

CENTER FOR MODERN TORAH LEADERSHIP

Center for Modern Torah Leadership



חרות ואחריות

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"Taking Responsibility for Torah"

SOCIAL JUSTICE, EGALITARIANISM, AND PLURALISM

Rabbi Aryeh Klapper, Dean

What is Justice? Plato wrote many dialogues on the subject. Chazal may have engaged in similar analytic discussions, or not. Rabbinic literature generally records internal discourse on philosophic themes as volleying verses back and forth. We have no way of knowing whether this reflects the way the discussions were conducted, or whether instead the verses are no-longer-decipherable mnemonics for rigorous analytic moves.

One such record centers on Shemot 26:30:

וְהִקְמַתְּ אֶת-הַמִּשְׁכָּן
כַּמִּשְׁפָּטוֹ

אֲשֶׁר הָרְאִיתָ בְּהָר־

*You must erect the mishkan
in accordance with its mishpat*

which you were shown on the mountain.

The Talmud Yerushalmi (Shabbat 12:3 and Horayot 3:5) cites Rabbi Ammi as asking "What *mishpat* could there be for wood?" Since there obviously were many laws regarding the architectural details of the *mishkan*, relating to wood and carpets etc., Rabbi Ammi's question must understand *mishpat* here as referring to "justice." His answer reflects this:

אלא, אי זהו קרש זכה להינתן בצפון - ינתן בצפון; בדרום - ינתן בדרום.

Rather, whichever plank zakhah to be placed in the North (when the mishkan was first erected) – should (always) be placed in the North; in the South – should (always) be placed in the South.

This is a very unsatisfying response. From a textual perspective, the verse plainly describes how the initial erection of the *mishkan* must follow a prior blueprint, but Rabbi Ammi uses it to argue that all subsequent erections must follow the first. From a substantive perspective, why is this rule sensible if the category "justice" does not apply to planks?

The contextual explanation is that Rabbi Ammi is not interested in planks at all. Rather, he is responding homiletically to a question about human beings.

אילין דר' הושעיה ודבר פזי הוון שאלין בשלמיה דנשיא בכל יום,

הוון אילין דרבי הושעיה עלין קדמאי ונפקין קדמאי.

אזלין אילין דבר פזי ואיתחנתות בנשיאותא.

אתון בעיין מיעול קדמאי.

The families of Rabbi Hoshayab and Bar Pazi would greet the nasi every day.

The family of Rabbi Hoshayab would enter first and exit first.

The family of Bar Pazi then went and married into the family of the nasi.

They then came and sought to enter first.

Rabbi Ammi uses his claim about "justice for planks" to prescribe a rule for human society. Families that have been *zokheh* to a relatively higher social status are not demoted when a family under them objectively rises.

The Yerushalmi contrasts Rabbi Ammi's ruling with that of Rabbi Shimon ben Lakish in a similar case.

תרין זרעין הוון בציפין

בולוויא ופגניא

הוון שאלין בשלמיה דנשיא בכל יום.

והוון בולוויא עלין קדמיי ונפקין קדמיי,

אזלין פגניא וזכון באוריתא.

אתון בעי מיעול קדמיי.

אישתאלת לרשב"ל.

שאלה רשב"ל לר' יוחנן

עאל ר' יוחנן ודרשה בבי מדרשא דרבי בנייה

אפי' ממזר ת"ח וכהן גדול עם הארץ ממזר ת"ח קודם לכ"ג עם הארץ.

סברין מימר: לפדות ולכסות ולהחיות - הא לשיבה לא

א"ר אבין

אף לשיבה.

מה טעמא?

יקרה היא מפנינים –

אפי' מזה שהוא נכנס לפני ולפנים.

There were two families in Tziparin

Balvetya and Paganya

that would greet the nasi every day.

Balvetya would enter first and exit first.

Paganya went and were zokheh in Torah

They then came and sought to enter first.

The question was asked to Rabbi Shimon ben Lakish.

Rabbi Shimon ben Lakish asked it to Rabbi Yochanan.

Rabbi Yochanan went into the beit midrash of Rabbi Benayab and taught this:

"Even a mamzer who is a scholar precedes even a High Priest who is an ignoramus."

They thought this referred to ransoming, clothing, and sustaining, but not to seating arrangements.

Said Rabbi Avin:

It refers even to seating arrangements.

Why?

She (Torah) is more precious than peninim – more precious even he who goes lifnei velifnim (before G-d and within the Holy of Holies)

Rabbi Yochanan and Rabbi Avin rule that the merit of Torah justifies social displacement. It seems likely to me that the merit referred to was acquired via marriage, rather than via study. The specific people seeking to enter the *nas's* reception room first are no different than they were previously – they have only acquired new associations.

