SURVEY OF RECENT HALAKHIC PERIODICAL LITERATURE

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RABBIS AND DEANS

Though not strictly within the usual scope of this Department, a discussion of recent trends regarding the place and functions of the rabbinate in the religious community may be germane to our endeavor to present in these columns the dynamics as well as the decisions of contemporary halakhic thought.

We have previously commented on the present tendency to prefer "pure" Talmudic research to the "applied" pursuit of practical rabbinics, as reflected in current rabbinical journals and in the great preponderance of non-practicing rabbis among the alumni of our Talmudic academies.* Some of the ramifications and consequences of this development have now been highlighted in an outspoken article on "The Attitude of Disparagement to the Rabbinate" contributed by Rabbi Raphael Katzenelenbogen to the Tamuz 5725 issue of *Hama'yan,* published by the Isaac Breuer Institute of Poale Agudat Israel.

The author rightly decries, as a phenomenon as unprecedented in Jewish history as it is damaging to religious interests, the widespread practice to belittle not only individual rabbis as the custodians of Jewish law but the rabbinate itself as an indispensable communal institution. The central spiritual authority in Jewish life has always been the duly appointed local rabbi.** In his halakhic judgments he might sometimes defer to the superior scholarship of other sages. Nevertheless, he was invariably acknowledged as the sole and final authority in the religious leadership and jurisdiction of the community and its members. Whatever other scholars he may have consulted in reaching his rabbinic decisions, the "lay" public's contacts were exclusively with the rabbi they had chosen to be their guide and their rabbinical judge. While every *Talmid Chakham* was accorded high respect and honors, it was only to the practicing rabbi, holding an official position, that the community —including its *Taldmidei Chakhamim* — looked for the exercise of rabbinic authority and guidance.

Such communal rabbis would often also establish local *Yeshivot* and preside over them. In fact, the deans of all leading *Yeshivot* in the past were the official rabbis of the local communities, such as the MaHaRSHaL (Lublin), P'nei Yehoshua (Cracow), Noda Biyehudah (Prague), R. Akiva Eger (Posen), R. Chaim (Volozin), Chatam Sopher (Pressburg), and more recently the heads of such famous

* See TRADITION, Spring 1961, p. 217.

** See TRADITION, Fall 1961, pp. 96 ff.

academies as Mir, Slobodka, Telz, Ponewez and Lublin.

Only the Reform movement, in its attempt to wrest authority from the traditional rabbinate, recognized "Jewish scholars" (representing the *Juedische Wissenschaft*) as the interpreters of Judaism and the arbiters of its law. When Prime Minister Ben Gurion sought an "authentic" opinion in the "Who is a Jew?" crisis, he turned to the "scholars of Israel" and obstinately refused to submit this question to practicing rabbis who would be governed by norms of the Halakhah, with but two or three exceptions. This constitutes a deliberate rejection not merely of rabbis but of the rabbinate in principle. Today this hostile attitude is betrayed in circles within the *Yeshivah* "world" itself no less than by indifferent laymen, with at least equally tragic and dangerous results.

Another threat to religious interests ensuing from the denigration of the rabbinate and its usurpation by Torah scholars holding no rabbinical office is to be found in the deviation from traditional halakhic methods and standards. While the classic rabbinical solution to new religious problems always takes into account the rulings and precedents set down in the later commentaries and responsa (*Acharonim*) as well as the codes and early authorities (*Rishonim*), the *Yeshivah* scholars often base their practical decisions on their own interpretation of the original sources, without any reference to the intervening authorities. This process is altogether alien to the historic traditions in determining the Halakhah. It often leads to verdicts quite out of harmony with the consensus established in existing rabbinical writings. The refusal to consult more recent opinions is also indicative of a self-reliant haughtiness in reaching halakhic decisions, in stark contrast to the caution and humility traditionally exercised by rabbinical masters in rendering such decisions. The *Yeshivah* dean is remote from the community and its problems; he cannot enjoy the intimate, personal contact which a practicing rabbi has with his members and their concerns. In nullifying the rabbinate, therefore, one also eliminates the high regard for the Torah image in the community. Whatever the cause for these unfortunate developments, it is the sacred duty of our spiritual leaders to repair this breach and to restore the historic functions of the rabbinate.

To this bold and critical analysis by Rabbi Katzenelenbogen a few further pertinent considerations may be added by this reviewer.

The repudiation of the rabbinate and its gradual displacement by academic Talmudic scholars (now commonly referred to as the *Gedolei Ha-Dor* or "Torah sages") in the supreme leadership of the religious community have shifted the center of gravity in the institutional structure of religious Jewry from *kehillot* (congregations) to *Yeshivot*. The consequences of this shift are now becoming increasingly manifest in a variety of ways.

