

MISHPATIM (EXODUS 21:1-24:18)

Let's Make a Deal

2007 · Rabbi Yerachmiel Seplowitz

Okay, I admit it! I am a criminal. I am a lawbreaker. I have confessed in open court. I have thrown myself on the mercy of the court and pled guilty to violating the law.

Are you shocked? Maybe you should be. After all, I wasn't telling the truth, the whole truth, and nothing but the truth. I actually pled guilty to crimes that I didn't commit in order to avoid facing justice for the crimes that I (allegedly) did commit.

That cop didn't like me. She followed me into a parking lot and flashed her lights as soon as I got out of the car.

"Why didn't you signal to turn back there?" she asked.

"Officer, if you say I didn't signal, it's possible that you're right, but I don't remember."

"Well, is your turn signal working?"

I checked. It turned out that the signal bulb was out. I DID signal!

"Well, I also stopped you because you weren't wearing a seat belt. Here's your ticket, and here's your court date. Have a nice day!"

Now let me ask you a question. Do you, after you've already gotten out of the car, specifically remember having put on your seatbelt?

I decided to fight the ticket. How could she even see into the car from the distance at which I had passed her? My defense? She was looking for a good ticket to write; a broken bulb wasn't good enough, so she accused me of not wearing a seat belt. (There was another defense I could have used: If she could see into my car, how come she didn't see that I was talking on my cell phone and give me a ticket for that?! I decided to leave that one out!)

On court day, the D.A. gave me two options:

1. Stick with my Not Guilty plea, and schedule a trial, and have it reported to my insurance company if I lose.

2. Plead Guilty to some other violation (I don't remember which) that carries a fine but doesn't get reported anywhere.

I decided to cop a plea.

I went into court and watched some of my fellow defendants plea bargain their way out of getting points on their licenses and pay a \$150 fine for some violation that they didn't commit. Everybody wins. The Town gets its money, the court doesn't waste time on a trial, and the defendant walks away happy with "only" a fine to pay.

I stood before the judge. "Do you accept the plea bargain?" he asked.

"Yes, your Honor."

The judge assessed a \$75 fine. Why, you may ask, did I pay 75 when everyone else had to pay 150? Good question. (Although I wonder whether it might have something to do with the fact that a few weeks earlier, the judge and I met at a Bris I was performing, and had a friendly chat!)

A few weeks after my first ticket, a police officer stopped me and accused me of speeding. He claimed I was doing 46 MPH in a 30 MPH zone.

This time the officer was right. I was caught red-handed in the commission of a crime! I was guilty!! However, now that I knew how the system works, there was no way that I was going to plead guilty – at least, not to the crime that I had committed!

In that jurisdiction, I didn't meet with a prosecutor; I met with the officer who had stopped me. He said that they realize that people are going to speed; they just want to keep it under control. He went on to explain that that evening's plea bargain was broken speedometers. All of my fellow defendants were given the option of admitting to the crime of driving a car with a broken speedometer. No points, \$130 fine. Once again, everybody wins.

There he sat. His Honor the Judge, in his judicial robe with his gavel, presiding over a charade. He announced to all us plea bargainers, to his courtroom full of broken speedometer owners, that we should understand the consequences of our plea bargain. We are guilty. We cannot appeal. It can't be undone. And each of us, one at a time, accepted responsibility for a crime we didn't commit, to avoid the consequences of a crime we did commit!

I got to watch some criminal proceedings too. The prosecutor, lawyers, and judge all played their parts professionally. As each one recited his scripted line, the others nodded and scribbled little notes on their legal pads in their legal folders. One young man was accused of breaking and entering. The prosecutor

offered to reduce the charge to a less severe one. Scribble, scribble. The judge agreed. Scribble, scribble. Then the judge said, "According to the statutes, you have to give a valid reason for this type of reduction." Scribble, scribble.

The prosecutor's response?

"In the interest of Justice." Scribble, scribble.

Oh.

I walked out relieved, but disgusted. What a joke! In the interest of Justice??!!! Is THIS justice? I wondered, what would have happened if I had changed my mind?

"No, Your Honor, I DON'T accept the plea bargain. My speedometer was NOT broken! It's the LAW that was broken because I drove too fast in violation of the posted speed limit. I plead guilty to that violation, as should everyone else here in the room!"

I probably would have been found Not Guilty by Reason of Insanity! :-)

This cynical use of the law is not limited to relatively small stuff like traffic violations. The practice of law today entails having the expertise necessary to accomplish your goals, regardless of the actual facts. I remember my reaction when O.J. Simpson was found innocent. "You have to have to hand it to Johnnie Cochran. He accomplished exactly what he was paid to do. He used the system to exonerate a guilty man!"

