

**“How Many Deaths...”**  
**Kol Nidrei/Erev Yom Kippur 5774**  
**September 13, 2013**

The very imagery of the season speaks of weighty matters, which hang in the balance. “*B’rosh Hashanah yikateivun,*” we read... “On Rosh Hashanah it is written; on Yom Kippur it is sealed.” Decrees are written, but the ink is wet; it has not yet dried. The doors of destiny are closing, but are not yet locked. Decisions are being made, but there remains the chance of change. A minute to midnight. The world watches and waits.

Indecision is a part of our tradition. The story is attributed to the Talmud of the rabbi who adjudicates a complex case, in which two parties come forth with vastly different versions of what happened. The rabbi listens to the first person. Impressed by the logic and the evidence, he immediately announces “you are *right.*” But then he hears the next, equally convincing testimony, and says to the second person, “*you* are right.” His wife, listening, intervenes, and reminds him that the two are contradicting each other, so they can’t both be right! To which the rabbi replies: “you’re right, *too!*”

Faced with a lose-lose scenario, often the best move is to buy more time. Clearly we are attempting, now, to do just that. But eventually you run out of credit, and credibility. And the world is not static. Waiting for someone else to make a move or just praying that something will fall into place usually doesn’t work. Someone has to do *something.*

A Midrash: the Israelites march out of Egypt, but come to a sudden halt. Their route takes them straight... to the shores of the sea. There is no way forward. They leisurely wonder what to do... until a sound like thunder comes to their ears...but it is not thunder, and a glint like lightning flashes in the air, but it is not lightning. What they hear are the hooves of horses, what they see is the sun's reflection off the metal swords of an angry army. Water to the front of them, weapons to the rear. Death looms in every direction. And then one man, one barely sung hero of our tradition, Nachshon ben Aminadab, from the tribe of Judah, Nachshon gets up... and jumps into the sea! Only then did the waters part. Action, not waiting and wailing, hoping in vain for something to happen... redemption came from making a decision, and moving forward.

The world watches. The world waits. There is a price to action, yes, and it is chaotic and unpredictable. Any claim to control the outcome is futile, and doomed to fail; no one can know what the future will bring.

But there is a price to inaction as well. As we know from our personal lives, so, too, in the realm of nations: a conflict ducked or dodged today at any cost... sometimes only sews the seeds for a larger and more dangerous conflagration tomorrow. Indeed, many say, the mess we are in now could have been avoided -- lessened at least -- with a clear, strong and earlier stand. Easy to say -- impossible to prove.

It is true that there is a real cost to doing nothing now. We said we were watching but then just looked away; eyes wide shut beyond all bounds of decency, forced open now only by too obvious an act. Eleven times this happened already, or maybe fourteen, since the “red line” statement, but we did not want to see! Now we cannot avoid it; must not something be done?

The threshold of decency is obviously not about numbers; 110,000 deaths did not move us before this, only the method and manner of the latest thousand is something we say we must act to stop. And it can be said it is not even about the weapons: this happened in other places, and we drew no lines there. But here we are. We are finally paying attention. And turn away, or still delay... do nothing, and the victims have no one who will answer for them.

And, unpleasant as it is to admit: credibility counts. Israel watches, and if the word of the United States is worthless, if it says it will draw a line and fails to follow through, Israel will feel isolated and betrayed, will feel as if all the assurances it has been given are useless... and it will act on its own, and whether what it does to defend itself will flow from wisdom or fear is not clear.

What a mess! Women and children die and doctors watch helplessly and we who are continents away calibrate a response as if they are but moving pieces in a proxy game. This should be about the actual victims, the real-life, or really dead, souls of Syria. Too often, it seems, it is not. Strategic considerations and large picture questions on *our* minds... but global matters

and geopolitics mean nothing anymore, to those robbed of breath and choked to death in their own homes.

A thought, about tonight. About this ancient rite we hauntingly recite, but barely understand. Should an oath taken in vain years ago really determine what we have to do in the real world? Should our own words force our hand?

I am not sure, before now, that I ever really understood *Kol Nidrei*: “*Kol nidrei v’esarai v’charamei v’konamai, v’kinuyai, vkinusai ushavuot...* Let all our vows and oaths, all the promises we made and the obligations we incurred... be null and void should we, after honest effort, find ourselves unable to fulfill them.” Is it possible... is it plausible that our President needs *Kol Nidrei*, to get out of his own predicament? To release him from a heart-felt but hasty promise, he never could enforce, and cannot now keep? As the Israelis say, “*rainu et haseret hazeh*, we have seen this movie before.” The Cuban Missile Crisis, it seems, came about because of an off the cuff commitment made by President Kennedy, who then felt he could not back down.

