

Rabbi Isaac Elchanan Theological Seminary
Yeshiva University Center for the Jewish Future

THE BENJAMIN AND ROSE BERGER
TORAH TO-GO®

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RABBI ISAAC ELCHANAN THEOLOGICAL SEMINARY 5774

Chag HaSemikhah



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Table of Contents

Purim 2014/5774

Foreword

Rabbi Kenneth Brander Page4

Introduction

Rabbi Menachem Penner Page5

Semikhah: Then and Now

Rabbi Hershel Schachter Page12

The Semikhah Controversy of the 1500's

Rabbi Dr. David Horwitz Page 16

From the musmakhim in Chag Hasemikhah 2014/5774

Rav Kook's Purim

Rabbi Yosef Bronstein..... Page 25

The King's Party and the Human Appetite for Control

Rabbi Noah Cheses Page 29

Hope Amidst Despair

Rabbi Reuven Garrett Page 32

What It Means To Be a Jew

Rabbi Chesky Gewirtz Page 35

Purim Masquerade: Unmasking the Origins

Rabbi Yosef Sharbat Page 38

Taanit Esther: Giving Voice to Silenced Women

Rabbi Jeremy Stern Page 42

Foreword

The holiday of Purim and the Book of Esther have several unique features that make this book of Tanakh and this holiday distinct from all others:

1. The Book of Esther is the only book in Tanakh that does not have the name of God mentioned in it.
2. The Rambam writes in the *Laws of Megillah and Chanukah* (2:18) the following:
All the Books of the Prophets and those of Ketuvim (Books and the Sacred Writings) will cease [to be part of the canonized text] during the messianic era except the Book of Esther. It will continue to exist just as the Five Books of the Torah and the laws of the Oral Torah that will never cease. Although ancient troubles will be remembered no longer, as it is written "The 'troubles of the past are forgotten and hidden from my eyes" (Isaiah 65:16), the days of Purim will not be abolished, as it is written: "These days of Purim shall never be repealed among the Jews, and the memory of them shall never cease from their descendants" (Esther 9:28).
3. Many rabbinic masters translate *Yom ha-Kippurim*, the Hebrew name for the Day of Atonement, as a play on words. They suggest that the name means *Yom Ki-Purim*—"The Day of Atonement should be like Purim" (see the comments of the Vilna Gaon in *Likutei HaGra* (Warsaw) p. 308, and the writings of Rav Hutner in *Pachad Yitzchak*, Purim, *inyan* 6:6, 8, 11, 21: 1). What is the connection between the Day of Atonement, the most solemn day of the year, and the day of Purim, which is marked by joy, laughter, the exchange of food and drink, and the mandate to feast?

The Rambam gives special notice to the Book of Esther, recognizing that its role will continue even during messianic times, for this book of the Bible is the key to bringing the Messiah. Nowhere in the Megillah do we see Mordechai or Esther receiving direct instructions from Hashem. Yet their courage and tenacity is based on their commitment to the values of Torah; their actions are not predicated on inspirational prophecy but something more important: an inner conviction to the norms and mores of Judaism. What will bring the messianic days and what will be celebrated in its eternal era? It is the capacity to transform reality through the inner voice of Torah ideals that the Jew must feel in his or her heart. The Book of Esther may not have God's name in it, but the experience is so critical and so transformational that the Rambam suggests that it will be celebrated even after the coming of the Messiah. The spiritual connection between Purim and the Day of Atonement is not predicated on similar ritual practices. Instead, it reflects the recognition that *Yom ha-Kippurim* is a successful religious experience **only** when the spiritual connection that the Jews in the Book of Esther were able to discover and act upon, a personal and communal rendezvous with God, also occurs on our High Holidays. The "at-one-ment" with God that happened in Shushan, the ability for the community to feel God's presence in their very beings, is the same transformative experience that we wish for ourselves on the High Holidays.

It is with this spirit that our rabbis engage in on a daily basis. Whether as synagogue rabbanim, rabbeim, heads of school, chaplains in the army and hospitals, or as communal lay leaders, our musmakhim are the custodians of our tradition and are committed to imbuing it with passion and relevance. They heed the calling of Mordechai (Esther 4: 14) that we dare not be silent in our lives, for we have the wonderful opportunity to shape our own destinies, that of the Jewish people, and the world community.

The Chag HaSemikhah is not the culmination of our relationship with our students; it is just the beginning of the next chapter. We wish our new musmakhim only success in their endeavors.

Mazal Tov and Purim Sameiach,

Rabbi Kenneth Brander

Vice President for University and Community Life

David Mitzner Dean, Center for the Jewish Future

Introduction

“*LaYehudim haytah orah*” ... (*Esther 8:16*)

“*Orah*” - “*Zu Torah*” (*Bavli Megillah 16b*)

R. Zadok HaKoen of Lublin explains that the feminine form “*orah*” is used instead of the masculine form “*or*” because the Talmud refers specifically to the Oral Law—*Torah she’Be’al Peh*. The Oral Law draws from, is *mekabel*, from the Written Law, and is thus described in *lashon nekeivah*.

As RIETS prepares for its quadrennial Chag HaSemikhah celebration on March 23, 21 Adar II, honoring those who have received their rabbinic ordination in the past four years, we bask in the “*orah*” of a tradition successfully passed from one generation to the next. It is nothing less than a new *kabbalat HaTorah* that we celebrate as the *gedolei HaYeshiva* proclaim to more than 200 *talmidim*: “*Yoreh Yoreh*,” provide *hora’ah*, provide leadership, to the community, based on all that we have taught you.

This special edition of Purim-To-Go highlights some of our *musmakhim* and the unique yeshiva at which they have learned. Combining a world-class faculty of *Roshei Yeshiva* and *poskim*, two vibrant *batei midrash* with nearly 1,000 young men learning on a daily basis, four *kollelim*, and an unmatched program of professional training for the rabbinate, RIETS is not just the intellectual and spiritual center of Centrist Orthodoxy; it is the source of its future educational and rabbinic leadership.

The Chag HaSemikhah is a window into the past and the future of our community. As we gather in the storied Lamport Hall, we remember the great public lectures given there by HaRav Joseph B. Soloveitchik. *Roshei Yeshiva* and *mehahelim* representing generations of Yeshiva leadership sit upon the stage. And down below, sitting front and center, rests the future leadership of our people. One by one they are called up to the stage for a meeting of past and future, a symbolic *matan Torah* by the *rebbeim* and a symbolic *kabbalat HaTorah* on behalf of the *talmidim*.

Wishing you a Purim filled with the light of Hashem’s blessings,

Rabbi Menachem Penner

Acting Dean, RIETS

Our newest rabbinic leaders are ready. Go to www.yutorah.org/live at noon on March 23, 2014 to watch the Chag HaSemikhah via live stream.

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* Yadin-Yadin (Post Semikhah)

Rabbi Isaac Elchanan Theological Seminary: The Soul of Yeshiva University

Rabbi Isaac Elchanan Theological Seminary has been the soul of Yeshiva University for more than 100 years. Sounds of learning vibrate through the batei midrashot and resonate from morning until late at night.

RIETS educates and trains rabbis who have shaped and continue to shape our Jewish world. Combining the highest levels of Torah learning in the legacy of Rabbi Joseph Soloveitchik zt”l, an unmatched program of professional preparation for the rabbinate and an impassioned commitment to impact the Jewish community, RIETS continues to produce the finest rabbinic leadership for the next generation and beyond. Our musmakhim fulfill their destiny as vital links in the chain that continues to transmit rabbinic knowledge and tradition from one generation of Jewish leaders to the next.

The moving and profound ceremony of the Chag HaSemikhah recognizes the promise of our rabbinic graduates and the achievements of all alumni of the Rabbi Isaac Elchanan Theological Seminary who have assumed responsibility for the future of the Jewish people. It officially marks the completion of RIETS’ rigorous four-year graduate program of Torah learning and comprehensive professional training for the rabbinate.

Established in 1886, RIETS’ more than 3,000 musmakhim serve the worldwide Jewish community in the Torah Umadda tradition that is Yeshiva University. RIETS was named after Rabbi Isaac Elchanan Spektor (1817–96), a revered sage and spokesman for world Jewry. After his death in 1896, RIETS was named in his memory.

In 1915, Dr. Bernard Revel was appointed president and Rosh Yeshiva of RIETS. After Dr. Revel’s death in 1940, Dr. Samuel Belkin (1911–76), a young, prominent RIETS Rosh Yeshiva and a noted scholar who taught Greek at Yeshiva College, was named dean of the seminary; in 1943, he was elected president of the institution then known as “RIETS and Yeshiva College.” Dr. Norman Lamm was elected president and Rosh HaYeshiva in 1976—the first who was American-born—following Dr. Belkin’s death that year. A musmakhim of RIETS, Dr. Lamm is an alumnus of Yeshiva College and the Bernard Revel Graduate School of Jewish Studies, where he earned his PhD.

Under the visionary leadership and guidance of Richard M. Joel, the president of YU and RIETS, RIETS’ impact is felt in the Jewish community through out the world. RIETS musmakhim occupy an overwhelming number of pulpits throughout North America, as well as major educational, communal-professional and lay leadership positions.

As the Western Hemisphere’s leading center for Torah learning and training for the rabbinate, RIETS provides exceptional training for students entering the various fields of Avodat HaKodesh in the contemporary Orthodox community. The Rabbinic Professional Education program, R-PEP, is the product of a bold, successful strategic planning initiative launched in 2002 by the RIETS Board of Trustees. The program was developed by a special Academic Affairs Committee chaired by Dr. Alvin I. Schiff, z”l under the overall guidance of then RIETS dean

Rabbi Zevulun Charlop and President Richard M. Joel, and implemented by Yeshiva University’s Center for the Jewish Future. In June 2009, the first cycle of students completed the R-PEP program under the supervision of Rabbi Menachem Penner.

Many great and influential rabbis have taught at RIETS. Among the most illustrious Gedolei Torah was Rabbi Joseph Soloveitchik, a scholar, philosopher and teacher who had a profound impact on Jewish thought. A leading authority and exponent of Halakhah, he was appointed rosh yeshiva at RIETS in 1941. Rabbi Soloveitchik was familiarly known as “the Rav;” he had the legendary power to deliver unparalleled discourses spanning the Talmud, Jewish law, philosophy and contemporary issues.

“We have an unparalleled faculty of Roshei Yeshiva,” said Rabbi Menachem Penner, acting dean of RIETS and a RIETS musmakh. “Our learning tradition is a direct continuation of the Talmud Torah at the classical European yeshivot thanks to the strong foundation laid by my predecessors.

The seminary has benefited greatly from the construction of the Jacob and Dreizel Glueck Center for Jewish Study, which houses a two-story, 550 seat beit medrash, as well as numerous classrooms and offices utilized by RIETS administration, students and Roshei Yeshiva.

In an increasingly complex world, RIETS accepts the challenge to prepare its students to face the multifarious issues of today’s society—anchored always in the sacred legacy of our Torah and people.

Rabbi Isaac Elchanan Theological Seminary

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Rabbi Isaac Elchanan: A Biographical Sketch

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It was not mere whim nor happy accident which swayed the first organizers of the Yeshiva in 1897 to choose the name of the great Rabbi of Kovno to identify the newly-founded institution of higher learning in America. The fact that the Yeshiva was born a few months after the demise of Rabbi Isaac Elchanan was not a coincidence. It was rather the yearning to perpetuate the traditions of Torah learning and activity so finely exemplified in this sage which determined the choice. To recognize and understand therefore the great role the Yeshiva is playing in the 20th century, one must go back to a brief review of the life, activities and character of the greatest Rabbi of the 19th century. In the words of our teachers: **מעשה אבות סימן לבנים** "The deeds of the patriarchs are but an example for the children to emulate."

Rabbi Elchanan was born in 1817 in the little town of Rosh in the province of Grodno, Russia where his father, Rabbi Israel Issar served as Rabbi. He received his earliest instruction from him, displaying from the very outset signs of genius. At the age of 8, he was fittingly crowned with the title of "Illui," being proficient in many tractates of the Talmud and often engaging victoriously in casuistic battle with profound and aged rabbinical scholars. In the year of his bar mitzvah, as was the custom of the day, the young man was married. He received a dowry of 300 roubles and permission to eat "*kest*," and free board and lodging at the table of his in-laws in Vilkovisk, on condition that he continue his studies. This he did unflinchingly, devoting 20 hours a day to the acquisition of knowledge. His teachers were Rabbis Elijah Shik and Benjamin Diskin who ordained him with semikhah. His colleague was Rabbi Joshua Leib Diskin who later became Rabbi of Brisk.

For six years the young scholar ate

"*kest*." During that period his parents died and his dowry was ruined through the craftiness of a speculator. Abject poverty confronted him and his growing family. Hence at the age of 20, he was compelled to accept a small rabbinical post at Zabelin at five gulden a week. At first he found much difficulty in this new position, for there was great opposition to the youngster who still did not possess the necessary "rabbinical dignity" and "*hadrat panim*." He soon overcame this with his display of brilliance. In later years, however, all were awed by the tall stature and inspiring face of the Rabbi with the great gray locks.

From this pulpit, Rabbi Elchanan was appointed in 1839 to a position in Baresa. Here his fame grew. Though only 22, he already proved that many Rabbis erred in the preparation of the formula of *gitten* or divorce bills. His rabbinical decisions were at first regarded as audacious. Some Rabbis even attempted to reject those *gitten* which he personally prepared. Yet even Rabbi Shavel, one of the greatest of his contemporaries, soon acknowledged Rabbi Elchanan's superiority in this phase of law.

