



Catalog No. 1497

Exodus 23:1-9

Forty-ninth Message

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April 29th, 2007

MERCY AND JUSTICE FOR ALL

SERIES: CREATING COMMUNITIES OF SHALOM IN DAILY LIFE

One of the strongest cries of the human heart in a world that seems out of control and dominated by evil is the cry for justice. Yet most of the time we feel impotent to do anything about it. As we continue in our series in the Book of the Covenant, our text, Exodus 23:1-9, is shaped around the theme of justice. If we reflect on its immediate context, the people of Israel had just witnessed the largest display of international justice in human history. For four hundred years they were dehumanized under the cruel tyranny of slavery by Pharaoh and his gods. But God heard their cries of oppression (3:9) and executed perfect justice by punishing Egypt's oppressive gods in ten plagues, and ultimately Pharaoh himself, in the loss of the firstborn sons in Egypt. Israel's liberation was no small feat. God enlisted the entire forces of creation to judge the oppressor and rescue his people. Now safe and secure at the foot of Sinai, God instructs this newly liberated people that they are to be characterized as a people who safeguard the cause of justice in their communities. In Israel everyone had a part to play in the cause of justice.

“Do not spread false reports. Do not help a wicked man by being a malicious witness. Do not follow the crowd in doing wrong. When you give testimony in a lawsuit, do not pervert justice by siding with the crowd, and do not show favoritism to a poor man in his lawsuit. If you come across your enemy's ox or donkey wandering off, be sure to take it back to him. If you see the donkey of someone who hates you fallen down under its load, do not leave it there; be sure you help him with it. Do not deny justice to your poor people in their lawsuits. Have nothing to do with a false charge and do not put an innocent or honest person to death, for I will not acquit the guilty. Do not accept a bribe, for a bribe blinds those who see and twists the words of the righteous. Do not oppress an alien; you yourselves know how it feels to be aliens, because you were aliens in Egypt.” (Exodus 23:1-9 NIV)

Literary Outline

a Justice in the Courtroom: Impartial Witnesses (1-4)

b Mercy in the Streets (5)

b' Mercy in the Streets (6)

a' Justice in the Courtroom: Impartial Judges (6-9)

The text is framed by a courtroom setting (a/a'), where justice is to be upheld for all members of the community, especially the poor and vulnerable who are easily exploited. The first section (a) deals with guarding against false witnesses, while the concluding section (a') addresses Israel's leaders, particularly her judges, and later in the monarchy, the king, to remain impartial in solving disputes. Sandwiched in between (b/b') are two exhortations encouraging Israelites to seize opportunities to show grace and mercy in the streets. This does more to restore *shalom* in a community than merely resolving disputes justly. We will look at the outer frame first and then examine the heart and theological center of the text.

I. Justice in the Courtroom: True Witnesses Exodus 23:1-3

“Do not spread false reports. Do not help a wicked man by being a malicious witness. Do not follow the crowd in doing wrong. When you give testimony in a lawsuit, do not pervert justice by siding with the crowd, and do not show favoritism to a poor man in his lawsuit. (Exod 23:1-3 NIV)

These three verses set forth four seductive temptations that need to be resolutely resisted in order to preserve the integrity of the ninth commandment, “You shall not give false testimony against your neighbor” (20:16). With great candor, God addresses the evil in all of us that so easily perverts justice for worldly acceptance.

A. First Temptation: Entertaining Slander (23:1a)

The first, “do not spread false reports,” can be understood not only as entertaining false rumors but also spreading them. The urge to entertain gossip is almost impossible to resist. As the sage explains, “The words of a gossip are like choice morsels; they go down to a man's inmost parts” (Prov 18:8). Have you noticed how difficult it is to not read the headlines of the tabloid dirt as you check out of the supermarket? Refusing to listen to gossip is as difficult as resisting a piece of our favorite piece of Sees candy for dessert. Gossip is like fudge: when swallowed it goes into the deepest part of the belly, and unfortunately stays there. As Waltke explains, “The innermost being” represents the deepest and most complete stratum of a person's psyche. Because slander so thoroughly penetrates a person's thoughts and emotions, it remains indelibly imprinted and effective. Since gossip is so highly contagious because the human heart has no resistance to it, the wise quarantine it by not repeating it and by avoiding the company of talebearers.”¹

