

# Bais Din or “Balderdash”



By Yitzchok Strauss

For all those out there who have Motzei Shabbos game night with the family, you will be very familiar with the law portion of the game “Balderdash.” The creator of the game spent countless hours researching every outdated law in America and abroad. The players’ objective is to know which crazy law actually was really enacted.

Laws are a reflection of the values of the society where they have been written. We all know too well how the laws in America can affect every aspect of our lives injecting into us the foreign values of the American society. Why should we be required to bake wedding cakes or provide special bathrooms for those whose lifestyle is the antithesis of true Torah values? Furthermore, the courts will enforce

the laws based on their core value system. So if there is a law that they do not approve of because of their political agenda they may not even enforce it.

It is with this backdrop that we understand the importance of having a Jewish court which will uphold *our* values. A Bais Din is empowered with the authority to enforce our laws, those given to us at Har Sinai. The fundamentals of who we are and the values we try to emulate are those laws the Bais Din will enforce. It is no wonder that there is a very strong prohibition to go to a secular court. We need to be governed by our value system - not theirs. If we have an internal conflict, we need to go to those who have our perspective and value system; other-

wise it is a Chilul HaShem, basically saying that their values have more credence than ours.

## Basis for our court system

Due to the fact that we no longer have the original Smicha that was passed down from generation to generation from the time of Moshe Rabeinu, the Bais Din has limited jurisdiction. The original Smicha was delivered to Moshe Rabeinu who shared it with Yehoshua and the 70 Zikeinim. They in turn handed down the Smicha for many generations but the chain was ultimately lost due to our Golus. We no longer have the ability to make a Bais Din as prescribed by the Torah. However, it was clear to Chazal that without a Bais Din the Jewish communities would not be able

to function on the most rudimentary level. For example, people would not feel comfortable making loans to poor chaveirim because there would be no way to enforce a repayment. This lack of enforcement action could spread to all areas of business which is critical for a society to function.

In order to resolve the problem, Chazal instituted a limited court power on the basis that the judges today are agents for those Rabbonim who had Smicha many years ago. However, Chazal only extended the enforcement power to those controversies that were related to a more usual or typical matter and involved monetary losses. Anything other than that, the Bais Din will not have jurisdiction and not be given the power to enforce. There are some very limited exceptions which will be the subject of future articles.

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