

IN ALL FAIRNESS

by Rabbi Aron Tendler

Imagine the following setting and scene. You are invited, along with other guests, for a Shabbos meal at the home of an acquaintance. You accept the invitation because you are interested in getting to know your host and his family. The home is a beautifully appointed and designed dwelling that puts you at ease as soon as you enter through the front door. The Shabbos table is invitingly laid out and your hosts are gracious and welcoming. As the meal proceeds, the conversation is engaging and the children in the family are bright and personable.

Halfway through the meal, as one of the children was helping in the kitchen, a loud crash interrupts the conversation. Your host quickly gets up, goes into the kitchen, and over the protests of his child that it wasn't his fault, proceeds to give the child a loud tongue lashing that reduces the child to tears. The child flees to another room.

In the hushed and uncomfortable silence following the incident your host's wife says, "If you had only waited a moment I could have explained to you that it was my fault and not his. It was I who broke the serving platter, not our son." Your host returns to the table and without any acknowledgment to the gathered family and guests continues the meal and conversation as if nothing had happened.

A short time later, the child, red eyed and shamed, returns to the table. Your host looks at the child and in front of everyone says, "If you ever walk away from me again before I dismiss you I will really punish you. Don't you ever embarrass me that way again in front of my guests."

If we had to sum up the scene in three short words it would be, "It's not fair!" If anyone deserved an apology, it was the child from the father not the other way around. If the host had cause to be embarrassed, it was because of his boorish and self-centered behavior, not his child's understandable tears and shame. However, my intent is not to analyze the moral or judicious merits of the contrived vignette. I wish to focus on what the "lack of fairness" did to an otherwise perfect Shabbos and family setting.

Although the home was beautiful and the hosts gracious, the lack of fairness exposed the scene to be a sham. Although the setting and food were inviting and the other guests engaging and interesting, the experience would be recalled with distaste and concern rather than warmth and expectation. The obvious lack of judicious fairness on the part of the host marred whatever would have otherwise been good and pleasant.

On the other hand, imagine if in the aftermath of the host's impetuous outburst, the host would have followed his child into the other room and apologized for berating and embarrassing him. Imagine if after the child had returned to the table the father would have taken a moment to again apologize to his son in front of the family and guests. What would our reaction have been? The chances are that we would have left such a home with an even greater sense of respect for the host and his family. The scene and the Shabbos invitation would have been remembered with warmth and dignity.

This week's Parsha begins with the fundamental issue of judicious fairness and integrity. "Appoint Judges in all your cities who will judge the people with righteous justice," in other words, "fairly".

Fair judgment is the meaning of righteous justice. Judges must judge on the merits of the case, not their personal feelings or agenda. All extraneous factors must be left out of the judicious deliberation. Extraneous factors include the personal reputation of the litigants, their social standing, circumstantial evidence, and public opinion. The only issues of relevance are the provable facts of the case.

In the Mishnah, Avos 1:9, Yehudah Ben Tabai said, "When the litigants stand before you view them as evil; however, once they have accepted your judgment you must view them as righteous."

The Torah's judicial system assumes guilty until proven innocent. In judging the presumed guilty, the judge's mandate is to, if possible, find the accused innocent and to always give the benefit of the doubt. That is why if the entire Sanhedrin (supreme court) of 71 rule in favor of the death penalty in a capital case the murderer is let free. The fact that not even one of the judges could find an argument in his defense makes it obvious that the judges had not expended every effort in trying to find him innocent. Therefore, his case could not have been judged righteously.

As the Bnai Yisroel were about to enter Eretz Yisroel and fulfill their destiny as "a light unto the nations," Moshe addressed them about the impact that "fairness" would have in influencing the rest of the world.

The Jews were to show the rest of the world the beauty and security of family life. The Jews were to display to the other nations the importance of intellect and study. The Jews were to model for humanity that an awareness of G-d and its attendant responsibilities does not demand asceticism. G-dliness is easily integrated into a life style that embraces life's sensuality with passion and discipline.

However, although following a Torah life style should accomplish all our goals as the Chosen People, if we are judiciously unfair the world will despise us for whom we are in contrast to what we should have been. They will ignore all our other potential goods and only see the unfairness of our justice and therefore the evil of our life style.

In many ways, judicious perversion is the greatest desecration of G-d's name. Having been created in His image, we were endowed with free will. Our free will allows us to emulate G-d in two basic

ways. A) Doing Chesed - acts of kindness. B) Doing Mishpat - righteous justice. Chesed and Mishpat are two realms of the divine that G-d shares with us. He expects us to do loving acts of kindness that emulate G-d's acts of kindness. "Just as He is merciful so too must you be merciful." Likewise, G-d expects us to share the job of rendering justice.

Justice is one of the seven Mitzvos commanded to all of humanity and the single most important factor in guaranteeing societies viability. The quality of free will that sets us apart from the rest of creation is potentially very dangerous. We are truly the only creatures alive who have the ability to destroy the world. All other creatures have built-in limitations that guarantee their destined existence as a species and in coexistence with other species. Not so the human. Therefore, we must develop and practice righteous justice. We must become self-governing, setting rules, limits, and consequences that ensure our peaceful coexistence with each other and all other creatures.

Mishpat and Chesed are similar. They can only be perfect if administered by G-d. Otherwise, left up to the devices of man, justice and kindness can only reflect the inherent limits of our flawed intellects and compassion. Therefore, in administering Chesed and Mishpat we can only act as G-d's appointees. Therefore, both Chesed and Mishpat remain beneath G-d's direct supervision to guarantee that the outcome is as it should be. Therefore, any intentional injustice is the greatest desecration of G-d's name. Therefore, intent in both Chesed and justice is of paramount importance. So long as our intentions and the effort we expend in their attainment are positive, noble, and in accordance with the dictates of Halacha (Jewish Law), G-d assures their outcome.

In Parshas Vayera G-d told Avraham that He was going to destroy the five cities associated with Sodom. Prior to doing so, the Torah narrates G-d's reasons for doing so. "Because I know that he will command his children after him to follow the ways of G-d and do righteousness and justice."

The link between justice and righteousness that we find in this week's Parsha as well as by Avraham and Sodom underscores that both demand the same attitude. Both require that we accept our limited administrative involvement and G-d's ultimate supervision. Chesed is the unique trait with which Avraham stamped the genetic soul of his children. Chesed was the medium through which Avraham and Sarah gifted humanity with the understanding of monotheism. What greater kindness can there be than to teach others to recognize and accept G-d? Therefore, Chesed must be the medium through which their children, the Bnai Yisroel, will fulfill the promise of, "the other nations will see the name of G-d upon you and be in awe"

The prophet Yishayahu (1:27) promised, "Tzion will be redeemed through justice" In this week's Parsha it says, (16:20) "Righteousness shall you pursue, so that you will live and possess the Land"

Why is the redemption of Israel and the possession of Eretz Yisroel linked to the pursuit of justice?

Justice, like Chesed, is G-d's realm. As a nation, the rest of the world will judge us by the scale of our own judicious righteousness more so than any other criteria. For the Bnai Yisroel to accomplish their mission as "the light unto the nations," they will have to be known as the most just of all people.

As the children of Avraham and Sarah we are mandated to teach the world about G-d. This constitutes the greatest Chesed possible. However, for the other nations to want to learn from us they must see us as judiciously righteous. Therefore, Mishpat - justice is the critical element in our national calling of doing the Chesed of teaching the world about G-d.

The setting necessary to manifest justice and do the kindness of teaching the world about G-d and His ways is Eretz Yisroel - the land of Israel. Therefore, the ultimate redemption of Tzion will happen through righteous justice.

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