

# *Small Tastings of Torah, Judaism and Spirituality*

From Rav Binny Freedman

## (Portion of Shoftim)

Is it possible to be truly impartial in life? I once heard a story from Rabbi Abraham Twerski, told to him as a boy by his father. (Published in Rabbi Twerski's *Generation to Generation*.)

*The great Rebbe of Berditchev, Rav Levi Yitzchak, was once sitting in a Din Torah (a Rabbinical Court case) as one of the Judges hearing the case. After several days of hearing the litigants, he suddenly stood up and announced he was recusing himself. He gave no reason for his abrupt decision, which obviously meant the litigants would have to find a new Rabbinic Court (Beit Din).*

*A few days later, after Shabbat, the Rebbe of Berditchev called the other Rabbis who had been hearing the case with him together to explain.*

*“At a certain point during the proceedings, I found myself inextricably leaning towards one of the litigants and became aware that I was losing my objectivity. I could not understand why this was so, but try as I might I could not overcome the bias and eventually realized I had no option but to recuse myself from the case as I was feeling partial towards one of the sides. Only with the advent of Shabbat did I realize what had transpired.”*

*“On Friday evening when I put on my special Shabbat Kaftan (Kappoteh) I found an envelope with money that had been placed there by one of the litigants. He must have slipped in to my home and placed the bribe in the pocket of my coat assuming I would find it during the week, not realizing this was a frock I only wear on Shabbos.”*

*“When I subsequently found the bribe it became clear to me what had happened: The power of a bribe is so great that it can influence the Judge’s reasoning **even if he is completely unaware that he has been bribed!** From the moment the litigant placed the bribe in my home I could not regain my impartiality.”*

Can a person ever truly be impartial? Is it even possible to come to decisions without ulterior motives in life?

The opening verse of our portion of *Shoftim* (Deuteronomy (*Devarim*) 16:18) tells us:

*“You shall appoint Judges and guards in all your gates that Hashem gives you... who must judge Israel righteously.”*

And the Torah continues with an injunction to the appointed Judges:

*“You shall not pervert judgement, nor be partial to a litigant’s presence and you shall not take a bribe, for bribery will blind the eyes of the wise, and make crooked the words of the righteous.” (ibid. v. 19).*

This week’s portion named *Shoftim* which literally means Judges speaks of the importance of appointing judges and a system of courts designed to ensure a society of law and order as well as moral clarity.

It would seem that prior to entering the Land of Israel the Torah feels it is critical to share this principal, as one cannot hope to have a just society without an impartial system of courts and judges.

It is no accident that one of the seven Noachide laws requires every human being to live within a system of courts and judges.

And it is notable that one of the first perversions to occur under Adolph Hitler's Nazi rule after he became Chancellor in Germany in 1933, was the subversion of the courts and judges in Germany. Both the courts and the Police (Gestapo) operated according to Nazi doctrine and Hitler's demands as early as 1933.

But why does the Torah take the time to list a series of injunctions addressed to judges and the courts? How many of us will really ever sit on the bench and judge a case?

**Rav Dessler**, in his *Michtav Me'Elihu* points out that we all sit in judgement, every day.

Imagine that a person wants to see what the Halacha (Jewish law) has to say about whether one can play Monopoly (a board game involving pretend currency and transactions) on Shabbat. Obviously when exploring what Jewish law has to say on the topic one must remain impartial and abide by what he finds the Halacha has to say. But why is a person looking up the Halacha in the first place? Obviously because he wants to play Monopoly on Shabbat; so he was never impartial in the first place!

The Torah is not just speaking to court judges; the Torah is speaking to all of us as we strive to apply good and healthy judgment in the court of daily human experience.

