



WYDZIAŁ STUDIÓW
MIĘDZYNARODOWYCH
I POLITYCZNYCH

International Council of Christians and Jews
in cooperation with the
Faculty for International and Political studies
of the Jagiellonian University Cracow.
2011 Conference, July 3-6.

Lecture by Rabbi David Rosen, Jerusalem
Wednesday July 6, Collegium Novum, Cracow

“Justice, Justice Shall You Pursue”

The Torah presents Justice as a defining Divine attribute. The God of Creation and History is a just God. Indeed Abraham is portrayed as the father of ethical monotheism "because I have known him that he will instruct his children and the household after him that they keep the way of the Lord to do **justice** and righteousness" (18 v.19). Abraham argues for justice for the righteous within the sinful city of S'dom, because he knows "the way of the Lord" is justice ("will the Judge of the whole world not do justice?" loc.cit v.25)

But as already mentioned, God's way is not only the way of justice, but also of righteousness; not only of judgment, but also mercy. Throughout the Bible, the use of the term justice is overwhelmingly combined with the words righteousness, mercy, and peace.

In the Sabbath afternoon service at this time of the year, we read the chapters of the Ethics of the Fathers. The first chapter concludes with the saying that "the world is sustained by three things, truth, judgment and peace"; and in support of this dictum the words of the prophet Zechariah (Ch.8 v.16) are cited, "truth and the judgment of peace, execute in your gates".

However the sages in the (Babylonian) Talmud discerned a conflict between these very terms used in the quote. In tractate Sanhedrin (6b) they ask how is it possible to reconcile judgment with peace, or justice with mercy? If strict justice is ruled in a case of a dispute for example, then the one in whose favor the judges rule will be content, but the other will feel hard done by and resentful. There may be justice, but there is by no means necessarily peace – in fact the decision may lead to the very opposite of peace !

The very combination of the terms justice and peace, judgment and mercy, indicate that Judaism does not perceive justice as a theoretical abstraction or as simply having the goal of proving a point. The purpose of justice is to promote the wellbeing of human society and this objective requires a creative tension between justice and peace, judgment and righteousness.

So where do we find the balance between the two ? In the abovementioned Talmudic text ,our sages answer that the two are reconciled through "compromise". Compromise is accordingly seen as an ethical value and in Jewish jurisprudence, arbitration is not an extra-

juridical procedure but part of the responsibility of the courts themselves. On the basis of this Talmudic passage, Maimonides rules that at the outset the judges are required to offer the litigants arbitration as the first and preferred path to resolve their dispute.

In effect this means that in this creative tension, peace has the upper hand, preventing the problematic and even possibly immoral situation when the pursuit of justice fails to take the situations and contexts that persons find themselves in, into consideration.

Accordingly, our sages understood the two key attributes of God (as reflected in the two main Biblical names for the Deity), to reflect the qualities of justice and mercy – *middat hadin* and *middat harachamim*

However they highlight their recognition of the aforementioned tension between these very Attributes, by describing (TB Brachot 7a) the Almighty as having his own personal prayer: "Let my attribute of Mercy overcome my attribute of Justice/Judgment so that I may deal with my children beyond the strict limits of justice/judgment".

For the Hassidic master Rabbi Bunim of Psishcha, it is in this light that we are to understand the repetitive use of the word justice in Deuteronomy 16 v.20, "justice, justice shall you pursue", to mean that justice must be pursued in a righteous manner. This applies not only to the judge and the individual, but obviously to the judicial system. This understanding is the basis of the legitimation of civil disobedience as we see in the Torah, for example in the case of the midwives who defy Pharaoh's edict to murder new born Hebrew baby boys.

It was with such examples and teaching that those of us who fought against the apartheid regime in South Africa in the name of Judaism, repudiated the argument of those who called for submission to the regime on the basis of the Talmudic injunction "*dinna dmalchuta dinna*" i.e. the law of the land is binding. The latter argument is only valid if the system itself is a just one, but not when it pursues immoral policies, let alone when the system itself is inherently immoral.

Closely related to Reb Bunim's interpretation of the reason for the repetition of the word justice in Deuteronomy 16 v.20 is the commentary that the reiteration is in order to teach us that justice is best advanced for oneself when one pursues it for all. This was one of the central concerns that led Rabbi Bandel and I and four other colleagues from the three main streams of modern Judaism, to found the organization Rabbis for Human Rights, in Israel. Not only were we concerned with the human rights of all people, all created in the Divine Image – and especially in a context of conflict which particularly requires such necessary watchdog activity; but we were also animated by the conviction that human rights is an indivisible concept – deny them in one place and the denial will ultimately boomerang destructively upon one's own community and society as a whole.

However Rabbis for Human Rights gives expression to this ethical commitment in the conviction that the different communities in conflict both had and have their "just" claims and attachments. Indeed those who try to portray the conflict in the Holy Land as parallel to apartheid in South Africa, not only ignorantly or willfully confuse racial persecution with territorial conflict (in fact, the situation in Israel/Palestine far more resembles the Irish territorial conflict with which I had first hand experience), but play into a zero sum mentality that presumes that the wellbeing of one side to the conflict must be to the detriment of the other.

The aforementioned understanding that the pursuit of justice for others ultimately serves the pursuit of justice for oneself is of critical importance. Only when we Israelis and Palestinians learn to extricate ourselves from a zero-sum mentality and realize that it is by

providing each other with dignity and security, will we really promote our own long term well being and provide our respective peoples with the brighter future they yearn for. Part of this process means realizing and accepting that in this conflict, respective calls for "justice" are incompatible in absolute terms, as in many if not most territorial conflicts. Claims for justice have to be reconciled with peace, which inevitably necessitates "compromise".

