

Since the founding of the State of Israel in 1948, its Independence Day or *Yom ha-Atzmaut* has been celebrated in a variety of ways. The religious community, at least that major part of it which saw in the founding of the State a historic blessing and a revelation of the Divine Will, could not be satisfied with military parades and the like as manifestations of the profound gratitude to God experienced by the people of Israel. The resources of the Halakhah were searched for the proper modes of expression which would give the *Yom ha-Atzmaut* festivities an authentically Jewish character. Rabbi Meyer Karlin, who here presents a summary of the halakhic literature of the last twelve years on the problem, teaches mathematics at Stern College for Women. Ordained by Yeshiva, he obtained his Ph.D. degree from Columbia University. He has taught Talmud at Yeshiva. Dr. Karlin is rabbi of Congregation T.T. Ahavath Achim in Brooklyn, N.Y.

ISRAEL INDEPENDENCE DAY AND THE HALAKHAH

The fifth of Iyar 5708—May 14, 1948—is a date that will remain enshrined in Jewish hearts as long as our people will continue to exist. Many of us still recall quite vividly the spontaneous eruption of joy among Jews everywhere on that historic day when the State of Israel was proclaimed. Jews danced in the streets and wished one another *mazal tov*. Nothing could mar this exuberance of pride in Jewish hearts: not the invasion of the Arab armies, which threatened the very existence of Israel, and not even the cynical attitude of many of the so-called friends of Israel in the United Nations, who did not lift a finger to save Israel and defend the United Nations' own partition resolution, and who called for an armistice only when Israel took the offensive and the Arab armies were thoroughly defeated.

To a great many of our people *Yom ha-Atzmaut* (Israel's Independence Day) heralded the beginning of the end of the long Jewish history of *Galut* (exile) the *at'chalta di-geulah*. To millions of Jews in all corners of the globe, the creation of the State of Israel represented escape from persecution, freedom from discrimination, and a salvation from death itself. To a vast majority of our people, it was the fulfillment of an age-long dream.

Even as Jews throughout the world were rejoicing in this modern miracle, religious scholars were contemplating the halakhic implications of this extraordinary event. Articles and responsa dealing with *Yom ha-Atzmaut* appeared in a number of Torah publications in America as well as in Israel, with the result that there exists to date a fairly extensive literature on the various aspects of *Yom ha-Atzmaut* in the Halakhah. The present article will attempt to present a digest of the more important publications in as simple terminology as possible.

As the author sees it, the halakhic problems are essentially as follows: 1. Is *Yom ha-Atzmaut* a "holiday," and if not, are we permitted to declare it as such? 2. Are we obligated to recite the *Hallel* (the chapters of the Psalms recited on festivals) on *Yom ha-Atzmaut*, and if not, are we permitted to do so with a *berakhah*, a blessing? 3. Are weddings and haircuts permitted on the Fifth of Iyar, which occurs during the *Sefirah* period? 4. Is *Tachanun* (prayers of petition, ordinarily omitted on happy occasions) to be omitted on *Yom ha-Atzmaut*? 5. Is the blessing of *she'hecheyanu* (recited on occasions of joy) to be pronounced on this day?

It is to be expected that some of these problems are interdependent and, to some degree, even overlap each other. Nevertheless, we will try to present each of them in detail.

IS YOM HA-ATZMAUT A HOLIDAY?

In order to appreciate fully the meaning and significance of this problem, we must recall that there are essentially two types of holidays. The first group is comprised of the biblical holidays such as: the *Shalosh Regalim*—the three pilgrim festivals of Passover, Shevuot, and Sukkot; the *Yamim Noraim*, the "High Holy Days" of Rosh ha-Shanah and Yom Kippur; and, to a lesser degree, Rosh Chodesh, the beginning of the new month. The distinguishing fea-

Israel Independence Day and the Halakhah

tures of a *Yom Tov* (holiday) are: a) the prohibition of work on that day; b) *Musaf*—an additional sacrifice in the Temple (today an additional Amidah prayer); and c) *simchah*—rejoicing on the holiday. Some holidays possess all three, others only two, while Rosh Chodesh has only one—*Musaf*. The second group consists of the post-biblical festivals of Chanukah and Purim, whose chief characteristic is the special observance commemorating the miracle that occurred *Ba-yamim ha-hem Ba-zeman Ha-zeh*—in those days, at this season. The observance of these festivals is not biblical, but rather rabbinic in origin. It goes without saying, that *Yom ha-Atzmaut* falls in the second category. Are the reasons that compelled Mordecai and Esther to institute the festival of Purim, as a remembrance of the miracle of liberation from Haman, and that motivated the Maccabees to introduce the festival of Chanukah subsequent to their miraculous deliverance from the Syrian-Greeks, also valid in the modern miracle of *Yom ha-Atzmaut*? Are Chanukah and Purim an indication that we, too, *must* institute a festival of thanksgiving for a *Nes*, a miracle, in our days?

