

Law Service 2013

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A father asked his son, Little Johnny, if he knew about the birds and the bees.

"I don't want to know!" Little Johnny said, bursting into tears.

Confused, his father asked Little Johnny what was wrong.

"Oh Pop," Johnny sobbed, "For me there was no Santa Claus at age six, no Easter Bunny at seven, and no Tooth Fairy at eight. And if you're telling me now that grownups don't really have sex, I've got nothing left to believe in!"

In tomorrow's Torah reading we shall retell the story of the giving of the Ten Commandments at Sinai. According to Maimonides, that moment was the defining moment of truth on which Jewish belief is based.

While Sporting Life in Porgy and Bess warns that

It ain't necessarily so,
It ain't necessarily so,
De t'ings dat yo' li'ble
To read in de Bible,
It ain't necessarily so.

Maimonides is clear: the experience of revelation at Sinai occurred before the entire nation. Everyone was a witness. Sinai was not a private prophecy enjoyed by a single leader or holy man. It was not just the select few who heard God. From the tribal Princes through to the humblest; men and women and children all heard the voice of God. Maimonides says that, because it was shared and because it has been passed down through the last 140 generations, we found our belief on that.

It is necessarily so!

The Jewish Torah has 613 Commandments. They are spread from the beginning of Genesis through Deuteronomy. They cover all aspects of our lives; ritual, interpersonal relations, the regulation of society. Some have universal, moral dimensions. Others, like the laws of our festivals and the commemoration of our national history apply to us alone.

We give the 10 Commandments great prominence; they are displayed here in the synagogue above me and in just about every synagogue I have ever visited. But they are not the first Commandments, nor are they the last Commandments. Some commentators find that they can extrapolate all the other 603 Commandments from these 10. But in fact, Jewish commentary does not identify the Decalogue as the most important; the top 10 of the Commandments. When they are described as the basis of Jewish belief it is because the moment of

revelation was experienced by the nation as a whole. They are the basis of Jewish *belief* but are not necessarily the basis of Jewish *law*.

Open up a Jewish daily prayer book and you will find the 10 Commandments.

Traditionally they are placed after the morning service. The reason for this is historic. The Talmud records that once upon a time the 10 Commandments were recited daily in our morning worship. However, when they were misrepresented by other faiths as being more important than the Torah's other laws, they were actually excised from our prayers.

As principles, the 10 Commandments are definitely indicative and comprehensive. They establish God's authority over Creation and speak to our history, our conduct, our families, our workers and our aspirations. Religious instruction is an all-embracing guide to our lives. But can we prioritise? What is more important?

In the Talmud, Rabbi Akiva suggests that the verse from Leviticus, "you should love your neighbour as yourself" is the "great principle of the Torah." Few would disagree with the sentiment.

However, His contemporary, Shimon Ben Azzai, did challenge Rabbi Akiva. Ben Azzai favoured a relatively obscure verse from Genesis. He championed the verse, "this is the book of the generations of mankind."

"This is the book of the generations of mankind!" Some wonder if Ben Azzai was being deliberately provocative, suggesting that every verse of the Torah has equal validity. However, his reasoning is profound. Rabbi Akiva's verse is limited. It speaks only of one's neighbour. Its context is the laws binding the Jewish people. Ben Azzai's verse shows that God is the God of *all* humanity and that the book of human goodness and godliness has universal as well as parochial applications.

Their discussion was finally addressed by the House of Lords. From Palestine to Babylon it worked its way through the system to Paisley, Renfrewshire and the Wellmeadow Café. And then to London. The Talmudic debate opened in the early second century. The appeal was heard by Lord Atkins in 1932.

After Mrs Donoghue poured a decomposing snail from her bottle of ginger pop and wretched over her pear ice cream, she sued not the café but the manufacturer. In his judgement, Lord Atkins channelled Rabbi Akiva and asked the celebrated question, "who then is my neighbour?... It receives a restrictive reply".

