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Self-Awareness, Transparency, and Deterrence

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In this week's parsha, we see that the judicial system Hashem established for Bnei Yisrael possessed some of the most important qualities for our society's judicial system today: self-awareness, transparency, and deterrence. In the current alarming political climate where individuals in power flagrantly disregard the law and where facts are under attack, the recognition that thousands of years ago the Jewish People were already building a justice system to buttress these values is inspiring and instructive.

Shoftim describes that when a case was particularly complicated and eluded resolution, a priest or magistrate was consulted. The people had to follow the verdict, and if not:

And the man who acts intentionally, not obeying the kohen who stands there to serve the Lord, your God, or to the judge that man shall die, and you shall abolish evil from Israel.

וְהָאִישׁ אֲשֶׁר־יַעֲשֶׂה בְּזוּיוֹן לְבַלְתִּי שְׁמַע אֶל־הַכֹּהֵן
הַעֹמֵד לְשֵׁרֵת יְשֵׁם אֶת־יְהוָה אֱלֹהֶיךָ אִו אֶל־הַשֹּׁפֵט
:וּגְמַת הָאִישׁ הַהוּא וּבְעֶרְתָּ הַרְעַ מִיִּשְׂרָאֵל

*And all the people shall listen and fear,
and they shall no longer act wantonly.*

(Dvarim, Chapter 17, Verses 12-13.)

וְכָל־הָעָם יִשְׁמָעוּ וְיִרְאוּ וְלֹא יִזְדוּן עוֹד

Since the death penalty in this situation is anachronistic by today's legal and moral standards, this analysis sets such aside to glean the passage's lessons that remain timeless.

The first insight from this text comes from the phrase "*and you shall abolish evil from Israel.*" It mirrors a phrase a few verses earlier:

*...and you shall abolish evil from among
you.*

(Dvarim, Chapter 17, Verse 7.)

: וּבְעֶרְתָּ הַרְעַ מִקִּרְבְּךָ

This phrase, in both variations, importantly emphasizes the lesson that evil – wrongdoers who possess criminal intent, or *mens rea* – is present among us.

This self-awareness is crucial in a time where individual arrogance is rampant, as those in power – in politics, business, or media – act like they will not be held accountable for their crimes. But the clear emphasis from the

Torah is that the criminal can be anyone – he or she is among us. A society that is self-aware that anyone can transgress and become a criminal can then comprehend the logic that follows: anyone who does so must be equally liable in the eyes of the law. At this moment our society acutely requires this self-awareness that precipitates an appreciation for equality before the law.

The second insight from this text is illustrated by the phrase *"and all the people shall listen and fear, and they shall no longer act wantonly."* Here Hashem is imbuing in Bnei Yisrael's justice system the qualities of transparency and deterrence. It is key that the public know what the crime, evidence, and judicial verdict are, not just because transparency is a bulwark against unjust treatment of an accused individual, but also because it provides deterrence against future crime. At a moment when facts are under assault, it is crucial that the public see for itself evidence presented in indictments and at trial, so that it is clear and understood what actions are crimes and that crimes will be punished.

Transparency and awareness of facts are vital so people know what the rules are, and this, combined with a self-awareness that anyone amongst us could be a criminal and must be equal before the law, provides deterrence. These values are as crucial for our justice system today as they were in the ancient times of the Torah.

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