

Alice's Restaurant
A Kol Nidre Sermon by Rabbi Joshua Heller
Delivered Yom Kippur Eve, 10/7/2011

(sung) You can get anything you want, at Alice's Restaurant....

You can get anything you want, at Alice's Restaurant

Walk right in it's around the back

Just a half a mile from the railroad track

You can get anything you want at Alice's Restaurant

Allow me to explain: One of my favorite Thanksgiving traditions, from when I was a young man, is listening to an Arlo Guthrie Song called Alice's restaurant.¹ When I first heard it, I thought it was just a funny song that lasted a really long time (though not nearly as long as this sermon) with more sophisticated lyrics than "In Aggada Da Vita." Only later did I realize that it was a protest song, protest against a war that ended around the time I was born, a song that exposed some of the raw wounds of a generation that have really never healed.

Since a good chunk of those present may not remember the 60's, for one reason or another, let me remind us all of the basic premise of the song: Arlo Guthrie, as a young man, was a guest of the titular Alice on Thanksgiving day, disposed of some of her garbage, and was arrested for littering. After an amusingly described arrest and trial, he was fined \$50 and had to pick up the garbage. The catch of the song was that later, when he was called up for the draft, that relatively minor infraction was weighed against him and he was ruled ineligible to be drafted to serve in Vietnam.

On one level the song was asking the question of whether participation in war is compatible with ethics. How can you even talk about ethics in an endeavor where the goal is to kill others? But that's not what I want to talk about today- in part believe that the answer, is that yes, there are some wars that are ethically defensible. On another level, the song is about how even small and minor incidents can have unintended, longlasting consequences. On a deeper level, the song is about how we pass through the process of judgment. How does it feel to be judged harshly? How does it feel to "given a pass" whether deservedly or unexpectedly?

This sermon is my own Alice's restaurant, if you will, even if not accompanied on the guitar, as I explore those questions with you, through the prism of my own recent brush with the law, which made me think in a different way about what it means to be going through this day of judgment. Let me explain: It was the holiday of Shavuot, this past June, and I was out on a walk by the intersection of

¹ http://www.youtube.com/watch?v=5_7C0QGkiVo

Abernathy and Roswell Road. I was crossing the street, on my way to look at an eruv² pole that looked a bit funny, when a car came around the corner and almost hit me. At just that moment, a police car about a block away turned on its lights. At that point, there were one or two possibilities- I figured he would give a ticket to the car that almost hit me, which wasn't very likely, or he could scold me and encourage me to be more careful. There was a third option which I hadn't even counted on. He stopped, told me to put my hands where he could see them and called for backup. Yes, ladies and gentleman, we have ourselves a dangerous jaywalker.

The situation deteriorated from there. There was all manner of drama because it was Yom Tov, and I wasn't carrying my wallet and one isn't supposed to sign something on the holiday. I'm pretty good at explaining Judaism, but this officer, who was nothing if not professional and cordial, just wasn't attuned to the niceties of the Jewish festival observance, and Pentecost wasn't ringing a bell either. Eventually I was able to convince him that taking a rabbi to jail on the holiday would not be in the public interest, and, about 45 minutes later, I trudged home, citation in hand. I had been charged with "Darting into traffic." I later learned that, in the aggravated form of which I was accused, that offense carries a fine of \$350. I can't blame the police- after all how are they supposed to treat some guy they find wandering on Roswell road with no ID, claiming God told him to go look at utility poles.

All's well that ends well. I had to appear in municipal court a few weeks later. They called the names of all the people in the room and told them where to go. My name wasn't called, so I found the clerk who told me "oh, you, you sit over **there**. I suppose my own "group W." I learned that it was much more serious than I thought. I had been entered into the system as if I were the driver in a pedestrian accident. Eventually, I sat down with the city prosecutor. I took out my folder with 27 color photos of the scene of the crime with circles and arrows and a paragraph on the back of each one explaining what it was. Not to mention the aerial photography. Well, actually, I took four pictures of the intersection and made a map with Google earth. After a few minutes of conversation, when it became clear that I was the pedestrian, not the driver, and there had in fact been no accident, she agreed to drop all charges, with an implied warning that I should keep my nose clean and stay in my car where I belonged. Now, I'm free to hunt the real killers.

