

And Nothing but the Truth

- Basil Herring.

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And so Monica Lewinsky has now told a Federal grand jury that she has lied under oath. That she committed perjury after she had sworn to tell nothing but the truth. And now the country, and the world, wait with baited breath to hear the proverbial "other shoe fall," as to whether the man who solemnly swore to uphold the law, and who in many ways is the embodiment of the law, will in a week or so confess to that same group of his peers that he too told something "other than the truth" while under solemn oath, and whether he encouraged others to do the same. But whether he did or not, and polls show that most of the people do believe that he did not tell the unvarnished truth under oath, or in comments addressed to the American public that elected him, one thing is sure: few who are knowledgeable will deny that, even though it is a crime, in our society and in our time there is no shortage of those who, while under oath, willfully distort the truth, resort to outright lies, or try to get others to lie or evade what they know to be the fact. And they do so in the belief that they can do it, and get away with it, without paying any price, in body or soul. And they especially do it when they believe that in so doing they harm no one, or if they are convinced that they are acting to uphold what they believe to be some greater truth or cause.

Of course, in one sense, this plethora of perjury is fully consistent with what we can more and more identify as a larger societal attitude toward truth and falsehood. Consider for a moment the world around us: Every day plastic surgeons help their patients deny their true age. Some lawyers (Webster Hubbell recently wrote that we could say all lawyers) habitually pad their billable hours. U.S. ambassadors make up out of whole cloth stories about their supposed war exploits. Politicians make promises they know they will never keep if elected. And (as anyone who has ever had the misfortune of being interviewed or quoted, can attest) news reporters often carefully filter, if not distort, events or words to accord with their own priorities or perspectives, rendering the truth a common casualty of their profession. How easily we forget, or perhaps are insufficiently aware, that by now everything that is done in front of a tv camera or radio microphone is almost always done for the sake of the camera or mike, and their audiences, and for the most simply because the news medium is there, carefully staged and acted so as to mask or bend the truth to favor one's self or one's own. For surely it is true that the media do not merely record the news, by their very nature, being there they bend and shape it in many and various ways. And who could deny that corporate advertising and product promotions raise the art of subtle deception to constant new heights. Indeed the economist John Kenneth Galbraith has suggested that Americans have a built in "mendacity index" with which they automatically discount all advertising claims for lie content. And what he said of advertising, I dare say, can now be said of public life in this country. No wonder we have all become at least a little skeptical, and sometimes a whole lot more, about what we hear reported, or see depicted, in

relation to the true state of the world.

But one place we would have expected things to be different, where the truth might remain relatively intact, is in the judicial process, with its elaborate rules and procedures designed to safeguard the truth, over the Holy Bible and under solemn oath. In court, as it has been said, a lie is a lie is a lie --- where nothing less than the truth, whole, and nothing but, is the explicit standard of discourse. And yet, as we are now learning more and more, even that is not the case. Especially, to our chagrin, when those who might engage in such behavior, are those most responsible for upholding truth and the law.

At such a time, therefore, it is important that we remind ourselves just what it is that constitutes the bedrock of judicial truth. And to do that, I would like to examine a particularly telling pasuk in today=s parshah. I refer of course to the 9th of the Ten Commandments, as encountered here: ve'lo ta'aneh ve'rei'acha eid shav: commonly translated as "you shall not bear false witness against your fellow." (Deut. 5:16) The meaning of the verse is, on the surface, clear and unambiguous: when you give evidence regarding your fellow (however you define "fellow"), you dare not tell a lie, but shall rather speak the truth. Simple enough. The problem with this translation, however, is that it is in and of itself inaccurate, and therefore in itself is guilty of not telling the whole truth. For tellingly, if one examines the original statement of the Torah in Parshat Yitro, which records God's statement of the Ten Commandments at Sinai, the 9th commandment reads "lo ta'aneh ve'rei'acha eid shaker", which accurately translated says "you shall not bear false witness against your fellow." There the words "false witness" clearly translate the phrase eid shaker, sheker meaning a lie, a falsehood, as opposed to emet, the truth. But here in Va'etchanan, Moses' formulation (and it is his formulation, just as throughout Deuteronomy it is his words which are recorded, and subsequently endorsed by God as correct) of God=s word changes to read eid shav, and the word shav does not refer to a falsehood at all. Thus, even though most translations use the identical English phrases in both places, our verse here in Deuteronomy, must be understood to be teaching something else.

We can put aside for the moment the theological question of how and why Moshe Rabbeinu allowed himself to change his reporting of God's words these 40 years after they were first revealed by God to the Jewish people(not just in this commandment, but some of the others of the celebrated Ten as well). Our immediate concern is for the meaning of the words themselves, and it is here that we turn to the great 13th century commentary of the Ramban. This is how he explains the difference between the respective versions of the 8th commandment in Exodus and Deuteronomy:

The verse here should be translated as "you shall not bear vain witness." Thus it prohibits testifying against one's fellow even if the content of the testimony is of no consequence and causes no obligation to others in court. For example if one testifies that party A promised to give money to party B but did not execute a binding act of obligation (kinyan). For "shav" means something without significance.

