

תורה מציון Torah MiTzion

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In this week's issue:

- 1) **The Length of the Gallut - Depends on Us" Rav Shlomo Sobol**
- 2) **Does the Prohibition of Adjudicating Before Non-Jewish Courts Apply Today? Simon Jackson**
- 3) **Family Learning: Parshat Bo, Bluma Zalzman**
- 4) **Looking Back: Looking Back: The Acre Prison Break In**

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**The Length of the Gallut - Depends on Us"
Rav Shlomo Sobol (former Rosh Kollel, Detroit)**

The Torah presents conflicting verses regarding the length of the time that Bnei Yisrael resided in Egypt. In Bereshit 15:13 God says to Avram, "Know with certainty that your offspring shall be aliens in a land not their own - and they will serve them, and they will oppress them - four hundred years." In this week's Parasha, though, the Torah tells us that "the habitation of the Children of Israel during which they dwelled in Egypt was four hundred and thirty years..." (Shemot 12:40)

This issue is further complicated by the calculations of Chazal that have the period of the Jewish settlement in Egypt as being 210 years based on the Gematria of the word 'redu' -

descend. The longer period of time mentioned by the Torah is based on the fact that Galut Mitzrayim began while Bnei-Yisrael were still in Eretz Yisrael. The Galut Mitzrayim begins to be counted at this point because at that time the Land of Israel did not yet belong to the Jewish People.

Rashi explains that the decree "that your offspring shall be aliens in a land not their own" began with the birth of Yitzchak, and there is a period of 400 years between his birth and the Exodus from Egypt. The remaining thirty years, Rashi explains, is the period of time between God's telling Avram of the future of the Jewish People - Brit Bein Habetarim - and the birth of Yitzchak.

Ramban suggests another possibility that seems more relevant for our generation. Ramban says that the decree was indeed 400 years in Egypt, but that there was no absolute promise on God's part that he would redeem the Jewish People at the completion of 400 years. The Galut in Egypt, the Ramban explains, was lengthened by thirty years due to the sins of the Jewish People. This idea is similar to the traveling in the desert for forty years after the Exodus instead of immediately entering Eretz Yisrael. This delay, too, was caused by the sinful behavior of the Spies who were sent by Moshe in preparation for entering the Land of Israel.

The Ramban teaches us that notwithstanding God's promise of Redemption, the timing and pace of this Redemption is dependent upon our spiritual state.

In our generation, when we have experienced the Dawn of the Redemption, we must understand that while we are certain that this Redemption will be long lasting, eventually leading to the rebuilding of the Beit HaMikdash and the arrival of Mashiach, that the pace and manner in which the Geula unfolds is dependent upon us. This is a great opportunity and a great responsibility. As long as we continue to grow in goodness and dedicate ourselves to Redemption, so too we will merit a full and complete Redemption speedily in our lifetime.

Does the Prohibition of Adjudicating Before Non-Jewish Courts Apply Today? Simon M Jackson, Legal Advisor to Torah MiTzion

A Jew deliberately murdered another in a foreign country because the latter was harassing his brother who owned a nightclub. The victim would eat and drink, and then refuse to pay. Apparently, he threatened to use violence, as a result of which they did not complain to the police. After the crime, the Jew flees to Israel. The country in which the crime was committed (France) has an extradition treaty with Israel. A request for extradition is consequently forwarded to the Israeli authorities. It may be assumed that he faces the possibility of a long prison term in the foreign country (there is no death penalty).

After being tried in several courts, the matter reached the High Court, which ruled in favor of extradition. The decision of the High Court was accompanied by a survey of the attitude of Jewish Law toward the problem of extradition, authored by Israeli Supreme Court Justice Menachem Elon, as we saw in our last few columns. We also saw that Rav Yisraeli vehemently disagreed with Justice Elon's analysis and interpretation of the Jewish legal sources on the subject of extradition. The first and most important issue which concerned Rav Yisraeli revolved around the issue of whether the prohibition of adjudicating before a non-Jewish court still applies today.

