



**SERMON VA'EIRA:
THE PROSECUTOR v MOSES BEN-AMRAM**

Student Rabbi Gabriel Webber, Saturday 13 January 2018
The Wimbledon Synagogue

- 1 This is the judgment of the Court.¹
- 2 The crimes of which the defendant Moses stands accused were allegedly committed in the Nile Delta during the course of an uprising against Egypt by Israelite forced labourers. He is charged with three crimes against humanity.²

Part A: the defendant and his background

- 3 It is helpful, at this point in time, to make some observations on the extraordinary circumstances which form the backstory to the charges in this case.
- 4 The defendant Moses was born into the Israelite community but almost immediately adopted by the Egyptian royal family.
- 5 This adoption took place in the context of widespread crimes against humanity perpetrated by Egypt against the Israelites. These crimes included enslavement, and genocide by killing, and were committed by the Egyptians with the simple and acknowledged intention of destroying the Israelites.
- 6 When the defendant reached adulthood, he discovered his roots and left Egypt, becoming a leader of the Israelite resistance working to end Egypt's human rights violations against his people. This campaign of resistance came to a head with a series of seven major operations – referred to in Israelite



publications at the time as “the seven plagues” – several of which form the basis of the present charges.

- 7 Immediately prior to each of these seven operations, the defendant caused a message to be passed to the Egyptian Head of State offering to cancel the planned operation if the Israelites were released. Each such message was ignored, and indeed the enslavement of the Israelites was intensified and their conditions worsened.
- 8 While this Court takes the view that everybody is subject to the law, and that victims of one crime against humanity may not use that as an excuse to commit another of their own, it would be wrong not to take these circumstances into account in considering the evidence in this case.

Part B: the charge

- 9 The defendant stands accused of the crime of causing excessive incidental death, injury and damage. This crime is committed if the perpetrator launched an attack which they knew would cause incidental death or injury to civilians or widespread, long-term and severe damage to the natural environment, if such death, injury or damage was of such an extent as to be clearly excessive in relation to the strategic advantage anticipated.
- 10 Three specific counts are pleaded. Firstly, it is alleged that the defendant Moses filled an important civilian waterway with blood, disrupting the food chain and endangering public health. Secondly, it is alleged that the defendant unleashed a number of wild animals into an area populated by civilians, risking the lives of both humans and animals; that this predictably caused cross-contamination and the spread of disease to domestic animals, especially cattle, said disease eventually working its way into the human food chain and causing boils and other skin deformities. And thirdly, it is



alleged that (through means which are not entirely clear) the defendant manipulated a cloud system so as to cause an unseasonal and excessively damaging fall of hail.

- 11 In his defence, the defendant accepts that he filled the River Nile with blood, and that this killed a large amount of fish and other marine life and rendered the river water “temporarily” unpotable.³ However, he insists that this effect cannot have lasted for long, otherwise the Egyptian people would simply not have survived to encounter his subsequent activities.
- 12 Moses denies the precise charge of having unleashed wild animals on Egyptian civilians; instead, his testimony was that he released a combination of hornets and gnats,⁴ and while he accepts that insect bites “may” have led to some skin irritation and boils being suffered by the Egyptians,⁵ he says that what he calls his “stunt with the insects” cannot possibly have caused the widespread cattle disease⁶ for which he was blamed.
- 13 Finally, he argues that, supposing he did manipulate the weather so as to cause an unseasonal storm of hail – as to which he reserved his position pending expert evidence on whether that is even possible – this cannot be described as having caused excessive incidental damage as it did not interfere with Egyptian agriculture as a whole. Although the hail did destroy the nation’s flax and barley crops, crops of wheat and spelt had not yet ripened and were thus left undamaged. It is perfectly possible, Moses argues, to live happily on a diet consisting only of wheat and spelt products – even when unleavened.⁷
- 14 The Prosecutor disputes this and gives an example which he says illustrates the general trend of Moses’s actions: the filling of the Nile with blood. The defendant warned the Egyptian Head of State before carrying out this



operation, and that warning, the Prosecutor argues, demonstrates an intention on Moses's part to threaten the Egyptian people with starvation. Why else would the Pharaoh care about a river being turned to blood if it were not fear of his people's supply of drinking water being cut off?

