

These Things I Remember and I Pour Out My Heart
A sermon for Kol Nidre 5766
Rabbi Ellen Lippmann

A painful rabbinic story: *When they led Rabbi Akiva to the executioner, it was time for reciting the Shema. With iron combs they scraped away his skin as he recited Shema Yisrael, freely accepting the yoke of God's sovereignty. "Even now?!?!" his disciples asked. He said to them, "All my life I have been troubled by the verse: 'Love the Eternal your God ... with all your soul,' which means even if God takes your life. I often wondered when I would be able to fulfill that obligation. And now that I have the opportunity, should I not do so?!?!" He left the world while uttering Ekhad – God is one. [Talmud Berakhot 61b]*

Eleh ezkerah v'nafshi alai esh'p-kha: These things I remember as I pour out my heart.

After the Yom Kippur Avodah service tomorrow we will read Eleh Ezkerah – These Things I Remember, a poem about ten martyrs who died under Roman persecution for teaching Torah. It entered the Ashkenazic liturgy in the Middle Ages, a “cry of anguish and bewilderment at the savagery of Jewish fate during the Crusades” [Jonathan Magonet, in *Hadeish Yameinu*, p 621]

We Jews know about torture, by the Romans, the Crusaders, the Spanish Inquisitors, the Nazis.

All of these we remember and pour out our hearts.

So if we know and remember what it is to be victims of torture, why am I talking about torture tonight? I am talking about it because as a member of the Executive Committee of Rabbis for Human Rights-North America, I have been in on the Rabbis Campaign Against Torture from the beginning, and have had a chance to hear from experts, learn from rabbinic sources, and advocate with those in Washington who are finally beginning to work against it.

But mostly, I am talking about it because I wept when I realized how far our country has fallen. This was in June, when I heard Josh Rubinstein, Northeast Director, Amnesty International, say, “We have always worked with centers for treatment of torture victims from countries around the world, **but never in thirty years of my work in this field have we had to look at victims of torture committed by our own country.**”

I startled myself by weeping, but after his talk I broke down. I wept for my country, and how far we have come from the ideals I learned to love as a child. I wept for shame. When I told this to friends, some said, “How naïve can you get?!?!? The United States has been involved in torture and abuse the world over for years!”

I know that. And yet...

We have crossed a line here, damaging further our reputation abroad and our safety there and here, and pouring out a little more of our hearts with each incident, each humiliation, each conviction of a Pvt. Lynndie England while higher level officials remain at large.

Kolot member Elizabeth Holtzman, writing in *The Nation* in July, said “President Bush likes to blame a few ‘bad apples’ for the serious mistreatment of Iraqi prisoners. But the problem is not limited to a few bad apples at the bottom of the barrel.” She strongly advocated holding senior officials accountable and urged Congressional action: a special prosecutor, legislation, hearings, press conferences and more.

It is gratifying that the Senate, led by Senator John McCain (who knows of torture first-hand), has finally voted – decisively -- to bring military prison camps under the rule of law, banning the use of cruel, inhuman or degrading treatment (which was already illegal)

Two weeks ago a delegation of rabbis met with Senator McCain and presented him with our Rabbinic Letter against Torture signed by close to 600 rabbis. He told them how much he appreciated our efforts and how important public opinion is in the success of his initiative. The rabbis made a commitment to him to do all we can to support his efforts and other similar initiatives aimed at ending torture.

I was not at that meeting, but was at a meeting the next day with a leading staff person in Sen Carl Levin's office, where we also presented our letter. It felt hopeful to be doing something, to do what we as rabbis – and Jews – can do. We have developed a Jewish Campaign Against Torture, too, which will amass thousands of signatures on a letter to use in similar advocacy. Some of you have a brochure in your mahzors that allows you to sign on, to join activists like Tony Kushner on this important list. Please do so, or ask me how if you don't have the brochure.

Yet while 600 rabbis and Sen John McCain and Bob Herbert are doing all they can to bring torture into the public eye, it remains largely unspoken, ignored even as we read other news of the war in Iraq, march in protest of the war, question the U.S. administration for other lapses and errors. Why?

Before we at RHR began this Campaign Against Torture, I was – maybe like you – someone who either read about sexually-charged torture with creepy fascination or turned the page as fast as I could. In either case, I certainly didn't feel I was reading or thinking about human beings being tortured. Yet torture like terror is about human abuse of other humans, and I think we ought to pay more attention.

