

# COVENANT AND CONVERSATION

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CHIEF RABBI

THOUGHTS ON THE WEEKLY PARSHA FROM THE CHIEF RABBI

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כב שבט תש"ע



יתרו  
Yitro

## Justice or Peace?

**A mediator has different gifts from a prophet, a liberator, a lawgiver – more modest perhaps, but sometimes no less necessary.**

The sedra of Yitro, which contains the account of the greatest Divine revelation in history, at Mount Sinai, begins on a note that is human, all too human. Yitro, priest of Midian, has come to see how his son-in-law Moses and the people he leads are faring. It begins by telling us what Yitro *heard* (the details of the exodus and its attendant miracles). It goes on to describe what Yitro *saw*, and this gave him cause for concern.

He saw Moses leading the people alone. The result was bad for Moses and bad for the people. This is what Yitro said:

Moses' father-in-law said, "What you are doing is not good. You and these people who come to you will wear yourselves out. The work is too heavy for you; you cannot handle it alone. Listen now to me and I will give you advice, and may G-d be with you. You must be the people's representative before G-d and bring their disputes to him. Teach them the decrees and laws, and show them the way to live and the duties they are to perform. But select capable men from all the people—men who fear G-d, trustworthy men who hate dishonest gain—and appoint them as officials over thousands, hundreds, fifties and tens. Have them serve as judges for the people at all times, but have them bring every difficult case to you; the simple cases they can decide themselves. That will make your load lighter, because they will share it with you. If you do this and G-d so commands, you will be able to stand the strain, and so too all these people will reach their place in peace."  
(Exodus 18: 17-23)

Moses must learn to delegate and share the burden of leadership. Interestingly, the sentence "What you are doing is not good (*lo tov*)" is one of only two places in the Torah where the phrase "not good" occurs. The other (Genesis 2: 18) is "It is not good for man to be alone." *We cannot lead alone; we cannot live alone.* That is one of the axioms of biblical anthropology. The Hebrew word for life, *chayyim*, is in the plural as if to signify that life is essentially shared. Dean Inge once defined religion as "what an individual does with his own solitude". That is not a Jewish thought.

**Judaism is not so much a faith transacted in the privacy of the believer's soul.**

**It is a social faith. It is about networks of relationship.**

**It is about families, communities, and ultimately a nation, in which each of us, great or small, has a role to play.**

However, it was the great nineteenth century scholar Netziv (R. Naftali Zvi Yehudah Berlin) who made an unexpected, even counter-intuitive observation on this passage. He begins by raising the following question. It is easy to understand how Yitro's advice helped Moses. The work was too much. He was becoming exhausted. He needed help. What is less easy to understand is his final comment: if, with G-d's permission, you delegate, "so too all these people will reach their place in peace". The people were not exhausted; Moses was. How then would they gain by a system of delegation? Their case would still be heard - but not by Moses. How was this to their advantage? (*Harchev Davar* to Exodus 18: 23).

Netziv begins by quoting the Talmud, Sanhedrin 6a. The passage is about what the sages called *bitzua*, or what later become known as *pesharah*, compromise. This is a decision on the part of a judge in a civil case to seek a solution based on equity rather than strict application of the law. It is not wholly unlike mediation, in which the parties agree to a resolution that they both consider fair, regardless of whether or not it is based on statute or precedent. From a different perspective, it is a mode of conflict resolution in which both sides gain, rather than the pure administration of justice, in which one side wins, the other loses. The Talmud wants to know: is this good or bad? To be adopted or avoided? This is part of the debate:

Rabbi Eliezer, son of R. Jose the Galilean, said: it is forbidden to mediate . . . Instead, let the law pierce the mountain [a saying similar to: "Let the chips fall where they may"]. And so Moses' motto was: Let the law pierce the mountain. Aaron, however, loved peace and pursued peace and made peace between people . . . R. Judah ben Korcha said: it is good to mediate, for it is written (Zechariah 8: 16), "Execute the judgment of truth and peace in your gates." Surely were there is strict justice, there is no peace, and were there is peace, there is no strict justice! What then is the justice that coexists with peace? We must say: mediation.

The law follows R. Judah ben Korcha. It is permissible, even preferable, to mediate - with one proviso, that the judge does not yet know who is right and who is wrong. It is precisely this uncertainty at the early stages of a hearing that allows an equitable resolution to be favoured over a strictly legal one. If the judge has already reached a clear verdict, it would be a suppression of justice on his part to favour a compromise solution.

Ingeniously applying this principle to the Israelites in Moses' day, Netziv points out that - as the Talmud says - Moses preferred strict justice to peace. He was not a man to compromise or mediate. In addition, as the greatest of the prophets, he knew almost instantly which of the parties before him was innocent and which guilty; who had right on his side and who did not. It was therefore impossible for him to mediate, since this is only permitted before the judge has reached a verdict, which in Moses' case was almost immediately.

