

D'var Torah – Shoftim 5770

August 13, 2010

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Today is the third of Elul, 5770 in the Jewish calendar. It is also Friday, August 13, 2010, according to the Gregorian calendar. And it is on this Shabbat, as we take a step back from doing and the making of the world, that we read parsha Shoftim, or Judges. Funnily enough – or perhaps perfectly so – judges and justice is a theme quite appropriate to this particular moment in time in which we find ourselves.

Last week, Judge Vaughan R. Walker of the U.S. District Court for the Northern District of California ruled that that state's heinous Proposition 8 violates the United States Constitution's guarantees of due process and equal protection of the laws. In other words, lesbian, gay, bisexual, and transgender people cannot be excluded from the fundamental right to marry. And just yesterday, Judge Walker ruled that as of next Wednesday, unless the Ninth Circuit Court of Appeals issues a stay on his ruling, Prop 8 can no longer be enforced and same-sex couples can be married in California again.

Also last week, Justice Elena Kagan (who I note just happens to be a Jew) was sworn into the United States Supreme Court. She is now the third woman Justice on the Court and the fourth woman to ever sit on our country's highest court. In the speech she gave at her swearing-in ceremony, she said her primary mission as a Supreme Court Justice is to uphold the words engraved on the Supreme Court building: "Equal Justice Under Law."

Six weeks ago, in an 8-1 decision authored by Chief Justice John Roberts, the United States Supreme Court rejected a First Amendment challenge brought by anti-gay groups who sued to block the disclosure of the names of people who signed petitions supporting the ultimately unsuccessful Referendum 71, which would have blocked Washington's domestic partnership law.

Also six weeks ago, in a 5-4 decision authored by Justice Ruth Bader Ginsburg (who also happens to be a Jew), the United States Supreme Court ruled that a publicly funded Christian student group cannot exclude LGBT people or non-Christians. In other words, the First Amendment cannot be used to create an exemption from non-discrimination policies. In other words, religious freedom does not trump protections for people of color, women, disabled people, people of other faiths, and LGBT people.

I bring these last two cases up not only because they are enormous victories for fundamental fairness and equality – for justice – but also because I could not be more proud to say that the organization I work for, the National Center for Lesbian Rights (which is a non-profit law firm working for civil and human rights for the entire lesbian, gay, bisexual, and transgender

community), was party to the Washington state case and represented the students and school that won in the second case before the Supreme Court.

So really – could there be a better time this year to reflect on justice? As I was reading this week's Torah portion and thinking about it and what it all means, I turned to one of my favorite Torah commentary websites for some illumination: G-dcast.com. G-dcast (and that's "godcast" as in "podcast") is, as they put it, "animating Torah for today." No really. They make a short (4-minute) quirky cartoon for each parsha, narrated and explained by different people in prose, poetry, music, and hip hop. This week's was told by Rabbi David Saperstein, and as he put it in a nutshell, "at Mt. Sinai, God called upon the Jewish people to be a holy people, partners with God in creating a world of justice for all. In parsha Shoftim, the Israelites are at the banks of the Jordan, almost at the Promised Land, when God tells them to appoint judges and police officers so they can begin to administer this justice."

In addition, this parsha includes one of the most famous lines of the whole Torah – and one of my very favorite, a kind of touchstone for me personally: "*Justice, justice shall you pursue,*" "*Tzedek, tzedek, tirdof.*" As Rabbi Saperstein said, "For 3,000 years, this commandment has defined who the Jewish people are and what they're about." **Justice, justice shall you pursue.** Two "justices" – but why? There are countless interpretations, ranging from the medieval French rabbi and Torah commentator, Rashi's, explanation that this means one should seek to have one's case tried before the best court available, to the medieval Jewish scholar, Ramban's, interpretation that judges should make sure to be just in their rulings, but also pursue justice by seeking out the advice of sages greater than themselves. My take on it? It may be too simple a reading, but I've always heard and felt the second "justice" to be for powerful emphasis. There's quite a difference in the way you hear and understand "Justice shall you pursue" and "Justice, justice shall you pursue." That second justice makes you do a double-take. It makes you sit up and take notice. It tells you this commandment is not like the others. This one is a biggie.

