

PSHUTO SHEL MIKRA

From the Teachings of Rav Yehuda Copperman zt"l

PARSHAT SHOFTIM

“Right and Left” – Following the Rulings of the Sanhedrin

לֹא תִסּוּר מִן הַדְּבָר אֲשֶׁר יִגִּידוּ לְךָ יְמִין וּשְׂמָאל

You shall not deviate from the matter which they will tell you, right or left (Devarim 17:11)

The beginning of *Parshat Shoftim* discusses the mitzvah of establishing a Sanhedrin, which has supreme authority in matters of halachah, and concerning whose words the Torah requires full adherence, as set forth in our *pasuk*.

The Drashah of the Sifrei

With regards to the concluding phrase, “ימין ושמאל — *right or left*,” there is a well-known *drashah* of Chazal in the *Sifrei* (*siman* 154), quoted by Rashi, which states:

אפילו הוא אומר לך על ימין שהוא שמאל ועל שמאל שהוא ימין, וכל שכן כשהוא אומר לך על ימין שהוא ימין ועל שמאל שהוא שמאל

Even if it (the Sanhedrin) tells you that right is left and left is right; and this is certainly the case if it tells you that right is right and left is left.¹

¹ It should be noted that Rashi’s concluding words, “and this is certainly the case etc.,” are not found in the *Sifrei*, but are rather Rashi’s own additional comment.

Interestingly, Rashi himself does not elaborate on this *drashah*. Nonetheless, as we will see, numerous *mefarshim* — including *mefarshai* Rashi — discuss the matter at quite some length.

Understanding “Right and Left”

The obligation to follow the *Sanhedrin* “even if they say that right is left” is certainly something that requires understanding. What is the nature of the requirement to follow their rulings even under such circumstances?

This matter as well is discussed by the **Ramban** in his *peirush* to our *pasuk*. As we will see, he begins by presenting one approach, and then concludes by introducing an additional idea which may result in adopting a different approach altogether:

The understanding of this mitzvah is as follows. Even if you may think in your heart that they are in error, and the matter is as clear to you as is the difference between right and left, nonetheless act in accordance with their ruling, and do not say, “How can I eat this fat which is completely forbidden or kill this person who is innocent?” Rather, you should say, “Thus have I been commanded by my Master who has commanded that I perform all His mitzvot in accordance with the rulings of those who stand before Him in the place that He has chosen;² and it is based on their understanding He has given me the Torah, even if they should err.” This is similar to the episode with R’ Yehoshua and Raban Gamliel on the day which Yom Kippur fell according to the calculation of R’ Yehoshua.³

The necessity for this mitzvah is very great indeed, for the Torah was given to us in written form, and it is well-known that not all opinions will be in concurrence regarding new questions that arise, so that disputes will proliferate and the Torah will become like many Torahs. Thus, the pasuk states that we will heed the instructions of the supreme Beit Din which stands before Hashem in the place that He chooses, with regards to anything they state as an interpretation of the words of the Torah; whether it is an interpretation they received as an unbroken transmission all the way back to Moshe who received it from Hashem, or whether it is their own interpretation of the intent of the pasuk. For the Torah has been given contingent on their understanding, even if in your estimation they have mistaken right for left.

[The requirement to heed their words is] all the more incumbent since you should consider that in reality what they say is “right” is actually “right,” for “the spirit of Hashem rests on those who serve in His Mikdash,”⁴ and “he will not abandon His pious ones, they will always be protected”⁵ from error and mishap.

2 [The *Sanhedrin* was located on the premises of the *Beit Hamikdash* in a place known as the *Lishkat HaGazit* (Chamber of Hewn Stone).].

3 Rabban Gamliel commanded R’Yehoshua to come before him on that day with his walking stick and bundle, see *Rosh Hashanah* 25a.

4 Based on *Yechezkel* 45:4.

5 Based on *Tehilim* 37:28.

The Ramban has presented two approaches to understanding the requirement of full compliance with the rulings of the *Sanhedrin*, even if they appear to be in error:

1. The Torah has been given based on their understanding; even if it is in error, it is Hashem's Will that we follow them.
2. The *Sanhedrin* has special *siyata dishmaya* (Heavenly assistance) which protects them against erroneous rulings; rather, it is the individual, who feels they have mistaken right for left, who is actually in error.