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לגמר  
ולא אתה  
בן חורין  
להבטל  
ממנה

**There was something ordinary individuals (heads of thousands, hundreds, tens) could achieve that even Moses in all his glory could not achieve.**

**That is why a nation is greater than any individual, and why each of has something to give.**

Hence Netziv's astonishing conclusion. By delegating the judicial function downward, Moses would bring ordinary people - with no special prophetic or legal gifts - into the seats of judgment. Precisely because they lacked Moses' intuitive knowledge of law and justice, they were able to propose equitable solutions, and an equitable solution is one in which both sides feel they have been heard; both gain; both believe the result is fair. That, as the Talmud says above, is the only kind of justice that at the same time creates peace. That is why the delegation of judgment would not only help *Moses* avoid total exhaustion; it would also help "all these people" to "reach their place in peace."

What a profound idea this is. Moses was the *Ish ha-Elokim* (Psalm 90: 1), the supreme man of G-d. Yet there was, Netziv implies, one thing he could not do, which others - less great in every other respect - *could* achieve. They could bring peace between contending parties. They could create non-violent, non-coercive forms of conflict resolution. Not knowing the law with the depth that Moses did, not having his intuitive sense of truth, they had instead to exercise patience. They had to listen to both sides. They had to arrive at an equitable verdict that both parties could see as fair. A mediator has different gifts from a prophet, a liberator, a law-giver - more modest perhaps, but sometimes no less necessary.

It is not that one character type is to be preferred to another. No one - certainly not Netziv - regarded Moses as anything less than the greatest leader and prophet Israel has ever had. It is, rather, that no one individual can embody all the virtues necessary to sustain a people. A priest is not a prophet (though a few, like Samuel and Ezekiel were both). A king needs different virtues than a saint. A military leader is not (though in later life he can become) a man of peace.

What emerges at the end of the train of thought Netziv sets in motion is the deep significance of the idea that we can neither live nor lead alone. Judaism is not so much a faith transacted in the privacy of the believer's soul. It is a social faith. It is about networks of relationship. It is about families, communities, and ultimately a nation, in which each of us, great or small, has a role to play. "Despise no one and disdain nothing", said Ben Azzai (Avot 4: 3), "for there is no one who does not have his hour, and nothing that does not have its place." There was something ordinary individuals (heads of thousands, hundreds, tens) could achieve that even Moses in all his glory could not achieve. That is why a nation is greater than any individual, and why each of has something to give.

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## Faith in G-d after the Holocaust may be hard; but faith in humanity is harder still

Thought For The Day - BBC Radio4 – 27 January 2010

**In the ghetto, he brought together a group of academics, teachers, journalists, religious leaders, artists and the young to gather testimonies from people in the ghetto, so that the world would one day know what happened.**

some remote spot far from public gaze. It was near the centre of one of Europe's capital cities. There 100,000 Jews died of starvation and disease. 270,000 were taken in cattle trucks to Treblinka and other camps to be gassed, burned and turned to ash. Eventually in April 1943 the Nazis gave the order that everyone left should be killed and it was there that the ghetto inhabitants mounted an extraordinary act of resistance, keeping the German army at bay for five weeks until they were overcome.

But by then a quite different act of resistance had taken place, and it's this we're going to remember this year. It was the brainchild of a Jewish historian, Emanuel Ringelblum, who realised that the Nazis were unlike any previous group bent on conquest. All others had preserved a record of their victories for posterity. But the Germans were intent on obliterating or falsifying every trace of their mass exterminations, of Roma, Sinti, homosexuals, the mentally and physically disabled, and the Jews. Ringelblum understood that they were preparing a systematic denial of the Holocaust at the very time it was taking place.

So, in the ghetto, he brought together a group of academics, teachers, journalists, religious leaders, artists and the young to gather testimonies from people in the ghetto, so that the world would one day know what happened. Unbelievably they gathered 35,000 documents, stories, letters, poems and records. They hid them in tin boxes and milk churns where they lay for years until the handful of survivors led the way to their location.

What an astonishing act of faith: that evil would ultimately be defeated, that the documents would be found and not destroyed, and that truth would win out in the end. Faith in G-d after the Holocaust may be hard; but faith in humanity is harder still, knowing the evil people to do one another, and the hate that lies dormant but never dead in the human heart.

Ringelblum and his friends had faith in humanity, and they left us a legacy of hope preserved intact in the very heart of darkness. In our still tense and troubled age, may we be worthy of that faith, that hope.

Today is National Holocaust Memorial Day, and this year the focus will be on one small group of people in the Warsaw ghetto and the astonishing task they took on themselves for the sake of future generations.

The Warsaw ghetto into which hundreds of thousands of Jews were herded was not

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