



To Whom Must We Answer? Civil Disobedience and Jewish Law

Parashat Sh'mot, Exodus 1:15-20 | By Mark Greenspan

“Civic Morality” by Rabbi Vernon Kurtz” (pp. 439) in *The Observant Life*

Civil Obedience and Civil Disobedience as Jewish Values

The prophet Jeremiah instructed his contemporaries in the diaspora: “Build houses and live in them; plant gardens and eat their fruit; take wives and beget children...seek the welfare of the city to which I have exiled you and pray to the Lord in its behalf; for in its prosperity you shall prosper” (Jeremiah 29:4-7). For the better part of Jewish history the Jewish people have lived as ‘sojourners’ in the lands of others. Taking Jeremiah’s words seriously Jews struggled with what it means to be good citizens and how to balance their values with the ethos of the land in which they lived. Living in exile was not a choice but a divine decree; as was the commandment to pray for the welfare of the government. In America we have experienced unprecedented freedoms and opportunities. We have come to view ourselves not as outsiders but as full participants in the destiny of America. And yet one might also argue that the same was true for Jews in pre-war Germany and in Spain before the Inquisition. What attitudes can we develop from Jewish tradition about civic morality?

What happens when there are conflicts between Jewish values and American law? What should Jews do when the government under which they live acts in an unethical fashion? Are we American or Jewish first and what does this mean for our allegiance to our country? The question of civil disobedience is as ancient as the Bible and as contemporary as the modern state of Israel.

The very first people to engage in civil disobedience were Shiphrah and Puah, the midwives who defied Pharaoh’s decree and refused to kill the Israelite babies.

The Torah Connection

The king of Egypt spoke to the Hebrew midwives, one of whom was named Shiphrah and the other Puah, saying, “When you deliver the Hebrew women, look at the birthstool: if it’s a boy, kill him; if it’s a girl, let her live.” Fearing God, the midwives did not do as the king of Egypt had told them; they let the boys live. So the king summoned the midwives and said to them, “Why have you done this thing, letting the boys live?” The midwives said to Pharaoh, “Because the Hebrew women are not like the Egyptian women: they are vigorous. Before the midwife can come to them, they have given birth.” And God dealt well with the midwives; and the people multiplied and increased greatly...

- Exodus 1:15-20

Hebrew midwives: *The Hebrew may be read as “Hebrew midwives,” meaning that these two women are Israelites; or it may be, “midwives of the Hebrews,” in which case one cannot know whether or not they themselves are Israelites. “Hebrew midwives” is more likely because the Israelites are never referred to as “the Hebrews” by the narrator in the Torah. It is a term used in quotation when speaking to foreigners (Genesis 40:15; Exodus 5:3) or as an adjective in the fixed phrase “Hebrew slave.” Here, too, it may be such an adjectival usage. This is supported by the fact that these names are much more likely to be Semitic than Egyptian, implying that the midwives were Israelites.*

- Richard Elliot Friedman, Commentary on the Torah.

Yocheved was called Shiphrah because she would attend to the baby when it was born covered in the after birth. Miriam was called Puah because she would squirt (nofa’at) a bit of wine into the mouth after it was born.

Another explanation: Yocheved was called Shiphrah because through her the people of Israel increased (sh'paru) and were fertile. Miriam was called Puah because she lifted (hophiah) up Israel to God. Yocheved was called Shiphrah because her deeds were beautiful (sh'ipbra) before God. Miriam was called Puah because she defied (hophiah) Pharaoh, all but thumbing her nose at him, saying, "Woe to this man when God comes to settle with him." Pharaoh, filled with rage, was about to have her put to death. But Yocheved, who was called Shiphrah because she used to smooth over (meshapperet) her daughter's impudence, conciliated Pharaoh by saying, "Need you pay attention to her? She is only a child and doesn't know a thing."

- Sh'mot Rabbah 1:13

If we look back at the history of biblical Israel, there are two very important strands from which we need to learn and with which we need to wrestle. One is the strand of constant willingness to challenge and disobey arrogant power, whether it's located in Pharaoh or in a Jewish king. The other is the strand of willingness to use violence--sometimes hyper-violence--to advance the Jewish vision of a decent society.

Let us first take up the strand of resistance to unaccountable power. The story of Shiphrah and Puah--the midwives who refused to obey Pharaoh's order to murder Hebrew boy babies--is perhaps the first tale of nonviolent civil disobedience in world literature. The process of liberation in the Exodus itself is woven with violence in the form of disastrous ecological upheavals and ultimately the death of Egypt's firstborn. But the imposition of these plagues is ascribed to God and thus placed one giant step away from Israelite behavior. Indeed, the Israelites are specifically forbidden to leave their homes on the night when the firstborn die. The most active deed of the Israelites themselves is described as a nonviolent one: visiting the Egyptian homes to demand reparations--gold and jewels that will repay them for many years of slavery.

- Rabbi Arthur O. Waskow, excerpted from "The Sword and the Plowshare as Tools of Tikkun Olam."

Rav, Rabbi Hanina, Rabbi Johanan, and Rabbi Habiba taught:

Whoever can protest to his household [for committing a sin] but does not, is seized for [the sins of] his household. If he could protest to his fellow citizens, he is seized for the sins of his fellow citizens; if the whole world, he is seized for the sins of the whole world. Rav Papa observed, the members of the Resh Galuta's household are seized for the whole world. Even as Rabbi Hanina said, "Why is it written, 'The Lord will enter into judgment with the elders of his people, and the princes thereof' (Isaiah 52:14) If the princes sinned, how did the elders sin? But say, [He will bring punishment] upon the elders because they did not forbid the princes.

