.

you all the land that He promised to give your fathers—⁹if you faithfully observe all this Instruction that I enjoin upon you this day, to love the LORD your God and to walk in His ways at all times—then you shall add three more towns to those three.¹⁰ Thus blood of the innocent will not be shed, bringing bloodguilt upon you in the land that the LORD your God is allotting to you.

¹¹If, however, a person who is the enemy of another lies in wait for him and sets upon him and strikes him a fatal blow and then flees to one of these towns,¹² the elders of his town shall have him brought back from there and shall hand him over to the blood-avenger to be put to death;¹³ you must show him no pity. Thus you will purge Israel of the blood of the innocent, and it will go well with you.

¹⁴You shall not move your countryman's

הָאָרֶץ אֲשֶׁר דִּבֶּר לָתֵת לְאַבְתָּיִךְ: ⁹ כִּי-
תִשְׁמֹר אֶת-כָּל-הַמִּצְוָה הַזֹּאת לַעֲשׂוֹתָהּ
אֲשֶׁר אֲנִכִּי מִצְוֶה הַיּוֹם לְאַהֲבָה אֶת-יְהוָה
אֱלֹהֶיךָ וּלְלַכֵּת בְּדַרְכָּיו כָּל-הַיָּמִים וַיִּסְפָּךְ
לְךָ עוֹד שְׁלֹשׁ עָרִים עַל הַשְּׁלֹשׁ הָאֵלֶּה:
¹⁰ וְלֹא יִשְׁפֹךְ דָּם נָקִי בְּקֶרֶב אֶרֶץךָ אֲשֶׁר
יְהוָה אֱלֹהֶיךָ נָתַן לְךָ נַחֲלָה וַהֲיָה עָלֶיךָ
דְּמִיִּם: ס

¹¹ וְכִי-יִהְיֶה אִישׁ שֹׁנֵא לְרֵעֵהוּ וְאָרַב לוֹ
וְקָם עָלָיו וַהֲכִיחוּ נַפְשׁ וּמָת וְנָס אֶל-אַחַת
הָעָרִים הָאֵלֶּה: ¹² וְשָׁלְחוּ זֶקֶנֵי עִירוֹ וּלְקָחוּ
אֹתוֹ מִשָּׁם וּנְתָנוּ אוֹתוֹ בְּיַד גֹּאֲלֵ הַדָּם
וּמָת: ¹³ לֹא-תַחֲסוּס עֵינֶךָ עָלָיו וּבַעֲרֵת
דָּם-הַנָּקִי מִיִּשְׂרָאֵל וְטוֹב לְךָ: ס
שִׁי ¹⁴ לֹא תִסֵּיג גְּבוּל רֵעֶךָ אֲשֶׁר גְּבֻל רֵאשֹׁנִים

9. three more towns These are in addition to the first three and the three previously assigned in Transjordan (4:41–43). There would be a total of nine asylum cities.

10. blood of the innocent That is, the blood of the accidental killer, who does not deserve to die. If the community fails to prevent his or her blood from being shed, it will bear the bloodguilt created by the death. The shedding of innocent blood brings a palpable, virtually physical stain of guilt on the entire community (cf. vv. 13, 21:8–9). If it is not eradicated, the welfare of the community is threatened.

Intentional Murderers (vv. 11–13)

In the ancient world asylums rarely discriminated between the innocent and the guilty, the intentional and the accidental, but protected all who reached them. Felons and debtors enjoyed the sanctuary of temples in Greek cities. Thus biblical law instituted a revolutionary change in the concept of asylum. Intentional murderers may not claim protection in the asylum cities (see Exod. 21:14).

12. elders The heads of the leading families of the political units to which they belong, such as the nation, the tribe, the region, or the town.

As such, they represent the entire population and direct its affairs, except when limited by higher authority. In Deuteronomy, town elders as a group, and not judges, are specified as the judicial body in cases involving family law. This includes cases of the rebellious son, the husband who accuses his new wife of not having been a virgin, and the man who refuses levirate marriage. The elders' role here may be because blood vengeance is a concern of the victim's family.

13. show him no pity Because life is infinitely precious, no economic value can be assigned to it. Hence, a murderer may not escape execution by paying for the victim (cf. Num. 35:31).

purge Israel of the blood of the innocent Here, the "innocent" is the murderer's victim. The shedding of innocent blood initiates guilt that befouls the entire community; it can be cleansed only by executing the murderer.

it will go well with you The community's welfare is ensured only if the guilt is removed. When the identity of the killer is not known, see 21:1–9.

BOUNDARY MARKERS (v. 14)

14. move Literally, "move back." You cannot

10. The Talmud derives from this verse that society is responsible for public safety, such as keeping the roads in a state of repair (BT MK 5a).

landmarks, set up by previous generations, in the property that will be allotted to you in the land that the LORD your God is giving you to possess.

¹⁵A single witness may not validate against a person any guilt or blame for any offense that may be committed; a case can be valid only on the testimony of two witnesses or more. ¹⁶If a man appears against another to testify maliciously and gives false testimony against him, ¹⁷the two parties to the dispute shall appear before the LORD, before the priests or magistrates in authority at the time, ¹⁸and the magistrates shall make a thorough investigation. If the man who testified is a false witness, if he has testified falsely against his fellow, ¹⁹you shall do to him as he schemed to do to his fellow. Thus you will

move a landmark into another's property to extend your own. This crime, most easily committed in secret, is regarded as a serious moral offense. One who commits it is cursed in 27:17.

landmarks Objects, usually stones, marking property lines.

set up by previous generations The fact that the boundaries were established by ancestors gave landowners a deep attachment to the land they inherited and made the inviolability of boundaries more than a matter of property rights.

WITNESSES (vv. 15–21)

These two provisions are intended to prevent wrongful conviction on the basis of inadequate or false testimony. No conviction may be based on the testimony of a single witness, and a false witness is to receive the same punishment that the testimony would have brought on the accused.

15. any offense Not only capital offenses, as 17:6 and Num. 35:30 prescribe.

16. If a man appears against another Literally, “If a felonious witness appears against a man and gives false testimony against him.”

14. Later Jewish law expanded this admonition against encroachment to include other types of misappropriation, such as copyright violations. The moving of landmarks (*hassagat g'vul*) came to mean any unfair competition that encroached on another's ability to earn a livelihood.

