

## Welcoming the Stranger: A True Blessing By Susan Cohen July 8, 2017

In the Torah portion, Balak of Moab and the Midianites together were alarmed at the numbers of approaching Israelites and worried that the Israelites, so large in number, would deplete their resources. So Balak sends messengers to the famous Balaam to ask Balaam to curse the Israelites. But God does not allow Balaam to curse them. It takes the donkey to alert Balaam to the fact that the angel of God is in front of him. Instead of cursing the Israelites, he blesses them:

But Balaam is only able to bless the Israelites after he has really seen them. Balak had led Balaam to vantage points above the Israelite encampment, where he could only see a portion of the Israelites, and Balak asked Balaam to curse them from there. But Balaam finally chooses his own vantage point – one where he can see the entire camp, arranged by tribe. He can see that the tents are set up in a way that honors each family's privacy, with no tent flaps facing anyone else's. He is impressed by the care and order of the camp, and he famously exclaims: "How goodly are your tents of Jacob; your dwelling places, Israel".

It is much easier to foment fear and hatred when you don't allow yourself to fully "see" the other. From his

clear vantage point, Balaam truly “saw” the Israelites, and he had to bless what he saw, not curse them.

When we allow ourselves to get to know and truly “see” the other, we engage in the mitzvah of welcoming the stranger and we see and learn that inevitably we have more in common as fellow human beings than we ever imagined. Our fears and our enmity dissipates, opening up the space for friendship and understanding.

The Moabites and Midianites see the approaching Israelites, as a numerous alien people who might deplete their resources and they fear them for their otherness. This attitude has been a defining characteristic of xenophobia throughout the ages, and throughout the world.

Indeed national tensions around issues of immigration have been playing out in a very public way in the U.S. particularly during this Trump administration. As we all saw, the President campaigned on a pledge to implement a Muslim Ban and one of his very first acts, one week after taking office, was to issue an Executive Order that sought to suspend the entry into the U.S. of nationals of Iran, Iraq, Libya, Somalia, Syria, Sudan and Yemen for 90 days; to suspend the admission of approved refugees for 120 days and to completely stop the admission of Syrian refugees. That first Executive Order also sought to

prioritize refugee approvals for people from countries who claimed religious persecution as minorities. In light of the identified countries on the banned list, effectively this was giving special preference to Christian refugee applicants.

The President claimed that people from the banned countries are more likely to commit acts of terrorism against the U.S. He wanted to use the 90-day ban period to have his agencies undertake a review of the vetting procedures for visa applicants in those countries. Yet he did not cite any compelling proof that people from those banned countries actually are more likely to harm the U.S. than people from other countries in the Middle East or elsewhere. And in fact, the existing visa application process is extremely stringent. It is incredibly difficult for anyone to be granted a visa to come to the U.S. and there are many background checks performed on each visa applicant.

The President issued this first Executive Order without providing advance notice to the government agencies meant to enforce it, and sought to implement it immediately, without providing the public with notice or an opportunity to plan for this drastic measure. As the order was issued, innocent people who were to be subject to this horrific ban were in flight on planes from all around the world, heading to the U.S. and expecting to be able to

enter the country. They expected to be reunited with family, to return to jobs and school, and to undergo critical medical procedures at U.S. hospitals.

The President has broad authority to protect the nation from the threat of harm, whether from terrorists, or other attacks by those who would seek to hurt us. But the President's power is not unlimited and the initial Executive Order was arguably unlawful for many different reasons. It discriminated on the basis of national origin, which is prohibited by our Immigration and Nationality Act. It violated various provisions of the Constitution, including the Establishment Clause, which prohibits preferring one religion over another. It also violated the Equal Protection and Due Process Clauses of the 5<sup>th</sup> Amendment, as well as the 1<sup>st</sup> Amendment, which guarantees freedom of speech and freedom to associate.

Immediately after that first Executive Order was issued, many people across the country sprang to action to put a stop to the intolerable aspects of this order, particularly the travel ban and refugee ban sections. Here in Boston, I was one of several lawyers in Federal Court Saturday night, the day after the EO was issued, seeking a Temporary Restraining Order to halt the implementation of the travel ban at Logan Airport. We emerged from the courthouse at 2:30 am on Sunday morning with a 7-day TRO in hand, and we were briefly elated. We had

convinced the judge in our case to order Customs and Border Protection officials to instruct the air carriers to allow impacted people all over the world to board their flights to Logan Airport.

But we soon learned, painfully, that the U.S. Customs and Border Protection officers at Logan Airport at first did not follow the Boston District Court Order halting the travel ban. For the first 3 of those 7 days, they did not instruct the airlines that they were mandated by law due to the court order, to allow passengers from the banned countries to board their flights. This resulted in tremendous hardships to so many families who had paid for and confirmed tickets to fly to the U.S. These families travelled long distances to the airport each of those days , only to be turned away by the airlines, which face fines of \$50,000 for each person they allow to board a flight to the U.S. who does not have appropriate documentation to enter the United States.

We spent frantic hours on the phone with the General Counsels of the airlines, urging them to respect the Boston Court order and instruct their personnel to allow these desperate travelers to board their flights. There was mass chaos and confusion at foreign airports as well as among the general public in the U.S. and all over the world. Finally, 3 days into the 7 day TRO, we convinced the airlines to do the right thing, and passengers were

allowed to fly to Boston. Once this news got out, for several days, impacted people all over the world rebooked their flights to land at Logan Airport as it was considered a “safe” place to enter the U.S.

