



**SERMON VAYAKHEL-P'KUDEI:¹
FACING THE ABUSIVE COURT**

Student Rabbi Gabriel Kanter-Webber, Saturday 13 March 2021
York Liberal Jewish Community

- 1 'All my bags are packed, I'm ready to go...'²
- 2 The 19th-century commentator, the Netziv, paints³ a vivid picture of just what it was like when the Israelites were waiting for the cloud to rise from the tabernacle⁴ so that they could resume their journeys: "Even though they had already folded their clothes, and were ready to go, they would not travel on until the day the cloud went up. There were times when everything was ready, but the cloud did not rise for many days."
- 3 This sounds like a pretty miserable existence. Pointless, unexplained delays were bad enough back in the days when we were allowed to rise trains, but to have one's entire life at the whim of arbitrary interruptions and postponements... that must be awful.
- 4 The Israelites weren't the only ones left interminably hanging around in a camp. A couple of weeks ago, the Supreme Court gave judgment in the case of Shamima Begum,⁵ deciding that she should remain in the Al-Roj Internally Displaced Persons Camp in Syria – a "squalid" and "wretched" camp, no less⁶ – indefinitely, waiting for the clouds to lift, without any possibility of appeal, without any way to influence her plight. The Supreme Court decided, unanimously, that national security concerns (unexplained national security concerns, asserted but not elucidated by



the Home Secretary) should trump everything, including, in this case, the right to a fair trial.⁷

- 5 National security is an important value, of course it is – but so is not abandoning young British women to a life of degradation in dangerous Syrian detention camps.
- 6 However, at least we know the government’s stated reason for leaving Shamima Begum where she is. Why did the cloud keep the Israelites confined to camp day after day? No idea. The text doesn’t say. The commentaries don’t say.
- 7 One guess might be that it was about, basically, national security. The Tosefta, a 2nd-century rabbinic text, records:⁸ “The pillar of cloud went before them, killing snakes and scorpions and burning thorns and brambles.” Now, this is a description of what the cloud did on journeys, while the Israelites were moving. It doesn’t explain why there were times when the cloud kept everyone stationary. Maybe it was doing some even more intensive protective work, and needed the Israelites to wait. But that’s just a guess; we’d have to take it on trust, just like the Supreme Court took on trust that the national security obstacles to Shamima Begum’s return were genuinely severe and genuinely insurmountable.
- 8 The fact is, clouds do shelter and insulate. They are symbols of God’s protection, presence and love.⁹ And clouds also smother and blind. Similarly, the British state does save us from all sorts of things – terrorism, covid, cholera, fire – and it educates and nurtures and nourishes us, but that very same state also tortures, unlawfully imprisons, endangers refugees, violates human rights.



- 9 In David R Blumenthal's book *Facing the Abusing God*,¹⁰ he comments on the duality of God's nature: "There is an ethics of blood loyalty, of embodied covenant, which embraces both loyalty beyond morality and morality that questions loyalty. Sometimes God speaks and acts in vengeance, and sometimes God speaks and acts in a moral consciousness which privileges the oppressed over the chosen. Is abusiveness, then, an attribute of God? Is abusiveness a quality without which we cannot understand the ultimate reality that we call God? Yes. God is abusive – but not always. Our gratitude for God's fairness, love, kindness and mercy does not stop us from acknowledging God's abusiveness."
- 10 So too the British state: sometimes it puts morality ahead of common rationality (hence the enormous expense of free elections, free healthcare, free education), and sometimes it privileges fealty above morality, by ruthlessly cutting off and cutting out anyone who it considers poses the slightest, remotest risk, even a young girl who was herself a victim of abuse.¹¹ So too the judges of the Supreme Court: sometimes they put values ahead of deference (fearlessly striking down the unlawful prorogation of Parliament),¹² and sometimes they "show themselves more executive-minded than the executive".¹³
- 11 We all have a relationship with God, we all have a relationship with the state, and we all have a relationship – though it often feels slightly more remote – with the judiciary. David R Blumenthal would say that these are all abusive relationships: not always abusive, not unremittingly abusive, but sometimes abusive. We're happy to take the protection MI5 and MI6 offer us, but also realise that they have barely-trammelled access to our



most intimate emails and 'phone calls, and they trample over the rights of many vulnerable people. It was enjoyable to see the Supreme Court give Boris Johnson a kicking when he tried to suspend Parliament, but now it's done something much more discomfiting. We delight in the lives that God gave us and the beautiful world that was created for us, but we also suffer meaningless torments and distress and anguish at God's hand.

12 I firmly believe that these flipsides, these payoffs, are not necessary. This is not an area where we must take the rough with the smooth. "You can't be safe from terrorists without leaving people like Shamima Begum in a squalid Syrian detention camp," "The cloud won't protect you from snakes and scorpions if you won't also accept that it will sometimes keep you stationary and stop you from moving, travelling or leaving": these are exactly the sorts of lines an abusive partner would use. We don't have to tolerate the abuse. We don't have to accept that this is the way life is. We can be safe from terrorism and yet also offer Shamima Begum a fair trial. God can produce clouds that protect and yet don't smother.

13 We all have a dual nature, so it's no surprise that the state we created has a dual nature, nor that the God who created us has a dual nature. But at the same time, we can aspire to do better, and to receive better. We can hope and pray for a time when the abuse will be over, when the smothering will end, when the cloud will lift, permanently, from our tabernacle. Kein y'hi ratzon, may this be God's will.

GKW 13.03.21



¹ Exodus 40:29-38

² *Leaving on a Jet Plane*

³ Ha-Emek ha-Davar to Exodus 40:37

⁴ Exodus 40:36-37

⁵ *R (Begum) v Special Immigration Appeals Commission* [2021] UKSC 7

⁶ *Begum v Secretary of State for the Home Department* SC/163/2019 [2020] HRLR 7 at [15]

⁷ *R (Begum) v Special Immigration Appeals Commission* at [106ff], [134]

⁸ t.Sota 4:2

⁹ Jeffrey L Rubenstein. "The symbolism of the sukkah", *Judaism* 43 (1994), 371-387: 374.

¹⁰ David R Blumenthal. *Facing the Abusing God: a theology of protest* (Louisville, Kentucky: Westminster/ John Knox Press, 1993): 247-8.

¹¹ Maya Foa. "Shamima Begum is a victim of trafficking, and the UK should treat her as such", *The Guardian* (26 February 2021): <<https://www.theguardian.com/commentisfree/2021/feb/26/shamima-begum-trafficking-uk-citizenship-rights>>

¹² *R (Miller) v Prime Minister* [2019] UKSC 41, [2020] AC 373

¹³ *Liversidge v Anderson* [1942] AC 206