

תורה מציון Torah MiTzion

RELIGIOUS ZIONIST KOLLELS כוללים ציוניים בתפוצות

Shabbat Shalom from Torah MiTzion

Issue 124: Parshat Shmot

20-21 January 2006, 21 Tevet 5766

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Shemot - The Completion of Creation

Rav Gideon Weitzman, former Rosh Kollel, Kansas City

Tishrei and Nisan

The Gemara (Rosh HaShannah 10b-11a) brings an argument between Rabbi Eliezer and Rabbi Yehoshua as to when the world was created. Rabbi Eliezer holds that the world was created in Tishrei. However, Rabbi Yehoshua is of the opinion that the world was created in Nisan.

What is the basis for the argument between these two great Sages?

The Netziv, in his introduction to the Book of Shemot, explains the midrashic name of the Book of Shemot, The Second Book. (See Sotah 36b) All the other midrashic names of the books of the Torah are related to the events of that book; the Book of Vayikra is called the Torah of the Cohanim, the Book of Bemidbar the Book of the Countings, and the Book of Devarim is called The Second Torah, i.e. the repetition of the Torah by Moshe. Why is the second book of the Torah not given a name that conveyed the essence and content of the book, such as the Book of the Redemption?

The Netziv answers that the Book of Shemot is in fact part two to the Book of BeReishit. The first book of the Torah dealt with the creation and development of the world. The process of creation was completed in the Book of Shemot. Creation was not finalized when the world came into existence. Rather, the process was only concluded when the Jewish people were born, and when they accepted the Torah on Har Sinai.

This explains the Gemara (Avodah Zarah 3a) in the name of Reish Lakish "Why does it say 'It as evening it was morning the sixth day?' It teaches us that God made a condition with the creation and said 'If Israel accept the Torah, fine, if not I will return you to chaos.'"

The creation was physically complete on the sixth day mentioned in the Book of BeReishit, but this creation was only completed in the Book of Shemot when the Jewish people came into existence when they accepted the Torah.

Thus we can now explain the argument between Rabbi Eliezer and Rabbi Yehoshua. Rabbi Eliezer stated that the world was created in Tishrei and he was talking about the physical creation of the world that is recorded in the Book of BeReishit. Rabbi Yehoshua was talking of the end of the process of creation. This was when the Jewish people were formed by leaving Egypt during the month of Nisan.

Man and Jew

We could also say that these two months, Nisan and Tishrei, represent generic human creation as opposed to specific Jewish creation. Man was created on Tishrei, whereas the Jewish people and the Jews were created on Nisan.

This is reflected by the different festivals celebrated during these months. During Tishrei we celebrate Rosh HaShanah. When the Mishnah discusses the various dates during which the world is judged on a variety of planes, it says, "On Rosh HaShanah all the members of the world pass before Him like a flock, as it says 'Who forms their hearts together, who understands all their actions' (Tehillim 33:15)" (Rosh HaShannah 1:2).

We see from this that Rosh HaShannah is a universal festival on which the entire world is judged for it's actions.

This is distinctly different from Nisan and the festival of Pesach. The Pesach sacrifice cannot be eaten by non-Jews, "All who are uncircumcised cannot eat it" (Shemot 12:48). The celebration of Pesach is among family, the sacrifice only being eaten by those who subscribed and belong to a predetermined group. (See Shemot 12:4 and Zevachim 5:8)

Therefore, while Tishrei represents humanity as a whole, Nisan speaks to the Jew and the Jewish people. This can explain the argument between Rabbi Eliezer and Rabbi Yehoshua. Rabbi Eliezer who stated that the world was created in Tishrei speaks about the creation of man, whereas Rabbi Yehoshua points to Nisan as the creation of the world, referring to the creation of the Jewish people as the definitive act of creation.

Was the world created for man, or was it created for Am Yisrael?

Redemption; Nisan or Tishrei?

The Gemara continues with the argument between Rabbi Eliezer and Rabbi Yehoshua. Not only do they disagree when the world was created, but they also argue about when the eventual redemption will occur. Will it be during the month of Tishrei, or the month of Nisan?

