HAMEVASER

A Student Publication of Traditional Thought and Ideas
Published by the Jewish Studies Divisions of Yeshiva University

Volume 28 No. 1 Cheshvan 5749, October 1988

EDITORIALS

Banning Kach

The Israeli Election Commission recently banned Meir Kahane's party, Kach, from the Knesset electoral lists. The reasons given were that it "incites racism." Similar reasons were advanced in an unsuccessful attempt to ban the pro-Arab Progressive List for Peace. While the law's professed goal of fighting hate is certainly admirable, the political considerations motivating its sponsors may some day cause the exclusions of religious parties. The law also deprives thousands of voters of the right to vote for the party of their choice. Kahane's major argument has always been that Israel cannont be both Jewish and Democratic; this law, while quieting him now, serves in the long run only to prove his point.

Night Seder

We note with enthusiasm the renewal of last year's program of attendance by Roshei Yeshiva at Night Seder. This program added greatly to the spiritual atmosphere and limud haTorah on campus las year, and we hope it will continue unabated.

Welcome

Hamevaser welcomes Rabbi Natan Bar-Haim and Rabbi David Horwitz, Roshei Yeshiva, and Rabbi Reuven Fink, Rabbi Francis Nataf, Rabbi Aaron Selvan, and Rabbi Morris Wruble of the JSS Faculty.

Missing Books

Yeshiva has always prided itself on its rare college library, in which books are rarely stolen. Unfortunately, its *beit midrash* does not posess the same distinction. Many of us have experienced the wandering *sefer* syndrome. Writing neither name nor room number seems to keep these books at home. If you have someone else's *sefer* please return it; you are presently *mevatel* his time and your Torah.

MAN, KING, ANGEL, GOD

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PHOTOGRAPHY CONTEST

HAMEVASER

seeks photographs on the subject of Rebbe-Talmid Relations for the cover of our next issue.

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HAMEVASER

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Letters to the Editor

To the Editor:

By involving himself in a public discussion of issues which lie at the very heart of our commitment to halakha and Judaism, Rabbi Lamm has confronted the most difficult dilemma faced by Orthodoxy this century. The responses to his address at the Fifth Avenue Synagogue have unquestionably generated more heat than light. Lurking behind the wildly intemperate prose published recently in the **Jewish Observer** is a "hashkafic" problem which we should take seriously, that of legitimation, i.e. to what degree our dialogue with non-Orthodox Rabbinic bodies implies a de facto legitimation of those bodies and their beliefs.

It has been my experience almost without exception that non-Orthodox Jews do not assume tht we legitimate their rabbinic leadership in any way, by any action. They have been the victims, in the Reform movement especially, of what may almost be called an intentional disinformation campaign designed to convince them that Orthodoxy has already denied their status as Jews. The purpose of this is obvious; the Reform leadership wishes to convince its membership that the recent decision on patrilineal descent will not be responsible for precipitating a split in the Jewish people, since as far as Orthodoxy is concerned they are already not Jews. Terms like "Jewish apartheid" (Harold Schulweis, "Jewish Apartheid", **Moment** Dec. 1985 p. 23), and more explicit statements such as "They are trying to read me out of Judaism by deciding who is a Jew" (Alexander Schindler, **Baltimore Jewish Times** Dec. 1985), when uttered by major leaders of non-halakhic movements reinforce the canard that Orthodoxy has already rejected them as individuals.

While the recent dialogue has done a great deal to help combat these misconceptions, there is much damage remaining to be undone. The editorial writers of Agudat Israel's magazine **Coalition** have taken note of the anti-Othodox propaganda and have responded vociferously by asserting that anyone halakhically converted or born of a Jewish mother is fully Jewish and deserves our love and concern. For this I commend them, but how many Reform Jews or even Reform rabbis read Coalition? Yet when Dr. Lamm delivered the same message in person and nationally publicized it, he was attacked in terms which, in truth, would disgrace this publication were they recounted here. The masses of Reform and Conservative Jews are reachable through their leaders and their publications. While they do not question the legitimacy of their Rabbinic leaders, they do question whether Orthodoxy has any message or meaning for them at all.

Rabbi Lamm's critics are concerned about overstepping the bounds of what might constitute implied "recognition" - in order to avoid this misconception they reinforce one that is worse - that non-committed Jews are not Jewish and not worth expending resources on. At the very core of our commitment to Orthodoxy and Jewish destiny should stand our commitment to these Jews. A policy of "no dialogue, no recognition", surely, will not reach them and will only serve to reinforce their worst misconceptions about the irrelevance of Orthodoxy. The fact is that dialogue with not-yet-religious Jews is the only path to convince them to return to Orthodoxy. The dangers from implied recognition pale when compared to the benefits of dialogue.

Michael Broyde
RIETS '89

Self and Non-Self

Based on a lecture by Rabbi M.D. Tendler

By Jerrold Rapaport

T'shuvah is, in essence, the reuniting of a fragmented self through reevaluation of what is self and what is not. This self is the composite of the interactions that mold human personality, those with fellow men and those with God.

Man associates with God most simply as He manifests Himself in nature. Thus Solomon advised "*Lekh el ha n'malah*," "Go study the ant." What God desires of man can be discovered by studying His actions in the physical universe. The natural world, created by God-*Elokim*, is part of the master spiritual plan of God in his role as *Hashem*.

Man's survival in the physical world is threatened when biological mechanisms that differentiate between self and non-self go awry. *Elokim* gave us an immune system to differentiate between self and non-self. Pathogenic organisms within our systems detect non-self, and defense mechanisms are called upon to destroy the invader. Man earns the right to protection by these messengers of God by maintaining his relationship with God. That is, man must integrate God into his self to the extent that God and His wishes become an innate part of his life processes. If man achieves this, God maintains the relationship between man and nature stated in *parshat Noach*: "and the fear of you will be upon all animals of the earth."

But when man fails to incorporate God into his being, he loses the integrity of his biological as well as his spiritual self. Thus extreme immorality might in some cases be reflected in the onset of AIDS, the total collapse of the immune system. Organisms lose the "fear" that they were to have of man, and become man's deadly foe. Similarly, fragmentation of the spiritual self can be mirrored by such auto-immune diseases as rheumatic arthritis, in which man's own immune system attacks the joints, or multiple sclerosis, which attacks the nerve coatings.

T'shuvah, then, is the recognition of the self's fragmentation and the initiation of the process of repair and restoration. Maimonides (***Hilkhot T'shuvah*** 2:2) delineates four steps to *t'shuvah*: the sinner must leave his sinning ways, resolve in his heart not to sin in such a way again, call upon God as witness that he will never return to his sinning ways, and utter a verbal *viduy*, or confession. In Chapter 1, however, Maimonides focuses on the *viduy* itself rather than on the general process of *t'shuvah*. He specifies the form in which the *viduy* is said: "I have sinned and done such and such; I regret my actions and am ashamed of them, and will never return to this thing." The presence of shame in this context is somewhat puzzling. Where does it come from and what is its significance? In the seventh chapter of ***Hilkhot*** *T'shuvah* Maimonides writes that when a *baal t'shuvah* is embarrassed and ashamed of his actions his merit is multiplied and his spiritual level is raised. Rabbeinu Yonah and *Maharal* both state that there can be no *t'shuvah* without shame. Shame is the fundamental emotion of *t'shuvah*. When one is embarrassed, one asks oneself, "How could this happen? I am shattered, I am fragmented."

Rav Joseph B. Soleveitchik points out that when a person does something embarrassing in public, he covers his face with his hand. Who is he hiding from? Cannot everyone still see him? The person is hiding from himself; he is fragmented. If a person were to get drunk at a wedding and insult the bride and groom, the shame would be unforgettable. How could one do such a thing? It reveals a flaw in his personality, an unself that must be destroyed in order to bring back harmony of the self. Shame is a means given to us by God to let us know that our self is not whole.

"If one commits a sin and is ashamed, all of his sins are forgiven" ***Berukhot*** 12b). Why should a person ashamed of one sin be forgiven for all? The answer lies in the nature of shame itself. An ashamed person realizes that something alien exists within him. He must scrutinize his self to determine which fragments are him and which someone else. Thus through shame he attains forgiveness from God by identifying with Him and "explaining away" the bad as having stemmed from an alien source.

When the man-God relationship is again properly established, the self is reunited. Yet the non-self never completely disappears. The self and non-self interact in a dynamic equilibrium, and effort must be exerted to keep the non-self at bay. The challenge of this struggle is aptly described by *Mahit* in his discussion of an argument between Rabbi Yochanan and Rabbi Abahu. One claims that the *tzadik gamur*, the person without sins, is greater than the *baal t'shuvah*, one who committed sins but has fully atoned for them. The other claims that the *baal t'shuvah* is greater. *Mahit* resolves this controversy by delineating two types of *tzadikim gemurim*: those never exposed to temptation and thus sinless, and those constantly exposed to temptation who have never succumbed to it. Surely, says *Mahit*, the *baal t'shuvah* is greater than the man never exposed to temptation. But greatest of all is the one who constantly faces temptation yet never falls prey to it, for he must constantly battle to remain pure and keep the non-self from pervading his being.

In addition to knowing and controlling the self, we must realize that other Jews are also part of our selves. We are familiar with the concept that we must look upon each of our actions as though it will save or damn the world. If this is so, the actions of our fellow Jews have great consequences on ourselves. We must therefore endeavor to ensure not only the well-being of our personal relationship with God, but the well-being of the relationship of each and every Jew with God our Lord.

Gideon: Prince or Pawn

By Hillel Fetman

Gideon's consecration as a savior of Israel (Judges 6) seems at first glance a rather ordinary story; God appoints him and as such appointees do throughout the Bible (cf. Moses, Saul, Jeremiah) he tries to shirk the task via a "reasonable hesitation." But the distinct qualities of the tale become apparent through a world of subliminal messages. In addition to these textual messages, Rashi and Radak quote two *d'rashot* on the focal sentences of the consecration narrative (11-14) laden with allusions which foreshadow aspects of the story and enhance our understanding of Gideon's character. Moreover, thorough analysis of the differences between Rashi's and Radak's versions of the *d'rashot* reveals a key divergence in their views of Gideon and his political-military role, a divergence which illuminates the passages many meanings.

11. An Angel of the Lord came and sat under the terebinth at Ophrah, which belonged to Joash the Abiezrite. His son Gideon was then beating out wheat inside a winepress in order to keep it safe from the Midyanites. 12. The angel of the Lord appeared to him and said to him "The Lord is with you, valiant warrior!" 13. Gideon said to him, "Please, my lord, if the Lord is with us, why has all this befallen us? Where are all His wondrous works about which our fathers told us, saying, 'Truly the Lord brought us up from Egypt?' Now the Lord has abandoned us and delivered us into the hands of Midyan!" 14. The Lord turned to him and said "Go in this strength of yours and deliver Israel from the Midianites. I herewith make you My messenger." 15. He said to Him, "Please, my Lord, how can I deliver Israel? Why, my clan is the humblest in Mnasseh, and I am the youngest in my father's household." The Lord replied "I will be with you, and you shall defeat Midyan to a man." (Judges 6:11-16)

A question immediately arises. The demonstrative adjective "this" in "this strength" is without a referent—strength was not mentioned previously. Although Rashi and Radak utilize the same two aggadot to explain this difficulty, the two images of Gideon they develop directly oppose each other.

Rishonim commenting on ***Sanhedrin*** disagree as to whether the position of shofet established in Deuteronomy 16:18 conveys a personal halakhic status, *minui gavra*, beyond the purely functional. The *machloket* here as to the character of Gideon, the historical judge, seems to parallel the general disagreement in ***Sanhedrin***. In Rashi's reconstruction of the scenario, Gideon is merely an instrument of God used for the battle. Gideon, as a unique figure, is not particularly significant to the victory. Radak's formulation, on the other hand, makes Gideon a key factor. Gideon's deeds and his overall character qualify him personally as leader. Moreover, his personality is supremely in tune with the specific purpose of *Milkhemet Midyan*.

The dispute pivots on the textual ambiguities of verses 14 and 16. In verse 14 God says, "Go in this strength of yours and deliver Israel from the Midyanites. I herewith make you My messenger." "*Vehoshata*" and deliver, may simply be taken as an imperative in this context, as is "*lekh*" in the verse's beginning, but it may also be a prediction," and *you* will deliver Israel," implying that Gideon's participation is necessary.[1] Similarly, in verse 16 the emphasis may be either on "and you shall defeat Midyan" or on "Since I will be with you?"

Radak explains the entire passage in digressive comments on "and sat under the terebinth." He quotes three *d'rashot*. The latter two relate to our question on "*kochacha zeh*". In the first, Gideon upon discovering his father working outside tells him, "You are old, Father. Go to your house and I will beat out [the grain for you], because if the Midyanites come you don't have the strength to flee." The angel, after witnessing this kindness, remarks that "since you have kept the precept of 'Honoring your father', you are fitting to redeem my children [Israel]."[2] Rashi, relates this *d'rash* to the phrase: "His son Gideon [was then beating out the wheat]" (sentence 11). In Rashi's citation the angel's praise of Gideon is conspicuously lacking.

Radak cites a second *midrash* which claims that the interchange took place on the first night of Passover. Gideon, in his reply to the angel, "Where are all His wonderous deeds about which our fathers told us, saying, 'Truly the Lord brought us up from Egypt'?", was refering specifically to the miracles his father had told him of the night before at the seder (*B'tzait Yisrael MiMitzrayim*, Psalm 114). Gideon proceeds to accusingly ponder in the angel's presence, "If our ancestors were righteous, send us miracles in their merit; if they were wicked, as you wrought miracles on their behalf [gratis], so do for us."

