

And These Are the Layers – Parashat Mishpatim 5778

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I'm not sure how good a story can be if I have to explain it first, but for this one it helps to know that the Shulkhan Arukh is a legal code from the 16th century, written by Rabbi Joseph Karo. In traditional circles, it was essentially the test for rabbinic ordination. It is divided into four sections – Orah Hayyim on rituals related to services and holidays; Yoreh Deah on ritual matters like Kashrut and *tzedakkah*; Even Haezer on women and marriage; and Hoshen Mishpat on civil law. And it is printed like most rabbinic books, with the text occupying a small portion of the page and layers of interpretation all around.

So it once happened that a young scholar approached the 18th-century Rabbi Barukh Frankel-Teomim and asked to be considered for ordination. The rabbi tested the young man and found his scholarship to be impeccable. He was *baki*, he knew well the complicated details of all four sections of the Shulkhan Arukh. Rabbi Frankel ordained him, and then he suggested: "Before you can be chosen as the rabbi of a community, you must first learn the fifth section of the Shulkhan Arukh."

"The fifth section?!?" The young scholar didn't understand. "Everyone knows that there are only four sections of the Shulkhan Arukh."

"Yes," the rabbi explained. "But for rabbis there is a fifth section that you must learn. And that is the etiquette of how to deal with people."

After some time, this young scholar, now the rabbi of a community, came back to Rabbi Frankel. And the rabbi asked him if he had managed to master that fifth section of the Shulkhan Arukh. And the young rabbi explained: "Not just the fifth; I've even mastered the *sixth* section of the Shulkhan Arukh, which teaches the etiquette of how to deal with ... well ... let's just call them jerks."

The Hebrew version uses a more colorful term, but that sixth section isn't an issue here anyway. But we do deal with the fifth section of the four-part Shulkhan Arukh. Perhaps the most basic description of my job is to stand as the intermediary between a sacred, ancient tradition and a modern world that doesn't always understand or relate to it.

And this is nothing new. The opening words of today's Torah portion: "*V'eleh ha-mishpatim asher tasim lifneihem*, And these are the rules that you shall set before them." It is odd to start a portion with the word "and." But the 11th century commentator Rashi explains: "*v'eleh mosif al ha-rishonim*, and *these* means that they are tacked on to the earlier rules that were given on Sinai in last week's reading."

A 20th century Rabbi Yerucham Warhaftig explains that this is how law works. Sinai is the baseline. Mishpatim adds another layer. Source critics of the Bible might find additional layers of development, and it becomes the responsibility of those who follow to add more, row upon row, layer upon layer, to expound on the wisdom of those who preceded us and to add new rules and procedures and caveats. The process knows no end.

Sometimes we want to be like archaeologists; we want to dig through the layers to find what the text originally said or meant. And this is interesting; the bias is that older is better or more authentic.

But the layers are also important because that's what keeps the Torah relevant. It's the layers that have maintained the Bible's spot on the bestseller list.

Just one example from today's portion. The Torah says that if two people get in a fight and damage ensues, the penalty shall be "a life for a life, an eye for an eye, a tooth for a tooth, a hand for a hand, a foot for a foot, a bone for a bone, a wound for a wound, a bruise for a bruise." The technical term is *lex taliones*, a system introduced by Hammurabi hundreds of years before the Torah.

But already in Talmudic times, the Rabbis recognized the system as unworkable. They couldn't obliterate the law, though; they added a layer of interpretation. Don't read the text literally, they said. It means monetary compensation. Damages for an eye injury are so much, which is different for a hand injury or a knocked-out tooth. And the Talmud does this all the time. Rabbi Akiva interpreted the law of the stubborn and rebellious child out of existence; his colleagues severely limited the extent of capital punishment. Our entire tradition consists of layers upon layers.

And it is not just a corrective. It is part of the system, what we might call Continuous Revelation. God could not reveal Godself to the Jewish people all at once, because the people couldn't have handled it. We read, last week, how the people complained to Moses: You be our intermediary, they said. And Moses didn't just repeat back what God told him word for word. He is called Moshe Rabenu, Moses our Rabbi, because he interpreted and added. The interpretation were given at Sinai, we say.

Which brings us to today, because I think of all the layers that have been added over the past 100 years or so. If there is a theme, it is inclusion – expanding the contours of community and opening the metaphorical gates of Torah. At this point it is hard to remember the time when women were not involved equally in Jewish ritual. There was a time when people who had broken legs or broken arms couldn't serve; people who were deaf or mute or blind couldn't have an *Aliyah*. A little more than ten years ago, the discussion was about how to be more inclusive and accepting of LGBT while maintaining our fealty to and reverence for the *halakhic* tradition. And that discussion continues as we gain more and better understanding of transgender.

These discussions take time because there is a difference between adding layers to the tradition and tearing the whole thing down. Ours is a positive-historical movement, which means that even as we recognize that things change, we maintain a positive view of the law and its boundaries and distinctions. If a law says something you don't like, you can't just ignore it. Some believe the process moves too slow – Rabbis get your heads out of the sand! And others think we are moving too fast. Building takes time, and there is still more to do.

Here, we are grappling with the question of inclusion as it extends to religious affiliation. What does it mean to be a member of a congregation? Where is it appropriate to draw lines and when do those lines turn people away from the whole community? If you think the answers are simple or obvious, then I submit you haven't considered them fully. We can't just break down; we have to appreciate what is there, even as we add layers. And we know that boundaries matter.

We have congregational conversations scheduled. But as a rubric, I point to a series of commandments in today's *parasha*. Four verses, three of which don't get much play in sermons for sure:

1. You shall not allow a sorceress to live.
2. Whoever lies with a beast shall be put to death.

3. Whoever sacrifices to a god other than the Lord shall be proscribed.
4. You shall not wrong a stranger or oppress him, for you were strangers in the land of Egypt.

Nahum Sarna's short comment explains it all. This progression from commandments to show no mercy to those who are out of bounds to the humanitarian stipulations regarding the stranger – and then the widow and orphan – “serve to inculcate the idea that the rejection of the non-Israelite religious practices has no bearing on the inalienable right of the alien to civilized treatment free of victimization.”

Update that sentence by about 30 years, and you have our challenge for today. We have to preserve boundaries and be welcoming at the same time. That's the layer we are trying to build.

It's not just ritual. It's not just law. It's not just the synagogue. Earlier this week, I was inspired at a Federation event with Israeli changemakers Yuval Bdoiah and Hadas Goldman. They are revitalizing some of Israel's poorest cities by creating new intentional communities and enticing young Israelis to come live in them. This is a new layer of Israel's pioneer spirit that David Ben Gurion could not have imagined.

This is our generational mandate in every walk of life that matters: *L'hosif al ha-rishonim*, to add to what came before us; *v'eleh ha-mishpatim*, and these are the laws and the insights and the interpretations and the values that I am going to contribute to the betterment of my people, the future of Judaism, and the glory of God. Shabbat Shalom.