**S.A.L.T. – PARASHAT SHOFTIM**

**By Rav David Silverberg**

Motzaei Shabbat

Towards the beginning of Parashat Shoftim, the Torah issues a prohibition against planting a tree “next to the altar of the Lord your God” (16:21). Rashi, citing the *Sifrei*, explains that this prohibition forbids planting trees anywhere on the Temple Mount. This is in contrast to the view of the Rambam, who writes in Hilkhot Avodat Kokhavim (6:9) that the prohibition applies only in the *azara* (Temple courtyard), and not elsewhere on the Temple Mount. The *Kessef Mishneh* commentary notes that the Rambam’s ruling is based on a second view cited by the *Sifrei*, in the name of Rabbi Eliezer ben Yaakov.

Rashi, in his commentary to this verse, writes that this prohibition includes also “*boneh bayit*” – building a wooden structure on the Temple Mount. In Rashi’s view – which is also cited from the *Sifrei* – when the Torah forbids planting trees in the area of the Temple, this includes making structures from wood. A number of later writers (Rav Eliyahu Mizrachi, and Maharal, in *Gur Aryeh*) explained that this interpretation of the verse stems from the fact that the Torah forbids planting “***kol*** *etz*” – “**any** tree” – which could be understood as including all wooden structures. The Ramban disagrees with Rashi’s interpretation, noting that the Torah formulates this prohibition in terms of planting – “*lo tita*” (“do not plant”), which cannot be interpreted as referring to building a structure. In the Ramban’s view, building a structure on the Temple Mount is forbidden only by force of rabbinic enactment, and does not fall under the Torah prohibition. This is also the opinion of the Rambam (Hilkhot Avodat Kokhavim 6:10).

Interestingly, *Siftei Chakhamim* suggests defending Rashi’s explanation based on Rashi’s own comments in a much different context. In Sefer Bamidbar (24:6), we read Bilam’s effusive description of *Benei Yisrael*’s tents, comparing them to – among other things – “*ahalim nata Hashem*.” *Targum Onkelos* translates the word “*ahalim*” as referring to fragrant plants, but Rashi – after citing Onkelos’ translation – adds that “*ahalim*” could be understood to mean “tents,” such that“*ahalim nata Hashem*” could be translated as, “like the heavens which God spread like a tent.” Rashi adds that although the verb *n.t.a.* (“plant”) is normally used in reference to vegetation, it is also occasionally used in reference to pitching a tent. As a prooftext, Rashi cites a verse from Sefer Daniel (11:45) which speaks of a king “planting” his palaces, which are referred to as “*ohalei apadno*” (“his royal pavilion”). If so, then here in Parashat Shoftim, too, where the Torah forbids “planting” trees in the area of the *Beit Ha-mikdash*, this could be extended to include even building wooden structures, once it has been established that even erecting structures could be described with the verb “*n.t.a.*”

Sunday

Yesterday, we noted the prohibition introduced by the Torah in the beginning of Parashat Shoftim (16:21) forbidding planting trees on the Temple Mount (according to Rashi’s explanation), or in the courtyard of the *Beit Ha-mikdash* (according to the Rambam, Hilkhot Avodat Kokhavim 6:9). A number of halakhic authorities addressed the question of whether this prohibition applies also to synagogues, such that it would be forbidden to plant trees in the yards of synagogues. The *Shulchan Arukh* makes no mention of such a prohibition, and thus several *poskim* – including Rav Yaakov Ettlinger, in *Binyan Tziyon* (9), and Netziv, in *Meishiv Davar* (14) – ruled that this is entirely permissible. Netziv explains that we do not have the authority to introduce new prohibitions that are not mentioned in the Talmud or *Shulchan Arukh*.

Moreover, the *Magen Avraham* (O.C. 154:1) cites a responsum of the Maharit addressing the halakhic status of gardens and orchards that in many communities were situated in the area just outside the synagogue. The Maharit ruled that these areas do not have the status of *kedushat beit ha-kenesset* – the halakhic sanctity of a synagogue – and thus may be used for mundane purposes. This would certainly imply that there is no prohibition against planting trees in the area outside a synagogue.

