

Justice, Mercy and Compassion: Heart as Well as Head
Sermon for Yom Kippur Morning, Beth-El, Fort Worth
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Tzedek, tzedek tirdof, says the Torah, "Justice, justice shall you pursue!" (Deuteronomy 16:20) That encompasses both obedience to civil law and following moral norms in our private lives. We tend to think that those who fail to do so should pay the consequences, whether they are punished by society or God. Punishments should fit the crime, neither lenient nor excessive. Needless to say, life is not always that simple, but that is the ideal.

As we ponder our lives, though, especially during the *yamim nora'im* each year, the season of repentance, we become aware of our shortcomings, thinking perhaps of civil laws we have broken, and surely of times when we have been mean, selfish and insensitive. "For we are not so arrogant and stiff-necked as to say before You, our God and God of all ages, we are perfect and have not sinned." If God were truly to punish us for every infraction, whether civil law, moral norm or ritual commandment, we say, we would each be condemned. So we pray not for simple justice, but for mercy. In prayers that we recite daily year-round we ask God to exhibit *grace*, which means giving us not simply what we deserve, which would be justice, but on the reward side *more* than we deserve and on the punishment side less: *Sim shalom tovah u'verachah, chen vachessed v'rachamim aleinu v'al kawl yisraeyl*. "Grant us and all (the people) Israel goodness and blessing, *grace*, loving-kindness and mercy."

You might say we are trying to have it both ways. On the one hand, both from human and divine judges we demand justice. On the other hand, especially for ourselves and those we care most about we plead for mercy.

Imagine you are the boss in an office with ten or twenty employees. The personnel code says that workers must show basic respect to one another so that there can be a pleasant and smoothly functioning workplace. But one employee, Joe, has a quick temper and says cruel, cutting things when angry. You have warned him that even though he does a good job otherwise, such behavior is going to cost him his job if he does not control himself. One day Sally makes a mistake and Joe goes ballistic, screaming at her that she is stupid and incompetent—and fat, too! As you approach to see what the fuss is about Joe is red-faced with rage and Sally has been reduced to tears. You draw the two of them aside to determine what happened and find that Sally did make a mistake, but nothing that could remotely justify Joe's behavior. Now it is Joe who looks devastated. He knows he deserves to be fired, he says. But he is so sorry. He begs Sally to forgive him, and seems truly repentant. He has been under a lot of pressure at home lately. His wife has been telling him he needs counseling to deal with his anger problems. He promises to get help. In fact he'll make the appointment this very day. But please, please, don't fire him! Maybe you will give him one last chance, you say. Not that he really deserves it, you add, but neither you nor Sally want his firing on your conscience if he truly will get help. You look at Sally, and she nods affirmatively. You look at Joe and he thanks both of you effusively. You won't be sorry, he assures you.

Strict justice has not been applied, but rather mercy. What happened to *tzedek tzedek tirdof*, “justice, justice shall you pursue”? What could have come over you? You wimped out on that commitment?

That is precisely the way the early rabbis thought God operated—they didn’t say “wimped out;” they said God “tempered justice with mercy.” Probably after a good deal of introspection they concluded God must operate that way, for they, like we, knew they had too often done wrong. Sometimes, they believed, they experienced divine justice and sometimes mercy. Not that they--or we!--wanted justice eliminated. Then people, knowing there was no judgment, might flaunt all standards of decency--steal, lie, murder, sexually misbehave, etc. Society needed order and trust, and thus justice. But strict justice was almost too painful to contemplate. God should see our frailties and temper justice, please, with mercy.

Says Bereshit Rabbah (the Midrash, rabbinic lore, on Genesis):

The matter is like a king who had some empty goblets. The king said: ‘If I put hot water in them, they will burst; if I put cold water, they will crack.’ So the king mixed cold and hot water together, and poured it in, and the goblets were uninjured. Even so, God said, if I create the world with the attribute of mercy, sin will multiply; if I create it with the attribute of justice, how can it endure? So I will create it with both, so that it may endure. (XII, 15)

The need for justice is very rational. But then how do we justify mercy under at least some circumstances? For our rabbinic tradition the answer was that justice is clearly commanded in the Torah, both as a principle with *tzedek tzedek tirdof* and in practice in any number of commandments to punish law-breakers. Where does mercy come from? There *are* commandments to be kind to the poor and the sick, the widow and the orphan. Nowhere, though, does the Torah say to give the sinner, nor surely the criminal, a break! Still, the rabbis were convinced that justice untempered by mercy was unsustainable. God *must* want it! In our day, too, and our society, we try to balance justice with mercy. We even try to work both into our criminal justice system, giving lighter sentences for first-time offenders than for habitual criminals. People may learn their lesson and hew to the straight-and-narrow in the future. But that leaves us on the horns of a dilemma, philosophically. On what basis can we, or God!, be merciful if we are committed to absolute fairness?