One result is the attrition of the rabbinate. With its demotion and discreditation at the hands of the *Yeshivah* "world," the scholastic

caliber of the men attracted to it has steadily declined to a level of general mediocrity. By now there are very few outstanding halakhic guides left in the active rabbinate. Out of the sparse number of *Yeshivah* alumni who are prepared to take up a rabbinical career, most are ill-equipped for the effective exercise of spiritual leadership under modern conditions. For the *Yeshivot* have adamantly blocked attempts to set up rabbinical seminaries for the training of rabbis in the skills needed to influence and guide the destinies of communities. This attrition explains the unprecedented difficulties lately encountered in filling major rabbinical vacancies in Israel, England and elsewhere. We have simply ceased to produce adequate candidates for these key positions.

In the wake of the decline of the rabbinate has come the decline of religious congregations, notably in Israel where the concept of a *kehillah* as a focal point of religious activity and inspiration has all but disappeared completely. Even in the Diaspora, most traditional congregations, bereft of leaders combining profound learning with professional efficiency, have ceased to provide much more for their members than some liturgical and social facilities. With the great men of Jewish learning now mainly confined to the *Yeshivot,* the communities at large have all but lost their Torah image, formerly represented by the rabbi in their midst.

At the opposite pole on the axis of leadership — among the laiety — a similar loss of Torah influence has resulted from the ascendancy of the *Yeshivah* over the *Kehillah* as the basic unit in the religious structure of Jewish life. Despite the phenomenal increase in the output of learned laymen, thanks to the growth of the *Yeshivah* movement, the Torah element in communal and congregational leadership has, far from increasing commensurately, actually declined. For the *Yeshivot* discourage the pursuit of communal responsibilities no less than the choice of the rabbinate as a career, with the result that the Jewishly best educated laymen gravitate to passivity in little *shtibls* rather than to activity, influence, and leadership in important congregations and in the wider community. Communally speaking, then, most *Yeshivah* products are lost, both as rabbis and as lay leaders.

Finally, all these departures from past traditions have had an impact on the latter-day direction of halakhic trends, too. Apart from the variations in the treatment of problems submitted to rabbinic judgment, as detailed by Rabbi Katzenelenbogen, the nature of the problems dealt with has also been affected. Responsa by *Yeshivah* deans or scholars not practicing as rabbis are mainly of a personal, and often academic, character. They reflect largely the confined life and concerns of students who, while close to their teachers, are often remote from the perplexities troubling the wider community. This accounts for the relative sparsity of responsa devoted to the great social, moral, intellectual and even political challenges of our cataclysmic times. Active rabbis, exposed

to all the pressures and questionings of the society in which they live, are bound to cover a much broader and far more practical range of questions in their responsa. Moreover, judgments rendered in the isolation of *Yeshivot* can afford to be rigid, if not dogmatic, in their reasoning. Rabbis, on the other hand, must endeavor to vindicate their decisions before public opinion. They must also take into account the ramifications and consequences of their rulings on relations and attitudes within the larger community. They must have their feet planted firmly on earth even if their heads reach to heaven in arriving at a verdict on problems posed to them.

The Torah, after all, is "a tree of life." It can grow and flourish only in a vibrant environment which is exposed to the manifold elements and stresses making up the reality of life and its problems. It is time to reinvigorate the rabbinate by inducing the finest *Yeshivah* scholars to train and practice as rabbis, and to charge them with rebuilding congregations as the central axis around which public Jewish life should revolve.

Strikes

The right of workers to strike is once again* discussed in a rather brief article also contributed by Rabbi Raphael Katzenelenbogen to *Hama'yan* (Jerusalem, Tishri 5725).

Explicit references to strikes are not found in rabbinic writings until quite recent times. The reason for this omission is simple. So long as the social relations of Jews were governed by Jewish law, notably the *Choshen Mishpat,* the occasion to resort to labor strikes did not arise. Any claims or grievances would always be referred to rabbinic judgment or arbitration, and the awards — reflecting objective norms of justice based on the Torah code — would be binding on both sides. Any party that refused to heed a summons to such a *Din Torah* would be so ostracized from the social and religious life of the community as to compel eventual submission. Only with the secularization of Jewish society, and its conduct even in Israel according to legislations and courts alien to Judaism, has the need for strikes arisen, for the secular law often gives workers no other means to assert their claims effectively.

Since there are, of course, many religious workers in organized labor, the question of the halakhic attitude to strike must be resolved for them. Some argue that strike action can never be condoned by the law of the Torah, as the right of compulsion can only be exercized by a judicial tribunal, including a court of arbitrators accepted by both parties. Others go further, objecting to any association with labor unions that rely on strike laws established by international labor organizations in opposition to Torah and religion. But this extreme opinion requires some clarification and qualification.

True, there is no law granting one party the right to force the

* See TRADITION, Spring 1963, pp. 273, ff.

other to accept his demands. Hence, any recourse to compulsion without judicial authority violates the law of the Torah.

But in labor disputes the employer may try to hire other workers who will agree to his terms, thus depriving the original workers of their livelihood. The principal question regarding strikes is therefore: May strikers, to safeguard their jobs, prevent another worker from taking their place on terms at variance with their demands?

