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HUKAT - BALAK

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**THE INVENTION OF JEWISH THEOCRACY: A
REVIEW OF ALEXANDER KAYE'S NEW BOOK
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For as long as anyone can remember, the motto of religious Zionism has been "the land of Israel for the people of Israel according to the Torah of Israel." For as long as anyone can remember, spokesmen for religious Zionism, rabbis, legal scholars, and politicians, have dreamt and planned a Jewish state governed by Halakhah. [Alexander Kaye's new book](#), *The Invention of Jewish Theocracy: The Struggle for Legal Authority in Modern Israel*, attempts to trace the history of this project. He is primarily concerned with the pre-State stages—the 1930s and '40s - although the last chapters survey the better-known history of the past fifty years. In particular he concentrates on the role of R. Isaac HaLevi Herzog, who was Ashkenazi Chief Rabbi during this period, whose position combined with his intellectual breadth make his initiatives and writings crucial.

This is an essential book even for those familiar with the subject and even for those who keep up with the Hebrew historical and legal literature. Much of the historical discussion has focused on the arguments and political maneuvering around religious legislation and the status of rabbinical courts in Israel or examined specific issues involving marriage and divorce, conversion, *kashrut*, and the like, or tackled broad questions such as the halakhic outlook on democracy and rights of non-Jews in a Jewish state. Kaye devotes attention to the most general problems confronting religious Zionist rabbis and leaders. Where he tries to break new theoretical ground is in raising the entire question of "Jewish theocracy," meaning whether a Jewish state should indeed be governed by the corpus of Halakhah. His view is that theocracy was not the only live option for religious Zionists. The prevalent sense that theocracy, as a goal, is taken for granted by religious Zionism, he implies, owes much to R. Herzog's prominence and to his awareness of contemporary legal systems, not least to the Irish Constitution, about which he was consulted during his tenure as Chief Rabbi of Ireland and as a friend of the Irish leader Eamon de Valera.

I want to explain the logic of Kaye's argument, why it may have historical and theoretical merit, and its limitations. Kaye contrasts a centralized understanding of law and the state with what students of legal theory call "pluralism." In a centralized

system there is one ultimate authority. This is the view most of us are accustomed to; its corollary is the myth that public life and religion can be neatly separated so that neither intrudes on the other. When conflict occurs between the state and individuals or groups, it is the state that decides whether to tolerate or override their convictions. Individuals, professional associations, and religious groups can exercise freedom only within the boundaries set by the government. The state may be tolerant and intervene rarely in the lives of citizens and subjects, or it may be strongly interventionist. The modern state is very intrusive in its control of social and economic policy and inevitably pressures and marginalizes non-state bodies. Kaye quotes Zerach Warhaftig, longtime Minister of Religion, law professor, and *talmid hakham*:

What was perhaps possible at the end of the nineteenth century and the first years of the twentieth century, when the state was merely a political framework which did not penetrate into men's souls, is impossible today, when the state is becoming more and more totalitarian. . . . The time has passed when the state filled the role of a "dog," guarding the borders, whereas social matters [and] problems of spirit and culture were left to the free initiative of society. The state today has returned to the age of absolutism.

Legal pluralism, in its various forms, admits the possibility of multiple legal systems. Take the British Raj for example. The British ruled, yet they were quite satisfied to leave local nabobs in charge of native society. At one level, the result is a relaxed centralism: it is the British who decide how much self-government to countenance; in practice, however, it means that the Indian elites remain in place.

Now, says Kaye, the "theocratic" option for religious Zionism presupposes a centralized system. There is a final authority and that authority must be Halakhah. A pluralist model would allow the state to rule in its domain while setting aside areas in which other systems can exist independently. In fact, the state of Israel adopted a form of pluralism: marriage and divorce remained under religious jurisdiction; rabbinic courts continued to function in other areas, such as civil law, for the benefit of those who wanted them. This arrangement is not without practical difficulties: from time to time, the secular government has sought to constrain the authority of the rabbinic judiciary both in family law and in civil law, based on the secular authority's convictions, and resting on the brute fact that the rabbis

exercise only the powers that the secular state confers upon them. The dual judicial system also encourages jurisdiction shopping, where attorneys try to shift their case to the court most favorable to their clients (just as American lawyers try to exploit differences in state laws in favor of their clients).

