

Between Judges and Police-Officers

Adapted by Chaim Miller; From the teachings of the Lubavitcher Rebbe

You should appoint judges and police officers for yourself—for each of your tribes—in all your [city] gates that G-d, your G-d, is giving you: [Appoint expert judges so that] they should judge the people correctly.

-- Devarim 16:18

Classic Questions

What is the difference between judges (*shoftim*) and police officers (*shotrim*)? (v. 18)

Rashi: Shoftim are judges who decide the law, and *shotrim* are those who impose authority over the people in accordance with the judges' decision. They strike and bind people with sticks and whips, until they accept the judges' ruling.

Gur Aryeh: Rashi wished to explain why the Torah mentions the need for police officers. Therefore, he stressed that judges "decide the law," as if to say, "they decide the law and nothing more than that." Consequently, police are required to enforce the law.

Bartenura: Why did Rashi need to explain the words "judges" and "police officers," when their meaning is straightforward? Because in Parshas Devarim the Torah states that Moshe appointed "police officers over your tribes" (1:15), but no mention is made of judges. Therefore, one might think that if no judges are to be found, one should simply appoint police, without judges.

To counteract this notion, the Torah stresses here that both judges and police officers are needed, as Rashi clarifies that the police officers serve only to enforce the rulings of the judges. Thus, if there were to be no judges, there would be no police either.

The Rebbe's Teachings

Judges and Police-officers (v. 18)

Why did Rashi deem it necessary to define the terms "judges" and "police officers"?

Gur Aryeh writes that Rashi wished to stress the unique role of police officers in law enforcement, so he contrasted this with the role of judges, who merely "decide the law" without implementing it at all.

However, this is somewhat difficult to accept, because:

1. If Rashi merely wished to inform us of the role of police officers, he could have done just that, without touching upon the issue of judges.
2. In his commentary on Parshas Devarim, Rashi has already explained the role of police officers as implementers of the law: "I appointed police officers over you, for your tribes. These are the ones who bind a person and strike him with a whip, at the judges' order" (Rashi to 1:15).

So why did Rashi need to clarify the role of police officers again here?

Bartenura argues that the Torah's innovation here is that police would be useless in the absence of judges, a point we would not have automatically deduced from Parshas Devarim, which does not mention judges.

However, this is difficult to accept, because Parshas Devarim does mention the appointment of judges: "I selected wise and well-known men from the leaders of your tribes, and I made them leaders over you" (ibid.).

We are thus left with the question: What is the need for Rashi's comment here, when the meaning of "judges" is obvious, and the meaning of "police officers" has already been explained by Rashi in Parshas Devarim?

The Explanation

The process of law enforcement by the police contains two elements:

1. The execution of the law, i.e., ensuring that the appropriate punishments are administered.
2. Deterring people from crime by the active promotion of the law, i.e., applying pressure to a person to encourage him to act in accordance with the law.

In Parshas Devarim, Rashi is discussing the former case, administering punishments required by law. Therefore Rashi stresses the role of police as "the ones who bind a person and strike him with a whip, at the judges' order." In our parshah, however, Rashi is discussing the second element of law enforcement, the active promotion of the law: "Police officers are those who impose authority over the people... until they accept the judges' ruling." Note that Rashi does not write that they are doing this "at the judges' order," since we are speaking here of how the police encourage the people to be law-abiding, and not the direct implementation and execution of legally required punishments.

The Basis of Rashi's Two Comments

What led Rashi to his respective conclusions in these two instances?

Two explanations could be offered:

1. In Parshas Balak, Moshe instructs the "judges of Israel" to kill those who had worshiped the idol Ba'al Pe'or (Bamidbar 25:5). Here we see that, at the literal level, a judge is not one who merely decides the law, but he can be involved in administering the punishment too.

Thus in our parshah, when the Torah refers explicitly to "judges," Rashi could not describe the police as having exclusive rights to the execution of punishments, as this was a role shared by the judges. Consequently, Rashi writes that the police provide additional help to the judges, to enforce the law.

In Parshas Devarim, however, the Torah does not refer explicitly to judges (but to "wise and well known men"). Rashi therefore does not have the above limitation. Thus, he is able to describe the police officers as the exclusive administrators of justice, making a clearer distinction between the judges and the police.

2. At the literal level, there is a distinction between details cited in the course of a narrative, and instructions that are issued as a direct command. In the case of a narrative, there is no basis (at the literal level) to presume anything more than is implied by the narrative. But in the case of a command, which has a specific goal, one might logically include any detail that is necessary for the achievement of that goal.

Thus, commenting on the appointment of judges as a narrative in Parshas Devarim, Rashi is unable to suggest more than a minimal role for the police officers (as those who execute judgments of the court, and no more), since the Torah gives no indication of any additional role.

However, here in our parshah when we read of the command to appoint police officers, Rashi is able to expand the role of the police to include the more general tasks of law-enforcement and promotion of the law.

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Police

Judiciary; Judges

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Israelites' Desert Journey

Parshah

Shoftim

Adapted by Chaim Miller; From the teachings of the Lubavitcher Rebbe

Based on the teachings of the Lubavitcher Rebbe, Rabbi Menachem M. Schneerson of righteous memory; adapted by Chaim Miller.

An excerpt from the *Gutnick Chumash* published by *Kol Menachem*, New York.

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