

Shoftim Sermon 5777

When I was a student at the seminary, many stories about the *gedolim*, the greats of the past who once taught at JTS, got passed down among students and faculty. One concerned Rabbi Abraham Joshua Heschel, whom a student once approached with a question one day. Doctor Heschel gave him an erudite answer, and then, a moment later, turned to another student who approached him and, not having heard the earlier exchange, asked the very same question. Doctor Heschel answered that student as well, but provided a very different kind of answer. The first student asked him: “Why did you respond with that answer, when a minute ago you told me something completely different?” Without blinking an eye, Heschel responded “I’m a different person now than when you asked me.”

Things change. We know that from every aspect of our lives. So it stands to reason that things change in the realm of Jewish world as well, usually in response to what is going on in the world at large. There is a wonderful illustration of this in the sixth aliyah of Shoftim, where we read about *arei miklat*, cities of refuge to which a killer could escape without fear of retribution. The Torah sets out the mitzvah that there should be three cities in the Holy Land where, should a killing occur, the person who is responsible could flee. We should be curious about this strange command. Doesn’t the Torah establish that a murderer be put to death?

Why is it assumed that a family member will be pursuing such a person? What's going on?

Murder is a primary offense to God. The purposeful shedding of blood is itself a capital offense (we will discuss the logic of that another time), a crime that is not only harmful to the victim and their family, but an affront to God. But what the Torah discusses here in Shoftim is an accidental killing, what we would term manslaughter. While chopping wood, the text supposes, the ax head loosens from the handle and kills someone. There had been no history of anger between the parties; it is simply an accident. However, life has been taken; the outcome is the same as in a murder case, but intent is lacking. The difference, for the Torah, is that while this is not a capital case, there is an existing social norm that needs to be dealt with: the blood redeemer, a member of the victim's family who has the right to kill the person responsible for their relative's death.

Americans are familiar with this concept from the fabled feud between the Hatfield and McCoy families in the 19th century. For three decades, members of those two clans continually retaliated against one another, resulting in a dozen deaths and numerous trials, including one that went to the Supreme Court. But even now we are familiar with the tribal mentality that leads one family or clan to pursue private justice with those who have wronged someone in their own orbit,

whether in modern clan feuds in Africa or honor killings in the Middle East. The idea that unites them all, and which finds expression here in Shoftim, is that even when a crime has no legal perpetrator - as in the case of manslaughter - the resulting insult to the clan carries a moral weight that can be discharged only through a commensurate expression of violence.

The Torah's rulings show an obvious discomfort with honor killings but, oddly, does not prohibit them, and in fact rules that the blood redeemer is himself not to be seen as a murderer, even though the killing he wants to commit is premeditated. It seems like up is down and down is up. What is really going here is that the Torah is setting down rules for the proper, safe functioning of society. Premeditated murder is prohibited as a matter of public law, but accidental killing remains in the province of personal injury claims between families. The reason the Torah does not outlaw honor killings outright because they were too deeply ingrained in society; the best it can do is to ameliorate its worst effects by providing places to which a manslaughterer could flee and remain safe from the victim's kin. Things change as far as we are able to accept change. Premeditated murder is no longer a matter between families; it is a societal issue, in which the state - represented here through the laws of the Torah - has a stake in social order.

This is remarkably similar to the Torah's treatment of slavery. Considering that we are the people freed from servitude in Mitzrayim, logic would dictate that the Torah should then ban slavery, but it doesn't. Instead, the biblical rules about selling people seek to minimize the harshest components of that system by limiting the terms of servitude and protecting the dignity and well-being of slaves to the extent it is possible to do so. Every people in the ancient world held slaves; it would have been well beyond the understanding of the Israelites to abandon the practice entirely, so the God, or the Torah, does the next best thing and curbs slavery's worst tendencies. Things change as far as we are able to accept change.

The fact that in these two realms - the institutions of honor killing and slavery - the Torah pulls back from legislating the kinds of ideals that we might otherwise expect suggests something important about the relationship between Torah and justice, and how the two respond to societal change. While post-biblical Jewish law would not permit honor killing or slavery, Torah, the text on which all Jewish law is based, does. Like the U.S. Constitution, which also originally permitted slavery, but was later amended to prohibit it, Jewish law is affected by the world in which it operates. Even the sacred words of Torah appear to have been sensitive to what society is able to bear at the time of its original revelation, and all

the more so for the words of the sages of the last two thousand years, who always take current circumstances into account when making a ruling.

In response to one of my recent videos, someone posted a question online: What did I mean by the phrase “The will of the living God”? Since I am totally ignorant of video channels and don’t know how to respond to such comments, I’ll answer here: Our primary theological challenge is to intuit and interpret God’s will for our time. God gave us the Torah at Sinai, but its meaning is not fixed. Every verse, every word of Torah needs to be studied, debated and analyzed in light of current circumstances and needs, as in every legal system. A system in which nothing ever changes is a dead one, a relic of a now-deceased culture. Judaism has always held that it is the combination of the understanding of the rabbinic class, in tandem with the will of the people at large, that determines what is permitted and prohibited at any given time, who decide together the ‘will of the living God.’

This year we are embarking on a series of discussions about the future of our shul. We will be talking about a number of areas that we all care deeply about, and we will look to our sacred texts and commentaries for guidance on which direction we should go. But we will also look to the world in which we live as Conservative Jews. As part of a movement, an international association of like-minded Jews, we should know how our local practices fit into the larger Conservative world and into

the history of our movement. We yearn for connections to other Conservative Jews, even as we insist on preserving the distinctive traditions of EBJC. The nature of Jewish law is to be exquisitely attuned to both tradition and change, and to re-calibrate, even moment by moment, who we are.

There are bound to be changes in the years to come, but they will be made in the context of who we now feel ourselves to be and wish to be. They will be changes that we agree on together, as rabbi and community, that best represent our understanding of the will of the living God. Our answers to the questions we have asked will change, because we are not the same people that we were twenty years ago, or even five minutes ago.

Shabbat shalom.