Hayder Sabbar Abd reported that seven men were all placed in hoods...and the beating began. 'they beat our heads on the walls and the doors...He said his jaw had been broken...he received 50 blows in two hours...When we refused to take off our clothes, they beat us and tore our clothes off with a blade.' He saw himself in the photos from Abu Ghraib, naked, his hand on his genitals, a female soldier pointing and smiling with a cigarette in her mouth. [Washington Post, January 2002]

The abuses at Abu Ghraib were perfected at Guantanamo and are seen in Afghanistan as well. And we know that the United States has been practicing extraordinary rendition, which means sending people they want to torture to serve sentences in countries where torture is less constrained. [Melissa Weintraub, A Rabbinic Resource on Jewish Values and the Issue of Torture, RHR-NA]

It is painful to face these truths, yet it is a painful honor, as my friend Rabbi Margaret Holub has said. It is painful to realize that President Bush appears likely to veto the Senate bill, and as the New York Times reports, "continues to block any serious investigation of the abuse, torture and murder of prisoners." The Times urges the creation of a bipartisan and independent commission, armed with subpoena power, to investigate. It may be a long wait.

Yet it is an honor to be part of a group which has gotten 600 rabbis and untold numbers of other Jews to sign onto letters against torture, which has been able to meet with the key legislators, which is getting out a Jewish voice that has been largely silent about torture.

And it is an honor to realize that one place we can look to for support is Israel and a landmark 1999 decision by the Israeli Supreme Court. I and many of you have been critical of much of Israel's behavior in the last many years, and we are often fearful as Jews because of how Israel's behavior is perceived by the rest of the world. In the case of torture, we can now – since 1999 — hold Israel up as an example. Would that the U.S. government would adopt a ruling as clear and important as that of the Israeli Supreme Court! We should be proclaiming it from the rooftops!

The background: In 1988, the Landau Commission there authorized the use of “moderate physical pressure” in what they called “ticking bomb” situations, in which a suspect is thought to know of an immediate threat. Soon, though, most or all Palestinian detainees were treated as potential “ticking bombs.” In 1999, the Supreme Court in Israel, recognizing that most Palestinians were being tortured in some way, ruled that torture and other cruel, degrading and inhumane means of interrogation are illegal. The ruling states, in part, that “although a democracy must fight with one hand tied behind its back, it nonetheless has the upper hand. The rule of law and the liberty of an individual constitute important components in its understanding of security. At the end of the day, they strengthen its spirit and this strength allows it to overcome its difficulties.”

A couple of years ago I had the chance, thanks to Russ Pearce, to hear Israeli Chief Justice Barak speak about this decision. Many members of the audience were furious! They accosted him afterward, shaking fingers and raising voices – How could he decide that someone's – in their eyes, a potential Palestinian terrorist's—human rights were more important than the threat of security?!?! Yet that is exactly what he and the court decided, and the United States should be looking to that decision.

I asked Ken Roth, Executive Director of Human Rights Watch, what the effect on the ground had been after the decision. He replied that it had made a huge difference: that the use of torture by Israel since 1999 has been nothing like it had been before the ruling; not that there is no torture, but that it is enormously reduced.

These things I remember and my heart grows strong.

Jewish sources abound that can help us. Jewish Theological Seminary rabbinic student Melissa Weintraub, doing groundbreaking work, has written four articles about four categories in Jewish law that stand against torture. The categories are:

- 1) **The Ban Against Self-Incrimination**, seen in the Talmud Sanhedrin 9b as “A person may not incriminate himself,” since he/she is his own kinsman. The Rambam later suggests that one would have to be in deep misery to offer a confession of one's own guilt. Modern scholars have suggested that the ban's purpose was to repudiate the kind of justice system that depends on brutality and violations of privacy and human dignity.
- 2) **K'vod HaBriot: Dignity of Human Beings**, seen in the Talmud Bab Metzia 58b, which states that “anyone who shames his fellow in public, it is as if he spilled blood.” Human dignity derives from the understanding that all human beings are created b'tzelem

Elohim, in the image of God; to dishonor a human being, therefore, is somehow to dishonor God.

- 3) **Balancing the Rodef defense:** Restrictions on the use of force even when being pursued or defending oneself. There is a Talmudic story of one who came before Rabah and said to him, “The governor of my town has ordered me, ‘Go and kill so-and-so; if not, I will kill you.’ Rabah answered him, ‘Let him rather kill you than that you should commit murder; why do you think your blood is redder? Perhaps his blood is redder?’” [BT Sanhedrin 74a, and Pesakhim 25b]. Rashi, reading this, elaborates, “Who says your life is more beloved by God than his? Perhaps his life is more beloved.” [Rashi on Pesakhim 25b] Weintraub teaches us that from a Jewish legal perspective, to be able to use violence when being pursued, the danger has to be imminent and spontaneous; you must be certain that it is so; you cannot harm third-party suspects; and if permitted to use some violence, you must do the minimum possible harm. These requirements are rarely, if ever, being met in United States military detention facilities.
- 4) **Knowing the heart of the stranger,** as we are taught in Exodus, “You shall not oppress a stranger, for you know the heart of the stranger, having yourselves been strangers in the land of Egypt.” [Exodus 23:9]. We know from the inside what it can mean to be abandoned to powerful governments...The Geneva Conventions, which ban torture as a war crime, were drafted and adopted by the nations of the world in response to the atrocities of Nazi Germany. As Jews, we have or could have a special sensitivity to the immorality and costs of torture.