This is how Israeli law evolved. It is not what R. Herzog wanted. In 1937, when the possibility of a Jewish state first came up, R. Herzog had written to R. Hayyim Ozer Grodzinski of Vilna, the influential rabbinic leader. R. Hayyim Ozer advocated a mixed pluralistic system, referring *inter alia* to *Derashot ha-Ran* 11, which adumbrated a dual system of halakhic law and secular authority. R. Herzog rejected this option for several reasons. It has been maintained that R. Hayyim Ozer could take this position precisely because he was not a Zionist, and therefore he could treat the secular powers in a Jewish state as he would any other government, fighting for what is pragmatically necessary and feasible, rather than for an ideal Jewish commonwealth. Kaye notes that other Zionist rabbis in the late '40s also wrote about arrangements that were achievable, given the non-religious and often anti-religious orientation of the political leadership in the *Yishuv*. Had R. Herzog listened to R. Hayyim Ozer, suggests Kaye, he would not have felt obligated to propose a theocratic constitution for Israel, one in which Halakhah is paramount.

The question for Kaye then is why R. Herzog expended so much energy in advocating and attempting to formulate a legal system that would adapt Halakhah and apply it to the nascent Israeli polity when that solution was neither necessary nor likely to be adopted. Despite the manifold urgent duties of the Chief Rabbinate, despite the enormous amount of time he devoted to rescue efforts during and after the Holocaust, he kept working on the "constitutional" questions, even though the bulk of his writing was not published for decades after his death. The factor Kaye identifies is an inclination in favor of a centralized legal doctrine, one in which religion and ethnicity and state are integrated. He settled for the Israeli reality of the 1950s only because it was the best one could get at that point.

Kaye's thesis about R. Herzog's motivation is intriguing and attractive. He refers to passages in R. Herzog's writing that allude to British legal institutions that would have meant nothing to an audience unschooled in them; he emphasizes R. Herzog's connection to de Valera and speculates about what they "must have" discussed. So it is possible, even probable, that R. Herzog thought about some of these questions along the lines Kaye suggests. Did these thoughts influence R. Herzog's views? That really depends on a hypothetical—what views would R. Herzog have arrived at in the absence of the inclination towards centralization and towards national-religious integration in the spirit of de Valera's constitution? It seems to me that his previous experience with other forms of government, and his relationship with de Valera notwithstanding, the factors supporting the "theocratic" position are so strong that R. Herzog or virtually anyone else in his situation would have reached the same conclusion. Let me explain.

Offhand, belief that the way of life upheld by Halakhah is the way of life ordained by God for the Jewish people entails that the Jewish people should adopt it in their commonwealth. Whoever advocates an alternative, in which Halakhah shares sovereignty, or is subservient to a secular jurisprudence, must justify that alternative.

Such alternatives can be justified in a variety of ways. One may claim that the ideal legal system should combine God-given law and secular human initiative. The Halakhah may describe an ideal law while the

secular authority (the "king") is more qualified to apply it in practice: Halakhah, for example, severely restricts the execution of penalties for criminal offenses, but the king's responsibility for public order might allow punishments that would not be imposed by a rabbinic court. Civil authorities may have a better understanding of local circumstances than centralized rabbinic institutions. Or it may serve the common interest that different segments of the public, with a variety of expertise, are engaged in public activity. There are other reasons to deem division of authority desirable. I would understand the Ran's affirmation of a dual system of law in this spirit, and note further that other *Rishonim*, like Rambam (following the Gemara), also speak of the king's prerogatives coexisting with halakhic institutions. On these views, extra-halakhic legal categories can be part of the constitution of a Jewish state; they are *lekhatila*.