You may wonder why I'm telling you this story. Actually, it's a fitting story to tell on Yom Kippur, the day that we regard as the "day of judgment." How does it feel to be judged? What does it feel like to be the accused to sit on the defendant's bench, even for something as trivial as jaywalking? To understand that our lives

² A legal fiction where lines run on utility poles make a neighborhood a "private" space for purposes of Shabbat Observance.

are in the hands of a process much larger than us- to learn that the stakes are higher than we thought possible? But at the same time, what does it feel like to be freed and forgiven, whether on our merits or how much more so if we are not deserving?

At this season of judgment, how does it feel to be judged? I think many of us are uncomfortable with the idea. It can be frustrating to think that our fate, that our legacy, depends on someone else's opinion. That's certainly true sitting on the defendant's bench, where the stakes are potentially so high, and the questions on the line are guilt and innocence, right and wrong. But think about the way that athletes feel about the referees and the umps. If you are in the sort of job where you have a performance review, that too can be an unpleasant process.

Taking that into account, how do we feel about being judged by God? How do we feel we will be judged? Are we confident? Are we concerned that it won't go well? Maybe we might even be a tad resentful. After all, God allows some pretty horrible things to happen in this world. There are some really bad people out there. Guthrie sings about being on the bench with Mother-rapers and father-stabbers, Father-rapers and mother-stabbers. Why is God picking on me? Kind of like the way that I felt, standing by the side of Roswell Road with the lights flashing. What, officer, surely there aren't any burglaries or murders you could be solving? What, God, surely someone else who deserves these troubles more than we do?

The other thing about being judged, at this season of judgment, is that we, I think, don't always appreciate the true seriousness of the charges against us, and the potential implications. When I spent the morning in traffic court, it was truly eye-opening. Most folks pay their fine and go, or get a court date for which they are coming back with a lawyer. But there were people who really had no clue what they were getting into, or perhaps did not believe that "it" could happen to them. A young woman was about to plead guilty to some issue with her registration, but judge stopped her from doing so, because she would have lost her license until she turned 21. Another man pled guilty to a traffic charge. An hour later, he appeared before the court, this time in an orange jumpsuit and handcuffs- apparently it was a violation of his probation to plead that way. I have no idea what this person was guilty of- perhaps this was all a terrible misunderstanding, perhaps he deserved to be in jail. Whether he was innocent or guilty, he did not understand the implications of his actions.

Human justice is capricious, fickle. We depend on the ability of our attorney and the opposing counsel. Even if we hope for blind justice, we are hostage to the biases of the judge. I recently read an article about how different the outcomes are for very similar cases depending whether they go to trial or plea bargain. Think about how many death penalty cases are overturned on appeal, or go to the end with lingering doubt. But what about God, he is the True Judge? Even if God knows, do we know how God decides?

I think we all assume that certain sins are more serious than others, certain mitzvot count more than others. Our tradition is full of attempts to show the relative merits of various good deeds or the harm of various offences. There is a famous statement in the Jerusalem Talmud that one who jumps the gun and eats Matzoh on the eve of Passover is like one who seduces his betrothed on the eve of the wedding. To which one wag responded, “you know, I’ve tried both, and there is really no comparison.” But the truth is, we don’t always know the implications of our acts. In Pirkei Avot, 2:1, Rabbi Judah the Prince warns- be as careful with a light Mitzvah as with a serious one, for you do not know the payback of each commandment.

We don’t know the effect that a relatively minor act will have on our later life. We don’t anticipate its impact for better or for worse. For Guthrie, it was a trivial act of littering that, if you think about it, kept him out of the war, and led to a lifetime of Thanksgiving airplay.

A kind word, a small gift, may reverberate with goodness paid forward far beyond. There’s a story that has been told many times, set in different periods- the pogroms, or the Holocaust. It’s the story of a rabbi, who every day would greet a small peasant boy. Years later, the days were dark- Jews were being rounded up in the streets. A grown and muscular man, in uniform, weapon in hand, confronts the rabbi and his small group. Suddenly, there is a moment of recognition. It is that young boy, grown up, and he remembers those words of greeting, that moment of kindness, and waves the group on “I never saw you, you can go.”