These things we remember and pour out our hearts.

So what is the matter, the heart of the matter? Why haven't Americans, Jews or not, responded in full voice to the outrageous abuses and torture by our government? Is it just that it is all so far away, and we can barely manage to get through our days as it is? Or is it that we are ambivalent? The people being tortured are almost all Muslim prisoners, and as Jews and New Yorkers we have been given reason to fear Muslim terror. Too many Muslims across the world express the basest anti-Semitism, and some have engaged in outrageous violence, sometimes against Jews particularly, sometimes against Muslims and others. Others perpetuate myths from the Protocols of the Elders of Zion to the 4000 Jews absent from the World Trade Center on September 11th. We have reason to fear.

Yet our fear is precisely why we must take extra precaution, remember the words of Israeli Chief Justice Barak, and maintain the democratic ideals that should keep this country and us Jews safer. Torture does not succeed in getting accurate information, and outrage against U.S. torture practices will only add fuel to terrorists' fire. Just as we are to know the heart of the stranger, so too we know what it is to see our tortured leaders made martyrs. Shall we watch as the United States becomes like ancient Rome, creating martyrs from “religious fanatics”? Shall we become like the Crusaders, or the Spanish Inquisitors?

“...The inquisitors ordered Maria Lopez a Jewish prisoner of the Spanish Inquisition, to be taken to the torture chamber and to be undressed and placed on the rack of torment and to be tied with some hemp ropes. She was... admonished by the ... inquisitors to tell the truth: who were those persons whom she had seen commit those heretical crimes of which she is accused? ...The order was made to pour water with a pitcher and to put something additional upon her face on top of the silk headdress that she had on her face. It was ordered for the ropes to be tightened with a tourniquet and it was tightened with two tourniquets...”[Heretics or

Daughters of Israel: the Crypto-Jewish Women of Castille, by Renee Levine Melammed, Oxford University Press, 2001, pp 136-37]

One form of torture currently being used by the United States against its detainees is called water-boarding: the prisoner is strapped to a board and lowered under water until the prisoner thinks he or she will drown. I cannot see how it differs from the torture imposed on Maria Lopez. All the methods, all the sadism, were perfected long ago: the water, the focus on sexual organs, the humiliation, the abuse of religious items and principles, the face coverings, the hanging by one's feet or fingers or bent arms, the small spaces, the use of fear of death.

A researcher named John Conroy – no relation – found that studies of bystanders suggest that dehumanization tends to accompany feelings of powerlessness to help. Torture heralds the breakdown of empathy, in other words; we fail to see the one tortured as a human being. That is certainly true for the torturer, who long ago stopped seeing the victim as human. Yet Conroy suggests that it is true for us, as well. We too see “torture victim” when we ought to see human being.

Seeing “torture victim” allows us to stop seeing, to turn away, to turn the page, to turn to the needs of everyday life. Yet on this day, when our task is to turn, to ask God to turn us, we cannot turn away. Part of our teshuva, our turn, on this Yom Kippur, must be to turn toward hope. Signing onto the Jewish Campaign Against Torture letter is a small step that will take a few minutes, as I said earlier. Yet the many small steps added together, even from just this one gathered community, will add weight to the understanding of human dignity, of Jewish memory, of empathy and compassion. Write to Senators McCain and Levin and others who are going to try to keep this issue alive even in the face of a presidential veto, or write to the President, write to the press.

But is there something we can do that comes first, something to remind us of humanity, of k'vod ha-briot, the dignity of a human being who was created in the image of God? What can we do to ensure that every time we see someone being degraded in a military prison camp, we see “human being” ? What must we do to make that turn, that slight shift of mind that changes everything? The Hassidic teacher Zeev Wolf of Zhitomer taught that teshuva happens in an instant, and happens all the time. Let's us try to make those instant shifts every time we read the paper, every time we see a disturbing photograph, every time we hear about the kind of gruesome torture that makes us want to flinch and turn away instead. Let that shift to seeing “human being” be our teshuva on this Yom Kippur.

Akiva, flayed to the bone, understood the words of the Sh'ma as he never had before. It gave him hope even in death, hope that he was fulfilling the desire of his God. Can we on this Yom Kippur find the hope to answer the call to love God with all our hearts, with all our souls, with all our strength, without having to be tortured? Can we find hope in the letters we sign, the calls we make, the shifts that will form our teshuva? The Senate is finally awake and public opinion may be following. There is room to hope for the results of our actions. Can we then muster enough memory and heart to respond to God's words, Akiva's words, with our actions? If God on this day is called by the name He told Moses -- El Rahum vHanun -- then we must rise to meet that challenge and ourselves be compassionate and loving, with all our hearts, all our souls, all our strength.

These things I remember as I pour out my heart.

Lisa sing: Lamentations 2:19: Pour out your heart like water / And remember