I seem to recall, though, another promise, too, one which lifted this current President to the place he lives today. “No more foreign wars.” And the two promises, “red line” and “no more” stand in contrast, staring at each other. With chemicals carried in the air, he cannot now keep both. One must yield, to honor the other. One vow, or another, must be foresworn. *Kol Nidrei*, indeed.

And then there is Jonah. Jonah, whose tale we will hear tomorrow afternoon, Jonah, who fled, rather than bring word to the enemies of Israel words which might have saved them, spared them from their fate. He held back; saving them might mean they would one day harm us.

Yes, the Syrians are our enemies – on both sides. But I look at those pictures, I see the bloated corpses, children, so many, so young... and I don't care who they are. They need someone to speak for them. For too many of them... can no longer speak for themselves. So we... we must look past tribal loyalty and narrow calculations of self-interest, and remember that these are human beings. Sometimes basic decency demands that we must stand up and protect... even our enemies.

And Nineveh... that city to which Jonah was sent, poignantly, Nineveh was in... Assyria. In fact it might have been the part of Assyria that is modern-day Iraq, but the irony of the name... Centuries have come and gone, and still the same region simmers.

Enter now the raspy voice of my very own rabbi, as it were, at least someone whose sound speaks straight to my soul, his words echoing in the background, returning to me from long ago. You know these words as well.

“Yes n’ how many deaths will it take ‘til we know that...  
too many people have died.”

Too many people have died. On that we can all agree. What is less clear is what next, or the best way to make it stop. Will our entering the fray mean fewer will die in the long-run, or more? Can more death save lives? And how on earth can we tell?

**There are clear criteria for the use of force, our tradition teaches. The first is need. The second is degree. The third is process. And the fourth involves alternatives. Have we met these conditions?**

**Need.** In the Torah portion to be read tomorrow afternoon in Reform synagogues we find the following phrase from Leviticus: “*lo ta’amod al dam reyecha!* You must not stand idly by as your neighbor’s blood is being shed.” The Talmud, in Tractate Sanhedrin, explains and expands the precept: “How do we know that if a person sees people drowning, being mauled by beasts, or attacked by robbers, s/he is bound to save them? From the verse, ‘You shall not stand idly by the blood of your neighbor!’” (Sanhedrin 73a)

**Degree.** It is also Sanhedrin where we find the doctrine of “minimally necessary force.” One is allowed to act in self-defense, to save one’s own life and the lives of others. By the law of the *rodef*, the pursuer, if someone is coming after another to kill that person, you may use deadly force to stop them. But if it is possible to stop them short of death, with a blow to the leg and not the head, with an act that disables rather than destroys, if it is

possible, and you kill them instead, then you are yourself guilty of murder. By such a standard I suspect that “shock and awe” would be against Jewish law.

So we speak of a bounded action. But bound by what, and with what aims in mind? And don't we all know, or at least suspect, what will come next? We can stipulate all the limits we want, but we cannot – and never would – tie our own hands to react to a response – an issue to which I will return later.

**Process.** The political landscape: there is a distinction in Jewish law between a *milchemet mitzvah*, an obligatory war, basically, when one is attacked... and a *milchemet reshut*, a permissible or discretionary war, which might be waged for other reasons. In the case of a *milchemet mitzvah*, the king was allowed – was required, basically – to act on his own. In the case of a *milchemet reshut*, the king was required by Jewish law... to consult with the Sanhedrin.

These Jewish laws came to be a world away and envisioning a different form of government, and, besides, they also emerged almost entirely as a theoretical exercise. They were given written form at a time when we no longer held temporal or political power, and therefore these scenarios were basically the expression of an ideal, a statement of values. Still and all, that distinction about when to act alone and when to consult with a legislative body echoes our current debate about executive power, and its constitutional limits.

**Alternatives.** Maimonides, the Rambam, in *Hilchot Melachim u'Milchomoteim*, the Laws of Kings and Their Wars, is quite clear (*Melachim* 6:1): terms and conditions – an offer of peace, a way out of war – must be put forth before marching off, before engaging in armed conflict.

So, now, with the pressure on and the ticking of time, as every passing moment allows mass murderers to feel as if they have gotten away with their deed, with a window for action arguably having already closed, does the concept of a limited strike on Syria meet traditional Jewish criterion for the use of force? Actually, I believe that it did, and may yet still. The concept of minimal use of force must be observed but yes, on its own terms, this warrants a response, or at least, one can justify such intervention. And if a head of state, a commander-in-chief consults a legislature, then yet another condition is met. What to do and what it will mean if the legislature fails to support the request is another matter. (Although perhaps it says “consult,” not “consent.”)

And to propose alternatives to violence, to offer an “out?” Here, this past week, Secretary Kerry in a stray comment on Monday, and then President Obama on Tuesday night, outlined ways in which this could play out differently. And this seems to be the stage.... we are at right now.

