

JUSTICE AT ANY PRICE

by Rabbi Yitzchok Adlerstein

Do not ascend to my altar upon steps...These are the laws that you shall place before them.

Chazal find instruction concerning the highest court of the Land in the juxtaposition of what seems to be two dissimilar topics. Why would the Torah join its instructions about how the kohen should or should not approach the altar with the parshah of civil law? The Torah wishes to tell us, say Chazal, that the two are to be physically contiguous - that the Great Sanhedrin's convening place should be near the national altar.

The Torah wishes to enlighten us about the role and value of deciding matters of civil law. We are tempted to explain that adjudicating disputes between people has immense societal importance, because if there is no justice, there is no peace. Where there is no recourse to a fair, honest and reliable court system, disputes spin out of control, and aggrieved parties find less honorable ways to find satisfaction. Placing the High Court in the Beis HaMikdosh serves as a visible reminder of the importance of the institution of Justice.

This explanation, however, does not really work. The disturbance of the public good and order depends on the parameters of the individual case. Disputes over large amounts of money will usually have greater impact on the rest of society. We would predict, then, that the highest court, staffed by the greatest legal minds of the generation, would concern itself only with the largest and most important cases - as is indeed the practice in some legal systems.

The Torah way is quite different. We are taught that the judges should not assign importance to a case according to the amount of money at stake. A decision about the smallest amount, the gemara says,² should be as important in the eyes of the judges as one about a large sum. There is no minimum dollar amount associated with cases that can reach the Sanhedrin. The Torah's lesson is not one of communal peace, but of the value of Justice in and of itself. Questions of the law are important and holy - indeed, holy like the activity at the altar itself - simply because they grow out of the rules authored by Hashem Himself in the Torah.

The pursuit of Justice, arriving at its truth, is noble and holy. Din is one of the three pillars upon which the world's continued existence is predicated. The great judges of the Sanhedrin are told to labor assiduously to correctly apply Hashem's Torah to any situation that may arise. We might wonder why this Sanhedrin needs to dirty its hands, so to speak, and to spend its valuable time with the small (and often unpleasant) details of seemingly unimportant concrete cases. By placing the

Sanhedrin near the mizbe'ach, however, the Torah emphasizes the importance of Justice in the abstract, disembodied from the pedestrian events that generate the question that needs to be solved. Everyone understands the lofty, spiritual accomplishment of all the korbanos in the Beis HaMikdash. Yet all the Divine favor generated by the offerings comes by way of a human being (the kohen) taking decidedly non-spiritual objects like body parts of sheep and goats, and elevating them and transforming them at the mizbe'ach into something spiritual. The dayan on the Sanhedrin does the same, elevating the non-spiritual particulars about an actual case, and refining them into the ruchniyus of pure Justice.

As HKBH readied the Bnei Yisrael for the work of living according to the Torah's instruction just after He gave the Aseres HaDibros, He began: "You have seen that I spoke with you from the heavens."³ The Mechilta (cited by Rashi) questions this in the light of the later description of Hashem descending upon the mountain. The solution, says the midrash, is that Hashem bent the upper and lower heavens into each other, and spread them both out upon the mountain, like a cover on a bed.

The message of this midrash may be that through the observance in our world of the precepts of the Torah, heaven and earth become bound together. Earthly objects and activities are transformed into heavenly, spiritual things. At the moment that Hashem charges the Bnei Yisrael to begin full-fledged halachic observance of the rest of the Torah, He begins with the building of an altar - and, by implication, the Sanhedrin that would sit next to it. The message of the altar and its avodah was an easy sell. We understand how all of its details and nuances are holy and spiritual. The Torah wishes for us to know that the proper adjudication of dinei Torah is similar in design and purpose. Thus, just as we would not think of substituting a non-kohen for the person instructed to do the avodah, we should realize that the same holds true of din. When the proper people turn to its service, it elicits Divine favor. When it is sought in non-Jewish courts, or even in a court of unlearned judges, it does not elicit this favor. G-d does not join them in their deliberations, as He does with proper judges.

Dovid HaMelech asked, "I have done justice and righteousness. Do not leave me to my oshko'i/ oppressors."⁴ The Maharsha⁵ explains this, building upon the gemara's explanation of the strange combination of justice and righteousness in the pasuk. The two seem to be irreconcilably different. Justice is blind to the personal needs of the litigants. Legal principle alone prevails. Righteousness, on the other hand, demands sensitivity to those needs, and reaching beyond the requirements of law.

The gemara solves the problem. Dovid practiced both, serially. He would first render, as a judge, the pure findings of the law. If a decision required a poor person to pay, Dovid would make the payment for him from Dovid's own funds. In this way, he practiced both mishpat and tzedakah.

The pasuk in Tehilim, according to the Maharsha, addresses this practice. Dovid asked Hashem's assistance that he not be victimized by unscrupulous teams of rich and poor people. A poor person and rich person could team up, fabricate a lawsuit, convincing Dovid to make payment for the poor

defendant, which he would then split with his accomplice, the plaintiff.

The approach is attractive, but part of it doesn't work. Chazal differentiate between *gezel*/ theft and *oshek*/oppression. The former is the forcible taking of property that rightfully belongs to another. If Dovid referred to such a scam, he should have asked that Hashem not leave him to his *gozlo'i*/ would-be thieves, rather than oppressors.

Our approach makes sense of the *pasuk*. Dovid's concern was not his loss of money. Scam or not, his intention was charitable. Chazal teach that even if a poor person finds a coin unintentionally lost, its owner is credited with *tzedakah*; all the more so when a donor consciously intends that his money benefits the poor.

Rather, Dovid wished to avoid the *oshek* of improper use of his time. He did not mind spending time on a *din Torah*, away from all his holy pursuits and activities, if the case was a legitimate one. Every moment on such a case is spent on a holy enterprise. Where the case was contrived and artificial, however, Dovid saw himself victimized and oppressed by the waste of his time.

Sources:

1. Based on Be'er Yosef, Shemos 21:1
 2. Sanhedrin 8A
 3. Shemos 20:19
 4. Tehilim 119:121
 5. Sanhedrin 6B
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