

Civil and Uncivil Behavior

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The question this morning is not whether a religious Israeli soldier should disobey an order to evacuate an army base or settlement. Neither is it the incendiary matter of whether Israel, in pursuit of lasting peace with the Arabs, should withdraw from the territories. It is rather whether, all politics aside, Israeli civilians, of whatever conviction, are morally entitled to engage in civil disobedience, by taking over hilltops without license, blatantly disobeying and diverting the army and police, blocking highways and roads, resisting arrest, and the like—all in open opposition to the policies of a democratically elected Jewish government, that was empowered by the people of Israel in free and fair elections. How are we to react, as a case in point, to the statement of Foreign Minister Shimon Peres, who this week said of such disobedience that “there is a real effort to undermine the democratic regime in Israel. We will not let a minority, in the name of preventing a rift in the people, rupture the thing that unites the people—namely democracy. This anarchic behavior is a genuine disaster for the nation.” Indeed it is a good question that Minister Peres implies, namely: what right does a small, vocal, vociferous minority have, to stand against, and attempt to block, the policies of the government of the land that, rightly or wrongly is acting in pursuit of national peace and security? Is there not the decided danger of anarchy and civil war, of brother against brother, and the breakdown of civil order? As the Talmud might put it, *dina de’ malkhuta dina*, is not the law of the land the law to be obeyed? Do we not, as the Mishnah tells us, “pray for the strengthening of central authority, lest each man take the law in his hands, and swallow his neighbor alive?” It is these questions that Israelis, in uniform and out, in Jerusalem and Tel Aviv, are asking themselves with renewed urgency this Shabbas, given the dislocations and demonstrations of this past week, and their traumatic reflection in the mass media of that troubled body-politic. And as they, on both sides of the Green Line of 1967, debate, search their consciences, and exercise their minds, for moral guidance, it surely behoves us to do no less, it being our dilemma too.

Let us begin, not in Jerusalem, but in Paris, where less than a month ago the newly elected President, Jacques Chirac, publically recognized France’s responsibility for departing thousands of Jews to Nazi death camps during the war. Rather than blame the collaborationist Vichy government alone, like all his predecessors had done till now, Chirac stated that when on July 16th 1942 French police helped for the first time to round up some 13,000 Jewish men, women and children, then turned them over to the Germans, “France, the homeland of the Enlightenment, and of the rights of man, on that day committed the irreparable. Breaking its word, it handed those who were under its protection over to their executioners. We owe the victims an everlasting debt.” Now it is significant that Chirac should hold the entire people of France responsible for the actions of a minority government. One could argue, *n’est pas*, that Marshal Petain’s Vichy was never elected by the people, but appointed by the Germans. Why

then hold the people responsible? The answer, it seems to me, is clear: the will of the people is not merely expressed by its action when it votes at the polls. It is also expressed by its inaction in the light of subsequent policies carried out by the government in the name of the people. When French policemen rounded up Jews for deportation, and there was no uprising on the part of the broad masses of Frenchmen, no public disavowal of its policies, the French people per se thereby gave its tacit approval. Effectively it was not Vichy that collaborated, but France. Unlike, let us say, the broad-based disobedience of the brave Danes, who successfully stood in the way of such cooperation with the Germans and effectively saved the Jews in Denmark, the Frenchmen who failed to engage in civil disobedience against the regime, were morally coopted into an unholy alliance of complicity. Hence the shame, not of Vichy, but of France itself. As Chirac put it so well, “the criminal folly of the occupiers was seconded by the French, by the French state.”

Now I know full well that there is much that separates wartime France from peacetime Judean hills. The Jews of Beit El and Hebron are not, God forbid, being shipped to their death, and we are in the present instance talking of a Jewish government in a Jewish land whose highest priority is the protection of Jewish lives. That premise I do not doubt for a moment, even as I would never say or imply, as some hotheads and zealots do, that the Prime Minister or his advisors are traitors or motivated primarily to seek their own glory. Such misguided sentiments are beneath contempt. Yet and still, there is a congruence between the two situations in the matter of civil disobedience: a government acts in the name of all its citizens, who together bear responsibility for its actions. And when a citizen comes to the conclusion that the government, even if it be elected by a democratic majority, is acting in a manner that is morally reprehensible, or endangers the lives and well being of the people, then that citizen, acting in good conscience, and fully prepared to pay the price of such disobedience, is entitled, nay obliged, to peaceably oppose and disobey that government. As Martin Luther King put it, “an individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for the law.”

But what then of the argument that such civil disobedience, if practiced on a large scale, could lead to anarchy and the breakdown of public law and order? The answer of our tradition has always been that the rule of law in any society depends on two laws that a Jew must obey: the law of the land, and the law of God as expressed in the Torah, both written and oral. And when there is a conflict between them, especially when it is a Jewish government, it is the law of God that takes precedence, and that in the long run more effectively guarantees the peace, and wholeness, of the people and the land. Again and again throughout our long history, the validity of this principle was demonstrated, starting with the very first king of Israel Saul, whose order to kill the priests whom he suspected of harboring David, was resisted by his Abner and the other, servants with the exception of Doeg the Edomite. And it continued to David himself, whose order to kill the rebel Sheva ben Bichri was resisted by Amasa, and then later King Solomon who bitterly criticized Yoav for obeying David when he should not have. The truth is that the slogan of “law and order” was never sacrosanct in Jewish history; too often has the Jewish experience of rulers of flesh and blood, Jewish or otherwise, engendered a healthy skepticism of either motive or result. And it was precisely the readiness of the Jew to sacrifice his own personal interests, including if need be, his life, in the face of a government deemed in error, that established the principle of civil disobedience, as the badge of honor of the Jew whose ultimate fealty, in the

face of wrong or evil, was to God alone.

Now it is precisely this point that is writ large in the talmudic adumbration of this parshah's familiar obligation to love God with all one's heart and soul. The words are of course mother's milk to every Jew: be'khol levavecha u've'chol nafshekha. But what precisely are the parameters of this positive commandment? There is a remarkable passage in the talmud, Pesahim 53b, in the name of the scholar Todos of Rome:

Why did Hananiah, Mishael, and Azariah jump into the fire of Nevuchadnezzar as an act of martyrdom al kiddush Hashem? Because they reasoned thus: Moses told Pharaoh that the frogs of the second plague would come into and fill his house and his ovens filled with food.

Apparently, the frogs jumped into hot ovens, in the service of God! If frogs are so self-sacrificial, even though they not be commanded, how much more so we, who are!

Rabbi Yehiel Weinberg explains that the disobedience of these three martyrs was entirely unnecessary. They were not being asked to bow down to a idol, but merely to pay obeisance to the rule of the king as absolute ruler over all. Had they asked a shaileh of their rebbe, they would indeed have been permitted by Jewish law and Torah to bow and prostrate themselves before the "flag," so to speak. But they went one step further: in the very depths of their hearts they dispensed with the skeletal law of the "required and permitted," and out of love for God and a passionate commitment to His supreme authority, with the precedent of the Egyptian frogs, they sacrificed themselves in the greater cause of the service of God. And for that they acquired eternal life. From these three, therefore, came forth the resounding message of civil disobedience: rather than accede to the caprice and the will of a government that rejected the moral law, theirs was a faith in the moral superiority of divine law that elevated them to the heights of self sacrifice. Of course, that such an interpretation came out of Rome itself, in the person of Todos who lived under the law of Rome that considered Caesar and his successors to be Gods themselves, was all the more instructive. Such is the reach of Torah morality: absolute defiance in the face of evil, and sublime selflessness when confronted with tyranny.