It is an accepted fact that an individual or a community may declare a festival on the day when he or it experienced a *Nes*, a miraculous escape.¹ Some authorities declare this gesture obligatory.² Thus it would seem that *Yom ha-Atzmaut* should, or at least may, be declared a festival.

The problem, however, goes a little deeper, because the celebration of *Yom ha-Atzmaut* is not limited to the Jews who were present in Israel in 1948. There is also the question as to precisely what constitutes a *Nes*.

Before proceeding to discuss these last two questions, we must dispose of an objection raised to the celebration of *Yom ha-Atzmaut* by some scholars, in particular those of the Naturei Karta group, who are opposed to the State of Israel in principle, and who not only fail to see in it a miracle, but even regard its founding as a tragedy. They may represent only a small minority of our people, but, it is important to consider their arguments in light of the Halakhah. According to their view, not only is it not obligatory to observe *Yom ha-Atzmaut*, but it is actually forbidden. Setting aside their misgivings about *Medinat Yisrael*, which is not the subject matter of this article as such, there is one point that is relevant to our discussion. They argue that the addition of a new religious fes-

tival is contrary to the Torah injunction of *Lo Tosifu* "Thou shalt not add" to the *mitzvot* (Deut. 4:2).

In the Talmud we find this prohibition applying to the already existing *mitzvot*, such as adding an extra biblical portion to the *tefillin*, wearing five *tzitzit* instead of four, sitting in the *Sukkah* beyond the seven days with intention of prolonging the holiday,³ etc. However, Nachmanides⁴ states that *Lo Tosifu* applies to adding new *mitzvot* as well, such as inventing a new holiday. He further adds that we find in the Talmud that before Purim was instituted, the prophets of the time first searched for and found a *remez*, a hint in the Torah for the observance of this festival. This statement of Nachmanides presents a serious challenge to the institution of *Yom ha-Atzmaut* as a festival. However, Nachmanides himself, in his commentaries on Maimonides' *Sefer ha-Mitzvot*, concludes that what troubled the Rabbis was not so much the festival of Purim as such as the inclusion of reading the *Megillah* (the Book of Esther) as part of the Holy Scriptures, and it is for this reason that a "hint" was needed.

Chanukkah and Purim are not the only festivals which were added in the long history of our people. *Megillat Taanit* records many festivals that were celebrated by the Jews at one time or another. Many Communities to this day observe local "Purims." The Lubavitcher Chasidim, for example, celebrate the 19th day of Kislev—the day their founder was released from prison in Czarist Russia—as a great festival. How are we to reconcile facts such as these with the statement of Nachmanides that the addition of a new festival is prohibited? Among the various answers offered, the most reasonable is the one that distinguishes between the two kinds of *Yom Tov* mentioned above. Nachmanides, when he proscribes the establishment of new festivals refers to the first group—those characterized by prohibition of work, etc. The second kind, commemorating deliverance from the enemy or suffering, is permissible. Ibn Ezra considers it a biblical commandment to establish a day of rejoicing when an enemy of Israel is defeated, similar to Chanukkah and Purim. Thus *Yom ha-Atzmaut*, a day on which the Jews of Israel were delivered from slavery unto freedom and Jews in many parts of the Diaspora were delivered from death unto life, should be declared a festival.

Having disposed of the arguments presented by those who object

Israel Independence Day and the Halakhah

to the institution of a new festival, we will now return to the two questions stated above, i.e., what constitutes a *Nes* and who is obligated to celebrate it. They will, however, be discussed in connection with the second of our halakhic problems.

