

## ELECTIONS

DEDICATED BY SHAYNA AND BRAD SOMER IN HONOR OF THEIR CHILDREN: SHOSHANA, SHMUEL, AKIVA, EZRA AND RAFI

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*R. Moshe Feinstein spent the first forty-one years of his life living in Eastern Europe under autocratic regimes. When he came to the United States and was granted the right to vote, he cherished that opportunity and saw it as a civic duty.<sup>1</sup> In 1984, he wrote that Jews, many of whom came to the U.S. to escape oppression, should appreciate the gift of freedom that the country affords and therefore, participate in the election process which guards those freedoms.<sup>2</sup>*

The cornerstone of democracy is the ability of the people to elect their leaders. Democratic elections empower each voter and elected official with great responsibility. The underlying concepts and considerations relating to democratic elections have implications on many levels, whether it is the election of the president, local government officials or even a student council leader. Let's look at some questions associated with democratic elections:

### QUESTION ONE

Is democracy a concept that the Torah endorses? Throughout Tanach, we find that the leader of the Jewish people was a prophet, a judge or a king who was not democratically elected. Doesn't this imply that monarchy is the ideal form of government?

### QUESTION TWO

Do voters have specific responsibilities? Is it right to vote for someone you like but whom you don't think is best for the position? In selecting a candidate, is it ethical to put one's own personal interests ahead of the interests of the entire constituency?

### QUESTION THREE

What are the responsibilities of elected leaders? May they show favor to those who support their campaign? How should they address a communal decision that affects them personally?

## Let's Examine the Sources

### The Torah's Concept of Democracy

The Torah seems to say that the ideal leader of the Jewish people is a king:

*When you come to the land which the Lord your God has given you and you will inherit it and settle in it and you will say "I will appoint for myself a king like all of the other nations that surround me."*

*Appoint yourself a king whom the Lord your God will choose. The king shall be appointed from among your brethren. Do not appoint someone from another nation who is not your brother.*

**Devarim 17:14-15**

כִּי תָבֹא אֶל הָאָרֶץ אֲשֶׁר ה' אֱלֹהֶיךָ נָתַן לְךָ וִירָשָׁתָהּ וַיִּשְׁבְּתָהּ בָּהּ וְאָמַרְתָּ אֲשִׁימָה עָלַי מֶלֶךְ כְּכָל הַגּוֹיִם אֲשֶׁר סְבִיבֹתַי. שׁוּם תַּשִּׁים עָלֶיךָ מֶלֶךְ אֲשֶׁר יִבְחַר ה' אֱלֹהֶיךָ בּוֹ מִקִּרְבֵּי אַחֶיךָ תַּשִּׁים עָלֶיךָ מֶלֶךְ לֹא תֹכַל לָתֵת עָלֶיךָ אִישׁ נֹכְרִי אֲשֶׁר לֹא אַחֶיךָ הוּא.  
דְּבָרִים י"ז:יד-טו

## Questions for the Table:

- 1) According to the verses, who is supposed to choose the king?
- 2) Is the Torah commanding the appointment of a king or is the Torah giving the Jewish people the option of appointing a king if they want one? Can they choose democracy instead of a monarchy?

R. Naftali T.Y. Berlin (Netziv) has an important insight about this mitzvah.

*If [there is a commandment to appoint a king], why does it state "And you will say etc." [implying that it is a matter of choice]? It seems that it is because the governance of a nation can be through a king or through the people and its elected leaders. There are some nations that cannot tolerate a monarchy and there are other nations that without a king are like a ship without a captain. [Appointing a king] cannot be imposed as a positive commandment [and can only be through the choice of the people].*

**Ha'Amek Davar, Devarim 17:14**

וא"כ למאי כתיב ואמרת וגו' ונראה דמשום דהנהגת המדינה משתנה אם מתנהג על פי דעת מלוכה או על פי דעת העם ונבחריהם ויש מדינה שאינה יכולה לסבול דעת מלוכה. ויש מדינה שבלא מלך הרי היא כספינה בלי קברניט. ודבר זה אי אפשר לעשות על פי הכרח מצות עשה. **העמק דבר, דברים יז:יד**

R. Avraham I. Kook also discusses how democracy plays a role in Jewish leadership:

*It seems that when there is no king, being that the statutes of the king also relate to the general welfare of the nation, the rights of these statutes revert to the nation as a whole.*

**Mishpat Kohan 144:14**

נראים הדברים, שבזמן שאין מלך, כיון שמשפטי המלוכה הם גם כן מה שנוגע למצב הכללי של האומה, חוזרים אלה הזכויות של המשפטים ליד האומה בכללה. **משפט כהן קמד:יד**

## Questions for the Table:

- 1) Do you think Netziv and R. Kook are presenting the same idea? Why or why not?
- 2) According to Netziv, there are situations where democracy is not appropriate. Can you think of situations in the classroom, the home or the synagogue when democracy is appropriate and when it is not?

