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## No Leader is Perfect, But the Alternative is far Worse

### Tiferes Shlomo on the Parsha

שפטים ושפטים תתור לה בקל-שעריה... ושפטים  
את העם משפט צדק:

*Place for yourself judges and policemen  
in all of your gates... and they shall  
judge the people righteous judgements.*

In Pirkei Avos, the sages direct us to be *Dan Lekaf Zechus*. Even when we see someone who has acted wrongly or appears sinful and lowly, the Torah requires us to judge them favourably; giving them the benefit of the doubt and judging them in a positive light.

This trait is absolutely vital for a leader to possess and is the path of the Tzaddikim and true leaders of the Jewish people.

This was the quality that Shlomo Hamelech sought when he asked Hashem “Grant, Your servant an understanding heart to judge Your people...”

In relation to themselves, Tzadikim are self-critical. With humility, they see themselves as lowly. They constantly evaluate their deeds and chastise their shortcomings, living as though they are under the scrutiny of judges and policemen.

But this critical eye is reserved only for evaluating themselves. When judging others, they are filled with love and see only the good.

This is alluded to in the teaching of Hillel; “That which is hateful to you, do not do to others”. Even though the Tzaddikim “despise” themselves with self-criticism, they do not place it on others, by judging them in the same way.

This is the inner message of the opening verse of the Parsha.

The judges and policemen of criticism and judgement, you shall place ‘for yourself’. But when you judge the people, it should be a judgement of righteousness, to find the righteousness within them.

No leader is perfect. As a human being, every leader is fallible. And because we don’t all think alike, a leader can never satisfy the will of all of the people all of the time. Not everyone will agree with the decisions being made and we will always find things to criticise about their decisions and how they handle matters. But the alternative is far worse.

In discussing the reason behind the Torah’s prohibition against cursing the leader, the Sefer Hachinuch gives a fascinating insight on the fundamental need for democratic leadership and how dangerous undermining this authority and process can be.

The Sefer Hachinuch writes that it is not possible to have a functioning society of people, without appointing one of them to be the leader and to follow their laws and directives. The reason for this is because by nature, everyone has different views and opinions, making it impossible for there to ever be consensus on any matter. This would paralyse the society, because they would never be able to make decisions or act.

Therefore, he continues, it is necessary to appoint and accept a leader and to accept to follow their decisions, whether we agree with them or not. Sometimes the decisions will be good and beneficial and sometimes, in hindsight, they may be bad decisions. But this situation is better than Machlokes—fights and division, that would result in nothing getting done at all.

In addition to this benefit, the leader is responsible for making decisions to ensure the protection and safety of the population, from both internal threats of violence and external threats from hostile neighbours.

As such, the Torah prohibits us from cursing the leader. We need to respect the position and responsibility that they carry and the fundamental benefit that the institution of leadership provides. Otherwise we undermine the fabric of a productive, unified society, leading to stagnation, civil breakdown and anarchy.

In the Holy Land, in recent years, we have witnessed first hand the paralysis of the country that ensued from the inability to govern and run the country, as we went from one election to the next. Budget were held up, decision making and the strength of the army and security institutions were hampered. And ultimately there was no leadership to allow the very real (including life-and-death) issues facing the country and its population to be addressed. Surely even a “bad” government is better than the situation of having no functional government at all.

Even after a strong coalition that could finally govern the country was formed, there were agitators that

sought to undermine the democratic process that reflected the will of the majority. The democratically-elected government, reflective of the will of the majority, made decisions to institute judicial reform. But those who did not agree with the decisions, turned on the government and brought paralysis to the country with the protest movement shutting down civil services and transit and weakening the army with calls for service refusal.

In no small measure, this destabilising led to the breakdowns that allowed the Simchat Torah massacre to occur. Our enemies saw a fractured nation, a weakened ability for the government to lead and make decisions, weakened morale and spirit and a compromised security institution. Don’t take my word for it, listen to the words of our enemies who have stated this openly.