HALLEL ON YOM HA-ATZMAUT

The following are the days on which "complete Hallel" is recited: the first two days of Passover, both days of Shevuot, nine day of Sukkot, and eight days of Chanukkah. (In Israel: the first day of Passover and Shevuot, eight days of Sukkot, and eight days of Chanukkah). There is an essential difference in the reasons for reciting Hallel on the *Shalosh Regalim*—when it is bound up with *Kedushat ha-yom*, "the Sanctity of the Day," which requires *Shirah*, or "song of praise"—and on Chanukkah, when Hallel is pronounced as thanksgiving for the miracle. On the High Holidays, Hallel is omitted because no *shirah*—song—can be recited when human lives hang in the balance.⁵ (The Talmud offers two explanations for the omission of Hallel on Purim in thanksgiving for the miracle. One reason is that no Hallel is recited for a miracle that took place in the Diaspora. The Hallel contains the words, "Praise Ye the Servants of the Lord," but even after the miraculous deliverance of Purim we "still remained the servants of Ahasuerus." Another explanation is that the miracle of Purim does justify the reciting of Hallel; however, the reading of the Megillah takes its place.⁶ It is interesting to note, in this connection, that Meiri decides that one who finds himself in the predicament of not having a *Megillah* available on Purim is obligated to recite the Hallel).

Hallel as thanksgiving for a miracle is not limited to Chanukkah alone. The Talmud states: "The prophets ordained the reciting of Hallel whenever Jews face danger and are redeemed. Hallel is to be pronounced upon their redemption."⁷ Rashi adds the comment: "as on Chanukkah." Rabbenu Tam adds the restriction: "provided the miracle occurred to the entire people of Israel."⁸

At first glance it would seem that the restriction of Rabbenu Tam precludes the reciting of Hallel on *Yom ha-Atzmaut*, since the miracle was limited to only a *part* of our people. We must, however, examine more closely what constitutes "a miracle for the entire people of Israel." Does it mean one in which *all Jews were involved*,

like the exodus from Egypt, or is it one that *carries significance to every Jew*? The *Shulchan Arukh* decides that a blessing over a miracle is to be pronounced if it is a *community miracle*, as contrasted with an *individual miracle*.⁹

A deeper investigation into the technical meaning of *Kol Yisrael*—"all Israel"—reveals very interesting facts. There are other areas where the halakhic decision is dependent upon "the entire people of Israel." We find it with regard to *Horaah*. If the Sanhedrin issued an erroneous ruling concerning a negative commandment, and this ruling was followed by a "majority of Israel" before being revoked, the individual Israelites are absolved from a sin offering; instead the Sanhedrin must bring a special offering. The Talmud (*Hor. 3a*) defines "the majority of Israel" as the majority of the Jews residing in the Land of Israel. (Similarly, Maimonides with regard to the problem of ordination.)¹⁰

We may thus conclude that the miraculous founding of the State of Israel may surely be considered a community miracle, and may even be regarded as a miracle involving "the entire people of Israel." In practice, however, most of the authorities agree that Hallel is to be recited without the preliminary *berakhah* or blessing, not because of Rabbenu Tam's restriction, but rather because of Rashi's statement "like Chanukkah." Some authorities state that Hallel is to be recited only over an "overt miracle," i.e., an obviously supernatural event. On Chanukkah, the victory of the Hasmoneans was accomplished through natural means (a "natural miracle"), but the miracle of the cruse of oil was supernatural. The basis for this distinction between the two types of "miracle" is the question of the Gemara (*Sab. 22b*). "What is Chanukkah?" and Rashi's commentary "for which miracle was it instituted?" followed by the answer given by the Gemara describing the miracle of oil. It seems that the Talmud considered the military victory, the "natural" or "hidden miracle," insufficient reason for instituting the festival. Only the miracle of oil, as an "overt" or "supernatural-miracle," justified the institution of Chanukkah.

Rabbi M. Z. Neriah notes that the Talmud quoted above (*Pes. 117a*) speaks not only of a miracle, but of a "miracle of redemption" as one over which Hallel is to be pronounced. We do believe that the State of Israel is a first step in redemption, *at'chalta di-geulah*, but redemption is a two way street. Real *Geulah* is not merely one

Israel Independence Day and the Halakhah

in which God redeems His people, but it also consists in the *acknowledgment* by the people that salvation came through the "hand of God." Jews must feel themselves as "the servants of the Lord." In other words, Jewish Salvation must be not only physical and political, but spiritual as well, if it is to be considered a true *Geulah*. Until such time that the people of Israel will be brought closer to God, until there will be a genuine return to the Torah, until there will be an authentic religious revival and not merely the successful political act of establishing a secular state, we will continue to recite Hallel without the preliminary blessing. Perhaps this is also what Rashi meant when he said, "like Chanukah." At Chanukah time the Jews were not only victorious over their enemies, but cleansed the Temple and reconsecrated themselves to the service of God, ushering in a period of deep religious recrudescence.

