

Parshat Mishpatim In Defense of Legalism Dr. Liz Shayne- Class of 2021

Universities on the East Coast have a strange fondness for mottos in other languages. At my undergraduate university, the motto was *Leges Sine Moribus Vanæ* or “Laws without Morals are Worthless.” That is, without a strong moral compass to guide legislation, the work that the laws do is in vain and the laws themselves have little value. What this motto misses, however, is that the exact opposite is also true: Morals without laws are worthless. And that is a point made very emphatically by the juxtaposition of last week and this week’s parasha.

Our parasha begins with the verse “וְאֵלֶּה הַמִּשְׁפָּטִים אֲשֶׁר תָּשִׂים לִפְנֵיהֶם,” “And these are the laws that you shall set before them.” Rashi calls our attention to the word “וְאֵלֶּה,” “and these,” because the ו that signifies “and” creates a curious linkage between this verse and the previous one. According to Rashi, just the word “Eleh,” these, functions to qualify and narrow the scope of the previous topic, while “V’Eleh,” and these, works instead to join with and add to the previous topic. In this case, V’Eleh is God’s way of signifying that just like those — the commandments covered last week — were given at Sinai, so too these were given at Sinai. Rashi uses the language of the verse to show that these two sets of commandments, the ten famous pronouncements heard aloud at the mountain and this long and more complex list that follows for our parasha, are equivalent in their divinity and authority.

But that should not surprise us. Looking at the contents of this week’s parasha shows us not merely a continuation, but a reiteration of much of what we read last week. 21:12-14 explains the punishment for murder, 21:17 talks about cursing parents, 22:1-3 covers theft, 23:1 addresses false witnesses and fair courts, and so on. This reiteration is striking, not necessarily because the divine nature of *these* laws might be called into question, but because it raises the question of what the ten commandments are for if they are going to be reiterated in greater detail at this later time. Why bother mentioning them in a grand declaration if the actual commandments, restrictions, and punishments are all going to follow later?

This bifurcation between the ten commandments and the complex legal code that follows is, to my mind, an example of morality and law working in tandem. Last week, the Ten Commandments set out the values that underpin the laws: we do not kill, we do not steal, we do not bear false witness, we honor our parents and the very statement of these facts without qualification sets the values of the ethical society that God is asking us to build. But things, alas, are not quite that simple. Society is not built on the articulation of values and our parasha knows this extremely well. Verses 21:12-14 are the ones that reiterate the prohibition against murder, but this time the language is that of crime and punishment. If one strikes a person and kills them, the penalty is death. If one unintentionally strikes a person, there are cities of refuge set aside. And thus the laws continue.

Laws are how societies make their values real. Laws, which talk about consequences and punishments and specific obligations, are the difference between a society that talks the talk and walks the walk. It is important, of course, that the Ten Commandments say “Thou shalt not murder”. But far more crucial is the legalism of our parasha that talks about the ways in which murder can happen and its consequences. It is precisely in the details where all the things that matter can be found. As Rabbi Moshe Greenberg notes in his essay “On the Biblical Groundings of Human Value”, the legal code of our parasha is a radical departure from the contemporary culture that sometimes punished theft with the death of the thief and murder by demanding that the murderer surrender other family members. Greenberg shows that the Jewish legal system, with its refusal to rate crimes against property as commensurate with life and its

focus on the murder victim and the murderer, is articulating a very different view of the value of human life. Other codes forbid murder and theft, but it is through the nitty gritty laws that the true focus of our code on life is able to shine through.

We know our values. We know what we believe in, what matters to us, and what we say. But do our actions bear out our words? Talk, as they say, is cheap. What do the laws of our society say about what and who we value? What do we do and how do we react when those values are trampled on? Do our laws reflect our values? From synagogues to schools, small communities to systems and states, we owe it to ourselves and our values to take a look at the laws and rules that undergird our society and ensure that they, like the laws we find in this week's parasha, are laws that speak our values.



Dr. Liz Shayne comes to Maharat after getting her Ph.D. from the University of California, Santa Barbara. She is a Wexner Graduate Fellow/Davidson Scholar and is currently interning at the Hebrew Institute of White Plains. Liz received her B.A. in English literature from the University of Pennsylvania and did her doctoral research on how digital editions are changing the way we feel and experience books. She has taught lectures and classes on topics ranging from the history of the Gemara to technology in science fiction. At Maharat, Liz is taking her research on the relationship between learning and technology out of academia and into the world of Jewish education. She loves discovering new online editions of the Gemara almost as much as she enjoys learning from a sefer. Though she misses Santa Barbara, Liz is glad to be back in New York, where she grew up. She and her family now live in Riverdale, where she can be found most Shabbatot, slowly teaching her daughter to sit through all of Torah reading.