Dvar Torah Shabbat Parshat BeShalach 5768 Ron Krebs

This is a very special parsha to me.

It is Shabbat Shira. And while I won't pull a Marshall and sing my lovely wife's praises so effusively that everyone in the room blushes, I have to make at least her—the woman who inspires me to song—blush a bit. (And, as you can see—yes, everyone turn around—it does not take very much to make her blush.) And since I don't want to be met after shul with divorce papers, I'll stop here.

This is also a special parsha because, just after Am Yisrael has departed Mitzrayim, Shira is herself tomorrow retracing their steps and returning to Egypt—the anti-Exodus, if you will. Not because she liked the "fleshpots"—one of my all-time favorite words—she remembers from days of yore, but because she is hoping to learn from the Egyptians how to most effectively exploit manual labor and thereby allow us to have the cheapest possible goods at Target. (As an aside, when she first heard that Shira was going to be visiting Egypt, Dahlia started crying, because she was sure that Par'o was going to imprison Shira and put her to work as soon as she stepped off the plane.)

I want to talk today less about the parsha than about this entire series of parshiyot that constitutes Yetziat Mitzrayim, the Exodus. The eminent political theorist Michael Walzer published a brilliant book some twenty years ago, Exodus and Revolution. And in this book, which Walzer has himself called his favorite, or so I've been told, (he's published many classics, including what is undoubtedly the best known book on ethics and the use of force, Just and Unjust Wars), Walzer takes as his point of departure the ways in which the story of the Exodus has inspired countless political movements over the centuries—especially revolutionaries. Their variety is dazzling. In the 1640s Oliver Cromwell invoked the Exodus to warn against the return to "bondage under the regal power." The Exodus figured heavily in the symbolism and rhetoric of the American Revolution: in 1776 Benjamin Franklin proposed that the Great Seal of the United States show Moshe with his rod lifted and the Egyptians drowning in the Sea of Reeds, while Thomas Jefferson countered with the image of the column of Israelites marching through the wilderness accompanied by the pillars of cloud and fire. 150 years later, Lincoln Steffens gave a detailed account of Israel's political struggles in the midbar to defend Leninist politics: Moses in Red, it was called. The Exodus was the foundational text for liberation theologists of Latin America in the 1970s. It inspired the Boers in South Africa early in the 20th century, much as it would inspire the African National Congress in the late 20th century. And of course it inspired the Zionists as well, to the point that, in a Zahal military parade of the early 1950s, Zahal was cast in the familiar role of God during the Exodus. One could go on and on. As Walzer puts it, "So common is the Exodus reference in the political history of the West (or, at least, of protest and radical aspiration in the West) that I began to notice when it was missing"—such as the French Revolution.

Walzer then goes on to develop, with impressive nuance and insight, the story of the Exodus as a paradigm for, and a lens onto, revolutionary politics. As a Jew who identifies, in my less

contrarian moments, with orthodoxy and halakhic observance, however, I was struck, in reading Walzer, by the limits of the revolutionary impulse for the traditional Jew—by the contrast between Yetziat Mitzrayim and Ma'amad Har Sinai, between, and I cannot help but observe how similar the words sound but how far apart are their meanings and implications, revolution and revelation. For revolution challenges authority, while revelation at Sinai is crucial to the establishment of authority. The revolutionary spirit is one of challenge in the service of change, while the halakhic spirit draws upon revelation to foster acceptance and obedience.

The other side of Yetziat Mitzrayim, of the liberation from human bondage, is Avodat Hashem, bondage to God. The very same Hebrew word—la'avod, avodah—means both service and slavery. When Moshe, speaking for God, tells Par'o, shlach et ami va'ya'avduni—let my people go and they will worship (or serve) Me—it might also be read as: relinquish your slaves, so they might be mine. Exodus is not just a story of freedom in the negative sense, of freedom from (slavery, oppression), but it is also at the same time a story of the reconstitution of authority. Indeed, that is precisely what revelation is all about: establishing the clear ground rules for a social, religious, and (I would also say political) order. The very instructions regarding Am Yisrael's behavior during the days preceding revelation—regarding who may and may not go up on the mountain and how far up the mountain, who may and may not touch each other and how—work to establish a hierarchy based on Divine guidance. Moreover, the story of the Exodus is invoked in the Torah not to inspire revolt against oppression, but to ground God's authority. Who am I? God repeatedly asks rhetorically. I am He who took you out of Egypt, who liberated you.

