



MORALLY BOUND TO DISOBEY

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There is no law that requires tearing children from their parents, but if there were, we would be obligated to violate it. Our sacred texts and our history teach us that the duty to disobey an unjust law outweighs the duty to obey. Today-- in a time of moral emergency-- we are called to listen well to our conscience, which calls us to a far higher standard than a directive from any executive branch. Our government can persist in inhumane behavior only if good people remain silent.

"It is very Biblical to enforce the law," the press secretary said. "That is repeated a number of times throughout the Bible... The President is simply enforcing the law... It is a moral policy to follow and enforce the law."

This, we all heard this week, along with the quoting of Scripture, as the justification for the forced separation of children from their parents at the border.

To be clear, there is no law that requires tearing children from their parents. But even if there were such a law, we would be obligated to violate it. The very Bible quoted as justification for such cruelties cries out against hiding behind the law to justify vicious and inhumane practices.

Dr. King sat in a jail after a white circuit judge, threatened by the growing popularity of civil rights protests, issued a blanket injunction against protests and demonstrations of any kind. When they marched nevertheless, they were arrested and thrown into jail. In his Letter from a Birmingham Jail, Dr. King articulated the distinction between a just law—one that aligns with moral law—and an unjust law, one that is out of harmony with the moral law. This is a distinction we'd do well to remember in today's political climate. Dr. King reminded us that "everything Adolf Hitler did in Germany was 'legal' and everything the Hungarian freedom fighters did in Hungary was 'illegal.' It was 'illegal' to aid and comfort a Jew in Hitler's Germany." He warned that we have "not only a legal, but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws."

Dr. King's writing was rooted in the thinking of St. Thomas Aquinas, and aligns with the thinking of other well-known Protestant theologians like Dietrich Bonhoeffer, the Lutheran pastor living in Germany in the 1930s, who called us "not simply to bandage the wounds of victims beneath the wheels of injustice, we are to drive a spoke into the wheel itself." In other words, moral law demands not only that we disobey an unjust law, but that we break the back of a system that promotes injustice as law.

But how does this spirit of rebellion against unjust laws square with our Jewish tradition of commandedness and obedience to rules and laws? Our tradition, after all, dictates what to eat and how it must be prepared, what to say before we eat it and after. Halakha—a complex system of laws—guides every step for a traditional Jew.

“Because it’s the law, and that’s what the law states,” the press secretary stated.

Could we not hear the same echoing from the halls of our day schools and shuls and kosher kitchens?

And yet, our tradition teaches precisely the opposite. Look at the second chapter of the Book of Exodus, when the women rise up in unprecedented acts of heroism, one after the next, risking their lives to violate the unjust laws of Pharaoh. Shifra and Puah, the midwives, are first, refusing to abide the law demanding Israelite boys be murdered at birth. Yochevet, Moses’s mother, resists the law demanding that she drown her baby boy. Pharaoh’s daughter Batya—living in the king’s own palace—rejects the law that one must not give sanctuary to a Hebrew child, bringing Moshe into her home and heart as if he were her own. This is not rebellion for its own sake, but rebellion to serve a higher cause: Justice. Fairness. Love.

Make no mistake: the heroes of our Biblical narrative are not the ones who follow immoral laws, those who willfully violate them. Because as much as Judaism commands us to adhere to a strict legal system, our tradition insists that we simultaneously cultivate and honor our moral intuition. While there is, ideally, alignment between legality and morality, we are taught that when there is not, we do what is just and right.

Rabbi Harold Schulweis taught that God never intended for humankind to obey the commands mindlessly. It is a well-honed conscience that keeps us from ‘just following orders,’ when the orders are morally questionable. And yet, after generations of acquiescing to an all-encompassing and binding legal system, we have forgotten that we have the right to challenge. We have forgotten the ancient call to conscience.

Rabbi Schulweis, who knew all too well the dangers of a society blindly obedient warned that we not slavishly follow even the law of God. God forbid we should slavishly follow directives from a profoundly morally compromised executive branch.

Today we read the story of Korah, whose rebellion is met by the wrath of an angry and vengeful God. But the Midrash subtly and subversively fills in the gaps of the narrative by telling us that his protest was in fact a desperate cry against a legal system that strips the humanity from the most vulnerable in the camp. This is a failure in the system, that Korah exploits for his own political gain, but is, nevertheless, an unquestionably legitimate claim.

This much is clear: when the law is callous to the human experience, the law becomes the enemy.

Today, we live in time when, in name of the law, victims of domestic and gang violence can no longer have asylum claims heard. Under the guise of the law, children are viciously torn from their mother's arms—1,995 in the last 6 weeks alone—despite the physical, mental, and emotional harm we know they are suffering as result. In name of the law, children are locked in detention facilities, and the foremost representatives of the law of land say that such cruelties were a 'simple decision,' an important deterrent to others seeking refuge or asylum within our borders.

As Jews, we know well what it looks like for a government to criminalize the most vulnerable, for a regime to lie and obfuscate to justify grossly immoral practices under banner of "the law." We have seen powerful bodies manipulate holy scripture as a cover for human cruelty, and we have seen the normalization of what can never be made normal.

We recognize that we are living today in a State of Moral Emergency, and we must call it what it is. Our government can persist in this inhumane behavior *only if* good people remain silent.

And so we stand. Even as we reach the point of exhaustion from the daily savaging of our democratic norms and institutions. We know that a society is judged by its treatment of the most vulnerable. We remember that we too were strangers, so the suffering of the stranger is our business, our problem, and our responsibility. We stand with the immigrants, the refugees and asylum-seekers, with the children, and with their parents. We declare: Not here. Not now. Not in our name.

Rabbi Schulweis wrote, "[Obedience] reduces the human being into an instrument for another's wishes, whether in the name of God or the state or industry... [But it is a] culture of moral conscience [that] stiffens the spine and strengthens the heart and mind, framing the character of a healthy civilization."

Make no mistake: this is the fight of our lifetime. Today, once again, we are being called to rise up and drive a spoke into the wheel of injustice.