

ENACTING RESISTANCE: ENCOUNTERING RABBI AQIVA IN THE BET MIDRASH AND ON THE STREETS

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Introduction

In this essay I am going to reflect on the fact that my scholarship for the last decade or so has been a result of a collaboration of sorts between the classroom and the street. In theorizing the experience of that collaboration, I will claim that when a text about the world is placed back in the world, by performance or preaching, what happens is more and different than “inspiration.” The interpretations that are spoken and enacted are neither violations of the text nor mere inventions, but are embodied readings of the text that might then be reincorporated in the understanding of that text itself.

For the past two decades, in addition to being a scholar and teacher, I have been a social justice activist working on issues of economic justice, criminal justice, Islamophobia, police brutality and racial profiling, and immigration reform and solidarity. I have done this work with Jewish and with interfaith organizations (PJA, Bend the Arc, CLUE) and in coalition with many other groups. My activism has been fueled by a passion for

justice, which in turn has found an articulation through the conceptual vocabulary of the rabbinic tradition. I wrote my initial thoughts about this in the introduction to my 2012 book *Justice in the City: An Argument from the Sources of Rabbinic Judaism*.¹

In the current essay I will discuss a more recent occurrence of the collusion between study and street.² This one revolves around the story of R. Aqiva's resistance in *Bavli Berakhot* 61b. I have become somewhat infatuated with this story. Of a day, in a dusty square, Rabbi Aqiva stood before a restless gathering of several dozen men who were waiting to hear the words of Torah that would soon, they were sure, emerge from his mouth. As he started to speak, having ascended the *bema* usually reserved for the imperial judges or procurators, another less well known sage—Pappus ben Yehudah—burst from the crowd and pleaded with Aqiva to desist. Pappus' arguments are lost to us. However, Aqiva's counterargument is preserved in one of the few accounts of organized resistance to the Roman Empire. The full text of the story appears as follows:

Once the wicked Government issued a decree forbidding the Jews to study the Torah. Pappus son of Judah came and found Rabbi Aqiva publicly bringing gatherings together and occupying himself with the Torah. He said to him: "Aqiva, are you not afraid of the Government?" He replied: "I will explain to you with a parable. A fox was once walking alongside of a river, and he saw fishes going in swarms from one place to another. He said to them: 'From what are you fleeing?' They replied: 'From the nets cast for us by men.' He said to them: 'Would you like to come up on to the dry land so that you and I can live together in the way that my ancestors lived with your ancestors?' They replied: 'Are you the one that they call the cleverest of animals? You are not clever but foolish. If we are afraid in the element in which we live, how much more in the

¹ (Academic Studies Press: Brighton, MA, 2012), 9-22.

² Bonna Dvora Haberman also, in a different way, theorized about the relationship between text and praxis, and action as interpretation in the context of Women of the Wall ("Women Beyond the Wall: From Text to Practice," *Feminist Studies in Religion* 13, no. 1 [1997]: 5-34, and *Israeli Feminism Liberating Judaism: Blood and Ink* [New York: Lexington Books, 2012]).

element in which we would die!’ So it is with us. If such is our condition when we sit and study the Torah, of which it is written, *For that is your life and the length of your days*, if we go and neglect it how much worse off we shall be!’³

I. Abraham Joshua Heschel, Oscar Romero, Transfiguration, and Rabbi Aqiva

In 2015 I was asked to participate in a conference at UCLA on the legacy of Abraham Joshua Heschel. I delivered a paper that I called “From JTS to Riverside Memorial Church: The Relationship Between *Torah Min HaShamayim* and Heschel’s Activism.”⁴ I argued that Heschel’s activism is a religious solution to a theological problem, a problem which is spelled out in Heschel’s *magnum opus*, *Torah min HaShamayim beAspaklarya shel HaDorot* (TMHS), as the tension between Rabbi Ishmael and Rabbi Aqiva. According to Heschel, one might characterize Aqiva as a mystic and Ishmael as a rationalist. This means that, among other things, Aqiva’s theology has an immanent God, a demand for personalistic love of God, and an expansive understanding of the obligation to die for the sake of God. Theodicy, or the understanding of human suffering, is beyond human understanding. Some human suffering is brought about by God out of love for God’s righteous people. Some suffering is brought upon people in this world so they will be rewarded in the World to Come.

