

Vayechi 5777

BS"D Parashat Va'ye'chi 5777

Rabbi Nachman Kahana

Is the law both righteous *and* moral?

In Kohelet (7,16) King Shlomo instructs Am Yisrael:

אַל תִּשְׁבֵּר יָסֵד עֲלֶיךָ

"Do not be over righteous".

The wise King is teaching us that over righteousness can be a distortion no less evil than under-righteousness.

In parashat Vayeira (Bereishiet 18,19) HaShem enumerates the virtues of Avraham:

וְיָבִיב אֶת בְּנָיו וְאֶת אֶתְמוֹלוֹ אַחֲרָיו לְדַבֵּר בְּדַרְשֵׁי הַשֵּׁם לְעֲשׂוֹת צְדָקָה וּמִשְׁפָּט

For I have chosen him, so that he will direct his children and his household after him to keep the way of the Lord by doing tzdaka and mishpat.

"Tzdaka" means to do what is morally right; "mishpat" refers to the written judicial law.

In HaShem's Torah the judicial law is always morally right, because both were decreed by the Creator. However, in human events all too often the judicial law is neither moral nor right.

The vehemently anti-Semitic German Nuremberg Laws introduced on 15 September 1935 by the Reichstag were the legal proceedings of that society, and any judge who would not rule according to them was forced to step down (there were not too many). These were the laws of the land – “mishpat”, but they were not “tzdaka” – moral.

That a thief’s hand is amputated is the legally accepted law in Saudi Arabia and other Moslem fundamentalist societies. However, every decent human being knows that It is immoral to amputate a hungry man’s hand for stealing a piece of bread; but the law is the law!

The law in the Soviet Union sent Jews to Siberia, or worse, for practicing Yidishkeit (the Jewish way of life); it was lawful but totally immoral.

And the list is longer than the 613 mitzvot of the Torah.

HaShem chose Avraham and his descendants and revealed to them a law system that is the epitome of morality and righteousness aimed at creating a holy nation.

Who is the guilty party and who is the true victim?

It never fails to meet our expectations, that the major events of the day are alluded to in the parasha of the week.

Corporal El’or Azaria was found guilty of manslaughter for killing a wounded terrorist who had just stabbed an Israeli soldier. The learned judges who never felt battlefield experience deemed his conduct to have been contrary to what is called the “ethical code of Tzahal”, that recognizes the rights of terrorists no less than the rights due to upright citizens contributing to the welfare of the State, in denial

of the wise teachings of King Shlomo

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Do not be over righteous.

But in fact, who is the guilty party in the case and who is the true victim? Here is where the parasha comes into play.

Our parasha relates the dramatic scene where Ya'akov articulates before each son his particular character trait which will blend into and contribute to the national character of Am Yisrael.

In Bereishiet 49,5-7 Ya'akov says to his sons Shimon and Levi:

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Simeon and Levi are brothers, their swords are weapons of violence.

Let me not enter their council, let me not join their assembly, for they have killed men in their anger and hamstrung oxen as they pleased.

Cursed be their anger, so fierce, and their fury, so cruel! I will scatter them in Jacob and disperse them in Israel.

There is a contradiction in Ya'akov's final words to Shimon and Levi. Ya'akov begins by castigating them for their violent killing of all the citizens of the city of Shechem, for not putting the man Shechem ben Chamor on trial (Rambam Hilchot Melachim 9,14) for violating their sister Dina:

“Let me not enter their council, let me not join their

assembly, for they have killed men in their anger and hamstrung oxen as they pleased. Cursed be their anger, so fierce, and their fury, so cruel!”

As a result of his negative reaction to his sons’ extreme act Ya’akov says to them, “I will scatter them in Jacob and disperse them in Israel.”

How bizarre? The normal reaction to one who suffers from a severe character fault or from an infectious disease is to quarantine that person in order to limit the damage he could potentially do.

But strangely, after castigating them severely, Ya’akov concludes that the best way to deal with their anger is to disperse them among the other tribes. Ya’akov is providing Shimon and Levi with the opportunity to influence the other tribes to be more vengeful and aggressive toward their enemies!

