Shoftim Sermon
September 2022

I was driving home the other night on the beltway. I came around that curve right before the 270 spur and the moon was GIGANTIC.

Have you ever seen one of those moons hanging so low in the sky that it looks humongous, and close, like it's hugging the skyline, just out of reach? And you almost feel like if you were to floor it and go over the 55 speed limit, you could just drive right into it? Have you ever experienced this? Aren't those moons beautiful? And even though you know, logically, that you'll never actually be able to reach the moon (unless you're Niel Armstrong), you still feel the urge to try?

In his gorgeous, fantastical children's book titled

“Papa, Please Get the Moon for Me!”, author Eric Carle tells the tale of a young girl who sees the moon from her bedroom window and wants to play with it. She wants to be friends with it!

She reaches for it with her hands. She stands up on her tip toes. She leans out of the window. She climbs on her father’s shoulders. But no matter what she tries, the moon stays far, far away. It’s a mystery. She’s fascinated– but it’s out of reach.

Even after her father barters with the moon and the moon, in its children’s book way, agrees to play with the little girl when it has shrunk down to a tiny sliver, that interaction is brief. She can’t actually hold the moon. The moon slips away, back into the sky again, unreachable. So close, but always so far away.

None of us are characters in a storybook, but when we look up at the night sky, we're in the same boat as that little girl. We know the moon is real, we believe the scientists, but we can't ever actually quite touch it. We stare at it, though. We keep longing for it. And humans have for generations.

When the first explorers set sail in search of new land and new adventures, there was real concern that when they reached the horizon– the very edge of their field of view, where the expanse of the ocean met the expanse of the sky– that there would be an edge, an end to the world, and that any ship that came that far would fall off of the flat Earth into an abyss.

That horizon was real. They saw it, they longed for it.

But what happened? Just like the little girl in the book, or just like any of us who have tried to reach the moon, or traveled a long distance, or looked out of an airplane window, those explorers never successfully managed to reach the horizon. They sailed and sailed and the closer they came to that edge of their sight, the farther and farther it moved away. The horizon, though very real, was also infinitely unattainable– and infinitely inspirational.

We see the horizon. We know it is real, we move towards it, but we can't quite reach it– and we literally never will be able to. Despite this boundary, though, the horizon calls to us. It drives us.

The same horizon paradox exists conceptually, in ideas, in scientific fields. Each time we identify a boundary, a limit, a barrier– we break it immediately and identify a new limit to take its place. We broke

the speed of sound. We're dissecting particles of light. We broke down bodies into cells, cells into atoms, atoms into electrons and protons and neutrons, then we started breaking down energy itself. We coin new labels for these new horizons, for these increasingly abstract concepts we discover, using words like "matter" and "antimatter". We define the universe as everything, "the final frontier" and then declare that that same universe is infinitely expanding.

And yet, still, scientists keep on researching. Keep on asking, what might we find next?
And still, the sailors keep on sailing and the astronauts keep soaring. Keep on asking, where might we land if we keep going?
And every little child looks up at the moon and thinks, what if I could touch it?

We are insatiable creatures, we humans. Like they say in Hamilton, we will never be satisfied, we will never be satisfied. We love the chase.

This hungry nature is one of our most frustrating and heartbreaking qualities, but it's also the characteristic that has arguably driven us to our greatest successes and discoveries and accomplishments as a species.

We live to be inspired, and haunted, and driven, and egged on. We NEED that itch we can't quite scratch. We NEED a horizon, we NEED something to run towards, something to work on. We need to believe that things could be better, some day, somehow. We need a horizon to imagine, to idealize, to be inspired by. We need something to pursue.

So how about justice?

Tzedek, tzedek, tirdof, reads this week's Torah portion. Justice, justice, you shall pursue! We're going to be focusing on the word "pursue" today.

The Torah doesn't tell us that Justice, justice we shall do. Or justice, justice we shall fulfill. It doesn't say that justice, justice will come easily, or that justice, justice will be clear-cut, agreed upon, objective, obvious, or sustainable. It doesn't say we will reach for justice, grab it, and have it. It doesn't say that justice is sustainable.

