



# DVAR TZEDEK

## Parashat Shoftim 5774

By Rabbi Joshua Rabin

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On December 16, 2012, 23-year old Jyoti Singh was raped by six men while riding on a bus in New Delhi, India. The attack reportedly lasted over two and a half hours,<sup>1</sup> and Singh died two weeks later in Singapore from her injuries. Four of her attackers were found guilty and sentenced to death by hanging.<sup>2</sup>

Although Singh's rapists were convicted for their horrific crime, the sad reality is that most cases of violence against women in India go unpunished. According to a report by the Council on Foreign Relations (CFR), only 40 percent of rapes in India are reported and only 26 percent of rape cases tried in court result in convictions.<sup>3</sup> The CFR notes that India's slow, underfunded and corrupt criminal justice system "exacerbated the plight of rape and sexual assault victims" rather than helping them achieve justice. Furthermore, the CFR reports that political and religious leaders promote a "culture of complicity" around violence against women, pressuring women and their families not to report these crimes or blaming the assaults on women themselves.<sup>4</sup> Although we should find a small degree of comfort in knowing that Singh's attackers were brought to justice, there is no doubt that there are countless women who will never receive the justice they deserve.

*Parashat Shoftim*, which begins with the Israelites standing on the precipice of entering the land of Canaan, recognizes that the emerging Israelite society must have a mechanism for justice to be served, and so dictates that a court system be constructed. However, our *parashah* is not content simply to command the Israelites to appoint judges upon entering the land of Canaan. Instead, the Torah specifies a code of morality that the judges must abide by: "You shall not judge unfairly; you shall show no partiality; you shall not take bribes, for bribes blind the eyes of the discerning and upset the plea of the just."<sup>5</sup>

While our *parashah* could have stated the importance of impartial and ethical leaders in general, it is particularly prescient in singling out the judicial system as an area of society that must be free of corruption. In a report by the United States Agency for International Development (USAID), judicial corruption is described as a serious impediment towards international development, for when the institution charged with enforcing the rule of law is compromised, "anti-corruption strategies are deprived of essential measures that are needed to increase the risks and reduce the benefits of corruption and to punish corrupt acts."<sup>6</sup> As a result, when our *parashah* tells us that upright judges must be chosen, God is providing the Israelites with a roadmap for an entire society to be guided by justice.

<sup>1</sup> "5 Men Accused in India gang rape case appear in court," *Associated Press*, 7 January 2013. Available at <http://www.foxnews.com/world/2013/01/07/5-men-accused-in-india-gang-rape-appear-in-court/>.

<sup>2</sup> "Delhi Gang Rape: Four Sentenced to Death," *BBC News*, 13 September 2013. Available at <http://www.bbc.co.uk/news/world-asia-india-24078339>. Six men were involved in the rape, but one died in jail under mysterious circumstances, and another was a juvenile and was sentenced in a separate court.

<sup>3</sup> Beina Wu, "Governance in India: Women's Rights," *Council on Foreign Relations*, 10 June 2013. Available at <http://www.cfr.org/india/governance-india-womens-rights/p30041>.

<sup>4</sup> *Ibid.* CFR Senior Fellow Isobel Coleman reports that the Indian political parties have nominated over 260 candidates for political office that have outstanding charges of violence against women in the last five years alone. Furthermore, one senior members of the Indian government said that rapes happen "accidentally," and another said that rape was "sometimes right, sometimes wrong."

<sup>5</sup> Devarim 16:19.

<sup>6</sup> "Reducing Corruption in the Judiciary," *United States Agency for International Development*, 2009. Available at [http://pdf.usaid.gov/pdf\\_docs/PNADQ106.pdf](http://pdf.usaid.gov/pdf_docs/PNADQ106.pdf), 2.

In taking a closer look at the language of *Parashat Shoftim*, we see that the challenge of creating just judicial systems lies in the human fallibility of the judges. Contemporary biblical scholar Jeffrey Tigay notes that by empowering all Israelites to “resist and protest abuses of authority,”<sup>7</sup> this *mitzvah* from our *parashah* makes a striking distinction between what God will provide for the Israelites, and what the Israelites must create for themselves.

The 13<sup>th</sup>-century legal work, *Sefer Ha-Hinukh*, states that God commands the Israelites to prevent corrupt behavior “until the commands of the Torah cease to be dependent on the trustworthiness of each individual.”<sup>8</sup> Explaining this interpretation, biblical scholar Nehama Leibowitz argues that by creating honorable systems of justice, the Israelites will “habituate the public to the rule of law and equity which will become second nature.”<sup>9</sup> By insisting upon a just system of governance, the Torah is teaching us that we are the only obstacle to fully actualizing the potential of all human beings, and that creating institutions guided by justice is the first step in teaching an entire society what it means to pursue justice within the reality of daily living.

Contemporary philosopher Lenn Goodman writes that the Torah wants to show “how just institutions can create the good life it envisions,”<sup>10</sup> commanding the Israelites to create societal structures that enable people to feel protected and valued. The situation in India supports Goodman’s claim, as Professor Mrinal Satish of the National Law University in Delhi argues that the way “the legal system deals with rape cases”<sup>11</sup> results in the proliferation of violence against women in India. This is a clear instance of how a society’s ineffective and indifferent pursuit of justice not only fails to protect and value its citizens but condemns them to live lives of violence and fear.

As AJWS continues to advocate for the passage of the International Violence Against Women Act (IVAWA) as a part of the [We Believe](#) campaign, we have the opportunity to send a clear message to our legislators that all countries must implement legal systems that support women in their pursuit to achieve justice. After all, ensuring that society’s most vulnerable people are treated justly is the only way to ensure that society will promote justice for all.



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<sup>7</sup> Ibid., 159.

<sup>8</sup> Sefer Ha-Hinukh, Positive Commandment 83.

<sup>9</sup> Nehama Leibowitz, *Studies in Devarim*, Translated and Adapted from the Hebrew by Aryeh Newman (Jerusalem: Department for Torah Education and Culture in the Diaspora), 165.

<sup>10</sup> Lenn E. Goodman, *On Justice: An Essay in Jewish Philosophy* (Oxford: The Littman Library of Jewish Civilization), 110.

<sup>11</sup> Neha Thirani and Anjani Trivedi, “India’s Rape and Sexual Assault Laws Under Scrutiny,” *The New York Times*, 7 January 2013. Available at <http://india.blogs.nytimes.com/2013/01/07/indias-rape-and-sexual-assault-laws-under-scrutiny/>.

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