

Separation of Powers Then and Now

Samuel 8: 1-9

When Samuel grew old, he appointed his sons judges over Israel. The name of his first-born son was Joel, and his second son's name was Abijah; they sat as judges in Beer-sheba. But his sons did not follow in his ways; they were bent on gain, they accepted bribes, and they subverted justice. All the elders of Israel assembled and came to Samuel at Ramah, and they said to him, "You have grown old, and your sons have not followed your ways. Therefore appoint a king for us, to judge us like all other nations." Samuel was displeased that they said "Give us a king to judge us." Samuel prayed to the LORD, and the LORD replied to Samuel, "Heed the demand of the people in everything they say to you. For it is not you that they have rejected; it is Me they have rejected as their king.

Deuteronomy 17:8-20

If a case is too baffling for you to decide, be it a controversy over homicide, civil law, or assault—matters of dispute in your courts—you shall promptly repair to the place that your LORD will have chosen, and appear before the levitical priests, or the magistrate in charge at the time, and present your problem. When they have announced to you the verdict in the case, you shall carry out the verdict that is announced to you from that place that LORD chose, observing scrupulously all their instructions to you. **You shall act in accordance with the instructions given you and the ruling handed down to you; you must not deviate from the verdict that they announce to you either to the right or to the left.** Should either party [to the dispute] act presumptuously and disregard the priest charged with serving there your LORD, or the magistrate, that party shall die. Thus you will sweep out evil from Israel: all the people will hear and be afraid and will not act presumptuously again.

If, after you have entered the land that your LORD has assigned to you, and taken possession of it and settled in it, you decide, "I will set a king over me, as do all the nations about me," you shall be free to set a king over yourself, one chosen by your LORD. Be sure to set as king over yourself one of your own people; you must not set a foreigner over you, one who is not your kin. Moreover, he shall not keep many horses or send people back to Egypt to add to his horses, since LORD has warned you, "You must not go back that way again." And he shall not have many wives, lest his heart go astray; nor shall he amass silver and gold to excess. **When he is seated on his royal throne, he shall have a copy of this Teaching written for him on a scroll by the levitical priests. Let it remain with him and let him read in it all his life, so that he may learn to revere his LORD, to observe faithfully every word of this Teaching as well as these laws.** Thus he will not act haughtily toward his fellows **or deviate from the Instruction to the right or to the left**, to the end that he and his descendants may reign long in the midst of Israel.

Mishnah Sanhedrin 2:1-2

The High Priest may judge and be judged [himself]; may testify and others may testify against him; may perform *chalitzah* [declination of levirate marriage] and others may perform *chalitzah* for his widow; and others may marry her through levirate marriage, but he may not marry another through levirate marriage, because he is forbidden to marry a widow [...]

The king may not judge nor be judged himself; may not testify, nor may others testify against him; may not perform *chalitzah*, nor may others perform *chalitzah* for his wife; and may not marry through levirate marriage, nor may others marry his wife through levirate marriage.