Tzedek, tzedek, tirdof, reads the Torah. Justice, justice, you shall pursue– but does that mean we will ever catch it? Or is justice like the moon– so beautiful, so inspiring, and so out of reach?

Our Torah portion, as RAbbi Raskin mentioned today, has dozens of mitzvot in them, among those the famous quote of “eye for an eye and tooth for a tooth.” But it’s not as simple as that. We know that, and the Torah knows it too.

Have you ever read the outcome of a court case and just thought to yourself “that can’t be right.” Or have you read almost any decision or dissent by any multi-person court in US history– 2 to 5, 6 to 3, 1 to 2– and wondered how so many qualified, experienced people could disagree so strongly about what was right or wrong? In theory, they’re reading the same lists of statutes– but they’re coming up with different conclusions.

Has a decision, or a law, ever made you so mad, or so upset, or so worried, or so certain in your gut of its wrongness, that you’ve taken out your checkbook

and donated to a cause, or put on your sneakers and marched in a protest, or called your lawmaker to speak your mind?

I'm not talking about any specific cause or any specific position– I'm just saying that this room is full of caring human beings who sometimes disagree about what is right or wrong. It's not that simple.

America has long served as a beacon of hope for the world. At our Shabbat dinner last night, we talked about how so many of us have ancestors who braved incredible odds and fought to come to this country, who fought for freedom, who fought for the opportunity America offers. Even today, there are so many people who face dangerous situations just to make it to this country.

That justice, that hunger, is real. And

Yet, I've been to history class in school.

I've heard about the 3/5ths compromise in our very own Constitution, in which our founding fathers deemed that people of African descent were less than human, or heard the Trail of Tears where Native Americans were murdered and mistreated, or about the camps for those of Japanese descent during World War 2, where Americans of Japanese descent were kept, or about the Lynchburg colony in Virginia, or the Tuskeegee experiments… the list goes on and on.

These historical acts by our country really, really bother me. But at the time these decisions were made, somebody– in fact, a lot of somebodies– somehow, thought that they were doing the right thing. Somebody thought that these decisions were acts of justice. It's hard to believe, now, but those

people, when they read tzedek, tzedek, tirdof, thought that they were acting in the pursuit of justice.

We try again and again to reach for the ideal society, and again and again, just like the horizon, that society shifts. Our goal shifts. We long for justice, like a kid longs for the moon, and we believe that justice is real, albeit tantalizingly out of reach.

Tzedek, tzedek, tirdof, says the Torah. Justice, Justice, you shall pursue.

Think about it. If justice was easily attainable, law school would be a week long and everyone would do it. That is not the case. There would be no need for multiple judges to discuss and deliberate. There wouldn't be so many political parties, or debates, or disagreements. If justice was straightforward, we would never have to wrestle with decision-making.

We would all just wake up and do the right thing.

But that's not life.

Quite to the contrary. Not only does our Torah tell us that we will have to chase justice, to follow it, to pursue it, to shadow it, to strive for it– our text offers several clear examples of situations where there just isn't a clear and easy answer, or a direct means to an outcome that is fair and equitable.

Even as our ancestors wandered the desert and built homes in the Promised Land, even with leaders like Moses and Joshua, even with input from God– justice just wasn't an easy thing to for them to reach.

In this week's Torah portion, Shoftim, we read again of the Irei Miklat, of the cities of refuge our Torah requires us to establish.

Yes, the Torah says “an eye for an eye”, but it also explains to us that there is a huge difference between someone who kills another person by accident, and someone who premeditates a murder. The person who kills someone by accident, the Torah says, deserves a city to flee to.

The requirement for cities of refuge is based on the legitimate pain and rage of the family of someone who has been killed… and also the fact that accidents, sometimes awful accidents, do happen and there should be a means of escape for someone who unintentionally kills another person. This is a classic example of how not every case stands up to the same statutes, and why justice is not always one-size fits all.

Shoftim also outlines why it is important to have

multiple witnesses when deciding a person's fate following a crime. This requirement, especially in capitol cases, underscores the Toraitic wisdom that even a very well-intentioned, honest person isn't immune from making mistakes in the pursuit of justice.

We know that in subsequent generations, in fact, it became the custom within the rabbinic justice system to in practice abolish the death penalty, even though it remained on the books.

