D’var on Parashah Mishpatim (2/13/21)

by Bob Skloot

I want to thank Mark Coplevich for his invitation to talk today, the day after Pres. Lincoln’s birthday, about Parasha *Mishpatim.* I learned that the parashah is the 18th in the year of Shabbat readings, which I take as a sign that good things will issue from my talk and the discussion that might follow. As you will see, what I hope to do is to connect today’s text to a contemporary concern causing much intense and heated disputation, a generations-long issue that has only intensified in this past year distinguished by demands for social and economic justice. In the second sentence of the parasha we note the central word that points us to the theme; it begins “When you acquire a Hebrew **slave**…” (Exo. 21:2)

We might ask ourselves what we expect to obtain from Torah study. For some, it is instruction, for example, to learn the ways living a just, sustainable and faithful life. Everything needed for that goal is contained in the Torah, it is said. For some others, study brings inspiration, for example, a connection to the lives of biblical Jews whose experiences and actions give us models to emulate; their failures display as well behavior to reject. Another reason for study lies in ascertaining and understanding truth, that is, a way to know eternal, universal verities that put us in touch with a profound spiritual connection to something divine in and outside of ourselves. My thoughts today align best with an instructional bias, one that establishes and clarifies how we should live ethically and perhaps more peacefully in a world emptied of violence and refilled with justice.

Parasha *Mishpatim’s* focus for its first half (until ch. 23, v. 17) is on what we might call “rules to live by” as demanded by God. The word itself is translated as “rules,” “laws,” “judgments,” and “enactments,” and they total (according to a *Chabad* website) 23 imperative commands and 30 prohibitions, which are 11.5% of all mitzvot in the Bible. Taken together, these form what is called the “Sefer haBrit,” or the Book of the Covenant.”

The specific subjects contained in the parasha range widely and include how to keep or free slaves (both Hebrew and not), the penalties for blasphemy, arson or murder, the treatment of women and girls regarding their marital arrangements, the legal restrictions on money lending, and punishment for kidnapping. At the time of their origin, these rules and others constructed a system of justice that in practice would define the social and legal structure of a people just beginning their journey out of bondage into freedom. It designs a program of equity and relationships that provides security and fairness leading, by virtue of its divine origin, to a righteous and rewarded life. I want to suggest that the most urgent theme of the parasha is **the acceptance and acknowledgment of responsibility together with the imperative of acting upon that knowledge.**

Which brings me to mention the ox and the ass. Among the 53 mitzvot enumerated in the text, God demands that harm done to animals as well as humans must involve action to repair damage to either or both. Here’s chapter 21, verse 33: “When a man opens a pit, or digs a pit and does not cover it, and an ox or an ass falls into it, the one *responsible* for the pit must make restitution…” The idea of **restitution** is referred to for other infractions as well such as theft of property or destruction of pasture, for example, and here is where I see a connection between the ethical life we hope to create for ourselves and today’s object of study. A footnote to the text in *Etz Hayim* says: “The Torah repeatedly insists on the fundamental human dignity of the poor, the slave, and even the criminal.” (n. 20, p.461.) And, I must add, of the ass.

In June, 2014, the journalist Ta-Nahisi Coates wrote an essay for *The Atlantic* that produced more feedback than any other essay ever received by the magazine. It was titled “The Case for Reparations.” The epigraph that introduces Coates’s essay comes from our Bible and is found in Parasha *Re’eh* in the Book of Deuteronomy. The text contains a verbatim rewriting and re-expression of the concerns that appeared earlier in *Mishpatim*. It says:

If a fellow Hebrew, man or woman, is sold to you, he shall serve you six years, and in the seventh year you shall set him free. When you set him free, do not let him go empty-handed: Furnish him out of the flock, threshing floor and vat, with which the Lord your God has blessed you. Bear in mind that you were slaves in the land of Egypt and the Lord your God redeemed you…” (Deut., 15:12-14)

Clearly, the intent of these words is to declare the dignity and humanness of even slaves, and a sufficient reward for their services and provisions for their departure, is mandated. This is what we call **redress**. It is what must occur after an action is taken, even keeping slaves which was normal in Biblical times. Redress is an obligation, or a responsibility shouldered by individuals and peoples. It calibrates the value of a life. *Mishpatim* says, with reference to the Jews’ previous bondage, **if you were hurt, don’t hurt others,** and **if you took, you must give back**. In the words of Rabbi Jonathan Sachs: “Love alone does not free a slave from his or her chains.” God is in the details Sachs says, and “without the details, the vision [of a righteous world] floats in heaven. With them, the divine presence is brought down to earth where we need it most.” [cit. ?] Sachs’s words contain both truth and consequences. (Another of Coates’ essays has the title “How to Steal Things, Exploit People and Avoid All Responsibility.”)

