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## Judaism and Democracy

“Judaism” and “democracy,” words with which we are familiar, denote ideals to which we are committed. Are these ideals at odds or are they consistent with one another? Must they remain separate or can they be combined harmoniously?

Let me begin with a *midrashic* observation which may serve as an introduction to our theme. When the patriarch Jacob blessed his grandchildren, he said to them, *בך יברך ישראל לאמר ישימך אלקים כאפרים וכמנשה* (Gen. 48:20). In future generations, the members of the Jewish community will bless their children by saying, “May God make you like Ephraim and Menasheh.” Why does Jacob select Ephraim and Menasheh to provide the paradigms or models for future generations? Why not Reuven and Shimon, or Levi and Yehudah? The latter two particularly would have been more appropriate for Levi was the progenitor of the Priests and Levites and Yehudah was the ancestor of the sovereigns of Israel.

The answer is illuminating. Jacob foresaw with prophetic vision that in days to come his descendants would find themselves distributed among many other peoples who adhere to a variety of faiths, religions, and ideologies. They would be living in societies that are today identified as pluralistic. Jacob was concerned that his progeny should be able to preserve their Jewish identity and commitment notwithstanding the negative influences emanating from alien cultures by which they would be surrounded. Ephraim and Menasheh, growing up as they did in Egypt, were exposed to such spiritually hostile environments and yet retained their allegiance. Reuven and Shimon or Levi and Yehudah, on the other hand, lived in an isolated ghetto, a kind of a “Squartown” that belonged exclusively to Jacob’s family. Hence the patriarch considered his grand-

sons, Ephraim and Menasheh, a better model for future Jewish experience than were his sons.

Throughout Jewish history, the problem of erosion through social interaction was ever present. Whenever Jews were exposed to those whose way of life was not compatible with Judaism, that is, whenever they lived in a pluralistic society, the preservation of Jewish identity and commitment became problematic. The problem is even more severe in the context of a democracy that is not merely *pluralistic* but *open*. An open society adds another dimension to the problem of Jewish self-preservation because it also emphasizes the importance of individual decision. It encourages every citizen to choose for himself out of his own existential situation, taking into account his personal impulses, inclinations, ideas, visions, and what his commitments should be. It thereby encourages deviation from accepted and received social patterns of conduct. It exacerbates the tension that a citizen will experience between his being simultaneously a Jew and an American. The relationship between Judaism and democracy therefore needs to be clarified.

The first concept that requires attention is that of freedom. It is common knowledge that Judaism values freedom and so do those who live in a democratic society. *Pesah* is the festival of freedom; we refer to it as *zeman herutenu*, the season during which we celebrate the acquisition of freedom. Yet there are some very important distinctions to be drawn between the Jewish concept of freedom and its American or democratic counterpart.

What are these differences? In the first place, the American view is that freedom is a right granted by decree to each citizen of the United States and affirmed in the Declaration of Independence. That document states, in a celebrated passage:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.

Liberty, by virtue of this declaration, is granted as a right to each American citizen.

By contrast, there is no declaration of rights connected with the acquisition of freedom on the part of the Jewish people. For Judaism, freedom was not arrived at by *decree*; it was rather the result of an *event*. As a consequence of a historic transformation known as the Exodus, the people acquired the freedom which they lacked heretofore and found themselves with a new capacity to determine the course of their lives. Hence, for the Jewish people, freedom is associated with a transforming event rather than a congressional decree.

This distinction has some very important implications. In the context of “democracy,” freedom is granted to every individual, to each person. In the words of the Declaration of Independence, “*all men* are created equal.” It is otherwise in the case of Judaism, according to which, freedom was achieved, not by each person, but by the *people of Israel* as a whole. It was primarily the *nation* that achieved liberty. Of course, one can point to the well-known verse, וקראתם דרור בארץ לכל יושביה (Lev. 25:10), “Thou shalt proclaim liberty throughout the land to all the inhabitants thereof,” but this passage which appears to grant liberty to each citizen is often misinterpreted. It was a result of such a misunderstanding that some Americans decided that this verse should be inscribed on the Liberty Bell in Philadelphia. That declaration does not assert the right of each person to do as he wishes. Rather, in discussing the laws of *yovel* or the Year of Jubilee, the Torah prescribes that during that year all patrimony which was sold will revert back to its original owner and all indentured servants would be relieved of their status, i.e., they would be granted freedom. This arrangement has little to do with the kind of freedom that is asserted and proclaimed in the context of American democracy. Freedom, in its Jewish sense, is applicable primarily to the *people*, not to each individual.