The rabbis tried to always find a loophole of forgiveness, or alternative punishment, to approach capitol cases from the get-go with the presupposition that mistakes would almost certainly be made in the pursuit of justice, so we'd better not execute anyone, for fear of accidentally killing an innocent.

That’s how precious life was to these rabbis, and that’s how much they valued humility in the pursuit of justice.

In fact, in Mishneh Sanhedrin, the sages outline an extensive series of questions for cross-examining witnesses, leading to an almost impossible situation that would allow for an execution to move forward– a situation with multiple agreeing witnesses who claim that they specifically warned the perpetrator before the murder was committed that what that person was doing was a capitol offense.

Why did the rabbis set it up this way? And this is because the rabbis KNEW. They understood.

They knew that justice was, inherently, a messy and complicated and confusing thing. They knew that they were in an ongoing process, a pursuit, and that

they hadn’t quite reached the goal yet.

They knew that justice was precious, and worth fighting for, yes– but they also knew that they were human, and that humans have limits, and humans make mistakes.

They knew that just as we humans need something to reach for, and something to strive for– we also need the humility to work within a system of checks and balances. Because the pursuit of justice is so nuanced, and so complex, we need to proceed with caution– especially when a life is on the line.

Even though our Torah outlines multiple legitimate causes for executions to be carried out, our ancient leaders made the choice to err on the side of preserving life. They knew that they wouldn’t be able to live with themselves if they were quick to

condemn and kill.

As an American, I will share with you that it haunts me to know that dozens and dozens– almost two hundred known cases– of individuals condemned to death in the United States in the past few decades have since been exonerated. That is to say that some of these cases were solved by DNA evidence and the person was released from jail, after it was proved that they did not commit the crime. That is to say “only” having lost years of their life to the trauma of death row. But others were not saved in time. Again and again, we read the stories, of witnesses recanting their statements, of new evidence coming forward, of a person condemned to die even though they are profoundly developmentally disabled. We read about individuals who maintain their innocence, and whose trials did not include multiple witnesses, extensive cross-examinations, and protection

against self-incrimination, as our rabbis required….

And even for those who receive a sentence of life without possibility of parole–which some argue is, in its own way, a death sentence– we are often sentencing other humans to live in solitary, miserable conditions.

I can attest from personal experience shadowing a chaplain into LA county jails and visiting inmates in solitary confinement, holding my hand up to the glass and having that be as close as I can come to touching the person, that I am still haunted by the experience– both by the misery in their eyes and by my own feelings of inadequacy to do anything to make the system better, even though what I witnessed did not match my own personal sense of justice.

I’m not saying all of this to castigate us or to make us feel bad for having a system of justice. It’s important tobe safe and it’s important to have rules.

No, I’m just saying that justice is inherently complicated, inherently elusive, it’s inherently tantalizing. And it’s OK if we struggle in pursuit of justice.

The key is just that we can’t give up. We can’t settle when we are still in the middle of the journey.

Tzedek, tzedek, tirdof. Justice, justice, we must pursue. But what do we do when we feel like we’ve reached a dead end?

What do we do when the pursuit leaves us frustrated, tired, and dejected?

“Do not be daunted by the enormity of the world’s grief”, teaches the Talmud. “Do justly now, love mercy now, walk humbly now. You are not obligated to complete the work, but neither are you free to abandon it.”

Tzedek, tzedek, tirdof. Justice, justice, we must pursue– in our own ways, in our everyday actions, with our volunteer efforts, with our voices.

Justice isn’t easy. We haven’t solved it yet, but we HAVE come a long way. The system in this country is a mess, yes, but it is OUR mess. We’re trying, and it’s up to us to keep working on it, and keep trying to improve it, and to read the lessons from our sages and our Torah as reassurance that even when we stumble, we can do better.

Tzedek, tzedek tirdof.

Papa, please get the moon for me! Wrote Eric Carle. But
Papa, please make this a world of justice for me, is the real challenge.

Imagine a world where we spoke of justice with the same longing, and the same wonder, as we spoke of the night sky?

Both the moon, and justice, are equally real,
And equally alluring,
And equally impossible to grasp.

But we owe it to ourselves, and to God, and to every child of the future, to keep trying.

Shabbat shalom.