

Traditional Jewish Texts on Judges and the Judiciary

Judges confirmed to lifetime seats on federal courts have the power to impact almost every aspect of public policy. They make decisions about health care, bodily autonomy, voting rights, the environment, law enforcement, and other civil rights that impact our daily lives. Federal judges must be open-minded, fair, diverse, and independent individuals. NCJW is a leader in the fight to ensure the federal bench reflects the communities it serves with judges who will safeguard equality and justice for all. For close to 20 years, BenchMark: NCJW's Judicial Nominations Campaign has focused on building an educated electorate on the federal courts and the judges who sit on them. We are guided in this work by Jewish teachings and texts, including those below, that demonstrate the importance of unbiased judges as well as fair and impartial courts.

Judges

- The Torah teaches how important it is to ensure that there is no possibility of bias in our judicial system, commanding, “You shall not render an unfair decision: do not favor the poor or show deference to the rich; judge your kinsman fairly.” (Leviticus 19:15)
- The Torah commands us to appoint judges who will “judge the people with a just law,” and tells us that those judges should “not pervert the law [and] show any partiality.” (Deuteronomy 16:18-19). In fact, this is the context in which the famous commandment, “Justice, justice shall you pursue” (Deuteronomy 16:20) is situated. To put it simply, the work of pursuing justice hinges on having a fair and independent judiciary.
- Our tradition has long been clear about the problems of packing a judiciary with judges beholden to special interests or a particular political party. As Rabbi Shlomo Ephraim ben Aaron Luntschitz, an important 17th century Torah commentator (also known as the Kli Yakar) put it, “Judges should not show favoritism even to those who appointed them....judges should judge all the people justly.” *Kli Yakar on Deut 16:18*
- The Talmud (Avodah Zara 52a) asserts that appointing a judge who is biased or ill-prepared for the role is considered so bad that it is considered akin to one of the greatest sins in the Jewish tradition. It teaches in the name of the sage Reish Lakish, “Anyone who appoints a judge who is unfit [for the position, due to his lack of knowledge or wickedness, is considered] as though he plants idolatry among the Jewish people.” *Babylonian Talmud Avodah Zara 52a*
- Jewish tradition has long affirmed the critical importance of having ethical, unbiased judges. For example, one midrash — ancient exegesis — asserts, “Judges need to be people of strength through good deeds.... And they need to be clean of any infraction, so that no one can make any claim of bias against them.” *Midrash Tanchuma, Shoftim 3:1*

Judiciary

- The obligation to ensure and protect a fair and independent judiciary is on all of us. As Rabbi Ḥayyim ben Moshe ibn Atta, an important 18th century Moroccan commentator known as Or HaChayim put it, “The commandment to ‘not pervert justice’ (Deuteronomy 16:19) is not only addressed to the judges but to all those who by failing to appoint the proper judiciary contribute to unfair judgments being handed down by unauthorised sources.” *Or HaChayim on Deut 16:19*.
- Judaism affirms, again and again, the importance of having a judiciary that is committed to justice and truth. These are the foundations on which everything else in our society must be built. As the sage Rabban Shimon ben Gamliel taught in the Ethics of the Sages (1:18), “On three things is the world established — on judgement, on truth, and on peace.” *Pirkei Avot 1:18*
- Our tradition has long been aware of the stakes of a fair, independent judiciary. As Rabbi Jacob Ben Asher, an important 14th century codifier of Jewish Law (also known as The Tur) put it, “Through judges that judge between people does the world continue. Because were it not for law, the more powerful would conquer.” *Tur, Choshen Mishpat 1*
- Jewish tradition is clear that everyone deserves equal treatment under the law. As the Torah teaches, “You shall have one standard of law for non-citizen and citizen alike” (Leviticus 24:22). Rabbi Bahya ben Asher ibn Halawa, an important 13th-14th century Spanish Torah scholar, explains this verse, making its implications clear: “The Torah wanted to make the point that in spite of differences in origin of certain people, the law is to be applied to them equally.” Thus, a fair and impartial court is essential. *Rebbeinu Bachya on Lev 24:22*.