Rabbi Eliezer is of the opinion that the redemption will be in the month of Tishrei, but Rabbi Yehoshua states that it will be during the month of Nisan.

This can explain the connection between the Haftarah and the Parshah. Both speak of the redemption and leaving exile, the Parshah speaks about leaving Egypt and the Haftarah speaks of the final redemption.

How can we understand this connection in light of our discussion of the argument between Rabbi Eliezer and Rabbi Yehoshua? Rabbi Eliezer and Rabbi Yehoshua present two different pictures of redemption. Rabbi Yehoshua holds that the redemption will come in Nisan, therefore it will be exclusively for the good of the Jewish people. However, Rabbi Eliezer explains that the final redemption will affect the entire world. The Jewish people will not seek exodus from exile just for their own benefit, rather they hope to revolutionize the entire world and all of existence. The message of the choice of Haftarah is that we cannot detach these two redemptions from each other. The exodus of the Jewish people is not just for their own good, rather it is for the improvement of all the inhabitants of the world. In addition, it must be stressed that the redemption of the world must be achieved only through the redemption of the Jewish people. The world can never be improved unless the lot of the Jewish people is also improved.

Am Yisrael are returning to their Land and establishing a Divine State there, not in order for them to dwell as a nation apart, detached and undistracted by the rest of the world. Rather, our redemption will bring about the exodus and redemption of the entire world.

Can the principle of the "Law of the State is Law" justify the extradition of Jewish Offenders?

Simon M. Jackson, Legal Advisor to Torah MiTzion

The differing Talmudic opinions we saw in our last column recur in the post-Talmudic authorities. One school of thought rejects informing or cooperating with the non-Jewish authorities in the apprehension of Jewish criminals ("It is prohibited to deliver a Jew, both his person and his property, into the hands of non-Jews" - Shulkhan Aruch CM 388:9). Many other scholars opposed protecting Jewish criminals from the authorities, especially for a crime as serious as murder, based on the principle of "Dina De-Malkhuta Dina" ("the Law of the Land is Law"), i.e. the legitimate right of local government to enforce its laws.

In the 1986 Supreme Court ruling of *Aloni v. Minister of Justice*, which we outlined in our last two columns, Justice Elon cited a fascinating and detailed responsum of the Rashba in support of his contention that, according to the principle of *dina de-malkhuta dina*, a criminal should be extradited and tried in accordance with the law of the State. The Rashba, in a responsum cited by the Beit Yosef on the Tur (HM 388), discusses a case in which the Jewish community was asked by the non-Jewish authorities to determine whether a particular Jew had transgressed a criminal offense; and, if so, he would be punished by the authorities.

Law of the Land - Parallel to Jewish Law?

The Rashba, relying upon the principle of *dina de-malkhuta dina*, sets forth the rule that, when a Jewish court operates under the government's authority, there is no need to insist on all the normal evidential strictures of the Torah - warning, valid witnesses, etc. - **even in capital matters**, "for, were the Jewish court to insist on such requirements, the world would be desolate, as murderers and their companions would multiply." The Rashba proceeds to rule - relying on the Talmudic precedents cited in our last column involving R. Elazar ben R. Shimon (and also R. Yishmael ben R. Yose), who would catch robbers and criminals on the authority of the government - that anyone who is appointed by the king "acts in these matters according to the law of the realm, for the king establishes stability with these laws," and he is therefore permitted, argues Justice Elon, to turn in Jewish criminals to the king.

In his article published in volume 8 of the Halakha journal, *Techumin* (Research Articles Concerning Torah, Society and State), Rav Shaul Yisraeli disagrees with Justice Elon's aforementioned conclusion. According to Rav Yisraeli, the delivery of a Jew to a non-Jewish authority in a case where he is liable to cause injury to the community is only permitted "when the criminal cannot be tried under our own laws. This was the situation during the lifetimes of R. Elazar ben R. Shimon and R. Yishmael ben R. Yose, when the Romans did not allow the Jews autonomy in criminal matters. Under these conditions, there was no alternative to delivering criminals to the Roman authorities." Therefore, argues Rav Yisraeli, where the criminal (as in the case of *Aloni*) is presently found in the State of Israel, where he can be tried and punished by our own courts, there is no justification to deliver him to a foreign jurisdiction.