Likewise, secular systems of law may be necessary *bediavad* as a concession. In the twentieth century context it may be impossible to impose Halakhah when a large part of the population or the leadership rejects the foundations of Halakhah, or when there is a dearth of competent and halakhically knowledgeable officials, or when the rabbinate and its scholarly allies are simply unprepared to apply Halakhah to novel contemporary situations.¹

But whether a mixed system of religious and secular law is inherently desirable from the religious perspective or whether it is the best that can be attained at certain historical junctures, it is the mixed system that requires justification. That is why it seems to me that anyone in R. Herzog's position would start from the "theocratic" Halakhah-centered default position. He might have to settle for a mixed pluralistic system under the force of circumstances, as indeed happened in the state of Israel, or he might have allowed for a large measure of secular autonomy in consonance with the Ran and similar views. But these moves would require argument; they cannot be assumed.

An additional factor must be included in the discussion. When Ran, Rambam, and their confreres speak of the king's law, side-by-side with and sometimes diverging from, classical rabbinic Halakhah, they are writing for a society that is fundamentally committed to Halakhah and to religious norms. The monarch they envision wishes to promote, in his sphere and in his way, the same kind of welfare that the halakhic leadership aims at. The Irish constitution to which Kaye refers was the brainchild of de Valera, a controversial yet dominant statesman, himself a devout Catholic, serving a nation in which the Church wielded pervasive power. The rabbinate of the mid-twentieth century, even those sympathetic to the Zionist project, confronted a very different culture. A nominally halakhic constitution, in which Halakhah was in fact ancillary to secular national ideology, might blend in with Israeli civil religion, but it would quickly and decisively be overrun by the secular power, and both the letter and spirit of Halakhah would be marginalized and "kicked upstairs," so to speak. This might have been tolerable to the politically and numerically weak religious communities of the 1950s, eager to support the state and anxious to be accepted by it. Many of the Orthodox *Mishpat Ivri*

¹ It may be useful to consider an analogy from American political history where the federal structure confers a degree of independence to the individual states. This can be regarded as a good thing, enabling different areas in the country to adopt practices tailored to regional needs and values or as an opportunity for experimentation. Others may see localism as an unfortunate concession to the autonomy of states in the 1780s and at present an obstacle to centralized, uniform planning, legislation, and administration.

scholars hoped that any alignment of the state with halakhic content would serve as a first installment from which Halakhah could advance into broader and more substantial areas. But these pragmatic considerations could not supply an acceptable theoretical platform for Chief Rabbi Isaac Herzog or for those who thought like him.

The above should show why Kaye's work, placing the Israeli religion and state debate within the context of legal theory, is more than a merely historical investigation. As he observes, many commentators seem to think that present conflicts are a consequence of recent developments such as the increasing tendency of religious Zionists after the Six Day War to stake out ambitious territorial positions or the growth of religious Zionist communities whose halakhic commitment parallels that of the Haredim (the *Hardal* phenomenon). Kaye demonstrates that the roots of the conflict go back to the pre-state and early state era, the period in which religious Zionism is generally categorized as passive in relation to the secular Mapai hegemony. The conflicts are inherent in the opposition between the absolute ambitions of the modern state and the absolute principles of religion.

The later chapters of the book bring the story up to date. At the end Kaye is skeptical about solutions to the apparent impasse. He characterizes legal pluralism as vague. More importantly, in my opinion, pluralism, however formulated, can sustain a *modus vivendi* but cannot broker an agreement between opposing absolutes.

I recall a 1978 conference at which *mori ve-rabbi* R. Aharon Lichtenstein was the rabbinical presenter on the topic of individual rights. On the one hand, he did his best to outline ways of minimizing friction between the secular majority and the Orthodox minority. On the other hand, he unambiguously asserted the huge gap between the beliefs of committed Jews, for whom the word of God carries absolute authority, and those who do not so accept the yoke of Heaven. Some participants greeted his remarks with consternation. One, however, observed that representatives of religious Zionism in dialogue tended to downplay fundamental conflict, implying that harmonious partnership was not difficult to attain with a modicum of good will. He was grateful to R. Lichtenstein for his candor. In his own way, Alexander Kaye's informative and thoughtful book on Orthodox thought helps us understand what is at stake when the question is taken with full seriousness.

THE VOICE AND THE SWORD: A META-NARRATIVE IN RASHI

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Rashi's classic Commentary on the Torah is often read as a series of local comments, as explanations to resolve textual difficulties on individual verses. This mindset is illustrated by the perennial question: "What's bothering Rashi?" Asked by super-commentaries ranging from *Siftei Hahamim* to Nechama Leibowitz, this question focuses the reader on the problems Rashi comes to solve with his aggadic, halakhic, or exegetical quotes.