## The Responsibility of the Voters

During various times throughout Jewish history, Jewish communities in Europe had a "kehillah" system responsible for its own governance. The kehillah was usually run by a body called the *zayin tuvei ha'ir* (seven leaders of the city) that collected taxes, instituted laws and was responsible for the general welfare of the Jews living in that community. Maharam of Rutenburg describes how the leaders were chosen:

*If there is a dispute among your community and they can't unanimously decide who the leaders should be, some say one group and some say another group ... it seems to me that one should gather all of the people who pay taxes and they should accept upon themselves to make a decision for the sake of heaven and in the best interests of the city and the majority should be followed, whether to choose leaders or to choose the cantor, etc.*

**Teshuvot Maimoniot to Sefer Kinyan no. 27**

אם יש קטטה בין קהלכם ואינם יכולין להשוות דעתם לברר ראשים בהסכמת כולם זה אומר בכה וזה אומר בכה ... נראה בעיני שיש להושיב כל בעלי בתים שנותנין מס ויקבלו עליהם ברכה שכל אחד יאמר דעתו לשם שמים ולתקנת העיר וילכו אחר הרוב הן לברור ראשים הן להעמיד חזנים ... **תשובות מיימוניות לספר קנין ס' כז**

Maharam stresses the importance that every voter vote altruistically, “for the sake heaven,” with the best interests of the community in mind. R. Avraham Yeshaya Karelitz takes this idea one step further.

*If the seven appointed leaders of the city are not proper leaders and they were elected by people who didn't vote for the sake of heaven, but rather based on their friendship with certain people, the elected leaders have no official power.*

**Chazon Ish, Baba Batra no. 4**

ואם ז' טובי העיר שנבררו אינם טובים באמת ובני העיר שבררו אותם לא היתה כונתם לשם שמים אלא כפי קירוב דעתם לאנשים מסויימים, אין להנבררים שום כח.

**חזון איש בבא בתרא ס' ד'**

## Questions for the Table:

- 1) Why is it so important for the voters to vote with the interest of the community in mind? If they are entitled to vote, why can't they vote however they please?
- 2) Suppose that you feel that a certain political candidate is good for the Jewish people but not good for the general population. Would it be considered “for the sake of heaven” to vote for that candidate?
- 3) Suppose you are employed by an industry that would benefit greatly from the election of a candidate whom you disagree with on almost every other issue. Would it be considered “for the sake of heaven” to vote for the candidate for the purpose of preserving or advancing your career?

## The Responsibility of Elected Officials

If voters are expected to vote with the interest of the community in mind, we should certainly expect the elected leaders to do the same when making decisions that affect the community. This idea is reflected in a Mishna in *Pirkei Avot*:

*Those who toil with the congregation should toil for the sake of heaven.*

**Avot 2:2**

*Those who serve the congregation should serve it for the sake of heaven- Not to receive honor, not to benefit from them and not to assert authority over them. Rather, to lead them in a just manner, all for the sake of heaven.*

**Rabbeinu Yonah, Commentary to Avot 2:2**

כל העמלים עם הצבור יהיו עמלים עמהם לשם שמים.

**אבות ב:ב**

וכל העוסקין עם הצבור יהיו עוסקין עמהם לשם שמים - לא להתכבד ולא להנות מהם ולא להשתרר עליהם אלא להנהיגם בדרך ישרה והכל לשם שמים.

**רבינו יונה אבות ב:ב**

## Questions for the Table:

- 1) How can a voter determine if a candidate is only interested in power and honor or really has the best interests of the community/state/nation in mind?
- 2) Rabbeinu Yonah's comments seem to be primarily directed at leaders who are only concerned about themselves. However, sincere leaders are sometimes asked to decide between two legitimate options where one of the options happens to be more personally beneficial. What should the leader do in that situation?

R. Yechezkel Landau discusses the issue of personal interest in the context of taxes. Tax laws apply to the leaders of a community in the same way that they apply to the rest of the community. As such, every leader has a personal interest in tax legislation. R. Landau comments:

*In my opinion, if the leaders of the city want to impose new legislation regarding taxes, they have no special powers in this area. Although the leaders of the city have the status of the Supreme Court (in Jerusalem during Temple times), nevertheless, regarding taxes, they are no different than anyone else in the nation ... Even if they determined that this has been the practice previously, nevertheless, on a matter that affects them personally, they are not considered the leaders for this purpose. Would we say that the leaders of the city are eligible to judge their own matters? Regarding taxes they are directly affected.*

**Teshuvot Noda B'Yehuda, Choshen Mishpat 1:20**

ואומר אני שטובי העיר אם רוצים לתקן תיקון חדש בעסקי המסים אין להם שום התרוממות מצד היותם פרנסים וטובי העיר ואף שטובי העיר כבית דין הגדול, מכל מקום בעניני נתינת המסים אין להם יתר שאת ויתר עז משאר העם ... ואפילו אם ביררו כבר שהמנהג כן מכל מקום בדבר שהם עצמם נוגעים בדבר אינם נקראים טובי העיר בזה ואטו טובי העיר כשרים לדון לעצמם ובעניני המס הם עצמם נוגעים בדבר.  
**שו"ת נודע ביהודה, חושן משפט א:כ**

When elected leaders are personally affected by communal decisions, R. Landau requires that the entire community be consulted on the issue.

