

OUR QUESTIONS

- 1** The Mishna cautions judges “not to make yourselves into lawyers” when you are judging. What is the difference between a lawyer and a judge?
- 2** The Mishna uses the term “arrangers of judgment” as the term for lawyers. Does this tell us anything about the role of lawyers in court cases?
- 3** Based upon your answer above, what is the Mishna afraid of by offering this advice?
- 4** Why does the Mishna use the phrase, “make yourself” into lawyers rather than merely acting like lawyers while a person is judging? Is there meaning behind this rather active phrasing?
- 5** The next part of the Mishna directs judges to regard the litigants as if they are evil when they are in front of you, but innocent when they leave you (once they accept the judgment). Shouldn’t the Mishna say “guilty” before judgment which is parallel to innocent after judgment?
- 6** Also, why the negativity? Shouldn’t the judges be neutral towards the litigants and “objective,” rather than regarding them both as evil?
- 7** Why should the judges regard them (both) as innocent after judgment? Isn’t one of them guilty? Also, it might have been more accurate to caution the judges about labeling them “evil” after judgment, even if one of them is, in fact, guilty. Why “innocent”?
- 8** Finally, Pirkei Avos speaks to all Jews — not just judges or lawyers. How is the advice of this Mishna applicable to non-judges? Consider each of the three statements in the Mishna.

COMMENTARY BY RABBI MORDECHAI ROTTMAN

“Yehudah the son of Tabai and Shimon the son of Shetach received the Torah from them (the Sages mentioned in the previous Mishna). Yehudah the son of Tabai used to say (to the judges of Israel), “Do not act as a lawyer. Before judgment, look at both the plaintiff and the defendant as being evil, and after judgment view them both as innocent, for they have accepted the ruling of the court upon themselves.”

SYNOPSIS:

The Torah warns us in many places to be fair in judgment. Unlike a lawyer who is biased in favor of his client, a judge must be neutral to all parties involved in the case.

Being fair starts with the attitude that the judge has toward the plaintiff and the defendant before the case even begins. A judge who wishes to be as straightforward as possible must clear himself of any bias he may have toward either party. To do this, he must view them both as equals. He now has two choices: to view them both as being guilty or both as being innocent. The Mishna informs us that the former is the correct attitude. Why? Because if the judge views them both as innocent, he may not be careful when speaking to them about the case, and may end up giving away information that can lead either one or the other to formulate their claim accordingly, unwittingly attributing to a perversion of justice.

A Deeper Look:

At first, the Mishna seems to be speaking only to judges and not to the average individual. However, we are all judges at one time or another. Not necessarily in relation to a plaintiff and defendant, but in relation to our own lives.

When we are in the process of evaluation, whether we are deciding where to live, where to go to school, or whom to marry, we owe it to ourselves to be as objective as possible, for only then can we ensure that the long-term effects of our decisions will be in our best interests. When making these important decisions we often find ourselves trying to justify one side or the other. When this happens, what we are doing in reality is not making an honest decision,

but rather rationalizing our subjective desire.

How, then, does one achieve objectivity? By becoming aware of our bias and consciously trying to avoid its influence. Try imagining having to make the decision if the bias was absent. Ask yourself: would your decision change?

While on the topic of being a judge in our own personal matters, it is interesting to note that the word for one being engaged in the act of prayer in Hebrew, "l'hitpalel," means to judge oneself. What kind of self-judgment takes place during prayer? The self-judgment that leads to self-awareness, to self-knowledge, to getting to the core of who we really are, what we really believe, and our perceptions of reality. To get to the core of our relationship with our Creator and just how important that relationship is to us.

It is our special time to distinguish between the important and the unimportant things in life, reality from illusion, and fact from fiction. It is a time of self-analysis and introspection. It is the time when we place our lives on trial before the keen spotlight of Truth.

It is especially important to keep the Mishna's words in mind when praying. There is no time when we need objectivity more than when we are involved in self-evaluation.

And why is prayer the proper place for this incisive adventure into the unknown abyss of our human nature?

Because a heartfelt and sincere prayer cannot emanate from a heart engaged in self-deception and falsehood.

SUMMARY

Proper perspective is the first step toward justice, and the first step toward a proper perspective is to rid ourselves of bias. Proper perspective will enable us to achieve objective understanding and clarity within our own lives. We gain nothing by indulging in self-deception. We simply fool ourselves and others into thinking that we are something that we are not, losing precious time in our lifelong quest for an infinite relationship with our Creator. As the Talmud states, "The seal of the Almighty is truth."