



High Holy Days 2019  
Rabbi Jan Uhrbach

2nd Day Rosh Hashanah  
(Part A, Introduction to the Shofar)  
*Mishpat and Tzedek*

Let's look again at our text, about the 613 mitzvot distilled to eleven, then six, three, two and one-- and our process of reverse-engineering (rebuilding) ourselves and our society.

Yesterday talked about essence infusing whole Torah: Seek Me and live. Now we move from that single essence to its embodiment in 2 mitzvot. And I'm reminded of a story that happened once in West Side Judaica. A woman was purchasing a lot of stuff, and one of the men who worked there asked his mother, who was working the cash register, "Does she need help getting everything to her car?" His mother said to him, "What do you mean does she need help? Of course she needs help! You don't ask, you do."

You don't ask, you do. You're having trouble finding God? You don't ask, you do - look at your actions. And specifically, from Isaiah 56:1 (part E): Guard justice and do righteousness נְמַרְוּ מִשְׁפָּט וַעֲשׂוּ צְדָקָה.

The Midrash<sup>1</sup> teaches:

The ministering angels asked: Why did the Shekhinah depart from Israel? God replied: I removed My Presence from thus-and-such place, because I saw a judge perverting justice [to oppress the poor], so I left that place... Thus it is written (our verse): "Guard mishpat, and do tzedakah; that My salvation will come soon" (Isa. 56:1), that is, then, I will associate Myself with you.

Not surprisingly, some form of a call to justice appears on each of the lists of mitzvot in our text (in yellow highlights):

- Micah 3 principles: #1 only to do justice (mishpat), כי אם עשות משפט
- Isaiah 6 principles: #1 walk in righteousness (tzedakot), הולך צדקות
- David 11 principles: #2 do what is right (tzedek), ופועל צדק

Mishpat is justice in sense of legal system. A fair court system, where all are equal, and judges act with integrity. Fair law enforcement, which treats all equally. Tzedakah refers to justice and righteousness more generally: what's fair and equitable, right and wrong, economic justice, equality and dignity -- even beyond the law. We need both because they're not always aligned; sometimes law is used to perpetrate injustice (or as Ramban taught regarding halakhah, one can be a scoundrel within the bounds of the law).

Note that the verbs are active - we're commanded to do (or in Deuteronomy pursue) justice, not just passively wait for it to come. Thus, for e.g., it's not enough to not be racist, this requires being actively anti-racist -- *doing* justice. And it's structural, societal; it's too important to be left

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1. Tanchuma, Mishpatim 4:2.

to the vagaries of individual. In answer to those who say “religion shouldn’t be political,” here, the political, in the form an equitable legal system that is truly just, is *the* primary expression of religion, the primary way to search for God.

And it’s also personal. Teshuvah, rebuilding of character, is founded on an internalized sense of justice, i.e., an awareness of the fundamental equality of all human beings. This is hard. It means I’m every bit equal to everyone else. AND, I’m **only** equal to everyone else. My life is neither less nor more valuable than any other human life. This is hard because we’re all self-interested: the ego works for self-preservation. And it’s especially hard to look honestly at injustice that benefits us. Almost all of us have work to do on this this -- whether seeing ourselves as at least equal to others, or as only equal to others, or both. It’s a very high level we may never fully achieve, but we can at least make our bias conscious, hold it intellectually, and make our equality less theoretical and more operational.

Now, it’s appropriate to focus on mishpat and tzedek before hearing the shofar, which among other things, represents the cry of the oppressed, and the voices which aren’t usually heard. And I want to suggest three ways in which mishpat and tzedek need reworking today.

First, in America, we need to reclaim the language of “respect for the law,” and “law and order.” This language has long been used by some as code for white supremacy and nationalism/nativism, and by others to try to slow the inevitable change that confronting injustice brings. Thus, e.g., those who practice in civil disobedience, or peacefully protest injustice, are often accused of not “respecting the law.”

In the Torah and Talmud, the terms mishpat and tzedak are overwhelmingly associated with equal and meaningful access to justice by society’s most vulnerable -- the classic quartet of the poor, the widow, the orphan, and the stranger. And the Talmud addresses this access in nitty gritty detail: the halakhah mandates timely, affordable access.

