

TALK #51 EXODUS 23:1-8: Maintain A Just Society by doing justice justly in legal disputes, especially for the poor: 9th commandment.  
For Talk #50 see screen cast at [www.screencast.com/users/Chester.E.Wood/folders/Story%20of%20Justice](http://www.screencast.com/users/Chester.E.Wood/folders/Story%20of%20Justice)

### 1. Social location of doing justice justly

1.1. Must not think in terms of modern courts, with buildings, etc.

1.2. Court = gate in village

See later the book of Ruth for an illustration of justice being done at the gate. cf.

1.3. Trial= dispute

1.4. No jury as such nor lawyers

1.5. No distinction between those who passed judgment and those who execute the judgment, e.g. stoning.

1.6. No legal fees

1.7. Evidence is only a matter of testimony. No forensic evidence such as DNA, fingerprints, etc.

### 2. Narrative and literary location of doing justice justly in disputes

2.1. First time in the Law that matters of *procedural justice* are address

2.2. Previous narrative about the administration of justice, Jethro Ex 18

In the narrative see Exodus 18 where Jethro advises Moses about providing an adequate judicial system by appointing judges who are “trustworthy men who hate dishonest gain”(18:21).

2.3. In the Law

In the Law the focus of the TC, the first half of BC (slaves, dependent parents, pregnant women) and now the second half of the BC is upon the marginals, i.e. the poor (23:3, 6) who include the widow (22:22), the orphan (22:22), the slave (23:12) and at the bottom the alien (22:21; 23:9, 12). That focus continues in this section on procedural justice: two references to the poor (vss 3, 6), the link to “do not oppress the alien” (23:9; cf 22:21). The guidelines about procedural justice are *crafted* so as to ensure that those at the very, very bottom of society, i.e. aliens, are treated *fairly* in lawsuits. We have already surveyed most of the laws on aliens and noted that they are mentioned twice as much as any other “group” who are part of the “poor”. This in light of its Ancient Near East setting is astounding! (see next page)

### 3. Layout of text showing *patterned recursion*

Do not spread (nasa:H5375) false (shav:H7723) reports (shema:H8088).

[generalized statement in law terms--see closing statement]

A **Do not** help a wicked man (rasha:H7563) by being a malicious (chamac:H2555) witness (ed:H5707).<sup>2</sup>

B **Do not** follow the crowd in doing wrong (ra:H7451).

C When you give testimony (anah:H6030) in a lawsuit (riyb:H7379),  
**do not** pervert justice by siding with the crowd,<sup>3</sup> and

D **do not** show favoritism (hadar:H1921) to a poor man (dal:H1800)  
in his lawsuit (riyb:H7379)

E<sup>4</sup> If you [still speaking to the witness] come across  
your enemy's ox or donkey wandering off,  
be sure to take it back to him.

<sup>5</sup> 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.<sup>6</sup>

D1 **Do not** deny (natah:H5186) justice (mishpat:H4941) to your poor people  
(ebyown:H0034) in their lawsuits (riyb:H7379).<sup>7</sup>

C1 **Have nothing to do** with a false (sheqer:H8267) charge (dabar:H1697) and

B1 **do not** put an innocent (naqiy:H5355) or honest (tsaddiyq:H6662) person to death,  
for I will not acquit (tsadaq:H6663, hiphil) the guilty (rasha:H7563).<sup>8</sup>

A1 **Do not** accept a bribe (shachad:H7810),

for a bribe (shachad:H7810)

blinds those who see and

twists the words (dabar:H1697) of the righteous (tsaddiyq:H6662)

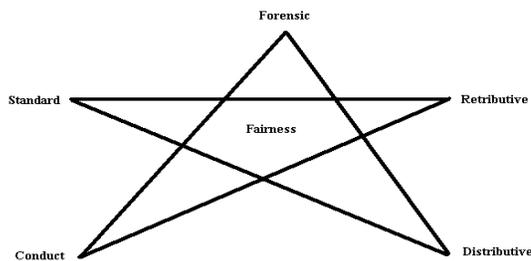
[generalized statement in proverbial terms].

### 4. Observation on the layout of the text

4.1. "Do not spread a false report" is a focused application of "do not mistreat an alien"

Or put positively, one must speak the *truth*, especially in lawsuits, for *truth* is the foundation of procedural justice and therefore of a just society (remember Ex 19 about procedural justice comes even before the Law is formally given in Ex 20).