In Mefarshei Rashi

Both of these approaches presented by the Ramban find expression in the classic *mefarshei Rashi* on our *pasuk*. **Rabbeinu Eliyahu Mizrachi** explains the idea in accordance with the second approach of the Ramban, i.e. that in reality the *Sanhedrin* are not in error, that is simply the way it seems to the onlooker; indeed, his words are practically a verbatim quote from that section of the Ramban.

Conversely, the *Maharal* in the *Gur Aryeh* explains this idea in a manner similar to the first approach of the Ramban. First, *Maharal* explains the expression “right is left and left is right”:

The meaning is, concerning something which is permitted to do (“right”), they have stated that it is forbidden (“left”); and similarly, something which is “left” i.e. forbidden to do, they have declared “right” i.e. permitted.

With regards to the obligation itself to follow them even under such circumstances, *Maharal* writes:

For even if they are mistaken in a matter of halachah and have declared something tamei when it is actually tahor, or something tahor when it is actually tamei, you are permitted to follow them and you are fulfilling a mitzvah of Hashem by doing so ... as the Gemara explains (Sanhedrin 88a), “in order that machloket should not proliferate in Israel.”

Actually, if we look a little more carefully, we will see that it is possible that the *Gur Aryeh* and the Ramban are not necessarily saying exactly the same thing:

- ▷ On the one hand, it is clear from the words of the *Maharal* that in his understanding, should the *Sanhedrin* confuse “right” and “left,” that is a mistake and remains as such even as we are told to follow it. The mitzvah of the Torah to follow them in such a situation is based on an overriding consideration, namely, of not increasing machloket in Yisrael.
- ▷ In contrast to this, it is possible to understand the Ramban's (first) explanation as saying that in order not to increase *machloket*, the Torah was given at the outset on the understanding that the halachah **by definition** is what the *Sanhedrin* say it is, based on their discussions and investigations.

As we shall now see, another of the *Rishonim* explains the words of the *Sifrei* in a way which is much closer to the explanation of the *Maharal*.

Derashot HaRan

In one of his classic *Derashot*, **Rabbeinu Nissim** (the Ran) discusses the idea of following the *Sanhedrin* even when they say “right” is “left” etc. (*Drush 11*):

The explanation of the matter is that mitzvot and the laws of the Torah are analogous to the laws of nature. In the same way that natural law exists in order to benefit man, and indeed, for the most part these laws are beneficial, nonetheless, there are certain exceptional times when these laws themselves can be the cause of damage and loss. In this respect, nature is not absolutely protected against harmful effects, for it is impossible for something to be beneficial more than the majority of the time.

For example, the faculty of digestion is part of man’s natural make-up, enabling him to digest his food, and is something without which he could not survive. Yet this very faculty can sometimes be the source of harm,⁶ and natural law will not make allowances for those cases. For Hashem’s primary intent is for the general benefit which derives from these laws

The same is true when it comes to this mitzvah (of not deviating from the Sanhedrin). The Torah’s primary concern is to avoid the potential damage that exists as an ongoing concern, namely, divisiveness and machloket which could lead the Torah to become as two Torahs. The way the Torah protected against this ongoing danger was by entrusting the arbitration of doubtful cases to the Chachamim of the generation, which in most cases will lead to a beneficial outcome, as their judgment will be correct for the most part. For the mistakes made by great chachamim will be fewer than those made by people of lesser wisdom; all the more so when it comes to the Sanhedrin who stand before Hashem in His Mikdash, that the Shechinah will be with them (and help protect them from error). Even though it is possible that they will err on occasion, the Torah did not concern itself with a loss that is marginal in scope, for such a loss is worthwhile bearing when set against the ongoing benefit, and it is impossible to ensure benefit to a degree greater than this, as is the case with the laws of nature.