בְּנִחְלָתְךָ אֲשֶׁר תִּנְחַל בְּאַרְץ אֲשֶׁר יְהוָה
אֱלֹהֶיךָ נָתַן לְךָ לְרִשְׁתָּהּ: ס
¹⁵לְאִי־יָקוֹם עַד אֶחָד בְּאִישׁ לְכָל־עוֹן
וּלְכָל־חֲטָאת בְּכָל־חֲטָא אֲשֶׁר יַחֲטֵא
עַל־פִּי | שְׁנֵי עֵדִים אֹו עַל־פִּי שְׁלִשָּׁה־
עֵדִים יָקוֹם דְּבָר: ¹⁶כִּי־יָקוֹם עַד־חָמֵס
בְּאִישׁ לַעֲנוֹת בּוֹ סָרָה: ¹⁷וְעַמְדוֹ שְׁנֵי־
הָאֲנָשִׁים אֲשֶׁר־לָהֶם הָרִיב לִפְנֵי יְהוָה
לִפְנֵי הַכֹּהֲנִים וְהַשֹּׁפְטִים אֲשֶׁר יִהְיוּ
בַּיָּמִים הָהֵם: ¹⁸וְדָרְשׁוּ הַשֹּׁפְטִים הַיָּטֵב
וְהַנָּה עַד־שֶׁקֶר הָעַד שֶׁקֶר עָנָה בְּאָחִיו:
¹⁹וַעֲשִׂיתֶם לוֹ כַּאֲשֶׁר זָמַם לַעֲשׂוֹת לְאָחִיו

17. two parties The original litigants in the case.

before the LORD This phrase often implies a local sanctuary, but it would be impossible for trials to be held at such sites because they were destroyed when sacrifice was abolished in the provinces (2 Kings 23) to enforce the centralization law of Deut. 12. Possibly, it refers not to the location of the trial but to the fact that judges are regarded as God's representatives and that He is with them when they adjudicate.

priests These priests no doubt live in the town where the case is tried and have not moved to the central sanctuary. Otherwise, the text would have read, “in the place that the LORD your God will have chosen,” as it invariably does when referring to something that takes place there (see, e.g., 17:8,10).

magistrates The litigants' appearance before the judges is not a separate inquiry but part of the original trial mentioned in verse 16.

19. The “law of punishment in kind” (Latin: *lex talionis*). By this means, the law strives to make the punishment fit the crime perfectly: Whatever

17. the two parties . . . shall appear The Sages were so concerned about the equal treatment of litigants that they interpreted these words to mean that one party may not remain seated while the other is standing. Not even the appearance of favoring one party is permitted.

sweep out evil from your midst; ²⁰others will hear and be afraid, and such evil things will not again be done in your midst. ²¹Nor must you show pity: life for life, eye for eye, tooth for tooth, hand for hand, foot for foot.

וּבְעֵרְתָּ הָרָע מִקֶּרְבְּךָ: ²⁰וְהַנֹּשְׂאָרִים יִשְׁמְעוּ וְיִירָאוּ וְלֹא-יִסְפוּ לַעֲשׂוֹת עוֹד כַּדָּבָר הָרָע הַזֶּה בְּקֶרְבְּךָ: ²¹וְלֹא תַחֲסוּ עֵינְךָ נֶפֶשׁ בְּנֶפֶשׁ עֵין בְּעֵין שֵׁן בְּשֵׁן יָד בְּיָד רֶגֶל בְּרֶגֶל: ט

20 When you take the field against your enemies, and see horses and chariots—forces larger than yours—have no fear of them, for the LORD your God, who brought you from the land

כ כִּי-תֵצֵא לַמִּלְחָמָה עַל-אֹיְבֶיךָ וּרְאִיתָ סוּס וְרֶכֶב עִם רַב מִמֶּנִּי לֹא תִירָא מֵהֶם כִּי-יְהוָה אֱלֹהֶיךָ עִמָּךְ הַמַּעֲלֶיךָ

penalty would befall the accused if wrongly convicted—whether execution, flogging, a fine, or some other punishment—is to be imposed on the false witness.

you shall do to him Addressed to the court, which executes punishment in the case of false testimony. The court is the aggrieved party because the witness has threatened its ability to judge correctly.

21. The penalty specified in verse 19 is here spelled out in the classic formula of the *lex talionis* (see Exod. 21:23–25, and Comments to those verses). Had the accused been charged with murder or maiming, the false witness would indeed pay with his or her life or eye, etc. (see Lev. 24:19–20). In other cases, however, the false witness would pay whatever other penalty would have been imposed on the accused.

In the oldest Mesopotamian laws, people who intentionally caused bodily injury were required to pay monetary indemnities. Later, they were punished in kind when the victim was a member of the upper class. In the Bible, punishment in kind applied for all classes of victim, except for slaves (see Exod. 21:26–27). The Talmud holds that monetary fines are to be imposed in all instances except for murder, an example of rabbinic rendering of the law that has the effect of making it more humane.

Nor must you show pity The court might be reluctant to impose punishment as severe as that which the law requires if the lie were discovered

in time and no harm had befallen the slandered party.

LAWS ABOUT WARFARE (20:1–20)

The laws in this chapter refer to all wars, not only to the imminent conquest of the Land. Harsh as some of them are in the light of modern ideals (if not practice), they limit wanton destruction of life and property and are the oldest known rules of war regulating the treatment of conquered people and territory.

PREPARING THE ARMY (vv. 1–9)

Deuteronomy does not intend that the Israelites maintain a standing army, at least not one of any significant size. Instead, they are to have a civilian army, or militia, mobilized at times of need and commanded by officers appointed for the occasion. Reliance on a militia rather than a standing army for military needs is another example of Deuteronomy's dispersal of power among different officials.

1. horses and chariots Horse-drawn war chariots were essentially mobile platforms for launching arrows and spears. Their speed and maneuverability gave the army that possessed them a tremendous technological advantage. The Israelite foot soldiers who invaded the Promised Land encountered Canaanite chariots.

have no fear Chariotry has the psychological advantage of being able to surprise and shock the enemy. Moses reminds the people that they have

21. As in Exod. 21:24 and Lev. 24:20, the punishment is not meant to be taken literally; it is a concrete way of saying that wrongdoers should get the punishment they deserve, neither more nor less.

CHAPTER 20

Why do these assurances of military victory follow the discussion of administering justice? Only when the people Israel practice justice at

of Egypt, is with you. ²Before you join battle, the priest shall come forward and address the troops. ³He shall say to them, "Hear, O Israel! You are about to join battle with your enemy. Let not your courage falter. Do not be in fear, or in panic, or in dread of them. ⁴For it is the LORD your God who marches with you to do battle for you against your enemy, to bring you victory."

