

Maamarei Mordechai

הסבר לפי ממש פשוט

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The Torah gives authority to Chazal.

**שֹׁפְטִים וְשָׂרִים תִּתֶּן-לָךְ בְּכָל-שַׁעְרֶיךָ אֲשֶׁר הָאֱלֹקִים נָתַן לָךְ לְשִׁבְטֶיךָ וְשִׁפְטוּ אֶת-
הָעָם מִשְׁפַּט-צֶדֶק:**

“Appoint governors and officers, for you, in all your gates, that Hashem, your Lord, is giving to you, for your tribes. And they shall govern the people in righteous governance.” (Devarim 16:18).

What does a governor mean? How is a governor different than an officer?

Many take this pasuk to be referring to secular law or governance. However, this is not referring to secular law. This is all referring to religious governance. “You shall not corrupt government; you shall not show favor (lit. recognize a face); do not take a bribe, because a bribe blinds the eye of the wise.” (Ibid 16:29). Then it says, “You shall surely pursue righteousness; so that you shall live and inherit the Land.” (Ibid 16:20). It is government that must not be corrupted and must not show favor among its subjects. It is government that must run after righteousness. Government does this by ruling the Land with Torah Law. Then the people will live and inherit the Land. Living by the Law is mentioned previously. “You shall observe My statutes and my ordinances; so that man shall perform them, and you shall live by them.” (Vayikra 18:5). That pasuk also uses the word “ordinances” which is “mishpat” which is governance. Hashem told Moshe, “These are the ordinances [mishpatim] that you shall place before them.” (Shmos 21:1). Running a proper government is only by the ordinances and laws of the Torah. A government is righteous when it uses the Torah as its constitution.

There is, then, a difference, between a Shofet – governor – and a shoter – officer. The Shofet is the one that governs and the shoter enforces. The governor governs by interpreting the Torah and applying it to the circumstances brought before him. After Yehoshua passed away and the Land was divided among the shevatim, “Hashem stood up governors.” (Shoftim 2:16). These governors were not local judges to deal with secular or just civil disputes. They were meant to guide the people in keeping the Torah. They had the authority to learn the Torah and apply it to every-day situations. It was when the governor would go astray and not follow the Torah (ibid 2:17) the people would fall into the hands of the enemies. Hashem would raise up new governors and the people would be saved. (Ibid 2:18). These governors kept the people living by the Torah.

Moshe appointed men who feared Hashem, men to adjudicate over thousands, hundreds, fifties, and tens. (Shmos 18:21). These were the civil adjudicators. Hashem later commanded Moshe to appoint “seventy of the elders and take them to the Ohel Moed and they shall stand at attention there.” (Bamidbar 11:16). These seventy elders were divinely inspired. They were the answer to Moshe not being able to keep the people in

line, alone. (Ibid 11:14). These were not civil adjudicators like proposed by Yisro and appointed by Moshe. These were men who would govern the people to keep the Torah, civil and sacred law, alike.

When the generations had gone and the connection to Moshe was in the distant past, there was a solution to keeping the people in line. “Ask your father, he will tell you; your elders will say to you.” (Devarim 32:7). It is an unbroken chain of mesorah that helps govern the people. Moshe would not always be around. There had to be authority in human help—elders, governors, parents—to say what the law is. New situations will arise and the Torah is forever.

The Torah cannot change, but authority is given to the sages—be it the Anshei Kanese HaGadola, Sanhedrin, or Beis Din—to hand down verdicts on how the Torah and Rabbinical law is to be applied to new situations. (Note, poskim are individual commentators on Torah, Gemara, and Halacha, who opine on what the law would be in given circumstances. A Beis Din, however, appointed over a village, town, or city, would have authority to hand down—to their jurisdiction—new customs and applications of the Torah and Rabbinical law, as if they were written in the Mishneh itself). This is found in, “You shall not add upon the matter that I have commanded you. You shall not degrade from it; to guard the commandments of Hashem, your Lord.” (Ibid 4:2). Notice how it does not say “lessen” or “take away.” The Torah uses the word “degrade.” Another pasuk says, “All of the matters that I have commanded you, you shall guard and you shall perform; you shall not add upon it, nor shall you degrade from it.” (Ibid 13:1). Both pesukim add the “guard and perform” to it. Meaning, one cannot add mitzvos to the Torah. One cannot permit anything the Torah says is prohibited. However, there is authority given to the Sages to “guard” and assure “performance” and prevent degradation. This means they have express authority to make rules so that the Torah is not violated and that its precepts are kept.

Lighting candles erev Shabbos prior to sunset is an example of both. It prevents the violation of Shabbos if candles are lit after Shabbos commences. It also helps with keeping Shabbos by making sure home is lit prior to Shabbos’ arrival. This is also why the brochos for Rabbinical mitzvos use the words: “that has sanctified us with His commandments, and commanded us to....” Hashem did not command us. However, Hashem gave authority to the Sages to enact laws to help us keep the Torah so that is as if Hashem commanded it. As the pasuk says, “so that you shall guard and perform the commandments of Hashem, your Lord.” (Ibid 4:2).

“If a matter confuses you...you shall go up to the place that Hashem, your Lord, shall choose, and you shall come to the kohanim, leviim, and the governors, who are there in those days, and they shall extrapolate the matter of governance.” (Ibid 17:8-9). Each generation has express authority to pose applications of the Torah law to the given circumstances. They have the responsibility to tell the people how the Torah and Rabbinical law is to be applied. This may change slightly from generation to generation as circumstances change. However, authority is undoubtably given. These leaders are governing the people by Torah law and their ruling is simply application of that law.