The anonymous habitues of the beit midrash knew the Mishnah that Rabbi Yochanan cited. They acknowledged that a scholar *mamzer's* claim on public funds is prior to that of an ignoramus High Priest. But they did not see how this extended to a prior claim on public honor. Rabbi Yochanan and Rabbi Avin, by contrast, argue that it extends to public honor; that it applies not only to individuals but to the extended families to which they belong, or which they join; and that it does so even when that requires demoting others.

How can this be squared with Rabbi Ammi's principle of justice for planks? The word *zakhab* can mean either "acquired a privilege" or "merited." Perhaps Rabbi Ammi held that unearned privileges cannot be displaced by (association with) other unearned privileges, but can be displaced by (association with) earned privileges.

All of this begs the question – why is *mishpat*, or justice, associated with stasis rather than with mobility? Wouldn't it be more just to ensure that the planks were rotated so that each of them spent the same amount of time on each side? (This question is affected to some extent by the commentators' dispute as to whether the sides of the *mishkan* were equally or rather unequally holy.)

Michael Walzer argues in *Spheres of Justice* that it is vital for a society to recognize that there are many kinds of goods. In some societies, there is a dominant good, meaning a good that can be converted into every other kind of good. For example, in some societies only those with disproportionate amounts of money can obtain comfortable furniture, public office, or adequate health care. Those of us who believe that health, comfort, and the approbation of one's fellows are necessary for happiness might come to believe that those same people are disproportionately happy, and that the society is therefore unjust.

What if money isn't necessary for happiness, though? What if having disproportionate wealth causes unhappiness (perhaps it forces one to display one's wealth by sitting on stylish but uncomfortable chairs, makes one a constant target of abuse by presidential candidates, and subjects one to a constant regimen of invasive medical procedures)? Would a society be just if wealth inequality were naturally balanced with happiness inequality?

Walzer argues that people should have the right to make tradeoffs among individual goods, e.g. to eschew lucrative professions for meaningful ones and vice versa. Forcing equality along any particular axis inevitably leads to totalitarianism, because "simple equality" is not congruent with the pluralism of goods inherent to human nature. People naturally value different goods differently. The key is to ensure that those with money or meaning are not thereby given disproportionate access to or control over other goods, i.e. to allow a genuine pluralism of goods.

Social honor is a good that every community distributes among its members. As with many goods, it cannot be distributed equally, even by force. Some people inevitably attract more of it than others, whether or not they try to do so. Some people value it a lot more than others do. Some people – perhaps this is pure *yetzer hora* – value it *davka* relatively. For them, social honor is a zero-sum game, where their gains must be matched precisely by other's losses. An enforcedly egalitarian society leaves them in practice with nothing, like those Epicureans who believe that the best way to maximize the pleasure-to-pain ratio is to eliminate both.

One moral argument for social inertia is that the pain of social demotion greatly outweighs the pleasure of social promotion. Another is that it provides a check against whatever goods might otherwise dominate the society. If social honor is subject to a strong inertial force, then money is much less likely to be able to buy power, or happiness, at least in the short-term. The key is to ensure that social honor itself does not become a dominant good, so that the social upper classes also gain the power to distribute wealth, health, and comfort. We might try to prevent this by setting up Torah scholarship as a countervailing good with power over the distribution of other goods.

What if Torah scholarship became the dominant good? Rabbi Avin and Rabbi Yochanan seem at peace with this possibility. I have a lot of sympathy with the anonymous critics in the beit midrash, however. They may have noticed an immediate slippage – the Mishnah refers only to scholars themselves, but Rabbi Yochanan and Rabbi Avin extend it to the associates of scholars, and this extension is probably inevitable. Money and Torah thus become exchangeable for one another, and this opens the path for money to become the dominant good. It now makes sense for rich families to buy Torah scholars as in-laws, and thus to acquire social honor. Those desirous of social honor will therefore be as likely to pursue wealth as to study Torah. In the long run, the wealthy will probably gain the power to determine who is considered a Torah scholar worthy of public honor.

Some of you may have read this far only because you were expecting a direct discussion of gender and denominationalism. If so, I apologize. But I also suggest that those discussions would often be improved by taking into account the justice advantages of preventing any single good from becoming culturally dominant.

I also note for the record that many halakhists have taken Rabbi Ammi literally, so that there is an extensive literature for example about whether the parts of a sukkah must be labelled to ensure that each element is identically placed the next year.