## Questions for the Table

- 1) One way to deal with R. Landau's concern is to require a referendum on any issue that might personally affect the leaders. In what other ways can one alleviate R. Landau's concern?
- 2) How does one determine if a candidate is going to set aside personal interests and act in the best interest of the people? Should we start with the assumption that all candidates are sincere or that no candidates are sincere? What standard of proof should be required to reverse the default assumption?

## Conclusion

Democracy is a form of government that the Torah recognizes and Jewish communities have relied on for centuries. In the sources presented above, we have seen that the foundation of any democratic system is the requirement for voters and elected officials to act "for the sake of heaven" and for the best interests of the constituency.

Elections, whether they are local or national, can be very contentious. People have strong opinions about issues and sometimes have difficulty seeing how other people can think otherwise. Let's review a Mishna that was developed more fully in the Shabbat Table Discussion titled "[Ahavat Yisrael](#):"

*Any dispute that is for the sake of heaven will eventually have a lasting result and [any dispute] that is not for the sake of heaven will not have a lasting result. What is [an example of] a dispute that is for the sake of heaven? The dispute between Hillel and Shammai. [What is an example of] a dispute that is not for the sake of heaven? The dispute of Korach and his followers.*

**Pirkei Avot 5:17**

כל מחלוקת שהיא לשם שמים, סופה להתקיים; ושאינה לשם שמים, אין סופה להתקיים. איזו היא מחלוקת שהיא לשם שמים, זו מחלוקת הלל ושמאי; ושאינה לשם שמים, זו מחלוקת קרח ועדתו.  
**אבות ה:יז**

When Hillel and Shammai disagreed, they were both interested in discovering the truth and didn't view the other's disagreement as a personal attack. They argued "for the sake of heaven, not for their own pride, and therefore, their friendship endured. Korach and his followers were only interested in

themselves and therefore their dispute was not “for the sake of heaven.” When we realize that, for the most part, the people who disagree with us politically also have the best interests of the people in mind, we can come together civilly after an election, regardless of whom we supported, and appreciate the blessing of freedom and democracy.

### BIOGRAPHICAL SKETCHES OF AUTHORS CITED

**R. Moshe Feinstein** (1895-1986) was one of the most prominent decisors of Jewish law in the 20<sup>th</sup> century. He began his career as the rabbi in Luban, Russia and moved to the United States in 1936. In the U.S., he served as rosh yeshiva (head of a rabbinical seminary) of Mesivta Tifereth Jerusalem. His magnum opus, *Igrot Moshe* is a collection of responsa on contemporary issues of Jewish law.

**R. Naftali T.Y. Berlin** (also known as the Netziv 1816-1893) was born in Mir, Russia. He was a rosh yeshiva of the Volozhin Yeshiva. He was a prolific author, writing works such as *Ha'Amek She'eila*, a commentary on *She'iltot D'Rav Achai*, *Ha'Amek Davar*, a commentary on the Torah and *Meishiv Davar*, a collection of responsa.

**R. Avraham I. Kook** (1865-1935) was the chief Ashkenazi rabbi of Israel under the British Mandate. He studied in the Volozhin Yeshiva and after assuming a few rabbinic posts in Lithuania, he moved to Israel in 1904, while it was under Ottoman rule. He is widely regarded as one of the most influential leaders of Religious Zionism.

**R. Meir of Rutenburg** (c. 1215-1293) was known as the Maharam of Rutenburg. He was one of the later Ba'alei Ha'Tosafot and was considered one of the leaders of the generation in Germany. In addition to his contribution to the comments of Tosafot, his rulings are quoted in his responsa as well as other collections. In 1286, Maharam was imprisoned and ransomed for a large sum of money. The Jewish community raised the money, but Maharam ruled that he may not be redeemed out of concern that other rabbis would be imprisoned for ransom. In 1293, he died in prison.

**R. Avraham Y. Karelitz** (1878-1953) was born in Belarusia. At a young age, he was known as a prodigy. He moved to Israel in 1933 where he became the leader of its Charedi community. His *Chazon Ish* is considered an authoritative work on Jewish law.

**Rabbeinu Yonah of Gerona** (d. 1263) was a Spanish scholar. He is most well known for his ethical works such as *Sha'arei Teshuva* and his *Commentary on Pirkei Avot*. He originally opposed the philosophical works of Rambam, but he viewed the burning of the Talmud in 1242 as a sign that he was incorrect in opposing Rambam's philosophical works.

**R. Yechezkel Landau** (1713-1793) served much of his rabbinic career as the rabbi of Prague. He was regarded as a major authority on Jewish law and wrote numerous works on the topic, most notably, *Noda B'Yehuda*, a collection of responsa.

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<sup>1</sup> Introduction to the eighth volume of *Igrot Moshe*, pg. 26.

<sup>2</sup> R. Feinstein's letter is available at: <http://www.cross-currents.com/archives/2006/11/02/reb-moshe-on-voting/>.