But the Exodus is not really about liberation. It is about replacing fleeting human authority with stable divine authority. In fact, it is the spirit of the Exodus that, it seems to me, informs the clear ambivalence that our tradition feels toward the institution of the king. Rabbi Jonathan Sacks has often suggested that the message of the Exodus is about covenant—freedom with obligations (republicanism)—rather than the culture of rights that pervades modern liberalism. But the question that Sacks does not address seems to me crucial: where do those obligations come from? Do they derive from consent or coercion?

Certainly there are aspects of the Exodus narrative and our traditions that suggest that the covenant was freely entered into and that obligations derive only from consent:¹

- midrash that the Torah was offered to all other nations before Israel à God's will can be refused, and was; Israel accepted the entire Torah and thus it became binding (Sifre Devarim 343)
- na'aseh v'nishma; Ex. 19:8

As Bernard Levinson has observed, "The divine revelation takes the form of a direct address to the people in which God proclaims his will as the law that constitutes the terms of the covenantal relationship between nation and deity. The form is the content: the direct address to the people requires a human response to the divine initiative."

¹ Many, but not all, of the Judaic sources referenced can be found in Michael Walzer et al., eds., *The Jewish Political Tradition*, *Vol. 1: Authority* (Yale UP, 2003).

But there are also traditions that suggest that the covenant was coerced and that there are sources for obligation beyond consent.

- har k'gigit à midrash, Mesechet Shabbat, explicating Ex 19:17 à mountain held over Am Yisrael like an overturned tub.
- Sifre Bamidbar 115: "Why is the Exodus mentioned in connection with each and every mitzvah? A parable: What is this like? Like a king whose friend's son was taken captive. When he redeemed him, he did not redeem him as a freeman but as a slave, so that if the king issues decrees and the son resists, the king can say to the son: "You are my slave!" à hardly a covenant freely entered into.
- And of course Israel is not free to leave the covenant at any time in the future à hence the tochecha, the long lists of what will happen to Am Yisrael if it fails to observe the mitzvot. A covenant freely entered into is presumably a covenant freely exited—but of course this one is not.

The purpose of the Exodus was not to free a people from bondage, so that they could freely choose to render themselves subservient to God—or not. The purpose of the Exodus was to show the world God's power and God's justice, in fulfilling the terms of his promise to Avraham, but it is not a story of freedom. Contrary to Jonathan Sacks' reading, meant to hearten liberals everywhere.

Thomas Jefferson famously noted that a revolution every 20 years or so was a healthy thing for a political order. (Jefferson was a very unusual revolutionary, as most have sought to overthrow the existing order to replace it with an equally permanent order of their own.) Nothing would seem to be more foreign to the rabbinic/Torah-observant Jew. We modern Orthodox types often like to note that the halakhic spirit is pluralist—elu va'elu divrei elokim hayyim (these and these are the words of the living God), goes the famous line from the story of Tannur d'Achnai in Bava Metzia—and it is. But only during the stage of disputation. Once the rav of whom we have asked psak gives his answer, or once the rov, the majority, has reached its decision, halakha is authoritarian—as Rav Aharon Lichtenstein nicely puts it. In the moment of decision, pluralism evaporates, replaced by binding authority.

Yet this oversimplifies matters. In what little time remains, I want to suggest, too briefly and therefore unsatisfactorily, that we can—as modern orthodox/halakhic/torah-observant Jews—be inspired by the revolutionary implications of Yetziat Mitzrayim, in our religious as well as our secular lives.