However, Rashi is a reader of Tanakh, not just of its verses. His view of the beginning of a narrative informs his comments throughout it, and his portrayal² of a character in one narrative reflects his general understanding of the character elsewhere. He forms continuous narratives³ as well as meta-narratives: collections of comments spread throughout narratives, between characters, and across Biblical books that can be read together to tell a new story.⁴

This essay will present an expansive pattern that emerges from several of Rashi's comments in Genesis and Numbers. Rashi identifies two motifs which he uses to characterize Biblical characters and nations. The voice is Jacob's identifying feature. Blessed by Isaac, it

² Through his quoting and rephrasing of Rabbinic texts.

In this essay, when Rashi quotes the Rabbis, for brevity's sake and by common convention I attribute the statement to Rashi. For readability, I have also refrained from providing Rashi's sources, as many Rashi publications include inline. I do not mean to suggest that Rashi singularly invented his statements. (However, I would like to point out that Rashi makes a point when choosing one Rabbinic text over another and when tweaking them in his rewriting of sources.)

³ An example regarding Yehoshua reads Rashi on Deuteronomy 3:28 s.v. "ki hu ya'avov", in light of his comment on Numbers 27:17, s.v. "asher yatza lifneihem." This can be expanded to a metanarrative about a leader's role in battle by including Rashi's comment on 14:6, s.v. "v-et amo lakah imo."

⁴ For an example of a meta-narrative across characters within the same Biblical book, read Rashi on Genesis 32:8 (s.v. "va-yira va-yetzer") with Rashi on Genesis 42:14 (s.v. "hu asher dibarti"). For a meta-narrative between a character in a book in Humash and another in the Prophets, read Rashi on Numbers 16:15 (s.v. "lo hamor ehad me-hem nasati") with Rashi on 1 Samuel 12:3 (s.v. "v-hamor mi lakahti"). Unlike the last example, Rashi explicitly ties these two together with his comment on Numbers 16:7 (s.v. "rav lakhem b'nei levi"). (Thanks to Dov Greenwood and the rest of our Rashi *Iyuna* group from my Shana Aleph at Yeshivat Har Etzion. Together, we developed a passion for Rashi's Commentary on the Torah and methodologies for reading it that have inspired me spiritually and intellectually. This essay provides only a small taste of the rich methodology and library of examples we have collected.)

reappears generations later as Moses's chief characteristic and the Nation of Israel's key strength. Esau, on the other hand, is blessed with the power of a strong hand and with the life of the sword. The sword becomes a symbol of strength for both Edom and the Nations and represents their primary approach to resolving conflict.

By tracing Rashi's references to these strengths—the voice and the sword—throughout his commentary, we can develop a meta-narrative: a larger story that cuts across these Biblical narratives. This new framework illuminates other Biblical narratives and—perhaps more importantly—highlights a critical element of our national identity and offers a new paradigm to understand our history.⁵

We'll start with the Book of Numbers. The Book's focus on the Children of Israel and their leaders pauses for *Parashat Balak*, a narrative excursion that departs from the newly formed nation to provide a vital perspective: the outside one. Its unbroken columns feature not the children of Israel but Balaam, the son of Beor, an anti-hero and diviner⁶—and prophet,⁷ poet,⁸ and philosopher.⁹ Rashi describes this character at the start of *Parashat Balak*:

The land of the children of the people— . . . And if you ask: Why did the Holy One blessed be He, rest his *Shekhina* upon an evil heathen (*goy rasha*)? — In order that the nations have no excuse to say, “If we had prophets, we would have changed for the better,” He raised up prophets for them. And they breached a fence in the world, as, initially, they were fenced in from sexual immorality (*arayot*), and this one (Balaam) advised them to give themselves over to whoredom (*znut*). (Rashi, Numbers 22:5)

Balaam is a foil to Moses. Appointed for justice's sake,¹⁰ he compels the Nations to injustice, and is thus described by the Rabbis and Rashi as evil (*rasha*). His power comes from his prophetic voice, which he uses to instigate sin rather than to ward it off; he misuses his voice, a gift that, too, mirrors Moses:

(And Moab said) to the Elders of Midian — . . . And what induced Moab to take counsel of Midian? When they saw

⁵ The ability to reapply itself is a key aspect of a *meta-narrative*—it is not just another narrative, but an overarching paradigm for narratives; a story of stories.