B. Second Temptation: Giving False Testimony (23:1b)

Once the flames of gossip are ignited there is no stopping them. As the second command indicates, “Do not join your hand with a wicked individual in being a malicious witness.” Now the temptation has escalated from entertaining and spreading what is false, to joining hands with the wicked to give false testimony in a court of law. Not only do “false reports” have the potential to destroy a person's reputation and radically alter the way people relate to him or her, they can also inflict irreparable harm (the term *chamas*, “malicious,” has the connotation of “violence”) in a court case. In Israel it took two witnesses to confirm the truth of a matter (Deut 17:6; Matt 18:16). Such a confirming testimony was difficult to overturn. If a witness could be swayed by a persuasive or influential individual to falsify his testimony ahead of time, his actions could destroy the life of the innocent or protect the guilty from judgment. So a faithful Israelite had to diligently guard his heart from temptation both from within and without, lest his words destroy a person's reputation or rescue the wicked from their crimes. Perjuring oneself for the wicked does “violence” to individuals (1 Kgs 21:13), tearing the fabric of an entire community. Our conviction needs to be strengthened by holy affections, as the sage testifies:

**There are six things the LORD hates,
seven that are detestable to him:**

haughty eyes, a lying tongue,
hands that shed innocent blood,
a heart that devises wicked schemes,
feet that are quick to rush into evil,
a false witness who pours out lies
and a man who stirs up dissension among brothers. (Prov 6:16-19)

When you commit “murder,” you take a life; but when you stir up dissension through slander, you can destroy an entire community. In the church “false testimony” occurs in more subtle ways as we hold court in living rooms or over a cup of coffee under the guise of sharing a prayer request or pious concerns for others. And yet in a moment, brothers (or sisters) can lose their reputation without even being present to defend themselves. I vividly remember Bruce Waltke teaching on this commandment years ago. He concluded that we should not entertain an accusation against someone in the body unless the person giving it was an eyewitness, and that the accused was present to defend him or herself. This would put an abrupt end to all gossip.

C. Third Temptation: Being Swayed by the Masses (23:2)

The third temptation is perhaps the most difficult to resist:

“You shall not follow the masses in doing evil, nor shall you testify in a dispute so as to turn aside after a multitude in order to pervert justice (23:2).

The term “multitude” (*rabbim*) can be taken to mean the “masses” or the “great, powerful, or influential” citizens within a clan, as in Job 35:9:

**Because of the multitude of oppressions they cry out;
They cry for help because of the arm of the mighty (*rabbim*).**

Whichever meaning the text has in view, both present powerful forces that are difficult to resist. In Israelite society citizens stood shoulder to shoulder within small communities. As such, no actions remained anonymous. To stand out against the crowd once an opinion of their reputation held sway in the community required strong convictions and courage. Childs notes that this is why “In the later rabbinical courts the youngest judge was asked to express his opinion first in order not to be influenced by the majority.”² Who wants to be the odd man out and look foolish holding up the wheels of justice by taking a fresh and impartial look at the evidence, when the person indicted has already been tried and condemned in everyone’s heart? Or who wants to be the lone voice to condemn a mafia lord who has bought off the rest of the jury? The consequences of taking a stand against the majority can be severe, from facing a tidal wave of ridicule to, in some cases, jeopardizing one’s life.

The law is asking all of us to be spiritually prepared to one day stand alone in our integrity and give voice to what is right (Acts 7). For some of you, you may be the only person in the company willing to confront the evil of an abusive boss, or challenge the ethics of white lies that cover product defects or production dates. The clear word of the text is, wherever God has placed you, don’t follow after the crowd, but tell the truth.

D. Fourth Temptation: Favoritism (23:3)

The fourth and final temptation is,

“do not show favoritism to a poor man in his lawsuit (23:3).

The warning against showing favoritism to the poor seems odd, when the preceding context has emphasized protecting the innocent and poor from the wicked and influential. Some scholars suggest reading “great” instead of “poor,” since the difference between them is just one letter in Hebrew (poor = *dl*; great = *gdl*). With that option, this verse serves as the summary to all that has proceeded. Others take it as a warning not to give in to the opposite temptation, which would be to engage in reverse

discrimination. Both views have merit and both are expressed in the law. The deciding factor for me is the verb *hadar* (“show favoritism”), which usually speaks of the “honor” or “splendor” shown to God, or highly esteemed individuals, such as the king or the elders, not to the poor of society. When the command is repeated in Leviticus, it is used with the “great,” while “showing partiality” is used with the poor:

“Do not pervert justice; do not show partiality to the poor or favoritism (*hadar*) to the great, but judge your neighbor fairly” (Lev 19:15).