It is probable that this early success in the interpretation of domestic law prompted Rabbi Elchanan to devote his life to the amelioration of the plight of the *Agunah*. These were the unfortunate women whose mates were missing and yet who could not remarry because there was not sufficient evidence to corroborate actual death. The great sage particularly immersed himself in this problem of assisting the many unfortunate wives whose number was growing because of the numerous wars and persecutions in Russia. Rabbi Elchanan showed much lenience in his rabbinical decisions pertaining to the problem. In one case, he even accepted a photograph of a man who had been dragged from the Thames River as sufficient evidence for identification and thereby permitted the wife to remarry.

Once established in a position, the members of his congregation would not allow him to resign. When offered a better pulpit at Nishvez in 1846, he had to flee in the dead of the night since the Baresa community insisted on his remaining. So too, in 1851 he had to depart stealthily to accept the post at Novohordok. Often did the inhabitants of two cities contest fiercely for the Rabbi's ministry. Finally in 1864, he became Rabbi of Kovno, serving there for 32 years until his death. In that city he gained fame as the Chief Rabbi of Russian Jewry. From every part of the world scholars turned to him for advice. In every Jewish home of those decades, one could find his picture hanging on the wall, serving as evidence of the love every Jew in Russia had for the great sage.

The affection all had for him was not due primarily to his fine scholastic mind. His noble heart and his desire to be of service always caused him to be revered by all. Upon hearing one speak ill of his fellow man, he would place his index finger in his ear, symbolically deadening the sound of gossip. His servants were never permitted to offer him food unless they themselves had first eaten. Even his personal woes were forgotten in his desire to help others. Thus he once prayed at the bedside of his sick son, "Oh, G-d, I have never thought of myself, I have given all for the betterment of my people, for the welfare of many families; I have neglected my health so that others may prosper. Please be gracious unto me, by restoring my own child's health."

Rabbi Elchanan was an indefatigable worker, fighting for every cause which he knew upheld the chain of tradition. Though many ridiculed the "*Kolel Perushim*," the new institution created by Rabbi Israel Salanter for young married men to continue their studies unhampered by economic and social burdens of marital life, it was only Rabbi Elchanan who lent him his

firm support. When the Russian government closed the Yeshiva of Voloshin, this new institute of young married scholars continued as the staunch bearer of the torch of learning.

It is well to recognize that Rabbi Elchanan's genius was also the result of his exceptional physical qualities. His sense of hearing coupled with an excellent memory amazed everyone. Even 40 years after he had met some individual he could recall his traits. When he once heard a peculiar knock on the door of his study room, he remarked to his son, "This is Rabbi Peloni B. Peloni. I heard that sound 40 years ago." Similarly, though his library was immense, he was always able to choose any desired book at a moment's glance, to turn immediately to any page therein for proof of his argument. He would always carefully annotate and file every letter he received, personally making his own copies of the response. Added to these marvelous personal traits was his sense of humility. When visiting any city he would first go to the Rabbi to bestow upon the head of the community the deserved honor. Every dignitary of the synagogue—cantor, sexton or *gabbai*—was equally held in esteem, for thereby the dignity of the synagogue was maintained. His modesty and shunning of honor are revealed in his refusal to allow the celebration of his jubilee year in the rabbinate, in 1889. When prevailed upon, he accepted only the election as honorary member of the "Society for Promotion of Culture among Jews of Russia."

His close attachment to Talmudic study resulted in his reciting his prayers, too, in the sing-song manner of the Talmud. It was also his custom to study daily a portion of the weekly biblical reading in addition to chapters of the Psalms (*Tehillim*). He always maintained that such practice was inspiring and edifying as an introduction even to the study of the Talmud.

The greatness of Rabbi Elchanan is most evident in his not being confined to the four walls of his study or the four "ells" of *halachah*. He always took an active part in every question affecting Jewry of his day. After the Crimean War and Polish Revolt, he attempted to prevent the expulsion of Jews from Russia. In 1881

and 1882 he personally participated in the Petersburg conferences called by Baron Gunzberg to discuss wholesale emigration of Jews and their restriction to the Pale of Settlement. He was always among the first to obtain financial aid from even such countries as Holland, France and England for the purpose of alleviating the suffering of the Russian Jews. This was possible because he was always in constant communication with such men as Baron Rothschild of France and Dr. Adler of England and others.

If any internal problem confronted Jewry, it was Rabbi Elchanan who was called upon to solve it. When in 1857 a feud arose as to the leadership of the Yeshiva of Voloshin, the then young sage was asked to render his decision. He fought tooth and nail against the governmental schools for Rabbis. Rather, he aimed to get government recognition of regularly trained and ordained rabbis as authorities of Jewish law. In this he was successfully assisted by Dr. Harkavy.

At the time when anti-semitic feeling was growing in Central Europe, Rabbi Elchanan induced Rabbi Samson Raphael Hirsh of Germany to disprove the libels against the Talmud. The book *Ueber die Beziehung des Talmuds zum Judenthum* was a result of the Kovno Sage's plea. He begged however, that his name not be used and hence he is only mentioned anonymously as the inspirer of this work. When the ritual murder libel became rampant in Russia, the Rabbi was often called upon to testify to the untruth of this slander. It was he who also inspired Dr. Dembo to explain *shechitah*, scientifically proving thereby that the ritual method was not a cruel means of slaughter.

Deeply attached to all religious regulations, he always attempted to maintain them in the face of economic difficulties. In 1868, when there was a lack of potatoes, he permitted the eating of peas and beans on Passover so that the poor would not suffer. In 1875 he forbade the use of Korfu citrons (*etrogim*) because the merchants raised the price to an exorbitant level. Even today pious Jews refrain from using such citrons in memory of Rabbi Elchanan's decree. He was

particularly concerned with securing kosher meat for the soldiers in the Czar's army. In his will, he commanded his son to follow this practice and to have Jewish soldiers at his table so that they might observe the traditional laws of kashruth. When the early settlers in Palestine were confronted with the problem of *Shemithah*—the seventh year when all land is to lie fallow—they turned to the great sage for advice. He held that the land should not be sold to the Arab, as recommended by others, for the very earth in Palestine is sacred.

His deep concern with all problems is particularly revealed in his conduct just a few days before his death on the 21st day of Adar 1896. He then gave thought to the use of seltzer bottles on Passover, to the freeing of some more unfortunate *Agunahs* and to the providing of kosher meat for Jewish soldiers in the army. He also requested that his works be published, for he well recognized their value for the future. His publications are the *Baer Yitzchak* containing responsa on all sections of the Shulchan Aruch, the *Nachal Yitzchak* discussing questions of civil law of Choshen *Mishpat* and *Am Yitzchak* which pertains to family and domestic laws. His son, Rabbi Hirsh Rabinowitz, who succeeded him as Rabbi of Kovno, carried out his wishes.

Until his last moment, Rabbi Elchanan's mind functioned most acutely. His last Talmudic discussion pertained to cautioning those of priestly stock in his room. He felt that since he was on the verge of dying, these Kohanim were not permitted ritually to be under the same roof.

His funeral was held in a pouring rain, as if the very heavens wept the departure of the great saint of Kovno. Forever, his *yahrzeit*, on the 21st day of Adar, is remembered. On that day of the year, it is customary for the Yeshiva to ordain young rabbis to carry on the traditions of the *Gaon* and to serve their communities with the same nobility of purpose and devotion, dedicating their lives to Torah and Avodah as did their great master, Rabbi Isaac Elchanan.

Semicha: Then and Now

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The institution of semicha was introduced to the Jewish people when Hashem commanded Moshe to designate Yehoshua as his successor by placing his hands on his disciple's head (Bamidbar 27:23). The Gemara (*Sanhedrin* 13b) comments that from that time on, semicha is no longer given in this manner, but rather through a declaration, by a teacher calling his student "rebbe" and giving him permission to impose fines ordained by the Torah. That same passage also informs us that we no longer have the concept of genuine semicha in our days. The transmission of semicha must be done by someone who himself received semicha through a continuous chain dating back to Moshe Rabbeinu. At some point in history, this chain was interrupted. Though we no longer have this genuine semicha, both its original characteristics and its absence have ramifications for us today.

We can glean further hashkafic insight from the words of the Rambam. In his description of semicha, the Rambam writes:

We do not ordain outside of Israel, even if those providing ordination were ordained in Israel.

Rambam, Hilchos Sanhedrin 4:6

אין סומכין זקנים בחוצה לארץ ואע"פ שאלו
הסומכין נסמכו בארץ ישראל.
רמב"ם הלכות סנהדרין ד:ו

Semicha may only be conferred in Eretz Yisroel and in a public fashion.³ In his *Commentary* to *Bechoros* (ch. 4) the Rambam explains that the need for semicha to be conferred in Eretz Yisroel is due to the fact that semicha requires the approval of the Jewish people who reside in Eretz Yisroel. This mitzva, along with *Egla Arufa* (the axed heifer), *Kiddush Hachodesh* (sanctification of the new month), and *Par Helem Davar Shel Tzibbur* (sacrifice for atonement of the entire nation) are all mitzvos that are dependent on Eretz Yisroel, in consonance with the Jewish population living there.⁴ Why can these mitzvos only be performed in Eretz Yisroel? They are

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³ See *Hilchos Sanhedrin* 4:3 and 4:5. This may serve as a basis for our custom to conduct a Chag Hasemicha.

⁴ See *Nefesh Harav* p. 80 and *Shiurei Harav, Sanhedrin* 14a.

not agricultural mitzvos. Rav Soloveitchik explained that these mitzvos only apply in Israel even though they are not dependent on the land, because they are obligations that are incumbent on the *tzibbur* (congregation). The true *tzibbur* is defined only by those who reside in Eretz Yisroel; those in Israel have the *kedusha* (sanctity) associated with the *Bris Avos* (the covenant of the forefathers).⁵ This is a powerful lesson for us to contemplate, as it reinforces the significance and centrality of the Land of Israel in Judaism.

On a more practical level, how does the absence of genuine semicha manifest itself in our time? The answer depends on how we determine which situations actually require a rabbi with semicha to decide. This discussion seems to revolve around a disagreement between Tosfos and the Rambam. Tosfos (*Yevamos* 47a) appear to assume that semicha is a requirement for membership on a *beis din*. Any time a *beis din* is needed to rule on a case, only individuals with semicha can sit on the *beis din*. The Rambam disagrees and rules that semicha is not a requirement for the *beis din*. Rather, any *hora'ah*, or halachic decision, can only be made by one who has received semicha. Let us consider some cases in which this disagreement is relevant.⁶

The Gemara (*Sanhedrin* 2b) explains that while cases of *g'zeilos* (theft) and *chavalos* (damages) require a *beis din* of three judges, the Amoraim disagree regarding *hodaos* (admissions of obligation) and *halvaos* (loans). The Rambam (*Sanhedrin* 2:10) writes that on a Torah level, even one judge will suffice. When codifying this halacha regarding the requirement of a *beis din* for *hodaos* and *halvaos*, the Rambam (*Sanhedrin* 5:8) states that where an individual judges such a case on his own, he must have semicha. The Ramach commenting on the Rambam (and according to Rav Soloveitchik, Tosfos are of the same opinion), on the other hand assumes that an individual judging such a case on his own does not require semicha. This would appear to be dependent upon the aforementioned disagreement. According to the Rambam, semicha is required any time a *hora'ah* (halachic ruling) is given. Therefore, even in a situation where one person is judging, it is still considered *hora'ah* and semicha is required. According to Tosfos, semicha is a requirement for *beis din*, and when one person is judging he is not acting as a *beis din*. The fact that one person can judge is evidence that a *beis din* is not required. Therefore, semicha is not required either.

Another area of application is in the laws of *gerus* (conversion), which Chazal also tell us requires a *beis din*. Tosfos (*Yevamos* 47a) comment:

If one will ask: how do we [nowadays] accept converts? Doesn't conversion require ordained rabbis? One can answer that we act as the agents [of ordained rabbis of earlier generations].

וא"ת ואנן היכי מקבלין גרים הא
בעינן מומחין וי"ל דשליחותיהו
עבדינן.

Conversion requires a *beis din* of three. How then can we accept *gerim* today when we no longer have semicha? Tosfos answer by employing the concept of "*shlichusayhu kaavdinan*." The Gemara, *Baba Kamma* 84b, states that judges today act as agents of the judges of earlier generations who did have semicha and can perform certain acts that would otherwise require semicha. The Rashba (ad loc.) questions this resolution on grounds that the concept of *shlichusayhu* is a rabbinic enactment and cannot suffice for application in a Torah law, such as

⁵ See *Chamesh Drashot* p. 92-93 in the footnote.

⁶ See *Eretz Hatzvi*, *Siman* 32 and *Shiurei Harav* *Sanhedrin* 2a.

gerus. Rather, the Rashba explains that a *beis din* for *gerus* does not actually require judges with semicha. The Rambam, who omits the requirement of semicha in his description of the *beis din* for *gerus* (*Issurei Biah* 13:6), may be in agreement with the Rashba.

It would appear that this disagreement may be dependent on our earlier explanation. According to Tosfos, because semicha is a requirement for *beis din*, the members of the *beis din* for *gerus* would require semicha like any other *beis din*. Without the *shlichusayhu* principle, we would not be able to perform *gerus* nowadays. According to the Rambam, however, it may be that semicha is only required when a *hora'ah* is given. In the case of *gerus*, the *beis din* is only effecting or confirming the *gerus*, but not giving a *hora'ah* that this person is a valid convert. In this fashion, halacha differentiates between a *beis din* which is *mekayem* (confirms) and a *beis din* which is *moreh* (rules). [A similar phenomenon is found regarding the *beis din* for *chalitza*.]

Based on the Gemara referenced earlier, the Rambam writes:

One cannot ordain, which is the appointment of an elder to be a judge, unless there are three [judges] one of whom was ordained from others.

