



JEWISH POLITICAL THEORY: HILKHOT MELAKHIM

SHIUR - Lecture #8:

The Role of Government

By:

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Our discussion until this point has focused upon issues relating to the form of government and the appointment of the ruler. It is now time to leave aside these issues and to move on to a discussion of policies and goals of the government. For it is quite obvious that Halakha has opinions not only regarding the form of the government, but also regarding the means and ends of the ruler and his executive branch. Thus, in evaluating any political act or policy from a halakhic perspective, we must call into question whether its goals are legitimate or not, and whether the means of achieving these desired ends are acceptable or not.

Therefore, even if we have arrived in previous shiurim at the conclusion that, given the present historical circumstances, there is halakhic legitimacy to a democratically elected Israeli government as representing the people, that is only half the work, for we have only established that such a system is valid as such. What we have not yet proven is that a government comprised of non-observant members representing non-observant parties, elected by an electorate of whom the vast majority are non-observant Jews, has halakhic legitimacy for its actions.

In order to arrive at conclusions regarding this question, we must first undertake to analyze the nature and role of the sovereign power, so that we shall be able to decide whether the composition of the electorate is a crucial factor or not.

There are two basic approaches to the nature and aim of government. The first model, famously advocated by Plato among others, views the spiritual and moral



improvement of society as the final goal of government, and its primary role is educational. The alternative to such a position is to adopt a minimalist, utilitarian approach which views government as providing the basic essentials for human existence, namely physical security and economic possibilities, but not as engaging in the moral improvement of society.

In the passage in Devarim which discusses the establishment of the monarchy, the Torah doesn't say anything about the purpose of the governing agency. Instead, it relates only to the spiritual well-being of the ruler, but not that of the people. However, it does address these issues in other places. The definition of the leader's role as formulated by Mosheh Rabeinu, when he is looking to appoint a successor, is to lead and guide the people in their journeys and wars so that the people will not be as a flock without a guide (Bamidbar 27:17). The clear emphasis in this passage is on the element of security and the political guidance of the leader. Though God's reply to Mosheh includes a directive to grant semikha ("laying of the hands") to Yehoshua bin Nun, it seems that this is not due to Yehoshua's political role, but rather to his assumption of Mosheh Rabeinu's role as a spiritual Torah leader as well.

Chazal, however, understood an additional passage as a mitzva incumbent upon the monarch which does reflect an educational role. This, of course, is the parasha of Hak'hel (Devarim 31:10-13) which mandates a public assembly of the entire nation at which the king reads portions of the Torah to the people in order to instill in them knowledge of the Torah, fear of God and a commitment to observe all the mitzvot. Here, the monarch's role is that of the national teacher who takes it upon himself to assemble and teach all of the men, women and children in the kingdom.

Rambam's presentation of the king's role has a dual element to it. In Moreh Nevukhim (2:40, 3:27), following in Aristotle's footsteps regarding man's social nature as a political animal, he presents the role of the sovereign power as providing social stability, protecting the peace and regulating the conflicting needs of the different members of society. A starker and more extreme example of this approach is



the Hobbesian claim of the mishna in Avot that without the coercive power of the state, men will constantly be at each others throats ("ilmaleh mora'ah shel malkhut, ish et re'ehu chaim bla'um"); therefore, the primary function of the ruling body is to prevent this state of affairs by restricting the individual and subordinating him to the state.

In Mishneh Torah, though, the Rambam presents the role of the ruler as providing leadership whose purpose and ultimate goal is the promotion of social justice and spiritual values.

"... In all that he does, his acts should be for the sake of God ('le-shem shamayim") and his aim and goal should be to uplift the true religion, to fill the world with justice, to crush the power of evildoers and to fight the wars of the Lord, since a king is initially appointed only for the purpose of establishing justice and waging war ..." (Hilkhos Melakhim 4:10).

The Rambam's description of the ideal king, who will start out as a normal (Davidic) monarch and who will become the Melekh Ha-mashiach, King Messiah (Hilkhos Melakhim 11:4), also emphasizes the spiritual element of his rule. Since, in this passage, the Rambam perceives the mashiach as a righteous king who is subsequently elevated to a unique historical role, it is fair to use the description of him as a role model for the monarchy.

In addition to these roles of furthering the nation's spiritual goals, the Rambam also relates to the monarch as a symbol of the people: "[His] heart is the heart of the Jewish nation (she-libo hu lev kol kehal Yisrael); therefore the Torah insisted upon his attachment to Torah above and beyond that of the rest of the people" (3:6).

An additional point of interest in the Rambam is his transformation of the monarch's military role, mentioned already in Tanakh, into a mission of fighting for the establishment of justice and fear of Heaven, and his defining these wars as the



wars of God, and not as geopolitical or security needs (see *Hilkhos Melakhim* 4:10, 8:10, 11:4 and *Avoda Zara* 10:1 in the uncensored version). This fits in, of course, with his basic concept of the role of the ruler in *Mishneh Torah*, yet is a considerable expansion, since it justifies and mandates the use of force for such purposes.

[Note: our discussion here is focused upon the aims and policies of the monarchy and not on the spiritual obligations of the leader. Therefore, we have directed our attention to the statement of policy and its relation to spiritual goals, and not towards other elements of a spiritual nature (e. g., humility, compassion, sense of duty etc.) relating to the ruler's position of authority, but unrelated to our issue. For a grand formulation of these, see *Hilkhos Melakhim* 2:6).]

In summary, we may say that the utilitarian role of preserving the peace and providing security is certainly incumbent upon the ruler as a basic task of his office, and it is this element which is emphasized by Mosheh in his request to God for the appointment of a successor and by R. Mosheh ben Maimon in the *Guide*. However, the mitzva of *Hak'hel*, as interpreted by Chazal, and the Rambam's presentation in *Mishneh Torah* of the proper course of action for the ruler add the additional aspect of spiritual leadership to the functions of the sovereign.

Thus, any discussion of the legitimacy of a government or monarch must relate to both of these elements and treat each one separately, according to the government's fulfillment of the necessary conditions required in each instance, as we shall attempt to demonstrate next week in our treatment of the current political setup in the State of Israel.

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