Secondly, and even more significantly, in a “democracy,” freedom is a right; for the Jewish people, it is a power. Again I return to the passage from the Declaration of Independence cited above which grants to each individual American the *right* of liberty. No such right was granted to the Jewish people. What they did acquire when they were liberated from bondage was a power which they did not have before. Freedom for Jews is not defined as the *right* to do what we *wish*, but the *power* to do what we *should*. Hence, it is not surprising that forty-nine days after leaving Egypt, the Jewish people found itself at the mountain of Sinai, committing itself to live by the *‘asseret ha-dibrot*. There is a well-known rabbinic statement, חרות על הלוחות אל תקרי חרות אלא חרות שאין לך בן חורין אלא מי שמוסק בתורה (Avot VI:2). This means that ultimately freedom for the Jew lies in self-determined use of his power to observe the Commandments and to live in conformity with Torah.

Let me add that it is accordingly appropriate to regard the State of Israel as an expansion of the freedom of the Jew. If freedom were defined by Judaism in terms of rights, then no more rights are available to Jews in Israel than in America. Both are democratic societies and both respect the rights of individuals. But if freedom means power, then we can cogently argue that Jews in Israel have far more power, as individuals and as a nation, than do Jews in America. The State of Israel is able to act in ways American Jewry cannot. For example, Israel has the power to help people who are held as hostages, e.g., in Entebbe, or who are virtual slaves, e.g.,

in Ethiopia, to escape from their condition of slavery. Hence, Israel represents an expansion of freedom for the Jew.

The third difference that deserves attention is that a democracy emphasizes “rights,” while Judaism stresses “obligations.” The ultimate goal or primary purpose of American democracy is to confer rights on its citizens. In fact, the American Declaration of Independence speaks not merely of “rights” but “inalienable rights,” rights that cannot be transferred, bartered or taken away. These “rights” belong to the individual under any and all circumstances and are enjoyed unconditionally. What are these “inalienable rights?” In the words of the Declaration of Independence, they are “Life, Liberty, and the Pursuit of Happiness.” It is otherwise with Judaism, where the focus is not on rights, but on obligations. This is the essential meaning of the claim that Judaism is “a covenantal religion.” Jews are understood to have made a commitment that is not contractual, but covenantal. And, because the commitment is covenantal, our obligations are as “inalienable” as the rights granted in a democratic society.

What is the difference between a covenant and a contract? A contract is hypothetical and conditional. In agreeing to a contract, we express our readiness to assume obligations on *condition* that the other party to the contract also assumes obligations toward us. If he refrains from fulfilling his obligations to us, then we are free of our commitments to him. Indeed, many philosophers have based their concept of democracy on the notion of the contract, that is, the “social contract.” Citizens in a society enter into a contract in order to gain a certain number of privileges. It is a contractual, that is, a conditional arrangement.

The Jewish approach is radically different. It is covenantal rather than contractual. The idea of the covenant is that we enter into a relationship in which we assume obligations unconditionally. The unconditional nature of the covenant is reflected in Abraham’s question to God at the *Berit ben ha-Betarim*, במה אדע כי אירשנה (Gen. 15:8), “How do I know that I will inherit the Holy Land?” The Ramban wonders why Abraham asked this question when God had already promised the land to him. He answers that Abraham was afraid, שמא יגרום הזוטא—perhaps, as a result of possible transgressions committed by his descendants, God will be free of His promise and will find it unnecessary to fulfill it. Abraham therefore sought assurance that God’s commitment to his descendants would be unconditional, i.e., covenantal rather than contractual. He wanted to be confident that, whether the Jewish people would be deserving or not, his descendants would inherit the Land of Israel. And, in fact, he received that assurance.