Rabbi Ishmael, on the other hand, believed in a transcendent God, believed that one loves God through fulfilling *mitzvot*, commanded actions, as it is impossible for a person to love God. He has a narrow understanding of the obligation to die for the sake of God. Human suffering is always a result of sin.⁵

Heschel describes God as suffering with Israel. This suffering (according to Rabbi Aqiva) is an instance of the partnership between God

³ B. *Berakhot* 61b; TMHS, 170-171.

⁴ An expanded version of that essay was published as “From JTS to Riverside Church: The Relationship Between *Torah min Hashamayim* and Heschel’s Political Activism,” *Journal of Jewish Ethics* 4, no. 1 (2018): 1-18.

⁵ *Ibid.*, 6-7.

and Israel. I suggested that this is a distinctively Heschelian model of what Oscar Romero referred to as the transfiguration.⁶

Oscar Arnulfo Romero y Galdámez (b. August 15, 1917) was a prominent Roman Catholic priest in El Salvador during the 1960s and 1970s, becoming Archbishop of San Salvador in 1977. After witnessing numerous violations of human rights, he began to speak out on behalf of the poor and the victims of repression. This led to numerous conflicts, both with the government in El Salvador and within the Catholic Church. On March 24, 1980, after speaking out against U.S. military support for the government of El Salvador and calling for soldiers to disobey orders to fire on innocent civilians, Archbishop Romero was shot dead while celebrating Mass at the small chapel of the cancer hospital where he lived.⁷

I suggested that Romero's transfiguration theology could help illuminate a part of Heschel's framing of *Torah min HaShamayim* which has largely gone unnoticed or has been ignored.⁸ In Romero's teaching, the meaning of the transfiguration is as an ongoing event in the life of the church. Romero preached that the transfiguration of Jesus was a model for transfiguring the word of God so that it would be part of the body of the people, and so that the body of the people, their material reality, would be the word of God.

⁶ The transfiguration in traditional Catholic teaching is the high point of the career of Jesus. He is brought to a mountain, traditionally named as Mt. Tabor. As he stands on the mountain with Peter, James, and John, Moses and Elijah appear and stand with him. His face shines as the sun, just as Moses' face shown when he came down from Sinai. A voice from the cloud says, "This is my Son, whom I love; with him I am well pleased. Listen to him!" This is the moment when the mortal Jesus is transfigured and becomes the Divine Jesus. It is the moment (theologically) before Calvary, that is, the crucifixion.

⁷ On the assassination, see Matt Eisenbrandt, *Assassination of a Saint: The Plot to Murder Óscar Romero and the Quest to Bring His Killers to Justice* (Oakland, CA: University of California Press, 2017).

⁸ My reading of Romero, the martyred Archbishop of El Salvador, was itself a result of a trip to El Salvador to meet with and learn from Salvadoran human rights activists. I was the scholar in residence on that trip organized by the American Jewish World Service.

I argued that it was the analysis of the story of Aqiva's resistance and arrest which bridged the "Aqivan" and the "Ishmaelean" theologies, and here was the key to understanding Heschel's political activism.

The detail in this story of Aqiva's response to the prohibition against Torah study that does not fit Heschel's Aqiva is that Aqiva was not only studying Torah—he was "publicly bringing gatherings together" to teach and study Torah. This seems for a minute to bleed over into the Ishmaelean side: the performance of publicly bringing gatherings together, the idea that action is something which is of and in this world, would seem to be Ishmaelean.

I argued that this moment is a bridging moment in *Torah min HaShamayim*, and in Heschel's thinking. It is a moment which bridges Aqiva and Ishmael: to borrow Romero's nomenclature, it is the transfiguration of the worldly into the sacred.