However, Rav David Menachem Babad of Tarnopol, in his *Chavatzelet Ha-sharon* (*Mahadura Tinyana*, 62), rules that planting trees in synagogue courtyards is forbidden. He notes that several *Rishonim* – including the Rambam (in the aforementioned ruling) and the *Sefer Ha-chinukh* (505) – explain that planting trees in the area of the *Beit Ha-mikdash* is forbidden because the ancient pagans used to plant trees to adorn their temples. If so, Rav Babad writes, then in Europe, too, where trees were customarily planted outside churches, it would be forbidden to plant trees in the area outside a synagogue. Rav Babad pointed to the fact that synagogues in his area normally did not have trees in the yard as evidence that this was presumed to be improper. He adds that the Maharit lived among Moslems, and therefore in his area, Jews permitted gardens and orchards outside synagogues, as this was not the practice of the local gentiles. Hence, the Maharit’s discussion cannot be used as a basis to permit trees outside synagogues in Christian lands.

This was also the position of the Maharam Shick, in one of his responsa (78), who noted the Gemara’s famous remark in Masekhet Megilla (29a) that synagogues and study halls have the status of “*mikdash me’at*” – a quasi-*Beit Ha-mikdash*. As such, the Maharam Shick contended, just as planting trees in the area outside the *Beit Ha-mikdash* is forbidden, it is likewise prohibited to plant trees in the area outside a synagogue.

One of the proofs brought against the stringent position is the fact that if we extend this prohibition to synagogues, then it would, seemingly, be forbidden to have any wooden structures inside a synagogue, such as tables and benches. As we saw yesterday, the prohibition against planting trees includes also a prohibition against building wooden structures in the area around the Temple. The fact that no source forbids wooden structures inside a synagogue would seem to prove that this prohibition is limited to the *Beit Ha-mikdash*, and does not apply to synagogues. The Maharam Shick refutes this argument based on the comment of the Maharal, in his *Gur Aryeh*, that planting trees near the altar is prohibited because this would imply some degree of equivalence between the altar and trees. Having a sacred structure stand alongside a mundane structure gives the impression that the two are somehow equated, and thus the Torah forbade planting trees near the altar. If so, the Maharam Shick noted, then we clearly understand that wooden structures used for serving God – such as the benches and tables in the synagogue – are entirely permissible, whereas decorative trees and vegetation just outside the synagogue, which serve no inherently sacred function, would be forbidden.

Moreover, the Maharam Shick adds that according to the Rambam in Hilkhot Avodat Kokhavim (6:10), even in the Temple courtyard, building wooden structures is forbidden only by force of rabbinic enactment. The Torah prohibition applies only to planting trees in the area of the *Mikdash*, whereas the prohibition against building wooden structures was enacted by *Chazal*. Therefore, it is possible that *Chazal* extended the Torah prohibition against planting trees to synagogues, but did not go so far as to extend the rabbinic prohibition against wooden structures to synagogues.

The Maharam Shick noted also the practical concerns that planting a garden outside a synagogue would attract loiterers (“*yoshevei keranot*”), which would be improper, and could also lead to inappropriate socializing outside the synagogue.

In practice, of course, it is commonly accepted to allow planting trees outside synagogues, and this is the ruling of Rav Ovadya Yosef (see Rav David Yosef’s *Halacha Berura*, vol. 7, p. 306).

Monday

The Torah in Parashat Shoftim describes the procedure that would be followed when *Benei Yisrael* went out to war, specifically, the address given by an especially appointed *kohen* (the “*kohen mashuach milchama*”) before battle. In this address, the *kohen* announced several exemptions, including an exemption for those who felt frightened (20:8). The Mishna in Masekhet Sota (44a) cites different views among the *Tanna’im* as to the nature of the “fear” that exempted a soldier from war. According to one view, this refers to the fear of “*aveirot she-be’yado*” – sins that one has committed. Meaning, a soldier who knows that he has committed certain violations would not take part in the battle. The Gemara later (44b) cites an opinion that this applies even to one who made the mistake of speaking after placing his *tefillin shel yad* and before placing his *tefillin shel rosh*. *Halakha* forbids making any sort of interruption in between placing the *tefillin shel yad* and the *tefillin shel rosh*, and according to this opinion, even violating this law qualifies as a “sin” for which a soldier is sent home before battle.

