



הרב הראשי עיה"ק אלעד **מרדכי מלכא שליט"א**

נשיא וראש מוסדות "אור המלך"

מחבר ספרי שו"ת דרך המלך, אמרי מרדכי, ודרכי המלך על המועדים ועוד
רשת מעונות, ורשת גנים, ת"ת פרי תואר, ובית יעקב פרי תואר, תיכון בית יעקב החדש, ת"ת מאור ישראל,
ישיבה קטנה ארחות יהודה, ביהמ"ד גבוה לרבנים ודיינים "לקח טוב" קופת "מפעל החסד" אלעד
Chief Rabbi of Elad, Israel MORDECHAI MALKA, Founder & President of Institutions "Or Hamelech"



עיר התורה שקרובה אליך

Parashat Mishpatim

Judges For Oneself and For the Public

Our *parasha* (23:8) warns judges against accepting bribes. This is as the *pasuk* states (23:8), "You should not take a bribe. For a bribe blinds the eyes of the wise and make the words of the righteous crooked." Similarly, the Torah teaches us in *Parashat Shoftim* (16:19), "Do not slant the judgment; do not respect someone's presence, and you should not accept a bribe, for the bribe will blind the eyes of the wise and make the words of the righteous crooked."

Questions:

- 1- We see from the Torah that even a righteous tzaddik is forbidden to accept bribes. For the *pasuk* clearly states that a bribe will even make a *tzaddik's* words crooked. But how could this be – if someone accepts a bribe he is no longer a *tzaddik*! *Tosafot* answers that the first time one accepts a bribe he is still considered a *tzaddik*, but the second time he is no longer a *tzaddik*. Yet we will offer an alternate answer shortly.

Society Rests on the Foundations of Justice

One of the main items that occupy a central role in life is that of the justice system. An honest justice system is so essential to sustain any society; without it man would swallow the other alive, as our Sages teach us in *Pirkei Avot*. For the nature of man is to be egotistical, and he loves only himself. This is the character trait of a baby, who thinks that everything is his. This is to the extent that the great orators of the Jewish people have remarked that man enters the world with his fist closed, but leaves with his hand opened. This teaches us that when man is born he wishes to dominate everything he can, but he leaves the world with this hands opened, unsuccessful in his endeavors. Due to man's insatiable desire to obtain all that he can, he is lead to act both in his personal life as well as public life, in ways that lack integrity. If not for law and order, society would totally collapse and turn into an unbearable stage of hatred and strife. This is as our Sages teach us in *Pirkei Avot* (1:18), "Rabban Shimon ben Gamliel says: On three things the world stands; on judgment, on truth, and on peace. This is as the *pasuk* states (*Zacharya* 8) 'Truth, judgment and peace should be judged in your gates.'" Regarding this our Sages mentioned in *Masechet Derech Eretz (Perek Shalom- halacha 2)*: Said Rav Huna: These three things are really one – make judgment, make truth, and make peace. These three things are learned out from the same *pasuk* [as we see], 'Truth, judgment and peace should be judged in your gates'"

We learn from here that that the justice system is the very foundation of our world. This is why the Torah instructs us to carry out the mitzvot related to a Torah justice system, and commands us to establish courts with judges who are worthy of the task. This also pertains to the one's personal life as well. He must learn how to judge others favorably and to judge each of his actions, to decide if they should be carried out or not.

The Qualities that a Judge Who Serves the Population Must Possess



הרב הראשי עיה"ק אלעד מרדכי מלכא שליט"א נשיא וראש מוסדות "אור המלך"

מחבר ספרי שו"ת דרך המלך, אמרי מרדכי, ודרכי המלך על המועדים ועוד
רשת מעונות, ורשת גנים, ת"ת פרי תואר, ובית יעקב פרי תואר, תיכון בית יעקב החדש, ת"ת מאור ישראל,
ישיבה קטנה ארחות יהודה, ביהמ"ד גבוה לרבנים ודיינים "לקח טוב" קופת "מפעל החסד" אלעד
Chief Rabbi of Elad, Israel MORDECHAI MALKA, Founder & President of Institutions "Or Hamelech"