The Ran is reminding us of the correlation between “חוקות שמים וארץ,” i.e. natural law, and “בריתי יומם ולילה,” i.e. Torah law. Chazal themselves told us (*Zohar Parshat Terumah*) that “אסתכל באורייתא וברא עלמא — (Hashem) looked into the Torah and created the world.” A balanced diet is of great benefit for most people. Yet there are some for whom it is not appropriate, and a competent physician will know when to recommend avoiding certain foods or consuming higher quantities of others. Milk is a basic necessity for most babies, yet for some it provokes an allergic reaction. The same is true when it comes to the laws

6 [E.g. if he swallows something harmful.].

of Torah. We follow rules that are beneficial in most cases,⁷ even though there might be occasions where that rule itself is the source of mishap.^{8 9}

Abarbanel's Approach

The final approach we will consider to the question of the *Sanhedrin* saying “right is left,” is that of the **Abarbanel** in his peirush to our *pasuk*. As we will see, this approach differs significantly from all those we have mentioned so far in terms of its understanding of the scope of this idea:

*It appears to me that the correct understanding of this matter is that the laws of the Torah are **general in nature** and it is not possible for them to address each particular situation that could exist at any time. It is therefore clear that whereas the general laws of the Torah are righteous and just in themselves, a specific situation could arise where applying the general rule is not appropriate.*

For example, the Torah sets general guidelines as the basis upon which to execute a murderer, which are quite restrictive in nature. If these guidelines will be followed in all cases, no murderer will ever be executed, and murderers will abound! It is with this in mind Chazal (Bava Metzia 30b) said “Yerushalayim was destroyed because they adjudicated based on Torah law.” The meaning is, they only ever applied the general law, without considering that a particular case might require an exceptional ruling.

*Therefore, the Torah states that if a local Beit Din should be in doubt as to whether they should be following general Torah law regarding a particular case that comes before them which may require a contingency response ... for this is something which the Torah empowers the Sanhedrin to do if they feel the circumstances warrant it. It is with regards to this type of ruling the Torah commands that we shall not deviate from their words right or left. As if to say, even in a situation where the **general rule** would dictate that we go to “the left,” while the Sanhedrin ruled that **in this particular case** we should go to “the right,” and vice versa, we may not deviate from their words. For although in terms of the general rule, they may have said that what is “left” is “right,” in terms of this particular case, they have actually stated that “right is right,” for this is the correct response to this particular case, and any other course of action would be incorrect! And through these means, the Torah has ultimately given the Sanhedrin the wherewithal to deal with every case that may come before them, applying the general rule to most cases, and the contingency rule to cases which they assess warrant such an approach.*

7 [Such as following the *Sanhedrin*.]

8 [If the *Sanhedrin* should make an erroneous decision.] .

9 Developing the idea further, the Ran proceeds to state that even in the event that the *Sanhedrin* made a mistake, the spiritual harm which would be caused by doing that act will be countered by the overwhelming spiritual benefit that comes from the mitzvah of following the *Sanhedrin*. In this regard, too, the Ran presents an analogous case as found in the laws of nature.

The well-known legal maxim states: “Suma jure Suma injure” — extreme justice is extreme injustice. This means that the more a law encompasses, the greater is its potential for harm. In terms of our discussion, the Abarbanel is stating that is impossible for a single uniform law to fit each and every specific circumstance. The *nitzchiyut* (eternity) of the Torah requires that means should exist within the Torah itself through which the correct ruling can be applied in all situations. According to the Abarbanel, this is the background to the flexibility given by the Torah to the *Sanhedrin*. When they say that “left is right,” they are saying that the general response to this situation would be “left” — and that remains true as a general rule! — but this particular situation requires a “right” verdict. This ensures that no case is ever without an appropriate response from the Torah.

אשרנו מה טוב חלקנו ומה נעים גורלנו ומה יפה ירושתנו !

Summary:

We have seen four approaches among the *mefarshim* regarding how to understand the obligation to follow the *Sanhedrin* even when they say that “left is right and right is left.”

1. **Ramban (first approach):** The Torah has been given on the understanding that whatever the *Sanhedrin* rules to be the halachah is by definition the halachah. Thus, the Torah entrusts them with the definitions of “right” and “left.”
2. **Ramban (second approach, and the Mizrahi):** The individual should consider that although it seems to him that the *Sanhedrin* have confused right and left, in truth it is he who is in error, for they have special *siyata dishmaya* in arriving at the correct halachic ruling.
3. **Ran (and Gur Aryeh):** Even if the *Sanhedrin* did in fact confuse right and left, it is worth following them in order to avoid the greater peril of increased *machloket* and the Torah becoming “two (or more) Torahs”
4. **Abarbanel:** This obligation is stated specifically in a case where the *Sanhedrin* judges that circumstances warrant an exceptional response (e.g. “left”), even though the general halachic response would be different (e.g. “right”).