Occasional Address for Commemoration of Kristallnacht 80th anniversary
Temple David, Perth, 11 November 2018

My topic this evening at this commemoration of Kristallnacht is Human Rights and religious faith.

In Jewish tradition, on such occasions, we do not begin with abstract notions of rights, or justice, or even morality, or even indeed with religious faith.

We begin with the facts.

On Passover night, around the Seder table, we begin with the facts. We were slaves to Pharaoh in Egypt – we were enslaved, oppressed and our baby sons were thrown into the Nile River at birth. And G-d redeemed the Israelites from Egypt and liberated them to serve G-d under the covenant of the moral and ethical code of the Torah.

U'vchol dor vador – And in every generation since they have risen with hatred to destroy us.

V'hakadosh baruch hu maztaileinu myadam – and the Holy One Blessed be He has ultimately saved us from their hand.

On the 14th of Adar each year we read the Book of Esther – and recount the facts of the intended genocide of the Jewish community throughout the vast Persian Empire.

On the ninth of Av every year, we fast and we sit on the floor. And we recite the facts – the destruction of the Jewish State, the Jewish capital of Jerusalem and its Temple by the Babylonians in the days of Nebuchadnezzar. And then the brutal destruction of the Jewish State, the murder and exile of its citizens and the destruction of Jerusalem and its Temple by the Romans in the Year 70 of the common era. Then, the sickening murder and oppression of Jews throughout the centuries, including the most vile of all – which happened not in some ancient era of primitive savagery – but in the very century in which most of us were born – the murderous destruction of European Jewry in the 20th century – the Shoa – which effectively began 80 years ago with Kristallnacht.

And it is important to say this: we do not begin with the facts in order to perpetuate some tiresome victim mentality as some have charged. Nor, as some have more maliciously alleged, in order to engender guilt and sympathy so as to exploit the opportunity, for the phenomenon that curiously seems to trouble so many – Jewish empowerment and Jewish Statehood.

We do it, because as history reminds us again and again, including in our own times, – the facts are important.

Now, if I were to be entirely faithful to Jewish tradition I would exhaust my allotted time entirely with the facts. But as that is not my brief, a limited overview must suffice:

Kristallnacht was a pogrom perpetrated against Jews throughout Germany on 9–10 November 1938, carried out by SA paramilitary forces and civilians.

The number of Jews murdered is unclear but somewhere between 91 and many hundreds.

Additionally, 30,000 Jewish men were arrested and incarcerated in concentration camps. I met and spoke to 1 of those men earlier today as it happens – Herbert Freeman a 97 year old Jew in Sydney. He was arrested and sent to Buchenwald on Kristallnacht. Ironically it saved his life because he was released from Buchenwald and expelled from his native Germany before the outbreak of the War and found his way to the haven of Australia where he raised a beautiful Jewish family, which now include his grandchildren who are my brother's 2 children, Talya Wiseman and Reuben Solomon. I returned from Sydney this afternoon after celebrating the traditional first haircut at age 3 of my great nephew, Ezra Gershon together with Ezra's great-grandfather, Herbert. The rest of Herbert's family perished in Theresienstadt and Auschwitz concentration camps.

Jewish homes, hospitals, and schools were ransacked, as the attackers demolished buildings with sledgehammers. The rioters destroyed 267 synagogues throughout Germany, Austria, and the Sudetenland, and over 7,000 Jewish businesses were either destroyed or damaged.

In terms of Jews murdered, the number was relatively very small.

But Kristallnacht marked the beginning of the end for 6 million European Jewish men, women and children.

And I conclude the facts with this chilling observation that was made by late mentor and father-in-law Joe Berinson, zichrono livracha, may his memory be a source of blessing, in a talk he delivered at a Holocaust commemoration:

On an average day during the Shoah – in the time it takes me to complete this talk – more Jews were murdered than are here together this evening in this sanctuary.

So, having reminded ourselves of the facts, let us turn to the issue of human rights.