The biblical answer is not too difficult. The Tanakh is not just a law code. It is full of stories from which we derive values (I was talking about that with Creation on Rosh Hashanah). It is no accident, as we plead for forgiveness for our sins, hoping justice can be tempered by mercy, that on Yom Kippur we read the Hebrew Bible's preeminent story of compassion, the book of Jonah, this afternoon's wonderful *haftarah*.

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The Jonah story is familiar enough that we can skim over it with broad strokes. God told Jonah to go straight to Nineveh, capital of the fierce and feared Assyrian empire, and prophesy its doom on account of its wickedness. Jonah boarded a ship to flee in the opposite direction! God brought up a terrible storm that would not abate until the sailors, with admirable reluctance--*they* pity him!—took his advice and threw Jonah overboard. The sea calmed. Jonah was swallowed by a huge fish which ultimately hurled him up on land near Nineveh. God again ordered him to go and prophesy to the Ninevites, and he did. The city, he proclaimed, was to be destroyed in forty days. Wonder of wonders, first the people, and then even the king and his nobles, got the message. They sat in sack cloth and ashes and fasted. The royal decree was, “Let everyone turn back from his evil ways, and from the injustice of which he is guilty. Who knows but that God may turn and relent? He may turn back from his wrath, so that we do not perish.” (3:8-9) God does exactly that. Their wickedness meant that they deserved death. That would have been justice. Their genuine repentance gets them off scott free!

That could still bother some people. What is the rationale for ignoring the dictates of justice? God, almost by definition, can do what God wants. But how should you and I know when it is appropriate to be merciful, and when it is not? So the author of Jonah provides a further little parable at the end.

Poor sniveling, whining Jonah does not like it, but God has modeled full compassion even for sinners so awful that their entire city deserved to be wiped out. Then, as Jonah is

pouting and complaining outside the city, he is also schvitzing! Nineveh is in present day Iraq. It is hot! God provides a big gourd to shade him from the sun. Jonah is a little happier. Then God sends a worm to bite the gourd which shrivels up and leaves our hero back in the scalding heat. Jonah wishes he were dead. Now God's mercy or lack thereof is no mere a philosophical issue, but an emotional one. Jonah is in agony for lack of the shade God had provided. And God explains, "You cared about the plant, which you did not work for and which you did not grow And should not I care about Nineveh, that great city, in which there are more than a hundred and twenty thousand persons who do not yet know their right hand from their left, and many beasts as well!" (Jonah 4:10-11)

Mercy we might think of as a philosophical issue, even a philosophical scandal, the opposite of justice. But compassion—feeling bad for the afflicted, or those about to be afflicted with punishment—is emotional. Balancing justice and mercy should not be a purely intellectual effort. We have hearts as well as heads. Critical thinking is vital, yet, at our best, we are not purely rational creatures. We are also ennobled by our feelings—by our outrage at injustice, and also by our compassion when we see others suffering.

The omission of punishment might be trivial in some contexts, but here it is precisely the point. God's caring is so total as to negate punishment for genuinely repentant sinners. So should Jonah's caring be. By extension, of course, so should yours and mine. To put this

slightly differently: don't just think "mercy," which is a legal and philosophical concept, but compassion, which is an emotional phenomenon.

Abraham Joshua Heschel memorably said the lesson of the book of Jonah is "the supremacy of compassion." Ruminating on Jonah, he suggested it would be easier if punishment automatically followed wickedness. "Yet beyond justice and anger lies the mystery of compassion."

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When, then, should we apply mercy? Not every time legal or moral laws are violated, or justice will disappear, leaving chaos in its wake. But it is a good thing that we have an emotional reaction to the suffering, to the pain, misery or humiliation, even the embarrassment, of others. We cannot let our feelings run away with us. But neither should we let abstract moral and legal systems run away with us. Just in the last dozen years or so science has discovered mirror neurons, a mechanism in the brain which enables us to feel what others are feeling. The details need not detain us, but when a baby in a group nursery starts to cry, quite commonly the others do, too! We are hard wired to feel in ourselves the emotions others are showing. When you see someone in trouble and say, "I feel your pain," you really do! Empathy is hard-wired. God equips us with compassion.

The classic rabbis, it is interesting to note, say that even God prays. To whom does God pray? God has no authority higher than Godself to appeal to, but—as portrayed in the Talmud—even God displays an emotional side, and draws further strength to be at God’s best, by praying: “May it be My will that My mercy may suppress My anger, and that My mercy may prevail over My [other] attributes, so that I may deal with My children in the attribute of mercy and, on their behalf, stop short of the limit of strict justice.” (Babylonian Talmud, Berachot 7a)

Heschel called compassion a “mystery.” Science has pulled the veil of mystery back some. A mind to calculate justice is important. A heart to apply it with compassion is, too. Not always, but often, we should be gentle with one another. Amen.