Tragically, after the initial months of unity where we rallied together behind the army and the government’s decision-making, we are right back where we were 12 months ago.

Now, in the midst of an existential war against those who seek to destroy us, is not the time to undermine those who carry the awesome burden for the security and safety of 8 million citizens and have to make daily life-and-death decisions that none of us could envy having to make. Now is certainly not the time to destabilise and paralyse the country.

Instead of turning on the Hamas murderers who killed the six hostages הרי"ד last week, a loud minority has turned on the government instead. They have undermined the democratic process turning to outside nations to pressure the government to make decisions that are not in the national interest. They have once again shut-down civil services, blocked roads and weakened the nation. This only rewards the terrorist organisations and G-d forbid encourages more terror.

This is the message of the verse in Parshas Shoftim that in matters of doubt on what to do, we must go to and follow “the judge who is in those days”. Why does the Torah add “who is in those days”, which other judge could we go to? The sages teach that Yiftach in his generation is like Shmuel in his generation and Moshe in his. Even if we dislike our leaders and disagree with their decisions, even if they are not like the great leaders of the past, they are the leaders

There will come a time of Cheshbon, where the leadership should be held to account for failures and bad decisions. There will be elections where the will of the people will be voiced. But do not “curse the judge” and paralyse the country with a breakdown of leadership.

# Cutting Down and Trimming Fruit Trees

Rabbi Yonason Johnson

It is Biblically forbidden to cut down a fruit tree. This is the prohibition of Baal Tashchis and it is one of the 613 Mitzvos<sup>1</sup>.

The source of this Mitzvah is in Parshas Shoftim<sup>2</sup> which teaches that when the Jewish people lay siege to a city that they are warring with, they may not cut down its trees. The reason given is because we eat from these trees. In contrast, a tree that does not bear fruit, one may cut down.

Sefer Hachinuch writes that the Mitzvah is to teach us to be kind and compassionate; to love goodness and positivity and to stay away from anything destructive.

The Rambam qualifies, that the prohibition does not only apply to a siege. It applies in all circumstances. If one cuts any fruit tree in a manner of destruction, one violates this prohibition. One may also not withhold or block water from the trees so that they will wither and die.

## Exceptions

The Rishonim and Acharonim record a number of circumstances where it is permissible to cut down a fruit tree. These include;

If the tree is causing damage to other trees of better quality<sup>3</sup> or to an adjacent field.

If the wood of the tree is more valuable than its fruit and one requires the wood<sup>4</sup>.

The Ta"z<sup>5</sup> writes that the same applies if one wants to build a house and needs the site of the tree. There are those who argue with this opinion of the Ta"z<sup>6</sup>. The Alter Rebbe<sup>7</sup> brings the ruling of the Ta"z as Halacha.

Some Acharonim<sup>8</sup> qualify that this leniency only applies when there is a significant need such as where the house is too small to be liveable. Merely extending a house for comfort or aesthetics would not warrant any leniency.

Aruch Hashulchan<sup>9</sup> adds that one may cut down a fruit tree that is darkening their windows<sup>10</sup>.

The basis for leniency in these cases, is because where the benefit or need is worth more than the tree, it is not considered as act of mere destruction.

## Sakana

The Gemara records Rabbi Chanina as saying that his son Shivchas died prematurely because he cut down a fig tree prematurely. This was Middah Kneged Middah; he cut

down the tree prematurely so he too was cut down before his time.

The Poskim discuss whether this Sakana only applies when one cuts down a tree in a forbidden manner. Some Poskim argue that the Sakana applies even when cutting down the tree for one of the reasons discussed above. They argue that it is difficult to say that Rabbi Chanina's son would have cut down a tree in a forbidden manner<sup>11</sup>.

Others write that there is no Sakana when done in a permitted manner, but one must be certain that the benefit is greater than the value of the tree<sup>12</sup>.

The Alter Rebbe<sup>13</sup> clearly writes that the Sakana does not apply when the tree is cut down in permissible circumstances.