Many here will be aware that in 1948, 3 years after the Shoa, the United Nations General Assembly proclaimed The Universal Declaration of Human Rights, a milestone document in the history of human rights.

It is worth reminding ourselves of the first paragraph of the preamble of the Declaration and the first Article of its provisions:

The preamble begins:

Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

And Article 1 states:

All human beings are born free and equal in dignity and rights.

And then, the preamble turns to the practical implementation of human rights and reminds us:

It is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

Consistently with that sentiment, the United Nations website records with pride:

One of the great achievements of the United Nations is the creation of a comprehensive body of human rights law—a universal and internationally protected code to which all nations can subscribe and all people aspire. The United Nations has defined a broad range of internationally accepted rights, including civil, cultural, economic, political and social rights.

Before we discuss further the notion of human rights law, I return to the fundamental premise expressed in the Declaration – the inherent equality and dignity of every human being.

Although there is some contemporary debate about the matter, it is widely recognised and accepted that this fundamental cornerstone of humanity has its source in the Bible, in the Torah – which begins with the expression of that sentiment with the very creation of humanity – in passages with which many of us are familiar:

And G-d said let us make man b'tzalmeinu – after our own image, in the image of G-d, and thus G-d created Adam in his image, in the image of G-d he created him, btzelem Elokim bara oto – reflecting the inherent dignity and inalienable equality and indeed the divinity, of every human being.

With the increasing secularisation of our society and its rapid abandonment of historical religious traditions, many have warned that these values are now imperilled.

This evening, I do not wish to enter into that debate as to whether these fundamental values of human dignity and equality can be maintained on a purely secular and G-dless platform. From my personal perspective, I think they probably can – but it also seems to me that grounding these values in the humble recognition that they are sourced in a power beyond our jurisdiction and grasp – will make them all the more secure.

But that debate is perhaps for another day.

Rather, in order to illustrate the ongoing relevance of religious tradition to the human rights discourse, I wish to return to the principle – Tzelem Elokim – the creation of humanity in the image of G-d – and its exposition in traditional Jewish sources.

Many of you would have heard of one of the greatest Jewish sages – Rabbi Akiva – who lived at the time and witnessed first-hand the destruction of Jerusalem, the burning of its Temple and the murder and exile of his people at the hands of the Romans in the year 70 of the Common Era.

Rabbi Akiva is one of the foremost voices of the Tora SheBaal Peh – the Oral Tradition that ultimately found its written expression in the Mishna.

In the Tractate of Avot – sometimes referred to as Ethics of the Fathers, in Chapter 3, Rabbi Akiva observes:

Chaviv adam shenivra btzelem

Beloved is man for he is created the b'tzelem Elokim in the image of G-d.

And Rabbi Akiva continues:

Chaviva y'teria noda'at lo sh'nivra b'tzelem

Additionally beloved is man to whom *it was made known* that he was created b'tzelem Elokim.

As it is written in the Torah:

Ki b'tzelem Elohim bara at ha'adam

"For in the image of G-d he made man"

There are, at least, 3 important matters to note about Rabbi Akiva's statement in the Mishna:

First, Judaism is a religion of action – some might say laws – and yes there are many laws but that is because laws govern action. Thus, Rabbi Akiva was not content with the beauty of the sentiment that humanity was created in the image of Gd. That was not sufficient for Rabbi Akiva because of itself that sentiment did not cast any particular responsibility upon humanity to do anything.

Rather – chaviva y'teria – the additional expression of G-d's love was that G-d made known to humanity that each person was created in the image of G-d. It was not enough to bask in platitudes – humanity has a responsibility to govern the world on the premise of the dignity, equality and divinity of every human being – not just because we were created b'tzelem Elokim but because – *we have thus been told* – we have no excuses – we cannot plead ignorance – we bear responsibility.

Secondly, Rabbi Akiva does not couch this responsibility as a yoke or burden. We might easily understand being created in the image of G-d as an elevating gift. But Rabbi Akiva goes much further – he teaches that the fact that we've been told so, that we bear the responsibility of behaving accordingly – is chiba y'teira – an expression of G-d's additional love – the casting of responsibility is an even greater act of G-d's love than creation in the image of G-d itself.