⁶ Joshua 13:22 describes Balaam as a *kosem*.

⁷ See *Bava Batra* 15b; *Bamidbar Rabbah* 20; the first comment of Rashi in Numbers 22:6; and Rashbam ad loc.

⁸ Balaam's prophecies are in Biblical verse and are introduced uniquely: “*Va-yissa mishelo va-yomar...*” For a fascinating analysis of one of Balaam's poems, see J.P. Fokkelman, *Reading Biblical Poetry* (Louisville, KY: John Knox Press, 2001), 69-70. (Thanks to Dov Greenwood for bringing this to my attention.)

⁹ [Pesikta D-Rav Kahana 15](#).

¹⁰ See the beginning of *Bamidbar Rabbah*, 20, which suggests that the nations were given a prophet, Balaam, due to God's desire for justice. “And Balak son of Zippor saw—The Torah says (Deuteronomy 32) ‘The Rock—perfect is His work for all of His ways are justice.’ . . .”

that Israel was victorious in a supernatural manner (*she-lo ke-minhag ha-olam*), they said: the leader of these people grew up in Midian; let us ask them what is his (chief) characteristic (*midato*). They said to them; “His power lies only in his mouth.” They said: “Then we must come against them with a person whose power lies in his mouth.” (Rashi, Numbers 22:4)

This Rashi is the first anchor for our meta-narrative. While Balaam's poetic oracles hone in on the key features—humility, majesty, godliness—that define the Israelites¹¹ (so much so that the Rabbis incorporated his words into our liturgy¹²), his own character and actions serve as a foil that helps us better understand our people; and in this case, our greatest, most iconic and formative prophet and leader. Upon reflection, it is no surprise—regarding the leader whose supplications saved the nation from destruction time and time again, who had face-to-face conversations with God, who composed two iconic songs¹³ and delivered a speech that became a Book of the Torah itself—that Moses's chief utility is the “power in his mouth”—his voice.¹⁴

By venturing through Rashi's commentary, we can develop this further. Moses's *midah*, his chief characteristic, is not unique to his character; Moses's skill reflects, as we will see, a feature of our national identity throughout the generations.

Immediately after the incident of the Waters of Merivah in *Parashat Hukat*, the nation sets out towards the land of Canaan, but must first pass through the territory of other nations. Rather than immediately resorting to war, Moses tries his hand at diplomacy, sending messengers to the king of Edom. They begin by referring to Israel as Edom's brother. Rashi comments:

Your brother Israel — What reason had he to mention here their brotherhood? But in effect he said to him: We are brothers, sons of Abraham, to whom it was said (Genesis 15:13) “You shall surely know that your seed shall be a stranger [in a land not theirs],” and upon both of us, being of Abraham's seed, was the duty of paying that debt.

You know all the hardships — It was on this account that your father separated himself from our father, as it is said (Genesis 36:6), “And he (Esau) went to another land on account of Jacob, his brother” — because of the responsibility (*shtar hov*) which was placed upon both of them, which he (Esau) placed onto Jacob. (Rashi, Numbers 20:14)

¹¹ See Numbers 24:9 which reflects—almost word for word—Isaac's defining blessing to Jacob in Genesis 27:30.

¹² The *Mah Tov* prayer.

¹³ The Song of the Sea and *Shirat Ha'azinu*.

¹⁴ Moses's statement in Exodus 6:30, “See, I am of impeded speech (*aral sefatayim*),” poses an interesting challenge to our argument that can be resolved with either local *parshanut* or with a broader understanding of Moses's character development.

Rashi connects Biblical passages by hooking onto Moses's language, which calls Israel Edom's *brother*. He hearkens back to the Jacob and Esau story and to the bookends of the patriarchal narrative: at the first end, the covenant between God and Abram (*brit bein ha-betarim*); at the last, the final mention of either Esau or Jacob before the start of the Joseph narrative in *Parashat Va-yeshev*. Rashi masterfully ties both ends together, suggesting that Esau's final departure is because of God's promise to Abram: Esau wishes to avoid the burden placed upon Abram's descendants.