Instead of counter-charging Gideon or Israel, God responds with penetrating praise of Gideon's underlying supposition, and declares "On your life! Since you presumed my children to be innocent, you are worthy for me to speak with you."(God's approach here, reveals his own presumption) that of assured deliverance.) Accordingly, God immediately turns to Gideon and orders," Go with this strength, the strength of your merit for standing in defense of my children."[3] Radak approvingly adds, "This *midrash* is indeed correct because it gives meaning to the phrase, 'the Lord turned to him.'" On the words *gibor hayill*—the angelically-bestowed appelation of verse 12—Radak extrapolates, "He [the angel] called him [Gideon] thus, so as to gladden him and bolster his confidence so he would overcome Midian, and as such he says, "Go with this strength of yours." Finally, on the phrase, "God faced him" (verse 14) Radak explains that "God turned to him and adorned him with courage." According to Radak, "God", in its usage here, connotes God's mighty and intrepid spirit.

Rashi's downplaying of Gideon's role is again pronouncedly suggested by his selective quoting and placement of the citations. Rashi gives his interpretation of "*kochakha*," a word highly suggestive of Gideon's personal qualifications, on the phrase, "The Lord is with you, valiant warrior" (verse 12). Rashi on that verse paraphrases, "God is beside you, valiant warrior, by his granting you strength like this." In other words, this strength—*kohakha* is Divinely instilled. Rashi thus reverses the usual meaning of *kochakha* so as not to refer to Gideon's own strength but to a strength superimposed by God. Rashi does not read "The Lord turned to him" as a positive response to Gideon. Radak on the other hand emphasizes the potency of the *midrash* (praising Gideon's defense of Israel) saying, "this *d'rash* is indeed correct because it gives meaning to the [following] phrase...". Radak may be calling the *d'rash* correct because it solves some otherwise perplexing problems. Yet the term *nakhon* is distinctive enough to suggest that Radak assents to the *midrash's* claim of Gideon's virtue as *p'shuto shel mikra*.

Rashi elects to remain consistent with what seems to be the theme throughout chapters 6-8: God as the key to salvation and Gideon as his Excalibur.[4] The choice of Gideon, the youngest male in the smallest family of M'nasheh, as well as the selection process employed for the battle whereby the army was reduced to a scanty three hundred men, highlight Rashi's interpretation that the victory was God's and not the people's. "The Lord said to Gideon, 'You have to many troops with you for me to deliver Midyan into their hands; Israel might claim for themselves the glory due to Me, thinking, 'Our own hand has brought us victory'" (Judges 7:2). Rashi's understanding of the entire episode seems to be rooted in a simple, *p'shat* rendering of the actual text. Radak, by contrast, bases his understanding on the simple reading of the *d'rashot*, thereby emphasizing God's selection of Gideon as a virtuous man of distinction.

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Between Jew and Gentile:

Halakhic Civil Laws

by Jeremy Wieder

"If the ox of a Gentile gores the ox of a Jew, he (the Gentile) is liable for damages. If the ox of Jew gores the ox of a Gentile, he is exempt from damages." (***Bava Kama*** 37b) "While theft from a Gentile is forbidden, keeping his lost object is permissible. A mistake (in a business transaction) made by a Gentile, need not be corrected by a Jew. These laws do not apply if a *'chillul hashem'* will transpire." (***Bava Kama*** 113b)

These two laws, and several others of a similar nature, are a bit perplexing and deserving of careful consideration. On an abstract level, two approaches may be used to examine these laws. The first assumes a gap between Jews and Gentiles that produces a dichotomous set of laws, placing Jews and Gentiles on different planes. The second assumes that with regards to civil law Jews and Gentiles exist coplanarly and that the surface readings of these *gemarot* belie a radically different reality.

It should be clear that in almost all cases these laws are not practically relevant due to *'dina demalchusa dina'* (the law of the land is *halakha*), *'chillul hashem'* (desecration of God's name), or *'darkay shalom'* (the ways of peace).

The existence of a dichotomous system of civil law, though not explicit in any source, is indicated by the omission of any comments contrary to the simple reading of the *gemara*. Possibly the *rishonim* and *acharonim* refrained from stating this idea explicitly for fear of anti-Semitic reaction. The dichotomous approach is supported by ***Bava Kama***(38a). The *gemara* there implies that when the other nations refused to accept the Torah at Mount Sinai, God fined them by making their property *'hefker'* (ownerless), thus prohibiting a Jew only from intentionally and actively damaging a Gentile's property. (***Bava M'tzya*** 113b debates whether or not a Jew may intentionally and actively damage a Gentile's property, but the conclusion of both Maimonides [*Hilkhot G'naiva* 1:1] and the ***Shulchan Arukh*** [*Choshen Mishpat* 348:2] is that it is unquestionably forbidden and a Jew is liable for such damages.)

A biplanar classification of Jews and Gentiles not explicitly connected to civil law is found in Judah Halevi's Kuzari. He classifies several levels of existence, the highest being "Jew" and the second "Gentile". In a similar vein, Maharal (***Derech Hachayim***, *Avos* 3:14) states that before the giving of the Torah, all of mankind possessed the *tzelem Elokim*, the image of God; after the Gentile nations refused to accept the Torah, God diminished their *tzelem*.

But the bi-planar approach presents many difficulties. While the Torah defines the Jewish nation as separate from all other nations (Deut. 4:6-8), this neither necessitates nor permits us to actively demonstrate our superiority through a judicial system that discriminates against Gentiles. If God decides to shower us with blessing as a reward for accepting His Torah, we certainly do not question the fairness of such treatment, but active chauvinism seems improper. Such reasoning, however, cannot fairly represent *Chazal's* thinking unless proven to be in consonance with the *gemara:*

First, however, we should consider what specifically is troubling hashkafically about a bi-planar classification. Certainly, unjustified bias is repugnant and foreign to Judaism. To discriminate against a person for being something he did not choose to be is not only grossly unfair but also contradicts one of the pillars of Judaism, *bechirah chofshit* – freedom of choice. The concept of *bechirah chofshit* assumes that a person is liable only for those things which he willingly chooses to do. A Gentile is born a Gentile. If he violates the Noachide Laws, he is liable because they are necessary for the existence of civilization. But to assess him liability for not converting to Judaism is unfair because Judaism's truths are not self-evident to most people, and intelligence, since not decided by free will, does not play a role in deciding a person's righteousness. Furthermore, Gentiles who did not refuse the Torah (only the generation of Gentiles at the time of the giving of the Torah refused its offering) should not be punished; in a parallel situation, we cannot mistreat a second-generation assimilated Jew (***Chazon Ish*** to ***Mishneh Torah, Hilkhot Deot*** 6:3). Finally, unjustified discrimination against other humans is most probably not the "righteousness and justice" (Genesis 19:19) practiced and taught by Abraham which convinced God that he should be the father of the "chosen people". As the *Midrash* says, "And you shall love your neighbor (fellow Jew) as yourself." (Leviticus 19:21) R. Akiva says, "This is a fundamental principle in the Torah." Ben Azai says, ""This is the book of the generations of mankind (...in the image of G-d he was created) (Genesis 5:1).' This is an even more fundamental principle in the Torah."

From a halakhic perspective, one should note the *gemara's* word choice for "Gentile"; in every case the *gemara* uses the word *"akum"* (an acronym for an idol worshipper), *"kuti"* (one of the Samaritans, who were a constant annoyance to the Jews during the Second Temple period), or *"k'na'ani"* (a member of the original inhabitants of Israel who, as described by the Torah, practiced cruel and abominable rites) as opposed to simply *"nachri"* (stranger). This usage suggests that these laws do not apply to a Gentile observant of the Noachide Laws. Unfortunately, the possibility that Christian censorship obliteratedg the *gemara's* original wording renders this proof dubious.

Explaining the source of a Jew's exemption from damages inflicted by his ox on a Gentile, the *gemara* in ***Bava Kama*** cites the verse "If the ox of a man gores the ox of *rai'aihu*" (Exodous 21:35): *rai'aihu* (his friend) he must reimburse, but not a Gentile. But the *gemara* rejects this source based on the following assumption. Before the giving of the Torah, a person was responsible only for damages he did with his body and not for those caused by his ox. Were the verse really to exclude reimbursement of a Gentile for damages caused by an ox, the Gentile as well should be exempt, for the Torah has never told us he is liable. And were the *passuk* really to refer to all people, a Jew should be liable for damages caused by his ox to a Gentile. So *rai'aihu* proves no dichotomy.

The *gemara Bava Kama* (ibid.) then cites a *Midrash* stating that when God saw the Gentiles flouting the Noachide Laws, he made their property *hefker*, ownerless. This *gemara* also cites the *Midrash* stating that because the Gentiles refused to accept the Torah, God fined them by making their property *hefker*. *Maharsha* (***Chidushei Halakhot***, ibid.), explaining the connection between their refusal of the Torah and this fine, comments that the reasons given by several Gentile nations for refusing the Torah relate to the prohibitions of theft and bloodshed (which, incidentally, were already part of the Noachide Laws). According to *Meiri* (ibid.) and Maimonides (***Hilkhot G'naiva*** 1:1), the *gemara* implies that God fined the Gentiles only because they refused to accept the Noachide Laws, the laws basic to a peaceful society. People who refuse to obey such basic laws do not care about the property of others and hence deserve no protection of their own property. The fine should not apply, however, to Gentiles who obey the Noachide Laws.

The *gemara* at the end of ***Bava Kama*** (113b) states that a Jew may keep a Gentile's lost object unless doing so will cause a *chilul Hashem*. ***Sanhedrin*** 76a, extending this law, forbids a Jew to return a Gentile's lost object. This prohibition almost beyond all doubt applies only to objects belonging to Gentiles not obeying the Noachide Laws. Even the ***Shulchan Arukh***, which usually quotes the *gemara* verbatim, adds that this law was enacted "because he is strengthening the hands of sinners"; Gentiles who do obey the Noachide Laws are not "sinners" and their belongings may be returned.

The *gemara* (ibid.) derives this law from the phrase "And so you shall do to any lost object of **your brother**") and not of a Gentile. Should we then assume, using the same logic cited with regard to damages, that this source is not really legitimate but rather just part of the forementioned fine? If we don't assume so, we must ask, "Is a Gentile is obligated to return a Jew's object?" After all, nowhere does the *gemara* state that the Noachide laws forbid keeping a lost object.

The *Meiri* takes the former approach and declares that a Jew may not keep the object of an observant Gentile. Since Maimonides and the ***Shulchan Arukh***, who do not require a Jew to return any Gentile's object, do not comment about the reverse situation, their view is difficult to determine.

If a Jew may keep a Gentile's lost object according to the letter of the law, why does the Gentile's finding out constitute a *'chillul hashem'*? If a Gentile does not truly understand the Torah, his misunderstanding should not constitute a *chillul Hashem*. Many animal rights activists would object to sacrifices, and yet, if the temple were standing, we would disregard their complaints. Said in another way, Jews only have an obligation to give Gentiles the correct impression of the Torah, not an impression they would like to see. But if a Gentile is entitled to his lost object by the letter of the law, and only to protect the property of law-abiding citizens did the Rabbis institute the fine of *hefker* (the power for such an action is derived from the concept of *'hefker beit din hefker'* the courts are permitted in a situation of need to declare a person's property ownerless.), we can understand why a true *chillul hashem* may exist: keeping the object runs against the actual law as written in the Torah.

In the last perek of ***Bava Kama***, the *gemara* states that when no *chilul Hashem* will transpire, a Jew may opt to not pay back his loan from a Gentile and can refuse to reimburse a Gentile for errors made in business transactions. The *Meiri* again comments that these laws in no way apply to observant Gentiles. Maimonides and the ***Shulchan Arukh*** both omit the first law (not repaying a loan), suggesting that they felt it was not the conclusion of the *gemara*. While the *m'chaber* (author) of the ***Shulchan Arukh*** omits this law, *Ramah* brings it. With regard to the second law, several of the *rishonim* who disagree with *Meiri* (Maimonides, *Tur*) definitively rule that it is forbidden to intentionally deceive a Gentile. It seems, however, that in the case of an unintentional mistake in which no *chilul Hashem* will transpire, the Jew need not correct his mistake. If so, we must once again ask "Is the reverse situation, is the Gentile required to reimburse the Jew?"

The two approaches described are both acceptable but two additional comments on the topic are germane.

While discussing defective coinage, Maimonides states: "One is required to destroy the coin and is certainly forbidden to use it to deceive a Gentile. This is the error of most people and a few individuals [probably a reference to a few scholars] who have "imagined" that such deception of a Gentile is permitted. Such an idea is not legitimate.

It is also forbidden to use any tricks to deceive the Gentile in monetary matters or even simply to fool him [*g'nevat da'at*, theft of knowledge], and a fortiori, doing anything which might create a *chilul Hashem* is forbidden because this terrible sin breeds bad character traits in people. These evils are those of which God despises both them and their perpetrators. About them it is said, "For he is the abominated one of God who does these things [cheating with weights], he that does iniquity' [Deut. 25:16]" (***Peirush Hamishnayos, Keilim*** 12:7).

Be'er Hagolah (*Choshen Mishpat* 348:5) adds with regard to dealing dishonestly with Gentiles: "I write this for future generations: I have seen many who attempted to grow rich by tricking Gentiles, and they have failed. Their wealth has been obliterated with no trace of blessing behind. It is said in the ***Sefer Hachasidim***, 'Many have sanctified God's name and returned even expensive errors made by Gentiles. They have succeeded, grown in wealth, and have have left a legacy for their children.'"

Conceptions of Confession

by Hindy Najman

What role does *viduy* play in the *t'shuvah* process? That is, what is the significance of the fact that the internal and deeply personal experience of moral transformation, which each individual must undergo for him or herself, must be externalized through words common to all? Both Ramban and Rambam agree that *viduy* is fundamental to the "*ikar mitzvah*" of *t'shuvah*. But that they differ profoundly in the way they conceive of its role is revealed by subtle differences in their treatment of *viduy* and of the role of verbal articulation in moral life.

