



DVAR TZEDEK

Parshat Shoftim 5771

By Dani Passow
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If one peruses economic literature on virtually any topic of significance, one will find multiple, and often competing, theories. In our social justice work—where there are any number of theories on which we could base our strategies for alleviating poverty—it is easy to become frustrated by the options before us. Especially because the problems we are trying to address have multiple interrelated causes, it is often difficult to discern which interventions will have the greatest impact. How are we to choose between competing approaches to what will best benefit those we seek to help?

Parshat Shoftim subtly offers insight into how to address this challenge in the prohibition against judges taking bribes: “You shall not take bribes, for bribes blind the eyes of the discerning and upset the plea of the just.”¹ The text identifies two elements that converge in making bribery problematic. First, bribery corrupts the truth that judges are meant to discern; and second, it silences the voice of another person. Bribery isn’t only the distortion of some abstract sense of truth; it is the fact that the distortion then harms someone that makes bribery problematic.

Truth—the first reason cited for the prohibition against bribery, is certainly an important religious value. A *midrash* on Shir Hashirim (Song of Songs) states: “God’s seal is truth”²—indicating that striving for truth is a key component in emulating God’s actions and characteristics. However, a fascinating *midrash* questions the limits of truth:

Rabbi Simon said: At the time when the Almighty came to create Adam Ha-rishon (the first human), the ministering angels formed different groups and factions. Some said he should not be created, and some said he should be created... Kindness said he should be created, because he does acts of kindness. But Truth said he should not be created, because he is completely deceitful. What did the Almighty do? He took Truth and cast it to the ground.³

Truth, it seems, was necessarily absent in the creation of human beings. In the words of Abraham Joshua Heschel, “God had to bury truth in order to create man.”⁴

According to many philosophers of science, even scientific theories, often thought to be the closest humanity can come to achieving objective truth, can never be fully proven. Peter Godfrey-Smith describes the thought of his fellow philosopher, Karl Popper:

[I]t is never possible to confirm or establish a theory by showing its agreement with observations. *Confirmation is a myth*. The only thing an observational test can do is to show that a theory is false... We ... check to see if the prediction comes out as the theory says it will. If the prediction

¹ Devarim 16:19.

² Shir HaShirim Rabbah 9:1.

³ Bereshit Rabbah 8:5.

⁴ Heschel, Abraham Joshua. *The Insecurity of Freedom*. New York: Farrar, Straus and Giroux, 1965. p. 22.

fails, then we have refuted, or falsified, the theory. If the prediction comes out as predicted, then all we should say is that *we have not yet falsified the theory.*⁵

In a world in which we can approach truth, but never actually attain it with certainty, what should be our operating principle? To answer this question we can look back at the second reason cited for the prohibition against bribery, which relates to our ability to hear the pleas of our fellow human beings and prevent them from suffering harm. When we cannot achieve perfect truth, we should strive for compassion.

This approach is supported by the voices in rabbinic literature that describe how the Jewish courts also systematically placed compassion—even for a criminal—over truth. For instance, in capital cases, after the witnesses have given their testimony against the accused, a *mishnah* in tractate Sanhedrin writes: “[if a disciple in the court says,] ‘I have an argument against him,’ he is silenced. But if a disciple says, ‘I have something to plead in his favor,’ he is brought up and seated with [the judges].”⁶ Moreover, if there is a majority of one in *favor* of the accused, the accused is found innocent, but a majority of one *against* the accused results in the addition of more judges, until a maximum number of 71. At that point, “If 36 acquit and 35 condemn, he is acquitted. But if 36 condemn and 35 acquit, the two sides debate until one of those who condemns changes his mind and acquits.”⁷ Though the judicial system is structured to investigate truth, it always remains biased toward acquittal, out of compassion for the human being who may be punished.

Viewed together, this text and *Parshat Shoftim’s* explanation of the prohibition against bribery highlight the importance of both truth and compassion, and can instruct us in our approach to social justice work. Although we are faced with some degree of uncertainty in our attempt to alleviate poverty, we must endeavor to make informed decisions to the best of our ability, critically analyzing different approaches and supporting those that we believe will make the greatest impact. And when we experience doubt about our ability to fully know which strategies and interventions are best, we must take care not to allow this doubt to paralyze us. Instead, we must strive to hear the “plea of the just” and allow compassion for others to be our guiding principle, leading us to take action even in the absence of certainty and truth.



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⁵ Godfrey-Smith, Peter. *Theory and Reality An Introduction to the Philosophy of Science*. Chicago: University Of Chicago Press, 2003. pp. 58- 59.

⁶ Mishnah Sanhedrin 5:1

⁷ Ibid.

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