

Shoftim 5771 Judging

Shabbat Shalom.

"*Shoftim v'shotrim titein lekha b'khol she'arekha* - you shall appoint judges and officials for your tribes in all the settlements that Adonai your God is giving you, and you shall govern the people with due justice. You shall not judge unfairly, you shall show no partiality, you shall not take bribes, for bribes blind the eyes of the discerning and upset the plea of the just. Justice shall you pursue, that you may thrive and occupy the land that Adonai your God is giving you." (DT 16:18-20)

A powerful opening, especially for a time that lacked even rudimentary justice. (Though, sadly, even today we do not apply justice evenly – large corporations and those who can afford strong defense attorneys often get off the hook.)

But, the Torah introduces something we all take for granted: a solid judicial system that is rooted in the values of equality before the law.

Now while the Torah stresses justice and proper judging, there is an aspect to judging that is not quite as positive.

Judging is something that we do all the time, often without being fully aware of it. We often make assessments about situations, about other people, by their words and body language, and then, based on our own understanding and judgment, we respond.

Judging has been a big part of our tradition. In fact, until recent times, rabbis were judges. If you had a legal dispute that needed to be settled, you brought it to your rabbi. Especially when we were under the yoke of Christian and Muslim authorities, we did not want to bring our disputes to the government, so we often brought them to the local rabbi for adjudication.

Rabbis were called upon as judges to make a determination whether or not something was fair, appropriate, or kosher.

Nowadays I am rarely called into such a situation, nor do I always feel comfortable in the role of judge, although I am still regularly asked if something is kosher. (If it looks good, this usually involves tasting it! ☺)

And rabbis are still called upon to serve on *a beit din*, on a court of three rabbis to deal with matters of personal status, such as marriage, divorce, and

conversions. In those instances, we are judging if someone is actually married or divorced, or if they are ready to enter into the covenant between God and the Jewish people as a Jew.

So where does this preoccupation with judgment come from?

A friend who is deeply involved in science explained to me that we are actually hardwired as human beings, as social creatures, to judge.

In the deeper levels of our brain, we make all kinds of assessments based on things we hear, see, or smell. When we meet with someone, that part of our mind assesses a person's body language, their non-verbal communication, their tone, their words, to decide whether or not that person is trustworthy, if that person is telling the truth, if that person is a friend. Then those assessments are brought into our conscious mind and help us evaluate people, comments, statements, and situations, to help us make the best decisions.

We call this a "gut reaction." While occasionally our gut reactions can be wrong, often they are the way that we really make decisions, even when our brains tell us that the rational choice would be otherwise.

This hard wiring is most likely connected to one of our basic animal instincts: "flight or fight." When an animal sees another animal, it assesses whether this is a friend or foe, and then, if it's a foe, makes the decision either to run away (flight) or to stay and fight. Those assessments are made on a deep level, and while sometimes they can get us into trouble, especially in our modern world where we really don't have as many things, (animals or humans) from which we must flee, it is often helpful to have those judgments.

But beyond the deep psychological or biological level of judgment, our tradition is fascinated with judging and justice. Our Torah portion, *Parashat Shoftim*, focuses on justice.

As Rabbi Kushner comments in our *Etz Hayim Humash*, everyone is obligated and under the yoke of justice – judges themselves and even kings.

"The well-being of society depends neither on the good will of the ruler nor on the ascendance of the most capable in a competitive environment, but on the certainty that the law will treat all alike. It will protect the most vulnerable against the most powerful. The absolute primacy of justice, a thing that occurs throughout the Torah, receives its greatest emphasis here. [As Heine, the German poet,] said, 'Since the time of Abraham, Justice has spoken with a Hebrew accent.'" (Etz Hayim, p.1088)

This sense of justice, of making sure that justice was at the core of society, was radical and revolutionary for the Torah's time. Sadly, in certain cases and in certain places, even in our own time, we need much better implementation.