Rashi's callback floods the reader with textual memories, inviting the reader to recall the original relationship of Jacob and Esau, with its heated trickery and its fraternal complexity.¹⁵ The verses and Rashi continue:

(16) We cried to the LORD and He heard our voice, and He sent a messenger who freed us from Egypt. Now we are in Kadesh, the town on the border of your territory.

(17) Allow us, then, to cross your country. . . (Numbers 20)

He heard our voice — through the blessing with which our father, Jacob, had blessed¹⁶ us — “the voice is Jacob's voice” (*hakol kol Yaakov*; Genesis 27:22), because whenever we cry we are answered. (Rashi, Numbers 20:16)

We now begin to see a deeper narrative take form. Earlier, Rashi similarly described Moses as one who is “assured that any time he wishes he can speak to the Shekhinah” (Rashi, Numbers 9:7). The *midah* of Moses parallels that of the Nation of Israel, which had derived it from Jacob. This idea—of a defining skill echoing through the generations—is developed further by Rashi on Numbers 20:18:

(18) But Edom answered him, “You shall not pass through us, else we will go out against you with the sword.”

Else we will go out against you with the sword. You pride yourselves on the voice which your father bequeathed you as a blessing, saying, “And we cried unto the Lord and He heard our voice.” I, therefore, will come out against you with that which my father bequeathed me when he said, (Genesis 27:40) “And by your sword you shall live.” (Rashi, Numbers 20:18)

¹⁵ We may point out a creative reading that can be gleaned from Rashi's innovation here. This final mention of Esau's movement recalls the previous one, three chapters earlier: he sets out to Seir (a key location in Edom, often used interchangeably with it), inviting Jacob to join him. Jacob responds that because of his children and animals he is too slow to keep pace—he will catch up later, he says. But Jacob does not follow Esau to Seir, and instead settles in Sukkoth, and then Shechem. He does not keep his word. Now, Jacob's descendants are asking Esau's for help, and Rashi seeks, perhaps, to justify that request in the face of Jacob's disloyalty.

¹⁶ It is interesting to note that at this part of the narrative, which is the lead-up to the actual blessing, Isaac's statement is considered a blessing. It seems that Rashi reads this descriptive, local statement (“The voice [that I hear now] is Jacob's voice”) as a prescriptive, global one: “the voice (i.e., the gift of the voice) is (and shall be) Jacob's voice.”

The reader is vaulted to the height of the tension between Jacob and Esau, that of Isaac's blessing, and a new side of the narrative is revealed. Jacob was blessed with the voice—the “power in the mouth” as Rashi refers to it later. Esau was blessed too. His chief characteristic was not the voice but the sword—physical power.

But they replied, “You shall not pass through!” And Edom went out against them in heavy force and with a strong hand. (Numbers 20:20)

And with a strong hand — with the assurance¹⁷ of our ancestor: (Genesis 27:22) “and the hands are the hands of Esau (*ha-yadayim y'dei Esav*).” (Rashi on Numbers 20:20)

The motif of Esau's gift of physical power continues in the above Rashi, mirroring the Rashi on Numbers 20:18. This motif—symbolized by the sword—reflects Rashi's views on Esau earlier in the text.¹⁸

We have thus discovered a meta-narrative in Rashi: a pair of characteristics beginning with Jacob's and Esau's blessings, developing through their lives and interactions, reappearing in their descendant nations' further encounters, and concentrated in their leadership. The next section will explore how we can read this meta-narrative into Biblical stories.