Numerous writers proposed that this *halakha* was chosen not merely as a random example of a relatively minor ritualistic detail, but rather as symbolic expression of a fundamental aspect of Jewish life. Specifically, many have suggested that juxtaposing the placing of the *tefillin shel yad* and *tefillin shel rosh* represents the need for consistency between the heart – near which the *tefllin shel yad* is worn – and the mind – above which the *tefillin shel rosh* is worn. The Torah demands that we strive to align our emotions and desires with what we rationally know to be correct, proper and just, that there is no “disruption” between our hearts and minds.

Developing this symbolic approach a bit further, Rav Avraham Dov of Avritch, in his *Bat Ayin* (Parashat Tzav), sees the two *tefillin* as representing the balance that needs to be maintained between the conflicting emotions of brokenness and confidence. The *tefillin shel yad*, worn near the heart, represents our anxieties, fears, insecurities and apprehensions which are borne out of our faults and failures, and which we all keep within our hearts. By contrast, the *tefillin she rosh*, which rests proudly on top of the head, represents the confidence, courage, boldness and self-esteem that we need in order to aspire to and pursue ambitious goals. Rav Avraham Dov of Avritch writes that *Halakha* requires placing the *tefillin shel rosh* immediately after placing the *tefillin shel yad* because we must be able to regain our feelings of confidence and self-worth immediately after experiencing failure. We often feel broken, humiliated and ashamed, but we must have the strength to quickly rise from these emotions to the “*tefillin shel rosh*” – to a feeling of confidence and belief in ourselves. We must never allow failure to paralyze us, to keep us down, to prevent us from moving forward. We must instead have the strength and courage to proceed immediately from the “*tefillin shel yad*” to the “*tefillin shel rosh*,” to raise ourselves from disappointment and discouragement to confidence and ambition, so that we can continue growing, achieving and accomplishing all that we are capable of accomplishing during our brief sojourn on earth.

Tuesday

The Torah in Parashat Shoftim designates idol worship as a capital offense, for which one would be (under certain circumstances) liable to execution in the times when courts were empowered to administer capital punishment. In a situation where one is confirmed guilty of worshipping idols, the Torah commands, the perpetrator is taken “*el she’arekha*” – “to your gates” – where the punishment is administered.

*Targum Onkelos* translates “*she’arekha*” in this verse as “*tera beit dinakh*” – “the gate of your court.” In the view of Onkelos, it seems, capital punishment was administered outside the court which convicted the offender. Rashi, however, after citing Onkelos’ translation, writes that this is incorrect. The Gemara in Masekhet Ketubot (45b) states explicitly that this refers to “*sha’ar she-avad bo*” – the “gate” of the place where the violator worshipped an idol. This is inferred from the fact that the same term – “*she’arekha*” – is used several verses earlier, when the Torah describes the case of a person found worshipping idols (“*Ki yimatzei be-kirbekha be-achad* ***she’arekha***”). Just as the word “*she’arekha*” in the earlier verse refers to the site of the idol worship, this word in the latter verse also refers to the site of the idol worship, requiring that the violator be punished at that site.

The reason behind this law might be the desire to avoid giving the impression that the court is to blame for the tragic loss of life. If the punishment were administered by the *Beit Din*, people might overlook the violation that was committed, and focus their attention solely on the court, as though the blame for this unfortunate sequence of events lay squarely with the judges. Administering the punishment at the site of the prohibited act has the effect of associating the tragic result in people’s minds with the sinful act, rather than with the *Beit Din*. They are thus reminded that the blame lies with the perpetrator, and not with the court which convicted the perpetrator.

The practical lesson of this *halakha* perhaps relates to the unpleasant experience of hearing criticism or being punished for mistakes we make. Our instinctive reaction in such situations is to defend ourselves, disavow guilt, and resent the person expressing the criticism or giving the punishment. The Torah here reminds us of the need to take responsibility for our mistakes, to acknowledge our guilt, to blame the humiliating experience on our own wrongdoing, rather than resent the other party. When we face the hurtful consequences of our mistakes, our thoughts should be directed inwards, toward ourselves, in an effort to learn from our wrongdoing and commit ourselves to improve henceforth, thereby transforming our mistakes into valuable experiences which ultimately make us better people.

