

## Ki Tetze 5783 – Going Beyond the Law

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I want to begin my remarks by thanking everyone for being in synagogue this morning. I actually thought about not coming myself. Well, not for that long; our family's relationship with the Falks runs too deep. But if I had decided to skip, I would have had an excuse. Because today on the National Mall, there is an event ... a march to celebrate the 60<sup>th</sup> anniversary of the March on Washington for Jobs and Freedom, which took place on August 28, 1963.

The organizers scheduled it on a Saturday, which poses a problem for Jews (The march in 1963 took place on a Wednesday). But the Anti-Defamation League signed on as a sponsor anyway. The United Synagogue of Conservative Judaism and the Rabbinical Assembly signed on as sponsors anyway, after making arrangements for Shabbat services near the site of the march, and ensuring that people who needed Shabbat accommodations would have them. Our Jewish Community Relations Council didn't officially sign on, because of the Shabbat issues, but they advertised the March and encouraged Jews to attend. Because the message was too important: "It's not a commemoration, it's a continuation." The fight against hatred has not ended. We can't combat antisemitism without also rejecting blatant and systemic forms of racism. White Jews participate in 1963, and we must work to restore and maintain the partnerships today because relationships matter. Anyone who might have missed services this morning to be at the march would have a legitimate excuse.

The march cuts against a certain narrative we want to believe. Slavery was a stain on the founding of America, but we fought a Civil War to end it. Even after the Civil War, racism persisted, but there was a Civil Rights Movement, courageous leaders like the Dr. King, a historic March on Washington of more than 250,000 people, the Civil Rights Act of 1964, and the Voting Rights Act of 1965, which ended racism and legal discrimination in this country.

That's the narrative we wish were true. But inequities persist. Racism persists. Antisemitism persists. Hatred persists. And it isn't because we are bad people. It isn't because laws are bad. It isn't because we stopped believing in freedom and justice for all. The problem is that being a good person is not enough. Being color-blind, espousing an attitude of "live and let live" is not enough. The law is not enough.

It's an ironic message for Parashat Ki Tetze, which is a portion of laws. By one count, Ki Tetze includes 74 of the 613 commandments – in one portion! Our tradition venerates the law. We celebrate the commandments. "The Tablets were the work of God," we read in Exodus. "The writing was the writing of God, *charut al haluchot*, inscribed upon the tablets." Pirkei Avot comments, "*Al tikrei charut*, But don't read *charut*/inscribed. Read instead '*cheirut*, freedom,'" for nobody is truly free without the tablets, without the Torah, without the Law. We venerate law. But the law is not enough.

Another Passage in Pirkei Avot, the Teachings of the Rabbis, posits that there are four types of people:

- One who says, “What’s mine is mine and what’s yours is yours,” – this is the average trait, although some say it is the trait of Sodom. (We’ll come back to that).
- One who says, “What’s mine is yours and what’s yours is mine” – that person is naïve.
- “What’s mine is yours and what’s yours is yours” – that person is saintly.
- And “what’s yours is mine and what’s mine is mine” – that person is wicked.

I am haunted by the first category: What’s mine is mine and what’s yours is yours.” We can understand why the text first calls this “average.” I do my thing and you do yours; what’s wrong with that? But some call this the attribute of Sodom, which represents the embodiment of wickedness. Why is minding my own business considered wicked? The answer is that the law is not enough. It isn’t enough to be good people who practice piety in private. We are responsible for others, too. We must share our good fortune with others. We must actively fight hatred and work to undo the enduring legacy of racism. That’s not “woke”; it’s Pirkei Avot.

And several laws in Ki Tetze make the same point.

“When you build a new house, you shall make a parapet for your roof so that you do not bring bloodguilt on your house if anyone should fall from it.” This is the Wrigley Field *mitzvah*. If you have a flat roof on which people might congregate, you have to build a fence. If a person were to fall, it would be your fault.

Now, you could imagine the argument that says it is up to visitors to just be careful. Why should I be responsible for other people’s choices? But we *are* responsible. *Sefer HaHinukh*, an anonymous medieval listing of the 613 commandments, says there are actually two *mitzvot* here. There is the positive commandment to build the fence; and there is also a *negative* commandment not to leave an obstacle or stumbling block on your property. We are responsible for the space on which others might tread.

Maybe the parapet is obvious because that is my property. But there are other examples. We are commanded to return lost objects: “If you see your fellow’s ox or sheep gone astray, do not ignore it; you must take it back to your fellow. If your fellow does not live near you or you do not know who he is, you shall bring it home and it shall remain with you until your fellow claims it and you can give it back to him.” There is a similar commandment that if you are walking down the road and you see that a neighbor’s donkey has fallen under its load, “*hakem takim imo*, you must surely help him raise it.” Here again, there is not just a positive commandment to return lost objects. There is also a negative prohibition not to ignore the stray animal’s plight: “*lo tukhal l’hit-alem*, you must not remain indifferent.”

We don’t see many loaded donkeys on I-95 anymore, but we can understand the message. In that moment when our instinct is to look forward, keep about our business, don’t get involved ... “you must not remain indifferent.” (I admit that I am not very good at following this commandment, but that’s why *mitzvot* are aspirational.) It would be easy to defend myself – “I didn’t see it...”. “That guy might be

dangerous...". But the Torah says, "No!" Their plight is my concern. The schools on the other side of the county, the affordability of housing when I already own my own home, the lingering, systemic conveniences that some people experience more than others because of the color of their skin. ... These things are our concerns, and that is why Jewish people are marching today.

Near the end of the portion, we find a commandment that comes up in courses on business ethics. "You shall not have in your pouch alternate weights, larger and smaller. You shall not have in your house alternate measures, a larger and smaller. You must have completely honest weights and completely honest measures, *even shleimah vatzedek*." We can imagine how a shopkeeper might try to make extra money by putting an inexact weight on the scale; so, of course, there is a commandment to be honest.

But again, that commandment is not enough. Citing the Talmud and reading the Torah text carefully, *Sefer HaHinukh* comments: It is not enough to always *use* honest weights. It is prohibited to even *own* dishonest weights. Because you might be tempted to use them; or another family member may use them, even unwittingly. Again, personal piety is not enough. We must take extra steps to ensure that the law isn't violated unwittingly. We must level the playing field, lest others – maybe not as upstanding as we are! – cannot exploit the system.

The Talmudic chapter on returning lost objects is longer and complicated than one might expect. Because a law must have limits. Who might *not* be responsible to return lost items? How long must I keep an item before I can assume that nobody is going to retrieve it and it is now mine? We learn that after a complete cycle of festivals has passed, the lost object becomes the property of the finder. The Talmud also notes that people of "high stature" are not expected to go through the trouble of returning objects. There are built in excuses for non-participation.

But the story doesn't end there. What happens if the person who lost the object comes to you a week after the last holiday has passed? What happens if a dignified person could return the object without undue hardship? The Talmud introduces a concept called "*lifnim mishurat hadin*", literally "beyond the line of the law." If *this* is the law, one is commanded to jump over the line, to do what it is right even if, technically, it is not required. Even a people that venerates the law must recognize that the law is not always enough. Even 613 commandments are insufficient. It is possible to follow the law and still act improperly, to be what Nachmanides calls in another context "*naval birshut haTorah*, a soundrel acting by permission of the Law."

That is why people are marching today – not to commemorate, but to continue, to reaffirm our collective responsibility to go beyond the law, to service needs beyond my own, to pursue and expand upon our national project of inheriting and inhabiting a land of liberty and justice for all. Shabbat Shalom.