Jacob's power of the voice remains separate from Esau's power of the sword. We rarely see Jacob using physical force; he operates using verbal trickery and diplomacy. But it does not take long for Esau's gift to tempt the Israelite family. The events in Genesis 34 at Shechem present a hybrid approach amongst Jacob's sons:

Jacob's sons answered Shechem and his father Hamor—speaking with guile (*mirmah*) because he had defiled their sister Dinah. (Genesis 34:13. See the description of Jacob himself in Genesis 27:35)

... Their words pleased Hamor and Hamor's son Shechem. (Genesis 34:18)

With guile—cleverly.¹⁹ (Rashi's identical comment on both Genesis 27:35 and Genesis 34:18)

Although the brothers initiate their plan with the power of voice that they have inherited from their father (as shown by Rashi's identical

¹⁷ See footnote 15. Note the difference in language between Jacob's blessing (*berakhah*) and Esau's assurance (*havtahah*). This appears to be Rashi's own choice; his Rabbinic source—*Midrash Tanhuma, Beshalah 9*—uses neither.

¹⁸ See Rashi on Genesis 27:3, which reads an ambiguous implement as a sword, and Rashi on Genesis 25:29, which reads Esau as a murderer.

¹⁹ *B'hokhmah*; alternately, “with wisdom.” I read this as a light endorsement or approval of the behavior.

comments by Jacob and his sons) Simeon and Levi carry it out using the sword:²⁰

On the third day, when they were in pain, Simeon and Levi, two of Jacob's sons, brothers of Dinah, each with his sword, came upon the city confidently and slew all the males. They put Hamor and his son Shechem to the sword, took Dinah out of Shechem's house, and went away. (Genesis 34:25-26)

Jacob is upset by their actions, concerned that they have incited the neighboring tribes to violence. The narrative itself does not choose a side, leaving the reader to reflect. Does any circumstance justify the sword?

Perhaps, in this case, the power in the mouth was not powerful enough. Perhaps the voice and its capabilities—guile, diplomacy, persuasion, prayer—can only go so far.²¹

Similarly, the approach in *Parashat Hukat* begins with the voice, as Israel seeks passage through Edom with diplomacy. Moses sends messengers to Edom, as Jacob sent to Esau generations earlier,²² to seek peace and cooperation. But when this fails, the nation simply turns away.²³

In Chapter 21, this attitude changes. When the King of Arad physically attacks the people, diplomacy is no longer an option. But this does not mean that the voice is exhausted. Israel moves to action, demonstrating the power in the mouth in one of the most weighty actions a voice can do in Judaism:²⁴

Then Israel made a vow to the LORD and said, "If You deliver this people into our hand, we will proscribe their towns." (Numbers 21:2)

Then—echoing the language regarding Egypt in Numbers 20:16—God listens:

The LORD listened to Israel's voice and delivered up the Canaanites; and they and their cities were proscribed. So that place was named Hormah. (Numbers 21:3)

The voice does not always completely serve the nation's goals as it does here. But throughout *Parashat Hukat*, Israel elects to use the voice before the sword.²⁵

²⁰ For a further bifurcation of the two strategies, see Ramban on Genesis 34:13.

²¹ Note Jacob's silence in Genesis 34:5.

²² Compare Genesis 32:5 with Numbers 20:4.

²³ Numbers 20:21.

²⁴ See Numbers 30:3.

²⁵ See Numbers 21:21-24, where they first use diplomatic tools with Sihon, and only upon Sihon's engaging in violence does Israel use the sword.

Why were so few voices raised in the ancient world in protest against the ruthlessness of man? Why are human beings so obsequious, ready to kill and ready to die at the call of kings and chieftains? Perhaps it is because they worship might, venerate those who command might, and are convinced that it is by force that man prevails. (Abraham Joshua Heschel, *The Prophets*, Chapter 9)

The blessing of Isaac unto Jacob becomes Jacob's chief characteristic. The voice of Jacob then funnels through the generations, becoming the voice of Israel and Moses's "power in the mouth." Esau's blessing—the power of the sword—funnels, too, through history, becoming Edom's inheritance.

Rashi expands this beyond Edom.²⁶ The power of the sword—as exemplified by the ruthless Canaanite violence in *Parashat Hukat*—is the weapon not just of Edom, but of the non-Israelite nations.²⁷ The success of Israel in *Parashat Hukat* proves the triumph of the voice over the sword.