In other words, Exodus forbids one to be an eid sheker, a false witness, someone who by his lying causes harm to his fellow, clearly a vile and detestable act that should bring shame and ignominy upon any decent human being who called upon to testify to the truth. But what if a person says "I'll go before the court and make certain incorrect statements that harm no one, that

in and of themselves will not cause financial loss, nor cause the defendant or litigant hardship or pain." One might think that such statements, being relatively harmless, do not constitute perjury, and are not strictly speaking forbidden by the Torah. Hence, says Ramban, the Torah in Devarim says Aunder no circumstances are you to be even an eid shav, a witness whose vain testimony is deliberately misleading, no matter how innocuous it might be in regard to a third party.

According to the Ramban, what the Torah is here teaching us, I believe, is that especially in a court of law, words are sacrosanct, every utterance must be spoken with fear and trepidation, and utmost regard for the truth. No matter how lofty the goal or rationalization, irrespective of the desired purpose, or transcendent value to be served, the whole truth dare never be compromised, one's oath never tainted or vitiated in good conscience. Woe betide the society that sets its step on that slippery slope of deceit and deception. Note well: the Torah puts this prohibition in the same verse with the three crimes of murder, adultery, and taking a human being hostage. What, one might ask, is the prohibition against "vain testimony" doing in such august, and grave, company? Apparently it, like them, is fundamentally antithetical to a just society ruled by law and justice, with fairness and decency for all.

And lest some think that I exaggerate the importance of a few falsehoods uttered in a courtroom, it is worth recalling what occurred exactly 100 years ago in Paris, when a French Jewish army officer by the name of Alfred Dreyfus, was wrongfully accused of treason, court-martialed in closed proceedings, found guilty, and sentenced to life imprisonment on Devil's Island, while anti-semitic mobs marched outside condemning all French Jews of treachery. While Dreyfus was ultimately exonerated, thanks to a few courageous individuals such as Emile Zola, Georges Pickardt and Bernard Lazare, the trial became a turning point not just for France's Third Republic and for the next 50 years of French history, but for the outlook of world Jewry, which was shocked that such a thing could happen in "the homeland of liberty and the Great Revolution." For Theodore Herzl it was a seminal eye-opener, that without doubt became for the masses of European Jews a pivotal factor in the birth of Modern Zionism. All of that, the consequence of untruths spoken in a French court of law, by those responsible for upholding the law, but who considered themselves above the law.

And that, I believe, is why from the perspective of the Torah, and our tradition, it is so important that those sworn to uphold the law be held accountable for what they may have said or implied under oath, whether or not they intended harm to another. The harm at issue is to truth itself. For I believe that it is the model, pattern, and posture of those in high places toward law and truth, that most directly influences the attitudes and behavior of those below, the average man and woman on the street. Thus, I dare say, the character of our leaders does count dearly. And I would agree with Franklin D. Roosevelt's assessment, that "the Presidency is not merely an administrative office... it is pre-eminently a place of moral leadership." And that is true not just of Presidents, but of Judges, Senators, Congressmen, and Governors too. In short, character counts a lot more than some would want to believe.

Allow me to conclude with one more reference to our parshah. The Gemara in Pesachim 22b records that R. Shimon ha-Amsuni would always go to great lengths to explain a halakhic reason for every occurrence of the preposition "et" in the Torah, generally explaining that the term added certain categories for inclusion in a law of the Torah. But then he encountered the verse in

our parshah "et Hashem Elokecha tira ve'oto ta'avod uvishmo tishave'a," "fear the Lord your God, serve Him, and swear in His name." (Deut. 6:13) Unable to imagine that any other being could be included in this category of deserving to be feared, served, and invoked as a testament to the truth, he withdrew into silence, and stated keshem shekibalti sechar al ha-derishah, kach ani mekabel sechar al ha-perishah, "just as I will be rewarded for explaining the other instances of et, so will I be rewarded for remaining silent in this instance." And so it remained until Rebbe Akiva stepped forward and explained even this instance saying, "it refers to scholars of the law."

Reb Ezra Altshuler, the Vinuter Rav, once asked why did R. Shimon himself not interpret this verse as Reb Akiva did? Surely it was not beyond his ability? The answer, said R. Ezra, was that it was only because Rebbe Akiva witnessed the selflessness of R. Shimon, and his total dedication to truth, no matter its cost to himself, and his most cherished assumptions, that he could say what he did. Rebbe Akiva had seen R. Shimon willingly forego the opportunity to find an explanation of this one problematic verse, because he believed that it contradicted all that he had previously explained according to his hypothesis that every "et" had a reason. So committed was he to the truth, no matter its cost to himself, that he himself was proof that such a talmid chacham, such a scholar of the law, who upholds the law of truth, not just in theory but in practice, not just in principle but in effect, is to be revered, served, and ultimately invoked and sworn by as the very paradigm of truthfulness, in appropriate measure by others. With such an individual, and only such an individual, Rebbe Akiva reckoned, could the people have no fear of a leadership authority intoxicated and overcome by self-aggrandizement, self-promotion, or self-interest at the expense of truth, and presuming to stand above the law.

This, I believe, is the Torah's charge and expectation of us and our leaders in the public domain: namely, to pursue the truth no matter its outcome, to demand veracity and honesty, of them as of ourselves, no matter what might have come before. Only in that way, I dare say, will all of us be privileged to enjoy not just a political and judicial leadership that is above suspicion or reproach, that will not just strengthen our fiscal health but also reverse our moral decline, acting properly