Given this reading, I would suggest that the command reinforces the theme of protecting the vulnerable and weak by condemning our common tendency of placating or doting over the rich and famous. This prevalent practice prevents us from being objective and speaking the truth with them.

Paul maintains these teachings in perfect balance when he instructs Timothy how to deal with accusations against elders in the church:

Do not entertain an accusation against an elder unless it is brought by two or three witnesses. Those who sin are to be rebuked publicly, so that the others may take warning. I charge you, in the sight of God and Christ Jesus and the elect angels, to keep these instructions without partiality, and to do nothing out of favoritism. (1 Tim 5:19-21)

In summary, our speech is the primary tool for establishing justice in a community. Given the formidable forces bent on destroying others through perverted speech, it takes a vigilant effort to guard what we say about others as even a careless word can do irreparable damage to a community. God’s people are to be characterized by “speaking the truth in love” (Eph 4:15).

The final section of our text changes the focus from the responsibilities of the individual to those of Israel’s leaders who dispense justice.

II. Justice in the Courtroom: Impartial Judges Exodus 23:6-9

“Do not deny justice to your poor people in their lawsuits. Have nothing to do with a false charge and do not put an innocent or honest person to death, for I will not acquit the guilty. Do not accept a bribe, for a bribe blinds those who see and twists the words of the righteous. Do not oppress an alien; you yourselves know how it feels to be aliens, because you were aliens in Egypt. (23:6-9)

These instructions are addressed to those who are in leadership, particularly judges and kings, who dispensed justice in Israel. Once again the focus is resisting seductive temptations that pervert justice through the lens of partiality. The text begins with concerns for the “poor” and ends with “aliens.” In between are the wicked and wealthy who attempt to influence justice through slander and bribes. God is not naïve about the kind of world his people will operate in. Even though Israel was established as a “spiritual nation,” God knows it won’t survive unless her leaders work hard at resisting evil, both within their own hearts and from the world system around them.

A. First Temptation: Prejudice (23:6)

The first temptation God addresses is the common practice of forming prejudgments based on outward appearances or first impressions. One thing I have learned as a pastor over the past thirty years is that my first impressions and opinions of people or situations usually are wrong. In Israel, prejudice in the courtroom would be of great detriment to the poor, whether orphans, widows or people whose debts left them landless in Israel. These groups would have had little financial means to make an adequate and convincing presentation of their case. Most were dependent on the good will of others for their survival and protection.

Now here they are in court playing hardball with the rich, who had more than adequate means to hire out a defense and perhaps much more experience handling these kinds of lawsuits. It would take great patience and keen discernment on the part of the presiding judge to realize the playing field was not level and judge accordingly.

B. Second Temptation: Being Influenced by Slander (23:7)

The second temptation for those in authority is to be influenced by the innumerable false charges that circulate within the community and eventually come under their jurisdiction for a ruling. The exhortation is that those in leadership keep themselves a safe distance (the Hebrew says, “far away”) from such charges. The reason is that in Israel the courts were the last line of defense for the vulnerable and the weak. If justice was not upheld in the courts, then the poor had no recourse.

God concludes with a very strong word. He reminds his leaders that ultimately the courts do not have the last word. If they allow the guilty go free, God will ultimately judge the guilty and the judge as well. And God proved true to his word. In the days of the prophet Micah, the courts had become corrupt and the poor were sold out for money. This set the wrath of God in motion: “Therefore because of you, Zion will be plowed like a field, Jerusalem will become a heap of rubble, the temple hill a mound overgrown with thickets” (Mic 3:12).

This is the ultimate hope of believers in any age. We should never expect to find perfect justice here on earth, but there will be an ultimate judgment of the guilty and vindication of the innocent in the resurrection. The good news of all this is that we are not God. We are not responsible to fix the entire world or our company or even our extended families; rather, we are merely called to do what is right as God calls us to be faithful. The final results all belong to God.

C. Third Temptation: Bribery (23:8)

The third temptation facing leaders is bribery, the giving of gifts to ingratiate oneself, hoping to affect a particular desired outcome. What is a bottle of wine, a free dinner, baseball tickets, a skybox, or free trips to Scotland for golf? The answer is, it “blinds those who see and twists the words of the righteous.” As Houtman explains, “Bribery makes a mockery of lawsuits. Only individuals who abhor corruption have a keen sense of right and wrong.”⁴ But with a bribe in hand, it doesn’t matter what the righteous say; their case is overthrown before it begins. Stuart’s comments hit the nail on the head: “Bribery in effect cripples the normal, proper way of doing things and substitutes a perverted way... Anyone who requires or accepts an extra, personal payment for his services in any of society has been ‘bought’ and will not act with proper neutrality and consistency.”⁵ It is for this reason that in the New Testament, an elder must “not be a lover of money” (1 Tim 3:3), and deacons must be free from “pursuing dishonest gain” (1 Tim 3:8).