Of course in law it is important to define proximity as well as reasonable foreseeability when we are defining, attributing and quantifying liability. There is no question that we owe the greatest duty of care to our neighbours. And there says Rabbi Akiva is found the underlying principle of the Torah.

However, Ben Azzai makes a critical point. The Torah is more than just a book of laws and prescription. It is a book of values. The values which guide us and guide society are addressed to the widest audience. Ben Azzai would not have us see God as restrictive, narrow and parochial.

Having recognised that the Torah is more than just a story and more than just a collection of laws, it is about values, the Psalms and the prophets try to condense God's message in different formulae. The most famous, of course, is Micah, who asks what it is that is good and that God demands of us, "but to do Justice, to love goodness and to walk humbly with your God."

As the rabbis seek to fathom what is “good”, they identify values of the Torah which are *indirectly* expressed. Much is learnt from the hospitality of Abraham, from Laban’s concern for his daughters and Moses’ regard for his sister. Virtuous living as well as human frailties are learnt from their examples.

In being told to do that which is “right and good”, we are called upon to apply common sense and discrimination to circumstance. When God instructs us to do that which is “right and good”, it is not a bland motherhood statement embracing the laws which are elsewhere clearly expressed. It is a recognition that we can identify what is right and what is good and should apply those faculties rather than just nitpick at the letters and technicalities of legislation.

This point is eloquently made by the great sage Nachmanides when he explains the injunction, “be holy!”

What is Holiness?

Nachmanides explains that holiness is the antithesis of being degenerate. To be a glutton on kosher food is to be degenerate. To contrive the language and the wisdom of the Torah to justify abuse and oppression is degenerate. One cannot be holy if one follows the letters of the law and ignores all the values of the Torah.

There is a classic case in the Talmud where the rabbis are asked about a distinguished young teacher who has gone astray. It is acknowledged that he is the most inspiring and successful teacher in his community. It is reported that to lose his services would be a great loss.

However, our young scholar has gone astray. It is not that he has become a heretic. It is not that he has some dark past for which he has atoned and from which he has now emerged. The commentaries explain that he is privately known to be living a life of ongoing scandal. However he believes his reputation as a teacher should supersede or excuse his ongoing philandering.

Even though he is the best teacher in town, the Talmud rules that the Torah cannot be learnt from such a mouth. Law and learning without applied values cannot sustain a society.

I was horrified to see in today’s paper and even more horrified to watch on You-tube an interview with a revered religious leader of the American Jewish community. He made a succession of offensive and inappropriate remarks about child molestation in religious organisations and on the impact of sexual abuse.

It was shocking.

The rabbi represented his remarks as coming from a Jewish philosophical perspective and was demeaning of psychology and investigation as dangerous.

It was wrong on so many levels it is difficult to know where to start. But the remarks so clearly failed the “do what is right and good” test and the “love your neighbour” test and the “respect for individuals” test and the “care for the sick test” and the “be hospitable” and “responsible to those in your care” tests, I could not begin to see where his remarks came from a Jewish philosophical perspective.

He does not speak for the Judaism or Torah or the God that I follow.

My God teaches that one should respect the person and property of others; should love one's neighbour as oneself and not do detestful things. Our bodies should be holy and inviolate. Our feelings matter. When we violate another we violate God.

Victims of abuse must step forward. Perpetrators of abuse must be reported and condemned.

Our regard for God is illustrated in the way we deal with all humanity. The way we are seen by our fellows determines the way we are judged by God.

Chief Justice, it is always a pleasure to welcome you and your judiciary into The Great Synagogue at the beginning of the annual Law Term.

The stability of our society is underpinned by the Rule of Law. You, with your judiciary are its guardians. From a Jewish perspective, the Rule of Law, itself, even the rule of God's Law is underpinned by great values; the love we show our neighbour and the respect we accord to every individual; great or small, proximate or remote.

Our regard for God is illustrated in the way we deal with humanity. The way we are seen by our fellows determines the way we are judged by God.

Chief Justice may you and your judiciary be blessed, may you judge favourably and may you be favourably judged in the year ahead.