Rambam, Hilchos Sanhedrin 4:3

ואין סומכין סמיכה שהיא מינוי הזקנים
לדיינות אלא בשלשה והוא שיהיה האחד
מהן סמוך מפי אחרים.
רמב"ם, הל' סנהדרין ד:ג

The transmission of semicha requires three people, one of whom must have semicha himself. The Brisker Rav⁷ (on that Rambam) explains that the requirement of three is because the act of conferring semicha requires a *beis din*. However, this *beis din* is not pronouncing a *hora'ah*. Rather it is a *beis din hamekayem*, one that gives the title of semicha. As we have seen, according to the Rambam such a *beis din* does not need to be comprised of smuchim. The only reason why one of the members of the *beis din* is required to have semicha is that semicha requires an uninterrupted chain from Moshe to the new musmach. The role of the single musmach is not to give legitimacy to the *beis din* but to the semicha. We can suggest that Tosfos and the other Rishonim who require semicha for all acts of *beis din* would require all three members to have semicha in order to confer semicha on someone else.

Finally, the Mishna (*Sanhedrin* 86b) states that the punishment of a *zaken mamre* (one who rules against the *Beis Din Hagadol*) does not apply to a "*talmid*." Rashi explains that a *talmid* cannot be a *zaken mamre* because *zaken mamre* is someone who issues a formal *hora'ah* against the *Beis Din Hagadol*. Yet in defining a *talmid*, Rashi writes that a *talmid* is someone under the age of forty. At that age, one is not old enough to issue a *hora'ah* and therefore one is not considered worthy of *hora'ah*. The Rambam, however, (*Mamrim* 3:5) has a different definition of who is worthy of *hora'ah*. For these purposes, it is one who has semicha. This would appear to be based on the Rambam's understanding that a *hora'ah* requires one with semicha. If the individual who rules against the *Beis Din Hagadol* does not have semicha, then his decision is not classified as

⁷ Rav Soloveitchik actually suggested this explanation himself in 1957 before the Brisker Rav's commentary was printed. When he repeated it again in the 1970s, one of the students informed him that the same explanation was printed in the Brisker Rav's commentary on the Rambam and Rav Soloveitchik was pleased.

hora'ah.⁸ Any ruling that this individual issues would be considered good advice or a recommendation as to where to look for further guidance, but not a binding halachic statement.

If we don't have genuine semicha, what is the purpose of the semicha that is issued nowadays? Even though we no longer confer the original semicha, we may still fulfill Rebbe's institution (*Sanhedrin* 5b) that one cannot issue rulings (or for the Rambam, even recommendations) without asking permission from his rebbe first. When a rebbe feels that his student is qualified to give halachic advice, he will give the student permission to do so. Semicha today authorizes new musmachim to respond to halachic questions. Its purpose is more to adhere to the statement of Rebbe than a commemoration of what semicha used to be.⁹

⁸ For more on this disagreement between Rashi and Rambam, see *Igros Moshe, Choshen Mishpat* 1:1.

⁹ See *Mipinei Harav* p. 224 for a reference to this in a drasha given by Rav Soloveitchik at a Chag Hasemicha to explain the humility required of a rabbi.

The Semikhah Controversy of the 1500's

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Formal ordination, *minnuy* or semikhah, claiming an uninterrupted chain of tradition back to Joshua ben Nun (who received his ordination from Moshe Rabbenu), was still in force during Tannaitic times, and continued into the Talmudic period, and perhaps even beyond. By virtue of ordination, the function of judges had been invested with religious sanction.² But this juridical authority was eventually lost.

Only a formally ordained person could become a member of the Sanhedrin (whether of 71 members or of 23), and only an ordained group of three judges could administer *dine kenassot* (fines prescribed by the Torah beyond the mere restitution of damages). When there was no fixed calendar, only ordained judges could investigate witnesses who had claimed to see the new moon, or to intercalate a thirteenth month needed to make up the difference between the lunar and solar years.

Now, the Sanhedrin ceased to function, at the latest, with the destruction of the Second Temple. As ordination was restricted to Palestine, a Jewish court could impose fines only if a scholar ordained in Palestine was present. Eventually, communities outside Israel learned how to live with this by the following technique: instead of directly imposing a fine, a person who was to be penalized would be placed in *herem* until he would “voluntarily pay his debt.”³ Eventually, this practice became the case in Eretz Yisrael as well.

By the fourth century, the administration of the calendar system through the *ad hoc* system of witnesses, etc. was also replaced. The astronomical calendar, attributed on the authority of later

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² See Jacob Katz, “Rabbinical Authority and Authorization in the Middle Ages,” in I. Twersky (ed.), *Studies in Medieval Jewish History and Literature*, Vol. I (Cambridge, 1979), pp. 41-56. Sentences in this paragraph and the several following ones are taken from pp. 41-43.

³ See Rambam, *Sefer Shofetim, Hilkhos Sanhedrin*, 5:17.

tradition to the fourth century patriarch Hillel II, was instituted. Thus, the lack of formal semikhah was no longer an impediment to the practical functioning of a Jewish calendar system.

However, although the practical problems arising from the discontinuation of semikhah were apparently solved, the absence of the Sanhedrin, the impossibility of formally applying *dine kenassot*, and even (from a formal point of view) the discontinuance of the ancient system of determining the new moon by witnesses and judges with semikhah were certainly seen as great deficiencies. Thus, when the 16th-century messianic speculation and anticipation arose, and a method to formally reintroduce semikhah was suggested, it was seen (by its proponents) as a way to rectify a great deficiency in Jewish life.

The Life of R. Yaakov Beirav and his Project to Re institute Semikhah⁴

Jacob Berab (or Beirav) (c. 1474-1546) was born in Maqueda, near Toledo, Spain. After the expulsion of the Jews in 1492, he lived in Morocco, and he later claimed that he was appointed Rabbi of Fez at the age of eighteen. He later traveled to Egypt, Jerusalem and Safed (Tzefat) in Eretz Yisrael, and Syria, and became both a successful businessman and a teacher of Torah to many students. He wrote a commentary to those parts of Rambam's *Mishneh Torah* not dealt with by the *Maggid Mishneh* (R. Vidal Yom Tov of Tolosa), and a part of it was published by R. Yehudah Leib Maimon (Fishman).⁵ He also published *teshuvot*, as well as *hiddushim* to *Massekhet Kiddushin*.⁶ R. Joseph Caro, among others, reported various halakhic decisions of his.

The early 16th century was a period of intense messianic ferment, associated with the study of Kabbalah. (Scholars have debated the extent that the expulsion from Spain was the primary factor.) R. Beirav's expression of this wave of fervor consisted in his attempt to revive the institution of semikhah, the formal rabbinical ordination which had been dormant for many hundreds of years, and the reestablishment of which would give greater impetus to the messianic anticipation.

It appears that R. Beirav conceived of this idea while still residing in Egypt. Since 1524, he had been living at least periodically in Tzefat, the center of much messianic fervor. In 1538, he succeeded in convincing R. Joseph Caro, R. Moshe of Trani and other scholars that his interpretation of a passage in Rambam's *Commentary on the Mishnah* at the beginning of *Massekhet Sanhedrin* (to be discussed more fully below) was correct and should have practical implications. Rambam wrote:

I deem it appropriate that when all the scholars and students in the Land of Israel agree to put forward one person as their

ואני סבור שאם תהיה הסכמה מכל
התלמידים והחכמים למנות איש בשיבה
כלומר שיעשוהו ראש, ובתנאי שיהא זה

⁴ This short account of R. Beirav's life is essentially taken from *Encyclopedia Judaica*, Second Edition, Volume Three s.v. *Berab*, pp. 397-98.

⁵ *Sinai* 36 (1955), pp. 275-357.

⁶ The *teshuvot* and *hiddushim* were first published together in 1663; the *hiddushim* were republished in an enlarged form by Michael Rabinowitz in the *Sefer Ha-Yovel* for R. Binyamin Menashe Levin (1939), edited by R. Yehudah Leib Maimon (Fishman), on pp. 196-299.

head... this person can convene the assembly, and he will be ordained himself and qualified to ordain whomever he desires afterwards.⁷

Rambam, Commentary on the Mishnah, Sanhedrin 1:3

בארץ ישראל כמו שהקדמנו, הרי אותו האיש תתקיים לו הישיבה ויהיה סמוך ויסמוך הוא אחר כך את מי שירצה. רמב"ם, פירוש המשנה, סנהדרין א:ג

R. Jacob Beirav maintained that this Maimonidean passage provided support for the contemporary renewal of ordination. He felt that he could reestablish a great *bet din* through the revival of the institution of semikhah, and formally mark an important prelude to the imminent arrival of the Messiah. The scholars of Tzefat then decided to renew semikhah, designating R. Beirav as the first *samukh* (who would then have the authority to ordain others). But after this point, R. Beirav's plans began to go awry.

R. Levi ben Habib (c. 1483-1543), known by his acronym *Ralbah*, was R. Beirav's principal opponent. He was born in Zamora, Spain, and in 1492 was taken to Portugal by his father (R. Jacob ibn Habib, the author of the collection of Talmudic legends called *Ein Ya'aqov*). In Portugal, he had been forcibly baptized. Afterward, he and his father escaped to Salonika.⁸ Besides his Talmudic knowledge, he possessed much astronomical knowledge, and he published a commentary on Rambam's *Hilkhot Kiddush Ha-Hodesh*. In order to atone for his baptism, he went to Eretz Yisrael, settling first in Tzefat and later in Jerusalem, serving as rabbi there for 15 years.⁹

Ralbah's importance for our story consists of his fierce opposition to the project of R. Beirav. (Apparently, he had already disputed with R. Beirav concerning various matters previously.) He refused to accept the semikhah of R. Beirav and disagreed with R. Beirav's interpretation of the Maimonidean position, claiming that Rambam's view in the *Mishneh Torah* (*Hilkhot Sanhedrin* 4:11, to be quoted fully below) consisted of a *retraction* of his earlier statement regarding the possibility of reestablishment of semikhah, which in any event, he claimed, was originally offered as only an opinion, not as a legal decision. The rabbis of Tzefat (for semikhah) and the rabbis of Jerusalem (against semikhah) debated this issue for three months. Then, the Ottoman Turks, who at that time exercised political control over the Land of Israel, forced R. Beirav to leave the land! (R. Jacob Beirav had been involved in another controversy, and his enemies denounced him to the Turkish authorities in Tzefat.)¹⁰

R. Beirav certainly accepted the halakhah that formal semikhah could not be given outside of the Land of Israel. Fearing that because of his problems with the Turkish authorities, he might never

⁷ Rambam adds "otherwise, the restoration of the Supreme court will never be possible." That is, since the chain of semikhah has already been broken, it has to start again somewhere. See *Mishnah im Perush Rabbenu Moshe ben Maimon*, ed. R. Joseph Kafih (Jerusalem, 1964):Vol. 4 (*Seder Nezikin*), p. 148, for Rambam's original Judeo-Arabic formulation and Kafih's Hebrew translation.

⁸R. Beirav alluded to the baptism in his polemic with Ralbah. See Jacob Katz's article, cited below. We will not deal with this aspect of the dispute here.

⁹ See *Encyclopedia Judaica*, 2nd edition, Vol. 12, s.v. *Levi ben Habib* (Ralbah), where more biographical information concerning Ralbah can be found.

¹⁰ Jacob Katz, "The Dispute between Jacob Beirav and Levi ben Habib over Renewing Ordination," in *Binah: Studies in Jewish History*, edited by Joseph Dan (1989), pp. 119-141, on p. 129, concludes that while R. Beirav's flight "was not a result of the ordination, it was still a turning point in its story. Until that time, each protagonist expressed disagreement with the other, with give-and-take on both sides; the dispute was not yet a polemic."

return to Israel and his entire project would fail, before he left Israel, he gave semikhah to four rabbis of Tzefat, including R. Josef Caro and R. Moshe of Trani. R. Levi ben Habib publically opposed this ordination. From Damascus, R. Beirav continued to advocate for his position, and back and forth attacks between R. Beirav and R. ben Habib continued.

R. Levi ben Habib was supported by an important ally: R. David ben Solomon Abi Zimra of Egypt (a celebrated Maimonidean commentator known by his acronym Radvaz). The Radvaz's opposition to R. Beirav's project helped tip the scales against him.¹¹ The Egyptian rabbis announced that R. ben Habib had halakhah on his side.¹² To be sure, the scholars ordained by R. Beirav ordained others until their death. R. Joseph Caro, for example, ordained R. Moshe Alsheikh, who in turn ordained R. Hayyim Vital. But eventually (certainly after R. Jacob Beirav's death), the ordainees themselves stopped giving their ordination halakhic sanction. That is, as Jacob Katz put it, they refrained from claiming for themselves any authority not universally recognized as legitimate. Moreover, although R. Beirav's grandson, R. Jacob ben Abraham (d. 1599), who had studied under R. Joseph Caro, gave semikhah to seven scholars of Tzefat in 1599, these seven scholars agreed not to grant semikhah to anyone else without his approval. As the younger R. Beirav died in that same year, this agreement meant that essentially, the project, even in an attenuated form, was allowed to die out.

Historical and Halakhic Analysis of the Dispute

In 1951, the historian Jacob Katz (1904-1998) published a Hebrew article (*Zion*, Vol. 16 [1951], pp. 28-45) on the controversy, and subsequently published a revised Hebrew version in his collection of historical studies *Between Halakhah and Kabbalah* (1985). The journal *Binah*,

¹¹ Jacob Katz, "Dispute over Renewing Ordination," in *Binah*, p. 130, notes that apparently R. ben Habib himself did not receive an answer from the Radvaz. Otherwise, he undoubtedly would have included it in his collection of materials about the controversy. See below. Moreover, at the time, even after they received the letter of the Radvaz opposing ordination, the scholars of Tzefat did not admit failure. The Radvaz's opposition, however, was certainly a strong blow to R. Beirav's hopes.