Ramban conceives of *viduy* as a stimulus towards *t'shuvah*. It is the opening movement which initiates the (re)turning towards God. The common words of the *viduy* guide the individual into the appropriate framework for transformation. Inspired by the utterance of those words *"viduy* devarim," the individual enters the inner depths of the soul, in readiness for return "vayasuvu b'libam".

In his writings Ramban places *viduy* in many diverse contexts. In **Torat ha'Adam** (47), he requires *viduy* to be said whenever one's life is endangered, even in the marketplace. However, he also cites the midrashic description of the ten martyrs as having received their portions in the next world *olam habah*, even though they did not recite the *viduy* (48). *Viduy* is a spiritual preparation for the ultimate transformation, the ultimate (re)turning toward God, death. But the ten martyrs were spiritually prepared through their act of sanctification of God's name, and so they entered the next world in an appropriate way and received their just reward. If the stimulating role of *viduy* can be played by something else which is nonverbal, then in what sense is verbal articulation fundamental to the "*ikar mitzvah*" of the attainment of complete repentance "*t'shuvah g'murah*"?

To understand Ramban's answer to this question, we must examine his emphasis on the timing of *viduy* as a stage within the *t'shuvah* process. In *Ramban al ha'Torah* on *parshat Nitzavim*, he outlines his analysis of the ordering of stages in the movement towards *"t'shuvah g'murah."* He interprets *"hamitzvah hazot"* as referring to the commandment of *t'shuvah: b'picha u'l'vavcha* repent first with your mouth *(viduy)* and then through your heart. Following the verbal articulation which initiates the process, the individual now inspired is internally transformed. It is the cultivation of the appropriate attitude which completes the moral transformation, *vayashuvu b'libam*.

Although *viduy* is not the closing of the *t'shuvah* process according to Ramban, it is nevertheless fundamental to the completion of that process. In *Chidushei Ramban* on *Yoma* 57:, Ramban discusses the timing of *viduy* on *Yom Kippur*. He interprets the Talmudic statement that *viduy* is to be said after *minchah, "im chashecha"*, as stressing the importance of entering *Yom Kippur*, as night falls and the need for *t'shuvah* becomes increasingly urgent, with the utterance of the *viduy*. The *gemara* implies that something will have corrupted your thought process since the *viduy* of *minchah*. Other commentaries support this by giving examples of distractions such as drinking, eating, etc. Ramban however uses this *gemara* to support his conception of *viduy*. It is important for Ramban that *Yom Kippur* begin with the utterance of *viduy—viduy devarim—"chashecah"* (nightfall). As darkness encroaches, the words of *viduy* must dovetail with the words of the *maariv* prayer which begin the *t'shuvah* of *Yom Kippur*.

Why this insistence? Can *Yom Kippur* not simply begin with its special *maariv*, the *Amidah* of which, after all concludes with *viduy*? On Ramban's view, mistiming *viduy* would be tantamount to omitting it, since it would be unable to play its fundamental role as a stimulus. Lacking this timely stimulus, the community would have failed to internalize the need for *t'shuvah*. Similarly, if *viduy* were omitted and nothing else played its role of opening the movement of *t'shuvah*, there could be no (re)turning to God. In his commentary on Deuteronomy 31:17, Ramban explicates the phrase *"ki ayn elokai b'kirbi"* "for my God is not within me"—as referring to an uncompleted *viduy*, which made *t'shuvah g'murah* impossible. The custom of reciting *Tefilah Zakah* immediately before *maariv* on *Yom Kippur* can be attributed to Ramban's insistence on the correct timing of *viduy* as a stimulus to personal introspection and moral transformation.

For Ramban, *viduy* is indeed the *ikar mitzvah*, for it fills a gap without which a *t'shuvah* could not open. But the gap can be filled with something other than the words of the *viduy* text. *Tefillah Zakah* fills this lack with other words which are moved by and move the reader with the spirit of *viduy*. For the ten martyrs, the appropriate attitude was achieved through their action—the sanctification of the name—so that words were unnecessary. Or rather, no words could have been more articulate than their silence, for their omission of *viduy* signified that all which could be said had been said, that now was the time for action, that God was present in their midst.

For Ramban, *t'shuvah* itself is a step beyond words, to a place in the soul where words are no longer needed. In a striking contrast, for Rambam, *t'shuvah* is a condition—a speaking with—sustained by the presence of words in the mouth, which guard the soul from transgression.

"Which is *t'shuvah gemura?"* (**Hilkhot t'shuvah** 2:1). Rambam answers that a complete *t'shuvah* is the state in which an individual would not commit a transgression even when under conditions of previous transgressions. Let us note for the moment that while Rambam refrains from a mention of *viduy* at the outset of the second chapter, the focal point of the *t'shuvah* process—*ikar mitzvah*—is the *viduy*, as consistent with both Rambam's mention of "mitzvat *viduy*" in ***Sefer haMitzvot*** and in the first chapter of *Hilkhot T'shuvah*. In fact, immediately following the definition of completed repentance Rambam reverts to his focus on *viduy*, as seen in *Hilkhot t'shuvah* 2:2, where he addresses the question, "What is *t'shuvah?"*. Rambam emphasizes a completion of *t'shuvah* in the heart and then a *viduy ba'peh*—a verbal articulation: "...and it is necessary to confess with one's lips and to utter those thoughts which (the sinner) had completed in his (or her) heart." This ordering of the stages stands in contradistinction to that of Ramban. On Ramban's view, the process of *t'shuvah* opens with the utterance of *viduy*, or something else which plays its role, and then follows this stimulus with a (re)turning of the heart.

This distinction in the views of Rambam and Ramban on the timing of *viduy* reveals a strikingly profound difference in their views of both role and significance of language in moral life. For Ramban the penitent passes beyond the words of inspiration into the realm of the heart, where words are no longer needed. For Rambam, in contrast, it is the continued presence of the words of confession which sustain the penitent—when the opportunity for sin arises, the words stick in the reformed sinner's mouth. The ***Chinukh*** explicates the Rambam's interpretation of *mitzvat viduy* in bringing to the surface the fundamental significance behind *ikar mitzvah* as articulation of the *viduy*. He distinguishes between two roots of the *mitzvah*. The first is the manifestation of the mental state of the sinner of the knowledge that God sees all. The second is that through the articulation of the *viduy* text through the naming of the sin the individual transforms his recognition of his own need for change, which has so far remained inward, into a verbal commitment. The ***Chinukh*** further develops the Maimonidean conception of *viduy* when he writes that the individual will be bound *"nigdar"* by the words of his confession. The word *geder*, in an halachic context, implies a protective boundary against future transgression. The words of the *viduy* function as a closure within the process of repentance. They serve as a closure for Rambam, not in the Ramban's sense that they are necessary only for the duration of a stage (the opening into *t'shuvah* which finishes, but rather in the sense that they bring a stage (the stage of individual introspection) to an end or a fulfillment. They mark the coming into fruition of the individual's inward moral transformation and will continue to indelibly mark that transformation every time temptation arises. Having named the sin, the words of the *viduy* stand in its way.

Unlike Ramban, who believes that the words of *viduy* can be replaced with something else, verbal or non-verbal, which plays their role, it is crucial to the Rambam that precisely these words are uttered. In the **Sefer haMitzvot**, Rambam emphasizes that *viduy* is the *ikar mitzvah* the focal point—of the *t'shuvah* process: "that a person explicitly *(b'phairush)* and verbally *(b'phiv)* recalls his sin which he committed, and seeks atonement for it and then elaborates upon that matter in conformity with [the highest standards of purity of his language) *tzachut l'shono*. In ***Hilkhot Tefilah*** 1:4 Rambam uses a related phrase to explain why the text of the liturgy must be fixed, as opposed to each individual asking for personal needs to be fulfilled. He explains that as a result of the Babylonian Exile, popular parlance became riddled with impurities and the Jewish people lost the ability to articulate in any one pure language. The loss of linguistic unity accompanied the loss of political unity. Lacking a land of their own, the people also lacked a language and a voice of their own. Therefore no individual could adequately formulate his or her needs in prayer before God, and a set text in pure and succinct Hebrew was established, enabling people to pray "like the prayer of the masters of pure language" – *"k'tefillat ba'alei ha'lashon hatzachah."* In an attempt to reunify a people fragmented in the diaspora, the Hebrew language served as a rebonding between those dispersed members of the society. The similarity of phrasing in ***Sefer haMitzvot*** reveals a similar significance for our *viduy* text. In the case of prayer, it has been true since the moment of exile that only if we share a text as a community can we articulate our individual needs. In the case of *viduy*, it has always been true that only if we share the words of our commitment can we properly repent as individuals. In ***Sefer haMitzvot*** Rambam quotes ***Sifrei Zuta*** which binds the utterance of *viduy* to each stage of the history of the Jewish people. *Viduy* has the same place for every individual, as revealed in the many biblical references both pre and post exile, from the *viduy* of Aaron to the *viduy* of Daniel, from the pre-Temple to the diaspora period.

T'shuvah of the Jewish people is often presented as the condition for the fulfillment of the biblical promise for redemption. Ramban connects this theme of *viduy* with *geulah*, redemption (parshat b'chukotai 26:16). The *geulah* is contingent on the moral transformation of a people. It is the community that must collectively participate in the *t'shuvah* process for a final redemption. While for Ramban it is essential that a communal *t'shuvah* occur, the words of that process are not intrinsic to a complete T'shuvah. Rabbi Joseph B. Soleveitchik also addresses the link of *t'shuvah* to redemption. For him, unlike Ramban, the complete *T'shuvah* process lies in the utterance of the *viduy*. The community must therefore recite the same text of *viduy*. This confessional text articulates our own individual introspection. At that moment of articulation, the individual reasserts his commitment to the Jewish people. The ultimate goal of redemption must be achieved through a communal *viduy*, the end step of the process which then leads to redemption. According to the Rambam, *Chinukh* and Rav Soleveitchik it is the words of the *viduy* that bring the penitent individual into the step beyond a *t'shuvah gemura*.

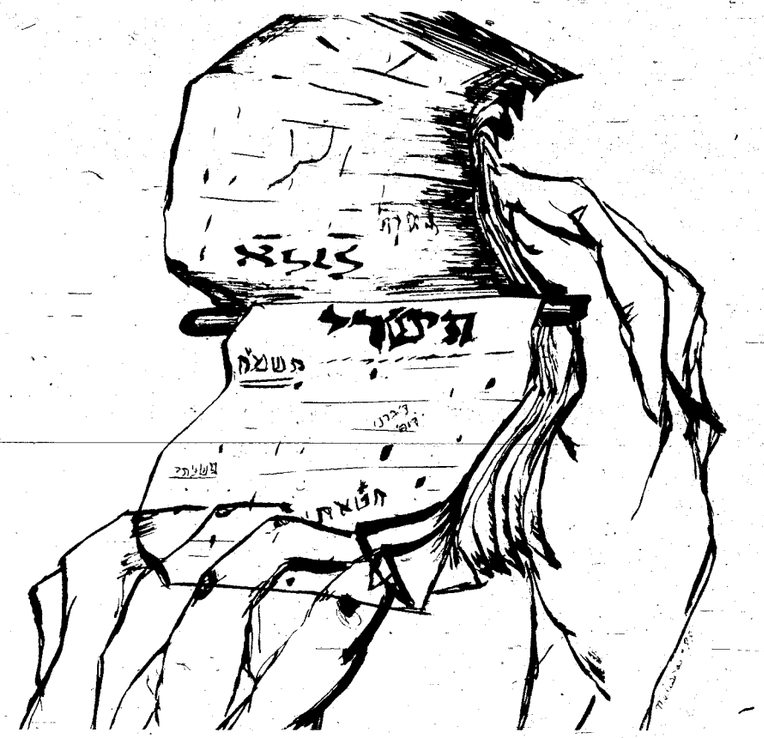
If we follow Ramban's view that the precise words play a fundamental role in the completion of *t'shuvah*, then the entrance in this culminating stage bears careful analysis. The traditional text for the *viduy* begins with the words "Anah Hashem..." Bound by these words, the individual enters into the last stage of the process, bound by them to a people united in language: bound by them in commitment to God. In ***Al ha t'shuvah***, Rabbi Joseph B. Soloreicitchik elaborates on the signficance of the *viduy* language. In fact, *"Annah tavoh lefanecha"* seems superfluous to our *viduy*, so much so that this opening phrase has been omitted from many modern texts and replaced with *"Elokeinu v'eloke avoteinu."* *"Anah,"* or *"nah,"* surfaces many times within the Bible. For example, at the binding of Issac, God did not simply command Issac, "sacrifice your son!" Instead, God prefaced his command with *"Kach nah."* The word *nah* indicates the enormity one might almost say the excessiveness of the request. The sacrifice of Abraham's only son the appointed and fitting heir through whom God's covenant is be fulfilled borders on being too much to ask, even of Avraham Avinu. And yet, prefaced by *"Anah,"* the question is nevertheless asked. Similarly, when we approach God to ask for the forgiveness of our sins, we recognize the enormity of our request. The sins we have done, "Chatati, Aviti, Pashati," how can we ask God to erase them? We therefore introduce our confession with this phrase, *"Anah tavoh l'fanecha"* – Please, we beseech You, let us come before You." Repeating the language of *viduy* again and again, the language of *"Anah"* is a persistent knocking upon the gates of repentance. ***(Al ha t'shuvah)*** These gates will open for those individuals who, in hearing the words of viduy, are bound together in a people dedicated to achieving a complete moral transformation. This alone merits divine redemption.

