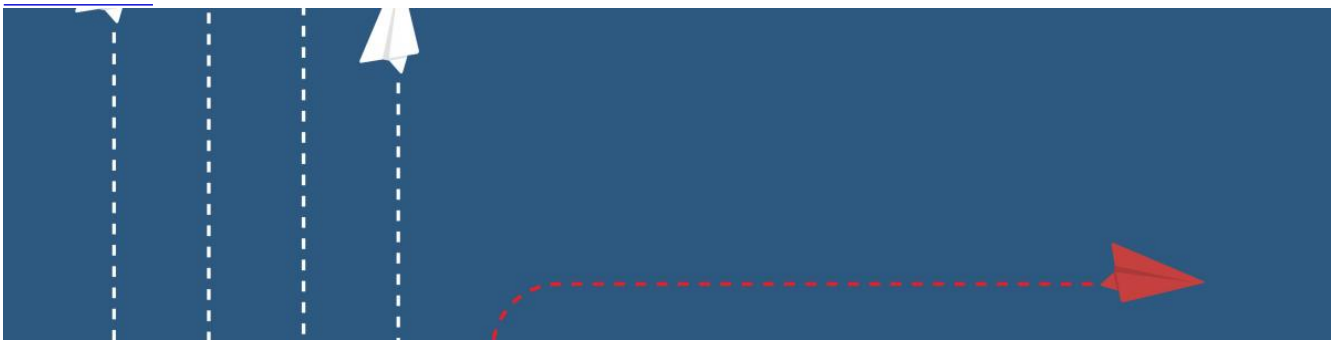
How the Torah Broke with Ancient Political Thought

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How the Torah Broke with Ancient Political Thought[1]

by Joshua Berman

For some, the proposition that the Torah needs to be understood in its ancient context seems to diminish from the sacredness and divinity of the text. However, it is precisely through appreciating the Torah in its ancient context that we can arrive at a set of illuminating insights into how the Torah stands out from that context and reveals its divinity, particularly in its approach to political thought.

In ways that were astonishingly new and counterintuitive, and in ways that served the purposes of no known interest group, the political philosophy of the Torah rose like a phoenix out of the intellectual landscape of the ancient Near East. Throughout the ancient world the truth was self-evident: All men were *not* created equal. It is in the five books of the Torah that we find the birthplace of egalitarian thought. When seen against the backdrop of ancient norms, the social blueprint espoused by the Torah represents a series of quantum leaps in a sophisticated and interconnected matrix of theology, politics, and economics.

Equality: A Brief History

To appreciate the claim that the Torah represents the dawn of egalitarian thought, let us set the idea in historical perspective. It is only in the European revolutions of the eighteenth and nineteenth centuries that we find the rejection of the privileges of rank and nobility that resulted in the delegitimation of entrenched caste, feudal, and slave systems. Greece and Rome had known their respective reformers, yet nowhere in the classical world do we find a struggle to do away with class distinctions. Nor do we find this articulated as a desideratum by any of the ancient authors in their ideal systems. “From the hour of their birth,” wrote Aristotle, “some are marked out for subjection, others for rule.”[2] It was assumed that some would be rich and that many, many more would be poor—not simply because that was the way things were, but because that was the way things were actually supposed to be. Justice, for Aristotle, meant that equals would be treated as equals and unequals as unequals. The Greeks and Romans possessed an overwhelming belief in the harmony of various classes.

The medieval mindset, too, believed that an ordered society was one in which each socioeconomic class performed its tasks for the common good. Social stratification was likewise endemic to the empires and lands of the ancient Near East. Nowhere in the region is there articulated the ideal of a society without class divisions founded on the control of economic, military, and political power. It is not merely that the notion of social mobility was unknown to the ancient world; it would have been unthinkable. These cultures believed that the only way that a society could function was if everyone knew his or her station in life. The modern ideas of free choice and equal opportunity would have struck them as surefire recipes for anarchy and chaos. It is in the books of the Torah that we find the world’s first blueprint for a social and religious order that seeks to lessen stratification and hierarchy and to place an unprecedented emphasis on the well-being and status of the common person.

Religion and Class in the Ancient World

The Torah’s revolution of political thought begins with its theology. The attempt to treat things political as distinct from things religious is a thoroughly modern notion; in not a single culture in the ancient Near East is there a word for “religion” as distinct from “state.” To appreciate the ancient mindset and the conceptual default settings that it supplied, imagine that we are archaeologists digging up an ancient culture called “America.” Deciphering its religious texts, we discover that the paramount god of the pantheon bore the title “Commander in Chief,” resided in a heavenly palace called “White House,” and would traverse the heavens in his vehicle, “Chariot One.” We further discover that Commander in Chief had a consort known as “First Lady”—herself a goddess of apparently meager powers, yet assumed by some to be a barometer of desirable values and fashionable dress. In the heavens was another palace, this one domed and populated by 535 lesser, regional deities, who routinely schemed and coalesced into partisan groupings, and who were known, on occasion, to have been able to depose the Commander in Chief.