¹² In his commentary to *Mishneh Torah, Hilkhoh Sanhedrin 4:11* (printed on the side of the Rambam in the Vilna, 1900, edition of the *Mishneh Torah* and subsequently in standard rabbinic editions of *Mishneh Torah, Hilkhoh Sanhedrin*), Radvaz refers to his opposition to R. Beirav's project and summarizes his earlier *responsum* on the matter. (Since the printing of Radvaz's, comments, his words were the prime source from which rabbinic/yeshiva students who didn't study *Teshuvot Ralbah* gained their rudimentary knowledge of the controversy.) In his commentary on the Rambam, Radvaz reproduces some of his arguments against the project of reinstating semikhah. For example, he writes that even the proponents of the reinstatement must admit that the *samukh* would have to possess the ability to decide issues in *all* areas of Torah law. He does not believe that anyone in his generation (including R. Beirav!) possesses that ability. Moreover, he counters Rambam's rhetorical question in his *Commentary on the Mishnah*, to wit: if somehow, someway, semikhah cannot be automatically reestablished by the consent of all the scholars of Israel, how otherwise could the prophets' promise that God would "reestablish judges as in days of yore" (even before the arrival of the Messiah) be fulfilled? The new judges would lack semikhah! Radvaz counters that since according to the Prophet (Malachi) and Hazal, Elijah the prophet will appear *before* the Messiah, and *he* certainly was a *samukh*, *he* could be the one to reinstitute semikhah. Alternatively, aggadic statements that members of the formerly ten lost Tribes of Israel (such as Reuben) will rejoin the Jewish nation and fight on their behalf before the actual coming of the Messiah can be used to maintain that among those returnees will appear judges who are *samukh*. *They* could reinstitute semikhah! In any event, like Ralbah, Radvaz insists that Rambam retreated in the *Mishneh Torah* from his words in the *Commentary on the Mishnah*. See below.

edited by Joseph Dan, which published translations of Hebrew articles into English, published in its first volume (1989: “Studies in Jewish History,” pp. 119-141) a translation/adaptation of Katz’s revised article by Roberta Bell-Kligler. We will not reproduce the entire article, or even all its aspects here, but we shall use his reconstruction of the debate to highlight key themes in the dispute. (My citations of Katz’s article and of his analyses are from the *Binah* article.)¹³

Katz first mentioned the previous discussion of the topic by the 19th century Jewish historian Heinrich Graetz (1817-1891), in his *History of the Jews* (German edition, 1887). Graetz discerned the messianic tendencies in R. Beirav’s desire to revive rabbinic ordination, the wish of Spanish exiles to receive absolution by an “ordained court” of their sins, thereby escaping the Divine punishment of *karet*, and the fact that they felt that reestablishment of ordination could save the souls of these penitents and also help pave the way for the more speedy arrival of the Messiah. He blamed the actual eruption of the controversy, however, to personal motives: R. Beirav’s quest for status and R. ben Habib’s sense of insult.

Katz noted the irony that Graetz, as a strong opponent of any form of mysticism, should naturally have been an unequivocal opponent of R. Beirav’s position. Yet, his positive appraisal of central institutions for the Jewish people (and a *bet din samukh* would certainly have been one) made him look positively on the matter. Graetz also dismissed R. ben Habib’s haklakhic arguments against reestablishing ordination, and claimed that rabbinic literature supports both opinions; he declared that R. ben Habib’s arguments were merely a cover for his predispositions.

¹³In his original article in *Zion*, on pp. 29-30, Katz listed 14 contemporaneous sources on the dispute. In the translation of his later version published in *Binah* (“Dispute over Renewing Ordination,” pp. 122-23, the translation that I shall be citing here), two more sources were added. Seeing a list of the sheer number of sources can help one appreciate the depth and bitterness of the controversy. Many sources can be found in the collection of documents published by Ralbah at the end of his responsa *Teshuvot Ralbah* (Venice, 1565). Others are mentioned in the controversy but are no longer extant. The documents are (in order of their appearance), as follows:

1. Declaration by the scholars of Tzefat on the revival of ordination, and the ordination of R. Jacob Beirav as the first ordaine (*Teshuvot Ralbah*; p. 277 c-d).
2. R. Beirav’s Certificate of Ordination to R. ben Habib (*ibid.*, p. 310c).
3. R. Moshe de Castro’s *responsum* annulling the ordination (published in *Sefunot* Vol. 10 [1966], pp. 146-92).
4. A letter of encouragement to Tzefat from Jerusalem scholars (no longer extant).
5. A letter from R. ben Habib to the scholars of Egypt (no longer extant).
6. Two court decisions of anonymous scholars of Tzefat, one approving and one invalidating ordination (no longer extant).
7. Protest of the court decision by the scholars of Tzefat, signed by R. Joseph Caro, countering the opposition of the scholars of Jerusalem (no longer extant).
8. R. Beirav’s comments on R. Moshe de Castro’s criticism (*Sefunot*, pp. 146-92).
9. R. Beirav’s Ordination Epistle substantiating ordination (*Teshuvot Ralbah*, pp. 285b-289a).
10. R. ben Habib’s first treatise annulling the ordination (*ibid.*, pp. 278a-285b).
11. Letter from R. ben Habib to R. Joseph Caro (a response to #7 above; no longer extant).
12. R. Ben Habib’s second treatise (a response to #9 above; *Teshuvot Ralbah*, pp. 289a-298a).
13. R. Beirav’s second treatise (a response to #10 above; *ibid.*, pp. 298a-303b).
14. R. Beirav’s third treatise (a response to #13 above; pp. 303b-328d).
15. A query from the scholars of Tzefat to the scholars of Egypt (no longer extant).
16. R. David ibn Abi Zimra’s *responsum* regarding the revocation of the ordination (response to #15 above).

Graetz also maintained that the “intercity competition” between Jerusalem and Tzefat was the cause that lay behind the dispute between the two rabbis.

Countering Graetz, Jacob Katz maintained that it is unacceptable for a historian to only look at subjective, personal issues (or intercity rivalries) and to ignore the halakhic arguments involved in a search for the “real story” of a halakhic dispute. One must evaluate the two halakhic positions, extant in the sources, and evaluate them objectively on their own terms. As Katz put it, “the reason for the embroilment must be sought in the renewal of ordination itself.”¹⁴

There were three issues regarding halakhah and ordination upon which R. Beirav and R. ben Habib disagreed. There was also, according to R. ben Habib, a procedural flaw in the manner in which R. Beirav established the ordination. We will follow Katz’s presentation of the issues.

(1): Was there sufficient halakhic ground for renewing ordination? Basing himself on Rambam’s *Commentary on the Mishnah*, Sanhedrin 1:3, R. Beirav had claimed, Yes! R. ben Habib, on the other hand, countered that the words of the Rambam in *Mishneh Torah* counter that and are decisive. Rambam writes as follows:

*If there should be in all Palestine but one man competent to confer ordination, he could invite two others to sit with him and proceed to ordain seventy men, either en masse or one after the other. He and the seventy men would then constitute the Supreme Court and would thus be in a position to ordain other tribunals. It seems to me that if all the wise men in Palestine were to agree to appoint judges and to ordain them, the ordination would be valid, empowering the ordained to adjudicate cases involving fines and to ordain others. If what we have said is true, the question arises: Why were the Rabbis disturbed over the matter of ordination, apprehending the abolition of the laws involving fines? Because Israel is scattered and agreement on the part of all is impossible. If, however, there were one ordained by a man who had himself been ordained, no unanimity would be necessary. He would have the right to adjudicate cases involving fines because he would be an ordained judge. But this matter requires careful reflection.*¹⁵

Rambam, Hilkhoh Sanhedrin 4:11

הרי שלא היה בארץ ישראל אלא
סומך אחד מושיב שנים בצדו
וסומך שבעים כאחד או זה אחר זה
ואחר כך יעשה הוא והשבעים בית
דין הגדול ויסמכו בתי דינים
אחרים, נראין לי הדברים שאם
הסכימו כל החכמים שבארץ
ישראל למנות דיינים ולסמוך אותם
הרי אלו סמוכים ויש להן לדון דיני
קנסות ויש להן לסמוך לאחרים,
אם כן למה היו החכמים מצטערים
על הסמיכה כדי שלא יבטלו דיני
קנסות מישׂראל, לפי שישׂראל
מפוזרין ואי אפשר שיסכימו כולן
ואם היה שם סמוך מפי סמוך אינו
צריך דעת כולן אלא דן דיני קנסות
לכל שהרי נסמך מפי בית דין,
והדבר צריך הכרע.
רמב"ם, הל' סנהדרין ד:יא

The Ralbah argued that as Rambam commences his discussion about renewal of ordination with the words “it seems to me” and ends it with “this matter requires careful reflection,” he clearly *retreated*

¹⁴ “Dispute Concerning Ordination,” in *Binah*, p. 132.

¹⁵ The English translation is taken from *The Code of Maimonides: The Book of Judges*, translated by Abraham Hershman (New Haven and London, 1949), *Sanhedrin* 4:11, p. 15. In the English translation of Katz’s Hebrew article in *Binah*, the phrase “the matter requires a decision” is used instead of “the matter requires careful reflection.” Hershman, *The Book of Judges*, Introduction, p. xviii, n. 2, notes the difference between the Rambam’s words in *Mishneh Torah* and in his *Commentary on the Mishnah*. Throughout this article, I will be using “this matter requires careful reflection.”

from his original unambiguous statement in his *Commentary on the Mishnah*. Thus, his words in *Mishneh Torah* cannot allow for an absolute decision allowing the reintroduction of semikhah.

Ralbah further claimed that the question of how one rules when the Rambam himself presents different views in his different works is relevant here. As the words of his later work *Mishneh Torah* demonstrate, Maimonides had *reconsidered* what he had written in his youth, and a halakhic rule (formulated by Rambam himself elsewhere) states that a *later* decision overrides an *earlier* decision; Rambam's statement in the *Mishneh Torah* certainly must override his statement in the *Commentary on the Mishnah*.

Interestingly, R. Beirav did not contradict these points. Rather, his strategy was to claim that the Maimonidean phrase "this matter requires careful reflection" only referred to an entirely *different* matter, namely, whether the *bet din* extending ordination must be composed of three ordained persons, or can just as well be composed of one previously ordained persons with two other unordained people (the point Rambam raised at the beginning of the halakhah). Ralbah, for his part, argued that the Rambam had clearly ruled (earlier in the same paragraph) on that matter, and hence the phrase "this matter requires careful reflection" can *only* refer to the reintroduction of semikhah itself. Thus, he rejects R. Beirav's reinterpretation of the phrase "this matter requires careful reflection."

(2): What would be the extent of the authority of the ordained *bet din*? R. Beirav argued that the *bet din* would possess two areas of authority that a *bet din* whose members did not possess formal semikhah would not have: the right to impose fines and penalties and to mete out *malqut* (lashes) to absolve one who otherwise would receive the fate of *karet* (being cut off; interpreted as deserving of an early death) from any further penalty.

Which of the two was more crucial? Interestingly, in the first Ordination Declaration issued by R. Jacob Beirav, the matter of lashes was prominent. R. Beirav argued that the renewal of ordination would allow penitent Marranos to receive lashes, and thereby exempt themselves from *karet*. R. Beirav later changed his mind and claimed that the issue of the fines was the main point, and the issue of the lashes was incidental.

Why did he shift his emphasis? Katz points out that this occurred because of R. ben Habib and R. Moshe de Castro (R. Beirav's own student but one who opposed his teacher and supported R. ben Habib) claimed that R. Beirav was overreaching, attempting to give his *bet din* an authority that, even in Mishnaic times, an ordained *bet din* did not possess! No *bet din* was empowered to give lashes to anyone unless he had been formally accused by two valid witnesses. Lashes that a penitent would receive are only rabbinic in nature and do not stem from Torah law. Someone who would receive lashes as the result of self-confession would not absolve the penitent of the punishment of *karet*. Thus, the penitent Marranos could *not* legally absolve themselves from punishment due to the new *bet din*.

In his response, R. Beirav "doubled down" and made the surprising claim that even a common *bet din* could impose upon penitents lashes that had been stipulated in the Torah. In his second treatise on the matter he added the point that *batei din* of his teachers in Spain acted in such a manner. But R. ben Habib responded as follows: even assuming R. Beirav's teachers were

correct concerning this matter, if so, a new *bet din*, with its reintroduction of *semikhah*, would not be necessary! Thus, R. Beirav retreated and maintained that the reestablishment of *fines* was the primary point of the ordination.

(3): Could this new *bet din* proclaim the new moon and intercalate the months? Until the establishment of the permanent pre-calculated calendar of Hebrew months, traditionally ascribed to Hillel the Second (fourth century C.E.), these matters were determined by an ordained *bet din*. Katz points out that somewhat paradoxically, R. Beirav held that the new ordained *bet din* would *not* be authorized to proclaim the new moon and intercalate the months.¹⁶

But R. Beirav's opponents claimed that a legally ordained *bet din* *could* effect changes in the Jewish calendar. R. Ben Habib, basing himself upon his understanding of Ramban, argued that a Sanhedrin was not necessary for that task, and that any legally ordained *bet din* has not just the right but the obligation to fix the calendar. For now, according to R. Beirav, with a *bet din samukh* in place, the new moon *must* be established by evidence of witnesses. Hence, he continued, R. Beirav could not escape the ramifications and repercussions of what he was attempting to do. The reestablishment of *semikhah* and a formal *bet din samukh* was tantamount to questioning the legitimacy of the current (Hillel II) pre-calculated Jewish calendar, without putting in place the alternate system of determining the dates of the calendar based upon evidence!

R. Beirav defended himself, claiming his new *bet din* would not possess the power to supersede the system installed by Hillel II and return to a system of proclaiming the new moon by evidence of witnesses. He quoted Isaac Israeli, the astronomer (fl. first half of the 14th century), author of the book *Yesod Olam*. Israeli had written that Hillel's calendar would remain in effect until the Messiah actually arrives. Although R. Beirav viewed the renewal of *semikhah*, and establishment of a *bet din samukh*, as necessary preludes to the Messiah's arrival, rules that would need to wait until the Messiah actually appeared would not change.