And do we, indeed, have words in common? How can we approach God when we cannot approach each other in dialogue? The promise of Divine redemption depends upon communal movement towards moral return. This condition of individual *t'shuvah* as prerequisite to *geula* will provoke individuals alienated from the community to reassert lost communal identities, thus hastening a return to their rightful House of Israel.

Acknowledgements:
Rabbi Dr. Ephraim Kanarfogel: lecture
Viduy: Ramban and Rambam.

Rabbi Shalom Carmy: "Viduy /**Hamevaser 1969)**

Special Thanks to Paul Franks.



A Time For T'shuvah

By Howard Sragow

Reuven is a sinner. In fact, he's a very evil person. Because of Reuven's sins, God has written in the Book of Death that Reuven will die at a certain date in the spring. He may repent before that date, but can his repentance change his fate?

"Any occurence is ascribed to the judgement of the previous *Yom Kippur*" (***Rosh Hashana*** 16a). God decides only then what will happen to man during the year; no action after *Yom Kippur* can affect the sentence. Therefore, Reuven's *t'shuvah* during *Cheshvan* is irrelevant to the verdict. Also, God judges on *Yom Kippur* regardless of whether Israel repents on that day (Rav Soloveitchik, ***Al Hat'shuvah***).

So is repentant Reuven doomed? I don't think so. Would God really ignore a complete *t'shuvah* and kill a purely righteous man for sins he forsook? Many sources, biblical and other, attest that God can reverse His decisions on days other than *Yom Kippur* (e.g., 17 Tamuz 2448: God relented rather than kill the Israelites for the sin of the Golden Calf).

The passage in ***Rosh Hashana*** seems irreconcilable with history and God's merciful nature. Maimonides writes (**Commentary on the *Mishna*, *Rosh Hashana*** 1:2) that the whole idea of judgement at only one point in the year is "very difficult without a doubt". Perhaps the talmudic passage does not apply to *t'shuvah*. But since any kind of sin or good deed should affect God's judgement just as much as *t'shuvah* does, all actions should be excluded from the *gemara's* statement. This new qualification renders the passage meaningless.

The Rav's claim that the effects of *t'shuvah* are retroactive offers a potential solution: God can include *t'shuvah* in his analysis because *t'shuvah's* effects occur before *Yom Kippur*, concurrent with the sins renounced. However, this interpretation introduces the tangly problem of foreknowledge and free will, which could render the entire issue irrelevant.

An alternative explanation avoids this quandary. Rabbi Yerucham Yehuda Perelman (***Or Hagadol***, *Rosh Hashana* 1:2) dismisses the possibility of interpreting the *gemara* literally. He declares that although God judges us during *Yom Kippur*, He watches year-round for reasons to change his verdict. Perelman directly contradicts the *gemara's* apparent theme of total judgement on *Yom Kippur*, but satisfies the views of Rabbi Yose and Rabbi Natan, that God judges us continually (ibid. Rabbi Yose holds that man is judged every day, and Rabbi Natan holds that he is judged continually). In effect, since God can judge us all the time, *Yom Kippur* is inherently different from all other days only in that God always judges then.

We concentrate our efforts toward *t'shuvah* in the period just before *Yom Kippur* because repentance would otherwise be too difficult. God implicitly commands us in Leviticus 16:30 to repent by *Yom Kippur*, prescribing a realistic method by which we can repent and to which he can respond with atonement. The defined day for *t'shuvah* is integral to His method; had we no specific day, few would repent. Normal human beings cannot concentrate on prayer and self-evaluation year-round, much less those who need it most. So He ordered us to use this specific time for repentance.

God designated the month of *Tishrei*, but He could have picked any month. The amount of time between regular judgements is also irrelevant to Him. Optimally, men would repent at their subjectively best times, depending on when they sinned or their state of mind. Such a system would certainly mitigate the problem of "I shall sin and repent before *Rosh Hashana*". And God can certainly judge everyone at their own time without getting confused.

Unfortunately, Man would be confused. He cannot be trusted to establish his personal dates for prayer and repentance. People need a set time, so God set one. For similar reasons the Rabbis established *Shabbos Zachor* as the time to read the portion of *Amalek* though the commandment really could be fulfilled at any time during the year.

Rabbenu Nissim writes that God chose *Tishrei* because it is a "time of mercy". Sarah, Rachel, and Chana were all "remembered" for childbearing, Joseph left jail, and the Israelites' slave labor in Egypt ended on *Rosh Hashana*. Moreover, the beginning of a year is a natural time for evaluation. Americans advance resolutions at New Year's time because people naturally audit themselves at the end of the calendar year. Independent of theological influences, accountants prepare year-end reports with recomendations for the next 12 months.

The most important effect of God's method, though, is that it creates communal repentance. The psychological build-up of peer pressure, an artificial deadline, inspiring services, and a physical weakness which severely limits our ability to communicate with anyone except God brings us to a spiritual fever-pitch by *n'ilah*. But God definitely does not ignore late penitents.

The *Tishrei of t'shuvah* schedule exists not for God's convenience but for ours. It is obligatory excellent advice. But just in case you, like most everyone, haven't finished repenting, don't worry; God listens just as carefully in *Cheshvan*.

MAN, ANGEL, GOD

We sanctify thy name in this world even as they sanctify it in the highest heavens, as it is written by thy prophet: "They keep calling to one another:

Holy, holy, holy is the Lord of hosts;
The whole earth is full of his glory."[1]

Those opposite them say: Blessed—
Blessed be the glory of the Lord from his abode.[2]
And in thy holy Scriptures it is written:
The Lord shall reign forever,
Your God, O Zion, for all generations.
Praise the Lord![3]

When Angels Sing

By Yitzchak Blau

Immortal angels serve God, mortal man strives to reach Him. Yet though these beings exist in different worlds, man's emulation of angelic praise is among the centerpieces of davening. We recite *kedushah* in *birkhot k'riat sh'ma* of *shacharit* and during the *chazan's* repetition of the *amidah*. Our recitation of it in *uvah l'tzion* is said to "sustain the world" (***Sotah*** 49a).

Kedushah may have more than one function. Only *kedushah* of shemonah esreh requires ten people present; the others are not *d'varim shel kedushah* (according to most opinions). Rosh among others explains that in the other *kedushot* we only relate the angels' praise, whereas in *kedushah* of *sh'monah esreh* we ourselves offer the praise. *Kedushah* of *sh'monah esreh* begins *"nekadesh,"* "We will sanctify Your Name in this world just as they sanctify it in the highest heavens."

Kedushah of *uvah l'tzion* is not integral to davening. ***Eshkol*** believes it a *tashlumin* for people who missed *kedushah* of *sh'monah esreh*. Rashi (***Sotah*** op. cit.), however, explains that it was established to assure daily *limud Torah* for all Jews. To learn one must understand; thus in *uvah l'tzion* we add the ***Targum's*** interpretation. But many other texts could have accomplished the same function. Why was *kedushah* chosen?

The term "*kadosh*" means separate or beyond (see ***Kuzari*** 4:3). Thus the ***Sifra*** interpretes "you shall be holy" (Leviticus 19:2) as "you shall set yourselves apart". When applied to God, "*kadosh*" refers to His transcendence. God is above and beyod the universe; He cannot be defined in physical terms.

Repeating *kadosh* three times may simply emphasize God's transcendence, but it may also make three distinct points. ***Targum Yonatan*** explains that God is holy in the heavens, holy on the earth, and holy forever. The Lord can't be described by the earthly material or the heavenly substance. Time and space do not contain him. Maharal ***(N'tivot Olam, N'tiv Hap'rishut)*** understands the verse to mean that He is separate from body, separate from soul, and separate from intellect. No aspect of the human condition resembles that of the Divine.

"Holy Holy Holy is the Lord of Hosts the entire world is full with His Glory" (Isaiah 6:3). "*Kavod*" fills the world in Numbers 14:21 as well. *Kavod*, immanence, contrasts with *kadosh* transcendence. The *seraphim* affirm God's exaltedness and omnipresence in the same breath. The Supreme Being utterly beyond the world is also present in every infinitesimal particle. He is remote yet involved and active. Isaiah begins his narrative with a description of "God sitting on a high and exalted throne and his train filling the *heichal.*" Although God is high and exalted His glory is felt below. Transcendence and immanence, the Divine mystery. (see Ibn Ezra, Radak ad loc.)

"Blessed is the Glory of the Lord from His place." (Ezekiel 13:2) Maimonides writes (Guide to the Perplexed 1:8) that "his place" means not his physical location but rather "according to his stature". In his interpretation the juxtaposition of this verse with Isaiah 6:3 serves only to add emphasis; the "*kvod hashem*" previously referred to is blessed. Most commentators understand "his place" more literally, as saying that God can have a specific place. Although the entire cosmos is full of His glory, the Divine Presence can dwell in a particular area. Another question confronting the religious individual. As Solomon asked, "The heavens and heaven of heavens cannot contain thee; how much less this house that I have built?" (2 Kings 8:27)

The historical context of the prophecies offers a different perspective. Isaiah prophesized at a time when the Temple existed, when the grandeur of God was more apparent; "He was like a townsman who sees the king (***hagigah*** 13b). His vision includes both God's awesome transcendence and His everpresent glory.

Ezekiel's vision takes place after the exile of Jehoiachin. Radak explains Ezekiel 3:12 to mean that even though the *Shechinah* has left its place the "*kvod Hashem*" is still blessed. Ezekiel was "like a villager who sees the king (***Chagigah*** op. cit.), unused to the revelation of the Divine. His was a vision of *tzimtzum*, of limited splendor. The first verse of *kedushah* expresses the majesty of the Lord while the second verse reflects his withdrawal. But God is no less sanctified in His withdrawal.

The Rav discusses these two themes in terms of man's relationship with God ("Majesty and Humility," **Tradition** vol. 17:2 p.31). "Cosmic man finds God in the vastness and boundlessness of the cosmic drama, in heavenly galaxies billions of light years away. Homebound, origin-minded man finds God in the limitedness and narrowness of finitude, in the smallness of the modest home into which man was born and to which he willy-nilly returns."

Kedushah closes with Psalms 146:10: "The Lord shall reign forever, the God of Zion, for every generation *Hal'lukah.*" While dispute exists as to whether this verse is an integral part of *kedushah*, (***Arukh HaShulchan*** on ***Orakh Chayim*** 125) *Malkhut* is clearly related to *kedushah*. *Uvah l'tzion's kedushah* also finishes with a verse asking for God's sovereignty. Rav Yochanan ben Nuri (***Rosh HaShanah***) believes that the blessings of *Malkhuvot* on *Rosh Hashanah* are to be added in the blessing of "*atah kadosh.*" We finish this blessing during the ten days of repentance with "*hamelekh hakadosh.*"

All aspects of *kedusha* are components of God's *malkhut*. He is transcendent and rules as a superior being, He is involved and rules in actuality. Divine Providence is constant whether God appears to us majestic or withdrawn.

Just as all of nature testifies to the glory of God, so too all beings unite in His praise. Man and angel proclaim God's unity. Yet it is man and his praise that is more beloved to God (***Chulin*** 91b). Man struggles to understand the enigma of the angels' words. They are a *sod siyach*, a mystery. The angels themselves ask, "Where is the place of His Glory?" According to ***Pirkei D'Rabbi Eliezer*** (Chapter 4), they have no answer but respond "Wherever it is, it is blessed". In contrast to the angels, finite man lacks direct contact with the Divine. For him to offer the same praise is the greatest *kedushah*. *Kedushah* as applied to man, meaning Holiness.

I have heard that the Rav applied these two themes to the Kedusha as well, but have not seen it in print.

Not In Heaven?

By Moshe Rayman

"You are eternal O Lord, your word stands fixed in Heaven." (Psalms 119:89)

"If your Torah was not my toy, I would have been lost in my affliction." (Psalms 119:92)

The Psalmist initially refers to the Torah as "standing in Heaven". The Torah is divine. Its laws, concepts, and secrets are defined in divine terms. But in the same breath the Psalmist refers to the Torah as a toy, or a plaything. This connotes that a human being, with his human intellect, can feel at home with these divine concepts. He can even play with them. The paradox is obvious: how can the human intellect, with its human limitations, hope to fathom the divine concepts of the Torah?

The Talmud (***Bava Metzia*** 59b) relates the famous dispute concerning the "oven of Achnai". Rav Eliezer held that this kind of oven is not susceptible to *tum'ah*, and the Rabbis held that it was. The Talmud continues as follows: "He (R. Eliezer) said to the Rabbis, 'if I am correct let Heaven prove it.' A heavenly voice proclaimed, 'What do you want from R. Eliezer? The halacha follows his opinion in all places.' R. Yehoshua stood up and proclaimed, 'It (the Torah) is not in Heaven' (Deut. 30:12)... We do not listen to Heavenly voices for it is already written, 'The law follows the majority' (Ex. 23:2)".

This passage clearly states that we have the right to interpret the Torah even in a manner inconsistent with God's view. R. Nissim (***Drashot Haran***, 7) and Rav Aryeh Leib (intoduction to ***K'tzot Hachoshen***) explain that the Torah was given to human beings, to be understood by human beings. Majority rule is not just a convenient method of settling disputes but rather the method of determining what the human intellect has to say about a particular issue. And since the Torah was given to people to understand in their own terms, the majority actualy determines what the Torah 'really' says, regardless of heavenly proclamations. Although God wrote the Torah, the version He gave to the world was formulated in human terms.

Rav Aryeh Leib (introduction to ***Shev Sh'mat'ta***) further argues that scholars do more than mearly interpret the Torah in human terms. He cites the Midrash, "Turnus Rufus asked Rav Akiva, 'Which are more pleasant, the work of God or the work of man?' R. Akiva responded, 'The work of man. God creates the wheat and man makes the bread.' and then applies this concept to *talmud Torah*. Scholars do not only interpret the Torah, they actually play a part in its development. A scholar's innovations are real, and they become part of the Torah. Rav Aryeh Leib's two ideas form a coherent thesis. Torah was originally formulated in human terms, to be interpreted with human intellect. Therefore human innovation has a place in Torah study.