The answer is based on a responsum by R. Joseph Kolon (MaHaRIK, no. 191) which ruled that, while a rabbincal court had no power to exclude a newcomer from a city, the members of such a community could use any means at their disposal, including recourse to the non-Jewish authorities, to keep new settlers from their midst. This ruling, accepted by the *Shulchan Arukh* (*Choshen Mishpat,* 156:7, gloss) and most authorities against some dissenters (see *Pitchei Teshuvah, a.l.,* 17), is endorsed by R. Moses Schreiber (*Chatam Sopher, Choshen Mishpat,* no. 44) on the grounds that an economic threat to their livelihood entitles citizens to take such action even if it cannot be sustained by the strict law and its administrators.

Similarly, then, workers cannot be restrained from resorting to strikes if, through their replacement, they would otherwise face the prospect of losing their employment. Obviously, however, they would first be required to submit their claims against their employers to a regular or jointly-appointed court, and only if the employers then refuse to appear before such a court or to abide by its verdict can the workers call a strike and prevent other workers from taking their place. But once the management agrees to adjudication or arbitration, labor is certainly forbidden to take the law into its own hands.

Moreover, in the event of the management's unwillingness to accept arbitration and labor's resultant call of a strike, other workers would definitely be guilty of an offense if they were to displace the strikers under cheaper terms than the latter were prepared to accept. This is borne out by the ruling that "even if a Jew works regularly for a non-Jew, another Jew must not offer his services for less pay, and anyone wishing to do so should be rebuked" (*Choshen Mishpat,* 156:5, gloss), a ruling applying equally to workers with a Jewish employer, as implied in the source for this law (responsa of RaSHBA, part iii, no. 83).

In a supplementary note, the author adds that there can be no justification in denying wage increases to workers at charitable institutions on the ground that such wages are taken from charity funds. This argument is refuted by the fact that such a right was enjoyed even by those paid out of the funds of the Temple treasury, the most sacred of all funds (citing responsa of MaHaRSHDaM, *Choshen Mishpat,* no. 372).

Letterheads

Lately it has become increasingly fashionable, almost as a trademark to authenticate Orthodox au-

thorship, to preface letters, notices, public announcement and any other written or printed texts with the Hebrew letters *B"H* (sometimes even in English characters!) denoting *Barukh Hashem* ("Blessed be the Lord") or *Be'ezrat Hashem* ("With the help of the Lord"). The propriety of this use or abuse of the Divine Name is questioned by Rabbi Meir Blumenfeld in the only contribution of current halakhic interest to the latest issue (Tishri 5726) of *Ha-Darom,* the semi-annual Torah-journal of the Rabbinical Council of America.

The Rogodzover Gaon (Rabbi Joseph Rosin) based his own refusal thus to head even Torah writings on the possibility that the erasure of such letters, even if they constitute only part of the Divine Name, may be an offense against the sanctity of the Name and the prohibition to delete it (citing *Jer. Sotah,* 2 and 3). Hence he warned that one should refrain from writing *B'H* at the head of letters (*Tzophnat Pane'ach,* 196 and 197).

Notwithstanding the illustrious source of this rigid opposition, the custom to introduce letters with *B"H* is, of course, widely observed in the most scholarly circles and must therefore be based on good authority. The source appears to be a passage by R. Moses Isserles at the very opening of the *Orach Chayyim* (1:1, gloss) taken from the *Guide of the Perplexed* by Maimonides (3:52): On the strength of the verse "I have set the Lord always before me" (Ps. 16:8), every action, word and even thought of a person should reflect his awareness of God's presence. To fulfill this ideal, the Kabbalist R. Isaac Luria suggested that one should draw the image of the Divine Name constantly before one's eyes (*Ba'er Hetev, a.l.,* 3), while others went one step further and wrote the Name on a piece of parchment used as a bookmark in order to be continuously reminded of God and of avoiding idle talk during their studies and prayers (*Sha'arei Teshuvah, a.l.,* 3). But yet others objected to this practice as likely to lead to desecrating the Name and possibly erasing it (*ib.*). In any event, to the extent that the custom of writing *B"H* is founded on these sources, it is designed as a reminder to the writer, not the recipient of the letter; this could just as well be achieved by facing a piece of paper bearing a reference to God while writing any letters, etc.

Another origin of the custom may be found in Ibn Ezra's commentary on the verse "House of Israel, bless the Lord" (Ps. 135:-19): this means that Jews are to use the blessing *Barukh Hashem.*

None of these explanations provides any justification for turning the custom into a fetish, particularly when used as a sanctimonious imprint on such things as newspaper advertisements, bank checks or synagogue placards announcing choral services (though the choir includes Sabbath desecrators!).

Actually, the author believes that the only valid reason for the usage lies in associating *Barukh Hashem* with a date at the head of a letter. This may be based on the verse "Blessed be the Lord, day by day" (Ps. 68:20), interpreted in the Tal-

mud as "Every day give Him the blessing appropriate to the day" (*Berakhot* 40a; see MaHaRSHA, *a.l.*). Even the practice thus to use *B"H* with specific dates cannot be regarded as a *minhag,* let alone a *mitzvah,* since there were many outstanding Torah authorities in the past not observing it. Indeed, in purely secular contexts, such a practice may be against the law.