

The Torah commands us to appoint שופטים ושוטרים (מינוי דיינים) in each city and district in the Land of Israel. Rashi translates שופטים as a legislature and judiciary. שוטרים is the executive branch that enforces the law. לשבטיך lends itself to a double interpretation. Each tribe must have שופטים ושוטרים, however their placement in districts and cities are secondary details. Rashi's other interpretation is that the appointment must be in accordance with the tribes, every tribe must have its own judiciary.

Does מינוי דיינים apply in the Diaspora as well? In times when Diaspora communities were autonomous would they have to establish such a system? Nachmanides said the Mitzvah to appoint judges in cities did not apply in the Diaspora and added that Maimonides agrees with this opinion. Yet he quotes the Gemara (מכות ז:א) that there is a מצות מינוי דיינים, to appoint people to render decisions in accordance with Torah Law even in the Diaspora. We can't delay the appointment of judges till the need arises; we need people in place before the conflict develops. The difference is in Israel we must appoint judges in each city and district. In the Diaspora we appoint judges for the districts but not the cities.

Eretz Yisrael has an exclusive characteristic as to the number of judges appointed and their distribution. If there is a מצות מינוי דיינים in Diaspora, then why is there a difference between Israel and Diaspora in the number of judges and their distribution? And if there is no מצות מינוי דיינים in Diaspora, then why require a court in either Diaspora cities or districts?

A simple answer is there is no מצות מינוי דיינים in Diaspora. There is a requirement that Torah Law be enforced so that Diaspora does not disintegrate into anarchy. We appoint judges in each Diaspora district to implement Torah Law and fulfill the Mitzvah of ועשית הישר והטוב. If that is the reason, why do we need so many levels of judges in each city and in each district in Israel? Because the Torah requires judges in both cities and districts to fulfill the dual requirements of מצות מינוי דיינים and ועשית הישר והטוב.

According to Maimonides (Hilchos Sanhedrin 1:1) there is a Mitzvah to appoint judges in cities and districts. In the next Halacha he limits the dual judicial system to Israel. However in the Diaspora, there is an obligation to appoint judges in each city and not in each district. Nachmanides interprets Maimonides as there is no מצות מינוי דיינים in each Diaspora district, however there is a need to enforce ישר וטוב. Why does Maimonides require judges in the cities while the Gemara requires them in each district?

In the Diaspora it is sufficient to appoint judges in each city to satisfy ישר וטוב. One requires accessible judges to efficiently resolve conflicts. If they were limited to the districts they would be less accessible. Perhaps Maimonides had a variant text in the Gemara that required judges in cities and not districts. But in either case, as Nachmanides says, in Diaspora we appoint judges to fulfill הישר והטוב. One could interpret that in Diaspora there is no מצות מינוי דיינים, rather we prepare judges so they are available when necessary. However Nachmanides is of the opinion that there is מצות מינוי דיינים in Diaspora, as well as Israel, based on the Gemara in Makos. If so, why distinguish between Israel and Diaspora as to the number and distribution?

The Torah relates (Dvarim 1) how the Jewish People spent almost 2 years encamped around Mount Sinai. Gd invited the people to enter and assume possession of their inheritance, the land, without a battle. בואו ורשו את הארץ. The Torah enigmatically breaks the continuity and recounts how 40 years earlier Moses sought recommendations for suitable judges. After all, Moses did not know everyone in the community, and requested their input to find the most appropriate candidates. Moses instructed the judges how to act, to be accessible to the community. He charged the people to behave in accordance with the Torah when they enter the land and then they started their march. They arrived at the border of the Emorite Mountain, הר האמורי. All that remained was to ascend the mountain and conquer the land without a battle, in much the same way that one inherits property, עלה רש. It was to be a short journey from *Kadesh Barnea* to Israel.

It is interesting to note that we read *פרשת דברים* and the story of the spies on the Shabbos before *Tisha B'Av*. Moses recalled to the people how close they, and he, were to entering the land. Had Moses entered the land and divided it among the tribes, they never would have been exiled and the Temple would never have been destroyed. We had it in our grasp, but some crazy idea, to send spies, shattered our destiny, and replaced it with one of suffering and martyrdom.

Why did Moses insert the story of setting up the system of judges in the middle of the story of their impending entry to the land and the subsequent tragedy that befell them? In order for them to enter Israel, with minimal effort, they had to establish a proper system of justice. Nachmanides says that the appointment of the judiciary prepared the people to enter the land after they received the Torah. The judges that Moses appointed were not just the judiciary. They were also the teachers and leaders of the people, like Devorah, who was a judge and leader as well.

The *Haftorah* for *פרשת דברים*, *חזון ישעיה-ו*, describes the violation of *צדקה ומשפט* by corrupt judges and leaders who perverted the very system of justice required to inherit and control the land, as described in *פרשת דברים*. The *Haftorah* concludes with the promise that Zion will be redeemed through re-establishing a system of justice and righteousness, *ציון במשפט תפדה ושביה בצדקה*. Only afterwards will it be called *קריה נאמנה* and the final redemption realized with resettling and rebuilding the Temple.

Reestablishment of *צדקה ומשפט* as prerequisite to the final redemption is a central theme of our daily prayer, the *שמונה עשרה*. The middle 13 blessings are divided between the needs of the individual and the community, the latter 7 blessings refer to the redemption of Israel. The first of these mentions the ingathering of exiles, implying conquest of the land. The next blessing should have been the petition to rebuild the Temple and restore Jerusalem. However one cannot petition for that without first establishing a strong system of justice, described in the blessing of

ירושה, קדושת הארץ וירושלים, כיבוש הארץ, השבה שופטנו (distribution and settling). You can't have those without first petitioning for the return of an effective justice system.

ירושה ובה means Israel under our control. It should not be considered only in terms of physical conquest of the land, but in terms of the establishment of a system of Torah Study, למוד התורה, and spiritual leadership. Without these, the best trained soldiers do not matter. בואו ורשו means it is incumbent on you to conquer the land, ירושה ובה, requiring battle skills and צדקה ומשפט. After Moses appointed the judges he announced they were prepared physically and spiritually to conquer the land.

מינוי דינים in Israel has a double aspect. We must enforce ישר וטוב to prevent corruption. It also is connected to ירושה ובה, requiring us to appoint true scholars, great leaders and honest judges. Israel is inherently different from Diaspora as far as מינוי דינים is concerned. Every city in Israel must have a court to reflect its sanctity and special halachic status. Specific laws like עגלה ערופה, ערי מקלט apply only in Israel. The sanctity of a city in Israel, קדושת עיר, is incomplete without the appointment of city and district judges, as a קיום or fulfillment of the Mitzvah of ירושה ובה. Diaspora cities, no matter how large they are, have no Biblical obligations that derive from their status as a city. Even if there is מינוי דינים in Diaspora, it is limited to ישר וטוב, not ירושה ובה. Hence the requirement for judges in either districts (Nachmanides) or cities (Maimonides).

This is why Moses integrated מינוי דינים into the story of the aborted march into Israel and the tragic change in Jewish Destiny that resulted from the episode of the spies. Appointing judges, מינוי דינים in cities and districts in Israel fulfills two aspects: צדקה ומשפט and ירושה ובה.

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