Now, if we read the passage dealing with this covenant closely, we will notice that at that event, Abraham made no commitment to God. That episode describes an unconditional, one-sided covenantal commitment

by God to the Jewish people, without the Jews undertaking any reciprocal commitment. A covenantal commitment on the part of the Jews to God was made only subsequently, at Har Sinai, that is, the Sinaitic covenant, through which the people of Israel obligated itself to unconditional acceptance of obligations. On that occasion God made no reciprocal commitment to the Jewish people.

These two events of the *Berit ben ha-Betarim* and the covenant at Har Sinai are independent of each other. Nowhere is God's promise to the Jewish people that it would inherit the Holy Land made conditional upon the observance by Jews of the *mizvot* and nowhere is the Jewish people's observance of *mizvot* made conditional on God's giving them the land. These are not two reciprocal aspects of a single covenant; rather, they are two separate and independent covenants entered into at different times. In one, God makes an unconditional commitment to Abraham and his descendants. In the other, the Jewish people make an unconditional commitment to God. The two were and remain independent of each other.

As a result, the obligations assumed in a covenantal commitment are "inalienable" in the very same sense in which we speak of "inalienable rights," i.e., they cannot be rejected, repudiated, transferred or bartered. We are committed to them for all the days of our lives and throughout the course of Jewish history. This then is a fundamental distinction between Judaism and democracy. Judaism is covenantal, i.e., an obligation-oriented society; and democracy is contractual, i.e., a rights-oriented society.

It is quite true, as philosophers have noted, that obligations and rights are correlative notions.<sup>1</sup> Where there are obligations, there are rights; where they are rights, there are obligations. For example, if I have a right to my property, then you have an obligation not to trespass upon it. Conversely, if I have an obligation to support my wife, then my wife has the right to be supported. Nevertheless, there is a fundamental difference between beginning with rights and deducing obligations from them, as in a (democratic) contractual, rights-oriented society, and beginning with obligations and deriving rights from them, as in a (Jewish) covenantal, obligation-oriented society. The difference lies in the relative degrees of emphasis on the notion of law. When one's focus is on obligation, as it is in Judaism, law becomes central to one's way of life.

In classical political theory, there are two concepts of law. One is that the primary purpose of law is to prevent one person from interfering with another. This is sometimes affirmed strikingly in the declaration that "my rights end where somebody else's nose begins." This notion is championed by John Stuart Mill who argues that government governs best when it governs least. Since the purpose of law is to make it possible for people to live together with a maximum of freedom and a minimum of

interference, the fewer the laws the better. The second view regards law as that instrument which helps mold the quality of human life in society. It seeks the enactment of laws that will enhance the life of every citizen, for example, laws that will assure education and sustenance. In the first view, it is not the business of government to guarantee that each person will live at a satisfactory academic and economic level; in the latter view, this is a legitimate political concern.

It is evident that these two conceptions of law are embodied in the two types of arrangements we are discussing. American democracy, particularly of the nineteenth century, maintained that the purpose of law was merely to assure that citizens would be able to exercise their rights without interference. This contrasts with Judaism, according to which the purpose of law is to shape and fashion the quality of life. From the nineteenth century American standpoint, the fewer the laws the better; from the Jewish standpoint, the more laws the better. In a democratic society, law as a discipline is of interest only to professionals; in a Jewish society, it is of interest to everyone, because its aim is to mold character and personality and to serve as a blueprint for a relationship with God.

Let me further exhibit this distinction between the notions of law in Judaism and in democratic societies. Democracy has what might be called an antinomian approach to law. In a democratic society, law is not the most important thing in the world; it is almost a necessary evil. Recent years have seen the development in America and England of what is sometimes referred to as “the new morality” which essentially rejects the primacy of a moral code. In a book entitled *Situation Ethics*, Joseph Fletcher argues that moral rules as such are only peripherally relevant. What is important in determining what is morally right or wrong in any context is not so much the objective rule or law, but rather the unique and specific features of the particular situation.<sup>2</sup> It appears that one of the reasons American thinkers question the validity of applying moral rules to concrete situations is the antinomian approach which is endemic to American democracy.