D. The Fourth Temptation: Lack of Compassion (23:9)

The concluding word to leaders in establishing justice concerns their stance towards the alien. The term speaks of strangers who were temporary sojourners with no social status. Being dependent on the hospitality of a community to survive, immigrants required special care to provide for their needs. It is ingrained in the human condition to somehow loathe outsiders, especially refugees, and to feel their presence in society an unwelcome intrusion upon our neatly ordered world.

Interestingly, the solution to this social problem is not through institutional legislation, but through God’s strong appeal to Israel’s heart and conscience that as a people she truly knew what it was like to be an alien. She understood the loathing of those who felt superior in language, occupation and nationality. So even more than natural sympathy for the helpless, Israel should be governed by the deepest compassion and empathy for the foreigner.

Last month, I was deeply touched by the stories of the students I was teaching in Croatia who struggled to survive the most violent hatred between their nationalities. One student, Andrea, explained that she was six years old when the war in Croatia started. She and her sister used to hide under the kitchen table when the Serbian bombs fell. When the shop across the street was bombed, she fled with her parents to Switzerland. Afterwards a bomb landed right in their kitchen, destroying her home. Having been spared from one threat, she walked right into another in the very place she sought refuge, Switzerland. Every day at school she was subjected to verbal abuse from the children for being a foreigner. They called her “a bomb, a pregnant woman, fat, a freak, a miscarriage, a retard,” and so on. Increasing her trauma, a new teacher arrived and took the lead in humiliating her each day as a stupid foreigner.

The only way Andrea could cope with this seven-year torture was to stop eating. For two months she refused to eat, and her weight dropped to about 90 pounds. But when the sight of her frail body broke her mother’s heart, Andrea found a friend, Jesus Christ, whom she described as “more valuable than all humankind together... He was my only friend through the hard times, and made me understand how important it is to have love and compassion for other people ... since then, I cherish every single person in my life ... for life isn’t worth living if you are not able to love others.”

I must say as a foreigner teaching in a strange land, I felt so welcome and embraced by Andrea as she represented the class to express their appreciation on the last day of the course. It was only after I heard her story and poem that I began to realize where her compassion came from. She had indeed fulfilled Paul’s exhortation to the church in Ephesus:

Remember that at that time you were separate from Christ, excluded from citizenship in Israel and foreigners to the covenants of the promise, without hope and without God in the world. But now in Christ Jesus you who once were far away have been brought near through the blood of Christ. (Eph 2:12-13)

Now we will examine the center section of the text. Our focus moves from maintaining justice in the courtroom to showing mercy in the streets. The fact that these exhortations are sandwiched between two sections concerning justice is highly suggestive. I suspect that what God asks of us here transcends the laws of justice and accomplishes more shalom for community life than merely having integrity in the courts.

III. Mercy in the Streets: Compassion for Enemies Exodus 23:4-5

A. Restoring My Enemy’s Donkey (23:4)

“If you come across your enemy’s ox or donkey wandering off, be sure to take it back to him. (23:4)

Now our attention shifts from the legal world, where everything is carefully measured and defined, to the ordinary world of the streets and marketplace, where life is more spontaneous and haphazard. Two cases are presented, both of which are unplanned and take us by surprise. In the first case, we just so happen to come across our neighbor’s most valuable possession, his ox or donkey, wandering lost, far from home. The loss of such an animal in an agrarian society would represent a significant loss of potential income. It would be like a farmer having his combine stolen, or in our high-tech world, leaving one’s laptop at the airport before a sales meeting. If you recognized that this errant animal belonged to your enemy, what would be your first thought? If we are honest, I imagine most of us would be rejoicing: “Oh how great is my God who vindicates me and pays back my enemy just what he deserves! What glorious justice!”

But to our surprise, God says this is not an occasion for justice, but an opportunity for mercy. When such an occasion arises, we are to “seize the day” and without hesitation return the wandering animal to our enemy. The task is not optional, as the Hebrew makes clear, doubling the verb “return” to make it emphatic (“returning your shall return”). Yet, such an act of mercy is not without cost. Have you ever tried to corral and bridle a horse in an open field, much less a donkey or an ox? Just think about it.