R. Ben Habib faulted R. Beirav on this point as well. When he commented on the invalidation of the declaration of the new moon by evidence, and the introduction of the pre-calculated system, Isaac Israeli was merely providing a historical description of events. Thus, he linked Hillel II's enactment to the need of the Jews not to become factionalized. But based on Rambam and Ramban, one would indeed conclude that halakhically, the establishment of a *bet din* of formal *musmakhim* would indeed lead to recognition that the system of Hillel II was now invalid and the (old) method of witnesses, with all the uncertainties that it entailed, would *have* to be followed—even before the actual arrival of the Messiah.

As for the procedural problem: the scholars of Tzefat contacted the scholars of Jerusalem only *after* R. Beirav had been ordained. But according to the Rambam, the authority upon whose words they based themselves, agreement of *all the scholars of in the Land of Israel* was certainly necessary *before* any ordination could take effect. It was procedurally illegal for the Tzefat

¹⁶ Katz, "Dispute Concerning Ordination," in *Binah*, p. 137, writes: "undoing the fixed calendar and the order of intercalation would constitute a revolution appropriate for the coming of the Messiah; in the mundane world though (and even R. Beirav admitted that the Messiah had not come yet) no one would think if it."

scholars to decide to grant ordination on the mere assumption that the Jerusalem scholars would agree after the fact! *Post facto* approval would be invalid in that case!

If this was the only problem with the ordination, then, theoretically, if the Jerusalem scholars such as R. de Castro and R. Habib would subsequently agree to the ordination, this procedural problem could be overcome. Although apparently, both R. de Castro and R. ben Habib raised this possibility, Jacob Katz understands that this was merely a gesture of appeasement. In reality, due to all their other reasons, they would not retract their negative opinion of what R. Beirav did, and indeed, he proceeded to publish treatises attempting to refute their claims. Apparently, R. Beirav felt that there was no need for negotiations between different scholars, such as those from Jerusalem. “Who would even think of something that would delay our redemption ... that all who hear of it would not come with drums and dancing to subscribe to it.”¹⁷ But R. ben Habib felt that Maimonides’ interpretation predicated renewed ordination on the prior *unanimous consent of the scholars in the Land of Israel*, and hence there can be no effective agreement without prior negotiations.

Jacob Katz pointed out that both R. Jacob Beirav and R. Levi ben Habib were well-defined personalities. The former was “a dynamic and authoritarian individual, driven to action and initiative—all of which gives rise to a clear sense of superiority, to the point of demanding the right of way at all times and the power of decision in every instance.” On the other hand, R. ben Habib was a “passive, almost contemplative individual. His confidence results from the lack of a need for initiated activity; he does not reveal the energy contained within him except when presented with a specific outside challenge.”¹⁸

Jacob Katz makes a fascinating point at the conclusion of his essay on the ordination dispute. To wit, he remarks that to the extent that the historian understands the opponents’ personalities and motives, he might become unable to evaluate them objectively. The conflict between R. Beirav and R. ben Habib becomes almost “preordained.” He writes: “The dynamic activist R. Beirav is pitted against the contemplative ben-Habib and the historian does not make a value judgment as to who is right and who is not.”

“But in this case, the close scrutiny of R. Beirav’s words reveals signs of insecurity and embarrassment when contradictions in his claims were pointed out. His words reveal that it was indeed his messianic yearning that led him to use conflicting halakhic opinions in an attempt to achieve his goal.”¹⁹ Thus, it does appear that whereas R. Beirav’s messianic yearning impelled him to make weaker halakhic arguments, objectively, the superior halakhic reasoning was that employed by R. ben Habib.”

Klal Yisrael still waits for the day when God will see to it that the judges of Israel will judge us as they did in days of yore, and the Temple will be rebuilt again. Amen.

¹⁷ Katz, “Dispute over Renewing Ordination,” in *Binah*, p. 139.

¹⁸ Katz, “Dispute over Renewing Ordination,” in *Binah*, p. 140.

¹⁹ Katz, “Dispute over Renewing Ordination,” in *Binah*, p. 141.

Rav Kook's Purim

Rabbi Yosef Bronstein¹

RIETS Class of 2012

Twice during the year the Rav [Kook] revealed himself in all of his greatness ... on Purim and on the night of Shavu'os. It is not easy to describe, in writing, Purim in the court of the Rav. He was so rich in spirituality...²

I would enter to visit the Rav [Kook] every day. When the days of Purim arrived the number of visitors increased and I did not want to be pressed among them. Afterwards, the Rav commented on that I did not come [on Purim], and he added, "on Purim I say unique things that I am not accustomed to say throughout the year."³

Though Rav Kook's spiritual aura was apparent throughout the year, he "revealed a *tefach* while covering two," hiding his true spiritual stature. Purim was one of the few annual occasions that he removed this mask and exposed more of his authentic self. To understand Rav Kook's behavior we need to investigate the nature of Purim in his thought in an attempt to grasp the unique spiritual character of the day.

The Gemara (*Chulin* 139b) lists the Pentateuchal allusions to the future protagonists and antagonists of the Purim story. The hint to Haman is located in the story of Adam's expulsion from Gan Eden:

"Where in the Torah is [there an allusion to the episode of] Haman? [Rav Masnah replied: From the verse,] 'have you of (ha-min) the tree [eaten, from which I commanded you not to eat?]"⁴

המין מן התורה	המין מן התורה
מנין? המין	מנין? המין
העץ	העץ

It is reasonable to assume that in addition to noting the appearance of the letters ה-מ-ן in the story of Adam's sin, the Gemara is creating a thematic link between Purim and the story of the *Eitz ha-Da'as*. What is the nature of Adam's sin and in what way does Purim provide the means of rectification?

Rav Kook describes the root of Adam's sin in the following passage:

"I am in the midst of the exile" (Yechezkel 1:1). The inner, essential "I"—whether individual or communal—does not appear by itself. Rather, it appears in relation to our holiness and

אני בתוך הגולה, האני הפנימי העצמי,	אני בתוך הגולה, האני הפנימי העצמי,
של היחיד ושל הציבור, אינו מתגלה	של היחיד ושל הציבור, אינו מתגלה
בתוכיותו רק לפי ערך הקדושה	בתוכיותו רק לפי ערך הקדושה

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² Recollection of Rav Shimon Glitzenstein, Rav Kook's personal secretary, cited in *Mo'adei ha-Re'iyah*, 251.

³ Recollection of Rav Dovid Cohen (*ha-Rav ha-Nazir*), a close student of Rav Kook, cited in *Mo'adei ha-Re'iyah*, 258.

⁴ Translation is from The Schottenstein Edition.

purity. It appears in relation to the amount of supernal power that, with the pure light of an elevated illumination, burns within us. "Both we and our forefathers sinned" (Tehillim 106:6). This refers to the sin of Adam, who was alienated from his essential being. He turned to the consciousness of the serpent, and thus he lost himself. He could not clearly answer the question, "Where are you?," because he did not know himself, because he had lost his true "I." He had bowed to a strange god.

Shemonah Kevatzim 3:24⁵

והטהרה שלו, לפי ערך הגבורה העליונה, הספוגה מהאורה הטהורה של זיו מעלה, שהיא מתלהבת בקרבו, חטאנו עם אבותינו, חטא האדם הראשון, שנתנכר לעצמיותו, שפנה לדעתו של נחש, ואבד את עצמו, לא ידע להשיב תשובה ברורה על שאלת איך, מפני שלא ידע נפשו, מפני שהאניות האמיתית נאבדה ממנו, בחטא ההשתחואה לאל זר.
שמונה קבצים ג:כד

Rav Kook describes the "inner essential I," or the true, basic identity of a person or community which is supposed to be identified and expressed. Unfortunately, this is a challenging task. Adam strayed from his true self and listened to the external voice of the serpent. By doing so he lost the inner "I" and descended into sin.

According to Rav Kook, this spiritual identity crisis is ultimately responsible for much, if not all, of sin throughout history. Instead of striving to reveal their inner souls, people are swayed by outside influences. This problem is persistent as it is pervasive, and has even seeped into the standard educational model. Rav Kook continues:

Thus does the world continue, sinking into the destruction of every "I"—of the individual and of the whole. Learned educators come and focus on the superficial. They too remove their consciousness from the "I." They add straw to the fire, give vinegar to the thirsty, and fatten minds and hearts with everything that is external to them. And the "I" gets progressively forgotten.

וכה הולך העולם וצולל באבדן האני של כל אחד, של הפרט ושל הכלל. באים מחנכים מלומדים, מסתכלים בחיצוניות, מסיחים דעה גם הם מן האני, ומוסיפים תבן על המדורה, משקים את הצמאים בחומץ, מפטמים את המוחות ואת הלבבות בכל מה שהוא חוץ מהם, והאני הולך ומשתכח.

The Messianic era can only be reached through a process of focusing on the inner "I." We will only be redeemed when we realize that "Elokai neshama she-nasata bee tehorah hee;" that our basic core identity is connected with "Ani Hashem:"

The Messiah is called "the breath of our nostrils, the anointed one of God" (Eicha 4:20). This is his might, the beauty of his greatness: that he is not outside of us. He is the breath of our nostrils. Let us seek Hashem our God and David our king. Let us tremble before God and His goodness. Let us seek our "I." Let us seek ourselves—and find. Remove all foreign gods, remove every stranger and illegitimate one. Then "you will know that I am Hashem your God, Who takes you out of the land of Egypt to be your God. I am Hashem."⁶

רוח אפינו משיח ד', זהו גבורתו הדר גדלו, איננו מבחוץ לנו, רוח אפינו הוא, את ד' אלהינו ודוד מלכנו נבקש, אל ה' ואל טובו נפחד, את האני שלנו נבקש, את עצמנו נבקש ונמצא, הסר כל אלהי נכר, הסר כל זר וממזר, וידעתם כי אני ה' אלהיכם, המוציא אתכם מארץ מצרים להיות לכם לאלהים, אני ה'.

⁵ Translation is by Yaacov David Shulam, <http://www.ravkook.net/souls.html>.

⁶ For an elaboration on the theme of repentance as a return to one's "inner I" see *Orot ha-Teshuvah* 10:15.

Rav Kook felt that part of his divinely ordained life's mission was to accelerate the process of redemption through "illuminating the world" with the Torah teachings that are uniquely suited for the Messianic era.⁷ It is therefore no surprise that this emphasis on realizing the purity and individuality of each soul, which Rav Kook identified as a prerequisite for redemption, is a theme in his thought.

Within a range, he encouraged Jews to find their own paths in *Avodas Hashem* in various realms, such as the methodology and areas of Torah study,⁸ the proper balance between different character traits⁹ and the navigation of competing values.¹⁰ While there is a danger of misstep and therefore Torah and *mussar* are needed to "see the place where mistakes can come,"¹¹ one's basic attitude should be self-confidence and trust in the straightness of the soul. The abandonment of these individualized paths in favor of full conformance to an established structure runs the risk of "weariness of spirit"¹² and a complete rejection of Torah.¹³

According to Rav Kook, this theme of revealing the "inner I" reaches full expression on Purim.¹⁴ It was on Purim that the Jews accepted the Torah of their own volition, realizing that its content is identical with their inner essence. Through intoxication we are supposed to reach the level of "*nichnas yayin yatza sod*, when wine enters, secrets emerge (*Sanhedrin* 38a)," and begin to recognize the parts of ourselves that heretofore remained hidden. The symbolism of reaching a state of "*ad delo yada* (becoming intoxicated to a state of lack of knowledge)" is that a person shed the externally accrued knowledge that can bury the soul even deeper and obscure its nature. The sin of Adam was engendered by a forgetting of the self, and it is on Purim that we rectify the sin by finding that which Adam lost.

And what is true regarding the individual is also accurate for reality as a whole.¹⁵ Before Adam's sin, the divinity that underlies all of creation was fully manifest. By simply walking through the garden, Adam was in constant overt contact with Hashem.¹⁶ However, as a result of his sin, the world plummeted spiritually and the divine essence was hidden from the natural world. The world that consisted solely of "*chayim*" (life) and "*tov*" (good) was replaced with a world of "*tov ve-ra*" (good and evil) in which there is an apparent disconnect between the *ra* and Hashem. The true nature of reality as being entirely an expression of divinity became obscured.

⁷ *Shemonah Kevatzim* 3:259.

⁸ *Orot ha-Torah* 9:1; "*ha-Oneg ve-haSimcha*" in *Eder ha-Yakar ve-Ikvei ha-Tzon*, pg. 117-118.

⁹ *Mussar Avicha* 3:1; *Shemonah Kevatzim* 6:22.

¹⁰ "*le-Achduso shel ha-Rambam*," *Ma'amarei ha-Re'iyah*, pg. 105.

¹¹ *Orot ha-Torah* 11:2.

¹² *Shemonah Kevatzim* 2:123.

¹³ *Orot ha-Torah* 9:6. It is important to counter-balance this pole in Rav Kook's writings with the emphasis he places on seeing oneself as part of both *Am Yisrael* and all of reality (see, for example, *Shemonah Kevatzim* 7:112). For a discussion of the paradoxical interconnectedness between these two concepts see *Shemonah Kevatzim* 3:6, *Orot ha-Kodesh Volume 4*, pg. 486, and Binyamin Ish-Shalom, *Rav Avraham Itzhak Hacoheh Kook: Between Rationalism and Mysticism* (SUNY Press, 1993), pg. 116-122.

¹⁴ "*Iggeres ha-Purim*" in *Ma'amarei ha-Re'iyah*, pg. 153-154.

¹⁵ *Mo'adei ha-Re'iyah*, pg. 258.