This needs to be contrasted with the Jewish view. James Michener, in his best seller entitled *The Source*, describes the differences between Judaism and Christianity. He suggests a novel interpretation of a classic distinction between these two religions. He directs attention to Judaism’s “this-worldly” as distinguished from Christianity’s “other-worldly” character. Normally, this difference has been taken to mean that Christianity is essentially ascetic and frowns on physical enjoyment while Judaism does not. To some extent this is true. But Michener gives this distinction another, more fundamental meaning. He notes that Christianity is preoccupied with the transcendental world whereas Judaism is concerned with shaping the world currently existing. He argues that, unlike Christianity, Judaism emphasizes the law, and the law focuses

primarily not on what one is to *believe* about some other transnatural world, but how to conduct oneself in the world of the here and now. The law governs our relationships with our fellow men and with God, directing us how to build a better society and live a better life in the present.

There is yet another concept, that of individualism, which also receives different interpretations in Judaism and democracy. In Karl Popper's book entitled *The Open Society and Its Enemies*, he discusses the "open" character of American society.<sup>3</sup> He defines an "open society" as one which grants each citizen the right to make personal decisions. One such decision which democracy allows is that of breaking the law. This is the right of civil disobedience. This right should not, of course, be confused with the right to violence. No one, according to democratic principle, has such a right except in extraordinary circumstances where revolution is justified. In normal conditions, one citizen does not have the right to attack another citizen. However, each citizen has a right to engage in civil disobedience, i.e., to behave in a manner contrary to law. Of course, punishment is expected if apprehended. But the right to violate the law belongs to all.

In the context of Judaism, of course, no such right exists. Not only may one not violate biblical precepts, but even rabbinic interpretations of the law may not be transgressed. This conclusion is based on the verse, לא תסור מן הדבר אשר יגידו לך ימין ושמאל (Deut. 17:11). Furthermore, if a great scholar were to differ with a decision of the *Bet Din ha-Gadol* in Jerusalem, he would have the right to *teach* his point of view but would not be permitted to *act* in accordance with it nor instruct others to do so. In other words, while there is extensive freedom of discussion, there is limited freedom of action. It is thus clear that the freedom of action available in a democracy is not granted to the same extent by Judaism. Even freedom of thought is not unlimited.<sup>4</sup>

We ought also to consider the notion of equality. American democracy is committed to the principle that "All men are created equal." To the best of my knowledge, no such concept is ever enunciated in the Torah or in rabbinic thought. Jewish tradition stresses not the *equality* of all human beings but rather the infinite *value* of life of every human being, which is a more far-reaching concept.

Let me illustrate this mathematically. In an article by Bertrand Russell on the nature of mathematics, he defined the concept of "infinity" as that number in which the part is equal to the whole. For example, there are as many natural numbers in the infinite number series as there are even numbers. The sequence 1, 2, 3, 4, 5, 6, etc. to infinity has the identical

number of terms as the sequence 2, 4, 6, 8, etc. to infinity. All one needs do to prove this is to set up a one-to-one correspondence between the numbers in the two series, with 1 of the natural number series corresponding to 2 of the even number series, 2 of the natural number series corresponding to 4 of the even number series, 3 corresponding to 6, and so on. Because there is no last number in either of these series, the one-to-one correspondence will hold. The concept of the infinite is therefore defined by Russell as that wherein the part (e.g., the sequence of *even* numbers) is equal to the whole (e.g., the sequence of *all* numbers).<sup>5</sup>

Interestingly enough, I believe this is the way *halakhah* defines the concept of the infinite value of every human being. In a democracy, one can argue that since all men are equal, one man is equal to another. But one man is not the equal of two other men; two men, presumably, have twice the value of one man. But in the context of Judaism, the value of one life (i.e., the part) is equal to the value of the lives of all those living in an entire society (i.e., the whole). This notion is explicitly found in the Talmud, לפיכך נברא האדם יחידי ללמדך . . . שכל המקיים נפש אחת (מישראל), מעלה עליו הכתוב כאלו קיים עולם מלא (Sanhedrin 37a). He who saves one (Jewish) soul, is credited with saving an entire world.