That second "justice" also provides emphasis where emphasis is due: the key here is *justice*. Its pursuit is important, of course, but our focus should always be on justice itself. As well, that second justice reminds us that it's not about retribution, but about doing real justice.

And of course, the precise choice to use the word "pursue." Not seek, not find, not value, not desire, not "hold dear." *Pursue*. As in chase after, strive to gain, and, in some cases, to practice (as in to pursue an occupation or a hobby). In pursuing justice, we can both seek to attain it and practice it all at once. In other words, its pursuit is its practice. When we keep justice at the forefront of our minds, when we are working for justice, we are attaining it at the same time.

Working as I do at NCLR (though I should make clear, not as an attorney – I'm a fundraiser), I witness the truth of this seeming paradox nearly every day. I mentioned two Supreme Court case victories earlier. Those were huge and so gratifying, and so clearly the fruit of the pursuit of justice. But days with victories like that don't come too often. Most days, we're all working hard to just move our little ball of justice further down the field.

Some days do come with smaller victories that are no less sweet or impressive – like the recent settlement we reached on behalf of our client, Clay Greene. Clay is a gay senior who had lived with his partner Harold for 20 years in Sonoma County, California; they had both drawn up mutual powers of attorney for medical and financial decisions and wills naming each other as beneficiaries. In April 2008, County employees separated the couple after Harold fell on the steps outside their home. In the next three months, County officials ignored the couple's legal documentation, unlawfully auctioned off all of their possessions, terminated their lease, and forced Clay into an assisted living facility against his will. The County did not consult Clay in Harold's medical care and prevented the two of them from seeing one another. After finally being released from the facility in which he had been placed against his will, Clay was left without a home and without any of his worldly possessions. In August 2008, before the two men could be reunited, Harold passed away. Now the truth is, there is really no justice in this scenario. Clay had the most precious thing in his life taken away from him, and he will never get Harold back. It is an outrage. There's just no way to make it actually right. But you do what you can. And two weeks ago, we got Sonoma County to agree to change their policies and pay Clay \$650,000.

But as you can imagine, not every day is a Supreme Court victory day or even a Clay Greene victory day. Lots of days come with setbacks – some of them truly heartbreaking. Like when Prop 8 was actually voted into existence in November 2008. Or when NCLR fought Prop 8 tooth and nail at the California Supreme Court, arguing that the rights of a minority should never be put up for a vote by the majority, and we lost. Or when a gay man from Uganda – you know, the country whose president has publicly said, multiple times, that gay men and lesbians are worse than dogs and deserve to die and who has passed a bill making homosexuality a crime punishable by nearly everything but death – when this man came to NCLR seeking help a few years ago. We worked with him, as we do with hundreds of LGBT immigrants every year, to help him navigate the arduous, byzantine, costly, and sometimes seemingly medieval immigration system to apply for political asylum here in the U.S. NCLR has helped hundreds of LGBT people fleeing torture and threats of death in their home countries to successfully achieve legal refugee status here. This Ugandan man's application was no different – it was semi-unique only in that the threats and terror he faced back home were state-sanctioned and publicly a matter of life or death. But for whatever reason – and we'll never know why – his application was denied. He was promptly picked up by the INS and deported. We never heard from him again. On those days you wonder how you'll get up the next morning.

But – and after hearing a story like that, I know this may be hard to believe – even on the bad days, just going back to work and keeping at it – persevering in the pursuit of justice – lets me know that the arc of history does indeed continue its bend towards justice. The pursuit is the practice. And what a blessing that is.

As is always the case, there is more than meets the eye to this week's parsha. I mentioned earlier that today is the third day of the month of Elul, a special month in the Jewish calendar. This is when we begin to turn our hearts and minds towards the approaching High Holy Days. As

we turn to and are carried towards this most holy season of the year, with the new year and the opening and closing of the Book of Life, we take stock of where we are, where we were, how far we've come, how far we have yet to go. We prepare to do *teshuvah* – a returning to our innermost selves, a rediscovering of the good that has always lain within us and making amends for the ways in which we have strayed from it; *tefillah* – prayer in which we reach toward *HaShem* and ask not for what we lack, but that we become closer to the great unknowable, unnamable mystery of the universe; and *tzedakah* – sometimes translated as charity, but more accurately interpreted as...justice.

