

Rational Versus Irrational Laws

Before I became a rabbi I wanted to be a lawyer. I thought it would be so much fun to litigate, arguing a case before a judge. I had been on the debate team in high school and really wanted the opportunity to argue for a living. My freshman year of college at UW-Madison, I took a Hebrew course for the retrocredits on the *Haskalah*, or Jewish enlightenment. The course touched my soul, as I recognized that the *maskilim*, though largely secular, knew their Bible cold, wrote in beautiful Hebrew and had a deep connection to the Land of Israel. In contrast, my Poli Sci 101 course was very dry. I changed paths from majoring in History and Poli Sci to History, Hebrew and Jewish Studies. The rest shall we say is history.

I have often admired lawyers for being like G-d in making order out of chaos (though as Don says, criminal defendants make chaos out of order). At the same time, I must admit that any lawyer who can make rational sense out of the “decree of the Torah” as follows is clearly a genius: “ויקחו אליה פרה אדמה תמימה...והוציא אתה אל מחץ למחנה ושחט

אותה...והזה אל נכח פני אהל מעד מדמה שבע פעמים ושרף את הפרה לעיניו...ולקח הכהן עץ ארז ועזוב ושני תולעת והשליך אל תוך שרפת הפרה וכבס בגדיו הכהן ורחץ Follow all that? A בשרו במים ואחר יבוא אל המחנה וטמא הכהן עד-הערב.¹ A synopsis is “The Israelites shall bring you an unblemished red heifer which shall be killed outside the camp. The *Kohen* shall sprinkle its blood seven times and then burn the cow. The *Kohen* as well as the one who performed the burning shall wash their garments in water, bathe in water and be impure until evening.

What is the basis for such a law? The rabbis themselves were perplexed as to why this חק, or ritual law that cannot be easily understood, was part of Jewish tradition. They do not have a great rationale for the red heifer, especially now that we no longer have a Temple, yet they were not the first to struggle with the reason for its existence.²

¹ From Numbers 19:2-7

² Bamidbar Rabbah Hukkat 19:3 (Solomon said: “I have understood all of these things, but the section about the red cow I researched, questioned and prodded, ‘I said: “I will get wise” but it is far from me).

In the Talmud³ we read about Dama ben Netina, a Gentile during the Second Temple period who owned a very special stone. Rabbis visited him to purchase a special stone for the *Hoshen* (breastplate) for the *Kohen Gadol* (high priest). The problem was, the stone was in a locked box, the key was under Dama's father's pillow, and he happened to be sleeping. The rabbis offered up to 10,000 gold *shekalim* for the stone, which Dama refused so as not to wake his father. G-d took note of this and rewarded Dama with a red heifer, which he could sell to the rabbis.

While laws like the red heifer might seem to us to be strange or out of place, there are equally bizarre laws in our own State of New York. Among them are the following: "It is illegal to congregate in public with two or more people while each wearing a mask or any face covering which disguises your identity" (By the way, Purim need not be cancelled because we consider the synagogue a private domain, רשות היחיד).⁴ It is against the law to throw a ball at someone's head for fun. Slippers are

³ Babylonian Talmud Kiddushin 31a

⁴ [New York Penal Law 240.35\(4\)](#)

not to be worn after 10:00 PM. While riding in an elevator, one must talk to no one, and fold his hands while looking toward the door (that's also why you can't talk to people on the subway). A person may not walk around on Sundays with an ice cream cone in his/her pocket. My personal favorite is the following: a fine of \$25 can be levelled against you for flirting.⁵ Marty-on the High Holidays you are the Usher in charge of directing people on and off of the *bimah*: now we can also put you in charge of ensuring that there is no flirting.

The next time we find a law from our tradition to be bizarre, let us remember that plenty of laws that have been created by our own state (and every other state for that matter) are strange as well: the difference is that the law of the red heifer stems from G-d whereas the laws of New York State come from man. Just because we find something unusual does not mean we should cease and desist from learning about it. Perhaps we will find some new insight or special merit as to why it is

⁵ For more, see <http://www.dumblaws.com/laws/united-states/new-york>

“on the books.” That is why Ben Bag Bag says בה הפך בה דכלה בה, “Keep turning it (the Torah) around, for everything is in it.”⁶

We close out our year of honoring those who work in professions with this Shabbat. Thank you to the lawyers who work so hard enforcing our laws and regulations, ensuring that we are safe and in good shape. Whether you work in real estate, alcohol, tax, immigration, criminal, corporate, litigation or another area, we appreciate all that you do and that you are so devoted to the Jericho Jewish Center. We hope you get some rest and relaxation this summer from the grinding work weeks that you put in and that all goes well for you. The next time you get stumped by some law, remember that you are also blessed with “the gift of gab” to defend it. As Marty taught me, you don’t have to take a position but when you do you better defend it. Mazal Tov on joining us for this celebratory day.

⁶ Pirkei Avot 5:22