Although this thesis gives Man a very active role in Torah study, and justifies the *talmid chakham's* right to innovate, it limits Man's intellect to the "non-Divine". "The Torah, however, was not given to the angels, it was given to man who has human intellect. God, in his infinite mercy, gave us the Torah to be understood in human terms, even if the human understanding is not true on the divine level" (introduction to ***K'tzot Hachoshen***). To solve our paradox, Rav Aryeh Leib brought the Divine Torah down to our level.

Rav Yehudah Loew ben Bezalel (Maharal) understands the "oven of Achnai" incident quite differently. He argues (***Chidushei Agadot Maharal*** v. 3 p. 26) that Rav Yehoshua rejects the 'Heavenly voice' because a 'Heavenly voice' or *'bat kol'*, the lowest level of propheecy, cannot affect the Torah, which was given at Mount Sinai at the highest level of propheecy. Since a *'bat kol'* can be heard by anyone, not only a prophet, it merely reveals some human condition, not Divine truth. On a human level, R. Eliezer was intellectualy correct. On the Divine level, he was not. We cannot rely purely on human intellect. We must strive toward the Divine.

This difference between R. Aryeh Leib and Maharal surfaces in other areas as well. Both Rav Aryeh Leib (introduction to ***Shev Sh'ma'ata p.3***) and Maharal (***Netiv Hatorah*** ch. 5) state that to fully understand the Torah a person must separate himself from worldly pleasure. Rav Aryeh Leib explains as follows: "Everyone who loves wealth and honor cannot learn the oral law because it is a painful, sleepless task." Only a person capable of enduring pain and suffering can work hard enough to fully understand the Torah. Maharal explains that since Torah is Divine wisdom, only a person who has separated himself from the mundane can attain sufficient Divine wisdom to understand the Torah.

Both agree that Torah study is the quest for Divine knowledge. As humans, we cannot hope to fully fathom the Divine concepts of the Torah. Rav Aryeh Leib felt that the divine concepts in their pure form were totally beyond human comprehension. God had to translate the Torah into our terms. Hence only we have the license to interpret it. Maharal felt that the Divine knowledge is within our reach. Human intellect is on God's wavelength, albeit of lower amplitude. If we separate ourselves from the mundane we can understand the word of God.

STUDIES

Through the Past, Talmudically

by Robert Klapper

This article is not intended to advocate a particular derekh halimud; rather, it seeks to analyze the theological issues involved in such a derekh halimud.

Descriptions of historical trends are generalizations only.

In Amorate times, an overwhelming sense of *Masorah* suffused Jewish scholarship. Animate *Mishnayot* and collections of *b'raitot* paced the aisles of the *batei midrash* reciting halakhic and aggadic texts learned not out of books but *ish mipi ish* , man from man. The words of tradition dominated intellectual discourse, and their interpretation, transmission, and where necessary restoration were the focus of learning.

Eventually, the discussions of several hundred years were collected and edited as the *talmudim* . The Babylonian Talmud became the preeminent halakhic work. Sometime during the Geonic period it was committed to

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writing, possibly because oral transmission could not preserve so long and complex a text in a Diaspora.

But even written transmision could preserve only text, not interpretation. Jews no longer spoke Aramaic, and the text became progressively less accessible. By the eleventh century Maimonides felt the need for a popular halakhic work (Introduction to the Mishneh Torah). Talmudic study became not merely textually oriented but textually bound, with even the discovery of *poshut p'shat* requiring much mental effort.

Rabbi Shlomo Yitzchaki's commentary (possibly the greatest of its kind ever on any text), by clearly and concisely explaining the internal mechanics of *sugyot* (talmudic discussions), laid the groundwork for an intellectual revolution. His grandson took advantage of the Talmud's renewed accessibility. "The multiple panzer thrusts of Rabbenu Tam's intellect had smashed the front of the old simplistic interpretation, and under the quiet but relentless generalship of R. Isaac of Dampierre the land of the Talmud was occupied, reorganized, and administered by Tosafist thought." (Rav Chaim Soloveitchik, "Three Themes in the Sefer Hasidim", AJS Review Vol.I p.339) The *Baalei Tosafot* explored contradictions between *sugyot* and wrote brilliant harmonistic commentaries.

The new methods of Talmudic study brought dangers as well as rewards. *Sefer Chassidim* attacked the Tosafistic pioneers for using an alien methodology, "the dialectic of the Gentiles". And the desire for harmony often led to torturous exegesis, with the straightforward meaning of *sugyot* sometimes sacrificed to the unity of the Talmud.

The tosafistic method had two even more important consequences. It deemphasized *M'sorah* , as the problems it raised were clearly not even conceived of much less resolved in the interpretative tradition. And it created a motivation for learning beyond knowledge of *halakha* or of the words of *Masorah*: learning became fun. Nonetheless, the Tosafists were still textually based. While they viewed the Talmud as continually ikar chaser min hasefer (omitting relevant details), they did not challenge the intellectual superiority of its authors. The validity of the Tosafot depended on their being rediscoveries of original intent rather than improvements.

The interpretative territory opened by Rabbeinu Tam was largely exhausted in several hundred years, but the fascination with his method was not. Learning frequently became intellectual gamesmanship, with p'shat lost to contradictions of doubtful seriousness.

Supercommentaries also used this method; a vast literature sprang up resolving contradictions within and among the Baalei Hatosafot and other *rishonim*. The potential for originality in this field caused the text of the Talmud itself to recede in importance relative to the commentaries on it. Scholars began to evaluate legal theory against the texts of the *rishonim* rather than against that of the talmud. Though less central than they had been, the words of *M'sorah* still played a critical role in Jewish learning — but the words of *M'sorah* had changed.

Ironically, as Talmudic study deemphasized its basic text it grew in spiritual importance. Eighteenth century Lithuanians, found in *Talmud* an exhilarating intellectual experience. Challenged by the rise of Hasidism to reinvigorate Rabinic Judaism's spirituality, Rav Chaim Volozhin emphasized a different function of *lomdus* : intellectual communion with God. The ideal mode of communication with Him was study of His Word.

Its spiritual stature notwithstanding, *pilpul* gradually lost intellectual vitality. Nineteenth century critics of rabbinic "casuistry" found "hodaot d'baal din", "defendant's admissions", on the title pages of Talmudic novella: "*vekhol zeh eyno elah lepilpula b'alma v'ayn lismokh alav lehalakha*", "All this is mere casuistry and should not be relied upon in legal decision-making."

Tradition once more found a source of renewal. Rav Chaim Soloveitchik, Rabbi of Brisk, developed yet a new *derekh halimud* . Arguing that many of the Talmud's technical terms had more than one meaning, he sought to define them all distinctly. Ironically, he created in the process a new generation of multi-definition terms. Rav Soloveitchik's *derekh* fulfilled Rav Chaim Volozhin's theology, for if Talmud study is intellectual worship it should be conducted in the most intellectually rigorous possible way.

But while the "*Brisker derekh*" was in a way the logical result of the Volozhin theology, it created a serious new philosophic problem: Brisk's formulations were sharper than those explicitly written in the Talmud. While raising Talmudic study to new intellectual heights, it at least potentially lowered respect for the Talmud itself.

As Briskers sharpen their method, concepts are replacing texts as the subjects of analysis. The intellectual level of Talmudic debate continues to rise, but in the process the debate becomes less distinctively Talmudic. Many halalchic concepts exist in other legal systems; only the connection to Masoretic text makes them distinctly Jewish. Perhaps this is why we find that the primacy of Talmud in the Jewish curriculum is criticized almost daily. To the extent that emphasis on Talmud has obliterated study of *Tanakh* , history, etc., the criticisms are certainly justified. But Talmudic study has been the centerpiece of our education for a thousand years, and that tradition should not be easily discarded.

Addressing the Torah U'Mada Thinktank several years ago, Rav Aharon Kahn declared that Talmud should remain central because every word of Talmud learned moves metaphysical mountains. Another justification offered is that familiarity with the Talmud is essential for an understanding of the halakhic system, even if it may no longer be needed for day-to-day halakhic life. Finally, the Talmud's centrality may be justified on the grounds that its significance lies less in its concepts than in its characters; we study it less to learn the Law than to acquaint ourselves with the people who embodied it.

All the above themes face historico-traditional and logical objections to their being justifications for our study of Talmud. The majority of Talmudic discussions are at least seemingly about non-esoteric subject matter; if our repetition of them has such esoteric metaphysical effects, it does so in a fashion naturally beyond our understanding and at least often without our conscious intent. It seems odd for so intensely rational an activity to have so distinctly arational an aim. Modern *p'sak* must deal with so many layers of precedent that its decision-making process could not be identical with that of a thousand years ago even were its analytical procedures unchanged. And surely *Tanakh* provides a better forum than the Talmud for learning from the actions and mindsets of the great figures of the past.

The *Brisker derekh* makes the centrality of Talmudic study even harder to justify. Briskers discuss the intended concept rather than the written word, downplaying any rationally inaccessible meaning. Their method of analysis at least seemingly differs from that

of the Talmud (and of at least some *rishonim*), leaving its use of doubtful value to the understanding of both the Talmud's halakhic process and the *Amoraim's* personalities.

Conceptual analysis does offer, however, the capacity for creation, for adding to the *M'sorah*. (See "Creativity and Avodat Hashem" in the last **Hamevaser** for a fuller treatment of this idea.) It allows us not only to find lost interpretations but to discover legitimate implications new perhaps even to the authors of the texts they are found in. It allows us not only to transmit but to expand. The danger, of course, is that expansion will leave the center hollow.

In Amoraic times, an overwhelming sense of *M'sorah* suffused Jewish scholarship. Listening to debates in a *beit midrash* today, I sometimes sense that the scholarship has been transmitted but not that sense of tradition. Yet in the early hours of the morning, when intellectual enjoyment disappears and the only motivation for going on is devotion to learning, the exhausted figures pacing the aisles bring back shadows of ancient times.

Gideon; continued from p. 3

enhancing his status as heroic Champion of Israel, and recognizing him as a key factor in the victory.

Rashi and Radak's respective readings are cued by nuances within the *d'rashot* . Rashi notes the mention of Hallel and the Haggadah in the d'rashic expansion of Gideon's reference to the Exodus.[5] In both those texts God's role overshadows that of His agent, indeed their theme is His personal intervention. Moses' name appears only once in the Haggadah and nowhere in Hallel.[6] [7] Rashi may have believed the reference a hint that Gideon's role should also be deemphasized. (The story of Gideon, however, is mentioned in "*Vay'hi bachatzi Halayla*" and "*Uv'chayn vaamartem zevach Pesach*", *piyutim* recited after the Haggadah.)[8]

Radak finds clues to Gideon's personal importance in the *d'rashot*'s use of "worthiness" and "*koach z'chut*." According to Radak, "worthiness" means religious merit. Gideon's fulfillment of the commandment to honor one's father made him personally worthy of saving Israel. The fulfillment of that precept was particularly appropriate, as the reward written in Deuteronomy 5:16 for honoring one's parents, "that you may long endure, and that you may fare well, in the land that the Lord your God is assigning to you." The sentence even suggests that the reward is linked to the land of Israel. Maimonides holds that the sentence contains two promises.[9]

Radak defines "*kochakha*", or *koach z'chut*, as leadership qualities, in Gideon's case a combination of zealotry and caring protectiveness. In his story Gideon offers an argument that verges on an attack on God. His reading of Gideon's character has textual basis, for Gideon's bitterness is evident without *d'rash* . When Gideon responds to the angels' greeting of "God is with you, valiant warrior", with "Is God really with us?", he essentially responds to a greeting of "Good day" (See *B'rachot* 9:5) by saying, "What is so good about it?". The basis of Radak's understanding of Gideon is the passion of Gideon's response. Gideon's spirit and compassion prove him deserving, and moreover qualified, to inspire Israel in its physical defense.[10]

The importance of this "Y'rubaal" (the name given to Gideon for destroying the Ba'al idol in 6:32) aspect of Gideon's nature is suggested by the drasha describing Abraham's smashing of the idols in Terach's shop (*Breishis Rabbah* 38:13), a *d'rasha* seemingly molded on the story of Gideon. Gideon is the only biblical son to smash idols in his father's possession or jurisdiction. Gideon's father defends him against his neighbors' wrath by mockingly suggesting that the Baal should fight for himself. Abraham takes a similar positivist approach in demonstrating Terach's own lack of belief in his idols' power by making him admit to not believing that the idols had the power to destroy one another. However, in one aspect of the derashah (ibid.) Terach differs from Yoash, who excuses and even defends his son, and brings him before the authorities as a juvenile delinquent, for punishment.[11]

Additional similarities between Abraham and Gideon may have influenced the darshan. Both figures unknowingly meet an angel. They proceed to feed that angel and defend a people before God. Both are fundamentalists, zealously anti-pagan, Gideon against the Baal and Abraham as the discoverer of and proselytizer for monotheism. This comparsion of course supports Radak's stance. Furthermore, various literary allusions attract attention to the similarities between the two

Feminine Sovereignty

by Miriam Segal

Imagine the following scenario: A synagogue president's term is almost over, and a woman is among those applying to replace him. Women have never run for the office before. The Election Committee's first instinct is to deny her application. Some members wonder whether *halakha* permits women to occupy positions of communal leadership. Others argue that it would be unjust to deny women opportunities within the Jewish community they already have in society at large. Turning to the *rav* of the synagogue for help, the Committee begins to explore the issues at hand.

