



## **SERMON MISHPATIM:<sup>1</sup> ON HASSELLING THE JUDICIARY**

Student Rabbi Gabriel Webber, Saturday 10 February 2018  
Finchley Progressive Synagogue

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- 1 A few years ago, I was working as a cheder teacher at another synagogue. One time, a member of the community came up to me and suggested, “Wouldn’t it be a good idea if some of the adults who have interesting jobs came into the cheder to talk to the kids all about what they do, and answer questions.” Wondering, “What does that have to do with Judaism?”, I sort of nodded noncommittally. When they were out of earshot, I asked my friend who was standing nearby, “They must have a very interesting job if they’re so desperate to tell the kids about it: what do they do?” “Oh,” my friend said, “they’re a coroner.”
- 2 Even though the work of a coroner isn’t necessarily suitable for a cheder lesson, at the moment it’s extremely important to the Jews and Muslims of Inner North London, who are doing battle with their Senior Coroner, Mary Hassell, over her refusal to expedite their death certificates so as to enable the speedy funerals required by Jewish and Islamic law.<sup>2</sup>
- 3 Her ‘cab rank rule’ of “first come, first served”<sup>3</sup> has its supporters, including the National Secular Society.<sup>4</sup> But I think our community has been right to condemn it as unacceptable in a respectful multifaith society. The Board of Deputies has made a disciplinary complaint against Coroner Hassell to the



Lord Chief Justice, and is launching a challenge to her policy in the High Court. All well and good.

- 4 What I'm more concerned about is the public pressure campaign. A number of high-profile politicians, including Sadiq Khan, have spoken out to urge Coroner Hassell to change her policy. And the Board of Deputies has openly called for her to be sacked.<sup>5</sup>
  
- 5 I find this troubling – and this is where our parasha comes in. An independent and impartial justice system is the cornerstone of any civilised society, and Parashat Mishpatim contains the earliest form of the judicial oath: “You shall not follow a multitude to do evil. Do not take bribes, for bribes blind the clear-sighted and upset the pleas of those who are in the right.”<sup>6</sup> These days, British judges – including coroners – swear an oath to “do right by all manner of people, without fear or favour”,<sup>7</sup> but it amounts to the same thing.
  
- 6 And I'm worried that Coroner Hassell will follow the multitude, will be swayed by public pressure. This is a difficult issue, because were she to cave in and drop her policy, the Jewish community would end up with a better and fairer outcome. However, a judge shouldn't give in to pressure. They just shouldn't. It matters why a decision is made, not just what the decision is. If the coroner changes her policy because Sadiq Khan tells her to, or because of a bribe, or because her family is held hostage, then it doesn't matter how good the new policy is, it's still a fundamental wrong in a judicial system that is dependent on independence. And if it's wrong for a judge to give in to pressure, it's wrong for the public to pressure them, to lead them into temptation.



- 7 In the Sanhedrin, the supreme court of ancient Israel, there were often over 20 judges, and when they began their deliberations, they would start with the most junior one. Juniors would speak before their seniors so that they would not be swayed, by awe, respect or career progression, in expressing their conclusions.<sup>8</sup>
- 8 At the other end of the scale of civilisation, the Torah is full of warnings about mobs. In a couple of months' time, we'll read Parashat Beha'alot'cha, where the Hebrew text tells us of an asafsuf,<sup>9</sup> a gathering (often translated 'riffraff' to maintain the onomatopoeia) of rebels, each individual having joined the bandwagon after the one before.
- 9 No doubt the Israelites who rebelled against Moses thought they were right. They were discontented with Moses's leadership and genuinely believed they could do better. But they chose to express their view not through reasoned argument but by muttering and undermining and, eventually, rising up in an irrational and ill-thought-through show of power. And, as it happens, they were wrong.
- 10 I think the Jewish community is right on this issue. I think Coroner Hassell is wrong. I definitely believe that respect for freedom of religion means that she has to facilitate faith groups' adherence to their religious practices. But however right we believe we are, forming an asafsuf is not the way to express it. Firstly, we might be wrong – we should never be so confident of our own rightness that we are blinded to the mere possibility that we may be mistaken – and a show of power and pressure takes up the airwaves and prevents the rational debate that could change our minds. Secondly, the publicity campaign in this case is designed to tempt a judge to abandon her oath and cave in just to make all the hassle (sorry...) go away. That's how we



should campaign against unwelcome decisions from politicians: politicians are supposed to do what the public demands. But judges absolutely aren't.<sup>10</sup> We lobby against politicians' decisions; we appeal judges' decisions.

- 11 Parashat Mishpatim is named for the laws it contains. It must surely be the only legal text in the history of the world to cover, in the space of just a few verses, topics as diverse as sorcery, bestiality, crop damage and social security. But it also covers the importance of a proper – and properly independent – judiciary. That our religion directs us to read about judicial independence every year should tell us something about where our values lie.

*Check against delivery.*

## **GW 10.02.18**

<sup>1</sup> Exodus 22:20-23:9

<sup>2</sup> See eg *The Guardian*: “Jewish society calls for removal of London coroner over burial delay”, 14 January 2018: <<https://www.theguardian.com/world/2018/jan/14/jewish-service-calls-for-removal-of-london-coroner-over-burial-delay>>

<sup>3</sup> Or should it be “first gone, first served”?

<sup>4</sup> National Secular Society: “Coroner faces legal threat over refusal to prioritise religious burials”, 5 January 2018: <<http://www.secularism.org.uk/news/2018/01/legal-threat-over-coroners-refusal-to-prioritise-religious-burials>>

<sup>5</sup> *The Jewish Chronicle*: “Sadiq Khan backs Jewish community in coroner dispute”, 22 January 2018: <<https://www.thejc.com/news/uk-news/sadiq-khan-backs-jewish-community-in-coroner-dispute-1.457247>>

<sup>6</sup> Exodus 23:2, 8

<sup>7</sup> Promissory Oaths Act 1868, s 4

<sup>8</sup> bSanhedrin32a

<sup>9</sup> Numbers 11:4

<sup>10</sup> See eg *Attorney General's Reference (No 34 of 1994)* (1995) 16 Cr App R (S) 785, 789