- 15 In his defence, Moses deployed three arguments: firstly, that he never intended to actually carry out the operations in question but consistently lived in hope that the Egyptian Head of State would acquiesce to his demands, abandon the Egyptian brutalisation of the Israelites and free the defendant's people.
- 16 Secondly, that in carrying out the operations he was not concerned with the dietary consequences but was seeking to conduct a shock-and-awe campaign⁸ (he used the term "signs and wonders"⁹ but it amounts to the same thing), with large-scale displays of power intended to scare the Egyptians in a generic way rather than to starve them in a specific way. In other words, his intention was nothing to do with starvation.
- 17 And thirdly, he argues that his actions were morally justified, indeed positively mandated, as a means of bringing about an end to the Egyptians' crimes.

Part C: verdict

- 18 This case raises many issues of wide implication. In any situation where one group is oppressing a second group, that second group is inevitably – and, one may well argue, justifiably – going to fight back and seek to defend and liberate itself. In fighting back, the temptation to take extreme measures is great; partly because of the urgency of achieving their object, and partly because it is simply human nature to seek vengeance against one's oppressor. A huge range of genuine moral and legal dilemmas arise, on the



horns of one of which the defendant Moses found himself at the beginning of his campaign.

- 19 The Court finds that the campaign itself was justified, both in general (the Israelites were enslaved and this was a gross violation of their human rights which needed to be brought to an end) and in the particular case of Moses: having suddenly, at a relatively late stage in life, discovered that he was not, ethnically, an Egyptian, but was instead part of the people that they were oppressing, he had every right to adopt the identity of an Israelite and to join their cause with the well-known zeal of the convert.
- 20 However many doubts the Court has about the precise operations which formed the campaign – in particular, those operations which damaged the world’s precious environment, which should never be made a victim of any human conflict¹⁰ – we accept Moses’s testimony that they were carefully designed with precisely the opposite intention to that ascribed to them by the Prosecutor. He did not intend to ‘break’ the Egyptian state or to cause its people to die. Instead, he intended to prolong their lives in uncomfortable conditions so as to encourage all of them, from the Head of State down to the ordinary man in the street who owned Israelite slaves, to change their ways.
- 21 The Court finds, on balance, that, in purely legal terms, this was a legitimate and proportionate use of the tactics described, and the Court therefore acquits the defendant Moses of the charges.
- 22 However, he is cautioned that the seven operations which have formed the primary basis of his activities to date have no place in a civilised military campaign. And this acquittal should not be taken to indicate the Court’s approval of such tactics. Nevertheless, it remains a fact that the Israelites



continue to be victims themselves, enslaved by Egypt. The Court earnestly hopes that an urgent and non-violent conclusion to this unfortunate episode may be found, and that the Israelites will be allowed to leave Egypt before any further bloodshed takes place.

23 To that end, the Court will sit again after next week's parasha to review the situation. Court adjourned.

Check against delivery.

GW 13.01.18

¹ I was inspired to write this sermon by a bat mitzvah girl whose parsha is Bo, which falls next week. When we talked about plague number 8 (locusts), she wondered whether Moses didn't necessarily "handle it well", in part because the Israelites' conditions were only going to get worse if he brought in locusts that caused a lot of damage (who was going to have the task of fixing it?) and in part because it would have hurt ordinary Egyptians, living simple, land-dependent lives, but not Pharaoh who was the only person with the power to change things. So, feeling in war-crime-y mood following the conviction for crimes against humanity of Ratko Mladić on 22 November, I decided to put Moses on trial.

² The law under which this midrashic trial is taking place is loosely based on the Rome Statute of the International Criminal Court (2187 United Nations Treaty Series 90, adopted 17 July 1998), and in particular the Elements of Crimes schedule established pursuant to its 9th article: Assembly of States Parties to the Rome Statute of the International Criminal Court, "Elements of Crimes," September 2002, accessed 20 December 2017: <<https://www.icc-cpi.int/NR/rdonlyres/336923D8-A6AD-40EC-AD7B-45BF9DE73D56/0/ElementsOfCrimesEng.pdf>>

³ Exodus 7:21

⁴ The actual word ערב in Exodus 8:20 is unclear, and expert witnesses Rabbi Judah and Rabbi Nehemiah were sadly divided on the question: see Exodus Rabbah 11:3.

⁵ Exodus 9:10

⁶ Exodus 9:6

⁷ Exodus 12:20

⁸ Grosscup, Beau. *Strategic Terror: The Politics and Ethics of Aerial Bombardment* (London: Zed Books, 2006): 1.

⁹ Deuteronomy 6:22

¹⁰ Deuteronomy 20:19