

## Balancing individual rights and community rights

### Introduction

In an earlier portion, *Pinchas*:

The daughters of Zelophehad... came forward... saying, "Our father died... and he had no sons. Why should our father's name be eliminated from his family because he had no son? Give us a portion [of his inheritance] along with our father's brothers." So Moses brought their case before the Lord... The Lord spoke to Moses, saying: "The daughters of Zelophehad's speak justly. You shall certainly give them a portion of inheritance along with their father's brothers..." [Numbers 27:1-7]

In this week's portion, *Mass'ei*:

[The heads of the Zelophehad's tribe, Manasseh, said:] If [the daughters of Zelophehad] marry a member of another tribe..., their inheritance... will be added to the inheritance of the tribe into which they marry, and thus, it will be diminished from... our inheritance... Moses said... "The tribe of [Manasseh] speaks justly. This is the word that the Lord has commanded regarding Zelophehad's daughters. Let them marry whomever they please, but they shall marry only into the family of their father's tribe... So... Zelophehad's daughters... married their cousins [from their own tribe of Manasseh] [Numbers 36:3-12]

God balanced the rights of the individual with the rights of the group:

- Yes to inheritance [individual rights]
- No to marrying outside the tribe [group rights -- tribe has right not to lose land]

Another example in Jewish law. Maimonides summarizes:

If idol-worshippers say to a group of women, "Give us one of you for immoral purposes, or we will violate all of you", they must all allow themselves to be violated rather than hand over one Jewish soul. Similarly, if idol-worshippers say, "Give us one of you and we shall kill him, or else

we will kill all of you”, they must all allow themselves to be killed rather than hand over one Jewish soul. [Mishneh Torah, Yesodei haTorah 5:5]  
Irrational: Refusal to hand over a victim will not save that victim. Yet passivity upholds a principle.  
-But the group also gets their right. If the attackers specify which person they want, we must deliver that person, because THEY chose him. It is not for US to say who will live and who will die.  
This balances individual and group rights.

In other cultures, e.g. Greek, the group always takes precedence over the individual. Some say it is more "logical". But Judaism saw farther by balancing the two, with more weight on the individual. By doing so, the individual may be spurred to do more for the community, and the community is better off in the long run.

## **The individual counts**

Judaism is replete with examples.

Rabbi Jonathan Sacks:

*Numbers* is a book about individuals. It begins with a census, whose purpose is less to tell us the actual number of Israelites than to "lift" their "heads", the unusual locution the Torah uses to convey the idea that when God orders a census it is to tell the people that they each count. [Rabbi Jonathan Sacks, 2016 commentary]

Talmud:

Whoever destroys one life is considered as if he destroyed an entire world; and whoever saves one life is considered as if he saved an entire world... [Sanhedrin Y 4:1 (22a)]

So everyone must say: The world was created for my sake. [Mishna, Sanh. 37a]

Death penalty not applied since year 40 or so.

Talmud:

Our Rabbis taught: If one sees a crowd... he says, "Blessed is He who discerns secrets", because the mind of each person is different from the mind of another person, just as the face of each person is different from the face of another person. [Berachot 58a]

Implication: Each person possesses a fraction of God's light.

Whence:

*Hayyom bo noladta hu hayyom bo hechlit Hakkadosh baruch Hu she-haolam eno yakhol letit-kayyem bal'adecha*

The day that you were born is the day God decided the world could not be preserved without you. [Rav Nachman of Breslov]

Does imply a relationship between individual and group.

Another example of primacy of individual in *Mass'ei*: The cities of refuge (places where those who killed accidentally found shelter from vengeance by a family member). [Numbers 35:9-29] Maimonides summarizes Talmud:

One who has been exiled does not leave the city of refuge at all, even to perform a mitzvah, or to give evidence in a monetary or capital case, or to save someone by his testimony, or to rescue someone from a non-Jew or a river or a fire or a collapsed building. Even if all Israel needs his help, like Joab ben Zeruyah [King David's chief of staff], he never leaves the city of refuge until the death of the High Priest [because] if he leaves, he makes himself vulnerable to death. [Mishneh Torah, Rotzeach 7:8]

No one is obligated to risk his life to save another, *even all of Israel*.