עיר התורה שקרובה אליך

First and foremost we must know the Torah's criteria to serve as a judge for the people. The Torah explicitly states in *Parashat Yitro* (18:21), "You should seek out men from the entire nation who are men of valor, G-d fearing, men of truth, haters of bribes; and they will judge the nation at all times." Our Sages explain that an individual needs four characteristics to be a judge. The *Pesikta Zutrati* teaches that "men of valor" refers to wealthy individuals. "G-d fearing men" refers to individuals who will fear Hashem in judgment. "Men of truth" refers to trustworthy men. "Haters of money" refer to men who hate money in regards to judgment, as we will soon explain. We see that the Torah is teaching us that a judge must have these four qualities. Let us explain each one: 1. A judge must be wealthy; for if he is poor and hungry, he will always be thinking about how he can make money and will be led to accept bribes. 2. He must fear Hashem, which means that he must know that there is no other power besides Hashem in the world, and he trusts in Him, knowing that everything depends only on Him. He will therefore not be afraid of any mortal, only Hashem. For if he is not G-d fearing, he will once again be led to pervert justice depending on the types of individuals standing before him. He may fear one of them or hope to gain something from one of them, etc. 3. A man of truth means that he speaks the truth at any cost, even if he stands to incur a loss on account of it. But he will not compromise his truthfulness because of self-interest. 4. One who hates money does not mean that he lives in poverty, for this contradicts the first quality mentioned earlier. Rather, it means that man lives to uphold the ideal of bringing truth into the world. This is worth more to him than any monetary item, since he sees in this his life's goal. These are our holy Torah's criterion for one to be able to be an honest judge who judges with integrity, without external factors swaying his decision. It is clear that those four things are fundamental in preventing a judge from acting out of self-interest. So too, does this apply in any circumstance where judgment must be cast – if he does not possess these qualities there is no doubt that the decision will be a crooked one, because he will be motivated by personal interests. There are many potential considerations for him to consider: his livelihood or fear of powerful individuals, who could cause him potential financial loss or prevent his advancement. All the more so, one who accepts bribes; it is clear that such a person destroys society and brings tragedy to the world, as well as increasing hatred and strife.

The Torah's Definition of a Bribe

We see that the four qualities the Torah demands from a judge have a common denominator – they are meant to prevent self-interest that will potentially influence the decision of the judge. Therefore in our *parasha* the Torah includes them all in one statement – "For bribery blinds the eyes of the wise, and makes the words of the righteous crooked." However, bribery according to the Torah and the Sages does not mean a bribe in the way that the general populace refers to it. For mankind tends to think that only when one willingly accepts a large amount of money for his personal benefit is it considered a bribe. But our Torah teaches us just how much a judge must be wary of all traces of bribery, even the smallest. For once having accepted the bribe, the judge is no longer in control, for a bribe exerts an automatic influence on him. This is as our Sages have taught us (*Ketubot* 105) that the word *shochad*,



הרב הראשי עיה"ק אלעד מרדכי מלכא שליט"א

נשיא וראש מוסדות "אור המלך"

מחבר ספרי שו"ת דרך המלך, אמרי מרדכי, ודרכי המלך על המועדים ועוד
רשת מעונות, ורשת גנים, ת"ת פרי תואר, ובית יעקב פרי תואר, תיכון בית יעקב החדש, ת"ת מאור ישראל,
ישיבה קטנה ארחות יהודה, ביהמ"ד גבוה לרבנים ודיינים "לקח טוב" קופת "מפעל החסד" אלעד
Chief Rabbi of Elad, Israel MORDECHAI MALKA, Founder & President of Institutions "Or Hamelech"



עיר התורה שקרובה אליך

"bribery" is comprised of two words *she'hu chad*, "he is like one." This means that the moment someone accepts a bribe from another he begins to think along the same lines, and they become like one person. The judge is no longer able to see any fault in that person. Our Sages have brought us many stories and examples to illustrate this.