⁵Then the officials shall address the troops, as follows: "Is there anyone who has built a new house but has not dedicated it? Let him go back to his home, lest he die in battle and another dedicate it. ⁶Is there anyone who has planted a vineyard but has never harvested it? Let him go back to his home, lest he die in battle and another harvest it. ⁷Is there anyone who has paid the bride-price for a wife, but who has not yet married her? Let him go back to his home, lest he die in battle and another marry her." ⁸The officials shall go on addressing the troops and

no cause to panic. That God is with the people Israel in battle is the fundamental principle in the biblical concept of war. Moses' reference to the Exodus reminds the people that Egypt's entire army, including its chariots and horsemen, were no match for God, who destroyed them all at the Sea of Reeds (Exod. 14–15).

2. Narratives about wars in the times of Moses, Saul, and David indicate that priests accompanied the army, carrying sacred utensils, trumpets, and the Ark, and consulting God by means of the oracle known as the Urim and Thummim. Deuteronomy, however, appears to expect fewer religious practices to accompany war. The only military role it assigns to the priests is found here, and nowhere does it indicate that the Ark is to accompany the army into battle.

3. The heart of the priest's message is that the troops should not have the slightest fear. He emphasizes this by expressing it in four different ways.

4. to bring you victory Literally, "to deliver

מֵאֶרֶץ מִצְרַיִם: ²וְהָיָה בְּקִרְבְּכֶם אֶל-
הַמִּלְחָמָה וְנִגַּשׁ הַכֹּהֵן וְדִבֶּר אֶל-הָעָם:
³וְאָמַר אֲלֵהֶם שְׁמַע יִשְׂרָאֵל אַתֶּם קִרְבִּים
הַיּוֹם לַמִּלְחָמָה עַל-אִיְבֵיכֶם אֶל-יָרֵךְ
לְבַבְכֶם אֶל-תִּירָאוֹ וְאֶל-תַּחֲפֹזוֹ וְאֶל-
תַּעֲרֻצוֹ מִפְּנֵיהֶם: ⁴כִּי יְהוָה אֱלֹהֵיכֶם
הֵהָלֵךְ עִמָּכֶם לְהִלָּחֵם לָכֶם עִם-אִיְבֵיכֶם
לְהוֹשִׁיעַ אֶתְכֶם:

⁵וְדִבְרוּ הַשֹּׁטְרִים אֶל-הָעָם לֵאמֹר מִי-
הָאִישׁ אֲשֶׁר בָּנָה בַּיִת-חָדָשׁ וְלֹא חֲנָכּוֹ
יָלַף וַיָּשָׁב לְבֵיתוֹ פֶּן-יָמוּת בַּמִּלְחָמָה
וְאִישׁ אַחֵר יַחְנִכֵּנוּ: ⁶וּמִי-הָאִישׁ אֲשֶׁר-
נָטַע פֶּרֶם וְלֹא חָלְלוֹ יָלַף וַיָּשָׁב לְבֵיתוֹ
פֶּן-יָמוּת בַּמִּלְחָמָה וְאִישׁ אַחֵר יַחְלִלְנוּ:
⁷וּמִי-הָאִישׁ אֲשֶׁר-אַרְשׁ אִשָּׁה וְלֹא לָקַחָהּ
יָלַף וַיָּשָׁב לְבֵיתוֹ פֶּן-יָמוּת בַּמִּלְחָמָה
וְאִישׁ אַחֵר יִקְחָנָהּ: ⁸וַיִּסְפּוּ הַשֹּׁטְרִים
לְדַבֵּר אֶל-הָעָם וְאָמְרוּ מִי-הָאִישׁ הִירָא

you." To protect you from the enemy.

5. officials Civilian officials are to be responsible for mobilization, perhaps in each town; there is no mention of military officers until verse 9. Placing civilians in charge of mobilization prevents the military from ignoring the rights of those entitled to deferral.

7. paid the bride-price Literally, "betrothed," which was normally done by paying the bride-price to the fiancée's father (see 22:23,29). Once the bride-price is paid, the fiancée is considered legally married even though the consummation has not yet taken place.

lest he die in battle The tragedy of dying before consummating a marriage is also mentioned in Babylonian texts, one of which states that young men and women who were denied this pleasure grieve in the netherworld.

8. The first three deferrals were for the benefit of the individuals deferred. The last deferral is for the benefit of the army as a whole, lest the fear of a few spread to others.

home will they be victorious in battle (Tanh. 15).

5–9. Officials are to send home anyone

whose death in battle would be especially unfortunate. But why do they not rely on God to prevent tragic death? Although God may work

say, "Is there anyone afraid and disheartened? Let him go back to his home, lest the courage of his comrades flag like his."⁹ When the officials have finished addressing the troops, army commanders shall assume command of the troops.

¹⁰When you approach a town to attack it, you shall offer it terms of peace. ¹¹If it responds peaceably and lets you in, all the people present there shall serve you at forced labor. ¹²If it does not surrender to you, but would join battle with you, you shall lay siege to it; ¹³and when the LORD your God delivers it into your hand, you shall put all its males to the sword. ¹⁴You may, however, take as your booty the women, the children, the livestock, and everything in the town—all its spoil—and enjoy the use of the

וְרָךְ הַלֵּב יֵלֶךְ וַיָּשָׁב לְבֵיתוֹ וְלֹא יִמָּס
אֶת־לֵבב אֶחָיו בְּלִבָּבוֹ: ⁹וְהָיָה בְּכָל־
הַשָּׂטָרִים לְדַבֵּר אֶל־הָעָם וּפָקְדוֹ שָׂרֵי
צְבָאוֹת בְּרֹאשׁ הָעָם: ס

שביעי ¹⁰כִּי־תִקְרַב אֶל־עִיר לְהִלָּחֵם עָלֶיהָ
וְקִרְאתָ אֵלֶיהָ לְשָׁלוֹם: ¹¹וְהָיָה אִם־שָׁלוֹם
תַּעֲנֶנָּה וּפִתְחָהּ לָךְ וְהָיָה כָּל־הָעָם
הַנִּמְצָא־בָּהּ יִהְיוּ לָךְ לָמָס וְעַבְדוֹךָ:
¹²וְאִם־לֹא תִשְׁלִים עִמָּךְ וְעָשְׂתָה עִמָּךְ
מִלְחָמָה וְצָרָתָ עָלֶיהָ: ¹³וַנִּתְּנָה יְהוָה
אֱלֹהֶיךָ בְּיָדְךָ וְהָפִיתָ אֶת־כָּל־זְכוּרָהּ לִפְנֵי־
חָרֶב: ¹⁴רַק הַנָּשִׁים וְהַטָּף וְהַבְּהֵמָה וְכָל־
אֲשֶׁר יִהְיֶה בָּעִיר כָּל־שְׁלָלָהּ תִּבְזוּ לָךְ

disheartened Literally, "soft-hearted," meaning cowardly. Some commentators took this idiom to mean "tenderhearted," in the sense of compassionate, unable to harm others.