Local Law Applies Only Within its Jurisdiction

Rav Yisraeli further argues that the authority of government law, under the principle of *dina de-malkhuta dina* applies only to the citizens, including the Jews, living within the border of that particular state. However, the law of one land does not extend to another land or its citizens. Hence, in Israel, the prohibition of delivering a Jew to non-Jewish authorities and courts applies and it is prohibited to enter into an extradition agreement with a gentile country. While it is, indeed, forbidden to give refuge to a criminal (see the incident with R. Tarfon, quoted in our last column), this does not imply that *actively handing over an individual* is permitted.

Justice Elon, in his rejoinder to this argument of Rav Yisraeli (also published in *Techumin*, vol. 8), concedes that the principle of *dina de-malkhuta dina* does not apply to the laws of another state. However, he argues that the State of Israel signed an extradition treaty with France, and since Israel has a vital interest in keeping that treaty for her own security needs (e.g. the extradition of terrorists from France to Israel), that treaty is part of the law of Israel and it is binding according to the principle of *dina de-malkhuta dina*. Justice Elon quotes from a decision of the District Rabbinical Court in Jerusalem given by Rabbi Ezra Batzri, in considering the issue dealt with by the aforesaid Supreme Court judgment, which determined that an extradition treaty made by the State of Israel with another state has Halakhic validity by virtue of the principle of *dina de-malkhuta dina*, because "it is a matter of good governance that the State of Israel not become a refuge for Israeli criminals and that we should be able punish criminals who are located in other countries in Israel."

With regards to Rav Yisraeli's distinction between passively denying a criminal refuge and actively extraditing a criminal, Justice Elon argues that this distinction applies only to a

Jewish community which is requested to hand over a criminal to the *local* gentile authorities. In this case, the authorities have the jurisdiction to find, to detain and to try the murderer. The distinction does not, however, apply to a case in which a Jewish community is requested to extradite a criminal *to another state*, which would be otherwise incapable of getting hold of the criminal by entering Israel, being that the State of Israel is a sovereign state (unless the State of Israel were to enact a law permitting the criminal's trial in Israel as Rav Yisraeli suggests).

Serving Foreign Sentences in Israel

One particularly compelling principle exists in the Nakash case in favor of his extradition to France, argues Justice Elon. Non-extradition of the accused would entail his escaping all punishment for the crime of which he was charged, as there is no possibility of trying him for a crime committed in a foreign country during a time when he was not an Israeli citizen. Releasing him from the obligation to stand trial and allowing him to go free would constitute a grave offense against the principles of Jewish Law that criminals should be tried and punished, especially when the crime is murder.

In this context, Justice Elon noted the proposal of the Minister of Justice to allow a criminal sentenced by a foreign court to serve his sentence in an Israeli jail, in view of the fact that serving a prison term in a foreign jail involves, aside from the limitation on liberty, additional punishment, especially to the prisoner's family (above and beyond the suffering inherent in having a family member in prison), of having to spend time in an environment whose customs and language are foreign. (Indeed, in 1999 the Extradition Law was amended in precisely this spirit).

Rav Yisraeli commented that the Halacha does not accord a criminal sanctuary simply because he has crossed international boundaries. Therefore, it is possible and even mandatory for the legal authorities of the Jewish state to *try* an escaped fugitive from another country. In this way, the argument that the State of Israel would serve as a refuge for criminals can be rejected. It is proper, argues Rav Yisraeli, that a law to this effect should be enacted and a criminal fleeing his country will not escape justice in Israel, but will be tried and punished within Israel as he deserves. We will return to this argument of Rav Yisraeli's in our next column, when we discuss his comments regarding the prohibition of litigating before non-Jewish courts.

Next Column: Does the Prohibition of Adjudicating Before Non-Jewish Courts Apply Today?

Family Learning: Parshat Shmot

- 1) According to Rashi (1;8), who was the "new king" of Egypt?
- 2) What was the reason the Egyptians gave for enslaving Bnei Yisrael?
- 3) Who are the man and woman mentioned in perek 2 passuk 1?
- 4) Who were Shifrah and Puah?
- 5) What is another name for Yitro?

