

Brown v. Board of Education:

Reflections at Jubilee on Our Journey Toward the Promised Land

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I

May 17, 1954 was a defining moment in the history of this country. In one of its most significant rulings, the United States Supreme Court, in the case of Brown v. Board of Education, declared segregated educational institutions unconstitutional. In a sweeping, unanimous decision, the Court essentially overruled Plessy v. Ferguson's "separate but equal" doctrine, claiming that separate is unequal, and that segregated institutions therefore violate the Equal Protection Clause of the Fourteenth Amendment.

The unanimous decision was only reached due to the sudden death of former Chief Justice Vinson, whom President Eisenhower replaced with then governor of California, Earl Warren, shortly before the case was to be reargued—a rapid series of changes that Justice Frankfurter later described as being conducted by the hand of God. Through the calculated efforts of Chief Justice Warren, the passionate advocacy of Thurgood Marshall, and tireless years of support by the NAACP, somehow the court reached its stunning verdict.

This week we marked the Jubilee anniversary of this seminal ruling. And in our season of counting to fifty, in our *omer* count—*tisperu hamishim yom* (Vayikra 23:16), and in last week's *sedra* describing the fifty year *yovel* cycle (Vayikra 25:8-13), we add this to our list of prominent fifties we are mindful of this year.

Fifty years is a significant amount of time. The Torah teaches us that fifty years is an *olam* (see, e.g., Shemot 21:6), enough time to build a world. So, in looking back at the half century that has passed, the "world" that has emerged needs to be assessed and appreciated.

In recent books, essays, articles and op-eds a host of legal thinkers, African American scholars, sociologists, activists and politicians reflected on this milestone. Surveying their writings, one detects a range of reactions, probing the current state of Civil Rights, considering how social change is achieved in as diverse a society as America, and debating the accomplishments of the Warren Court and its legacy of judicial activism, that is felt to this very day.

Yet, no matter what one's take is on these issues, I think the overriding sentiment of this country in looking back is immense pride at the overcoming of prejudice. Americans

celebrate this event as a true embodiment of the jubilee spirit-- “proclaiming liberty unto the land and all its inhabitants” (Vayikra 25:10). In this sense, both Bush and Kerry’s celebration this past week transcended mere politics; for this is a shining moment in America’s history...

...and, accordingly, for American Jews as well. In fact, particularly as Jews, as a minority that has been disenfranchised, and often oppressed in other countries in the past, there is added poignancy in hailing the pursuit of rights and equality for all American citizens.

For this reason alone I am grateful for the opportunity to draw attention to this milestone from this pulpit.

II

I also would like to use this opportunity, however, to reflect on some of the lessons we can learn from Brown and its afterlife regarding *prejudice* that have relevance to us collectively, if not individually.

Prejudice is the ugly reality that men and women have biases—sometimes explicit, usually subtle and implicit, but often pervasive, and deeply rooted.

I vividly recall several disturbing, sometimes even shocking, moments in the past twenty years--in schools and yeshivot growing up (importantly, not in Ramaz)--where a teacher, a rebbe or a neighbor would slander or essentially dismiss another human being because of their skin color.

In recalling these moments, what perplexes me most is the identities of the people who made these various bigoted statements. They are essentially good people—sometimes even people whom I admire and respect in all sorts of ways—and yet they spoke in a manner that was offensive, harmful, essentially ludicrous, and ultimately beneath them.

Why, then, are they prejudiced?

I do not think that prejudices usually reflect deep individual failings. I think that they usually are just so deeply ingrained in a person’s outlook—depending on when they were raised; where; how they were taught; and what their life experiences are.

I am not talking so much about people who had very painful interactions with another ethnicity or nation at a formative stage in their life. How can one be surprised if a child

growing up in Israel today becomes deeply jaded in his attitude towards Arabs? In such cases the bias is sad, sometimes even perverse, but understandable.

I am talking about people who grow up inheriting attitudes from the world around them that are totally groundless in their own experience. How many people who are prejudiced against minorities have really been burnt by their interactions with them? And if the answer is that they have, has this really eclipsed the number of negative experiences they have had with Caucasians, or with Jews for that matter?! And what about the countless positive interactions that should easily offset these biases?