9. army commanders shall assume command of the troops Literally, "they [the officials or some higher authority] shall appoint army commanders at the head of the people." This implies that there are to be no permanent commanders, but only those appointed before each war. This procedure is compatible with the fact that the text deals with a mobilized militia, not a standing army. The commanders were chiefs of 1000s, 100s, 50s, and 10s.

DEFEATED POPULATIONS (vv. 10–18)

The General Rule (vv. 10–14)

Cities attacked by Israel are to be offered an opportunity to surrender. If they agree, their populations are not to be harmed. If they insist on battle and are defeated, only their men are to be killed. Women, children, and property are to be spared and taken captive.

10. offer it terms of peace Offer it *shalom*, here meaning terms of surrender, a promise to spare the city and its inhabitants if they agree to serve you. The same idiom appears in a letter from the ancient Near Eastern city of Mari: "when he had besieged that city, he offered it terms of submission [*salimam*]." In an Egyptian inscription, defeated princes of Canaan say *shalom* when submitting to the Pharaoh.

11. forced labor Hebrew: *mas*, a contingent of forced laborers working for the state. They were employed in agriculture and public works, such as construction. In monarchic times, David imposed labor on the Ammonites, and Solomon subjected the remaining Canaanites to labor.

12. A town that refuses to submit but chooses to fight, is dealt with more severely. The men, who constitute the city's military strength and its capacity for future rebellion, are killed. Women and children are taken as booty together with cattle and goods.

13. males Adult males. According to verse 14, children are spared.

miracles, protecting the righteous from harm, we may never force God's hand by demanding a miracle—putting good people in danger and expecting God to protect them. We cannot ignore our obligations to make the world a safer and more just place by depending on God to set things right.

10. Peace is always the preferred option.

War may be necessary, unavoidable, and morally justified, but it can never be "good." In war, innocent people always die and lands are devastated.

13–18. The reader recoils from seeing these demands ascribed to God. It is not enough to be told that wars in ancient times were cruel and destructive (wars today are

spoil of your enemy, which the LORD your God gives you.

¹⁵Thus you shall deal with all towns that lie very far from you, towns that do not belong to nations hereabout. ¹⁶In the towns of the latter peoples, however, which the LORD your God is giving you as a heritage, you shall not let a soul remain alive. ¹⁷No, you must proscribe them—the Hittites and the Amorites, the Canaanites and the Perizzites, the Hivites and the Jebusites—as the LORD your God has commanded you, ¹⁸lest they lead you into doing all the abhorrent things that they have done for their gods and you stand guilty before the LORD your God.

¹⁹When in your war against a city you have to besiege it a long time in order to capture it, you must not destroy its trees, wielding the ax

וְאֶכְלָתָּ אֶת־שָׁלַל אֹיְבֶיךָ אֲשֶׁר נָתַן יְהוָה
אֱלֹהֶיךָ לָךְ:

¹⁵ בְּכָל־תַּעֲשֶׂה לְכָל־הָעָרִים הָרְחֹקֹת מִמֶּךָ
מֵאֹד אֲשֶׁר לֹא־מִעָרֵי הַגּוֹיִם־הָאֵלֶּה הֵנָּה:
¹⁶ וְכָל־מִעָרֵי הָעַמִּים הָאֵלֶּה אֲשֶׁר יְהוָה
אֱלֹהֶיךָ נָתַן לָךְ נַחֲלָה לֹא תַחֲיֶה בָּל־
נִשְׁמָה: ¹⁷ כִּי־הַחֲרָם תַּחֲרִימֶם הַחֲתִי
וְהָאֲמֹרִי הַכְּנַעֲנִי וְהַפְּרִזִּי הַחִוִּי וְהַיְבוּסִי
כַּאֲשֶׁר צִוָּךְ יְהוָה אֱלֹהֶיךָ: ¹⁸ לְמַעַן אֲשֶׁר
לֹא־יִלְמְדוּ אֶתְכֶם לַעֲשׂוֹת כְּכָל־תּוֹעֲבֹתָם
אֲשֶׁר עָשׂוּ לְאֱלֹהֵיהֶם וַחֲטֹאתֵם לַיהוָה
אֱלֹהֵיכֶם: ט

¹⁹ כִּי־תָצוּר אֶל־עִיר יָמִים רַבִּים לְהִלָּחֵם
עָלֶיהָ לְתַפְשָׁהּ לֹא־תִשְׁחִית אֶת־עֵצָהּ

Exception: Cities In The Promised Land (vv. 15–18)

16. Cities in the Promised Land are an exception to the preceding rule. They are not to be offered the option of surrender, and their entire population is to be destroyed (see also 7:1–2, 16).

17. proscribe Hebrew: *haḥarem taharim*; translated in 7:2 as “doom to destruction.” A similar case is found in the time of Hezekiah (1 Chron. 4:39–43). The laws of Deuteronomy reflect a theology of militancy against the threat of idolatry in general.

18. abhorrent things Ritual murder. Proscription is prompted by the Canaanites’ abhorrent rites, not their beliefs. Child sacrifice is singled out as their most barbarous rite, in addition

to a number of other practices (see 12:31 and 18:9–14). These are regarded as the Canaanites’ own abominations, not part of the worship of celestial beings ordained by the Lord for the other nations (4:19).

TREES NEAR BESIEGED CITIES (vv. 19–20)

It was common practice in ancient warfare to destroy the enemy’s fruit trees and fields. This weakened its economic potential and hampered its ability to fight again in the near future. It may also have been intended to pressure besieged cities into surrendering before they suffered loss of sustenance and long-term damage.

19. Trees, unlike human beings, are unable to protect themselves by taking refuge within the city.

hardly better). We might understand the passage in its context by focusing on verse 18, the Torah’s abiding fear that these pagan nations will lead Israel astray.