That text has not left me. It has become a *hafoch bah vahapech bah*/"turn it over and turn it over"⁹ text for me. I was drawn back to the images of the text as I was out in the streets protesting for economic justice, demonstrating against the oppressive practices of this (Hyatt Hotels¹⁰) or that (Walmart¹¹) large corporation. I began to notice in my lived experience two aspects of the text. The fact that Aqiva's act of resistance happened in public, or *barabim*, in the public. I started to pay attention to the way that demonstrations and political actions redefine public spaces as not exactly public, but as something other than public. I was drawn here to the conceptual vocabulary of *Tosefta* and *Bavli Shabbat* in describing the domains for transferring objects. In between the "public" domain and "private" domain were two other domains which were neither public nor

⁹ "Ben Bag Bag says: Turn it over and turn it over [i.e. study it (Torah) well], since everything is in it. And in it should you look, and grow old and be worn in it; and from it do not move, since there is no characteristic greater than it" (Avot 5:25a).

¹⁰ <http://www.sandiegouniontribune.com/sdut-63-arrested-in-hotel-protest-in-west-hollywood-2010jul22-story.html>

¹¹ <http://articles.latimes.com/2013/sep/05/local/la-me-ln-21-arrested-walmart-protest-20130905>

private. These medial domains could also be fluid—at times “private” and at times “public.”¹²

II. When Public Space is Private, or “Whose Streets? Our Streets!”

In an essay that I wrote for *Tikkun Magazine* I reflected on this distinction between public and private space, thinking the Aqiva text through the lens of lived political action.¹³ For my purposes, I wrote there, the most important part of the story is the beginning. When the “government” (*malkhut*) forbade the study of Torah, Aqiva’s reaction was to go to the *farhessya*. Rather than continuing the study of Torah in private—which would have maximized the safety of the participants—Aqiva brought gatherings together to study Torah in public, in the street. This was not mere Torah study—this was nonviolent resistance. Moreover, it was making a claim on the public space. It was taking a risk, exposing oneself to danger in public (*farhessya*)—incorporating both the rabbinic *farhessya* and the classical discourse and symbolic action of the Greek *parrhesia*.¹⁴ The risk was not inconsequential. Aqiva was caught and imprisoned.

This parable, I argue, contains the seed of a rabbinic theory of political resistance. The space of the action is part of the action. The resistance—though it takes the form of symbolic action—is about the *farhessya*. The

¹² I am using scare quotes because the connotation of public and private in English does not match the Hebrew *rabim* and *yachid*, which is more about accessibility than ownership. See my “The Gender of Shabbat.”

¹³ “The Place of Politics: Public Protest and the Rabbinic Construction of Space,” *Tikkun*, March 2, 2017, <http://www.tikkun.org/nextgen/theplace-of-politics-public-protest-and-the-rabbinic-construction-of-space-2>.

¹⁴ “[With] parrhesia, the speaker uses his freedom and chooses frankness instead of persuasion, truth instead of falsehood or silence, the risk of death instead of life and security, criticism instead of flattery, and moral duty instead of self-interest and moral apathy” (Michel Foucault, *Fearless Speech* [Los Angeles: Semiotext(e), 2001], 19–20). *Farhessya* is often used to mean “public” in the sense of more than ten people.

locus of the protest is the place of the interface between the “government” and the people.

III. Taking Aqiva to Prison

This past April 13, I brought the story of Aqiva’s resistance to the oldest Catholic Church in Los Angeles, La Placita Olvera. It was the first day of the intermediary days of Pesach and also Maundy Thursday (three days before Easter, commemorating the day of the Last Supper and when Jesus washed the feet of his disciples and commanded [*mandatum*] them to love one another). On this day, Muslims also happened to be celebrating *Isra and Mi’raj* (Muhammed’s night journey to visit all the previous prophets), and it was the day before Vaisakhi (the Sikh festival which celebrates the founding of the Sikh community known as the Khalsa).

As the Rabbi in Residence of Bend the Arc: Jewish Action, I was part of a coalition of faith groups who organized an Interfaith Day of Prophetic Action—Standing with Immigrant and Refugee Families. At La Placita Olvera I recounted the Aqiva story and said:

Aqiva’s response to the Roman oppression was not to hide but to come out into the public spaces, into the marketplace and say: we will not allow you to destroy our communities under cover of darkness. We will make our stand here, in public.