¹⁶ *Shemonah Kevatzim* 3:66

On Purim, just as we are challenged to tap into our hidden selves, so too we must pierce the veil of reality.¹⁷ While during the year we live in the fallen world that consists of *ra*, on Purim we are to remind ourselves that in truth, *melo kol ha-aretz kevodo*, His glory fills the world, and God stands behind both the *tov* and the seeming *ra*. This, taught Rav Kook, is the deeper symbolism of the state of “*ad delo yada bein arur Haman le-baruch Mordechai*, [intoxication] to the point where one cannot distinguish between the cursing of Haman and the blessing of Mordechai.” The category of *arur Haman* is of supreme significance for us who live in a post-Gan Eden reality, as we must recognize the evils that exist in the world and fight to overcome them. But, once annually we smell the fragrance of Gan Eden and “forget” that evil exists. On Purim, we identify Hashem’s presence in all items and events, thereby affirming their place in the ultimate divine plan. Through this, we are able to walk away from Purim with a renewed prayer for history to come full circle and for the world of Gan Eden to once again be fully revealed.

¹⁷*Mo’adei ha-Re’iyah*, pg. 258.

The King's Party and the Human Appetite for Control

Rabbi Noah Cheses¹

RIETS Class of 2011

As the curtain opens, Megillat Ester begins with a wildly lavish party. For half a year, Achashverosh entertains his ministers and advisors with endless food, plentiful drink and exquisite vessels (Ester 1:3-7). Without any reference to the Jews or their enemies, the first chapter of Megillat Ester appears to be superfluous to the narrative. If it serves as background for how Ester came to be chosen as queen, there is no need to provide such detail about the king's parties. One has to ask why the Megilla didn't begin at the beginning of the second or even third chapter, when the plot against the Jews begins to come together.

Perhaps this question compelled the rabbis to suggest that there were Jews at the royal party and that their participation in this decadent affair was sinful, making them almost deserving of the hatred that fueled the plot to destroy all the Jews (*Megillah* 12b).

Yoram Hazony in his book *The Dawn* suggests that the purpose of the party is to acquaint us with its host and his unquenchable desire to flaunt his power and demonstrate his control. The verses themselves point us in this direction:

He showed the riches of his glorious kingdom, and the splendor of his excellent majesty, for many days, one hundred and eighty days.

Ester 1:4

בהראתו את עשר כבוד מלכותו ואת-יקר
תפארת גדולתו ימים רבים שמונים ומאת
יום.
אסתר א:ד

Achashverosh provides a drinking carnival for his friends and then extends this merriment to the rest of his kingdom, peasants included, for seven days. The point of this ostentatious project was to create the impression, in the eyes of his subjects, that Achashverosh is in control of the whole civilized world, from Ethiopia to India (*The Dawn*, pg. 11).

One wonders why a party was necessary to win over the people. Wouldn't a strong and intelligent leadership over the citizens have been a superior strategy?

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The Midrash (*Ester Rabba* 2:2) explains that Achashverosh was an incompetent king, unable to exercise leadership with vision and courage. Indeed, from the beginning to the end of the Ester narrative, Achashverosh never makes a decision of substance on his own. He defers to others—from Memuchan to Haman and later Ester—and then throws the full weight of his authority behind their decisions. Unable to secure the respect of his people through political prowess, Achashverosh exploits his wealth and his capacity to throw a good party in order to generate the appearance of power and control.

It is worth considering more carefully the appetite that people have to assert control over their environments. Emerging from the very creation of man, it is clear that the capacity to rule over and control others is a primary aspect of human nature:

G-d said 'let us make man in our image, after our likeness, and they will rule over the fish of the sea, and the birds of the skies, and over the animals, and over the entire earth and over the creatures that crawl upon the earth.

Bereishit 1:26

ויאמר אלקים נעשה אדם בצלמנו
כדמותנו וירדו בדגת הים ובעוף השמים
ובבהמה ובכל-הארץ ובכל-הרמש
הרמש על-הארץ.
בראשית א:כו

Two verses later, G-d explicitly charges humanity with the mandate of exerting power over the earth in order to subdue it:

G-d blessed them and said unto them: 'Be fruitful, and multiply, and replenish the earth, and conquer it and rule over the fish of the sea and the birds of the skies and all living things that crawl on the earth.

Bereishit 1:28

ויברך אתם, אלהים, ויאמר להם אלהים
פרו ורבו ומלאו את-הארץ, וכבשה; ורדו
בדגת הים, ובעוף השמים, ובכל-חיה,
הרמשת על-הארץ.
בראשית א:כח

From the creative narrative in Genesis 1, it is clear that humanity was endowed with a deep desire to regulate and impose order upon nature.

Rabbi Joseph Soloveitchik explores the positive dimension of this thirst for control in his characterization of “Adam the First” in *The Lonely Man of Faith*. The Rav explains how the desire for control can serve a crucial, life-sustaining and dignified purpose:

Adam the first is overwhelmed by one quest, namely, to harness and dominate the elemental natural forces and to put them at his disposal. This practical interest arouses his will to learn the secrets of nature...

Man of old who could not fight disease and succumbed in multitudes to yellow fever or any other plague with degrading helplessness could not lay claim to dignity. Only the man who builds hospitals, discovers therapeutic techniques and saves lives is blessed with dignity. Man of the 17th and 18th centuries who needed several days to travel from Boston to New York was less dignified than modern man who attempts to conquer space, boards a plane at the New York Airport at midnight and takes several hours later a leisurely walk along the streets of London.

Hence, the human appetite for bold, victory-minded behavior fosters creative work that brings about human progress.

When the appetite for control is not so directed, however, it can lead to darkness and even result in grave human suffering. Thomas Mann, a German novelist in the early 20th century, delves into the destructive dimension of this natural human desire for control. In his short story, *Mario and the Magician*, he writes about a magician named Cipolla who performs tricks in order to captivate his audience and to convince them to do humiliating and unethical activities. Cipolla's devious personality serves as a reminder of the manner in which the controlling impulse that we all have can easily slip into manipulative and harmful behavior.

With this in mind, let us return to the king's party. Toward the end of the party, Achashverosh's quench for power turns ugly as he summons his wife to appear unclothed (according to the rabbis) in front of the entire kingdom. This gesture is meant to represent the extent of the king's authority, that on a whim he has the capacity to subjugate and humiliate the queen. When the plan backfires, as Queen Vashti refuses to surrender her dignity, the king has to scramble to reconstitute his authority by demonstrating his potency through a decree to the entire kingdom.

The theme of human control in the first chapter of Ester sets the stage for the theological undercurrent of the remaining chapters. The king's superficial display of power serves as a contrast to the Divine force that ultimately guides the twisting and turning plot that follows. The implicit message of Megillat Ester is that human history is orchestrated by G-d, even if He is behind the scenes. Amazing stories, like that of the Jews' salvation from the plot of Haman, remind us that G-d is in control. He certainly has crucial human agents, like Mordechai and Ester, but He is the puppeteer pulling all the strings and wires behind the curtain.

Hope Amidst Despair

Rabbi Reuven Garrett¹

RIETS Class of 2012

When we consider transformational moments in Megillas Esther, the beginning of the sixth perek, describing the events of the night Achashveirosh is unable to sleep, seems like a natural choice. It is over the course of this night that the king's mind begins to turn against Haman. And it is by Haman's injudicious responses to Achashveirosh's questions on that night that he (unwittingly) begins to dig his own grave.

However, what makes the events of "that night" so powerful is the fact that they were not entirely transformational. That night only heralded the flowering of seeds that had been planted long before. The clearest example of this comes with the decision Achashveirosh makes to honor Mordechai the next day. That honor was not for something Mordechai had recently done, but was a reward for Mordechai's warning to Achashveirosh years earlier about the threats to Achashveirosh's throne. Of course, part of the miracle of Purim is that Mordechai's good deed bore fruit as the threat to the Jewish people was at its utmost.

This does not change the fact that the events of "that night" turned chiefly on events that had taken place many years before. And this is not the only example: even Achashveirosh's growing anger at Haman over the course of the sixth perek as the two discuss the reward to be given to the "man whom the king wishes to honor" is as much a function of Haman's long-standing arrogance and Achashveirosh's shifting favor as it is a fundamental change in the Megilla's tone.

For a truly transformational moment—one that represents not just a change in tone, but a shift in substance—it is possible that we really have to turn to the end of the fourth and the beginning of the fifth perakim, where the Megilla describes Esther's decision to approach Achashveirosh. From one perspective, it seems like this should be an easy decision to make: Esther is in the right place, at the right time, and certainly seems to be in a perfect position to intervene on behalf of the Jewish people. But from the lengthy back-and-forth Esther has with Mordechai in the fourth perek, and from the trepidation with which she approaches the task in the fifth, it is clear that this was far from an easy decision. To fully understand both the difficulty of this decision and Esther's strength in making it, we really have to go back and examine Chazal's understanding of why the Jewish people were threatened with destruction at the hands of Haman in the first place.

The Gemara (*Megilla* 12a) tells us that one reason for the threatened destruction of the Jews was their participation in the great feast of Achashveirosh that is described at the beginning of the Megilla. The Gemara does not elaborate further on the nature of this sin. However, both the Gemara and the Midrash Rabbah (*Esther* 1:15) suggest that the feast was, at least in part, intended to celebrate the fact that Achashveirosh's command to cease the reconstruction of the

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Beis HaMikdash had now achieved permanence. Ending the reconstruction had been one of Achashveirosh's first acts upon becoming king; now, three years into his reign, he felt comfortable enough that his decree had achieved its aim that he was ready to celebrate.

And celebrate he did. The Gemara relates that Achashveirosh both used the utensils taken from the Beis HaMikdash and wore the clothes of the Kohen Gadol during the party to memorialize the apparent finality of his decree. In other words, the Gemara is saying, the glamour of Achashveirosh's party was intended to celebrate the permanence of the Beis Hamikdash's destruction. Against this background, the accusation the Gemara levels against the Jews for participating in Achashveirosh's party is a harsh one: by joining in what was implicitly a celebration of their own downfall they had, on some level, abandoned any hope of return.

Esther stands as the perfect foil to this attitude. When we are first introduced to Esther by the Megilla, her personality is defined in part by the fact that she barely has family. As the Gemara (*Megilla* 13a) explains, she never knew her parents: her father died before she was born, her mother died in childbirth, and she was brought up entirely by Mordechai. Esther's selection as queen just cemented the totality of her distance from her heritage. The fact of Esther becoming queen is particularly ironic when you consider that she was a descendant of Shaul HaMelech, the king from whom G-d stripped the rights and responsibilities of kingship. For Esther to then become queen – not of her own people (who Mordechai told her not to identify with) but of the Persian Empire – only emphasizes that loss.

As Rav Yitzchak Hutner points out in his *Pachad Yitzchak* (number 19), this background is why Mordechai's efforts to challenge Esther to intervene with Achashveirosh, read simply, ring so hollow. For Mordechai to tell Esther—an orphaned child of a discontinued royal house—that her failure to speak with Achashveirosh will result in “her and her father's house being lost,” (Esther 4:14) seems only to emphasize what is already fact. Given the context, what sort of motivational tool is that?

However, it is possible to read Mordechai's words not as the sword hanging over Esther's head if she fails to confront Achashveirosh, but as a comment on what is at stake in her choice. Read against Esther's background, an absence of hope for the future is, in some sense, a reality. Her past is a story of loss, and making an appeal to Achashveirosh will not free her from remaining his queen in the future. In fact, just the opposite is true: Chazal (*Megilla* 15a) say that Esther's comment to Mordechai at the close of their conversation (4:16), “*ka'asher avaditi avaditi*” —“as I was lost I will be permanently lost” —is putting into words Esther's recognition that by approaching Achashveirosh of her own will, she is permanently binding herself to him.

Thus, what Mordechai may really be saying is: Esther, you of all people understand what it means to be in a position without hope and without a firm past or future. But this is exactly the question you have to confront as you make your decision: does the fact that you have no firm basis for hope also mean that you have no responsibility to the future?

The twenty-second perek of Tehillim is interpreted by many commentaries to describe the experience of the Jewish people after the destruction of the Beis HaMikdash. David HaMelech's cry “*Keli, Keli, lama azavtani*” — “my G-d, my G-d, why have You forsaken me?” —records the

feeling of the Jewish people in exile, to all appearances abandoned and without connection to the G-d of their forefathers. But according to the Gemara (*Megilla* 15b) it is also refers in particular to Esther's experience as she approached Achashveirosh. The Gemara turns on the words at the beginning of the fifth perek that describe Esther as "standing in the chamber before the king's house." Since we know where Esther was going, why tell us she was almost there? The Gemara explains that the *Megilla* is hinting to the fact that Esther halted just outside the king's throne room because, just then, she felt *Ruach HaKodesh* (divine inspiration) depart from her. According to the Gemara, the reason for the departure was because the room was full of idols. However, Esther clearly felt at that moment as though G-d had abandoned her at her moment of need, and so, the Gemara says, she began to mouth the words from Tehillim: "*Keli, Keli, lama azavtani,*"—why G-d, have You deserted me?

By emphasizing the very real sense of despair Esther felt as she approached Achashveirosh, the Gemara connects Esther's approach with the experience of the Jewish people in exile. It also connects her choice to approach Achashveirosh with the choice the Jewish people faced when they were asked to join Achashveirosh's party years before. The Gemara never suggests that *Ruach HaKodesh* returned to Esther after she entered Achashveirosh's throne room. And yet Esther steps forward anyway, and, by approaching Achashveirosh with her request, she ultimately saves the Jewish people.

Perhaps the closest parallel to Esther's act is Yosef's decision to reject the advances of the wife of Potiphar. If Esther's history gave her some reason to feel distant from her heritage, Yosef's experiences certainly would have given him just cause to doubt the continued relevance of his past. And, much like Esther, Yosef occupies a position of apparent power, which he also knows leaves him fully exposed to the shifting winds of his master's favor. Like Esther, Yosef had every reason to despair and give in to Potiphar's wife. In fact, according to some opinions in the Gemara (*Sotah* 36b), he almost did. And yet, like Esther, even as he touched the depths of despair, Yosef never let go of his abiding sense that, despite the real reasons for despair, there remained hope for the future.