19. you must not destroy its trees We are not to be so carried away in time of war that we forget the war will be over one day and people will have to live and feed their families in the place where battles are now raging. Beyond that, Maimonides writes: “Not only one who

cuts down a fruit tree, but anyone who destroys household goods, tears clothing, demolishes a building, stops up a spring, or ruins food deliberately, violates the prohibition *bal tashhit*, ‘you must not destroy’” (MT Kings 6:10). Many legal systems, including the laws of the United States, permit people to destroy their own property. Jewish law teaches us that we are only the custodians, not the true owners, of our property.

HALAKHAH L'MA'ASEH

20:19–20. The concern for fruit trees in these verses provides one of the foundations for Jewish concern for the environment. We are commanded to preserve the environment even as we use it (see Gen. 2:15).

Etz Hayim: Torah and Commentary

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against them. You may eat of them, but you must not cut them down. Are trees of the field human to withdraw before you into the besieged city? ²⁰Only trees that you know do not yield food may be destroyed; you may cut them down for constructing siegeworks against the city that is waging war on you, until it has been reduced.

לְנֹדַח עָלֶיךָ גִּרְזָן בִּי מִמֶּנּוּ תֹאכַל וְאֵתוֹ
לֹא תִכְרֹת בִּי הָאָדָם עֵץ הַשָּׂדֶה לְבֹא
מִפְּנֵיךָ בַּמָּצוֹר: ²⁰רַק עֵץ אֲשֶׁר-תֵּדַע
כִּי-לֹא-עֵץ מֵאֲכָל הוּא אֶתוֹ תִּשְׁחִית
וְכָרְתָּ וּבְנִיתָ מָצוֹר עַל-הָעִיר אֲשֶׁר-הוּא
עֹשֶׂה עִמָּךְ מִלְחָמָה עַד רִדְתָּהּ: פ

21 If, in the land that the LORD your God is assigning you to possess, someone slain is found lying in the open, the identity of the slayer not being known, ²your elders and magistrates shall go out and measure the distances from

כא כִּי-יִמָּצֵא חָלָל בְּאֶדְמָה אֲשֶׁר
יְהוָה אֱלֹהֶיךָ נָתַן לָךְ לְרִשְׁתָּהּ נִפְלַל בַּשָּׂדֶה
לֹא נֹדַע מִי הִכָּהוּ: ²וַיֵּצְאוּ זְקֵנֶיךָ וְשֹׁפְטֶיךָ
וּמִדְדוּ אֶל-הָעָרִים אֲשֶׁר סְבִיבֹת הַחָלָל:

20. siegeworks Hebrew: *matzor*. Here, “a siege wall,” a series of fortifications built by an attacking army around a besieged city to blockade it so that it cannot be resupplied with food, weapons, and manpower. It is also a protection against raids by the city’s defenders. Fruit trees, among others, were often used for this purpose. An Egyptian inscription describing the siege of Megiddo by Thutmose III (ca. 1490–1436 B.C.E.) relates how his commanders “measured the town, surrounded it with a ditch, and walled it up with the fresh timber from their [the city’s] fruit trees.”

UNSOLVED MURDER (21:1–9)

This law seeks to protect the nation from bloodguilt that would befall it because of an unpunished homicide. Numbers 35:33 states that “the land can have no expiation for blood that is shed on it, except by the blood of him who shed it.” When the killer is not identified, making pun-

ishment impossible, the law provides for ritual removal of the bloodguilt.

1. Bloodguilt pollutes the land of Israel as well as the people.

someone slain A corpse bearing marks of human violence.

in the open The law focuses on a body found in the open because, given the size and life patterns of ancient towns, unsolved murders would most often take place outside of towns. Within a town, the victim’s cries would usually be heard and the killer detected.

not being known Literally, “not having become known.” The verb is in the past tense, implying that the ceremony is performed some time after the discovery of the body. An investigation was probably to be conducted first to determine whether anybody knew the identity of the killer.

2. Elders and judges from all over the region supervise the measuring to make sure that it is conducted fairly.

CHAPTER 21

1–9. Innocent blood shed on Israelite soil pollutes the Land and must be expiated. Maimonides suggests that the publicity will help apprehend the murderer. The Talmud understands the oath of the town elders as an insistence that they did not permit a climate of lawlessness and violence to exist in their community (BT Sot. 45b). The Midrash takes the oath to mean “in our community, no poor

person goes unaided to the point of being driven to a life of crime.” This ceremony, because of its puzzling elements, is listed in Rabbinic texts as a commandment for which there is no apparent reason, along with the goat sent to Azazel on the Day of Atonement and the “red” cow (Lev. 16; Num. 19). Rabbinic sources report that the ceremony was abolished in the 1st century C.E. because murder had become common and was committed openly.

the corpse to the nearby towns. ³The elders of the town nearest to the corpse shall then take a heifer which has never been worked, which has never pulled in a yoke; ⁴and the elders of that town shall bring the heifer down to an everflowing wadi, which is not tilled or sown. There, in the wadi, they shall break the heifer's neck. ⁵The priests, sons of Levi, shall come forward; for the LORD your God has chosen them to minister to Him and to pronounce blessing in the name of the LORD, and every lawsuit and case of assault is subject to their ruling. ⁶Then all the elders of the town nearest to the corpse shall wash their hands over the heifer whose neck was broken in the wadi. ⁷And they shall make this declaration: "Our hands did not shed this blood, nor did our eyes see it done. ⁸Absolve, O LORD, Your people Israel whom You redeemed, and do not let guilt for the blood of the innocent remain among Your people Israel." And they will be absolved of bloodguilt. ⁹Thus you will remove from your midst guilt for the blood of the innocent, for you will be doing what is right in the sight of the LORD.

3. The nearest town has the responsibility to purge the bloodguilt. In the ancient Near East, a town in or near which a crime took place was required to compensate the victim or the victim's survivors, because the perpetrator most likely came from there. Biblical law, on the other hand, presumes that it is impossible to pay for loss of life. Hence, it makes no provisions for indemnifying survivors. Its concern is with the jeopardy in which the nation is placed by the unrequited blood that was shed in its midst.

heifer A calf in its first or second year.

never been worked . . . never pulled in a yoke This gives the heifer a ritual character, although its slaughter is not actually a sacrifice.

4. an everflowing wadi This refers to a wadi with a perennial stream, as distinct from one that is full only in the rainy season.

which is not tilled or sown It has never been, or cannot be, tilled or sown.

5. priests Those who are present because of their normal duties. There is no indication of their exact role in the ceremony.

