

**“Tzedek, tzedek, tirdof” – Pursuing Justice Justly:  
On Prison Hunger Strikes and Force-Feeding  
Parashat Shofetim  
The Glen Rock Jewish Center  
Rabbi Jennifer Schlosberg  
August 21, 2015 | 7 Elul 5775**

Yom Kippur is almost here and so that means that many of us will fast. I say that “many” of us will fast because we all know that when one’s health is in danger, it is not permissible to fast. We take guarding our bodies very seriously in Judaism. We live by God’s laws; we don’t die by them. For some of us who fast, it’s rather easy to fast. We occupy our time in other ways. We pray; we sleep. But for most of us, regardless if it’s easy for us to fast or not, we are ready to end our fast. It’s a natural, physiological intuition that we have to want to eat when we’re hungry. Most of us fast on Yom Kippur because we are commanded to do so. But, there are times when people fast even when they are not commanded to do so. Who would do such a thing?

Our Torah portion this week is full of details about the administration of justice. After the Israelites enter the Promised Land, judges or *shofetim*, are charged with the responsibility of administering justice there. Judges are not to show favorites when judging cases, nor are there to bend the law to suit their own preferences. The Torah quotes the famous line “*tzedek, tzedek, tirdof*” – “justice, justice, shall you pursue.” (Deut. 16:20). This clarifies the responsibility we have to actively pursue justice, to run after it, not just merely support it from the comforts of our own homes.

But, I wonder, is it always easy to determine just what justice is?

Well, in most cases, thank God, it is. It is just to do what we can to ensure that all humans have water, food and shelter. It is just to ensure that all humans have access to health care and have a right to an education. These issues are...simple.

But then there are other issues that are not so simple. In the last couple of weeks, the state of Israel passed a law which would make it lawful for Israeli jails to force-feed prisoners who are on a hunger strike. Now...before we go jumping to conclusions, let’s look at the facts here. Just what are these hunger strikes all about? And what are the issues surrounding justice here?

Well, for starters, hunger strikes normally take place in jails and detention centers when a prisoner is trying to prove a point, to make a statement. What do the prisoners do? Simply put, they stop eating. Most continue drinking if the fast is for an extended period of time. And just so you get some idea about the severity of these issues, these prisoners who start a hunger strike will refrain from eating for days, for weeks, and sometimes even months. By refraining from eating any food, their hope is that the jail will take pity on them and release them. So that’s what’s going on, at least on a personal level.

On an institutional and political level, there is a lot more going on, though. Let’s take this example of Israel and the Palestinian prisoners. It’s one’s basic human right to refrain from eating. So that’s what they do. But when this happens, large attention is drawn to the hunger strike by media sources and other organizations and communities. And all of a sudden, because the prisoner (by the way, we’re also talking about Jewish inmates here, not just Palestinian inmates...). So anyway, because the prisoner puts an ultimatum in front of Israel, “release me or I will die by starvation,” there is great pressure on Israel. Israel does not want to look cruel in the eyes of the international community. If

Israel lets the prisoner continue his/her strike, the person will surely die. And if this happens, we don't want any community or anyone else who is incarcerated in the Israeli jail system to resort to violence after someone dies or even as an alternative to letting a prisoner go. And so often, Israel releases them, like they did on July 12<sup>th</sup> to Khader Adnan, a Palestinian inmate who fasted for 55 days. And just two days ago, Israel also granted the release of Mohammad Allan, a 31-year old lawyer who fasted for over two months, suffering brain damage as a result.

Just what is Israel to do in a situation like this? It seems that this is a lose-lose scenario. If they just let it play out, the prisoner will starve himself to death and Israel will be considered cruel. Havoc will be created; violence will erupt, which may lead to even more deaths. The cycle could be truly endless.

And so, it makes sense to me why Israel would pass a law that would allow force-feeding of inmates who are on a hunger strike. Again, as I mentioned earlier, we place a strong emphasis on life. We are obligated to live by the rules, not die by them. And so, it makes sense that we would want to do whatever we could to ensure that one lives as long as possible. And so what did Israel come up with to guard one's life? They passed this force-feeding law. This law, which was pushed by Israeli's Ministry of Public Security, would only be used in the most extreme cases of hunger strikes. According to the Israeli Parliament's website, this law "allows the prisons commissioner to ask a court for permission to force-feed a prisoner, if a doctor recommends doing so and there is an imminent danger of a severe deterioration in the prisoner's health<sup>1</sup>"

Just what does "*tzedek, tzedek, tirdof*" – "justice, justice, shall you pursue" (Deut. 16:20) really mean? On which side is the justice this time? Are we pursuing justice when we allow the prisoner to do what he/she wants even if it means that he/she will die? Are we pursuing justice when we release the prisoner, even if that means that he/she will go back out into the public? Are we pursuing justice when we attempt to feed the prisoners, even by force, in order that they live?

"*Tzedek, tzedek, tirdof*" – "justice, justice, shall you pursue" (Deut. 16:20). Just what shall we pursue in this case?

According to Simhah Bunem<sup>2</sup>, "the worthiest of goals will be rendered less worthy if we have to compromise justice to achieve it." In other words, just goals can never be achieved by unjust means. Just goals can never be achieved by unjust means.

It's a just goal to keep someone alive, someone who is incarcerated, by feeding them. That is indeed a just goal. However, to accomplish this by force-feeding, is to do it unjustly, inhumanely. And that, my friends, is not fulfilling this mandate of "*tzedek, tzedek, tirdof*."

Since Israel passed this force-feeding law, many organizations have voiced concern over it. Human rights groups, both Palestinian and Jewish have condemned this new law. The Israeli Medical Association called it torture and called upon medical professionals affiliated with the association to not carry out this law in practice. Physicians for Human Rights and the Association for Civil Rights in Israel have also opposed this law.

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<sup>1</sup> <http://www.nytimes.com/2015/07/31/world/middleeast/prisoners-on-hunger-strikes-in-israel-may-be-force-fed-under-new-law.html>

<sup>2</sup> As cited in Etz Hayim Chumash. The Rabbinical Assembly (2001).

I've focused a lot on the issue of whether force-feeding is just. I don't think it is. But, I don't want to lose sight of the reason why some of these inmates are fasting. Yes, some of these inmates are guilty and they are trying to find a way out of the prison. However, some of these inmates are not guilty – and in fact, many of them have yet to receive word about any charges that have been filed against them. And so, they wait, and they wait, and they wait in these administrative detention centers for months and months. Why do they fast? Fasting is their only way of expressing anger. Going on a hunger strike is their way of giving voice to what can often be another unjust flaw in the system.

*“Tzedek, tzedek, tirdof”* – “justice, justice, shall you pursue” (Deut. 16:20). May we all pursue justice passionately and with great conviction. But may our pursuit of justice, indeed, also be just as well.