And so today, on this third day of Passover, on the holiday on which we talk about the liberation from Egypt, we say that nobody is free until everybody is free. We say that we will not allow ICE to terrorize part of us without the rest of us standing together. And we say that aloud and we say it in public and we say it in the marketplaces. And we say it with everybody here—different faiths, different religions, different races. We are all one community, and that community says nobody is free until we are all free.

We then marched, 350 strong, to the Metropolitan Detention Center (MDC), passing and stopping at the headquarters of U.S. Immigration and Customs Enforcement (ICE). After a multifaith ritual, which included elements of a seder, a foot washing, and a Muslim and a Sikh sermon, 30

of us sat down in front of the MDC's driveway, blocking access for ICE vans until we were arrested.

In reflecting on that experience, especially the experience of organizing the twenty or so organizations that co-sponsored the action, I realized that the first part of the phrase *mak'hil kehillot* (gathering communities) was as important as the latter part *barabim* (in the public). The Tanhuma version of the Aqiva story has the following as the reaction to the imperial decree: "R. Aqiva [and his fellows] went and studied Torah." This version of Aqiva's reaction to the oppressive decree, while requiring courage, is spontaneous and personal. As it appears in *Bavli Berakhot*, the reaction is political. It requires thought and planning and organizing. The gathering of masses is not something that happens overnight. The organizing, the *mak'hil kehillot*, reinforces the essential political nature of the *barabim*. Moti Arad has shown that *barabim* has a very specific usage. It does not mean merely a group of Jews. It means specifically "confronting the rulers, and in spite of the prohibitions against gathering, and not being idle from work, and not reading the Torah."¹⁵ *Barabim* assumes a political confrontation.

The term *mak'hil kehillot barabim* (public gatherings), then, does not reflect the actions of a brave conscientious objector taking a lone stance against the unjust decrees of the oppressor. It conveys, rather, the nonviolent direct action organized by a person who is leading a community in a dire and dangerous time. This shifts our understanding of R. Aqiva: the author of this story does not picture him as a lone martyr, but rather as a community leader and organizer.

Theorizing This

It is by now a truism that the reader is part of the reading of a text, that positionality is essential to understanding: reading minds are not

¹⁵ *Sabbath Desecrator with Παρρησία (Parrhesia): A Talmudic Legal Term and its Historic Context* (New York and Jerusalem: The Jewish Theological Seminary of America, 2009), 230.

separated from the bodies within which they are reading. Those bodies have genders and races and classes and are or are not citizens, and so on.

Some scholars have pushed this one step further. Michael Walzer's classic *Exodus and Revolution*¹⁶ makes the argument, in part, that the exodus story enabled other stories of revolution throughout the centuries. The exodus story was deployed in such a way as to frame those stories, but also, and perhaps more importantly, the exodus story was told so that people in revolutionary movements would reenact, would perform the story in their own time—whether that time was twelfth century France, seventeenth century England, twentieth century Russia, or the Jim Crow South of the United States.

Walzer argues “that the uses of the text have not been violations, not inventions or mere inventions, and that the Exodus as we know it in the text is plausibly understood in political terms, as a liberation and a revolution—even though it is also, in the text an act of God.”¹⁷ “Plausibly understood,” from the point of view of the actors in whatever specific revolutionary drama, meant that they understood themselves, to some extent, as performing *in* the exodus story.¹⁸ In Walzer's writing, these performances (my word, not his) illuminate the exodus itself. The tension, for example, between the pedagogical role of the desert sojourn in readying the Israelites for living as a people in Canaan, versus the role of the desert as a way to kill off those who were still under the sway of slave culture, is illuminated by looking at Lincoln Steffens understanding that

¹⁶ (New York: Basic Books, 1985).

¹⁷ Walzer, 7.