Put differently, what we would discover is that the institutional order “down below” manifests the divine order of the cosmos “up above.” This phenomenon, wherein the political structure of the heavens mirrored that of the earthly realm, was widespread in the ancient world, and it is easy to see why. Political regimes are, by definition, artificial, constructed, and therefore tenuous. Always implicit is the question: Why should *he* reign? The imposed institutional order can receive

immeasurable legitimation, however, if the masses underfoot believe that it is rooted in ultimate reality and unchanging truth, that the significance of the political order is located in a cosmic and sacred frame of reference. Ancient religion is the self-interested distortion that masks the human construction and exercise of power.

For example, we find that Enlil, the chief god of the Mesopotamian pantheon, utterly resembles his earthly counterpart, the king. Enlil, like his earthly counterpart, rules by delegating responsibilities to lesser dignitaries and functionaries. Like his earthly counterpart, he presides over a large assembly. He resides in a palace with his wives, children, and extended "house." Generally speaking, the gods struggled to achieve a carefree existence and enjoyed large banquets in their honor. Like kings, gods needed a palace, or what we would call a temple, where they, too, could reside in splendor in separation from the masses, with subjects caring for them in a host of earthly matters.

If a god wanted something—say a temple repaired, or the borders expanded—he communicated through various agents with the king, and the king was his focus. The gods never spoke to the masses, nor imparted instruction to them. Within ancient cosmologies, the masses served a single purpose: to toil and offer tribute. They were servants, at the lowest rung of the metaphysical hierarchy. The gods were interested in the masses to the extent that a baron or feudal lord would have interest in ensuring the well-being of the serfs that run the estate and supply its needs. Servants, no doubt, play a vital role in any monarchical order, but it is an instrumental role. From an existential perspective, it is a decidedly diminished and undignified role.

Religion and Class in the Torah

By contrast, the Torah's central accounts—the Exodus and the Revelation at Sinai—preempt claims of election and immanent hierarchy *within* the Israelite nation. The Exodus story effectively meant that no member of the children of Israel could lay claim to elevated status. All emanate from the Exodus—a common, seminal, liberating, but most importantly *equalizing* event. Although we normally think of the Revelation at Sinai in religious terms, its political implications are no less dramatic, and constitute the bedrock of the Torah's egalitarian theology. Elsewhere, the gods communicated only to the kings, and had no interest in the masses. But at Sinai, God spoke only to the masses, without delineating any role whatever for kings and their attendant hierarchies. The ancients had no problem believing that the gods could split the seas, or descend on a mountaintop in a storm of fire. Nevertheless, the stories of the Exodus and Sinai necessitated an enormous stretch of the imagination, because they required listeners to believe in *political* events that were without precedent and utterly improbable, even in mythological terms. Slaves had never been known to overthrow their masters. Gods had never been known to speak to an entire people.

The pact or covenant between God and Israel displays many common elements with what are known in biblical studies as ancient Near Eastern vassal treaties, which were formed between a great king and a weaker one. In these treaties, we typically find that the more powerful king acts on behalf of a weaker, neighboring king; sensing an opportunity to foster a loyal ally, he may send food during a famine, or soldiers to break a siege. In return, the lesser king demonstrates his

appreciation to the powerful one by agreeing to a series of steps that express his gratitude and fealty. In these treaties the vassal king retains his autonomy and is treated like royalty when he visits the palace of the powerful king. Having been saved from Egypt by God, the children of Israel sign on at Sinai to a vassal treaty as sign of fealty, becoming junior partners to the sovereign king, God. The theological breakthrough of the Torah was the transformation of the metaphysical status of the masses, of the common person, to a new height, and the vitiation of nobles, royalty, and the like. The common man, in short, received an upgrade from king's servant to servant king.