In recent years, the issue of whether women can assume communal positions has attracted a great deal of attention within the Jewish community. This article briefly outlines some of the halachic concerns relevant to this issue and analyzes the scenario depicted above based on those concerns. It certainly does not exhaust the issue and is not intended to arrive at any halachic conclusions.

The controversy surrounding a woman's assumption of an office such as the synagogue presidency is at least partially based on Maimonides' statement in **Mishneh Torah** (***Hilkhot Melakhim*** 1:5): "A woman cannot be appointed a monarch as it says, 'a king and not a queen.' Similarly, with regard to all appointments in Israel only a male may be appointed to them." The juxtaposition of the *halachot* regarding communal positions and *malkhut* is presumably not coincidental.

The first *halakha* above, "a king and not a queen", is based on the ***Sifrei*** to Deuteronomy 17:14: "*Som taseem alekha melekh asher yivchar Hashem Elokekha bo mikerev achikha taseem alekha melekh lo toochal latet alekha ish nachri asher lo achikha hoo* ." "Place upon yourselves a king whom God will appoint from among your brothers; from the midst of your brothers you shall place on yourselves a king, you shall not place on yourselves a stranger who is not your brother." The *Sifrei* 's comment is generally understood to mean that a woman cannot rule the Jewish people.

The basis of the second halacha is not clear. Some argue that Maimonides had a precedent for his statement. One possible source mentioned is the ***Pesikta*** on "*lo tuchal latet alekha ish nochri* ," (Deuteronomy op. cit.). The **Pesikta** comments: " 'A man' but not a woman. From here it is derived that a woman is not appointed to a position of authority over the community."

Rav Moshe Feinstein (***Igrot Moshe*** , *Yoreh Deah* , 2:44, 45), however, writes that Maimonides had no explicit source. ***Kiryat Sefer*** explains that Maimonides deduced this law from the Talmud's (***Kiddushin*** 76b, ***Yevamot*** 102a) extension of the exclusion of gentiles from royal office to all positions entailing *s'rarah*, which can be loosely defined as "dominion." Perhaps Maimonides thought that as the laws excluding gentiles and women from *malkhut* appear in the same *parsha*, peripheral prohibitions applying to one should apply to the other.

Whatever Maimonides's source or reason for excluding from communal offices, his view was arguably accepted by most *halachic* authorities (including *Rabbenu Nissim, Rashba, Ritva,* and *Rosh* among others). As Rav Feinstein points out, the **Sefer HaChinukh** among others disagrees. However, as the majority of *rishonim* seem to agree with Maimonides, the rest of this discussion will take place under the assumption that he is correct.

Even a general exclusion of women from communal leadership may not necessarily disqualify women from the office of synagogue president. According to many *poskim*, (including Rabbi Yaakov Levinson, Rabbi Ben Zion Uziel, Rabbi Chaim Herschenson) under some circumstances Maimonides's statement does not apply. If so, the extent of the prohibition must be determined. In **Hilkhot Melakhim** 1:4 Maimonides writes:

"A king is not chosen from a gentile nation...and not just kingship but any position of *serarah*. Not an officer responsible for fifty people and not an officer responsible for ten people. Even someone appointed over a waterfall that is distributed to fields; and there is no need to say that a judge or a president should only be from the Jews. As it says, *'mikerev achikha tasim alekha melekh.'* All functions that you assign will only be from your brothers."

Maimonides's definition of *s'rarah* in 1:4 presumably also applies in 1:5. Therefore the exclusion of women from leadership positions applies even in groups of only ten people, and therefore by definition to synagogues.

Maimonides's prohibition may only forbid the appointment of women to communal positions, but it may also bar women from exercising the powers of such offices. R. Ben Zion Uziel (**Mishpatei Uziel** , *Choshen Mishpat* , no. 6), using the first understanding, distinguishes between elected and appointed offices. He argues that the prohibition applies only to the latter and not to situations in which a woman is voluntarily accepted as leader. His distinction may be further qualified; possibly the election must be unanimous and the electee subject to recall at any time. Possibly women may serve in offices they would otherwise be excluded from if they are accepted by the constituents. Election of a synagogue president would, especially if unanimous, constitute acceptance. Rav Yisroel Zev Minzberg, however, points out that *kabbalah* only allows a person normally ineligible for an office to serve on an irregular basis. Obviously, the presidency of a synagogue is more permanent than the type of situation which Rav Minzberg described.

If the exercise of the powers of the office is also problematic, as Tosafot (**Sotah** 41b) suggests, the nature of the office must be examined. Tosafot (***Yevamot*** 101b) indicates that any position of *s'rarah* must entail the power of coercion. The synagogue committee in our case would have to determine whether the president of the synagogue has the power to coerce anyone.

It seems, then, that a synagogue board considering a woman's candidacy must consider the following issues: Is the way in which a women would acquire the office the only problem or is her exercise of the powers of that office also problematic? If the former, is election to an office less problematic than appointment? If the latter, is coercion a prerequisite for serarah? If so, would the office enable the officer to coerce people? Clearly, the deliberations about this topic would be quite complex and would have to be studied on a case by case basis.

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figures. In the story of Judges 6: 17, "If I have gained your favor...do not leave this place until I come back to you and bring out my offering and place it before you." Genesis 18:3 "If I have found favor in your eyes do not pass by your servant." Similarly compare Judges 6:39 with Genesis 18:30, 32)

Radak may well have seen the first *d'rasha* merely as an attempt to implant the perception of Gideon as caring amd protective, necessary requirements in a leader; the *d'rasha* of Moses and his sheep,[12] for example, imparts the same impresssion. Perhaps, though, Radak believed that the the *d'rasha* was commenting on the plight to which Gideon subjected his father. Gideon smashes the Baal and Yoash is left to defend him before an angry population. The *darshan* tries to add to the text with an episode attesting to Gideon's paternal devotion, in this case by defending his father as his father later would him. The *d'rasha* thus establishes Gideon's character as one whose regard for his father is complimented and not overridden by his Y'rubaal fanaticism.[13]

The unique character of Gideon and *Milkhemet Midyan* both add meaning to the dispute about Gideon's role. The famous question as to Gideon's semi-royal status can be related to our dispute. In addition, if Gideon actually is king)like, our dispute shows yet another face.

Rashi and Radak's disagreement may extend to the nature of Gideon's kingship. Gideon seems to combine the duties of judge and prophet. The chorus of Judges, "In those days there was no king; everyone did as he pleased", supports the idea that the king is a more complete judge. Most commentators believe the narrator to be complaining about the inadequacy of the judicial system. When the pressure for nominating a king eventually become insurmountable Samuel seems to feel personally spurned,[14] aware that a king takes on a part of the prophet's tasks. Indeed, as the maintainer of civil order and teacher (These roles are reflected, for example, in the *hak'hel* ceremony, the king is to a certain extent a composite of judge and prophet. The naming of king and judge are very specific, defined selections. Sovereignity is limited by lineage. Prophets are similarly preordained (e.g. Jeremiah 1:5, Samuel 1:11). The lifelong relationship these people have with God contributes to the significance of the their appointment. Conversely, the judge's temporary status makes him appear more as an instrument than a personality. Rashi, in line with Gideon's sentiment, tries to dispel any perception of him as a ruler-like. He views Gideon and "*kochakha zeh*" more as tools than as a personality and its attributes. Radak, though, creates a unique status for Gideon as unique among the judges (visibly attested to by the Israelite masses attempt to crown him) yet separates him from the class of kings.

Interestingly, the kingship suggested here, teeters on the same balance; the king is both the great leader of the people, a virtuous personality capable of leadership, yet humble before God as merely the device chosen to act for his people.[15] The pattern set by Gideon of modest tribal and familial background (verse 15) dramatically followed by subsequent courage in battle attesting military skill and leadership is strikingly emulated by Saul, the first and as such somewhat prototypical king of Israel.

The battle of Midyan took a revered position in the historical lore of biblical times. It is referred to as a prime example of a great victory in Isaiah 9:3 and Psalms 83:10-12. Militarily, it stood as a quintessential Divinely-aided victory in that a minimal group annihilated a stupendously larger and much better suited army. The Israelite army, numbering a select three hundred men, outwits the army of a people described as twice as numerous as the locusts in a cloud. The leader of the Israelites himself epitomizes the character of his small army; he is the youngest son of the most humble family in his tribe. The victory is despite these conditions thorough; the enemy are killed to the last men, Zevah and Zalmunna. Hence, from a logistical perspective *milkhemet Midyan* appropriately came to be regarded as one of the greatest Divine redemptions in history.

The battle itself, of course, was only an outgrowth of the war against idolatry (Chapter 6:1,8-10). The goal of the redemption was to return Israel to God. On the internal religious level, the battle was supposed to rid the people of the idolatrous elements which had penetrated it.[17] The dual nature of the battle, the physical challenge posed by Midyan and the spiritual challenge of idolatry, parallel Israel's basic intertwined external and internal struggle against the nations of the world. Gideon's dismembering of the Baal represented a political act and not a uniquely spiritual one (from a Jewish popint of view, as well) because in the battle against the idolatry and the idolatrous nations of the world against idolatry the two are one. Unfortunately, Gideon lost the religious battle. The national failure at this vital aspect of the battle is seen unmistakeably in the regression to the ephod worship. Israel is consequently tossed back into the cyclical retribution track of the Judges period.

Gideon's personality as outlined earlier and his importance to the battle are intimately tied to the character of *milkhemet Midyan*. The reestablishment of God's indivisible and unmediated throne in the Israelites' mind was the purpose of the battle. Hence the significance of Rashi and Radak's disagreement. Rashi, in accordance with the character of *milkhemet Midyan*, wishes to minimize the part of any figure other than God in the victory, In contradistinction, Radak views Gideon's iconoclastic character as the ideal instrument for emphasizing God's undisputed reign.

Footnotes

1. In contrast to the JPS translation which reads "and deliver Israe", the Septuagint translates "and thou shalt save... Behold I have sent you." The dispute between Rashi and Radak can work even within the Septuagint: Is this strength linked to "and thou shall save Israel" or is it a force apart from Gideon which stems only from God's sending him, i.e. from "I have herewith sent you".

2. In Legends of the Jews, H.L. Ginzberg lists MHG I 722)3 and Yalkut 11,62 as the primary sources for the derashah3. Ginzberg (Yelammedanu) cites this derashah from Yalkut 11, 62, and Zohar Hadash, Noah 29a

4. First, G-d's winnowing of the army down to minimal size lest "Israel...claim for themselves the glory due to Me, thinking 'Our own hand has brought us victory".(7:2) The implication is that the victory's foremost function is to serve as a testament to God. Secondly, Gideon's rejection of the throne because "I will not rule over you, nor shall my son rule over you; the Lord alone shall rule over you". (8:23)5. This is the title sentence of Psalm 114, which tells of Israel's awe-inspiring position in the world following yetziat mitzrayim.

6. Even the one mention of Moshe's name occurs only in Rabbi Yose HaGelili's numeration of the plagues.

7. It is also likely that this derashah was sparked by the phrase "sipru lanu avotaynu". "that our fathers told us"; which is similar to the phrase used in the Torah's command to tell the story of the Exodus to one's sons (Shemot 10:2)

8. A prime example of this notion of kingship is the dictum of Bar Kappara on Berakhot 34a)b "R. Shimeon ben Pazi said in the name of R. Yehoshua ben Levi, reporting Bar Kappara: An ordinary person bows as we have mentioned, a high priest at the end of each benediction; a king at the beginning of each benediction and at the end of each benediction... It was explained... a king, once he has knelt down does not rise again..." (Soncino). Rashi surmises in his articulation of Bar Kappara's logic the idea of an intrinsic balance between maintaining leadership qualities and humility that a leader confronts. "kol mashehu gadol beyoter tzarich l'hachnia u'l'hashpil et atzmo". Maimonides fixes the halakha in accordance with the dictum (Hilkhot Tefilah 5:10).

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Malkhut: Between God and Man

By Dov Fogel

(The article presented here attempts to expound several ideas discussed by Rav M. Sabato and Rav Y. Maydan of Yeshivat Har Etzion).

Tanakh's treatment of the monarchy is ambiguous. When God promises Abraham "from you kings shall come forth" (Genesis 17:7), He seems to have no qualms regarding kings. Similarly, the Torah, when prohibiting the cursing of kings and judges (Exodus 22:27 Ibn Ezra), unequivocally assumes their existence and regal stature. In Deut. 17:14-20, the Torah commands Israel to appoint a king. But by placing the command in a particular historical context, the Torah seems to suggest that the monarchy is merely an accomodation of the people (Nachmanides), not an imperative. Gideon's (Judges 8) rejection of a popular attempt to crown him further obscures the issue. Also, the success of various judges in thwarting enemy attacks (Judges 3-17) seems to deny any need for a king. However, the repetition of "there was no king in Israel - each man did as he pleased" in Judges 18-20 implies that the absence of a monarch let violence and idolatry overrun Israel.

Tanakh's ambiguity on the subject is highlighted by God's equivocal reaction in I Samuel (8-12) to the people's demand for a king. After initially expressing feelings of rejection, "it is I they have rejected" (Samuel 8:8) God obliges and initiates the king's process of appointment. That God's inital distaste has dissipated is underscored by the contiguity and peculiarity of chapter 9, which describes Saul's chance meeting with Samuel and subsequent inauguration. Chapter 8 closes with God's commandment to Samuel to heed the people's demand. In chapter 9, though, Samuel remains in his usual residence while Godly intervention strikingly delivers Saul to Samuel. The narrative (in addition to the king's being chosen by lottery in the following chapter) emphasizes the role Divine providence played in the initiation of the monarchy. At the enactment of the Divine commandment the prophet is most enigmatic.