Judaism's understanding of the universal importance of justice is reflected in the fact that the establishment of and access to courts of justice is one of the seven Noahide commandments – seen as universally obligatory and reflecting the essence of universal morality. However Judaism does not specify the system or the method of governance by which this value is to be implemented. The result is that, perhaps in typical Jewish fashion, there is much diversity in conceptual thinking regarding the ideal political system. Indeed while the Biblical model of monarchy is identified by some mediaeval luminaries as an ideal (albeit for some only realizable in the Messianic era), others point to the same sources to justify a critical view of monarchism and to extol the ideal of a republic.

Similarly it is not possible to claim that Judaism advocates for one particular economic modus operandi. Of course the Torah is replete with social economic injunctions, but that is precisely the point – they are injunctions and while they reflect values, they do not necessarily reflect let alone advocate for a particular economic system as such.

The famous mishnah in Ethics of the Fathers (Ch.5 mishnah 10) speaks of four economic typologies; and while it describes individuals, the insights are relevant to certain systems and ideologies as well.

I will present them in a different order from the way they appear in the mishnah:-

*One who says mine is mine and yours is mine is a wicked person;
one who says yours is yours and mine is yours is a saintly person;
one who says mine is yours and yours is mine is an ignorant person;
and one who says mine is mine and yours is yours, this is an average approach;
(but) some say that this is the quality of S'dom.*

The first two of these statements are obvious. The first example (one who says "mine is mine and yours is mine") is of an avaricious egomaniac devoid of restraint who has no respect for the rights, dignity and ownership of others.

The second type (one who says "yours is yours and mine is yours") reflects an exceptional altruism - a lack of self preoccupation together with concern for the needs of others that is almost superhuman and thus cannot serve as a normal model, as admirable as it might be.

However the analysis of the third as per my order, is interesting. The mishnah declares that the one who says "yours is mine and mine is yours" is ignorant (or foolish). I.e. the proposition that rejects the concept of private property goes against human nature.

It may be a well intentioned proposition , but it is doomed; and we might add that we have seen that efforts to implement it, lead to serious negative moral consequences.

But arguably the most fascinating position is that which is described initially in the mishnah as "an average (or normal) approach". This is one who says "mine is mine and yours is yours". Jewish tradition takes the concept of private ownership as something natural and potentially salutary. Aside from anything else, it makes the individual responsible not only for earning his or her living, but also for the way that private property is used and especially for preventing it from harming that of others.

On a more theological plane, the understanding that private wealth is a gift from God, places moral responsibilities and obligations upon us in relation to society and especially the needy, to their benefit.

However, there are those who say that the approach of "mine is mine and yours is yours" "is the quality of S'dom"; for when the legitimacy and even desirability of private ownership becomes a tool for social disengagement; for the exploitation of the vulnerable; or even just to ignore the latter; then that normal/natural principle becomes a tool of evil, "the quality of S'dom".

Again from a theological perspective, such greed and insensitivity towards others, reflects the ultimate denial of Providence, the Source and ultimate Owner of all wealth (see Leviticus 25v.23)

Here too, Judaism is not advocating any systematic ideology. What is highlighted is that which Judaism advocates through its precepts; namely, that our economic dealings should be just; attentive to the needs of the vulnerable; and should contribute to society's wellbeing as a whole.

Herein I believe lies the crucial role of Religion in general and of Christian-Jewish cooperation in particular, for the social wellbeing of society. We may differ regarding the efficacy of particular economic or even political systems. However we have the obligation to advocate for the implementation of policies that advance particular ethical values. Indeed it is surely precisely a religious world view that provides the transcendent constancy for such.

In 1993 under the then presidency of Dr. Martin Stohr, the ICCJ's theological committee (I believe under the chairmanship of Father John Pawlikowski) produced what I consider to be the most significant ICCJ document (not least of all from a Jewish perspective, in that it uses classical Jewish textual sources in its call to the Jewish community) entitled "Jews and Christians in Search of a Common Basis for Contributing to a Better World", which emerged from the ICCJ consultation in Eisenach (in those days, ICCJ reduced financial expenditure by having a conference every other year , and a smaller consultation in the alternate years.)

After sections that address Jews and Christians separately, the document highlights a shared perspective of Judaism and Christianity towards God, humanity, and the world; emphasizing inter alia the recognition that each human being is created in the Image of God and is therefore infinitely precious to God; that human beings are responsible for each other; and the recognition of God's sovereignty in mercy and justice over humanity and the world.

Among the values deriving from this world view, the document highlights:-

the affirmation of the sanctity of human life;

the protection of the dignity of each human being irrespective of origin ,race, gender, characteristics, or abilities;

the protection of the family

the pursuit of justice for all, especially for the weak and vulnerable:

and the pursuit of mutual solidarity and peace in relations between people; in family, society, in the nation and among the nations.

These then are the values that it is our responsibility as Jews and Christians to advocate for; and most of these were reiterated in the recent ICCJ document "A time for Recommitment".

The Jewish-Christian dialogue has its own interiority and integrity. We do a disservice to our respective heritages and to the Jewish-Christian relationship if we place it only in the context

of interfaith relations or social justice generally. Nevertheless we might bear in mind Martin Buber's famous words regarding the Jewish-Christian relationship that "we share a book and a hope." While that shared "hope" also divides us; nevertheless, as the 1993 ICCJ Theology Committee statement declares, we are united in "the hope for the establishment of God's Kingdom of justice, peace, and love on earth" ;and it is the book that we share that calls out to us "justice, justice, shall you pursue" to do our utmost to bring that hope to fulfillment .