The Chasam Sofer<sup>14</sup> writes that even in circumstances where it is halachically permissible to cut down the tree, we should adopt the practise recorded in Sheilas Yaavetz – do uproot the tree with the soil intact at its base and replant it in another location.

Since we are dealing with a matter of Sakana, we apply the principle *Chamira Sakanta Meisura*<sup>15</sup>, that we are even stricter in matters of Sakana than other Torah prohibitions. Therefore, most Poskim are cautious and adopt the stricter approach<sup>16</sup> unless there are other additional factors.

There is a letter from the Rebbe<sup>17</sup> addressed to someone who had ruled leniently and something untoward had happened. The Rebbe writes that despite the Alter Rebbe's lenient ruling, they should be cautious, since the Tzavaah of Rabbi Yehuda Hachassid<sup>18</sup> writes that there is always Sakanah and they have experienced something untoward in the past<sup>19</sup>.

## Cutting by a non-Jew

Sheilas Yaavetz writes that in a questionable case, one should have a non-Jew cut down the tree. In this case, the danger does not apply. Kaf Hachaim<sup>20</sup> writes that it is always better to have a non-Jew cut down the tree, even when permitted.

Other Poskim<sup>21</sup> go further and write that the tree should be sold to the non-Jew with a proper Kinyan and the non-Jew should uproot the tree.

## What about trimming the trees?

Some Poskim<sup>22</sup> understand that the prohibition only applies to completely destroying or uprooting the tree. Trimming or breaking off branches is not a problem. Other Poskim<sup>23</sup> disa-

gree and maintain the prohibition applies to cutting branches as well.

Accepted practise is to be stringent, especially as this is a matter of Sakana as well.

It is permissible to trim a fruit tree to promote growth or for the tree's benefit.

## For the purpose of a Mitzvah

Many Poskim<sup>24</sup> are lenient where the tree is being trimmed for the purpose of a Mitzvah. This includes where the branches are overhanging a Sukkah, or to use as Schach where no other branches are available. This is especially so when one is only trimming small, soft branches. Even then, it is preferable for a non-Jew to cut the branches<sup>25</sup>.

This may be limited to absolute Mitzvos and one cannot extrapolate to other situations. This may include decorating the Sukkah or decorating the Shule on Shavuos.

Due to the fact that this Halacha involves Sakanah, one should always contact a competent Halachic authority for practical direction.

May we be Zoche to the coming of Moshiach when even non-fruit bearing trees will give fruit once again.

1. Mitzvas Lo Saaseh 57 14. YD 102
2. Devarim 20:19-20 15. Chullin 10a
3. Rambam Melachim 6:8, Sefer Hachinuch Mitzvah 529 16. See Shevet Halevi 5:95
4. Bava Kamma 91b, Rambam Hilchos Melachim 6:8 17. Igros Kodesh 7 page 264
5. Ta"z YD 116:6, based on Rosh 18. Siman 53
6. See Be'er Heitev 19. This response may be limited to this particular case where something untoward had previously occurred.
7. Shemiras guf vnefesh ubaal tashchis 15 20. YD 116:84
8. See Chavos Yair 195, Shvus Yaakov 1:159, Yabia Omer 5 YD 12 21. Beis Shlomo 1:191
9. YD 116:13 22. Mishneh Lemelech Isurei Mizbeich 7:3, Sheilas Yaavetz 1:76
10. If the situation can be remedied by trimming the tree, one may not cut down the tree and should merely trim the branches (Kaf Hachaim 116:85). 23. Be'er Sheva quoted in Mishneh Lemelech ibid. Beis Yitzchak 1:144 writes that this may be a Biblical violation.
11. Sheilas Yaavetz volume 1 Siman 76 24. See Pischei Teshuvos Sukkah 629:12 who references Divrei Chaim 2 YD 59 and others.
12. Chasam Sofer YD 102 25. Teshuvos Vehanhagos 1:376
13. Shemiras guf vnefesh ubaal tashchis 16