

BEWARE OF YOUR OWN MOTIVES

by Rabbi Aron Tendler

The societal obligation of establishing a judicial system is one of the seven Noahide laws. It is a responsibility incumbent upon every nation and every society. The opening Mitzvah in this week's Parsha states, "Establish for yourselves judges and enforcers in all your cities." Is this different than the general Noahide obligation for creating a judicial system or is it the same? If it is different, how is it different? If it is the same, why did G-d command the Jews separately from the other nations?

There are three components to a judicial system. 1. Establish laws for the proper functioning of society. 2. Appoint judges who will judge with wisdom and integrity. 3. Empower a police force with the ability to enforce the laws of that society.

Practically speaking, a judicial system must have all three components for it to function. If there are no laws there is no scale by which to differentiate right from wrong. If there are no judges there is no one who will evaluate and apply the law. If there is no enforcement there cannot be consequences, and without consequences there is no reliable, bottom-line incentive for the individual to accept societal law.

Whether Jewish or non-Jewish, the three components of a judicial system are necessary. There is however one significant difference between the Jewish and the non-Jewish judicial systems. The non-Jewish nations are responsible for making laws and enforcing them. Their laws must support the basic tenets of the Seven Noahide laws but the rest of the system is up to them. The Jews on the other hand, were commanded a complete system. It is a comprehensive system of laws and consequences that was established by G-d and G-d alone. Judges must still evaluate and apply the law; however, they are applying divine judgment rather than mere human rational and intellect.

The "divine imperative" of the Jewish judicial system is central to who the Jews are. Right and wrong, good and bad, are determined by divine ruling. Human rational and intellect are essential in understanding and applying G-d's law, but it always remains G-d's law. In fact, the permission for judges to create "new laws - rabbinic laws" is restricted to laws that protect or enhance the adherence to divine law. (17:11) "You must do in accordance to the Torah that they will teach you and the commandments that they will tell you..." Rashi comments, "Even if they tell you that right is left and left is right, and certainly if they tell you that left is left and that right is right, you must do as the rabbis command."

The Torah commanded the Jews to suspend their own rational judgment and follow even the

seemingly irrational and illogical commandments of "the Rabbis - the Judges." Can dogmatic irrationality be G-d's expectation for justice? Is that the meaning of righteous justice?

Who are the judges - rabbis and what is their primary mandate? The opening verses in this week's Parsha state that "they must judge righteously. They may not pervert justice by taking bribes and they may not show deference to one party over another. They must pursue righteous justice." The Torah goes on to explain that bribery and deference perverts justice by "blinding the eyes of the wise and skewing the words of the righteous."

Rabbi Dessler explained in his essay on motive and bias that intellectual bias is a given in all rational deliberations, and that it goes without saying that bias plays a significant role in all emotional deliberations. The mere fact that a person thinks his own thought already biases against any other opinion. That does not mean that there is no unbiased justice in the world. There can definitely be true justice; however, the judge must be honest with himself and recognize his inherent intellectual or emotional bias. He must then work to overcome that bias when administering justice.

A judge must first and foremost be a true Eved Hashem (servant of G-d). He must be willing and able to suspend his own intellectual processing and assumption of justice and apply the law of G-d. He must accept the limitations of his own mortality and trust the eternal truth of G-d and His Torah. In doing so, in being a true Eved Hashem, there is great comfort, confidence and courage. As humans we can never be certain that we know the truth. "Do not believe in yourself until your dying day." Only in the Olam Haemes - the World of Truth - will we know with certainty whether we were or were not truthful with our motives and ourselves. However, justice must be applied in this world, and the person who is committed to the word of G-d as taught by Moshe and passed down through the generations can trust that he has lived his life and applied justice in concert with G-d's wishes.

The Judge is really no different than any other Jew. His challenge is the fundamental challenge facing every Jew all the time. Will he do as G-d wishes or will he do as he wishes? This week's Parsha points out that the conflict is usually not so obvious. The conflict between doing the will of G-d or serving other gods (including the god of self) comes in stages.

Motive is the question. What motivates the sinner to deny the will of G-d and do otherwise? The Torah begins by focusing on motive. Is the judge being truthful or biased in his assessment of the situation and the application of justice? In order to render true justice the judge must be totally impartial. His sole goal must be to impart the word and will of G-d. "Wherever you mention my name I will come to you and bless you." The Talmud says that we learn from this verse that G-d is present at all judicial deliberations! The judge must feel as if G-d is standing behind him looking over his shoulder. The judge must believe that he is acting as G-d's agent and that he has no other choice but to render divine justice. What he personally thinks and feels is less than irrelevant. Only that which is a product of G-d's Torah can have any significance.