Wednesday

The Torah in Parashat Shoftim (17:11) introduces the prohibition known as “*lo tasur*,” which forbids disobeying the rulings of accepted body of halakhic authority. Practically speaking, the Gemara in Masekhet Shabbat (23a) instructs that this prohibition forbids us from neglecting the *mitzvot* enacted by our Sages. (The *mitzva* under discussion there is the requirement to light candles on Chanukah.) However, the precise parameters of this prohibition are subject to a well-known debate between the Rambam and the Ramban. The Rambam, in the very beginning of *Sefer Ha-mitzvot* (*shoresh* 1), writes that all laws enacted by the Sages fall under this prohibition, such that anyone who willfully transgresses a rabbinic enactment violates the prohibition of “*lo tasur*.” The Ramban, in his critique of *Sefer Ha-mitzvot*, disagrees. In his view, “*lo tasur*” pertains only to Torah laws which were interpreted by *Chazal* – meaning, laws which were established via the Sages’ explanation of the Biblical text, and would otherwise not have been obvious from the text.

The *Minchat Chinukh* (496:3) notes that according to both views, we must seemingly reach a counterintuitive conclusion: violating a prohibition stated explicitly by the Torah is less grievous than violating a prohibition which is not stated explicitly in the Torah. After all, if one transgresses a Torah law which is explicated via rabbinic exegesis, he violates both that law itself, as well as the prohibition of “*lo tasur*.” He thus transgresses two Torah violations, whereas one who violates an explicit Torah law is guilty of but one violation. This conclusion, the *Minchat Chinukh* writes, would affect the case of a gravely ill patient who desperately needs to eat meat to save his life, and the only meat available is not kosher; specifically, he has access only to meat of a kosher animal that had not undergone *shechita* (halakhic slaughtering), and to kosher meat that was cooked with milk. The first type of meat is forbidden by virtue of the prohibition of *neveila* – eating meat of an animal that was not properly slaughtered, a prohibition explicitly stated by the Torah (Devarim 14:21). The second type, however, is forbidden by virtue of the prohibition of “*lo tevashel gedi ba-chaleiv imo*” (“You shall not cook a young goat in its mother’s milk”), which *Chazal* interpreted as forbidding even the consumption of meat cooked with milk. As such, whereas eating meat of an improperly slaughtered animal violates only a single Torah prohibition, eating kosher meat cooked in milk violates the prohibition of *basar be-chalav* (eating meat and milk) as well as the prohibition of “*lo tasur*.” In the case of the ill patient, then, the *Minchat Chinukh* proposes that the patient should preferably eat the *neveila* meat, rather than the kosher meat that had been cooked together with milk.

Rav Elchanan Wasserman, in his *Kuntrus Divrei Sofrim* (34), disputes the *Minchat Chinukh*’s reasoning, and rules that the patient in this case should choose the kosher meat that had been cooked with milk. He notes that the Ramban clearly states in his discussion of “*lo tasur*” that one violates this prohibition only if he specifically intends to rebel against *Chazal*’s authority. One who accepts *Chazal*’s interpretation of the Torah, and acknowledges that the act in question is forbidden by virtue of their interpretation, but nevertheless succumbs to temptation and commits the violation, does not transgress “*lo tasur*.” Since he does not rebel against the authority of the Sages, he violates only the actual prohibition, and not the prohibition against challenging *Chazal*’s authority. Certainly, then, when a gravely ill patient is compelled to eat forbidden food to save his life, which is, of course, permissible (and even required), “*lo tasur*” is entirely inapplicable. Unquestionably, if the patient in this case eats meat cooked with milk, he transgresses only the prohibition of *basar be-chalav*, and not “*lo tasur*.” Therefore, the question becomes whether it is preferable to violate this non-explicit Torah prohibition, or the explicit Torah prohibition of *neveila*. Rav Elchanan draws proof from earlier sources that explicit Torah laws are treated with greater severity than non-explicit Torah laws. (Specifically, Rav Elchanan notes the comment of the Ran, in Masekhet Nedarim (8), that if one takes an oath to commit a Biblically forbidden act, the oath takes effect if the prohibition in question is not explicated in the Torah.) Hence, the patient in this case should eat the kosher meat that was cooked in milk, rather than the meat of a *neveila*.