Yet no less significant is the Torah's call that these stories should be promulgated among the people as their history. The point requires a note of context for us as moderns. Although there are over one million inscriptions in our possession from the ancient Near East, there is nowhere evidence of a national narrative that a people tells itself about its collective, national life, of moments of achievement or of despair, recorded for posterity. Stories abound in the ancient Near East—but they revolve around the exploits of individual gods, kings, and nobles. The most important audience of these materials was the gods themselves—as witnessed by the fact that these texts were often discovered in temple libraries, buried, or in other inaccessible locations. Myths were recited to remind the gods of their responsibilities. Details of a king's achievements on the battlefield were to constitute a report to a deity about the king's activities on his or her behalf; they were not composed for the masses. The Kadesh Inscriptions of Rameses II were the exception that proves the rule: Those inscriptions were not only textual, but pictorial; and they were not only carved on stone, but copied and disseminated via papyri. However, most inscriptions of royal activity in ancient times were limited to monumental structures in writing that was inaccessible to the common person.
We may take a page from the history of technology of communication to understand the implication of the Torah's call to promulgate the accounts of Israel's early history. The distribution of printed texts in the early modern period is said to have occasioned the birth of modern citizenship within the nation-state. The vernacular languages that were now fashioned and standardized led to the creation of newspapers and novels designed for a mass readership comprised of people who were in disparate locales but could now envision themselves as a public sharing a common heritage, destiny, and range of interests—religious, social, and political. People could now imagine themselves as a political collective, and thus was born the political "we."

It is in the Torah that we see for the first time the realization that the identity of a people may be formed around an awareness of its past. Indeed, the Hebrew Bible is the first work of literature before the Hellenistic period that may be termed a national history. Moreover, the Torah displays an attitude toward the dissemination of texts among the populace that is in sharp contrast to the relationship between texts and society that we find elsewhere in the ancient Near East. It is a contrast, further, that is a reflection of the egalitarian agenda that the Torah seeks to pursue, over against the entrenchment of class distinctions. In an age and place such as our own, where literacy is nearly ubiquitous, access to texts of many kinds and the knowledge they bear is unfettered and, in theory, available to all. But in the ancient world physical access to written texts and the skills necessary to read them were everywhere highly restricted. Indeed, in the cultures of the ancient Near East as well as of ancient Greece, the production and use of texts was inextricably bound up with the formation of class distinctions: Those who possessed the capacity to read and write were members of a trained scribal class who worked in the service of the ruling order.

Writing in the ancient Near East was originally a component of bureaucratic activity. Systems of writing were essential for the administration of large states. Indeed, the elite in these cultures had a vested interest in the status quo, which prevented others from gaining control of an important means of communication. Far from being interested in its simplification, scribes often chose to proliferate signs and values. The texts produced in Mesopotamia were composed exclusively by scribes and exclusively for scribal use—administrative or cultic—or for the training of yet other scribes.

The Cambridge anthropologist Jack Goody notes that a culture's willingness to disseminate its religious literature inevitably reflects an emphasis on the individual within that culture.[3] The comment sheds light on the Torah's agenda to establish an ennobled egalitarian citizenry, as we are witness to an impetus within the biblical vision to share the divine word with the people of Israel. Moses reads the divine word to the people at Sinai (Ex. 24:1–8). Periodically, the people are to gather at the Temple and hear public readings of the Torah (Deut. 31:10–13). It is telling that the Tanakh never depicts *kohanim* or scribes as jealous or protective of their writing skills, as is found in neighboring cultures.

In sum, we have seen something remarkable about the most basic, familiar aspects of the Torah. The idea of covenant; the story of the Exodus; the fact that the Torah is a written, publicized text—these are as significant politically as they are religiously. They each point to the equal and high standing of the common person in Israel.

The Torah's Radical Conception of Political Office

Turning from theology, we see that the Torah radically revamped regnant notions of political office and the exercise of power. What is most striking about the Torah's statements on political office are two radical ideas about how these offices are to be governed. First, we are witness here to the transition from the law of rule to the rule of law. Elsewhere in the ancient world, the kings composed and promulgated law, but were above it, not subject to it. Before the thinkers of Athens came along, the Torah arrived at the notion of equality before the law. All public institutions in the Torah—the judiciary, the priesthood, the monarchy, the institution of prophecy—are subordinated to the law. Moreover, the law is a public text whose dictates are meant to be widely known, thus making abuse of power more obvious and safeguarding the common citizenry.

Second, we may see that the most important body of authority in the polity envisioned by the Torah is none other than the people themselves. The Torah addresses the fraternal and egalitarian citizenry in the second person, "you," and charges them with appointing a king—if they desire one—and appointing judges. Put differently, the Torah specifies no nominating body for appointing leaders or representatives. Rather, the collective "you"—the common citizenry—bears ultimate responsibility to choose a king and to appoint judges. From American history we know how unthinkable it was only a few generations ago for many to contemplate the notion that persons of color or women should play a role in choosing who rules. For the royal monarchies of the ancient Near East, the notion that the masses—who elsewhere were serfs and servants—would hold any sway over those that ruled them was equally unfathomable.