It is this imagery that protects the mortal judge from being biased by any other motive except

ascertaining and applying the will of G-d. It is that kind of righteous justice that guarantees the nation's survival in Eretz Yisroel. Just as the judge must be a role model of complete subjugation to the word of G-d to all of us, so too the Jewish nation living in Eretz Yisroel must model for the other nations how a nation must subjugate itself to the will of G-d. If we do so, we deserve to live on the Land; if we do not, we deserve to be exiled from the Land.

If a judge/person/nation does not subjugate himself to the law of G-d he begins to flirt with idol worship. The next Mitzvah in the Parsha is the prohibition against planting an Ashera. It seems that the Canaanites used to plant a leafy, evergreen, shade tree called "Ashera" next to their altars. It was considered part of their worship in addition to the practical intention of creating a more comfortable setting for worship. Such a tree and practice is forbidden.

The Ashera is unique because it contains both components, the practical and the irrational. Idol worship in general is irrational. "He who says to wood, You have given birth to me." Yet, there are components that are aesthetically pleasing and intelligent. Why not borrow the rational and eliminate the irrational?

The juxtaposition of the two sets of laws, justice and the Ashera tells us that the motive for adopting the seemingly rational is not so truthful. In fact, it is a veiled attempt at applying mortal intellect to divine law. The danger is far beyond rationalizing "a leafy evergreen tree" as an enhancement for G-d's law. The danger is believing in oneself and one's own righteousness. Once a person begins to trust his own justice there is no divine justice. Once a person begins to do as he wishes he is no longer doing as G-d wishes.

The Parsha continues to describe the slippery slope of human intellect and rational. The Ashera is only the beginning. At first the conflict between G-d's law and personal desire is hidden behind the rational of aesthetic and practical enhancements. Soon enough true motives begin to emerge. All of a sudden the person wishes to show his devotion by erecting a monolith - an obelisk - a monument - in honor of G-d. What could be so bad? It's only a symbol of his devotion and fealty! It personalizes his relationship with the Divine and will inspire others to believe and worship! However, the Torah says that such an expression is hateful to G-d. If it is hateful to G-d and you wish to do His will, you should not do something that is hateful to the One you wish to serve! The prohibition against erecting a Matzevah strips away the illusion of whose will is really being done. As the Torah states, "Do not erect a monument for yourself..."

Enhancements and innovations within divine service are still subtle challenges to total subjugation and service. However, the Torah forewarned us that there is yet a far more insidious stage before a person openly defies G-d and worships idols.

In the two preceding laws the expressed motivation of the sinner was to go beyond the commanded and the expected. The individual's motivation was to enhance, personalize, and innovate on G-d's service. However, the case of the blemished offering is a stage beyond the rationalized facade.

Emerging from behind the delusion of creative devotion creeps the true motive of self-worship and divine diminution.

Remember the conflict between Kayin and Hevel? Kayin innovated and decided to express his devotion to G-d by making an offering from his produce. However, he offered the second best fruit rather than the very best. Kayin rationalized his actions by pointing out that G-d did not eat and therefore the entire offering was only symbolic. Why waste the best on a symbolic gesture. It's the thought that counts!

Hevel knew better. He appreciated Kayin's desire to express service and subjugation, but he understood that symbols are far more than thoughts. We are mortal and G-d is infinite. No gesture, physical or other, gives G-d "what He needs." G-d is infinite and He needs nothing! Therefore, the most we can do is relate to Him minimally as we would to a king of flesh and blood. To a mortal king only the best would do. Therefore, how much more so should we give G-d only the best! Kayin presented an offering that minimized himself and maximized G-d. Kayin offered a gift that minimized G-d and maximized himself.

The act of offering a blemished animal openly expresses Kayin's philosophy of, "In this world my needs take precedence over devotion and fealty." Lest one think that open rebellion is more "honest" and therefore admirable the Torah says, "it is disgusting to G-d!" G-d may hate rationalized and hidden rebellion but it does not disgust Him. At least there is a desire on the part of the sinner to maintain an image of devotion and subjugation. Open rebellion is far worse. It reveals a deliberate desire to minimize G-d in this world. It denies the very mission of the Jewish people and the mission of all of humanity.

The final stage is open Avodah Zara - idol worship. It catapults human will beyond the realm of the rational into the irrational realm of offering the unblemished and the pure to gods of wood and stone. When that happens G-d turns to His Chosen People and says, "Let society be the judges. Let them bring testimony against these sinners. By the word of two or three eyewitnesses shall judgment be passed. If such testimony exists it proves that their rebellion was beyond redemption. They have perverted their divine missions and forfeited their lives. In so doing you will have removed the evil from within your midst!"

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