4.1.1. Star of Justice--truth speaking is an aspect of *fairness* so that justice is done *justly*.



4.1.2. Bringer of Justice--

In terms of the larger *Bringer of Justice* model, we may place truth speaking under the *task of justice* and specifically under *judging* which must be done *justly* or *fairly*, i.e. truth must be spoken:

AGENT	ENABLEMENT	<i>TASK OF JUSTICE</i>	RECIPIENTS	RESULT
GOD	LOVE, KINDNESS, MERCY CONCERN (WRATH)	MIGHTY ACTS OF JUSTICE,-->ENSLAVED---->JUST SOCIETY EXODUS EVENT, RED SEA, PROCLAMATION OF THE STANDARD OF JUSTICE IN THE LAW	ISRAEL MARGINALS	ISRAEL (GOAL & MEANS) ---->WITNESS TO THE NATIONS (GOAL)
<b>JUDGING</b>				
DOING ALL THREE FACETS OF THE TASK				
<b>JUSTLY/FAIRLY</b>				
<i>i.e. speaking the truth in a lawsuit</i>				

#### 4.2. Genre of sections

A-D and A1-D1 are apodictic commands in the negative, “Do not” which are in **bold**.  
E is case study law, casuistic laws, “if.....then.....”

#### 4.3. Who is being addressed in each section?

Witnesses are directly addressed: “Do not help a wicked man by being a malicious witness”, vs 1. Suggest that A through D is addressed to witnesses. A1-D1 is addressed to judges. Judges are not directly mentioned but God functions as a judge (“I will not acquit the guilty”) and he serves as a model for the ones addressed.

In short, witnesses are not to be malicious by siding with the crowd and lying about the actions of the poor person who is accused (A-D) and judges are not to take a bribe so as to accept false charges resulting in the perversion of justice and the death of the defendant (A1-D1).

#### 4.4. Considering the text in light of patterned recursion

##### 4.4.1. ACTIONS OF ACTORS: WITNESS AND JUDGE, A and A1

##### 4.4.2. OUTCOMES OF ACTIONS OF ACTORS, B and B1

##### 4.4.3. ROLE OF TESTIMONY, C and C1

##### 4.4.4. RESULT OF FALSE TESTIMONY, D and D1

In sum, the malicious witness shows favoritism to the poor man, who is also in this case the “wicked man” (vs 1), by giving false testimony because of pressure from the crowd. The wicked judge denies justice to the poor, who in this case is innocent and righteous (vss 7, 8), by accepting a false charge (testimony, words) because of taking a bribe. The symmetry is obvious.

##### 4.4.5. The contribution of E (vss 4-5) to the commands of Exodus 23:1-8

Assuming the correctness--more or less--of the analysis above, we know it discusses *external (crowd, bribe) pressure* to pervert justice. Taking this as a contextual clue and assuming the unity of the passage, perhaps vss 4, 5 also speak of *pressure* but this time it is *internal pressure* (enmity toward enemy) to pervert justice. If this is correct, then we could diagram the passage thus:

- A-D social pressure-----external on witnesses to pervert justice
- E enmity/hatred---internal pressure (to pervert justice)
- A1-D1 economic pressure--external on judges to pervert justice

If a witness or a judge encounters an enemy in a lawsuit, that witness or judge will be under considerable internal pressure to pervert justice against the enemy. Instead of perverting justice, one should help the enemy, i.e. do what is right. This comes very close to *loving the enemy*.<sup>1</sup> At the least, it means that one should ensure that the enemy is dealt with justly in a lawsuit. If *love* of enemy is correct, then we have a very early occurrence of *love and justice combined* where love is a *motive/enablement* (in terms of the Bringer of Justice model) and justice is the *task*. Again, love enables or motivates witnesses to speak the truth and judges to accept the truth.

Later in the *Counsels of Wisdom*,<sup>2</sup> a piece of ANE literature, we have passage striking similar to Exodus 23:1-8. Lambert's (1960, 101) translation reads as follows:

- 41 Do not return evil to the man who disputes with you;
- 42 Requite with kindness your evil-doer,
- 43 Maintain justice to your enemy

Line 41 speaks of a dispute, probably a lawsuit (Zerbe, 1993, 34f), and in such a dispute one is to return kindness to the evil-doer by maintaining justice to this enemy. Here we have the same *connections*, i.e. dispute, kindness to evil-doer/enemy and maintain justice, as in Exodus 23:1-8

4.5. Judges are to act like God, “for I will not acquit the wicked”, vs 7b

Above, we passed over the statement in vs 7b (B1) as to the reason judges should judge justly:

**B1 do not** put an innocent (naqiy:H5355) or honest (tsaddiyq:H6662) person to death,  
for I will not acquit (tsadaq:H6663, hiphil) the guilty (rasha:H7563).

Judges are to judge justly because God as judge judges *justly*, i.e. he does not acquit the guilty.

## 5. Key terms in Exodus 23:1-8

see next talk

Works Cited