If the people did elect to have a king, the Torah was determined that he should be but a shadow of what a king was elsewhere. Elsewhere kings played central roles in the cult. In the Torah he plays none. Elsewhere, the king aims to build a strong army. The Torah calls for him to have a limited treasury and to forgo a cavalry (Deut. 17:16–17), limitations that would leave him commanding only a small army. Moreover, were a royal chariot force to serve as the backbone of the nation's defense, it would inevitably emerge as an elite military class. The great jurist of Athens, Solon, extended preferred status to the members of the cavalry over other citizens. But what confers status in the Torah is citizenship in the covenantal community, and this is shared by all. Elsewhere, the king would consolidate his power through a network of political marriages. The Torah forbids the king from taking a large number of wives (Deut. 17:17).

Finally, we see in the Torah a page in the history of constitutional thought, one that would not be written again until the American founding. It pertains to a highly advanced notion of the separation of powers. Classical Greek political thought had already understood that in the absence of a strong center in the figure of a monarch or a tyrant, factionalism threatened the stability of the polity. It was inevitable that the population would contain rich and poor, nobles and commoners. The absence of homogeneity led classical theorists to balance power by ensuring that each faction within society would receive a share of the rule. Yet, the balance of power was not a balance of institutions of government, as we are accustomed to today. Rather, the balance was achieved by allowing each of the socioeconomic factions a functioning role within each seat of government. Thus, in Roman jurist Polybius' conception, the legislative branch of government in the republic was to consist of two bodies—the senate for the nobles and the assembly for the commoners—with each institution permanently enshrined in law.

The notion that the effective division of power was predicated upon its distribution across preexisting societal seats of power was one that would hold sway throughout most of the history of republican thought, from Roman theorists through early modern thinkers. It is central even to the thinking of Montesquieu, the father of modern constitutional theory, who is credited with proposing the separation of powers into three branches—executive, legislative, and judiciary—in his 1748 work, *The Spirit of the Laws*. Looking at the English model of his day, Montesquieu held that the legislative power should consist of a body of hereditary nobles and of a body of commoners. He saw hereditary nobility not as a necessary evil, nor even as an immutable fact of life, but rather as a boon to effective government. The nobility, with its inherent wealth and power, would serve as a moderating force within government against the abuses of the monarch. Moreover, the fact that the nobility's strength was derived from its own resources would endow its members with a sense of independence. This, together with developed education and time for reflection, would enable the nobles to contribute to effective government in a way that members of the lower classes could not. Montesquieu could not conceive of a classless society and a regime in which the division of powers was purely institutional and instrumental, where the eligibility to hold office was independent of class.

Here the Torah stands distinct. For the first time in history we see the articulation of a division of at least some powers along lines of institution and instrument rather than of class and kinship, where office legitimizes preexisting societal seats of power. Anyone who is "among your brethren" (Deut. 17:15) is eligible to be appointed king. Moreover, the king is appointed by the collective "you" that we mentioned before. How that selection occurs, apparently, is an issue that the Torah deliberately left open so as to imply that there is no body that *a priori* has a greater divine imprimatur than any

other. In this sense, the Torah's notion of offices that are entirely institutional and instrumental is an idea that would again appear only with the American Founding Fathers.

The same is true with regard to the judiciary, as outlined in the book of Deuteronomy. Anyone may be appointed judge, and no less importantly, anyone, in theory, is eligible to participate in the process of appointing judges (Deut. 16:17). One could have thought of any number of bodies that could have been charged with appointing judges: the king, the prophets, the *kohanim*, or other judges. But the Torah insists: "Judges and officers you shall appoint for yourself" (16:18). The appointment of judges is mandated with the sole purpose of achieving the execution of justice, rather than the assignment of office to perpetuate the standing of a noble class. As Montesquieu noted in the eighteenth century, it is critical that the people appoint judges, so that they have faith in the justice that is meted out. The only source prior to Montesquieu to arrive at this insight was the Torah.

God the Economist

The Torah understood that in order to create an egalitarian order, it would also need to re-envision the economic structure of society, for without equity, there is no equality. What the Torah proposes is the Western tradition's first prescription for an economic order that seeks to minimize the distinctions of class based on wealth, and instead to ensure the economic benefit of the common citizen.