Answers follow below

Looking Back: The JNF / KKL

Keren Kayemeth LeIsrael (KKL) was established on December 29, 1901 at the Fifth Zionist Congress in Basle. The idea was proposed by Zvi Shapira, and raised in order to buy land in Israel. Johann Kremenetzsky was elected head Chairman and the main office was set up in Vienna. The first sales made by the JNF were areas of land in Judea (Yehuda) and the lower Galil. The first forest was erected in honor of Theodore Herzl.

To raise funds for it, Chaim Kleinman, a bank clerk from Nadvorna, Galicia, soon placed a box in his office and sent off a letter to *Die Welt*, the Zionist newspaper in Vienna, notifying it accordingly:

"In keeping with the saying, 'bit and bitty fill the kitty' and following the Congress resolution on KKL's founding, I put together an 'Erez Israel box', stuck the words 'National Fund' on it and placed it in a prominent spot in my office. The results, given the extent of the experiment so far, have been astonishing. I suggest that like-minded people, and particularly all Zionist officials, collect contributions to KKL in this way."

Thus, the idea of the "little blue box" or the "pushke" was born. The funds raised by the little blue boxes were substantial and helped redeem many areas of land in Israel. The little blue box became a trademark of the JNF.

In the years between 1911 and 1920, the first plots of land in Emek Yizrael (Jezereel Valley) were purchased. The JNF also established new neighborhoods for immigrants from Yemen. Redeeming areas of land were put on hold during World War I, due to the fighting but were continued immediately afterwards with the purchase of kibbutz Kiryat Anavim, which is near Jerusalem.

All through the 1930's, land is continually being redeemed all throughout Israel. More forests are being planted. The JNF finally makes Yerushalayim its permanent location for the head office. The JNF also helped out with the "Chomah u'Migdal" (tower and stockade) outposts, which went up all over Israel. However, with the release of the British White Papers, redeeming land became increasingly difficult.

During the years of World War II, the JNF still managed to put up 3 outposts, Gvulot, Beit Eshel and Revivim. When the restrictions for settlement got really bad, the JNF helped set up 11 settlement points in the Negev, on the night Yom Kippur ended in 1940. The JNF helped support new immigrants who came after the War of Independence by giving them forestry and land reclamation work.

In 1961, an agreement is signed by the government of Israel and the JNF, which states that the JNF is exclusively responsible for in Israel, and teaching Zionism abroad. More and more forests are being planted, such as, Martyrs forest, in honor of Holocaust victims, John F. Kennedy forest, Yatir forest, and the Jerusalem forest as well as areas that are liberated such as the Modi'in bloc and the upper Galil.

During the 80's, hundreds of forests become recreational areas when picnic grounds are built in new forests. The JNF helped out with a water shortage by building new reservoirs and using new water harvesting techniques in the Bet She'an valley and the Negev. The JNF also built thousands of housing units for the many immigrants that came from Ethiopia and the Soviet Union.

Nowadays, the JNF has undertaken restoration of the country's waterways and building new reservoirs. It helps many new immigrants find jobs by expanding its employment in development of tourism sites.

Torah MiTzion establishes Religious Zionist Kollels (centers of Jewish learning and outreach) in Diaspora Jewish communities to strengthen the study of Torah, Jewish identity, the unity of the Jewish people, and the connection between Torah study and Israel.

The Kollels, led by a Rosh Kollel, are comprised of Israeli shlichim (emissaries) - married men and their wives, and single young men, graduates of Yeshivot Hesder in Israel - who serve in the communities for a period of one-three years.

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Answers, Family Learning

- 1) He was the same king that was during Yosef's time, he just "forgot" the good that Yosef did.
- 2) That they were becoming a nation that was too big and soon they'd join Egypt's enemies.
- 3) Yocheved, the daughter of Leivi and Amram, Leivi's Grandson
- 4) They were the Jewish midwives. Some rabanim think that they were Yocheved and Miriam.
- 5) Reuel