This notion is also found in another halakhic context. According to Jewish law, if someone threatens to destroy an entire city unless one person is handed over to be killed, the members of the city may not surrender that individual, but all must submit to death.<sup>6</sup> In other words, the life of that individual is equal in value to the lives of all those living in the city. Again, the part is equal to the whole.

Nevertheless, while the Torah affirms equality, at least in this sense, it also allows for inequality. One distinction between the two concepts of *din* (justice) and *kedushah* (sanctity) in halakhah is that *din* is the basis for “equality” while *kedushah* is the source of inequality. For example, the Rambam states (*Hil. Gezeleh ve-Avedah* V:13–14) that any law enacted by society to be applied to only a single individual or only a few individuals is not a just law. For a law to be just, it must be equally applicable to all. On the other hand, the concept of *kedushah* implies inequality. The kohen, for example, has more *kedushah* than the Levi, who in turn has more than the Israelite.

To summarize, we have compared Judaism and democracy from four different vantage points. The first is freedom where we have shown that, in the Jewish perspective, freedom resulted from a transforming historic event and was achieved by the Jewish people as a whole; it was not an acquisition by individuals. In the context of democracy, however, freedom is granted to each member of society. Second, in democracy, freedom is defined in terms of the right of each person to do as he pleases;



in Judaism, freedom is a power acquired by a person to do as he should. Accordingly, the emphasis in a democracy is on rights and in Judaism on obligations. Further, Judaism does not allow individual decision to violate law as does democracy. Finally, the notion of equality is affirmed by Judaism although in a different sense than by democracy and, according to the Jewish perspective, coexists with the notion of inequality.

Given all these differences, must one conclude that Judaism and democracy are hopelessly at odds? Is there no way to accommodate the two? Is it impossible to speak of “Torah u-Madda,” if democracy is to be included under the notion of *madda*? Must they inevitably stand in contradiction? The answer is “no,” and for the following reason. Two principles may be construed as standing in contradiction if one denies what the other asserts in the *same* frame of reference. Let me illustrate. I am delivering this lecture standing in the room before you at Yeshiva University. Am I in motion or at rest? The obvious answer is that if the frame of reference with respect to which the question is asked is the floor of this room, then I am at rest. If, however, the frame of reference is the sun, then I am in motion for I share in the motion of the earth around the sun. The two statements “I am at rest” and “I am in motion” appear to contradict one another but only because it is assumed that they are made with respect to the same frame of reference. Analogously, a religiously minded Jew lives in two frames of reference. One is called Torah; the other *madda*. Two statements made in the context of these two different frames of reference, which appear to be inconsistent, will in most instances remain coherent, especially when the adoption of the point of view of *madda*—and in this essay the component of *madda* to which attention was directed is democracy—is not itself objectionable to Torah.

The simultaneous adoption of two different frames of reference requires a posture of rationality—but this has never been too much of a burden for the Jew.

#### NOTES

1. See R. M. Chisholm, *Theory of Knowledge* (Englewood Cliffs, N.J., 1966), 11.
2. See J. Fletcher, *Situation Ethics* (Philadelphia, 1966).
3. See K. R. Popper, *The Open Society and Its Enemies* (London, 1945), I, 152.
4. [For the notion of civil disobedience in Jewish thought, see Samuel G. Broude, “Civil Disobedience and the Jewish Tradition” in Daniel J. Silver, ed., *Judaism and Ethics* (Ktav Publishing House, 1970), 229–39; Milton R. Konvitz, “Conscience and Civil Disobedience in the Jewish Tradition,” *Judaism and Human Rights* (New York, 1972), 161–78; reprinted in Menachem M. Kellner, ed., *Contemporary Jewish Ethics* (New York, 1978), 239–54.—ED]
5. See B. Russell, *Mysticism and Logic* (Garden City, n.d.), 80 ff.
6. See Talmud Yerushalmi, *Terumot*, end of Chapter VIII.