A ubiquitous feature of the socioeconomic landscape of the ancient Near East was the threat faced by the common person of falling into irreversible insolvency. Social stratification would emerge as the common people would have to sell off their farm animals, their land, and even their own freedom to repay debts. Famine, drought, or war could lead to precisely the kind of economic landscape we witness in the account of Egypt under Joseph, in Genesis 47. The Torah sought to remedy this through radical legislation on several fronts. Elsewhere, the norm was that land was owned by the palace and by the temple. The Torah, in contrast, knows of no land holding for either king or cult. Instead, nearly the entire land is given to the people themselves, in an association of free farmers and herdsmen, subsumed within a single social class. The idea that wide tracts of available land should be divided among the commoners was unprecedented. Perhaps the most famous example of such an initiative from modern times is the American Homestead Act of 1862. With the Great Plains open to mass settlement, nearly any person 21 years of age or older could acquire, at virtually no cost, a tract of 160 acres that would become his after five years of residence and farming. For millions of new arrivals and other landless Americans, the Homestead Act was an opportunity to acquire assets and to bring equality of economic standing in line with equality before the law.

The Torah also took specific aim at the institution of taxation. Elsewhere, taxes to the state and to the cult were deeply integrated. In the Torah, no taxes are specified for the state. Of course, no regime would be able to function without taxing its populace—but the Torah apparently envisioned that taxes would be levied without sacral sanction, as was so prevalent elsewhere. God would not be invoked as the tax collector. Moreover, far less surplus is demanded from the people of Israel

for the Temple than was customary in the imperial cults of the ancient Near East.

Whereas elsewhere cultic personnel controlled vast tracts of land, the Torah balances the status that these groups maintain in the cult by denying them arable lands of their own. They are dependent upon the people they represent for their subsistence, and in some passages are even grouped together with other categories of the underprivileged. The Torah further legislates that one type of tax—the *ma'aser ani*—should not be paid to the Temple at all, but rather distributed to the needy—the first known program of taxation legislated for a social purpose (Deut. 14:28–29).

What is most remarkable about the Torah's economic reforms is the manner in which the new economy is incorporated into a new measure of time. Elsewhere in the ancient Near East, the calendar was based upon readily perceptible astronomical rhythms: The counting of days stems from observing the rising and setting of the sun; of months, from observations of the waxing and waning of the moon; of years, from observing the seasons and position of the sun. The ancient Near East, however, knows no calendar that incorporates the notion of a week. The week is the invention of the Torah, and is rooted, of course, in the Torah's account of Creation, in which God worked for six days and rested on the seventh. The result is that throughout the Torah the Shabbat principle determines the schedule of the laws of social welfare, and serves as a great equalizing force between haves and have-nots. Shabbat day is a day of rest for all. In the seventh year—the Sabbatical year—the field lies fallow and is available for all to enjoy, and debt release is enacted. Time itself is marshaled in the establishment of the egalitarian agenda.

A Revolutionary Document

What power interest could have been served by this program? We have already seen that it was a program that favored neither the king, nor the rich, nor the priesthood. Prophets are hardly mentioned in the Torah, and the criteria set out for validating an individual as a prophet are exacting in the extreme. Sages or philosophers are nowhere mentioned at all. No immediate candidate jumps out of the pages of the Torah as the interested party in the formulation of this new egalitarian order.

Throughout the ancient world, the truth was self-evident: All men were *not* created equal. They saw the world they had created and, behold, it was good. It was good, they deemed, *because* it was ordered around a rigid hierarchy, where everyone knew his station in life, each according to his class. For the first time in history, the Torah presented a vision to the masses in which the gods were something other than their own selves writ large, a vision with a radically different understanding of God and humanity. It introduced new understandings of the law, of political office, of military power, of taxation, of social welfare. It conceived in radically new ways the importance of national narrative, of technologies of communication, and of a culture's calibration of time. What we find in the Torah is a platform for social order marked with the imprint of divinity. Within the annals of political thought it is difficult to think of another document that revolutionized so much in such anonymity, and with so little precedent to inspire it.

Of course, these notions of equality are but early precursors of our more developed notions of equality today. Yet, the Torah instructs us with the implicit understanding that society changes, and with it, the form in which we fulfill God's will. We can marvel at how utterly removed the Torah's political thought was from the prevailing spirit about such things in ancient times. And, at the same time, we can appreciate that without believing that we are limited to the notion of equality as it had been expressed in those ancient times. Rather, the Torah serves as an inspiration for the further elaboration of those ideas as times change and events warrant so doing.

[1] This chapter is a concise presentation of the arguments I make in my monograph, *Created Equal: How the Bible Broke with Ancient Political Thought* (New York: Oxford University Press, 2008).

[2] Aristotle, *Politics* BK1 1254a20, translation by Benjamin Jowett, available at http://classics.mit.edu/Aristotle/politics.1.one.html.

[3] Jack Goody, *The Logic of Writing and the Organization of Society* (Cambridge: Cambridge University Press, 1986), 2.