We are entering the Presidential election season. We will soon be exposed to nuances, technicalities, and quotes out of context to show how wonderful one person is, and how corrupt the other is. They will say to us exactly what their focus groups tell them that we want to hear.

Have you noticed how we get new Supreme Court justices? They are appointed, based not upon their education, expertise and integrity. They are appointed based upon how they will vote.

[I visited a particular synagogue that was interviewing candidates for their rabbinical position. Friday night about twenty-five people came to a meeting in the shul president's living room. They called it "Meet the Rabbi"; I called it "Rabbi on the Firing Line." They peppered me with questions of all sorts, wanting to know how I would deal with every controversial issue under the sun.

Shortly before I left for the airport on Sunday morning, I met with the president. I was pretty sure that I wasn't interested in them, and I suspected that the feeling was mutual. "You know," I told him, "when you interview a rabbi, you want to know if he is learned. You want to know if he is sufficiently articulate

to be able to give over his learning. You want to know if he will be able to relate to the members of his congregation; to share their joys and support them in their sorrows. Those are all legitimate concerns.

“However, it is a mistake to present him with a list of questions to anticipate how he will handle every issue. It is a mistake for two reasons. First of all, you’ll never have a consensus. Secondly, if you ever manage to find someone you can all agree upon, he’ll be so wishy-washy that you won’t be able to respect him.”

P.S. The fellow who took the job didn’t last a year!]

“...and these are the laws that you will set before them...” (Exodus. 21:1)

Immediately after last week’s Torah Portion quoting the Ten Commandments and the construction of the Altar, the Torah launches right into a new topic without skipping a beat. *“...and these ...”*

The *“these”* that the Torah refers to are the civil, or “secular” laws. The Hebrew word used is *“Mishpatim”*, literally translated as *“Judgments.”* A judge’s job is to carry out the civil laws with the same seriousness as the “religious laws.”

Can you imagine “plea bargaining” Kosher laws? “Oh, you served pork on kosher dishes? No problem. If you’ll just apologize for putting fattening foods on diet dishes, we’ll forget the whole thing.”

“Oh, you don’t feel like fasting on Yom Kippur?” Okay, just don’t eat pizza and we’ll pretend you’re not eating at all.”

One of the Hebrew names of G-d is *“Elokim,”* (I wrote it with a “K”, *“EloK**im,”* because we are not allowed to take G-d’s name in vain. It is actually pronounced, in the context of prayer and the Torah Reading, with an “H”. In regular conversation, like the one we’re having right now, we deliberately mispronounce it.) Several times in this week’s Portion, and elsewhere, that word is used as a reference to the courts:

The owner of a servant is told to bring the servant *“... to the elohim”* (Ibid, 21:6) (It is permitted to pronounce the word *“elohim”* when it is in reference to judges, rather than to G-d.)

When two people are arguing about liability, *“...to the elohim will come both of their claims; whomever the elohim find guilty will pay...”* (Ibid, 22:8)

There are even some verses, such as 22:27, the prohibition against cursing, which is interpreted to be in reference to G-d AND to judges.

Why does G-d share joint billing with the judges? I think the answer should be obvious. The judges are supposed to be G-d's representatives.

It doesn't do any good to be a society of laws if no one upholds the laws. The Talmud tells us to pray for the welfare of the government, because without government controls people would destroy each other. One of the reasons that G-d destroyed the world in Noah's time was that no one was enforcing the few laws that existed. (See "Sweat the Big Stuff . . . and it's ALL Big Stuff!" and "How to be an Orthodox Jewish Gentile".)

The Sanhedrin, the High Court that existed in the time of the Temple, met in a building immediately adjacent to the Temple. The judges work for G-d. It is their job to enforce the laws that exist. They are not there to rubber-stamp what society wants from them. They are there to see to that society conforms to G-d's laws.

Society today is more interested in outcome-based justice than in integrity-based justice. People want to be able to kill babies before they are born. Therefore, they vote for politicians who will appoint "judges" who will "decide" that it's okay to kill babies before they are born. Same-sex "marriage", same thing.

Can you imagine what would happen to our traffic courts if judges actually decided that they wanted to judge???? Can you imagine what would happen to society if we had leaders who would actually lead????

Rosh Hashanah is the Day of Judgment. When the time comes to leave this world, we will be called upon to stand in judgment for our actions. Life in this world is supposed to prepare us for that day.

I used to think that visiting a courtroom would be a good preparation for the High Holidays. Seeing judgment in action would help one get into the proper mindset. Watching people standing in judgment before human judges would give one at least a tiny inkling of what it means to stand before the Judge of Judges.

That was before I found out what a courtroom is really like. Based on what I now know about our judicial system, I think I'd be better off playing basketball. At least on that court, everyone acknowledges that it's a game.

Have a great Shabbos. Rabbi Yerachmiel Seplovitz