Rav Elchanan then presents a slightly different formulation of this argument. The prohibition of “*lo tasur*,” he notes, cannot be violated by committing an act sanctioned by *Halakha*. Once it is determined that a dangerous health condition mandates eating forbidden food, the prohibition of “*lo tasur*” is not relevant. This prohibition takes effect only in a situation where committing the act in question violates a law established by *Chazal*. In the case of a gravely ill patient, of course, eating the food is allowed. The question then becomes whether it is preferable to suspend the prohibition of *neveila* or the prohibition of “*basar be-chalav*,” as the prohibition of “*lo tasur*” is not at all part of the equation.

Thursday

The Torah in Parashat Shoftim presents the laws relevant to the Jewish king, including the requirement that he write a *Sefer Torah* and learn from it “all the days of his life,” so that “he learns to fear the Lord his God…” (17:19).

The Gemara in Masekhet Sanhedrin (21b), as cited by Rashi (17:18), comments that the king was actually required to have two Torah scrolls, one which was stored in “*beit genazav*” – his treasury – and a second which he carried with him wherever he went. The Torah formulates its command as a requirement for the king to write “*mishneh ha-Torah ha-zot*,” which the Gemara understood to mean two copies of the entire Torah.

Numerous different explanations have been offered for the requirement that a king have two *Sifrei Torah*. Rav Yehuda Leib Ginsburg, in his *Yalkut Yehuda*, offers a simple, practical explanation, noting that the *Sefer Torah* which the king kept with him at all times and frequently read would naturally wear out over time. Sooner or later, some of the ink was bound to fade, resulting in missing text, which would then result in serious errors if the king was not fully proficient with the correct text. Therefore, the Torah required that the king also have a *Sefer Torah* that sat safely in his treasury, so he could periodically compare the Torah he kept with him against the Torah in his treasury, and identify missing or corrupted words.

It is hard to overlook the symbolic significance of this requirement, according to the *Yalkut Yehuda*’s explanation. As we go through life striving to faithfully observe the Torah’s laws and apply them in our day-to-day affairs, it is all but guaranteed that some “letters” will fade, that mistakes will creep into our minds and into our daily routine. Whether the result is incorrect ideas and perceptions, incorrect practices, or diminished resolve, our understanding of what is expected of us, and of the way we are to live, can so easily “fade.” We must therefore ensure to have a pure, pristine “*Sefer Torah*” – a source of proper Torah guidance and instruction – against which to periodically check and examine the “*Sefer Torah*” that we take with us wherever we go, the way we’ve grown accustomed to understanding and fulfilling God’s will.

This notion perhaps underlies the Gemara’s famous comment in Masekhet Shabbat (10b) that God proclaimed to Moshe, “I have a precious gift **in My treasury**, and it is called Shabbat; I wish to give it to Israel.” Intriguingly, the Gemara describes Shabbat as something stored “*be-veit genazai*” – in the Almighty’s “treasury.” In light of what we have seen, this depiction might serve to express the theme of preserving purity and pristineness. God’s heavenly “treasury” is where truth is protected from the all but inevitable process of corruption that occurs over the course of the rigors of our world down below. And this, perhaps, is the role of Shabbat which *Chazal* seek to illustrate through this depiction. Shabbat is when we take leave of our worldly affairs, when we let go of the “*Sefer Torah*” that we carry with us during the workweek, and return to the pristine “*Sefer Torah*” in God’s “treasury.” We redirect our focus to Torah and prayer, thereby regaining perspective and reformatting our priority scales. We take a close look once again at the pure, pristine image of Torah life, and seek to determine whether our lives during the workweek sufficiently match that image. Shabbat is a priceless gift from God’s “treasury,” reminding us of what our lives during the week ought to be geared towards, thus helping us to ensure that no “letters” of our workweek “Torah” ever “fade,” that we conduct ourselves all week long precisely the way God expects us to.