No. Prejudices are rarely rational. They are assumed; they are asserted; they are reinforced; they are tolerated. Herein lies the problem.

I once was in a room with several people, when a middle-aged man vocally made some racial slurs, and nobody said a thing. Afterwards, I discussed this issue with another person that was present. He said—“what is the point in reacting? are we going to change how a sixty-year-old looks at the world?” Probably not. But we can change how his or her family, students, and friends think about the world. How *we* see the world.

If we could muffle our prejudices; let them wither away in the deep recesses of our frustrated psyches; allow them to age and become archaic—we would then realize how incoherent they really are.

Let me say further. The biases are deeper than we often realize. They are not limited to explicit remarks, and egregious cases.

Sometimes, we tell ourselves that we are enlightened in this regard. We take pride in our openness, and our tolerance. We have progressed. The earlier generations wore the blinders of narrowness that we have removed. But here I think the reality often is more disappointing than we want to realize. If Justice John Marshal Harlan could claim that the United States Constitution is color blind, then the society we live in is unconstitutional! And I think that the insular world of Orthodox Jewry, even in its modern variety, has to be additionally careful in this regard.

I recall an uncomfortable moment of my own experience. A few years ago, I went to an HMO and was assigned a random doctor. When a doctor who was a member of a minority walked into the room, he sensed my hesitation and defensively bragged about his credentials. I was embarrassed, and also surprised at myself. I grew up in an open-minded home, and went to progressive schools, so why the momentary discomfort? I think it largely stemmed from the reality that basically every doctor I had been to throughout my

life had been a Jew. I do not think that there is anything wrong in carefully choosing a doctor that one knows, or with whom one shares a common background. But my hesitation was disproportionate to the reality that this doctor had a different background than my own. This factual difference had somehow been translated by my psyche into a reflex, perceiving this doctor as a foreigner whom I did not trust.

Yes, prejudices are deeply rooted. And they may be more present than we want to admit. They stem from our upbringing, our insularity, our need to project frustrations and disappointments on others, or our need to gain standing at the expense of others. They require willingness on our part to even be aware of them, let alone to really confront them, and to consciously attempt to repair them.

III

I want to now move to a second, more specific, manifestation of prejudice that haunts the Jewish community in a more constant manner. I speak now of a different kind of prejudice—an internal one within the Jewish community. For sadly prejudices are pervasive within our own people, too. This is particularly tragic, since it is the opposite of our defining fraternal duty of viewing one another as family, worthy not just of our care and charity, but also our respect and love. In the shadow of *Lag Baomer*, and in contemplating the sin of Rabbi Akiva's students (see Yevamot 62b), it is worth briefly reflecting on this theme as well.

What are these internal prejudices? They are particularly pronounced in Israeli society between Ashkenazim and Sephardim, Haredim and Hilonim, descendants of Europeans, Russians, and Ethiopians. However, we need not look overseas to find manifestations of this disease. There are pervasive, if subtle, expressions of this phenomenon in our very midst.

I refer to the alienation of those that do not fit in “the mold.” In schools, this can mean immigrant children, or those from different socio-economic backgrounds. In shuls, this can mean how we relate to converts, baalei teshuva or single parents. In our social groups, this can mean how we interact with people who are different from us—those who are single and thirty or forty, or whose career paths are unusual, or are battling depression. In dating this can mean our attitudes toward divorcees, or even the children of divorcees. And the list goes on.

Let me share two anecdotes.

In his recent autobiography, Arthur Hertzberg describes the source of his passion for civil rights—an episode involving his father, Rabbi Hertzberg (senior), which he later shared with Dr. Martin Luther King, Jr. Rabbi Hertzberg had been a rabbi in Baltimore, then a completely segregated city, in the 1930s. One Friday night a black man wearing a yarmulke came to shul. He introduced himself to Rabbi Hertzberg and explained that he had undergone conversion under the guidance of a very respected Toronto rabbi. When Rabbi Hertzberg attempted to allow the convert to lead *kabbalat Shabbat*, his congregants objected, even blocking the path to the bimah. After a dramatic showdown with his community, Rabbi Hertzberg marched out of the synagogue with his arm around the convert—never to return again!