In closing, it is interesting to note that, while the power of Esther's commitment certainly secured the future of Klal Yisrael, it did much to redeem the past as well. As the Gemara (*Megilla* 16a) explains, after Esther revealed herself, Achashveirosh began treating her as an equal. After hearing her lineage, Achashveirosh stopped looking at Esther as a commoner who had ascended to the throne. As a descendant of Shaul HaMelech, she herself was royalty. But in a very real sense, Esther does not just descend from that royal house. She atones for it. For where Shaul wavers in his commitment by acceding to the will of the Jewish people not to kill the Amalekite king Agag—Esther is strong. And, perhaps more important, where Shaul sees the end of his kingship and responds to the news with despair, Esther is able feel that deep despair—and yet find hope for the future.

What It Means To Be a Jew

Rabbi Chesky Gewirtz¹

RIETS Class of 2010

The term Jew is really an English form of the Hebrew word *Yehudi*. What does it mean to be a *Yehudi*? Taking a closer look at Megillas Esther and the holiday of Purim will help shed some light on this question.

The first person in Tanach to be described as a *Yehudi* was Mordechai, one of the heroes of the Purim story.

*There was a man, a Yehudi, in Shushan the capital,
whose name was Mordechai ... a Yemini man.*

Esther 2:5

אִישׁ יְהוּדִי הָיָה בְּשׁוּשַׁן הַבִּירָה וְשֵׁמוֹ מֶרְדֵּכַי בֶּן
יְאִיר בֶּן־שִׁמְעִי בֶּן־קִישׁ אִישׁ יְמִינִי.
אסתר ב:ה

The Talmud comments on this pasuk:

*"He is called a Yehudi, implying that he descended from Judah;
he then is called Yemini, implying that he is a Benjaminite!
(which one is it?) ... Rabbi Yochanan responds "He was a
Benjaminite. Yet he was called a Yehudi because he rejected
idolatry, and anyone who rejects idolatry is called a Yehudi."*²

Megilla 12b-13a

קרי ליה יהודי - אלמא מיהודה קאתי,
וקרי ליה ימיני - אלמא מבנימין קאתי
... רבי יוחנן אמר: לעולם מבנימין
קאתי, ואמאי קרי ליה יהודי - על
שום שכפר בעבודה זרה. שכל הכופר
בעבודה זרה נקרא יהודי.
מגילה יב:-יג.

Rabbi Yochanan's answer is difficult to understand. Why is someone who rejects idolatry called a *Yehudi*?

Reading the Targum on the pasuk above (Esther 2:5), may help elucidate this. The Targum defines a *Yehudi* as someone who is:

*A man of kindness who thanks/acknowledges³ and prays
before God for his nation.*

גבר חסידא ומודה ומצלי קדמן אלקא על
עמיה.

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² See Rashi 2:3, who has a different way of answering the apparent contradiction in the verse.

³ The specific definition of *modeh* or *hodaah* will be developed in the ensuing paragraphs.

The Targum seems to provide a lot of concepts to describe what a Jew is! How is all this seen in the one word *Yehudi*?

It seems that the Targum's explanation is working off the *shoresh* (root) of the word *Yehudi*, which is *hodaah*, thanks. The etymology of the word *Yehudi* is clear from Leah's explanation for naming her son Yehudah (Bereishis, 29:35): "הַפַּעַם אוֹדָה אֶת ה' "this time I will thank God."

The *shoresh* of the name Yehudah, and hence the term *Yehudi*, is *hodaah*.

We usually define the word *hodaah* as thanks. However, it seems that the Targum is expanding what *hodaah* connotes. *Hodaah* does not only mean thanks, it also means admission or acknowledgment.⁴ According to the Targum, a Jew/*Yehudi* is someone who acknowledges God and prays to God due to a recognition and admission that one cannot exist without God. This might explain why our rabbis established that we begin our prayers every day with "Modeh Ani," acknowledging God as the source of our lives and thanking Him for another day to live in this world.

Perhaps this is what Rabbi Yochanan means when he tells us that anyone who rejects idolatry, such as Mordechai, is called a *Yehudi*. By denying idol worship and instead acknowledging the existence of God and showing gratitude towards Him, one has earned the right to be called a *Yehudi*, one who recognizes the ultimate Source of existence.

This trait of being a *Yehudi* was not only seen in Mordechai, but in Esther as well. The Mishna in *Pirkei Avos* (6: 6) tells us:

Whoever quotes a teaching in the name of the one who said it, brings salvation to the world. As it says "Esther said to the king in the name of Mordechai... (that Bigtan and Teresh were plotting to kill the king)"

כל האומר דבר בשם אומרו מביא
גאולה לעולם שנאמר ותאמר
אסתר למלך בשם מרדכי.

The Maharal (*Derech Chaim*, 6:6) explains that the Mishna is describing what type of people are worthy of being the messengers of God, the key players for bringing salvation into the world, "the *meivi geulah l'olam*." It is those people who can connect things back to the source; who will quote a teaching in the name of someone else. For if not, explains the Maharal, then there is a possibility that the salvation could be perceived to have occurred without God. There is concern that man will take full credit for the salvation without acknowledging God behind the scenes. Because Mordechai and Esther were people who understood the importance of connecting back to the source, they were worthy of being the messengers of the salvation in the story of Purim. There was no concern that they would forget about God. They were *Yehudim*.⁵

The story of Megillas Esther is a perfect means of teaching us the lessons of being a *Yehudi*. Looking back on the occurrences of the story, we recognize not only God's hand in the process of salvation but also the human initiative that helped facilitate the *geulah*.

⁴ See *Pachad Yitzchak* (R' Yitzchak Hutner), Chanukah, 2:2 for an elaboration on the different meanings of the word *hodaah*.

⁵ See *Matnas Chaim, Moadim*, Pesach (R' Matisyahu Solomon) for an explanation as to why Moshe Rabbeinu, as well, was worthy of bringing salvation.

Perhaps this can explain a strange addition at the end of the song *Shoshanas Yaacov* that we sing after reading the Megillah:

Also Charvona should be remembered for good.

וגם חרבונה זכור לטוב

“Also Charvona,” a man who suggested that Achashverosh hang Haman on the very tree that Haman wanted to use to hang Mordechai, is remembered for good.”⁶

In fact, this special mention is based on the opinion of Rav Pinchas quoted in the Talmud Yerushalmi (*Megillah*, Chapter 3):

Rav Pinchas said, a person must say “Charvona is remembered for good.”

א"ר פנחס צריך לומר חרבונה זכור לטוב.

Why is it necessary to remember and recognize Charvona? Because this is what the holiday of Purim is all about. It is about recognizing that things don't happen on their own and acknowledging not only God, but also those people who make it happen. It is the same *middah* (character trait) of *hakaras hatov* (recognizing the good) that is strengthened each time one recognizes the source of good.

Adopting this attitude of acting as a *Yehudi* and recognizing the source of good, can truly enhance the *simcha* (happiness) of the day of Purim as well. It is well established in the field of psychology that gratitude has been shown to be one of the strongest correlates of emotional wellbeing, and experimental studies have supported the theory that gratitude enhances happiness.⁷

Perhaps it was in the theme of the day of Purim that Mordechai and Esther established the mitzvah of *matanos l'evyonim*, giving to those economically less fortunate. Aside for the obvious benefits experienced by the receiver, this *mitzvah* (commandment) also forces the giver to self-reflect on what one has in his or her life. Giving to the less fortunate allows one to take pause and step outside oneself and to appreciate and recognize the source of one's blessings.

The message of Purim is really reminding us what it means to be a Jew; we can use the day to develop our ability to recognize those people around us who enhance our lives, and of course to recognize God, who is the ultimate Source of it all. Being a Jew, in its essence, on a behavioral level, is to thank, but on an emotional and cognitive level, it is to recognize the source.

⁶ The Talmud, *Megillah* 16b, tells us Charvona was one of Achashverosh's advisors in the plan to kill the Jewish people and therefore knew about the tree.

⁷ Watkins, P. C., Sparrow, A., & Webber, A. C. (2013). “Gratitude: Taking care of business with gratitude.”

Purim Masquerade: Unmasking the Origins

Rabbi Yosef Sharbat¹

RIETS Class of 2012

Purim is our holiday of dressing up and having fun. We all associate the day with images of masks and costumes. Parents and children spend time deciding upon themes around which to base their colorful and creative attire. What is the source for costume wearing and does it pose any halachic issues?

Surprisingly, the practice of wearing masks and costumes on Purim is not mentioned in the Talmud, Midrash or Geonim. The first to record the custom is R. Yehuda ben Eliezer ha-Levi Minz, (c. 1405-1508) *Teshuvot Mahari Minz* no. 15; however, he does not provide the origin or reasons for dressing up in costume.

There are those who find allusions in the custom of masquerading to the Purim story. R. Eliyahu Shapira (1660-1712), *Eliya Rabba*, O.C. 696, assumed that by wearing costumes, we commemorate the moment that Mordecai was dressed in regal clothing and led by Haman through the city. R. Menashe Klein (1924-2011), *Teshuvot Mishne Halachot*, 7:92, says that dressing up is a way to remember the miracle of Purim. When Achashverosh agreed to Haman's plan of Jewish genocide, many Jews dressed as non-Jews. When the plan was reversed and the Jews were permitted to attack their enemies, many of the non-Jews disguised themselves, pretending to be Jewish in order to evade death. This idea is alluded to in Megillat Esther:

... And many of the people of the land professed themselves to be Jewish, for the fear of the Jews had fallen upon them.

Esther 8:17

... וְרַבִּים מֵעַמֵּי הָאָרֶץ מִתְיַהְדִּים כִּי־נִפְלַ
פְּחַד־הַיְהוּדִים עָלֵיהֶם.
אֶסְתֵּר ח:יז

They pretended to convert to Judaism, but didn't actually. Since they hid their identity and masqueraded as Jews, we commemorate this miracle by wearing costumes and hiding our identity. Another reason is given by R. Ephrayim Greenblatt (1932-2014), *Teshuvot Revivot Ephrayim*, 6:386, who assumed that the tradition is based on a halacha found in the *Shulchan Aruch, Orach Chaim*, 694:3, that whoever stretches their hand out on Purim to ask for charity is given money. On Purim we mask our identity so that the poor who go around collecting will not be embarrassed.

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Costumes: Permitted or Prohibited?

While Ashkenazic *poskim* permit one to wear costumes on Purim, many Sephardic *poskim* were against dressing up of any kind on Purim. R. Yosef Messas (1892-1974) and R. Meir Mazuz (b. 1945), *Sansan L'Yair*, no. 12, believed that it is prohibited based on *chukat hagoyim* (following in the ways of the gentiles). They concluded that the origins of this custom stem from the pre-Lent festivity of Carnavale. [R. Yaakov Kanievsky (Steipler Gaon) (1899–1985) *Orchot Rabbeinu*, 3:104, disagreed with this notion and to the contrary said it was the gentiles who got it from the Jews.] R. Messas speculated that the Mahari Minz allowed it only for young children and thus it is completely prohibited for adults. Nonetheless, R. Messas concluded that even young children should not dress up in costume. The notion of wearing costumes on Purim is not mentioned in the works of the famed Sephardic rabbi, R. Yosef Chaim of Baghdad (1832-1909). What is mentioned in his *Ben Ish Chai* (*Parshat Ki Tisa*, no. 22) is that the common practice on Purim is to wear Shabbat clothes. However, R. Ovadia Yosef (1920-2013), *Chazon Ovadia, Purim* p. 199, upholds the tradition to wear costumes on Purim and does not see any reason to prohibit it.

May One Wear Clothes of the Opposite Gender?

At first glance, there seems to be a biblical prohibition against wearing clothes or costumes of the opposite gender, as the Torah states:

A man's attire shall not be on a woman, nor may a man wear a woman's garment because whoever does these [things] is an abomination to the Lord, your God.

Devarim 22:5

לא יִהְיֶה כְּלֵי גֵבֶר עַל אִשָּׁה וְלֹא יִלְבַּשׁ
גֵבֶר שְׂמֹלֶת אִשָּׁה כִּי תוֹעֵבֶת ה' אֱלֹהֶיךָ
כָּל עֲשֵׂה אֵלֶּה.
דְּבָרִים כ"ה

The scope of the prohibition is a matter of debate recorded in the Talmud, *Nazir* 59a. According to the Tanna Kama, one violates the prohibition only if the intent is to blend in and intermingle with the opposite gender. R. Eliezer ben Yaakov says that wearing any article of clothing from the opposite gender violates this prohibition, regardless of intent. The Rambam, *Hilchot Avodah Zara* 12:10, and *Shulchan Aruch, Yoreh Deah* 192:1, follow R. Eliezer ben Yaakov's opinion that wearing women's clothing of any kind is completely prohibited.

The Mahari Mintz (*ibid*) witnessed that on Purim people dressed up as the opposite gender and that the great rabbis of his time did not protest against such behavior:

It was seen by the great and pious people whom I was raised with, who saw their sons, daughters, grooms and brides wearing masks and cross-dressed. Heaven forbid if they violated a prohibition, heaven forbid they would keep quiet and not protest, but they must have been based on evidence to completely permit this...

מה ראו על ככה גדולי' וחסידים עולם שנתגדלתי
אצלם אשר ראו בניהם ובנותיהם חתניהם וכלתיהם
לובשים אותן פרצופים ושינוי בגדיהם מבגדי איש
לבגדי אשה וכן להיפך. ואם היה ח"ו נדנוד עבירה
חלילה וחס להם לשתוק ולא ימחו וכ"ש וק"ו
באיסור לאו אלא ודאי היה להם ראיה וסמך שהיתר
גמור הוא ...