What might we add, to where we are now? What are the conditions which might adequately and appropriately head off a pending use of force? And are they enough? A date certain, by which to surrender or verifiably destroy all chemical and biological weapons? An imposed cease-fire while this

happens? An additional arrangement for a comprehensive end-of-conflict conference? But all this would still leave those who spread the pellets of poison, those who are clearly and obviously guilty of crimes against humanity, totally untouched. A concrete plan to bring those who were responsible to justice? Unlikely, at best. But all this, the specifics of policy, the proper parameters, weighing whether the negotiations are serious and substantive or simply procrastination, all this is beyond my expertise. (Actually, this is Washington D.C. Some of you – many of you – may know far more about some of these fields than I do.)

But part of me, my head, at least, was glad for this last, best chance. An immediate response, a condition of hot pursuit might have been most effective, but since we are already so far past that, then my reading of our tradition, my interpretation indicates that a next step had to be taken, in some form. ‘

Can we trust the parties? Is this any progress at all? Will the Syrians, like Libya, agree and then hide a remaining stash, as was discovered only when the rebels took power in Tripoli? Can the Russians be relied upon in any way? Again, beyond my ken. Which path will get us closer, and more completely, towards the outcome we want?

And so we come to the question... of effectiveness, and with it, finally, one more, major issue. That is the question not of is it right, but will it work? The military response we contemplate might be just, but not effective – which

would raise an entirely different set of questions. In fact, there is a serious distinction to be made, in our analysis, between “intent” and “impact.”

**And if there is an eternal message this night, coming out of this crisis which twists and changes on a daily basis, if there is a stance that stays with us it is this: we speak of weighing our words and our deeds. But there are two sets, two standards by which the scales of justice work. Any act must be judged in both ways, by its inherent merit, and its likely outcome; by character and by consequence; by intent and impact.**

This difference is often at work in the way people view the conflict between Israel and the Palestinians. They look at the impact of attacks on Israel, compare that with Israel’s response, and the losses suffered by the Palestinians, and they vigorously condemn Israel – often in terms and language used about no other conflict on the planet. They judge Israel harshly by results on the ground, not by the inherent nature of the provocation. More damage was done by the reaction than by the action, and so they decry the defense and label it “disproportionate.”

This is...how do I put this diplomatically? This is a ludicrous argument. What, in an armed conflict, it is only fair if both sides suffer the same amount? By that standard no war would ever end! The doctrine of proportionality is a legitimate question to raise in armed conflict, and it is an occasionally appropriate concern to raise *vis a vis* Israel, and there have been errors in

these calculations, but it is not the same thing as basing your reaction on a comparison of how much damage each side bears.

In the case of a response to Syria, too, the question of proportionality will consist of the amount of force used for the specific purpose in mind, not ensuring a comparable amount of damage on both sides! Any moral evaluation must weigh what is meant by the message sent, not only the eventual outcome.

But the outcome is what we are actually after. A strike could accomplish none of its aims, in which case we will be worse off than we are now. More likely, perhaps, it could lead to a response which will require further action, and we are sucked into a whirlwind. It means nothing to say “no boots on the ground,” and at the same time hint at a massive and overwhelming response to a response. So much for limits then.

And what is the exact amount meant by “limited?” Which commanders will make that careful calibration, that precise decision? Do you have full faith in them? I am sure they will do a better job than could any untrained critic, and I retain my respect and admiration for those who devote their lives to service. Do I have confidence in our military? To be brave and serve well, to act with integrity as they see it, yes, I do. But, this? To get this exactly right? Those who serve, and those who command, are in my thoughts, and my heart, and my prayers.

And so we are back at the beginning, staring into the abyss of an uncertain future. No battle plan survives the first shot being fired. Please, at least tell me that we have learned the lesson of Iraq, and someone is asking what will happen afterwards?

No easy answers, and no more hiding the eyes as if it has not been.

In visions and nightmares, what have I seen? I have seen those in clean clothes, whose lips just keep moving. I have seen a night sky, all lit up with fire. I have seen an empty road, all covered with powder. I have seen another mother, who holds a still child.

Or, to borrow words that fit too well:

“I saw a black branch with blood that kept drippin'.  
I saw a room full of men with their hammers a-bleedin'  
I saw a white ladder all covered with water.  
I saw ten thousand talkers whose tongues were all broken.  
I saw guns and sharp swords in the hands of young children.”

And there, in the dusty towns and villages, the far off places we never noticed and suburbs we can just barely see, there, in a land filled with enemies of ours and of each other, where we wish we could still turn away and not care, there, a new silence reigns amidst the explosions. Death stalks young and old, innocent and guilty alike, while we wait, and we talk. A bitter taste is in the air. “The answer, my friend, is blowin’ in the wind. The answer is blowing in the wind.”