We need to insist that respect for the law *means* demanding a legitimate, equitable, and just legal system. It’s those who divorce mishpat from tzedekah are disrespectful of the law, not the ones who point out the injustice.

Second, in the Jewish world, mishpat and tzedek needs some work too.

Within right-wing Orthodox circles, righteousness has become conflated with ritual observance, so equal rights under the law is only for Jews, and only for Jews who are “Torah true.” That’s not what this means.

And for many Jews across the denominational spectrum, tzedekah has become conflated with giving money. Yes, the mitzvah of giving is called tzedakah. But the commandment wasn’t intended to mean *only* giving money. It says here, *do* tzedakah, not *give* tzedaka.

Among other things, that requires us to look at how we earn our money in the first place. Of the 23 total mitzvot in our text, more than 25% relate to making money, either explicitly (no charging interest, no financial gain from oppression, no taking bribes) or implicitly. For e.g., #5 on the list of 11 principles (in white letters on blue) reads לא-עֲשֶׂה לְרֵעִי הוֹרָעָה -- don’t harm your neighbor. The Talmud says that means: don’t infringe upon your neighbor’s trade.<sup>2</sup> Don’t engage in predatory business practices, or unfair competition.

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2. Sanhedrin 81a

Speaking to a crowd of major philanthropists at the 2015 Aspen Institute, Anand Giridharadas said as follows:

The Aspen Consensus says, “Give back,” which is of course a compassionate and noble thing. But, amid the \$20 million second homes and \$4,000 parkas of Aspen [JU note: and here we are in the Hamptons!], it is gauche to observe that giving back is also a Band-Aid that winners stick onto the system that has privileged them, in the conscious or subconscious hope that it will forestall major surgery to that system — surgery that might threaten their privileges.

The Aspen Consensus, I believe, tries to market the idea of generosity as a substitute for the idea of justice. It says: make money in all the usual ways, and then give some back through a foundation, or factor in social impact, or add a second or third bottom line to your analysis, or give a left sock to the poor for every right sock you sell.

The Aspen Consensus says, “Do more good” — not “Do less harm.”

King David said: Do less harm. Generosity is wonderful; it’s not a substitute for justice. We all need to do less harm (especially environmentally) - even if we do a lot of good.

Third and finally, we need to reclaim the Jewish notion of mishpat (law/judgment/justice) as inextricably intertwined with compassion, mercy, kindness.

The Talmud offers as a paradigm of “doing justice” here the story of Abba Hilkiahu, a great sage, whose wife’s prayers were received more favorably - answered more quickly - than his were. When asked why, he said: “There were these violent hooligans were living in our neighborhood. I prayed for them to die, but she prayed for them to repent. And they did.” Mishpat and tzedakah aren’t about retribution. They’re about moving forward, about the path to healing.

In our personal lives too: it’s not about judging other people harshly, holding anger, and seeking vengeance; and it’s not about judging ourselves harshly, or being self-punitive.

There’s a wonderful Talmudic midrash about how God spends a day.<sup>3</sup> Of the twelve hours in a day, the first quarter, the first three hours, God sits and studies Torah. During the third quarter, God feeds entire world. During last quarter, God plays with Leviathan (take note: even God plays! Every day! Play is important). And what about the second quarter? In the second quarter, before lunch, God sits and judges the whole world. When God sees that (by strict justice) the whole world should be sentenced to destruction, God rises from the throne of judgment and sits on the throne of compassion. That’s Jewish notion of “law and order”

Which takes us to the shofar. Among the shofar’s many functions, it’s the coronation instrument, celebrating the moment when God metaphorically, takes the throne on Rosh Hashanah, *Yom HaDin*, the Day of Judgment. And specifically, it’s supposed to move God from the throne of judgment to the throne of compassion. How does it work?

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3. Avodah Zara 3b

If the shofar was about influencing God -- that God would be reminded by the shofar to get up from this throne and sit on that one -- then the mitzvah would be to blow the shofar, so God would hear it. It isn't. We're not commanded to blow the shofar. We're commanded to *hear* the shofar. We have to hear it. So that we better embody law/justice/righteousness, inextricably intertwined with compassion, kindness, generosity and love.

And then God will be so moved.