

Justice

Tzedek, tzedek tirdof - Justice, justice shall you pursue [Deut. 16:20]

-Tzedek = justice, righteousness, charity - all different aspects of the same thing

-Justice of paramount importance in Judaism. Rest of quote: *Lemaan tihyeh* -- that you may live. → Can't live without justice.

-Torah begins with "Bereshit bara Elohim...".

"Elohim" = attribute of justice. (Adonai = attribute of mercy)

So God created the world with His attribute of strict justice but added the attribute of mercy so that the world could endure. Midrash:

Thus said the Holy One, blessed be His name! 'If I create the world with the attribute of mercy, sin will abound; and if I create it with the attribute of justice, how can the world exist? Therefore I create it with both attributes, mercy and justice, and may it thus endure' [Gen. R. 12:15].

-God gave Justice to Jews. Midrash:

-God said: 'Of all the nations I have created, I love only Israel, as it is said, 'When Israel was a child, then I loved him' [Hos. 11:1].

-Of all the things I have created I love only justice, as it is said, 'For I the Lord love justice' [Isa. 61:8].

-Said the Holy One, blessed be He: 'I will give what I love to the people I love.' [Deut. Rabbah 5:7]

-The Lord of hosts is exalted through justice [Isa. 5:16]

What is justice?

-Justice presupposes laws.

-Justice means that State must fully enforce all laws, and uniformly (no one is above the law)

-Torah means Jewish laws for Jews, Gentile law for Gentiles

-One of the seven Noahide laws says all communities must establish courts of justice

-By definition, there is no "unjust law" - it's an oxymoron. Justice does not question the laws, just as math does not question the axioms.

-So what should Jewish attitude be towards Gentile laws orthogonal to Judaism? (Muslims cut off the hands of thieves, some have no day of rest, Star Trek planet where you get death for walking on the grass, etc.)

-In Galut: Dina d'malchuta dina - The law of the land is the law.

What if the law discriminates against Jews?

Why "Tzedek" twice?

-For emphasis (!)

-Justice for ourselves and justice for others

-Ibn Ezra: Justice when it suits you and justice when it hurts you

-Ramban: Justice obtained in the courts and justice dispensed by us, in our daily lives

-Rav Simcha Bunim: Justice for legitimate ends, and justice by legitimate means.

-In pursuit of justice, we must not lose our ideals. [No vigilantism?]

-Rav Ashi: Justice based on strict law and justice based on compromise

[Sanhedrin 32b]:

Two boats meet in a narrow place. If both attempt to pass simultaneously, both will sink, whereas, if one makes way for the other, both can pass. Likewise, two camels go up a hill; if they go at the same time, both may tumble down into the valley, but if they go after each other, both go up safely. Resolution: the one farther from his destination should go first, or the one with the larger cargo goes first, or it is decided at random with the one going first compensating the other.

So:

One Tzedek is "din" (pure justice) and the second "pesharah" (compromise). With absolute justice the world cannot exist. Sometimes we have to compromise: between two people, or between laws and values.

-Sh"la haKadosh: Justice according to the letter of the law, and justice according to the spirit of the law. This is a problematic interpretation:

Problem 1: Extra-lenient

-Creative rabbinic ways to avoid giving death penalty (two observant independent eyewitnesses, prior instruction, etc.)

-Mishna:

- Court that sentences one person to death in 7 years is a bloody court
- Rabbi Eleazar ben Azariah: Once in 70 years
- Rabbis Tarfon and Akiva: If we were on the court no one would ever been put to death;
- Rabbi Shim'on ben Gamliel: Great, and murderers would have a field day in Israel. [Makkot 7a]

-Gemara:

- Rabbi Johanan and Rabbi Eleazar: Ask witnesses if the offender was already suffering from a fatal disease; if he says no, ask if the sword 'only severed an internal lesion'.
- Abaye and Raba: Ask witnesses for sex victims if offenders were caught in the act.

Problem 2: Extra-harsh

-Talmud:

- Rabbi Eliezer ben Ya'akov said: "I have heard that the court may ... even pronounce sentences not [prescribed] by the Torah; yet not with the intention of disregarding the Torah but [on the contrary] in order to safeguard it."
 - A man flogged for having intercourse with his wife in public (not Torah punishment)
 - A man stoned to death for riding a horse on Shabbat (only a rabbinic prohibition)
- Justification: Because those were times [Greek period] when observance was at all-time low. [Sanhedrin 46a]

-But is a man not entitled to know what the maximum consequences of his acts are?

-Are there times where the law must be broken in order to save it?

-Talmud:

...Rabbi Johanan said: "Jerusalem was destroyed only because they gave judgments therein in accordance with Biblical law ... they based their judgments [strictly] upon Biblical law, and did not go beyond the letter of the law. [Bava Metzia 30b]

-Original commentary of the Sh"la haKadosh* (Shnay Luchot HaBrit, Shoftim 101a): Justice, justice shall you pursue. It says "Justice" twice. The first is directed to the judges who judge in accordance with Torah law. There is a second "justice" for

compromise or emergency decrees, which are done occasionally by a prophet or king, in order for the world to exist. Therefore, the verse concludes that you may live, and inherit the land which the Lord your God gives you. As the Sages said "Jerusalem was destroyed only because they gave judgments therein in accordance with Biblical law."

*(Isaiah ben Avraham HaLevi Horowitz, 1565-1630)

Thoughts

- "Tirdof" means more than follow, seek, or pursue - it means CHASE.
Does that mean we can pursue justice but never truly attain it?

- The righteous have the power to change the attribute of justice to the attribute of mercy [Gen. Rabbah 33:4].

- Rabbi Eliezer: "In a place where there is judging, there will be no further judging. In a place where there is not judging, there will be further judging. Therefore, if justice is carried out on earth, no judging will take place in heaven. But if there is no justice below, then there will be judging above."
[Deuteronomy Rabbah 5:5]

- The world rests on three things: Justice, Truth, and Peace. [(Avot 1:18).]

- To do righteousness and justice is more acceptable to the Lord than sacrifice [Prov. 21:3]. Not 'As much as sacrifice', but 'More than sacrifice'. How? Sacrifices were operative only so long as the Temple stood, but righteousness and justice held good during the time when the Temple stood and also hold good now when the Temple is no longer.
Another explanation: Sacrifices atone only for sins committed unwittingly, but righteousness and justice atone for sins committed both wittingly and unwittingly.
Another explanation: Sacrifices are practised only by those below [i.e. man], but righteousness and justice by those on high [angels] and by those below.'
Another explanation: Sacrifices are operative only in this world, but righteousness and justice are operative both in this world and in the World to Come. [Deuteronomy Rabbah 5:3]