¹⁸ The scene of Moses splitting the Red Sea while Pharaoh and the Egyptians drown therein almost became the Great Seal of the fledgling United States of America. John Adams recorded this plan for the seal in his own hand in a note dated August 1776, preserved in the archive of the Library of Congress: “Pharaoh sitting in an open chariot, a crown on his head and a sword in his hand passing through the Red Sea in pursuit of the Israelites: rays from a pillar of fire in the cloud, expression of the divine presence...Moses stands on the shore and extending his hand over the sea, causes it to overwhelm Pharaoh. Motto: Rebellion to tyrants is obedience to God.” (<http://www.loc.gov/exhibits/religion/f0402as.jpg>) An article in Harper's *New Monthly Magazine*, July 1856, 180, by Ben Lossing confirms that this was indeed intended as a design for the Great Seal.

the story of Moses killing off the Israelites “is a complete vindication of Leninist politics, that is, of dictatorship and terror.”¹⁹ On the other side is a “social-democratic reading” of the story, a reading in which the desert functions as a time of learning about freedom.²⁰

What I want to stress is that these were not readings, or interpretations, in a removed analytic way. Rather, these were the understandings of people in the midst of revolution, who saw their own revolution to some extent prefigured or at least illuminated by the exodus story. In that sense they saw themselves as reenacting that original revolution.²¹

Walzer’s accomplishment is grasping that these partisan understandings “were not violations...or mere inventions.” The placing of these stories into the world in such a powerful way illuminates the story itself— as any specific performance of Hamlet sheds new light on Hamlet.

In her book *Mithayevet Benafshi*,²² Ruhama Weiss pushes beyond to the leading edge of reading a text in a world. Weiss’ reading practice goes one step beyond literary analysis. She places the text in the world, between herself and a *hevruta* partner who is implicated in the text. In her chapter on suffering (“Neither Suffering nor Its Rewards”) she reads a Talmudic text (*b. Berakhot* 5bff) which tells of two sages (R. Yohanan and R. Eliezer) who are suffering and then are miraculously cured by each other. The subject of the short narratives is the value of suffering, and whether one should welcome suffering for its eventual rewards (in this world or the next), or spurn suffering and its rewards. The chapter title is the mantra of what Weiss names “the underground against suffering”—those sages who answer the question, “Is your suffering pleasing to you?” with the statement, “neither suffering nor its rewards.” Weiss’ *hevruta* for this text

¹⁹ Walzer, 65.

²⁰ *Ibid.*, 66.

²¹ As Paul saw Jesus as Moses.

²² Ruhama Weiss, *Mithayevet Benafshi: Kri’ot Mehuyavot Batalmud* (Heb.) (Tel Aviv: Yediot Aharonot, 2006).

is a friend who is suffering from a terminal cancer and knows she is dying. Studying texts about suffering, dying, and miraculous healing with someone who is suffering and dying without miraculous healing is itself a painful, perhaps impossible undertaking. It is not for comfort or reassurance that the *hevrutot* lean their heads close to each other over these hoary words. This is perhaps the ultimate expression of what Weiss calls "*kriy'ot mehuyyavot*," an expression which can be translated as "committed readings" or "necessary readings." This reading practice can only come from a feeling of necessity: I read these texts because I cannot *not* read these texts.

This reading practice is something like a *hermeneutic of the real*. It moves in an opposite direction from Roland Barthes' "effect of the real." Barthes was a literary theorist who, like many structuralists, argued that all narratives share structural features that each narrative weaves together in different ways. Despite the differences between individual narratives, any narrative employs a limited number of organizational structures that affect our reading of texts. These organizational structures produce what Barthes calls "effects." One of these effects is the "effect of the real." This is the introduction of specific ages (e.g., a girl is twenty-two, a man is one hundred rather than the more general "somewhere around a hundred") or the introduction of historical figures such as Napoleon (e.g., by Balzac in *Sarrasine*). The *effect* of the introduction of these *real* or *realistic* moments is to equalize the fiction with the reality, or "novel and history."²³ If a person walks into a candy store in a movie taking place in 1964 and hears a baseball game that took place in 1964 playing on a radio, this background noise establishes the fiction of the story as "real." (It is not important to the plot, it just is what happens in a candy store; the main character might not even care about the game.)