YOM HA-ATZMAUT AND SEFIRAH

It is a rather surprising fact that in the literature on *Yom ha-Atzmaut* very few of the responsa discuss the problem that arises as a result of the fact that the fifth day of Iyar falls in the period of *Sefirah*—a semi-mourning period during which weddings as well as haircuts are forbidden. Are we to suspend mourning for this one day and permit weddings and haircuts? A lengthy responsum on these two problems was written by the Sephardic Chief Rabbi of Israel, Rabbi Yitzchak Nissim. In view of the fact that this *teshuvah* was already reviewed in *Tradition* (Spring 1959, pp 240-41), we will merely state that the author's conclusion was based upon precedent of a family who celebrated a "family Purim"—a miraculous deliverance—on the eighth day of Iyar, and who were permitted to marry and to cut their hair on that day. Surely then *Yom ha-Atzmaut*, being a day of miraculous deliverance and joy for so many families, should be considered as a festival on which weddings and haircuts are permitted.

From the foregoing we can conclude that the *Tachanun* prayers, which are omitted on all semi-festivals and joyous occasions, should not be recited on *Yom ha-Atzmaut*. Of course, the Neturei Karta, who disagree with our major premise, disagree with this conclusion as well. The reader will have no difficulty in detecting that the

majority of Torah authorities do not share the view of the Neturei Karta.

We now come to the fifth and last of the problems stated in the introduction, namely, should one pronounce the blessing *she-hecheyanu* on *Yom ha-Atzmaut*. This blessing is pronounced on all holidays and festivals, as well as on all personal joyous occasions such as on building a new home or on buying new clothes. If we conclude that *Yom ha-Atzmaut* is a festival, then *she-hecheyanu* is to be pronounced. However, on Chanukkah and Purim, unlike the biblical holidays, *she-hecheyanu* is bound up with an *act* of *mitzvah*, namely, the lighting of the candles and the reading of the *Megillah*. In the *Shulchan Arukh*¹¹ we find a difference of opinion as to whether, in the absence of a *Megillah*, *she-hecheyanu* is to be pronounced on Purim. On *Yom ha Atzmaut* we have no special *act* or *object* of *mitzvah*, and thus the above difference of opinion applies in our case as well. We cannot therefore definitely decide upon a general obligation to pronounce the blessing of *she-hecheyanu* on *Yom ha-Atzmaut*. However, any one who experiences a genuine feeling of joy on this day, should pronounce the blessing, for to him, subjectively, the day represents a joyous occasion indeed.

CONCLUSION

The present article has been presented not so much because of the independent objective importance of the halakhic implications of Israel's Independence Day but to demonstrate to the reader two facts. First, contrary to a rather wide-spread prejudice, the Halakhah is not impervious to the significant events of contemporary life and history. Halakhah certainly does react to all that is important in Jewish history and human life, provided Jews are loyal to its discipline and scholars are sufficiently industrious to delve into its inner structure and make it yield its judgment. Second, the establishment of the State of Israel in particular has inspired a creative ferment in our contemporary responsa literature, one in which serious and often disciplined scholarship is combined with a genuine *Ahavat Yisrael*, a love for Israel and the State of Israel.

1. *Magen Avraham*, Or. Ch. 686.
2. *Responsa Chatam Sofer*, Or. Ch. 191, and others.

Israel Independence Day and the Halakhah

3. *Erubin* 96a, 100a; *R. H.* 29a; *Zev.* 80a, 81a; *Men.* 406. See also Rashi, *Deut* 4:2.
4. *Ad. loc.*
5. *R.H.* 32b.
6. *Meg.* 14a.
7. *Pes.* 117a.
8. Rabbenu Yonah, *Ber.*; See also Tosafot, *Sukkah* 44b.
9. *Or. Ch.* 618.
10. *Hil. Shegagot* 13:2; *Per. ha-Mishnayot, Bekhorot*, 4.
11. *Or. Ch.* 692.