A. The Reason for the Prohibition

1. The Shulchan Aruch (ChM 26:1) states: "It is forbidden to litigate before non-Jewish judges or in their courts, even if they rule in accordance with Jewish Law, *and even if both litigants have agreed to litigate before them.*"
2. On the verse (Shemot 21:1): "And these are the statutes that you shall set before them," the Rabbis comment: 'Before them' - and not before idolaters" (Gittin 8b).
3. "Anyone who forsakes Jewish judges and appears before non-Jewish ones has first denied God and secondly denied the Torah, as is written (Devarim 32:31), 'For their rock is not as our Rock, and our enemies are judges'" (Commentary of the Vilna Gaon, Shulchan Aruch, op. cit., citing the Midrash Tanchuma).

It is obvious, argues Rav Yisraeli, that the term "idolater" (*Akum*) which appears in the printed texts is a deliberate emendation in place of "non-Jew" (*Goy*) designed to avoid problems with non-Jewish readers, as the prohibition is derived from the words "before them" meaning before the Jews - which in turn implies that *all other judges are prohibited*.

The reason for this prohibition, argues Rav Yisraeli, is not our fear of injustice in the foreign court, as it is forbidden even if it is clear that the court will follow Jewish law, and even if both parties agree in advance to accept the ruling (as stated in source A1) above). In contrast, an agreement to litigate before *Jewish laymen*, ignorant of the law, would be valid and there would be no objection to the proceedings (cf. Ramban, Shemot 21:1). The prohibition, then, Rav Yisraeli concludes, is absolute, and is of Torah status, as it is derived from a verse in the Torah. It is therefore not dependent on time or place, nor on the attitude of the non-Jews to the Jews, or the rights accorded the Jews as citizens of the particular country.

This prohibition was observed in all Jewish communities until the Holocaust. In cities with large Jewish populations, regular courts were in existence. In smaller communities, the local rabbi acted as a judge (av beit din), and all civil disagreements were brought before him - and not before the local non-Jewish courts.

B. The Halacha Does Not Change

"This is not the opinion of Justice Elon," Rav Yisraeli continues. "He believes that this prohibition was transformed in the second half of the nineteenth century and the beginning of the twentieth, against the background of the emancipation and its ramifications for Jewish-Gentile relations. His conclusion is based on a theory he has developed, according to which the prohibition was enacted in comparatively late times, with the loss of Jewish sovereignty and as part of an attempt to preserve communal and judicial autonomy. Hence, after the emancipation, when the Jews were accorded equal rights, there was no need to preserve that autonomy, which was willingly abandoned. However, this theory is not historically valid and has no basis in Halacha, as explained above."

In his rejoinder, Justice Elon argues that the distinction made by some halachic authorities between a civilized and uncivilized regime regarding the prohibition of extradition (it being permitted, he argues, to extradite a criminal to a *civilized* regime), has its origin mainly on "an established Jewish practice outside of Israel during the last two centuries of bringing their cases before non-Jewish courts," a practice which, according to Justice Elon, "is very difficult to change" (Rav Yisraeli and Rabbi Bleich, both of whose articles appear in full in *Techumin*, vol. 8, disagree with that conclusion).

Postscript - "Non-Jewish Courts" in the Modern State of Israel

Some authorities have argued that the courts in the modern-day State of Israel which rule according to "foreign laws" have the status of non-Jewish courts since they rule according to non-Jewish laws. Whether or not one agrees with Justice Elon's contention regarding the above "established Jewish practice," it is clear that the foregoing argument is based on an erroneous premise. As we saw at the beginning of this article, the Gemara's prohibition (Gittin 88b) refers not to "non-Jewish laws" (dinim) but "non-Jewish *judges*" (dayanim). This distinction is crucial. The source does not refer to the character of the law by which one is being judged, but rather to the nationality of the judges, or more correctly the court before which one is appearing. The law against recourse to "non-Jewish courts" is thus explicitly directed against appearing before the judicial bodies of a foreign government, rather than utilizing the courts of the Jewish community. It makes no reference whatsoever to the nature of the legal system used; on the contrary, it emphasizes that one may not have recourse to a *non*-Jewish court even if it makes use of Jewish law. It may be stated with certainty that a *Jewish* court which utilizes *non*-Jewish law is preferable to a non-Jewish one which utilizes Jewish law.