The Talmud says:

[It] was taught: If two people are traveling on a journey [far from civilization], and [only] one has a pitcher of water; if both drink, they will [both] die, but if only one drinks, he can reach civilization. The Son of Patura taught: It is better that both should drink and die, rather than having one behold the death of his companion. Until Rabbi Akiba came and taught...: Your life takes precedence over his life. [Baba Metzia 62a]

Mishna: If the life of a pregnant mother is in danger, the fetus must be aborted:

If a woman is in [life-threatening] labor, one [must] cut up the child in her womb and bring it out limb by limb, because her life comes before the life of [the child]. But if the greater part [of the child] has come out, one may not touch it, for one may not sacrifice one person's life for another person's life. [Oholot 7:6]

Nevertheless, one must first try to save the mother by maiming the fetus, such as by amputating a limb.

Torah even asserts the right to have "lived" before dying:

[Before going to war] the officers shall speak to the people, saying, If one of you has built a new house, and has not yet dedicated it, let him go and return to his house, lest he die in the battle, and another man dedicates it.

And if one of you has planted a vineyard, and has not yet eaten of it, let him also go and return to his house, lest he die in the battle, and another man eats of it.

And if one of you has betrothed a wife, and has not yet married her, let him go and return to his house, lest he die in the battle, and another man marries her. [Deuteronomy 20:5-7]

- The private good overrides the public good.
- However, if it is a war of survival, everyone must go – balance!

Jews take great pride in their individuality:

- No automatic acceptance of authority
- A showering of points of view: Two Jews, three opinions
- Two Jews on a desert island will build three synagogues: One for each to worship in, and one for each to say he would not be caught dead praying in
- Source of greatness?
- Even as a nation, we are individualistic. The Torah says that we are:  
A nation that stands alone, not to be reckoned among the nations. [Num. 23:9]

Basic Jewish philosophy: Society exists for the sake of the individual, not the other way around.

The other side of the coin: Lots of parties, generating *sin'at chinam*: baseless hatred – which caused the loss of the Second Temple.

## **But the group must count too**

- Individualism leads to chaos. Book of Judges ends with:  
In those days there was no king in Israel. Every man did what was right in his own eyes. [Judges 21:25]
- So there is a need for groups: Family, extended family, clan, community, tribe, state, etc.

-Occasional rejection of the rights of the individual to ensure the survival of the community. E.g.: Smothering a child so his crying doesn't reveal the presence of a group pursued by murderers is permitted. This happened during the Holocaust and in Israel.

- When Joshua entered Israel he laid down ten stipulations.  
Examples:

- Collective rights to a new water source discovered in private land.
- Collective fishing rights in Lake Kinneret (as long as does not interfere with navigation).

- Right of pasture in unfarmed areas in private land.
- Right of free passage, including relieving oneself.
- Right to be buried where one dies, even if on private land. [Baba Kama 80b-81a]

Jerusalem not allotted to any tribe [Yoma 12a]:

- “Important” things must not be individually owned

-Both individual and group stressed in liturgy. Example: The Shema:

First, the group: Hear O Israel (plural),

Then, the individual: You (singular) shall love the Lord your God...:

Hear, O Israel, the Lord our God, the Lord is One.

And **you** shall love the Lord **your** God with all **your** heart... And these words... shall be in **your** heart. And **you** shall teach them diligently to **your** children, and shall talk of them when **you** sit in **your** house, and when **you** walk by the way, and when **you** lie down, and when **you** rise up. And **you** shall bind them for a sign upon **your** hand, and they shall be as frontlets between **your** eyes. And **you** shall write them upon the posts of **your** house, and on **your** gates. [Deut. 6:4-9]

-The group must be kept in mind when asserting individuality:

*Kol yisrael arevim zeh bazzeh*

All Jews are responsible for one another [Shevuot 39a]

## Conclusion

In Jewish (and US) law the individual generally takes priority over the community.

Others say that the rights of the many outweigh the rights of the one, when they come into conflict. In totalitarianism, only the state counts; the individual is just a cog.

Clearly, individual rights must be limited when they infringe on the rights of others. It's a matter of balance. Judaism puts most of the weight on individual rights.

Shabbat shalom.