

Judges and officers shall you appoint ... you shall not plant for yourselves an idolatrous tree...and you shall not erect for yourselves a pillar; which Hashem your G-d hates. (16:18,21,22)

The *Torah* enjoins us not to plant an *asheirah*, which was a tree that was worshipped as an idol. Likewise, it is also forbidden to erect a pillar or single stone for the purpose of idol-worship. Although at one time this was a manner of worship to Hashem, it was adopted by the idol-worshippers. Hashem despises anything associated with idols. Consequently, it was forbidden for a Jew to worship by any means other than the *Mizbayach*, altar of many stones. The *Torah's* juxtaposition of these laws to the *pasuk* regarding judges leads *Chazal* in the *Talmud Avodah Zarah* 52A, to infer that one who appoints an unqualified judge is analagous to one who plants an idolatrous tree.

Horav Nissan Alpert, zl, suggests a novel approach to this parallel. A *dayan hagin*, qualified judge, is one who is in total control of himself and the law. He belongs to no man. He is his own person. He sublimates himself only to Hashem. He stands as the paragon of virtue, a standard for others to emulate. Indeed, the litigants that stand before him are comfortable and secure that he will submit a true *halachic* rendering of the case before him.

One who bows down to the ground, who worships the soil under his feet, does not transform the ground into an idol. One who plants a tree with the intent to worship it is held liable from the time of planting. The tree becomes a *cheftza d'issura*, an object that is forbidden. What is the reason for this discrepancy in *halachah*? Earth is viewed as *karka olam*, ownerless dirt. Ownership of land is an experience on the part of the owner, but does not effect any change in the land. Hence, land can be viewed as being an entity in which there is no human involvement. When one plants an *asheirah*, he infuses a part of himself into this tree. The tree is beholden to the human; the earth is not. Man can only prohibit that in which he has some involvement. Earth exists and will continue to exist without man's interaction with it.

The *Torah* implies that a judge shall not be like an *asheirah*. He shall not come on to any man. He should be in total control, not totally controlled. A judge who is unqualified, who is inappropriate because of moral weakness -- or subservient to others -- is similar to the *asheirah* that is planted by man.

Conversely, he should not be like a *matzeivah*, a pillar, aloof, insulated from the community. A judge who is not sensitive to the needs of his community can not maintain an amicable relationship with the people. He who does not understand the psyche of the people cannot adjudicate properly. Thus, he will certainly not be able to present the final *halachah* with a formulation that will be readily accepted. It is necessary that both litigants leave the *Bais Din*, court, happy, accepting the

law with respect and dignity.

The judge must also understand that people change; their personalities and attitudes differ with each ensuing generation. Indeed, each community has its own unique character. In presenting his verdict, the judge must realize whom he is addressing. This in no way suggests that the *halachah* changes. The judge, however, should use *seichal*, common sense, in issuing his judgement. We find that *Chazal* issued decrees based upon the changing needs of a generation/community. Hillel made his famous *Prozbul*, allowing for lenders to collect money during the *Shemittah* year. The laws of *Shemittah* were there to help the borrower. *Chazal* felt they could "extend" the law in such a manner to address the changing personality and needs of that generation.

Hashem did not despise the *bamah*, pillar, which at one time was the chosen object for worship and offering sacrifices, until after the pagans had adopted it as part of their service. *Halachah* is firm, but flexible. Its principles may never be undermined. The same concept applies to the judge who renders *halachic* decisions.