Conversely, a harsh word, a small blunder, may be the straw that breaks the camel’s back. We all have heard the story of Moses not entering the Promised Land because he hit the rock instead of speaking to it, after everything he did for the Jewish people. Our sages struggled with this story. The tradition is rich with reasons and explanations for why maybe he was already “on probation” for other offences. Maybe the standards are much higher for those who are a greater spiritual plane. We just don’t know.

What I do know, is that you have before you a Kol Nidrei booklet. There are some pages with amounts that you might choose to give, from the modest to the grandiose. There are pages with no numbers at all, but rather deeds upon which one cannot set a price. As I continue with my sermon, think about- which of these, whether they seem big, or even modest to you, will make a difference for someone else- help a toddler, a child, a teen, an adult, a senior grasp the joys of Judaism. Will help a guest feel welcomed in our congregation. Will help a family suffering illness or loss. Maybe the commitment you make tonight might someday come back and help you and your own family.

I can’t promise you that what you do in this book will make a difference in terms of how you are written in **the** book, the book of life, your verdict for the coming year. But it can make all the difference in someone else’s.

Whatever you do, however you plead, at some point, the verdict comes through. How do you feel when the verdict comes down? Well, I suppose that depends on whether you are the victim, the plaintiff, or the defendant. If you are the victim, you are hoping for strict justice. If you are the defendant, you are hoping usually, for mercy. Look at the cases in the past week of two people accused and convicted of murder, both proclaiming their innocence to the end. Troy Davis, accused of murdering a police officer in Savannah, was executed, with some loudly trumpeting his innocence, as he did until his last breath, and others feeling a grim satisfaction that justice had been done. Amanda Knox, a young woman from Seattle, was convicted in an Italian court of killing her roommate. This week, she went free, with tears of relief, telling the world she just wanted to get her life back, while the community in which she was accused, and the family of the victim, was roiled with rage. I don't know if either of them "did it." I do know that in a world of imperfect answers, human justice is elusive, and so we have two choices, stricture or mercy. It's not as easy a choice as you think.

What do we really want from the divine judge? You would think we want mercy, at least for ourselves. But that's not always true. Take Jonah, about whom we will read tomorrow afternoon. Jonah is told to go to the city of Nineveh, to tell the people to repent. He refuses, and flees by boat to Tarshish (that's Hebrew for Canada- he was the first draft dodger). You can almost imagine him singing "you can get anything you want." A storm comes up to shake the boat. The sailors and passengers cast lots, and realizes that he is to blame. This time, when his number comes up, he takes his lumps without protest, and in fact insists that he must be thrown overboard. The sailors do so, and he sinks down in the sea, down into the belly of the great fish. He's content with his punishment. He did the wrong, took his lumps. Jonah wants justice.

Then when he comes to the city of Nineveh, he relays God's message, and he experiences something remarkable, something that never happens in the history of prophecy. The people of Nineveh **listen** and repent. Unfortunately, Jonah is what we call a sore winner. He reminds me of the rabbi's daughter who is punished that she will not be able to go to the shul picnic. When she is told that the punishment has been waived, and she can go after all, she starts to cry. The rabbi asks "why are you crying? You are not being punished! "I already prayed for rain!"

Jonah does not like that the people of Ninveh have repented, and God has responded. He complains "Is this not what I said when I was still in my own country? That is why I fled, for I know that you are *"el chanun v'rachum erech apayim v'rav chesed v'nichem al ha ra'ah."* You are a God who is kind and merciful, long forbearing and full of compassion, who turns back from bad. The biblical commentator Nechama Leibowitz, notes that this is almost a direct quote from a verse in Exodus, where God is described as *"el rachum v'chanun erech apayim v'rav chesed v'emet."* God merciful and kind, long forbearing and full of compassion and truth. Jonah changes the words of the passage from Exodus.

Exodus speaks of a God of truth, and justice. Jonah calls God one who changes His mind from evil. Jonah says- you're not a God of Justice, you are a God who changes your mind, and I don't like it. Once the judgment is set down, it should not be subject to appeal.