Story About the Apter Rav

The Apter Rav, Rav Avraham Yehoshua Heschel, author of the famed sefer, *Ohev Yisrael*, was the rav of Kolbosov before he moved to Apt. One time, two wealthy businessmen came before him to adjourn a *din Torah*. The Apter Rav heard the claims of the feuding parties, and immediately thought that one of the men was trying to obtain money that was not rightfully his. When the man realized that the Apter Rav was leaning towards ruling against him, he thought about bribing him with a considerable amount of money. Since he feared doing so openly, he slipped the money into the pocket of the Rav's coat which was hanging on the wall, without him knowing. Only a few moments passed and the Rav suddenly felt that he was now in favor of the one who placed the bribe in his pocket. This surprised the Rav, because it was totally the opposite of how he felt in the beginning of the trial. He decided to take a break for a short while. The Rav donned his coat and left the *bet din* to go think privately about the case. Suddenly he felt the wad of money that was placed inside his pocket, and now he understood what had happened. "How great is the power of bribery," he said to himself. "For I was not even aware of this bribe until now, and it nevertheless influenced me to view the other one as correct!" The Rav added that for a long time he had wondered about the explanation of the *pasuk*, "For bribery makes the words of *tzaddikim* crooked" – if they accept bribes how can they be *tzaddikim*? But now he understood. For sometimes the one who received the bribe is truly a *tzaddik* and did not know about the bribe in the first place. Nevertheless even such a bribe still has the power to pervert justice and the truth.

Words of Mussar

We have learned what an error people make by going to secular courts, for there the requirements needed for a judge to refrain from acting out of self-interest are not heeded. The Torah has taught us that without these four qualities it is impossible for an honest verdict to emerge. We can see for ourselves just how much family, society, media, and politics have an influence on judges, and their decisions are based on these factors. How can a truthful decision result? If we take, for example, the investigations of Prime Minister Netanyahu, how many millions of dollars were spent to discover a bribe of cigarettes and other such items? The amount of money that the government spent on investigations was ten times as much as the actual amount that was even being investigated. This teaches us that what is truly motivating the investigators is jealousy, hatred and self-interest. There are also many instances where the arbitration is not one that pertains to the public or to the media, but the decisions are nevertheless not based on the Torah way and not according to the Torah's criteria of what each judge must possess. Therefore a Jew should not go to secular courts, but rather only to a *halachic bet din*.



הרב הראשי עיה"ק אלעד **מרדכי מלכא שליט"א**
נשיא וראש מוסדות "אור המלך"

מחבר ספרי שו"ת דרך המלך, אמרי מרדכי, ודרכי המלך על המועדים ועוד
רשת מעונות, ורשת גנים, ת"ת פרי תואר, ובית יעקב פרי תואר, תיכון בית יעקב החדש, ת"ת מאור ישראל,
ישיבה קטנה ארחות יהודה, ביהמ"ד גבוה לרבנים ודיינים "לקח טוב" קופת "מפעל החסד" אלעד
Chief Rabbi of Elad, Israel MORDECHAI MALKA, Founder & President of Institutions "Or Hamelech"



עיר התורה שקרובה אליך

Furthermore, the more personal the interest is, the greater power it has to "bribe" a judge and totally veer him from the truth. Therefore the only solution for a Jew is to make himself a Rav to consult on all matters and then he will be able to resolve his doubts. Only by doing so will peace and love reign amongst Jews and the world will continue to exist. We will then merit witnessing the words of the prophet (*Yeshayahu* 1:26-27), "And I will return your judges to the way they originally were and your advisors to the way they were in the beginning. Afterwards He will call you "the city of justice" and "a faithful habitat. Zion will be redeemed with justice and its inhabitants with righteousness." Then we will merit the coming of the Redeemer, *amen ve'amen*.

Shabbat Shalom,
Rav Mordechai Malka