And thirdly, the Biblical scholars among you may have observed the nuance in Rabbi Akiva's Biblical source. We ordinarily associate the Biblical concept of Tzelem Elokim with the Biblical account of the creation of Adam – and indeed that it is where it first found – and repeated.

But Rabbi Akiva does not refer to the creation of Adam. He refers to the verses said by G-d to Noah and his family when they emerged from the Ark to re-establish a reformed humanity.

And G-d blessed Noah and his sons, and He said to them: "Be fruitful and multiply and fill the earth.

And your fear and your dread shall be upon all the beasts of the earth and upon all the fowl of the heaven; upon everything that creeps upon the ground and upon all the fish of the sea, [for] they have been given into your hand[s].

Every moving thing that lives shall be yours to eat; like the green vegetation, I have given you everything.

But, flesh with its soul, its blood, you shall not eat.

But your blood, of your souls, I will demand [an account]; from the hand of every beast I will demand it, and from the hand of man, from the hand of each man, his brother, I will demand the soul of man.

Whoever sheds the blood of man through man shall his blood be shed, **<u>for in the image of God He made man</u>**.

Any why, one might ask does Rabbi Akiva invoke the verses regarding Noah rather than the verses regarding the creation of Adam?

There is, of course, a simple answer: As we have learnt, the greatest divine gift was not that we were created in the image of G-d but more so, that we were *told* about it. And it is only in

the G-d's words to Noah that humanity was told. Only there is Tzelem Elokim transformed from a divine act into a human mission.

And more deeply, we see that in the verses I have just read, the privilege of humanity's dominion over earth is entirely conditional – it is conditioned upon humanity's ability to live up to the responsibility of Tzelem Elokim – to accept unconditionally the dignity, equality and divinity of every person.

And then that brings me back to human rights, the law and to the tragic but instructive tradition about the death of Rabbi Akiva. According to tradition, he was murdered – skinned alive with hot iron combs by the Romans for the crime of teaching the Torah and maintaining the flame of Judaism.

And let me tell you something about that tradition.

There are two days in the year when Jews fast for 24 hours. Yom Kippur, the Day of Atonement, and Tisha B'Av when as I mentioned, we sit on the floor and mourn the destruction of the 2 Temples in Jerusalem and subsequent Jewish tragedies. One is a day of solemnity and repentance, the other a day of sadness and mourning. Other than fasting, the observances and prayers are very different.

Except one prayer. On both days we recount the murder of Rabbi Akiva and nine other leading sages by extremely cruel and inhumane means at the hands of the Romans. The prayer is prefaced by a tradition as to the background to the tragedy. This is not necessarily intended as an historical narrative but rather as something instructive about prejudice and oppression in general, and anti-Semitism in particular.

The oppressor, states the prayer, in its anonymous reference to the Roman tyrant, studied the Torah and the Law no less. He then gathered the ten greatest Rabbis and tasked them with the answer to this question: if someone brutally kidnaps a man and mercilessly sells him into slavery – what is the law? The Rabbis deliberated and answered him: such a person is liable to capital punishment!

"And thus, so it shall be!" said the oppressor. For the ten sons of Jacob kidnapped their brother Joseph and mercilessly sold him into slavery. Regrettably, they are not here to receive their just deserts, and thus you ten rabbis, shall stand as their rightful heirs and representatives – and you shall be murdered. The prayer then recounts the graphic detail of their murder.

Why does the prayer trouble us with this curious introduction?

May I suggest that it instructs us that rights embodied in laws are not enough to overcome prejudice, racism and hatred. The law can be manipulated indeed to serve the ends of prejudice.