God then shows him; he lets a plant grow to shelter Jonah, then has it die, as if to say "Jonah, don't you realize, I gave you the plant even though you did nothing to deserve it. Don't spurn my gift of kindness." Sometimes God wants to give us something even if we don't deserve it. God says "even if you are in the wrong, I want you to be right." Jonah has to come to appreciate this- he has to experience God giving him something he doesn't deserve, so that perhaps he can tolerate God doing so for others.

We are imperfect, we are doomed to sin, but God knows that. God knows that sometimes the truth of our sin needs to be overlooked. God would rather that we do the right thing than be punished. In the Unetaneh tokef prayer we recite tomorrow, we say lo tachpotz b'mot hamet, ki im b'shuvo midarko v'chaya. God doesn't want us to die in sin, he wants us to live in repentance. God wants us to turn back.

And in order to do that God needs to cheat just a little bit. Unetaneh Tokef says of the divine throne "V'teshev alav b'emet" – you sit on it with truth, truth which is unyielding. It also says "v'tichon bechesed kisecha" God may be sitting on that chair in truth and justice, but its base is chesed- kindness. Chesed is the kind of kindness that transcends our legal entitlements. We have a Chesed committee in our synagogue. When we send a meal to someone who has suffered a loss, they have no legal right to it. It's not charity- they could well afford to order in their own dinner. It's a kindness that goes beyond law. God's chair is an immovable chair of truth. But He cleverly put casters of kindness underneath, so it has just enough give to give us what we need even if it's not what we deserve.

If God's justice were based on truth, there would be no need for Yom Kippur. It would be the world of Jonah- you do your wrong, and you take your lumps. There's no room for negotiation, no value to repentance. But God is also a God of mercy. God wants us to enter a plea. God wants us to turn, God wants us to ask. The scales of heavenly justice can be tipped in our favor. One of my favorite Hassidic stories is of two men going into Yom Kippur services. One is trembling in fear, the other singing and dancing. One asks the other "why are you trembling?" He responds "How can I not be terrified? I'm going before the Awesome Judge, who sees all and knows all. How can I avoid punishment? Why are you singing and dancing?" The other responded "I'm going before the same Judge, but I am hopeful, because I know that He is also my Father."

I've giving this sermon now for twenty five minutes. I could talk for another twenty five minutes. I'm not proud... or tired.

Imagine all of the people in today's sermon, standing before the Judge, singing this song. Jonah singing "You can get anything you want." Moses joins in "at Alice's Restaurant (if it's kosher)." I'm not going to ask you to sing the chorus with me, let alone with feeling. On Yom Kippur, we have our own version of Alice's Restaurant, that song that we sing before God to tell him that we want a different verdict. So Moses and Jonah don't sing "Alice" but they sing, as we sing again and again "Adonai Adonai" the thirteen attributes of God, those words sung by Moses, and modified by Jonah, reminding ourselves that God is willing to tilt the scales from justice to mercy."

And so I ask that you consider this closing thought:

We are gathered tonight on the Day of Judgment, in the season of judgment. We have had the last 9 days to plead our case and present evidence before the divine judge- all is entered into the divine record. Yom Kippur is, if you will, our closing statement. We know what we've done. We know that we have done much right in the world; we have done some wrong as well. Maybe we have jaywalked across the road of life, running ahead when we should have taken pause. Maybe we have littered our lives with petty infractions. Maybe there are darker deeds that lurk, deeds of betrayal, so that the words of the Ashamnu, the confessional, burn our souls as we recite them. And now we stand before God's judgment.

On this Yom Kippur, perhaps we feel we can argue the case on its merits. Perhaps we feel that the rights outweigh the wrongs, and maybe they do. Maybe we think we've done the math and we could stand before God even if He implements strict justice, but how do we really know. How do we know which of the seeds of our deeds will bear heavy fruit, will become a movement! We yearn to taste the taste of freedom; we yearn to hear the words "you are free to go."

I'm not sure how God would react if you stood before him and sang "you can get anything you want." Try "Adonai Adonai" it might go better. I do know that God wants us to sing. I do know that God wants us to ask. Not because He enjoys begging, but because he wants to give us better than perhaps we deserve. God wants, even as he sits on his chair of justice, to offer us kindness and mercy. God wants us to "take a pass." Take it tonight. Take it now- the refrain of the selichot will come around 8 more times this holiday, but then it may not come around again until next year.