As opposed to this, a hermeneutic of the real places the text as a frame to a reality, a lexical filter to enable a discourse. It is the real which

²³ Roland Barthes, *S/Z*, trans. Richard Miller (London: Blackwell Publishing, 2002), 49, 101-102.

animates the text, and the text which supplies a conceptual vocabulary for the reality to which the text points.

Weiss introduces the possibility that it only makes sense to read these texts in concert with the real suffering that parallels, reflects, and intersects with that in the text. Weiss' *hevruta* in the study of these texts is not incidental to understanding them, but is essential to understanding them. Whereas Weiss claims (correctly) that the rabbinic view is that there is no separation between body and soul, she is also claiming that there is no difference between living bodies and reading bodies, between suffering bodies and textual bodies. The texts might only make sense imbricated in the space between the dying partner and the accompanying partner. One might argue that this is only one kind of sense-making, which surely is not claiming a completely privileged place in the interpretive scheme. I don't think Weiss would disagree, however; she is expanding the possibilities of interpretation, and in order to do so she is eliding the boundaries between the specific embodied reader(s) and the text being read.

Following upon Walzer and Weiss, what I am claiming is that, rather than reading through a text to a reality,²⁴ one reads through and in a reality to a text. The real is then part of the hermeneutic situation, and the text is part of the (political) action.

An inspirational use of a text is perhaps insightful in its exhortation about the specific scene at hand. A preacher reads the biblical exhortation, "Pursue justice!" and this perhaps stiffens the spines of those pursuing justice. Alternatively, the Isaianic disgust with the performance of certain ritual forms at the expense of doing justice might focus the ire of some who see this very scene being played out in a contemporary arena.²⁵

²⁴ Which is also the process of legal interpretation, even if it takes place on a field of pain and death as Cover wrote.

²⁵ Isaiah 1:11-17 comes immediately to mind, though almost anywhere one opens Isaiah one is met with ire which seems written for our day: "'What need have I of all your sacrifices?' says the Lord. 'I am sated with burnt offerings of rams, and suet of fatlings, and blood of bulls; and I have no delight in lambs and he-goats. That you come to appear before Me—who asked that of you? Trample My courts no more; bringing oblations is futile, incense is offensive to Me. New moon and sabbath, proclaiming of solemnities, assemblies with

Neither of these uses of the text necessarily illuminates the text itself, however. Placing the text in the world is more akin to what Edith Wyschogrod has called “walking in the footsteps” of the text,²⁶ laying the text over the current situation and then allowing the situation to impact the text. In this interaction both text and world are changed. In the performance of the text as a political moment (drawing a conclusion and acting on it, perhaps), understanding is added to the textual situation, too.

As Walzer writes, “the study of the Bible leads to a view of political action as a kind of communal performance: what happened in Egypt and at Sinai provides a precedent for early modern (and *present-day*) efforts to mobilize men and women for a politics without precedent in their own experience.”²⁷ I would add to this that the performance *is* part of the *study*. In performing Aqiva’s exhortation (my understanding of that exhortation, itself influenced by my study of it and by my intent to bring it to a political moment) in a room full of activists, many of whom were about to engage in nonviolent direct action, I also gained insight into the Bavli story itself. I was walking in the footsteps of Aqiva, embracing the call that the text had upon me, as a narrative of Jewish resistance and of religious resistance to empire.

This claim on the text and specific mechanics of interpretation accords well with the poetics of the Bavli itself, in which legal dispute and legal narrative interact, and the legal disputes themselves are often narratives.²⁸ Those narratives assume an embodied reader who both responds and works out the text in the world outside the text.

iniquity, I cannot abide. Your new moons and fixed seasons fill Me with loathing; They are become a burden to Me, I cannot endure them...Learn to do good. Devote yourselves to justice; aid the wronged. Uphold the rights of the orphan; defend the cause of the widow.”

²⁶ *Saints and Postmodernism: Revisioning Moral Philosophy* (Chicago: University of Chicago Press, 1990).

²⁷ Walzer, 90.

²⁸ See, e.g., Barry Wimpfheimer, *Narrating the Law* (Philadelphia: University of Pennsylvania Press, 2011).