To understand this let’s return to parashat Vayaishev where Ya’akov admonishes Shimon and Levi for killing the men of Shechem and their reply (Bereishiet 34,30-31):

וַיֹּאמֶר יַעֲקֹב אֶל שִׁמְעוֹן וְאֶל לֵוִי אֲנִי מְעַלְלִים בְּעֵינֵי כָּל יִשְׂרָאֵל וְאֵת אֶרֶץ כְּנָעַן וְאֵת כְּנִזְזִים הָאֵלֶּה וְאֵת כָּל יְשֵׁבֵי הָאָרֶץ וְאֵת כָּל בְּנֵי יִשְׂרָאֵל וְאֵת כָּל בְּנֵי כְנָעַן וְאֵת כָּל בְּנֵי כְנִזְזִים וְאֵת כָּל בְּנֵי אֶרֶץ כְּנָעַן וְאֵת כָּל בְּנֵי אֶרֶץ כְּנִזְזִים וְאֵת כָּל בְּנֵי אֶרֶץ כְּנָעַן וְאֵת כָּל בְּנֵי אֶרֶץ כְּנִזְזִים :וְאֵת כָּל בְּנֵי אֶרֶץ כְּנָעַן

וְאֵת כָּל בְּנֵי אֶרֶץ כְּנָעַן (וְאֵת)

Then Ya’akov said to Shimon and Levi, “You have degraded me before the Canaanites and Perizzites, the people living in this land. And I am few in number, and if they join forces and attack me, I and my household will be destroyed.”

They replied, “Shall he treat our sister like a harlot (and we will remain silent)?”

What did Ya’akov mean by the phrase “the people (Canaanites

and Perizzites) living in this land”?

Ya’akov was saying that the law of the land where the Canaanites are the majority, and control the written laws, rejects decimating an entire city because of the sins of an individual, even if the citizens do not want to bring the perpetrator to justice.

Shimon and Levi replied: Indeed, according to the written laws of the Canaanites and Perizzites in the land at this time, we are in violation for killing the inhabitants of Shechem. However, that is the gentile law. According to the Torah, a society that does not bring a criminal to justice is a passive accomplice and deserves a just punishment (the episode of “Pilegish Begiva” at the end of the book of Shoftim, where the nation went to war against the tribe of Binyamin for just that reason).

The Canaanite law is the result of their reasoning, but our law is what was given to us by the Creator Himself for His chosen people. And anyone who raises a hand against a Jew forfeits his privilege of life, in the spirit of Kohelet (7,16):

אדם אדם אדם אדם

Do not be over righteous

Ya’akov disbursed the descendants of Shimon and Levi among all the tribes because he accepted their claim that the life and honor of even one Jew has no bounds in the exacting punishment for the perpetrators.

According to gentile international law, it is prohibited to kill a disarmed enemy, even if he is a blood-thirsty terrorist. That is the written law that the Medina has signed on to, so corporal El’or Azaria is guilty of shooting a wounded terrorist.

However, that law is immoral and indecent and conflicts with the wise words of King Shlomo.

The mere intention of a terrorist to kill a Jew is considered by HaShem as if he had already done so, and the perpetrator no longer maintains his privilege to live (Tractate Kidushin 40a).

This should be the ethical code of Tzahal, which would reverse the abuse and vilification of the young soldier El'or Azaria. The gentile law is the guilty party; the young soldier was putting into practice the ethical law of the Torah.

Compassion and Justice

Many years ago, I heard an interview with an American Jew whose name was Abie, who fought in World War Two.

He related that his unit captured a group of German soldiers, who begged the Americans for water. Abie gave them a drink. The other Americans asked him why he did so? And Abie replied, "Because I am a Jew".

Had I been in Abie's place, I would have given them to drink because I am a Jew. Then I would have shot them because I am a Jew.

Another example of "Do not be over righteous"

A planned armed neo-Nazi march will take place in the city of Whitefish, Montana, on January 16th, Martin Luther King, Jr. Day.

Neo Nazi nationalist groups from the UK, Sweden, France and Greece will attend, as well as a representative of Hamas.

Whitefish is home to the mother of white supremacist leader Richard Spencer, president of the National Policy Institute. This march will probably be followed in other cities.

The march is protected by a constitutional law allowing almost unlimited free speech, even to walk through the streets screaming: "Death to the Jews."

When a society is "over righteous" by allowing this to happen in the name of free speech, we can start the countdown into oblivion of that society.

Shabbat Shalom,

Nachman Kahana

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