Fortunately a few days later, a Federal Court in Seattle issued a nationwide TRO against the first Executive Order. And after the President withdrew that first Executive Order and issued a watered down but similar second Executive Order, more than one federal court issued an injunction stopping the travel ban. Several circuit courts of appeals upheld the injunctions despite the President’s objections. Plaintiffs in these various cases include affected foreign nationals on visas and with green cards as well as their educational institutions, employers and U.S. family members who are all harmed as a result of the Order.

Of course the President has always insisted that he has the right to undertake this action in the interest of national security. And now the Supreme Court has taken up the case.

On Monday, June 26, the Supreme Court issued a mixed ruling on the travel ban and refugee ban. The Court ruled that the travel ban could go forward in a limited fashion: the ban does not extend to foreigners who have pre-existing, bona fide relationships with U.S. family

members, employers and educational institutions. But foreigners from the shortened list of countries (Iraq was taken off the travel ban list in the second EO), who cannot prove such ties, are affected by the ban.

The Supreme Court will hear arguments in the case in October. So unless the Court finds that the controversy is moot, ultimately the Court will rule on the limits of presidential power when it comes to broad immigration-related mandates that seek to bar whole classes of foreign nationals from entering the U.S. With the appointment of Justice Gorsuch to the Court, tipping the balance between the liberal wing and the conservative wing of the court, I would not be surprised if the Court finds that the President's powers in this area are very broad. It will be very interesting to see what the Court will say about the admissibility and relevance of the President's discriminatory campaign trail statements

What is this Travel Ban, truly? Is it truly a measure that was taken for the purpose of securing our safety? Or is it an anti-immigrant, anti-Muslim punitive act that seeks to cloak intolerance and discrimination in a veneer of legitimacy?

My opinion is that this was the latter. And the anti-immigrant, anti-“other” attitude emanating from the highest levels of government, has not only impacted US

immigration policy and enforcement, but has given license to and has unleashed a huge spike in hate crimes and religiously-motivated acts of violence within the U.S.

The President attempted to justify the 90-day travel ban by arguing that the government needed those 90 days to make sure the vetting process in those countries was sound and that there were no loopholes in the systems that would allow the entry of a terrorist into the U.S. from one of those countries. But the visa application process is already extremely stringent.

But as stringent as the regular visa application process is, the refugee application process is even more strict. It typically takes many years for refugee applications to work their way through the system, and each refugee's data and information is screened and reviewed by no less than 5 separate federal government agencies, including counter-terrorism and intelligence agencies.

What could possibly motivate the attempt to cut refugee admissions by more than 50% and the initial attempt to completely ban Syrian refugees? I would argue (I am a lawyer after all) that it is a meanness of spirit and cruel indifference to the suffering of others, particularly if they look and sound different from us, that motivates such an act.

Starting with Abraham and Sarah, our tradition teaches that we welcome the stranger, and who deserves this welcome more than those who have endured and fled horrific persecution and have nowhere else to turn? As Jews, we have a special empathy and responsibility towards refugees, as we of course have been strangers in a strange land, indeed in many strange lands, across the millennia. We know the pain of fleeing those wish to destroy us, and being turned away and left to suffer or die.

The irony of turning ones back on the stranger is that the one who turns his back actually loses the most by turning away. When we open our hearts and our homes to immigrants and refugees, it is not only they who gain. I have been deeply humbled to bear witness to the bravery and resilience of spirit of immigrants who have overcome unspeakable horrors to make their way to this country that has throughout its history has defined itself as a nation of immigrants.

Like my client, F, who as a young teenager hid in terror behind a sack of grain in her home in Uganda, when rebels broke in and murdered her mother, her father and seven brothers and sisters. She made it to the U.S. and managed to put the past behind her, becoming so involved in her asylum case that she decided to go to school here to become a paralegal. Now she is married and has a beautiful family of her own.

Or R, a French teacher from Cameroon, who was jailed and tortured for daring to march through the streets with his fellow teachers to speak up for teachers and education.

Or A, who was targeted for assassination by the Taliban in Afghanistan because he formed youth groups to educate young people that girls in Afghanistan should have equal rights and opportunities.

These immigrants, and so many more, have enriched my life in immeasurable ways. And this wondrous mix of peoples from all over the world is one of the things that truly make America great.

It is wonderful that here at Temple Emunah we have a caring and active refugee committee chaired by Barbara Posnick and Sylvia Perlman, filled with wonderful volunteers from our community. Even though the committee is young, already it has collected goods for refugee minors; working with Ascentria in Worcester, donated laptops to LexRAP, the Lexington Refugee Assistance Project, and is now working with the JCRC to develop a bystander training program incorporating Jewish values. Bystander trainings educate us about how to take action when we see a miscarriage of justice or a hate-inspired incident unfold before our eyes. Bystander trainings also provide guidance about how to react if we

witness an immigration raid or arrest. The committee's work is making a really important difference to the refugees and immigrants in our midst.

So in closing I would argue that those who bless and do not curse the immigrant, are themselves blessed. Balaam has not been praised much by the commentators over the ages, and in fact there are aspects to his character that do not appear to be admirable. But to Balaam's credit, whether it was because of the donkey, the Angel of God, or through God directly, Balaam's eyes were opened and he saw the approaching Israelites for who they truly were, and in the end, he blessed them.

Welcoming and blessing the stranger is a blessing in itself.

Shabbat Shalom.