Friday

Towards the beginning of Parashat Shoftim (16:21), the Torah presents the prohibition against planting trees alongside the altar, a prohibition which *Chazal* understood as forbidding planting trees anywhere in the Temple courtyard, or, according to Rashi, anywhere on the entire Temple Mount.

Maharam Shick, in one of his responsa (O.C. 79), writes that this command includes the requirement to uproot trees that were planted on the sacred site. Just as the Torah forbids planting on the Temple Mount, it also requires uprooting trees that were planted there. Maharam Shick notes that both the Rambam (Hilkhot Avodat Kokhavim 6:9) and the Ramban (commentary here in Parashat Shoftim) explain this prohibition as based upon the ancient pagan practice to adorn their temples and sites of worship with large trees. Accordingly, it stands to reason that this command not only forbids planting trees, but also requires uprooting trees that were planted at the sacred site.

Others, however, disagree. Rav Yaakov Ettlinger, in *Binyan Tziyon* (9), draws proof from the other instance where the Torah forbids planting – namely, the prohibition of *kil’ayim*, which forbids planting different species together (“*sadekha lo tizra kil’ayim*” – Vayikra 19:19). The Gemara in Masekhet Makkot (21b) infers from the Torah’s formulation of the law of *kil’ayim* that one must destroy agricultural products grown in violation of this law. (Specifically, the phrase “*sadekha lo tizra kil’ayim*” is preceded by the phrase “*behemtekha lo tarbi’a kil’ayim*,” such that the verse may be read as, “*kil’ayim sadekha lo tizra*,” forbidding one to maintain a situation of *kil’ayim* in his field.) The clear implication of the Gemara’s discussion, Rav Ettlinger asserts, is that we would have presumptively concluded that the *kil’ayim* prohibition only forbids planting, as a special textual inference was necessary to deduce a requirement to destroy products which were grown in violation of the law. Naturally, then, in the case of trees planted in the area of the *Beit Ha-mikdash*, they do not need to be uprooted, since no special inference is made extending the Torah’s command to include a requirement to destroy such trees.

Rav Aryeh Levine, in a letter reproduced in *Zikhron Torat Raphael* (p. 236), cited two other proofs that there is no obligation to uproot trees that were planted in the area of the *Beit Ha-mikdash*. First, in the final chapter of Sefer Yehoshua, we read that Yehoshua held a formal ceremony before his death in Shekhem reaffirming the nation’s commitment to their covenant with God, whereupon Yehoshua designated a stone as a symbol of the covenant, placing the stone “underneath the oak that was in the Sanctuary of the Lord” (24:26). This clearly indicates that a tree stood in the area of the Sanctuary, this proving that there is no requirement to uproot trees planted in the area of the Temple. However, one may easily refute this proof by noting that this was not the actual site of the *Mishkan*, which stood at this time in the city of Shilo, and not in Shekhem. The site where Yehoshua assembled the nation is called “*Mikdash Hashem*” only because – as Rashi and the Radak explain – the ark was brought to that location from Shilo for the special ceremony. It certainly seems reasonable to assume that the formal laws that applied to the site of the *Beit Ha-mikdash* did not apply to the area where the ark was temporarily brought.

Rav Aryeh Levine’s second proof is drawn from Malbim’s comments on the Torah’s formulation of the *kil’ayim* prohibition. Malbim makes the observation that rather than command, “Do not plant *kil’ayim* in your field,” the Torah instead commands, “In your field – do not plant *kil’ayim*.” This formulation, Malbim explains, implies that the Torah forbids not merely the act of planting, but rather having *kil’ayim* in one’s field. Hence, Rav Levine noted, here in Parashat Shoftim, where the Torah commands, “Do not plant an *asheira* or any tree alongside the altar,” the focus is on the act of planting, and not the presence of a tree in the sacred domain. Hence, there is no requirement to uproot a tree that was planted in the area of the *Beit Ha-mikdash*.

(Taken from Rav Tzvi Weinberg’s weekly [*Kav Ve-naki*, Parashat Shoftim, 5778](http://beinenu.com/sites/default/files/alonim/128_48_78.pdf))

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