The 30 prohibitions of *Mishpatim* refer to avoiding actions that **haven’t** yet taken place (taking bribes, starting rumors, colluding with sorcerers, cooking a lambchop in cream sauce); the 23 imperatives, as I mentioned, specify what to do after an ethical wall is breached. “At the center of these policies [to bring, finally, into existence a just world]” writes Nikole Hannah-Jones in 2020, “must be reparations…. Reparations are a societal obligation in a nation where our Constitution sanctioned slavery.” (*NYTimes*, June 28, 2020, p. 52) A historical note: since 1989, a congressional bill written and introduced by Rep. John Conyers known as H.R. 40 has languished in committee; it seeks to establish a national commission to study slavery, its repercussions and recommend “appropriate remedies.” Rep. Conyers died several years ago, and his mission has been taken up, in part, by Sen. Cory Booker, Rep. Shiela Jackson Lee and Vice President Harris.

In fact, we as Jewish Americans are familiar with reparations, whether they recall the reparations paid to the once-enslaved survivors of the Holocaust by the post-war German government or the American government’s reparations paid to Japanese Americans for their arrest and internment in “relocation camps” during World War II. Reparations may take a number of forms besides monetary ones; they may include, for example, apologies, legal penalties for perpetrators or establishing institutions and even public monuments. (In fact, there are a huge number of historical reparative actions, and many are underway today.) The legal scholar Martha Minow advances her belief in reparations thus:

…I do not want to underestimate the power of humble acts of reparations. They can meet burning needs for acknowledgment, closure, vindication and connection. Reparations provide a specific, narrow invitation for victims and survivors to walk between vengeance and forgiveness. (In *Reparations for Slavery: A Reader,* ed. Salzberger and Turck, p. 307)

That is “walking the walk.” And, to be absolutely sure, they can provide some as yet unspecified economic remedy for the 400 years of servitude and atrocity endured by slaves and their descendants that continues to the present day. Recall that the slaves mentioned in parasha *Mishpatim* only spent six years in bondage before gaining their freedom. And I’d mention that there is in place all over the United States great interest and commitment to the concept of “restorative justice,” which is dedicated to redress and repair of harms, including to the environment. Madison and Dane County have a Community Restorative Court that serves this ideal; I have joined the Court as a “peacemaker,” and can assure you that it provides a necessary and inspiring service to improving the dispensation of justice in the place we live.

If we as a congregation find good instruction in today’s parasha, we could make a commitment to the act of reparations, at least to the study of the subject. We acknowledge this goal when advocating and working for *tikkun olam*, that is, repairing the world. You might think of it as having a debt to pay, and that the bill has been served a very long time ago. To be sure, the questions raised by the issue of reparations are as profound as they are controversial and conflicted. Scholars, politicians, religious leaders, legal experts have commented on answers for generations. For example: 1) how can a value be put upon hundreds of years of servitude? 2) who would be responsible for making these reparations? 3) who would be eligible to receive them? And 4) what actions or what magnitude qualify for redress and reparation?

So, let’s return to parasha *Mishpatim.* I’m suggesting that if we Jews were slaves in Egypt, the Torah holds us hostage to the idea of not treating others in similar or identical fashion. We have a responsibility to pay back in ways that we in 2021 cannot now know. But first, there is instruction to advance literacy in the subject of reparations, to know about our history and our responsibilities. When the slaves in America were granted freedom in 1865, they were promised “40 acres and a mule.” It seems that the ass has fallen into an uncovered pit somewhere in the forty acres that also disappeared from its owners’ inheritance. Here again is verse 34: “the one **responsible** for the pit must make restitution.”

So here is my ask. As our *kahal* engages in its multiyear collaboration with the Nehemiah Project, let the subject of *Mishpatim* be among those considered for further study and, thereafter, action. I‘ll end with these words pronounced by our inauguration poet Amanda Gorman: “…being American is more than a pride we inherit--/It’s the past we step into, and how we repair it” because “this is the era of just redemption.”

Shabbat Shalom.

Some Readings about Reparations

Ta-Nahisi Coates, “The Case for Reparations,” The *Atlantic* (June, 2014).

Nikole Hannah-Jones, “If true justice and equality are ever to be achieved in the United States, the country must finally take seriously what it owes to black Americans,” The New York Times *Magazine*, June 28, 2020.

Randall Robinson, *The Debt: What America Owes to Blacks* (2001).

Ronald P. Salzberger and Mary C. Turck, *Reparations for Slavery: A Reader*, (2004).

[Contains essay by Martha Minow from *Between Vengeance and Forgiveness* (1998).]