- BT Shabbat 54b

The Resh Galuta, "head of the exile," refers to the leaders of the Diaspora Jewish community in Babylon following the first fall of Jerusalem in 597 BCE. The people in exile were called golah or galut.

While it is clear that Jewish law and tradition have a positive attitude towards protest and civil disobedience, it is equally clear that such activities must be non-violent in nature. This is because one Jew is not allowed to strike or injure another Jew. When Moses sees one Jew striking another in Egypt (Exodus 1:13), he says "Rasha, why do you hit your fellow!" and the Midrash comments: "Rabbi Yitzhak said: from this you learn that whoever hits his fellowman is called a wicked."

- Ginzey Schechter, Vol. I, p. 114.

Similarly, Maimonides ruled that whoever hits his fellow Jew transgresses a negative commandment. In conclusion, while I believe that disengagement is perfectly permissible according to Jewish law and tradition, I also believe that Jewish law and tradition permit non-violent protest and civil disobedience, provided that those who engage in these

actions are willing to face the consequences of their actions. May both sides on this divisive issue have the wisdom to treat each other with respect and to maintain the unity of the Jewish people without demanding uniformity?

- David Golinkin, 'The Jewish Attitude Toward Non-violent Protest and Civil Disobedience. [[Full article](#)]

Reflections

The first question with which we must ask when exploring the story of Shiphrah and Puah is who exactly were these women? *Miyaldot Ivriot* can be translated as either Hebrew midwives or as midwives of the Hebrews in which case they would have been two non-Israelite women who served the Israelite community among others.

Professor Friedman argues that the word *Ivriot* is an adjective and not a noun; it describes the ethnic background of the woman rather than the community they served. But I think a strong argument could be made that these were non-Israelites. After all, why would Pharaoh trust two Israelite women to kill the Israelite boys? When he speaks to the midwives he speaks of the Israelites as outsiders: “When you deliver the Hebrew women...” (Exodus1:16). The fact that they feared God does not necessarily mean that they were believers in the God of the Hebrews but they felt they were bound by a set of transcendent moral values. The midwives refuse to obey the temporal power because they answer to a higher authority.

If Shiphrah and Puah were simply protecting their community then their act is not one of civil disobedience but self-protection and self-interest. They didn't need a higher set of values to convince them to save the Hebrew baby boys. If on the other hand they were Egyptian women then they had to have a more transcendent sense of right and wrong to convince them to defy their king who was also one of their gods. That is why the Torah tells us that the midwives “feared God.” Arthur Waskow argues that the midwives were the first case of non-violent civil disobedience. He differentiates between the plagues which are an attack on an immoral society and the midwives who defy the laws but do not do violence to the Egyptian hierarchy. By attributing the plagues to God and not to human initiative the Torah suggests that non-violence is the proper stance when it comes to civil disobedience.

Finally, we find other examples of civil disobedience in rabbinic literature, The rabbis were not afraid to protest the actions of their superiors even when they held punitive authority as in the case of the Reish Galuta, the Exilarch in Babylonia. In fact the Talmud suggests that when we withhold criticism of society we bear the burden of responsibility of failing to repair and to critique governmental leaders. Our responsibility depends on our own standing in society beginning with our family, our town, our state, and our national government. David Golinkin makes a strong argument for both public protest and civil disobedience based not on the issue or the political position but on conscience.

Halakhah L'ma-aseh

1. *Samuel, a native of Babylonia who returned... became instrumental in building a center of Jewish learning in Babylonia, and it was he who formulated the much-cited principle of dina d'malkhuta dina, the law of any country is to be considered legally binding on the Jewish residents of that country.*
- *The Observant Life*, pp. 440-41
2. *What ought one to do when one finds oneself in opposition to a policy of the ruling authorities on religious grounds? Are there times when the priorities of religious tradition are more important than the concept of dina d'malkhuta dina?*
- *The Observant Life*, p. 448
3. *There is a long history of Jews standing up to the ruling powers. From Moses to Jeremiah to Isaiah to the Maccabees, Jews have stood up to the ruling authorities- whether those authorities have been their own people or of other nations.*
- *The Observant Life*, p. 449

4. *While Jewish law believes that the value of human life is all important, it dictates that people must choose to defy the authorities, even at the cost of their own lives, rather than obey a law or decree that would otherwise require them to commit murder, to engage in immoral sexual relations, or to worship idols.*
- *The Observant Life*, p. 449
5. *Jewish law is clear that morality and justice are the standards by which civil law and human actions should be measured.*
- *The Observant Life*, p. 449
6. *Judaism considers the welfare of the community to be an important value for each individual. Thus being a citizen of a country entails obligations, responsibilities, and adherence to the laws of law. When these laws are in opposition to Halakhab, rabbinic authorities must decide which law to follow.*
- *The Observant Life*, p. 450

Questions to Ponder

1. What does the Torah mean when it says that the midwives “feared God?” How do we understand that expression today?
2. If the midwives were defying Pharaoh’s genocidal policies why did they lie to him and claim that the Israelite women were vigorous and gave birth before they could arrive and kill the Israelite boys?
3. Can you imagine American law and Jewish law being in opposition to one another? In what situations might this arise?
4. Who decides what the Jewish moral stand should be on any given issue. Since Jews and rabbis rarely agree with one another, who decides what moral standards should be for the Jewish community?
5. How might the discussion of the issue of civil disobedience be different for us as American Jews than it would be for Jews living in the modern state of Israel?

Adapted from Torah Table Talk by Mark Greenspan