The problem is two-fold: why does the prophet present the story so ambiguously, and why does Samuel so angrily resist performing God's commandment expressed both in the Torah and specifically to him.

The solution to these queries lies in the paradoxical nature of the monarchy. The monarch serves both to represent the heavenly kingodom on this world as well as to unite and lead the people. Through office, leadership, and example he must be a religious model, yet he must also unify a nation and enable it to accomplish its military, economic, judicial and religious objectives. These distinct themes complement one another. Only through tribal unity can spiritual goals be truly realized. Also, by unifying the nation, the king imitates the God Who will unify the world when it truly realizes Him (Zechariah 14:9). These themes manifest themselves in various aspects and requirements of the monarchy. The monarchy is hereditary. "Inheritance," (see *parasha of vihum*, Deut. 25:5-10) expresses God's interest in perpetuating the father, who lives vicariously through his son's use of his name and land and striving for his ideals. The phrase "Jacob our father never died" (*Ta'anit*) points out that Jacob's life is perpetuated as his sons follow in his ideological footsteps. The kingship must, in mirroring God's kingdom, parallel His eternity. The Jewish monarch doesn't die. He lives on through his son, and in that way the Divine kingdom is truly personified. In addition, the relationship between king and prince is paralleled by the God-king relationship. In II Samuel 7, after David's request to build the temple, Nathan the prophet informs him that only during Solomon's reign can the commandment be fulfilled since only then will the kingdom, having been inherited by Solomon, genuinely portray the eternity as well as permanence of God's kingdom and presence. Then only can the Divine presence inhabit the permanent temple. This idea is related more explicitly in God's refusal of David, in which He refers to Solomon as "like a son to me" (II Samuel 7:14). As a son, the king must resemble his father and perpetuate his ideals.

In the midst of the description of the temple's construction a peculiar interruption occurs, a description of the construction of the king's house. The text seemingly compares the two houses. (The repeated use of the word "*bayit*" to describe both the Davidic dynasty and the temple support the concept that both institutions contain the shechinah.) Their identical height illustrates their similarity as material expressions of God's monarchy and presence in this world.

According to Abravanel (Introduction to Judges), certain rights and honors specific to the position of king echo this theme. The law dictates that even a prophet must bow before the king. And even the king may never defer his own honor since it is not his to defer, but rather God's.

The kabbalistic system of *s'firot* also contains this idea. In the order of the *s'firot*, *malkhut* is the lowest level of Divine character, the only one revealed in this world. God shares his kingdom with us by ordaining the human monarchy.

This notion might explain the equation of Moses and Samuel in Psalms 99:1. Moses' greatest action was his revelation andteaching of the Torah to Israel. This first instance of Divine revelation was completed by Samuel when he instituted the monarchy.

The second, more mundane motif stresses the bond between king and people. The requirement that he be able to unite the people is made apparent by the necessity for unanimous consent to his acceptance as king. The six months of David's reign (II Samuel 15) during which Absalom's rebellion flourished aren't included in the count of his years as king because during them he didn't have the allegiance of the entire people. Consequently, he didn't bring the king's sacrifice during that time.

Rav Hirsch reflects this theme when he states that Israel will achieve its spiritual objectives only when the resources and will of the population are at the king's disposal. Abravanel adds that the king's powers include the confiscation of property and the collection of necessary taxes for the state's military and economic survival. In addition he may issue special legislation in times of emergency and exact whatever punishments he considers exigent to curb injustice. All this evinces his function as leader.

The king serves as military leader as well, and in this role he actually unites the people. He has the ability to punish those who ignored his call to join the war. (Saul hinted at this when he sent a strip of lamb to each tribe (II Samuel 11:7)). The Judges, on the other hand, could not exercise such power and therefore every war in their time was fought by individual tribes. That lack of unity, decried by Deborah (Judges 5:23), leads to the disaster and civil war of Judges 19.

Interestingly, the two concluding incidents in the book of Judges ("the idol of Michah" and "the mistress of Giv'ah"), which underscore the need for a king ("there was no king)) each man did as he pleased"), are consonant with the themes presented here. *Pesel Mikhah* emphasizes the need for a center of worship along with the need for a king. The subsequent story condemns the lack of a central authority. Both stories condemn the spiritual and political anarchy that prevailed among the tribes. (The phrase "each man did as he pleased," borrowed from Deuteronomy 12:8, originally described the prohibition of *bamot* upon the consecration of a central place of worship in Jerusalem after a king has been annointed.)

When the king acts as military leader he illustrates both motifs concurrently. In leading the people the king unites them, imitates God ("God master of war", Exodus 15:3) and sanctifies God's name in war ("when the ark was lifted...and the enemy scattered," Numbers 10:35-6).

The Torah's reluctance to take a clear position concerning the monarchy relates to the king's dual nature. While the Jewish king parallels God's monarchy and assumes many of his powers, such as the right to kill those who rebel against him, he also governs the people as do other heads of state. The Torah's fear is that the power will go to his head. For instance, Uziyah (II Chronicles 26:16) thought his great success and supreme control meant that his power was godly and also entitled him to assume the priestly role.

The dangers of monarchy relate to the people as well. Economically and socially subordinated to a human (II Samuel 8:11-26) as other nations are, they may think that the king has replaced God or even is God as other nations did. But in this obstacle lies the point of the monarchy, the recognition that a flesh-and-blood human exerts authority and fights gallantly only because of the Divine power imbued in him. That a higher authority supercedes him is primarily expressed in the king's unique obligation to make the *Sefer Torah* his constant companion. Unlike the judges, the king was anointed by a prophet and always accompanied by him. The people then recognized the Divine monarchy and presence in the human king.

Aside from these dangers an inherent inconsistency in the institution of the monarchy is evinced by the contrast of chapters 7 and 11 in I Samuel. Confronted by the threatening Philistines in Chapter 7, Samuel, upon the people's request, turns to God for deliverance. In chapter 11, however, when faced with Nachash the Amonite, the people seek Saul to lead them in battle. This stark contrast relates the practical impossibility of dual loyalty, of loyalty to both king and God. The people's unquestioning reliance on God and faith in Him fade with the emergence of the king. The prophet relays this progression in a radical fashion by contrasting the people's total reliance on God in Chapter 7 with their utter despair in Chapter 11 (Samuel 11:3).

The problematic nature of and possible misconceptions that accompany the monarchy don't outweigh its practical necessity and religious significance. For Israel, the king is not only a glorified general assuring national integrity. Rather, because they are unable to comprehend God, the people also employ the king as His physical representation. Saul captures this theme when he attributes his first victory to God. Though the prophet has just condemned the people's lack of faith in God

continued on next page

Gideon: *continued from page 9*

9. Nachmanides on the Decalogue in Exodus counts in accordance with Chazal, another reward, in addition to longevity, of eternal dwelling on the good land which he shall grant us. He quotes Maimonides in support. Furthermore, by the second rendition of the Decalogue, Nachmanides writes in the end of his commentary on the fifth commandment that the reward "l'maan yitav l'cha" is to be understood as the sentence in Psalms 85:13 which reads, "The Lord also bestows His bounty; our land yields its produce".

10. The father-son motif coincidentally recurs in the story when Gideon tells his son to kill Zevah and Zalmunnah. Perhaps in addition to delivering these once powerful kings their ultimate shaming, Gideon wished to see if his son, as a small child, had the fortitude he had had as a man of meek backround and few military resources facing an evil and more powerful enemy. Evil with an overlooking safeguard. The parallel is helped somewhat by the presence in both of a reliable safeguard: Gideon supported Yeter as, lehavdil, God had backed him). In the text, after Yeter fails, the people request Gideon, his son, and eventually his grandson to rule over them. Gideon responds to the people's request, "I will not rule over you myself, nor shall my son rule over you..." (8:23). The deletion of his grandson may well be for the sake of the meter or because consecutive generations is enough to convey the idea of inherited or in this case non-inherited power. The reason, however, may also be an awareness that although his son did not display the necessary power to be a leader or a king, his grandson might eventually possess it and be able and fitting to rule.

11. The agaddah relating the incident of Moshe, the shepherd, and his runaway sheep is found in Shemot Rabbah 2;2.12. See Da'at Miqra on the mane Yeruba'al and it's derivation (6;32).

13. See Shemuel I 9;21 and 11;11-13.14. See Shemuel I 8;6-8. We can assume that God's comforting is well targeted.

The second derasha, in placing the exchange on the night of the Seder, is in tune with the story's seasonal backdrop according to the peshat. The Midyanites are plundering the yevul, the year's first crop. Another prop intimating that it is springtime is the dream of the Midyanite soldier involving a tumbling loaf of barley bread. It is sensible that this image would be on a Midyanite's mind during harvest time.

15. Parenthetically, Gideon's hesitation and attempts to gain reasurrance through signs find noteworthy foils in Ephraim's reaction to not being called to battle and the responses to the peoples of Sucot and Penuel to Gideons's request for food and water, in chapter 8. The people of Ephraim, in contrast to Gideon, are eager without the need of any reassurance to battle Midyan. Admittedly, their contentions are registered in hindsight, but nonetheless we may assume the integrity of their complaint. The people of Sucot and Penuel are like Gideon in being extremely hesitant to side with anyone opposing the mighty Midyan until they are certain it is their most judicious option. However, the officers of Sucot and Penuel appear so callous in their self-service because their refusal to furnish supplies to Gideon's army, in contrast to Gideon's delay, threatened death to the entreating camp.

16. Shofetim 6;10.

Note: The Tanakh translation of the Jewish Publication Society was reffered to for all translations. However, all the italics, both in these quoted translations and in the article itself, are mine.

Stealing Home
by Haim Chertok
Fordham University Press
Reviewed by David Glatt

Safe at the Plate

One might well suspect a writer who quotes Henry David Thoreau and Rabbi Joseph B. Soloveitchik on the page preceding his table of contents of possessing a perspective indeed—a lifestyle—that falls somewhere out of the ordinary. Haim Chertok's **Stealing Home** (Fordham University Press, New York, 1988) does, in fact, deliver an interesting look at the experience of *aliyah* from the perspective of a *baal t'shuvah* who once proudly belonged to the Students for a Democratic Society, a man who, while moving religiouly to the right, remained firmly entrenched in the political left. Far more than a journal or collection of recollections, the essays try to examine the author's original decision to emigrate to Israel and the conditions in which the decision occurred, his adjustment and reactions to his new environment, both the routines and singular incidents of Israeli life. Finally, it briefly reassesses, with the eye of a veteran *oleh*, the America Chertok knew most intimately before his departure.

During his last seven years in the U.S., Chertok resided in Coalinga, California, "a map-dot of 6,000 some 60 miles southwest of . . . Fresno." Though the Chertoks accounted for fully one quarter of the town's Jewish population, they nevertheless metamorphosized within this Christian cocoon into a religious family. Not surprisingly, they found Coalinga increasingly deficient in Jewish spiritual life as they grew increasingly observant. Chertok writes that this situation, coupled with a hastily planned but highly inspirational trip to Israel, eventually prompted his aliyah.

Chertok knew all too well the ravages of assimilation as he encountered them on various campuses throughout the U.S., but even if his California experience seems like an obvious backdrop to his departure from America, his perception of Coalinga as a paradigm of the overall Jewish American scene is misplaced. In his first few essays Chertok repeats in many different forms his belief that "America ineluctably presses its thumb on the scales against our specifically Jewish survival." Chertok circa 1976, newly fled of America, felt that "for its Jews America offers a gentling, narcotic certainty. Sure as death." In the beginning of the book he views almost all facets of Jewish life as internally transformed and tainted by the sweet poison subtly slipped into its hand by America—a poison that neuters religious identity and feeling. And in anticipation of obvious questions, he writes that apparently healthy Jewish communities such as "the Skokies and Teanecks . . . reflect aberrant, vestigal flashes of false Jewish vitality."

Apparently, as Chertok's commitment to religion and Zionism grew, the two became closely related in his mind. Obviously he wasn't the first to formulate such a philosophy, but Chertok the new *baal t'shuva* reacted strongly against a society that paid only noncommttal lip service to Zionism. In Chertok's eyes, this indicated a deficiency in religious outlook bound generally to result in assimilation.

Understandably, most American Jews will defend themselves against Chertok's doomsaying, even in the face of accusations of biased perspective. But they do not fling forth lies spun out of desperation to preserve some vestige of respectability and viability for their community. Only a person of biased outlook could assert that even the most healthy Jewish American communities contain no real elements of religiosity. Yes, there are problems, weighty ones no doubt, but one must take note of the positives too. The Orthodox world (across its spectrum) is in the midst of a remarkable rennaissance, one distinguished by Jewish learning, observance of *halakha* , and physical growth. The lack of a highly consequential *aliyah* movement at the present therefore does not present a "false Jewish vitality." Furthermore, Chertok obviously is highly idealistic, a trait which manifests itself in an unusually strong will. Perhaps he does not realize that he cannot expect most people to follow his lead and jet off to the other side of the world.

Chertok in Israel, writing about Israel, forms the second and largest group of essays. In this part, where he generally refrains from forcing a sermonic bent into his writing by insisting upon drawing a moral, the writing picks up especially the conclusions. In the first part Chertok abruptly breaks from the main body of his essays to conclusions which invariably make a bold prediction of extinction for American Jewry or bemoan the intransigence and hypocrisy of Diaspora Jews in regard to *aliyah*. In the second part, however, his essays flow much more naturally to their endings, and his themes remain constant throughout the essays. Whether he is profiling his new hometown in the Negev in an eloquent defense of his decision to live there, constructively criticizing a basically successful kibbutz with a few problems, or documenting some of the highlights of his activist career in Israel, he writes clearly about the issue at hand instead of catapulting into another topic at the conclusion for the sake of a moral.