In stating the above, I do not wish to suggest for one moment that it is desirable that Jewish courts judge according to non-Jewish law - my only intent is to say that it is a total distortion to equate them with non-Jewish courts. To quote Israeli Justice Yaacov Bazak, in an article entitled "The Halachic Status of the Israeli Court System": "We should thank God that we have lived to see Jewish judges, appointed by the sovereign Jewish community, judging our people, rather than non-Jewish judges. The fact that the legal system by which they judge is not Jewish Law is a serious defect; nonetheless, this does not bestow upon them the status of 'non-Jewish courts.'" Indeed, from a purely halachic point of view, Prof. Barak argues, the community has the power to autonomously establish laws and enactments, even if they overrule Torah Law. The defect is not so much a religious-halachic one, therefore, but is rather a national-cultural problem. May we merit to see not only the return of our judges as of old, but also of our laws.

Next Column: Shielding Criminals in a Sovereign Jewish State

Family Learning: Parshat Bo Bluma Zalcman

- 1) What three plagues are done in parshat Bo?
- 2) What was the difference between the first three days of Darkness and the last three days?
- 3) What were the Jews busy doing during the plague of Choshech?
- 4) Perek 11; Passuk 5, Moshe says "at about midnight". Why doesn't he say the exact time? (Rashi)
- 5) What mitzvah was given to Bnei Yisrael, regarding a lamb?

Answers follow below

Looking Back: Looking Back: The Acre Prison Break In

The break in of the Acco prison was an operation carried out by members of the Irgun on May 7th 1947.

The ancient castle in Acco (Acre) had been used by the British mandate as a prison and Gadroon. It was a fortified well, and held many prisoners, mostly the members of the Irgun, a breakoff of the Haganah. Finally, the Irgun got fed up with having their members imprisoned and decided to take action.

In order to break in to the jail, Irgun members did a lot of intelligence work in order to find weak spots where they could attempt to break into the prison from. Such a spot was found in the southern wall of the jail, which was situated directly above a Turkish bathhouse. The Irgun decided to smuggle the prisoners out of the southern wall, however, there remained the problem of the prisoners' ability to reach the southern wall easily. For this reason explosives were smuggled into the prison, so when the time came, the prisoners would be able to blast open locks that blocked the hallways.

The Military Engineering Unit, under the command of Dov Solomon and Yehuda Efiryon, entered the Turkish bathhouse under the guise of telephone technicians. They brought in explosives, ladders, ropes and other supplies they might need for a break in.

At the same time the fighting units of the Irgun, under the guise of British soldiers surrounded the prison. This would allow the prisoners to escape and become dispersed in the crowd.

The break in occurred at 4:22 P.M. with a huge bang that shook the prison. Michael Eshbal, who was a prisoner, blew one of the locked doors in the hallway, while another group of prisoners held off the British with a bunch of hand grenades.

41 Irgun and Lehi prisoners managed to escape, however, half of them were killed or recaptured while the Etzel tried to retreat from the area. Only about 20 Irgun prisoners and 7 Lehi prisoners manage to escape. The 182 Arab prisoners took advantage of the opportunity and also escaped. The commanding officer, Dov Cohen, and six prisoners were killed during the operation. 5 Irgun soldiers were caught by the British and were put to trial.

Out of the 5 prisoners, three were sentenced to hanging, and 2 were sentenced to a life sentence. In an attempt to stop the soldiers from being hanged, the Irgun kidnapped 2 British sergeants and threatened to kill them if the men weren't released. The British carried out the sentence and at the same time the two British sergeants were killed as well.

This operation really helped boost the moral of the Jewish Yishuv in Israel. It seriously damaged the prestige of the British and helped them come to the decision to return Israel to the United Nations.

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.

Torah MiTzion is also proud to be a partner of the "**Jewish Learning Initiative**" program on college campuses.

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Answers, family learning:

- 1) Locusts, Darkness, Plague of the Firstborn
- 2) During the first three days, it was only dark, during the last three days it was so dark that they couldn't move anywhere
- 3) They went their Egyptian neighbors to see where they hid their gold and silver
- 4) Because the Egyptian astrologers might read the sky wrong and if he said "midnight" they would think Moshe was lying.
- 5) Korban Pesach