The story is dramatic, as I have said, and displays singular courage of the sort that Dr. King must have admired. However, elements of this story live on in congregations to this very day. Whom do we accept in our shuls, in our homes, in our friendships, and whom do we welcome? And is this a limited, cordial acceptance, or a sincere and embracing one? No, we would not obstruct the path to the bimah—but would we pave one?

Another more prosaic, but in a sense more troubling anecdote, relates to a female friend of mine. She has described to me the difficulty she has had in dating due to the fact that her parents are divorced. Now I realize that finding a compatible mate is a challenging task that has to be done with care. I also realize that one's family life can have an impact on a relationship. But life is so much more subtle and complex than that! This woman has so many positive attributes and the fact that this stigma constitutes an almost automatic disqualification for her in some circles is hard to believe; and yet it is a reality that she has had to live with. And we only know too well that the challenges faced by divorcees in their own social lives can be even more difficult.

Maybe prejudice is too strong a term for this phenomenon. But it has to do with a side of us that is judgmental, at times arrogant, closed-minded, and even insecure—of our own standing, or how we are perceived by others. As a result we stigmatize those that are markedly different from us, and distance those that are more quietly atypical.

Sadly, despite the unmistakable emphasis in Judaism on the welfare of the vulnerable—the orphan, the widow, and the stranger (see, e.g., Shemot 22:20-23, Vayikra 19:34, and Devarim 26:13)—the entrenched insider often protects the welfare of those with more similar backgrounds.

IV

How do we go about curing some of these ills—of eliminating our prejudices towards others, and de-stigmatizing those that are different from us?

By our education; our language; our actions; and our experiences.

Namely, by properly educating our children; by being more careful in our use of language; by taking actions that proactively reform our habits; and by broadening our experiences.

Let me just expand a little on the last of these.

Ultimately, our distrust of others often stems from our lack of interaction with others. We do not know others from the inside, so instead we appraise or judge them from the outside.

The Rambam tells us that it is better to repeatedly give one dollar to a needy person a thousand times over, than to give that person one thousand dollars in one lump sum (see his commentary on Avot 3:15). I think part of the impetus for this teaching is that if you need to stare at the naked face of the beggar one thousand times, that cannot but shape how you interrelate with him or her.

A challenging documentary that I saw this year called “Hiding and Seeking” traces the experiences of several Jews from sheltered haredi communities who have their first genuine encounter with gentiles in their entire life, and considers the impact this has on their outlook towards non-Jews.

Most of us have frequent encounters with non-Jews, but our experiences are narrow in other senses—we know our families, our friends, and our co-workers. And that is about it. Accordingly, encounters outside of the ordinary course of our lives can be eye opening.

This past week, for example, was an unusually busy one for me—I spent an afternoon with Ohel children in Brooklyn, visited a patient at Memorial hospital here in Manhattan and taught some Reform Jews in Princeton, New Jersey. In each one of these encounters I spent time with people in a different setting from my own routine, and in a different station in life, and it opened me to some worlds outside of my own.

Indeed, Hazal teach us that sometimes it is precisely at such moments, when we are exposed to the bare, human predicament of another person, that we can be drawn in rather than swept away. In a moving passage in the Midrash Ruth Rabbah, the Rabbis describe Ruth’s stirring dedication to Naomi (“...but Ruth cleaved to her (Naomi)...” Ruth 1:14)

precisely at an hour when she sensed the latter's weaknesses. Commenting on Ruth's spirited plea to Naomi "Entreat me not to leave you..." (Ruth 1:16), the Midrash explains:

What is the meaning of 'Entreat me not?' Ruth said to Naomi, 'Do not sin against me; *Do not turn your misfortunes away from me*' (my emphasis).

Meaning, vulnerabilities and misfortunes can be isolating and alienating for the one that suffers; often causing such a person to hide from others. But Ruth begs Naomi to instead allow her to share in her plight. Ruth has witnessed Naomi's pain as an insider, and now she feels more closely bound to her than ever before.