No longer digressing into moralistic irrelevancies, Chertok is able to communicate more of his personality. Instead of reading a writer's thoughts on *aliyah,* we now know of a writer's experience as an *oleh*. The difference reflects itself in the level of enjoyability as well as in the relevance to the reader. Thought coupled with experience provides the basis for entertaining reading and a more earthy wisdom that Chertok garnishes with dry, often self-effacing humor.

While the vignettes about the adjustments made by Chertok and his family to Israeli society intimate in excellent fashion the familial closeness fostered by a dramatic change in life such as *aliyah,* other pieces that deal with singular incidents provide a glimpse of one of Israel's most distinct features, a simultaneously sweet and strong draught that often strikes immigrants and vistors: life "among one's own people." In a striking piece about his own experience as a guard at the Beirut airport at the time of the Sabra and Shatilla massacres and the Israeli army's subsequent withdrawal from Beirut, Chertok finds both scalpel-sharp disappointment in the Israeli share of culpability in the killings, and a heightened awareness and appreciation of Zionism in the experience of serving together with an incredibly diverse but unified group of men. As he writes: "Something fine had transpired and been confirmed in Beirut, but something else had taken a beating and shaken loose."

The inevitable closeness of the people, forged from within by a shared religion, from without by an oppressive circle of enemies, constitutes perhaps the crucial component of the Israel experience the one that inspires sacrifice and commitment to the nation, the one that intensifies internal conflcits, makes them "more complex, more personal by far,"— it's Goldberg versus Goldberg instead of Hatfield against McCoy. It is this closeness that sustains Chertok, which "enables (him) to hold firm a vision of Israel" despite the disillusionments and vexing frustrations encountered in the Israeli national arena.

Surely Chertok grew closer to the people and the land the longer he lived there, but this closeness must have come at the cost of a tempering of his pioneer idealism. In 1983, on his third visit back to America, he arrived in the States as a guest, a visiting Israeli. The change in perspective called for a reassessment of his feelings towards America. In the final essay Chertok honestly admits the possibility that his strong reactions against America in the first few essays stemmed from his chronological and psychological proximity to the United States. He needed to break with America in order to find a fuller degree of expression in his religion. But once he uprooted and replanted himself in Israel, the personal threat of America dwindled away as his own ties to Israel tightened. Thus secured, Chertok "could conceive no further cause or occasion to flee". Only after journeying through *aliyah* and the adjustments following it could Chertok find it safe to steal home.

Only he wasn't really stealing home; he visited the place he once resided. Home? He has that in Israel.

Between God and Man

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(Samuel 11), Saul's statement, "God has saved Israel", contains the antidote to their pessimism. Though chapter 7 portrays the efficacy of the impromptu leadership during urgent situations, reminiscent of Judges, Israel rejects this in demanding a king. While the prophet contends that this form of judging is religiously ideal and that therefore the monarchy is unnecessary, the people appreciate the spiritual benefits of the monarchy much more. They express this appreciation only in chapter 11 when they bring sacrifices to God after the victory led by Saul.

The king as religious model and inspiration spurred Nachmanides's (Deuteronomy 17:16) explanation of the Torah's prohibition against returning the nations to Egypt in terms of Egypt's religiously degenerative tendencies— "and like the actions of the Egyptians you shall not do" (Leviticus 16:3).

Serving as God's supreme example, the king has inspirational responsibilities that extend to the nations of the world as well. Since Israel's duty to be a global influence (Isaiah 2:3) results from being imbued with Divine spirit and being God's representation on earth, the king as both Israel's and God's representative must respond to this spiritual challenge as well. As do kings of other nations, ("I will appoint a king like all the surrounding nations" Deut. 17:14) the king rules absolutely. However, when the Israelite king subordinates himself to a preeeminent code of laws despite his great power he reveals God's supreme authority.

Examples throughout the Bible evince the king's profound religious effect on his people. Uziyah's self-satisfaction infected the people (compare II Chronicles 26:16 with Isaiah 6:1, 10) just as Menashe's incessant idol)worship caused the people of his generation to stray (II Kings 21:9). Josiah revived the following generation's religious spirit by reinstiuting the religious practices Menashe had discontinued (Pesach) and eliminating the repulsive and irreverent customs he had introduced (II Kings 23:4-21). Inherent in his freedom to determine policies, religious and secular, is the king's ability to set the religious tone of the nation.

The paradoxical nature of the monarchy causes the tension manifest in the Torah's ambiguity. It also explains the diverse positions of the commentaries as to the necessity of the monarchy (Maimonides) or its more accomodational nature (Nachmanides, Abravanel).

As we have seen, however, the physical side of the kingship presents religious pitfalls. It is for this reason that the Malbim (Samuel 8) considers the kingship merely accomodational and temporary. Only at the people's behest is the kingship instituted (Deut. 17:14); furthermore, when the world unites in recognizing God's absolute rule a human king will be redundant (Zechariah 14:9). Kingship is only for times when Israel needs a king to represent God who, to them, has become less conspicuous.

Samuel's anger in Chapter 8, though, emanates from his recognition of the people's true intentions. Without continuous and secure leadership Israel feared for its survival. Samuel claims, however, that Israel's disobedience caused their military losses. Upon their repentance they achieve victory (7:6), and therefore a king is unnecessary.

Indeed, the roots of the monarchy are intertwined with the idea of repentance, of rising out of desperation. The parallel narratives concerning Lot and his daughters (Gen. 19), Judah and Tamar (Gen. 38) and Boaz and Ruth, converge in their descendant (David). All these narratives portray a scenario of despair and abandonment, which, through well intentioned effort, result in revitalization and flourishing. Lot's daughters attempt to provide what they think to be an annihiliated world with sons and became the mothers of two nations, Ammon and Moab. Similarly Judah, by recognizing his fault, repents, and twins are born to Tamar. Boaz, who lost 60 sons (*midrash*), together with Ruth is redeemed from despair by the birth of a son. The Davidic family must establish the kingdom on these principles of repentance and resilience from despair. The presence of sin in David's and Solomon's origins allows the kingdom the opportunity to improve and recognize its imperfection. It is David's ability to repent after his sin with Bathsheba which distinguishes him from his predecessor Saul. The entire history of kingship begins with Saul's dethroning, an inauspicious beginning.

The contiguity of the *Yamim Noraim* and *Sukkot* suggests a similar theme. While the former represents the theme of repentance, the latter is dominated by the high universal aspirations of the ultimate monarchy of God. Our primary responsibilty, though, is to accomplish the more humble theme of the monarchy, the unity of our people in allegiance to God, which can only be accomplished through communal penitence of all Israel.

MAN & GOD

Divine Election

by Joel Beasley

Republican or Democrat? Liberal or Conservative? While the Bush-Dukakis debates may not reach the intellectual standard of those between Hillel and Shammai, the issues at hand affect us as directly as the Talmudic disputes of yore. Leaders of other religious groups have moved quickly to rally their flocks behind the "correct" candidate: for example, evangelists in the South hand out "biblical scorecards" rating candidates on issues ranging from abortion to homosexuality to mixed busing. The Orthodox Jewish leadership, however, has been relatively nonpartisan, leaving us, their consituents, to wonder whether our religion provides guidelines for supporting political candidates. Due to the lack of information as to whether or not G-d is a card-carrying member of the ACLU, most people equate voting Jewishly with supporting the candidate deemed most "pro-Israel". This sense of 'areivut' has led to the formation of some of the most influential lobbies on Congress. The head of the MPAC (Muslim Political Action Committee) in Washington stated in Newsweek this summer that he envied most the effectiveness and control exercised by AIPAC and other Jewish lobbies. The importance in *halakha* of exercising our responsibilities for our brethren needs no re-emphasis here.

Another value affecting our issue is the concept of *hakarat hatov* – recognizing the kindness and friendship shown us by others. We should, for example, salute the bravery shown by Senator Dan Inouye and Congressman Charles Schumer; despite loud boos and catcalls from the virulently anti-Zionist camp at the Democratic National Convention, they gave forceful and eloquent pro-Israel speeches.

With only these vague principles to guide him, however, it is no wonder that the Jewish voter feels at a loss compared to his non-Jewish neighbours. Catholics, for example, were prohibited by Cardinal O'Connor from voting for candidates who were 'pro-choice'. Does *halakha* allow for an equivalent situation – can I be prohibited from supporting a candidate who espouses non-halakhic views?

It would seem that in America the question is moot: no matter who wins on November 8, the mail will still be delivered on Shabbat. Since the election of a candidate dedicated to replacing the American Constitution with the Shulchan Arukh is very unlikely in the near future, a positive answer to the above question would effectively prohibit the Jew from voting!

Rabbi Mark Dratch explains ("The Ethics of Selecting A Political Candidate", **Journal of Halakha and Contemporary Society**, #11) that supporting a candidate whose future actions are antithetical to his halachic responsibilities may be tantamount to assisting him in carrying them out. As such, it would fall under the prohibition of "*lifnei iver lo titen mikhshol*" – "Before the blind do not put a stumbling block" (Leviticus 19:16). In Avodah Zarah 6b, Rav Natan defines "*lifnei iver*" through two cases – giving a nazir a cup of wine to drink, and feeding a non-Jew a limb from a live animal. The Gemara then limits Rav Natan's prohibition to cases in which the nazir and transgressor are on "opposite sides of the river", i.e. when the nazir has no recourse to wine other than that across the river.

Two relevant details emerge from this Gemara. From the case of "eiver min ha-chai" we learn that just as "*lifnei iver*" prohibits aid to Jews who desire to violate *halakha*, "*lifnei iver*" also prohibits Jews from assisting non)Jews to transgress the seven Noachide laws. Secondly, "*lifnei iver*" only applies when the assistance is essential to the deed being carried out, the "other side of the river" principle. Nonessential assistance may be permitted. Since nearly all North American elections are decided by margins of thousands or tens of thousands of votes, a single vote usually does not contribute 'essential support'. Therefore, even if a candidate held views antithetical to *halakha*, a vote for him might not violate "*lifnei iver*".

When Rambam discusses "*lifnei iver*", however, he does not mention the "opposite sides of the river" qualification. In Hilchot Rotzeiach 12:14, "*lifnei iver*" is defined as "leading astray another... by giving him bad advice, or enouraging a transgressor who is 'blind' ...". Nowhere do we see that the assistance offered the transgressor has to be essential. We can infer, according to the Rambam, that providing a nazir with wine is prohibited even when the nazir has unlimited access to wine. Attempting to resolve the difference between Rambam and the Gemara, Lechem Mishneh states tht Rambam holds by the "opposite sides of the river" principle as we explained it before. The Mishneh leMelech, however, holds that Rambam understood the principle differently. Speaking about the law banning loaning and borrowing interest, both lender and borrower are in violation of "*lifnei iver*", irrespective of the availibility of other lenders and borrowers (Hilchot Malveh, 4:2). Since the specific transaction would not have occurred without the participation of a borrower and a lender, the "two sides of the river" requirement is fulfilled – the assistance need not exclude other participants to be forbidden. We care not whether the transgression could have occurred without the assistance, only whether it would have. Thus, casting a vote for an anti-halakha candidate, even when that vote is not absolutely necessary for his victory, could be prohibited by "*lifnei iver*".

A story about Rav Ashi in Nedarim 62b adds a new twist to the "*lifnei iver*" prohibition. Rav Ashi, the owner of a forest, sold lumber to a temple that worshipped fire. Ravina strenously objected, invoking "*lifnei iver*". Rav Ashi replied that "most wood sold is used for heating". Ravina clearly considered Rav Ashi in violation of "*lifnei iver*" even though Rav Ashi's wood was not essential to the temple's fire-worship, and Rav Ashi, in contesting, did not offer the fact that wood could have been gotten from others as a defense. The omission of the nonessentiality factor implies that both Rav Ashi and Ravina accept the principle that "*lifnei iver*" does not require essentiality.

Rav Ashi's rebuttal raises another issue. Rabbenu Nissim explains that if the majority of wood sold is used for permitted purposes, sellers are entitled to assume that buyers will use it in a permissible manner, and therefore bear no liability if the facts are otherwise. The Mishneh in Shevi'it (5:6) continues that only an object whose use is limited to prohibited purposes is forbidden; whatever can be used for permitted purposes as well may be sold.

How does this principle translate into our political context? Most candidates run on complex multi-issue platforms. Single issue candidates are extinct in America. Based on Rav Ashi, we could vote for a candidate who supports many preferred positions even if he holds non-halachic views on a few issues, because the vote can be used to advance pro)halachic positions as well as forbidden ones.

Another limitation of "*lifnei iver*" is that aid rendered to the transgressor must be, in Rav Dratsch's words, "direct and immediate". For example, we may sell cultic objects to non-Jewish merchants who will sell them to churches and temples, but not to the institutions themselves. (see Yoreh Deah 151 and Siftei Kohen #3. note: Rama states that someone wishing to be extra-strict may declare this practice forbidden for himself only). For similar reaons we might be allowed to vote for candidates professing anti-halakhic aims. The candidates we elect do not personally perform objectionable acts. A "pro-choice" candidate does not perform abortions – at worst, he will join other officials in facilitating its practice.

Because of the questions raised as to the effectiveness of a single vote, the lack of direct control legislators have over the political process, the fact that politicians generally do not commit the forbidden acts directly, and the assumption that most candidates do not run on platforms totally inconsistent with Jewish values and goals, Rav Dratsch concludes that "*lifnei iver*" would not prohibit voting for any particular candidate.

Without explicit halachic directives left to us, the act of voting becomes a true test of our maturity as citizens and Jews. As citizens, have we properly been able to discern our way through the haze of rhetoric and properly understood the issues facing us on Election Day? And as Jews, have we been able to internalize the comandments and values of *halakha* so that our ballot will be guided by the spirit of the Torah and our aspirations for a better world?

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