6. shall wash their hands Hands full of

³וְהָיָה הָעִיר הַקְּרִבָּה אֶל־הַחֵלֶל וּלְקַחֲו
זִקְנֵי הָעִיר הַהִוא עֲגֹלַת בָּקָר אֲשֶׁר לֹא־
עֲבָד בָּהּ אֲשֶׁר לֹא־מִשְׁכָּה בָּעֵל: ⁴וְהוֹרְדוּ
זִקְנֵי הָעִיר הַהִוא אֶת־הָעֲגֹלָה אֶל־נַחַל
אֵיתָן אֲשֶׁר לֹא־יַעֲבֹד בּוֹ וְלֹא יִזְרַע וְעָרְפוּ־
שָׁם אֶת־הָעֲגֹלָה בַּנַּחַל: ⁵וְנָגְשׁוּ הַכֹּהֲנִים
בְּנֵי לֵוִי כִּי בָם בָּחַר יְהוָה אֱלֹהֶיךָ לְשָׁרְתוֹ
וּלְבָרֶךְ בְּשֵׁם יְהוָה וְעַל־פִּיהֶם יִהְיֶה כָּל־
רִיב וְכָל־נִגַּע: ⁶וְכָל זִקְנֵי הָעִיר הַהִוא
הַקְּרִבִּים אֶל־הַחֵלֶל יִרְחֲצוּ אֶת־יְדֵיהֶם
עַל־הָעֲגֹלָה הָעֲרוּפָה בַּנַּחַל: ⁷וְעָנוּ וְאָמְרוּ
יְדֵינוּ לֹא שָׁפְכָה שָׁפְכוּ אֶת־הַדָּם הַזֶּה
וְעֵינֵינוּ לֹא רָאוּ: ⁸כִּפֹּר לַעֲמֹךְ יִשְׂרָאֵל
אֲשֶׁר־פָּדִיתָ יְהוָה וְאֶל־תֵּתֵן דָּם נָקִי בַּקֶּרֶב
עֲמֹךְ יִשְׂרָאֵל וְנִכְפַּר לָהֶם הַדָּם: ⁹וְאָתָּה
תִּבְעֵר הַדָּם הַנָּקִי מִקֶּרְבְּךָ כִּי־תַעֲשֶׂה
הַיֵּשֶׁר בְּעֵינֵי יְהוָה: ס

מפסיר

blood are a well-known symbol of guilt, and washing the hands a sign of innocence.

7. they shall make this declaration The elders, speaking for their town, declare their innocence.

this blood The blood of the murder victim or the bloodguilt caused by the murder.

nor did our eyes see it done Either "We do not know who the killer is (and are not protecting him)," or "We did not see it happen and stand idly by."

8. The final stage in the ceremony is the elders' prayer. Deuteronomy regards this as the crucial element in the ritual of absolution.

Your people Israel The twofold mention of the people emphasizes that the nation as a whole, not only the nearest city, requires absolution because of collective responsibility for bloodshed. Ibn Ezra remarked that the nation needs absolution because it neglected to keep the roads safe.

they will be absolved According to Jewish law, if the killer is later found, he must be executed even though the bloodguilt has been absolved by this ceremony.

הפטרה רביעית דנחמתא

FOURTH HAFTARAH OF CONSOLATION HAFTARAH FOR SHOF'TIM

ISAIAH 51:12–52:12

(Recite on the 4th Shabbat after the 9th of Av, coinciding with the reading of Shof'tim. On the Seven Haftarot of Consolation, see p. 1032.)

Each part of this *haftarah*—a divine pronouncement of comfort to Zion and the nation—features a pattern of double proclamation. After God tells the people at the outset that “I, I am He who comforts you” (51:12), Jerusalem (also known as Zion) is exhorted to “Rouse, rouse” (51:17) herself from the travail of sorrow and to “Awake, awake” (52:1) to her new destiny of splendor. Finally, the exiles are called on to “Turn, turn away” (52:11) from Babylon and begin the journey to the homeland. These repetitions intensify the divine commands and spotlight the *haftarah*’s three themes of divine presence, national transformation, and return from exile.

God’s own words (“I, I am He”) introduce the first theme—divine presence, which brings consolation. The Lord comes to comfort the bereaved city (51:12) and to champion His people (v. 22), contending on their behalf against the nations. The divine presence is a reality, returning to Zion as king (52:7–8). God as the fulfiller of promises strikingly declares: “I, the One who promised, / Am now at hand [*hinneini*]” (52:6). Significantly, at crucial points in their lives Abraham (Gen. 22:1), Jacob (Gen. 31:11, 46:2), and Moses (Exod. 3:4) had responded to God with the same word *hinneini* (here I am). God’s own use here of *hinneini* emphasizes divine readiness, sharpening the reality of imminent comfort and renewal. Further, it reinforces the earlier proclamation to Zion: “Behold [*hinnei*] your God” has come (Isa. 40:10). Once again Zion will be a place for God’s indwelling Glory, a place where the nation shall rest in comfort from its sorrows.

The second recurrent theme—national transformation—is presented through exhortation and contrast. As noted above, the city is bidden to arouse itself from its stupor, for it no longer shall reel from the wrath of God, but shall “arise” from the dust (51:17, 52:2). Images of lowliness and degradation are evoked as memories (51:23), together with themes of bondage and captivity (52:2). By contrast, the people are called on to “loose their bonds” and “put on robes of majesty.”

The third major theme is return from exile. Anticipating the nation’s redemption from Babylon, God refers back to their first servitude in Egypt (52:4). The promised departure from Babylonian captivity becomes nothing less than a new Exodus. Indeed, it will supersede that ancient event (v. 12). The people are encouraged to perceive their liberation in historic terms and to trust that new events will partake of past glories.

RELATION OF THE HAFTARAH TO THE CALENDAR

The destruction of Zion was mourned less than five weeks ago on the fast of *Tish-ah b’Av*. At that time, the Book of Lamentations was recited, which raised an elegiac cry over Zion: “Far from me is any comforter / Who might revive my spirit; / My children are forlorn, / For the foe has prevailed” (Lam. 1:16). As if to counter this perception of absence and loss, a later prophet in the exile revealed God’s word of presence—“I, I am He who comforts you!” (Isa. 51:12)—and announced a time of joy and redemption. This prophecy now evokes a sense of encouragement and immediacy that is still compelling.

51 ¹²I, I am He who comforts you!

