



GOVERNMENT OF THE PEOPLE BY THE CHOSEN PEOPLE

Halachic Perspectives On Democracy

By Rabbi Yitzhak Grossman

With the recent demonstrations in Hong Kong protesting the Chinese government, this week's article will focus on the right (or duty) of revolution, and explore some of the halachic perspectives on democracy.

THE RIGHT (OR DUTY) OF REVOLUTION

A strikingly undemocratic stance appears in *Abravanel's* commentary to the Biblical discussion of monarchy. He raises the question of the propriety of a nation rebelling against and overthrowing a king who is "evil and scoundrelly". He records that "the sages of the nations" have analyzed this question, and determined that it is indeed appropriate, "but I spoke on this topic before kings and their sages, and I demonstrated that it is not appropriate, and that the nation has no right to rebel against the king and remove his dominion and kingship even should he commit all manner of villainy". He bases this upon three arguments, the first two applicable to any king, and the third specifically to Jewish ones:

The irrevocability of the social contract: the nation's covenant of obedience to the monarch is absolute and unconditional, and the former does not have the right to judge the latter's righteousness or villainy.

The monarch's place in the land is analogous to Hashem's in the world, and lifting a hand against the former to remove him from his position is therefore equivalent to lifting a hand against Hashem Himself.

One without the autonomy to choose a king

cannot have the authority to depose him. The choice of a Jewish king is not in the hands of the people, but in that of Hashem (as per the

Biblical verse opening this article), and since the people do not grant the kingship, they may not withdraw it. Hashem does not grant the nation the right to rebel and overthrow the king, no matter how evil he is, and its only recourse is appeal to Him.

The *Abravanel* notes that "we have not seen anything on this in the words of our nation's sages", and I do not know to what extent this reactionary perspective is accepted and shared by other Jewish thinkers. Although he asserts that he has "demonstrated" that revolution is illegitimate, his arguments, particularly the first two, hardly seem compelling.

CONSENT OF THE GOVERNED AS THE BASIS OF GOVERNMENTAL LEGITIMACY

The Lockian-Jeffersonian idea that governmental legitimacy derives from the consent of the governed finds expression in the Rashbam's famous explanation of the Talmudic principle of *dina de'malchusa dina* ("the law of the government is [halachically recognized as] the law"):

For all the subjects of the government willingly accept upon themselves the decrees of the king and his laws and it is therefore the absolute *din*.

According to the Rashbam, it seems obvious that if *Chazal* asserted the principle of *dina de'malchusa dina* in the context of the autocratic governments of the ancient world, *a fortiori* does it apply to modern democracies. Indeed, the consensus of the modern *poskim* does so extend the principle, arguing that even according to the alternative rationales

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Bais HaVaad on the Parsha Shiur delivered by: Rav Yehoshua Grunwald

"ביום השמיני עצרת תהיה לכם כל מלאכת עבודה לא תעשו" (במדבר כט:לה)

The Midrash states that when Hashem asked *Klal Yisrael* to remain with Him for the extra day of Shemini Atzeres, they responded, "*nagila vnismecha bo*." The Midrash explains that *bo* means rejoicing with Hashem, rather than the day itself, based on the *pasuk* "*nagila vnismecha bach* [you-Hashem]": *Bach betorascha, bach beyeshuascha*.

Rabbeinu Yona explains that our primary *simcha* on Yom Tov is for the miracles performed for us specifically. We can add that commemorating the open miracles performed for our ancestors linked to each Yom Tov enables us to recognize the hidden miracles in our own lives, the primary subject of our thanks on Yom Tov. Rabbeinu Yona also states that when we recognize His miracles, we can actually see Him in a certain sense (*bach beyeshuascha*), and the same is true with studying Torah (*bach betorascha*).

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for the principle, a democratic government is no worse than a monarchy, with some going even further and arguing that some of the limitations of the principle established by the *poskim* do not apply to the legislation of democratic governments. Moreover, some *poskim* argue that democratic, consensual government can derive its legitimacy from additional *halachic* frameworks such as partnership (*shutfus*) or municipal government (*sheva tu-vei ha'ir* – see below), although these ideas are controversial.

LOCAL GOVERNMENT

Another context in which *halacha* endorses the democratic idea is that of local government. The Maharam of Rottenberg, responding to a community riven with strife that could not reach consensus on the appointment of leaders (*roshim*), laid down the following procedure:

All the householders who pay taxes shall be assembled, and they shall accept upon themselves under penalty of anathema (*cherem*) that everyone shall express his opinion for the sake of Heaven and for the good of the city, and they shall follow the majority, whether to select

leaders, to establish *chazanim*, to institute a charity fund, to appoint *gabai'm*, to build or to demolish the synagogue, to add and detract, to purchase a wedding hall and to build and demolish therein, to buy a bakery and to build and demolish therein.

The bottom line is, any communal need shall be addressed at their direction, according to whatever they say, and if the minority shall refuse and stand in opposition, ... the majority, or whomever the majority shall appoint as leaders, have the power to compel and force them via either Jewish law or the law of the nations, until they say "we desire [to comply]" ...

ONE DOLLAR, ONE VOTE?

The Maharam apparently takes for granted that suffrage is limited to taxpayers; his student, the Rosh, propounds a similar view, at least in the context of financial matters:

A community that institutes an anathema (*cherem*), if it is in the context of financial affairs, we follow the majority of wealth ... and it cannot be that the majority of individuals who pay the minority of the taxes shall decree an anathema on the wealthy according to their views.

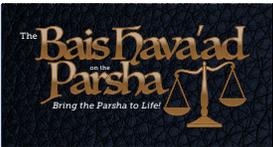
The *acharonim* debate whether the Rosh means that the wealthy minority can actually impose its will on the impecunious majority, or merely that we view the two groups as equally balanced, and they must therefore reach some consensus, or that those who do not pay the relevant tax do not vote, but all those who do pay tax are counted equally, regardless of the differences in their assessments.

SOCIALISM AND COMMUNISM

The *Chavatzeles Ha'Sharon* insists that socialism and communism are fundamentally anti-Torah:

It is known to us that the primary support for this [post Great War rent control] legislation comes from certain free [thinking] elected [representatives], who have among them the opinions and doctrines of the communists and socialists, to squeeze the wealthy and to take their money, and all these doctrines are against *da'as Torah*.

Similarly, R. Yehudah Silman concludes that at least the extreme case of the blanket nationalization of property is illegitimate: it is considered theft, and not covered by the principle of *dina de'malchusa dina*.



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Why does the Midrash discuss the nature of *simcha* on Yom Tov concerning Shemini Atzeres specifically and not other *Yomim Tovim*? The answer is based on the *Sefer HaChinuch*, which explains that the mitzvos of Sukkos are designed to increase our *simcha*, but on Shemini Atzeres they are not necessary, as our remaining with Hashem and experiencing a special closeness with Him suffices to provide us with this *simcha*. Therefore, in contrast to other *Yomim Tovim*, on Shemini Atzeres we say Hallel without commemorating any miracles, since the *simcha* is solely about closeness to Hashem: *Bach bishuascha bach betorascha*.

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