So, experiences can help reduce our prejudices, and heighten our sensitivities. But even without such encounters, a sense of humility fueled from an awareness of our limited experiences can also help. *Al tadin et havercha ad she-tagia lemokomo* (Avot 2:4). Do not judge your friend, and certainly one who you have not yet befriended, since you do not know his or her world from the inside.

We have to work on embracing, accepting and tolerating, rather than judging, labeling and stigmatizing.

A talmudic maxim adds a penetrating insight that accentuates the steep price of the alternative option of allowing attitudes of supremacy to reign. The Talmud warns that *kol hakoneh eved ivri ke-koneh adon le-azmo* (Kiddushin 20a), one who acquires a slave actually acquires a master for himself. The deeper sense of this teaching seems to be that a world of hierarchies—where some people view others as inferior—creates an inimical dynamic that ultimately undermines the capacity of anyone to genuinely respect anyone else. Beware: subjugating other people leads to your own subjugation. Only if we foster equal relationships with others, built on trust and respect, will we be treated in a like manner.

V

We must reform our prejudices if we are to thrive as dignified, human beings. Thankfully, we have ways to combat prejudices, and Brown and its afterlife are proof of their efficacy. Yet, Brown also contains one other critical lesson about this process of reform; a lesson that intersects with our *parsha* as well.

In a recent article in the *New Yorker*, Cass Sunstein discusses the limited short-term consequences of the Brown decision. Amazingly, six years after the decision, out of the 1.4 million African-American children in five states in the deep-south, *none* attended

racially mixed schools, a far cry from Thurgood Marshall's prediction that school segregation would be entirely stamped out within five years. Justice Hugo Black was more realistic. He presciently predicted that "before the tree of liberalism could be renewed in the South a few candidates must water it with their blood." And of course the road was more bloody and painful than even he could have realized. Yet, fifty years later the progress in this domain, and related ones of equal importance, are considerable—at times even astounding. Bigots still exist, but thankfully they are a marginalized and ever dwindling minority. Subtle discrimination is still pervasive, but now Justice O'Connor can boldly, if optimistically, predict that in twenty-five years it too will have faded in important ways. We now live in fifty states that are united by an overwhelming majority that is dedicated to rooting out prejudices, and increasing the standard of equality for all of its citizens.

The lesson is clear—societies cannot change overnight. Despite campaigns, and battles; marches and legal verdicts; change requires time to be achieved. Yet, those who plant with tears will eventually reap with joy (Tehillim 126:5).

It is the lesson of Bamidbar. The Jewish people are given at Sinai the most idealistic body of law ever entrusted to humanity—and yet their ability to actualize it requires years, *many* years of marching through an often barren and lonely desert, until the lush provinces of the Promised Land are reached on the other side.

The process is a long one. It takes courage, initiative and patience. But when the path is taken, there are appreciable gains along the way. And after forty or fifty or sometimes more years, the destined goal—the Promised Land—can even be reached.

For us Modern Orthodox Jews, with our own particular challenges, we must be inspired by the resolute spirit of the activists in this country, and take the bold initiative to elevate our standards in our attitude toward, and relationship with, others. We must heed the calling of the Jubilee—to make our communities and our people banners of what it means to inhabit a world in which liberty and equality govern both within and without.

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On the fourth floor of the Ramaz Upper School, a prominent sketch of Dr. King is displayed, along with the following inspirational, even prophetic, words uttered by him on April 3, 1968, the day before he was assassinated:

We've got some difficult days ahead. But it doesn't matter with me now. Because I've been to the mountaintop. And I don't mind. Like anybody, I would like to

live a long life. Longevity has its place. But I'm not concerned about that now. I just want to do God's will. And He's allowed me to go up to the mountain. And I've looked over. And I've seen the promised land. I may not get there with you. But I want you to know tonight, that we, as a people, will get to the promised land.

No, he didn't make it all the way to the Promised Land. But he led the journey into the desert, and was willing to sacrifice his life for it. We are still walking in the desert, but thanks to the heroism of Dr. King and the thousands who joined his precious crusade we are closer to the Promised Land than ever before. And as we draw nearer, we ever more deeply aspire, as Jews, as Americans, and as human beings, to arrive in the Promised Land for good.