First, disobeying the law is, for the orthodox Jew, not an option. But challenging settled understandings of the law, pointing out its internal contradictions, identifying space for an alternative interpretation with radically different implications for halakha l'maase—not, Heaven forbid, that one would actually advocate anyone practicing in that fashion or that one would paskin as such—all this makes possible change. A particular decision is made at a particular time for a particular context, and that decision is then binding—but only for that moment, not for all eternity. The gates of ijtihad, of interpretation, are in Judaism never closed. Halakha is authoritarian IN the MOMENT, but not in the larger sweep. It is in fact precisely for that reason, it appears, that the Talmud records de'ot yehidot, singular opinions. Mesechet Eduyot tells us that they are preserved so that, when a future court is so inclined, halakha can be radically

revised—WITHIN the tradition, not in opposition to it (at least as long as the new majority is wiser or larger than the previous one). That in fact is the mark of a well-designed sociopolitical system, one that bends, but does not break. One that accommodates and facilitates change, and therefore does not require violent revolution to effect change.

Second, there are also sources in our multivocal tradition to which we can point that suggest that halakhic dissent is to be valorized—even after the rov has ruled. More than that, halakhic dissent—not just teaching, but actually behaving contrary to the majority and to a designated authority—may be morally obligatory. There is a striking Mishna in Horayot (1:1) that suggests that if a court ruled a particular way, and one of its members "or a student worthy of ruling" (talmid v'hu ra'ui l'hora'a) followed its ruling but knew better (i.e. knew the court had ruled contrary to the proper halakha), then that individual cannot rely on the court's collective korban chatat, but must instead bring an individual korban chatat – as would anyone who committed an inadvertent sin (b'shogeg). The Gemara's comment on this mishna (BT Horayot 2b) is that the individual's sin was not in the wrong behavior, but in mistakenly assuming that "it is a mitzvah to adhere to the words of the hakhamim." What a striking comment: if one knows better, one is not obligated to follow an improper ruling. And who knows better? The Gemara includes both those who are "knowledgeable but not capable of analysis" and those who are "capable of analysis but not knowledgeable." And the Rosh further suggests that "anyone whose opinion differs from that of the court is dependent upon his own mind" and is therefore liable for a korban chatat.

How different from the well-known story of Rabban Gamliel compelling Rabbi Yehoshua to go about his business on the day that the latter had ascertained to be Yom Kippur. How different from Mesechet Sanhedrin's treatment of the rebellious elder (zaken mamre).

The Talmud Yerushalmi (Horayot 45d) expands: "the case is one who is knowledgeable about the whole Torah and that particular matter but who errs in thinking the Torah said: 'Follow them, follow them.'/// But if he errs in thinking that the Torah said, 'Follow them, follow them,' he is not a Shimon ben Azzai! /// This is addressed by the baraita: Can it be the case that if the court say to you that right is left and left is right, you should obey them? The Torah therefore teaches us 'to the right or to the left' (Dev. 17:11)—that they say to you, right is right and left is left." Only if the rabbis get it right, do we have to listen to them. Astounding. What a challenge to rabbinic authority. Mind you, the Sifre (quoted by Rashi) and the Ramban both read that pasuk very differently: as the Sifre puts it, "Even if they tell you that right is left and left right, obey them."

The law is never settled, at least not permanently. And incorrect or unjust laws should be resisted. Our tradition, in other words, has an anti-authoritarian streak—one that seems to have much in common with the revolutionary spirit of Yetziat Mitzrayim. The great irony is that that revolutionary spirit, at least in principle, has been most easily maintained in galut. For much of Jewish history, these disputes about the status of halakhic minorities and majorities and the rules binding them have been purely theoretical. Mesechet Sanhedrin's rigid insistence on holding the halakhic line is at odds with the experience of life in galut. The silver lining of galut is that the absence of formal hierarchy has meant that neither theological nor halakhic orthodoxy has been truly enforceable. Pluralism has been sustained in Judaism by the relative absence of coercive

power attached to religious authorities. In fact, what we see in Israel today—when, for example, the rabbanut won't automatically accept conversions performed by RCA rabbis—illustrates precisely what is wrong when power and religion are wedded to each other. The secret of Judaism's survival has lain in Jews' limited capacity to oppress each other, in their powerlessness to enforce authority. Put differently, and most provocatively—and with this I will finally close—it may be that we can best preserve the revolutionary spirit of Yetziat Mitzrayim, a spirit embedded in those aspects of our tradition that emphasize halakhic indeterminacy, only by remaining in galut, in our own Mitzrayim, where religious and political authority are kept radically distinct.