It is interesting that this portion of *Shoftim* is always read as we enter and celebrate the new month of Elul and the coming of the days of Awe, (also known as the Days of Judgment). The first stage of *Teshuva* or repentance, is '*hakarot hachet*' which means recognizing one's mistakes. Before we can hope to correct the errors of our ways, we first need to recognize what our mistakes are and take ownership of them. And this is where bribery is so insidious, because most often we do not even recognize we are being bribed.

We have been so impacted by the way we see the world it becomes almost impossible to see it any other way. People who believe the Middle East conflict will only be solved through a two states solution cannot understand how anyone could imagine otherwise, and people who see Oslo as a total failure cannot fathom how anyone could still view a Palestinian State as a viable option.

People who voted for and support Trump as President cannot imagine how anyone could still see the Obama Presidency as a success story. And people who believed in Obama and Hillary Clinton cannot comprehend how anyone could respect Trump as President.

This past week has seen America torn apart with recriminations from both left and right as to who is more intolerant and where justice ends and injustice begins, all of which seems (at least from afar) to be compounded by a President who does not seem to have found or at least communicated a clear moral compass.

Many who see the Alt-right as the sum of all evil and intolerance are seemingly blind to the violence and anti-Semitism emanating from the extreme left, and those who support the far right seem to be blind or overly tolerant of the hatred and violence coming from the extreme right.

And this challenge of perspective gets personal as well. When I was a young and inexperienced driver I had a couple of serious accidents and the joke in the family was that I learned to drive on a tank (which was partially true; by the time I was twenty, having grown up in NYC where we never owned a car, most of my driving experience was indeed as a tank driver...). Only when I got married did my wife point out what would have

been obvious to anyone else: I was being branded as a bad driver; even I myself did not see this! (Once she pointed this out, the jokes eventually stopped.) If people see you as a bad driver they will have a hard time seeing that you can be trusted as a good driver because it does not conform to their view of the world, and eventually they get hardwired to think that way.

And this is compounded when there is actually some benefit (a 'bribe') to perpetuating that viewpoint. If a nonprofit is receiving most of its budget from a foreign entity with a particular agenda, it will most certainly become more difficult for them to view the world differently, much less come to conclusions that are different from the source of their funding. Indeed, this is at the heart of one of the current scandals surrounding Prime Minister Netanyahu concerning whether he received excessive gifts from private citizens.

And our children understand this all too well whenever they give us a hug or a smile before asking for the car keys....

Interestingly, on the afore-mentioned verse concerning bribery, **Rashi** offers a fascinating comment (ibid. 16: 19): A Judge is not allowed to receive a bribe or favor even to judge honestly! In other words, even if he plans to rule justly and it is clear which way the judgement should go, a judge is still not allowed to receive anything (even a smile!) from the litigant. Because the instant we receive *anything* we can no longer be objective.

Which of course means we can never be impartial on anything which impacts us, and as we are usually making decisions and rendering opinions about things that do affect us, how can we ever resolve the conundrum?

Maimonides in his *Hilchot Deot* (Laws of character development 2:1) suggests a simple response: a person has to have *chachamim* to call upon: balanced individuals who can be more objective about our own realities than we are. It is debatable whether true impartiality even exists in our world, but at least we can gain advice from those who are more likely to be less partial than we are about the things that concern us.

And at least if we are aware of our own biases, and the 'briberies' in our lives, we can attempt, with the help of others, a somewhat more balanced approach and perspective. Perhaps this is why the portion begins with the exhortation to place Judges in all our gates: less partial adjudicators who can help us recognize when we ourselves are too impartial to render anything remotely resembling a healthy balanced opinion or judgement....

As we begin to approach Rosh Hashanah and Yom Kippur it behooves us to be more cognizant of the inherent biases through which we see the world and more diligent in finding ways to invite other more objective and even sometimes diametrically opposed sources with which to balance those perspectives.

And most certainly, we need to ensure this leads to healthy and inclusive dialogue rather than heaven forbid, violence, leaving such balance hopelessly beyond reach....

Shabbat Shalom from Jerusalem,

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