What ails you that you fear
Man who must die,
Mortals who fare like grass?
¹³You have forgotten the LORD your Maker,
Who stretched out the skies and made firm
the earth!
And you live all day in constant dread
Because of the rage of an oppressor
Who is aiming to cut [you] down.
Yet of what account is the rage of an oppres-
sor?

¹⁴Quickly the crouching one is freed;
He is not cut down and slain,
And he shall not want for food.
¹⁵For I the LORD your God—
Who stirs up the sea into roaring waves,
Whose name is LORD of Hosts—
¹⁶Have put My words in your mouth
And sheltered you with My hand;
I, who planted the skies and made firm the
earth,

Have said to Zion: You are My people!

¹⁷Rouse, rouse yourself!
Arise, O Jerusalem,
You who from the LORD's hand
Have drunk the cup of His wrath,
You who have drained to the dregs
The bowl, the cup of reeling!

¹⁸She has none to guide her
Of all the sons she bore;
None takes her by the hand,

נא ¹²אֲנִכִּי אֲנִכִּי הוּא מְנַחֲמֶכֶם

מִי־אַתָּה וְתִירָאִי
מֵאֲנוּשׁ יָמוּת
וּמִבֶּן־אָדָם חָצִיר יִנָּתֵן:
¹³וְתִשְׁכַּח יְהוָה עֲשֶׂךָ
נוֹטָה שָׁמַיִם וַיִּסֹּד אֶרֶץ
וְתִפְחֹד תַּמִּיד כָּל־הַיּוֹם
מִפְּנֵי חֲמַת הַמַּצִּיק
כַּאֲשֶׁר כּוֹנֵן לַהֲשָׁחִית
וְאֵיהָ חֲמַת הַמַּצִּיק:
¹⁴מִהֵר צֵעָה לְהִפָּתֹחַ
וְלֹא־יָמוּת לִשְׁחַת
וְלֹא יִחָסֵר לַחֲמוֹ:
¹⁵וְאֲנִכִּי יְהוָה אֱלֹהֶיךָ
רָגַע הַיָּם וַיִּהְיֶמוּ גְלִיו
יְהוָה צְבָאוֹת שָׁמוֹ:
¹⁶וְאֲשִׁים דְּבָרִי בְּפִיךָ
וּבְצֵל יָדִי כְּסִיתִיךָ
לְנוֹטַע שָׁמַיִם וְלִיסֹד אֶרֶץ
וְלֹאֲמֹר לְצִיּוֹן עַמִּי־אַתָּה: ס
¹⁷הִתְעוֹרְרִי הִתְעוֹרְרִי
קוּמִי יְרוּשָׁלַם
אֲשֶׁר שְׁתִּית מִיַּד יְהוָה
אֶת־כּוֹס חֲמָתוֹ
אֶת־קַבְּצֵת כּוֹס הַתִּרְעָלָה
שְׁתִּית מִצִּית:
¹⁸אֵין־מְנַהֵל לָהּ
מִכָּל־בָּנִים יִלְדָהּ
וְאֵין מַחֲזִיק בְּיָדָהּ

Isaiah 51:12. who comforts you Hebrew: *m'naḥemkhem*, which counterpoints the old lament (Lam. 1:17) that "Zion . . . has no one to comfort her [*ein m'naḥem lah*]."

13. stretched out the skies Hebrew: *noteh shamayim*. This image of the Creation is common in Isaiah's rhetoric (see 40:22, 42:5, 44:24) and elsewhere (Zech. 12:1; Ps. 104:2; Job 9:8). The

phrase also has a central position in the prayer *Aleinu*.

16. You are My people A formula of adoption and covenant relationship (see Lev. 26:12; Deut. 4:20; Jer. 7:23; Ezek. 36:28).

17. Rouse, rouse yourself! This image of Zion's renewal, along with that in 52:1–2 ("Awake, awake . . . / Put on your robes of majesty, . . . /

Of all the sons she reared.

¹⁹These two things have befallen you:

Wrack and ruin—who can console you?

Famine and sword—how shall I comfort
you?

²⁰Your sons lie in a swoon

At the corner of every street—

Like an antelope caught in a net—

Drunk with the wrath of the LORD,

With the rebuke of your God.

²¹Therefore,

Listen to this, unhappy one,

Who are drunk, but not with wine!

²²Thus said the LORD, your Lord,

Your God who champions His people:

Herewith I take from your hand

The cup of reeling,

The bowl, the cup of My wrath;

You shall never drink it again.

²³I will put it in the hands of your tormentors,

Who have commanded you,

“Get down, that we may walk over you”—

So that you made your back like the ground,

Like a street for passersby.

מִכָּל-בָּנִים גִּדְּלָהּ:

¹⁹שְׁתֵּי הַנָּה קָרְאָתֶיךָ

מִי יִנּוּד לָךְ הַשָּׂדֶה וְהַשֶּׁבֶר

וְהָרֶעֶב וְהַחֶרֶב מִי אֲנַחְמָךְ:

²⁰בָּנֶיךָ עָלְפוּ שָׁכְבוּ

בְּרֹאשׁ כָּל-חֻצוֹת

כְּתוּא מִכְמָר

הַמְּלָאִים חֲמַת-יְהוָה

גִּעְרַת אֱלֹהֶיךָ:

²¹לְכֵן

שְׁמַעֲי-נָא זֹאת עֲנִיָּה

וּשְׁכַרְתָּ וְלֹא מִיֵּין: ס

²²כֹּה-אָמַר אֲדֹנֶיךָ יְהוָה

וְאֱלֹהֶיךָ יִרְיֵב עִמּוֹ

הַנָּה לִקְחָתִי מִיָּדְךָ

אֶת-כּוֹס הַתְּרַעֲלָה

אֶת-קַבְעֵת כּוֹס חֲמָתִי

לֹא-תוֹסִיפִי לְשִׁתּוֹתָה עוֹד:

²³וְשִׁמְתִּיָּהּ בְּיַד-מוֹגִיךָ

אֲשֶׁר-אָמְרוּ לִנְפֹשְׁךָ

שְׁחִי וְנַעֲבֶרָה

וְתִשְׁיֵמֵי כְּאֶרֶץ גִּזְוֹן

וּכְחוּץ לַעֲבָרִים: ס

52 Awake, awake, O Zion!

Clothe yourself in splendor;

Put on your robes of majesty,

Jerusalem, holy city!

For the uncircumcised and the impure

Shall never enter you again.