And unapologetically, may I give this contemporary and I accept controversial example. Rabbi Yuval Cherlow is one of the most eloquent and moderate voices modern Orthodoxy. He bemoans the lack of theological engagement of Orthodox Jewish scholarship with the discourse of human rights. And while calling for greater engagement, he postulates reasons for the barrier than some might rightly perceive:

HUMAN RIGHTS AFTER THE HOLOCAUST

It is true, that a good portion of Jews' suspicious attitude toward human rights and the Western discourse on the subject comes in the wake of the Holocaust and the events that preceded it. Our lamentable history with Christian Europe is so burdensome and difficult that we have no faith in the human rights rhetoric. Moreover, these rights are wielded today as an unfair and biased weapon against the State of Israel to an alarming degree. Often the international discourse on human rights is a political manipulation shrouding anti-Semitism.

And thus we return to human rights and Tzelem Elokim. Human rights law of itself is not enough. The contribution that communities of faith can make to the conversation ought not, I suggest to be focussed solely upon the law. They have a much deeper tradition on which to draw.

Rabbi Akiva coming from a tradition of law, did not speak of Tzelem Elokim in terms of rights and law. Indeed, the words of G-d to Noah do not speak of rights or law – they speak about responsibility for humanity and for the planet – the responsibility which Rabbi Akiva saw as G-d's most loving gift.

And as Jonathan Sacks observes:

The ethic of responsibility structures Judaism's entire approach to the world. An obvious example is that biblical ethics is constructed in terms of responsibilities, not rights. Does this make a difference? Are rights not simply responsibilities seen from another point of view? 'Thou shalt not murder' creates a right to life. 'Thou shalt not steal' creates a right to property. The obligation to administer justice creates the right to a fair trial, and so on. That is true, but it omits one feature insufficiently alluded to in discussions of law.

Rights are passive, responsibilities active. Rights are demands we make on others, responsibilities are demands others make on us. A responsibility-based culture exists in the active mode. It emphasizes giving over receiving, doing not complaining. What is wrong with what Mary Ann Glendon calls 'rights-talk' is that it draws on resources that only exist if we recognize responsibilities. It puts the cart before the horse. It neglects the moral commitments we need to create if rights are to be honoured at all. Rights are the result of responsibilities; they are secondary, not primary. A society that does not train its citizens to be responsible will be one in which, too often, rights-talk will be mere rhetoric, honoured in the breach not the observance.

In contrast, the Declaration of Human Rights does not refer to responsibility until an afterthought in one sub-paragraph in the penultimate Article, which says only this in relation to rights and responsibility:

Everyone has duties to the community in which alone the free and full development of his personality is possible.

And so ladies and gentlemen of all faiths here this evening:

Let us commit to human rights indeed, but more so, let us commit to the gift of G-d's greatest love – that he has told us that we are created b'tzelem Elokim – that we are charged with responsibility of knowing that each and every one of us shares the same dignity and divinity.

And in considering the vital contribution that communities of faith can make to discourse about human rights and human dignity, I conclude with words of a great Jewish scholar of the 20th century – Rabbi Abraham Joshua Heschel. Just before Kristallnacht in late October 1938 when Heschel was living in a rented room in the home of a Jewish family, he was arrested by the Gestapo and deported to Poland. Six weeks before the Nazi occupation of Poland, Heschel left Warsaw for London.

Heschel's sister Esther was killed in a German bombing. His mother was murdered by the Nazis and two other sisters, Gittel and Devorah, died in concentration camps.

In his 1955 work, G-d in Search of Man, Heshel wrote these words with which I conclude:

In fact, only he who truly understands the justice of his own rights is capable of rendering justice to the rights of others. Moral training consists in deepening one's passionate understanding for the rights and needs of others in a manner equal to the passionate understanding of one's own rights and needs.

The self may be turned into a friend of the spirit if one is capable of developing a persistent perception of the non-self, of the anxiety and dignity of fellow beings.

Self-centeredness is the tragic misunderstanding of our destiny and existence. For man, to be human is an existential tautology. In order to be a man, man must be more than a man. The self is spiritually immature; it grows in the concern for the non-self. This is the profound paradox and redeeming feature of human existence. There is no joy for the self within the self. Joy is found in giving rather than in acquiring; in serving rather than in taking.

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