This dynamic is picked up by Balak and Midian. Ammon failed. Bashan failed. They opted for the sword. It's time, thought Balak, to try something new.²⁸

Balaam's attempt to weaponize the power in the mouth—a unique attribute of Moses and Israel inherited from their ancestors—was destined for failure. This power simply isn't his. A final Rashi rounds out the meta-narrative:

And the donkey saw the angel of the LORD standing in the way, with his drawn sword in his hand . . . (Numbers 22:23)

And his sword drawn in his hand —He (God) said: This evil one has abandoned the tools of his trade, — for the offensive weapons of the nations of the world consist of the sword, and he is attacking them with his mouth which is their specialty (*omanut*); I will seize what is his and come against him with his own specialty (*omanuto*). Thus, indeed, was his end (Numbers 31:8): "And Balaam the son of Beor they slew by the sword." (Rashi on Numbers 22:23)

God comes to Balaam with a sword in the angel's hand—the sword that should be in Balaam's hand. The weapon he ignores comes to stop him on the way and warn him: *the mouth belongs to Israel who pray to Hashem, but not to you.*²⁹

²⁶ See Rashi on Numbers 31:8, quoted below, which applies the same verse that tied Esau to Edom—"by your sword you shall live"—to the nations of the world.

²⁷ *Tanhuma Be-shalah* 9, Rashi on Numbers 22:23 (quoted below), and Rashi on Numbers 31:8.

²⁸ See Rashi on Number 22:4, quoted above.

²⁹ *Siftei akhamim*, ad loc.

Balaam doesn't listen. His ironic fate is to be killed by Israel as *they* take the sword to slay him.³⁰

And the voice of the shofar (kol shofar) became increasingly louder; Moses spoke, and God answered him by voice. (Exodus 19:19)

And on that day, a great shofar shall be sounded; and the strayed who are in the land of Assyria and the expelled who are in the land of Egypt shall come and worship the LORD on the holy mount, in Jerusalem. (Isaiah 27:13)

The Jewish People has often been described in terms of our holy texts. The Torah, and later, the Talmud, have comprised our timeless, traveling homeland, functioning as “compact, transferable history, law, wisdom, poetic chant, prophecy, consolation and self-strengthening counsel,”³¹ keeping us together against the eroding onrush of time.

This meta-narrative shows that before the Book, we were the People of the Voice. Rashi takes two verses in Genesis--27:22 (*the voice is the voice of Jacob*) and 27:40 (*and by your sword you shall live*)—masterfully mapping them on other narratives through his comments. These connections are not my own—as we have shown, Rashi's comments by Edom and by Balak explicitly use these verses to apply the archetype to Edom, Israel, Moses, Balaam, and the Nations. With this paradigm in place, we can understand the identity of our patriarch, our leader, and our people, using it to read other narratives—Shechem for Jacob and his children, the Waters of Merivah for Moses,³² and the conquests in *Parashat Hukat* for the Nation of Israel. But we can also use it to understand Jewish history itself.

Jacob's *berakhah*, Moses's *midah*, and the Children of Israel's *omanut*—we used it to cry, to persuade, to swear; to declare, to celebrate to sing; to accept, to teach, to pray; striving throughout history to maintain our voice through songs, laws, and stories. The voice of Israel became that of its prophets, listening to the still, small voice of God and proclaiming that voice to the people. The prophetic voice became the voice of the Rabbis, the voice of the schoolhouse and the voice of the *minyán*, the voice of the halakhic *makhloket* and the voice of the aggadic *derashah*. The national voice became the voice of exile, the proclamations of the martyr and the shouts of the mourner. Today, the voice of dispersion sings in cacophony with the voice of the returned people—both voices are proud and confident, if out of sync.

While the Book provides the source material, the Voice brings it to the world. We are a People of the Book, but the voice is our trade. May the ever-growing Jewish voice soon usher in the *kol shofar*—the voice of redemption.

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³⁰ Cf. Rashi on Numbers 31:8. Reminiscent of Simeon and Levi's role in Shechem *vis-à-vis* Jacob, Phineas—the iconic, violent zealot—oversees this campaign, rather than Moses himself (Numbers 31:6).

³¹ Simon Schama, [*The Story of the Jews: Finding the Words 1000 BC – 1492 AD*](#) (New York: HarperCollins Publishers, 2013), Chapter Two.

³² See Rashi on Numbers 20:11. Moses hits the rock, using his hands (Esau's blessing) rather than his voice—his own specialty—as he was commanded.