First, you have to abandon whatever you had planned for most of the day. Then if you’re an introvert, you have to overcome your timidity and take charge of the situation by enlisting the help of others to apprehend the animal. You have to quickly fashion a makeshift bridle, and at risk of injury, place it over the neck of a frightened animal. You have to make the journey on foot to wherever your neighbor lives, with a large animal, which may in fact not like you, in tow. Finally, you are forced to make personal contact with someone you’ve been avoiding at all cost. You are not allowed to hand the animal off to his servant. Instead you are forced to walk in your enemy’s footsteps, guiding his errant animal home, until you finally look your enemy in the eye and place the “prodigal” animal into his hand.

Then you go home, but there is still more work to be done. Now you have to explain to someone in the community why you didn’t show up for work, or why you were late for supper. You may have had plans and obligations, but on this day, God asked you to make your enemy’s donkey top priority over everything else. Perhaps in the retelling of the story, you will get a vision of your own “wandering” ways (the term *ta’ab* is normally a reference to “go astray” morally or spiritually⁶), and how God acted in the small details of your life to heal a rift between brothers in the community, not with justice, but with grace and mercy.

In case we might think God’s instructions about our enemy’s donkey are exceptional, he gives us a second scenario to strengthen our resolve. This time the situation is a bit more complicated.

B. Lifting My Enemy’s “Burden” (23:5)

“If you see the donkey of someone who hates you fallen down under its load, do not leave it there; be sure you help him with it. (23:5)

In the second case we come across a “stalled vehicle” on the highway. A donkey carrying a heavy load has stopped to rest and is lying down. But the weight of the load is so heavy the animal cannot get up; it remains there paralyzed under the weight of its burden. On closer examination we discover that we know the owner of the donkey. He is described as “one who hates you.” This suggests that the enmity that exists is more one sided due to our transgression. While in the first instance we happened upon the donkey, making it an unavoidable encounter, on this occasion we merely “see” the donkey at a distance, and like the priest and Levite in the story of the Good Samaritan, we would like to pass by on the other side (Luke 10:31,32). You can almost hear your wife’s objections: “Tevya, you must leave the animal alone. Don’t meddle with someone else’s fallen donkey!” But once again the Lord anticipates our thoughts, insisting that we “cease from abandoning” and “do not leave it there”⁷ with the owner. Instead we are to make haste to get under the load and help raise it up with the donkey.

Like changing a tire on a dusty highway, this is down and dirty work. But more than the dirt and grime is the humility that is required to stand alongside my enemy’s sweaty donkey in order to lift his heavy burden with him.⁸ As we leave this divine intersection, perhaps “the one who hates” is so moved by our humility that his burden of bitterness towards us is “lifted.” Perhaps we begin to understand that this act of mercy was more important than deciding who had been in the right. The one who used to hate us is now our brother, and brothers don’t keep accounts of wrongs suffered. And now perhaps, like Jacob after his dreaded meeting with Esau, we will sleep well tonight for the first time in a long time.

In the kingdom of God, justice rights the wrongs, but only compassion heals the hurt.

1 Bruce K. Waltke, *The Book of Proverbs* (2 vols.; NICOT; Grand Rapids: Eerdmans, 2004-05), 2:74.

2 Brevard Childs, *The Book of Exodus* (OTL; Philadelphia: Westminster, 1974), 481.

3 *hadar* – the nominative form means “adornment, splendor, majesty.”

4 Cornelis Houtman, *Exodus* (HCOT; Kampen: Kok, 1996), 3:249.

5 Douglas L. Stuart, *Exodus* (TNAC; Nashville, TN: Broadman & Holman: 2006), 528.

6 For other uses of “to wander” see Isa 3:12; 9:16; 29:24; 53:6; 63:17; Mic 3:5; Ps 95:10; 119:176.

7 This last phrase is difficult, as the Hebrew text repeats the same verb (*azab* - “abandon”) two more times. Stuart suggests, “The NRSV rendering, though more prosaic, is somewhat less ambiguous: ‘When you see the donkey of the one who hates you lying under its burden and you would hold back from setting it free, you must help to set it free.’” Stuart, *Exodus*, 526. Despite the difficulties, the sense is made crystal clear when the law is repeated in Deuteronomy “you must help him raise it” (Deut 22:4 JPS).

8 I wonder if Jesus had these two laws in mind when he answered the question of the scribe, “Who is my neighbor” (Luke 10:30-37), as the Samaritan was indeed an “enemy” to the Jew. And he does more than lift the man’s burden, he lifts the man himself and places him on his donkey, at great cost to himself.