

## Parshat Shoftim 5776

*According to the teaching that they will teach you and according to the judgement that they will say to you, shall you do; you shall not deviate (lo sosur) from the word that they will tell you, right or left. (Devarim 17:11)*

Let us delve into the meaning, rationale, parameters and implications of this verse, from today's Parsha. At the outset, it is worth pointing out that it is in fact one of the negative *mitzvos* amongst the *taryag mitzvos*, to be revisited later.

Ramban cites Rashi in seeking to understand what the phrase "right or left" adds to the prior phrase *lo sosur*; even if the judges tell you that right is left, and that left is right, you must nevertheless obey them. Elaborating on this, Ramban suggests that even if you think in your heart that the judges are obviously mistaken (as obvious as the distinction between right and left), you shall nevertheless act in accordance with their ruling. Effectively therefore, we seem to have the strange scenario whereby the very Torah itself can be superseded by the *Beis Din/Sanhedrin*. Ramban explains further: Do not say, "How can I eat this *cheilev* (forbidden fat) or execute this innocent person?" Rather say, "This is what the Lord, from Whom all the *mitzvos* originate, has commanded me – that I should act in respect of all His commandments, in accordance with the instructions of those who stand before Him...for He gave me the Torah to follow on the basis of their understanding, even if they should err".

A classic example of this and to which Ramban alludes, is the story related in the *Gemoro (Rosh Hashono 25)*, in which the *Nosi* of the Sanhedrin, R. Gamliel, fixed the date of "Rosh Chodesh" Tishri in accordance with the testimony of the two witnesses who had observed the new moon. However, R. Yehoshua considered that Rosh Chodesh should be one day later and thus Yom Kippur too. R. Gamliel decreed that R. Yehoshua appear before him on the day the latter had considered was Yom Kippur, with his stick and his wallet. Despite much anguish, R. Yehoshua complied.

Ramban continues to explain that were it not for this command, disputes would proliferate and the Torah would become a number of "Torahs", hence the need for strict obedience to the final ruling of the *Beis Din*, even when one is absolutely certain that it is incorrect.

There are other commentators, in particular Abarbanel and Sifri, who basing themselves on a source in the *Talmud Yerushalmi (Horiyos 1:1)*, interpret the

phrase "right or left" quite differently to Ramban. They say that this law only applies where "it appears" that the *Beis Din* have erred, but not where it is absolutely certain that they erred. The *Chinuch* effectively refutes this by stating that it is better to suffer one error and act accordingly and thereby have all constantly follow the *Beis Din's* proper guidance, rather than allowing each to do what he feels is right, by which the Torah would *ChvSh* be destroyed.

The *Taz* reconciles the above contradiction in the interpretation of the phrase "right or left" by suggesting that the *Yerushalmi* is referring to a case where it is possible for a person to evade a ruling by passively doing nothing. This would be permitted unless the issue cannot be so evaded; in which case the *Beis Din* must be obeyed. He bases himself on a statement by *Chazal*, that if a person comes from a place where people do not work on *Tisha B'Av* to a place where they do work, he may avoid working by claiming that he has no work that needs to be done, unless it would be clear to all that he is deliberately refraining from work. In that case he must act as everyone else there acts. This law is the way it is because the command of *lo sosur* is as much a law of the Torah as are the other laws; thus one cannot reject one law in favour of another and one is therefore compelled to listen to the *chachamim*. This is reiterated in the formulation of *brochos* prior to the fulfilment of *mitzvos*, whereby the clause *asher kid'shonu b'mitzvosov v'tzivonu* is utilised whether or not (eg *Hallel*; *Chanuka* lights) the *mitzvo* in question is found in the Torah, on the basis that the negative *mitzvo* itself of *lo sosur* is found in the Torah.

It is a well-known principle that where there is a doubt about a certain issue, if the matter relates to a Torah law (*doraiso*), it is usually decided more stringently (*machmir*), but if it is a question of rabbinic law (*drabanon*), then a more lenient (*meikil*) stance is taken. Rambam rules that any violation of a *drabanon* amounts to the violation of the *doraiso* of *lo sosur*, but Ramban rejects this view on the basis that if this were to be correct, it would be illogical to be *meikil* on any *drabanon* doubt, since in essence, such would in any event be a *doraiso*.

In summary, *lo sosur* is a *doraiso mitzvo* to heed the words and instructions of the *chachamim*, who in their wisdom institute various safeguards and decrees. Nevertheless, it should be recognised that unlike the eternal laws of the Torah itself, a later and greater *beis din* has the potential to annul earlier decrees.