According to one of my favorite sources of all things Jewish, "JewFAQ.org," the month of Elul is "a particularly propitious time for repentance." Repentance, which is contrition for past wrongdoings. Apologies. A way to try to make things right. A form of justice.

In Aramaic (which was the vernacular of the Jewish people at the time that the month names were adopted, around 539 BCE), the word "Elul" means "search." I love that – because this is the time of year when, as Jews, we search our hearts in order to do *teshuvah*, *tefillah*, and *tzedakah*. Searching. Seeking. *Pursuing*.

But Elul is even more than that, too. Its spelling in Hebrew – Alef-Lamed-Vav-Lamed – is said to be an acronym of "*Ani l'dodi v'dodi li*," or "I am my Beloved's and my Beloved is mine," a quote from the Song of Songs, and the main chorus of a song we sang earlier, as we prepare to welcome the Sabbath bride. It is a familiar sentiment not just of Shabbat, but also of weddings, anniversaries, celebrations of love. The month of Elul is also about love.

One of my favorite Jewish tales is from the Talmud, equally as famous as – if not more so – than Shoftim's "Justice, justice shall you pursue:"

Thousands of years ago, a young man went to one of the two wisest sages of his time, Rabbi Hillel. The young man asked the rabbi, "I am considering becoming a student of Judaism, but only if you can teach me the whole Torah while standing on one foot." Rabbi Hillel looked at the young man and thought for a minute. And then he said, "Love your neighbor as yourself. All the rest is commentary. Now go and learn."

(You'll also recall that Rabbi Hillel is the one who said, "If I am not for myself, who will be for me? If I am only for myself, what am I? And if not now, when?" He was also the first to cite the ethical concept of *tikkun olam* (or, repairing the world) as a basis for making modifications to Jewish law. Justice, justice shall you pursue.)

So here's a little Jewish logic question: If loving your neighbor as yourself is the whole of the Torah, and justice has defined the Jewish people and what we're about, then.... Well, I would say that it means justice is a form of love. Rebbes Lennon, McCartney, Harrison, and Starr knew it was so: their two anthems? "All you need is love" and "All we are saying is give peace a chance." Love and justice, hand in hand, intertwined like a Mobius strip.

The deeper meaning of the month of Elul also tells us that this is true. And in the same way that our deep inner self, our gut – not our rational mind – tells us what love is and what we love, true justice can be felt the same way. Yes, we have quite extensive written rules telling us what the laws are and what justice is and how it is to be meted out – the legacy of the original laws and rules laid out in the Torah, including in parsha Shoftim – but not only do those complicated written rules sometimes make justice harder to achieve, they also operate only in the realm of the rational. They ignore what our guts tell us and the fact that, like love, we know true justice when we feel it. When you see loving, committed lesbian and gay couples who cannot marry and are legal strangers to each other and you think to yourself, “That is just not right,” that is not coming from the rational rules and laws you know in your head. It comes from someplace deeper, a place where we have a connection to *HaShem* and a connection to every other living thing and spark of the universe. It comes from a place of love.

Take another example: when we recoil with horror at the food most of our country’s children are being fed at school and say, “That’s not right – the mega-industrial food complex should not be our kids’ lunchtime corporate sponsors,” and take action to bring healthy, nutritious food onto our kids’ lunch plates, that is us acting on “Justice, justice shall you pursue.” But it comes from the deeper place, from the love place, not from knowing or following the rules.

I think what Elul and parsha Shoftim are trying to tell us (this week, anyway) is that for justice to be achieved, it must be pursued with love, and with that love as our north star. Justice sought with anger or vengeance as the driving force will ultimately fail. So to fulfill the commandment of pursuing justice, we need to do teshuvah and turn back to our first and deepest apprehension of love and keep it at the forefront. My parents are here tonight – they first taught me about love. My husband is here too, who taught me about its depth and breadth. I carry that love within me when I get up and go to work every day, as I am wholeheartedly working for justice. Did you catch that?

Wholeheartedly. With so much love.

Shabbat Shalom.