נב עורי עורי

לְבָשִׂי עֹזָן צִיּוֹן

לְבָשִׂי | בְּגָדֵי תִפְאָרְתְּךָ

יְרוּשָׁלַם עִיר הַקֹּדֶשׁ

כִּי לֹא יוֹסִיף יְבֹא-בְךָ עוֹד

עַרְל וְטָמֵא:

Arise, shake off the dust”), entered the liturgy through the *Shabbat* hymn “*L’kha Dodi*.” Written by Solomon ha-Levi Alkabetz (ca. 1540), it is the latest major liturgical element in the traditional prayer book.

Isaiah 52:1. Jerusalem, holy city! This transfer of priestly holiness to the city as a whole is a late development. Similarly, another post-

exilic prophet refers to the land of Judah as “the holy land” (Zech. 2:16).

For the uncircumcised . . . / Shall never enter you again This prophecy effectively inverts the ancient lament: “She [Zion] has seen her Sanctuary / Invaded by nations / Which You have denied admission / Into Your community” (Lam. 1:10).

²Arise, shake off the dust,
Sit [on your throne], Jerusalem!
Loose the bonds from your neck,
O captive one, Fair Zion!

²הִתְנַעֲרִי מֵעָפָר קוּמִי
שְׁבִי יְרוּשָׁלַם
הִתְפַּתְחוּ הַתְּפִתְחֵי מוֹסְרֵי צִוְּאֶיךָ
שְׁבִיָּה בַת־צִיּוֹן: ס

³For thus said the LORD:
You were sold for no price,
And shall be redeemed without money.

³כִּי־כֹה אָמַר יְהוָה
חֲנָם נִמְכַּרְתֶּם
וְלֹא בְכֶסֶף תִּגָּאֲלוּ:

⁴For thus said the Lord God:
Of old, My people went down
To Egypt to sojourn there;
But Assyria has robbed them,
Giving nothing in return.

⁴כִּי כֹה אָמַר אֲדֹנָי יְהוָה
מִצְרַיִם יִרְדּוּ־עַמִּי בְּרֹאשָׁנָה
לְגוֹר שֵׁם
וְאֲשׁוּר

⁵What therefore do I gain here?
—declares the LORD—
For My people has been carried off for nothing,
Their mockers howl

בְּאַפְסַ עֲשָׂקוֹ:
⁵וְעַתָּה מִי מַה־לִּי־פֹה
נָא־יְהוָה

—declares the LORD—
And constantly, unceasingly,
My name is reviled.

כִּי־לָקַח עַמִּי חֲנָם
מִשְׁלוּ מִשְׁלֵיו יִהְיֶה־לֵּל
נָא־יְהוָה

⁶Assuredly, My people shall learn My name,
Assuredly [they shall learn] on that day
That I, the One who promised,
Am now at hand.

וְתָמִיד כָּל־הַיּוֹם
שְׁמִי מְנַאֵץ:

⁶לְכֵן יֵדַע עַמִּי שְׁמִי
לְכֵן בַּיּוֹם הַהוּא
כִּי־אֲנִי־הוּא הַמְּדַבֵּר
הַנִּנִּי:

⁷How welcome on the mountain
Are the footsteps of the herald
Announcing happiness,
Heralding good fortune,
Announcing victory,
Telling Zion, "Your God is King!"

⁷מַה־נָּאוֹו עַל־הַהָרִים
רַגְלֵי מְבַשֵּׁר
מִשְׁמִיעַ שְׁלוֹם מְבַשֵּׁר טוֹב
מִשְׁמִיעַ יְשׁוּעָה

⁸Hark!

אָמַר לְצִיּוֹן
מֶלֶךְ אֱלֹהֶיהָ:
⁸קוֹל צִפְיָךְ

6. My people shall learn My name When the prophecies of redemption are fulfilled, and God will be manifest as a redeemer (Ibn Ezra), the people shall know that He fulfills the words (Targum, Rashi) spoken in His name by His

prophets (Radak). The expression is thus a variant of "And all mankind shall know / That I the LORD am your Savior, / the Mighty One of Jacob, your Redeemer" (49:26).

Your watchmen raise their voices,
 As one they shout for joy;
 For every eye shall behold
 The LORD's return to Zion.
⁹Raise a shout together,
 O ruins of Jerusalem!
 For the LORD will comfort His people,
 Will redeem Jerusalem.
¹⁰The LORD will bare His holy arm
 In the sight of all the nations,
 And the very ends of earth shall see
 The victory of our God.
¹¹Turn, turn away, touch naught impure
 As you depart from there;
 Keep pure, as you go forth from there,
 You who bear the vessels of the LORD!
¹²For you will not depart in haste,
 Nor will you leave in flight;
 For the LORD is marching before you,
 The God of Israel is your rear guard.

נִשְׂאוּ קוֹל
 יַחְדָּו יִרְנְנוּ
 כִּי עֵין בְּעֵין יֵרְאוּ
 בְּשׁוּב יְהוָה צִיּוֹן:
⁹פָּצְחוּ רִנְנוּ יַחְדָּו
 חֲרָבוֹת יְרוּשָׁלַם
 כִּי־נַחֵם יְהוָה עַמּוֹ
 גָּאֹל יְרוּשָׁלַם:
¹⁰חָשַׁף יְהוָה אֶת־זְרוֹעַ קְדְשׁוֹ
 לְעֵינֵי כָל־הַגּוֹיִם
 וַיֵּרְאוּ כָל־אֲפִסֵּי־אֶרֶץ
 אֶת יְשׁוּעַת אֱלֹהֵינוּ: ס
¹¹סֹרוּ סֹרוּ סֹרוּ צֵאוּ מִשָּׁם
 טָמֵא אַל־תִּגָּעוּ
 צֵאוּ מִתּוֹכָהּ הַבָּרוּ
 נִשְׂאֵי כָלִי יְהוָה:
¹²כִּי לֹא בַחֲפֹזֹן תֵּצְאוּ
 וּבִמְנוּסָה לֹא תִלְכוּ
 כִּי־הִלֵּךְ לִפְנֵיכֶם יְהוָה
 וּמֵאַסְפֹּכֶם אֱלֹהֵי יִשְׂרָאֵל: ס

8. every eye shall behold / The LORD's return An expression for the concrete experience of God's might (Targ. Jon., Abravanel) and guiding Presence (v. 12), echoing Num. 14:14 (Ibn Ezra).

10. The LORD will bare His holy arm This mythic image depicts divine power, as at the Creation and at the Exodus. (Arousal of "the divine arm" was invoked in 51:9–10, a few verses before the beginning of this *haftarah*.)