The Mahari Mintz justified the custom by inferring from the *Sefer Mitzvot Gadol* that the violation to cross-dress is intended to prevent licentious behavior. Therefore, cross-dressing on Purim which is done only for amusement and has no illicit intentions would not be prohibited.

In addition, the Mahari Mintz argued that garments of the opposite gender is considered normal clothing on Purim and would not fall under the prohibition of cross-dressing. This idea is based on a comment of Tosfot (cited in *Orchot Chaim, Hilchot Avodah Zarah* no. 6) that discusses the permissibility of a man looking in a mirror. They note that the Yerushalmi prohibits this for being in the category of “wearing women’s clothing,” that is engaging in an activity usually perceived as a women’s activity. They claim that it would be permitted, however, in a city where the norm for men is to look in a mirror as well. Since on Purim people cross-dress to add joy and laughter, it would be considered normal to do so on Purim and therefore permitted.

The Rama (1520-1572) in *Orach Chaim* 696:8, codified the Mahari Mintz’s position as halacha and permits one to cross dress on Purim:

And the custom to wear masks/costumes on Purim, and a man wearing a woman’s dress and a woman wearing man’s clothing, is not prohibited since the intention is for mere joy; [and for this reason] also rabbinic sha’atnez (a prohibited mixture of wool and linen) [is permitted]. And there are those who prohibit this and the custom is to follow the first opinion.

ומה שנהגו ללבוש פרצופים בפורים, וגבר לובש שמלת אשה ואשה כלי גבר, אין איסור בדבר מאחר שאין מכוונין אלא לשמחה בעלמא; וכן בלבישת כלאים דרבנן. וי”א דאסור אבל המנהג כסברא הראשונה.

Despite of the Rama’s leniency, the *Mishna Berura* 696:30, cited the *Pri Migadim, Mishbetzot Zahav* 696:4, that while dressing completely like a member of the opposite gender is prohibited even on Purim, one should not protest against those who put on only a single article of the opposite gender’s clothing since people can still tell the gender of the wearer. But the *Mishna Berura* stated that the *Shlah* and *Kenneset HaGedolah* were against such a compromise and prohibited wearing even one article of clothing.

There was clear opposition to the position of the Mahari Mintz and the Rama. R. Shlomo Efraim Luntschitz (*Kli Yakar*, 1550-1619) was a contemporary of the Rama and lived in Prague. In his book of sermons, *Olelot Efraim*, no. 309, R. Luntschitz decried what he saw as a faulty practice of men dressing as women and questioned the source for such a practice. [Presumably either he did not see the Mahari Mintz or he disagreed with him and chose not to address it.] R. Eliezer ben Samuel of Metz (12th c.), *Sefer Yereim* n. 96, prohibited dressing like the opposite gender even if done temporarily and for entertainment purposes. R. Dovid ha-Levi Segal (1586-1667), *Turei Zahav Yoreh Deah* 182:4, after citing the Rama’s lenient view quotes his father-in-law, R. Yoel Sirkis (1561-1640) the *Bayit Chadash* who was against the practice of cross-dressing on Purim. The *Taz* writes:

And my father-in-law [Bach] wrote that it is prohibited ... and one who listens [to the Bach] will be blessed because many problems are created G-d forbid when one cannot differentiate between man and woman.

ומורי וחמי ז”ל כתב שיש לאסור את זה... והשומע לאסור תבוא עליו ברכה כי יש הרבה מכשולות חס ושלום מזה כשהולכין ביחד בלי היכר איש או אשה

The *Bayit Chadash, Yoreh Deah* 182, went so far as to say that had the Mahari Mintz seen R. Eliezer Metz’s strong opposition to any form of cross-dressing then he would have also prohibited it, even if worn on Purim.

R. Ovadia Yosef, *Teshuvot Yechave Da'at* 5:50 was adamantly opposed to wearing clothes of the opposite gender and maintained that the prohibition cannot be ignored even in order to bring more joy to the Purim celebration. He noted that the Chida, *Shiyurei Beracha*, Y.D. 182:3, cited a *Teshuvot ha-Rambam* who prohibited a common practice in Egypt to cross dress at weddings for amusement and laughter. Even though it was done to increase joy at a wedding, the Rambam succeeded in abolishing it completely. Thus, R. Ovadia Yosef concluded that this practice should not be brought back even if it will add joy to the Purim festivities.

R. Ovadia Yosef (ibid.) was also strongly opposed to children wearing clothes of the opposite gender as it sends a bad message to the children. R. Ovadia noted that both the Rambam, *Hilchot Ma'achalot Assurot*, 17:27, and the *Shulchan Aruch, Orach Chaim* 343, wrote that as part of *chinuch*, a parent is prohibited to give a young child non-kosher food even if the food is only rabbinically prohibited. According to R. Ovadia Yosef, cross-dressing is prohibited for adults and therefore is also extended to children of any age. However, R. Yaakov Kanievsky in *Orchot Rabbeinu* volume 3 pg. 60 and R. Moshe Feinstein (1895-1986), *Iggrot Moshe* E.H. 4:62:4, allowed young children who have not reached the age of *chinuch* to wear clothing of the opposite gender.

Conclusions

The custom of wearing masks and costumes and people dressing up as the opposite gender is first recorded in the 15th century. The Talmud Yerushalmi, *Baba Metzia* 7:1, states “*minhag mevatel halacha*,” that a *minhag* (custom) overrides halacha. R. Ovadia Yosef (ibid) noted that this statement only applies to a *minhag* that has consistent rabbinic approval throughout every generation. As noted, despite the Rama's leniency, rabbis throughout the centuries were reluctant to approve this *minhag* and override the prohibition of cross-dressing. While Ashkenazic poskim have allowed costumes, few permitted cross-dressing for adults and even for children who have reached the age of *chinuch*. Even if one relies on Rav Ovadia Yosef's conclusion that costumes are permitted for Sephardim, it is clearly prohibited for Sephardim to cross-dress, whether they are adults or children.

Taanit Esther: Giving Voice to Silenced Women

Rabbi Jeremy Stern¹

RIETS Class of 2010

Megillat Esther begins with a demonstration of the derogatory attitude toward women that was pervasive in Persian society. In the eyes of Achashverosh and the people in his dominion, the worth of a woman was measured by her physical beauty, and nothing more. Women were granted neither independence nor a voice. Like the old saying about children, women in Persia were meant to be seen, not heard.

We see this approach towards women modeled by Achashverosh himself. He summons Vashti to display her beauty before the male dignitaries. She refuses, stirring the wrath of Achashverosh, who not only removes her from the throne, but also declares that every man assert complete authority in his household lest Vashti's actions set a precedent of "disobedience" for other wives in the kingdom.

Esther—passive, voiceless—was raised as a product of this society. The Gemara states:

Why is she called Esther? Because she hides (masteret) her words.

Megillah 13a

ולמה נקראת שמה אסתר - על שם שהיתה מסתרת דבריה.
מגילה יג.

The passive language of ותלקח אסתר, Esther was taken, appears twice (Esther 2:8 and 2:16): without any initiative of her own *she is taken* into the palace of the king to compete in the tryouts for queen, and she is once again completely passive as *she is taken* by Achashverosh as a wife. Esther remains docile and silent.

Esther did not discuss her nationality or people, as Mordechai commanded her, and she acted according to the word of Mordechai as she did when she was raised by him.

Esther 2:20

אין אסתר מגדת מולדתה ואת עמה כאשר צוה עליה מרדכי, ואת מאמר מרדכי אסתר עשה כאשר היתה באמנה אתו.
אסתר ב:כ

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Not only does she not speak, but Mordechai instructs her to keep quiet about her nationality. Furthermore, she does not act or express herself independently; rather, she follows strictly “the word” of Mordechai.

Thus, it comes as no surprise that, in the first instance in the Megillah in which Esther speaks, her words are not recorded and are not even her own:

The matter became known to Mordechai, and he told it to Queen Esther; and Esther told the king in the name of Mordechai.

Esther 2:22

ויודע הדבר למרדכי ויגד לאסתר
המלכה ותאמר אסתר למלך בשם
מרדכי.
אסתר ב:כב

As queen, the first utterance by Esther that the Megillah mentions is her relaying to Achashverosh what Mordechai told her to say; namely, that Mordechai overheard Bigtan and Teresh plotting to kill the king. The Megillah implies that what Esther actually said is irrelevant, since her words are not recorded. All we know is that she conveyed Mordechai’s message.

The story continues and Haman begins to plot against Mordechai and the Jews, but Esther remains silent. Haman convinces Achashverosh to mandate genocide against the Jewish People, and she says nothing. Esther’s first recorded words—what she actually says—appear once Mordechai asks her to intervene on behalf of her people. Her response: I can’t. Finally, a dialogue begins. In his haunting rebuke of her silence, Mordechai tells her that the Jewish People will be saved:

Because if you will indeed be silent at this time, then relief and deliverance will come from elsewhere, and you and your father’s house will perish and who knows if you became royalty for a moment like this?

Esther 4:14

כי אם החרש תחרישי בעת הזאת רוח והצלה
יעמוד ליהודים ממקום אחר ואת ובית אביך
תאבדו ומי יודע אם לעת כזאת הגעת למלכות.
אסתר ד:יד

The question was not whether or not the Jewish People will be saved; the question was: will Esther play a role? Will she remain silent—*hacharesh tacharishi*—or will she raise her voice in protest of the impending genocide?

This, of course, brings us to the turning point in the Megillah. Esther finally springs into action. She instructs Mordechai – *she* instructs *him!* – to gather the Jews of Shushan and fast for her well-being:

Go, gather all the Jews in Shushan and fast for me

...

Esther 4:16

לך כנוס את כל היהודים הנמצאים בשושן וצומו עלי
...
אסתר ד:טז

The Malbim notes that this fast was not necessary for the salvation of the Jewish People. Mordechai already assured her that the Jews would be saved, whether through Esther’s intervention or by some other means. The only question that remained in Esther’s mind was whether or not she would survive when taking initiative to prevent the mass murder of her people. Thus, she instructs Mordechai, *tzumu alai*, fast **for me**, for my own safety and well-

being. Mordechai follows Esther's lead—a completely different approach than before—and fulfills her instructions.

The call for a community-wide fast reflects a cultural shift, which contrasts with the prevailing attitude toward women with which the Megillah began. Esther is no longer defined as an object, a thing of physical beauty. She develops a voice and individuality; her words and actions mean something and make a difference. She is not passively taken into Achashverosh's chamber, but actively invites herself in. She is not simply spoken to, but speaks herself.

Most significantly, what empowers Esther, what provides her with the strength and fortitude to take a stand, is the knowledge that the Jewish community stands with her and is concerned for her welfare. In contrast to the debasement and objectification of women by Persian society, the Jews of Shushan fast for Esther as their leader, their spokesperson, when she takes initiative and risks her life for the Jewish community. Furthermore, their solidarity—*lekh kenos et kol haYehudim*, go, gather all the Jews—is key to her success, since the Jewish community must stand together in rejection of the derogatory attitude toward women which was pervasive in Persian society.

Esther chose not to remain silent, which is a lesson for us whenever we face threats and challenges. The Gemara in *Taanit* (11a) exhorts us to “pain ourselves” with the pain of the Jewish community. In the famous battle between the Jewish People and Amalek shortly after the Exodus from Egypt, in which Moshe raised his hands to ensure victory as the Jewish warriors kept their eyes heavenward, the Gemara notes that Moshe made a point to cause himself discomfort. While Moshe could have sat on a cushioned chair or pillow while raising his hands all day long, he chose to sit on a hard rock, because he wanted to feel and identify with the pain of the Jews who were engaged in serious battle. The Gemara concludes:

One who pains himself with the community will merit to join in the community's consolation.

כל המצער עצמו עם הציבור זוכה ורואה בנחמת ציבור.

However, the Gemara explains that, regarding one who is otherwise righteous but ignores the suffering of the Jewish People and continues eating and drinking without regard to their pain, such a person will “perish.” So too, if we apply the teaching of the Gemara to the Megillah, had Esther remained silent and complacent in the royal palace, she and her father's house would have perished, just as Mordechai warned. Standing idly by is simply not an option.

Taanit Esther has been recognized as International Agunah Day by several *agunah* advocacy organizations for the past two decades. *Agunot*, as victims of domestic abuse, are denied by their estranged husbands not just a *get*, but their independence and their voice. Not only is a husband's refusal to issue a *get* a violation of halakha, but, as a pattern of controlling behavior, *get* refusal is emotionally, psychologically, socially and spiritually abusive. Victims of domestic abuse are denied their self-worth and their ability to express themselves independently of their controlling spouses. *Agunot* are undoubtedly such victims.

Taanit Esther is designated as International Agunah Day because, like Esther's plea for support from the Jews of Shushan, we turn to the Jewish community to give voice to *agunot*, to assert their right to freedom, and to rally in solidarity with them through their suffering. In his famous

institution of communal sanctions, Rabbeinu Tam decreed that the Jewish community should fight *get* refusal by shunning a recalcitrant husband and applying social pressure against him (see *Sefer Hayashar, Teshuvot* no. 24). The Jewish community is charged with standing shoulder to shoulder—*lekh kenos et kol haYehudim*, go, gather all the Jews—to demonstrate that we will not tolerate this abuse within our midst.

The salvation of the Jewish People, both in the Megillah and for *agunot* throughout the world who suffer in agonizing limbo, is ultimately in the hands of G-d. The Jews of Shushan fasted for Esther, and we fast on Taanit Esther, to demonstrate our unity and concern for the suffering of fellow Jews and to invoke Divine mercy. There could be no better date on the Jewish calendar than Taanit Esther to reflect on this message of our responsibility to take action on behalf of Jewish women who are abused and silenced, just as the Jews of Shushan did for Esther.

May G-d soon bring us all מאפילה לאורה ומשעבוד לגאולה, from darkness to light, and from oppression to salvation.



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