Of course, there is another side to justice and judging, and that is the constant judging that we all do, of each other and of ourselves. Sometimes this judging can overwhelm our decision making and cloud our experience of the world. At certain times it causes us to lose the forest for the trees.

On the high holy days, we utilize the metaphor of God as judge. However we understand God, the notion that we are being judged, by ourselves, by others or even by God is a powerful one.

During this time of year we beseech the Almighty to move from the *kisei shel din* to the *kisei shel raḥamim*, from throne of judgment to the throne of mercy. In essence we are asking God and, if you will, ourselves and others, to judge a little bit less harshly, to bring a sense of mercy, a greater degree of compassion, into our judgments.

The word *raḥamim* is connected to the Hebrew word *reḥem*, meaning womb. Thus, we are asking for a movement from God as judge to God as the "Womb-like One," holding us secure, safe and protected like a mother who loves us with great compassion and, hopefully, judges us in a way different from the way others do.

So what does that mean for us?

The qualities our tradition ascribes to the Divine are qualities we are supposed to bring into our own lives. That is called *imitatio dei* - emulating the Divine. Just as we want God to move from harsh judgment to a more compassionate place, we need to do that ourselves.

Yehoshua ben Prahya taught 2000 years ago that we are to judge *lekhafe zekhut* - giving the benefit of the doubt (Avot 1:6). While we may be quick to judge on some level, the rabbis remind us to stop and put things into context. We don't have to use our gut reactions, our instinctive judgments, or our harsh decrees to frame how we respond and react to our quick judgments.

While judging is important and we must evaluate people, situations, and, of course, ourselves, if we do not apply other standards and other measures to that judgment, we will live a constrained life. Our options become limited. Our ability to truly engage with others can be hampered by an overly harsh sense of

judgment. The Torah also teaches in the book of Leviticus: "*hoheiah tokheah et amitekha* - You should surely reprove your friend." (19:17)

The rabbis understand that to mean that we should tell a friend when he or she is doing something wrong. But the key word in that directive is "friend." We must do it out of a place of friendship, from a place of understanding, or a place of compassion. How we judge and how we share that judgment is often more important than the judgment itself. We must judge ourselves and each other and situations by first understanding the context. When we evaluate someone's shortcomings, or even something that may have offended or hurt us, we must stop and realize why it's happening. What are the external factors in this person's life that led to this behavior? What's going on in his professional or personal life that is impacting on this? If we do not know the answers to those questions, then we must get to know this person a little bit better. If we do not know his history, how he was brought up, his own life circumstances, we do not fully understand his context.

Once we have that deeper context of the situation, or of someone's life, then we can judge him *lekhaf zekhut* – giving him or her the benefit of the doubt. Then we can apply means to share some feedback - even criticism - in a healthy and constructive way. First, by sharing that privately, one on one, and not triangulating. Second, the words we use are so important. They can transform a moment from a defensive reaction, from a negative place, to bringing in more compassion, *rahamim* - mercy, feeling, and love. Think about the words that you use when you share feedback. Can you frame something as a question? Can you have the other person come up with his own analysis and determination? Those are just some of the tools that we can use to take our own instinctive predilection towards judgment and bring it into a healthier context.

Our world is not filled with animals or, thankfully, with people who are constantly attacking us. We do not constantly need to apply our flight or fight instincts to every situation. In our world, we need to look at things through a more nuanced lens and apply other skills and understandings into our judgments and how we share them.

As we just entered the final month of our year, the month of Elul, a month when we hear the *shofar* each morning, calling us to deeper reflection, to *teshuvah* - repentance, self-transformation and renewal that we as Jews undergo each year, let us apply the insights of context, of giving people the benefit of the doubt, of sharing things in thoughtful and sensitive ways, so that we can judge less harshly – ourselves and others – so that we can bring out the best in ourselves and others. Then we will have brought in a measure of *rahamim* - of true compassion to the world.

May we all be blessed with compassionate judgment during this time of introspection.

Shabbat Shalom.