

תורה מציון Torah MiTzion

RELIGIOUS ZIONIST KOLLELS כוללים ציוניים בתפוצות

Shabbat Shalom from Torah MiTzion

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Longing for the Mikdash

Rav Shlomo Sobol, former Rosh Kollel, Detroit

In this week's parshah when commanding Moshe regarding the construction of the Mishkan- the Tabernacle- the command is in the singular saying, "*you* shall cover it in gold", "*you* shall cast for it" and "*you* shall make staves. Other times, we find the Torah using the plural when speaking to all of Am Yisrael, saying "*they* shall make a sanctuary for me so that I may dwell among them" and, "*they* shall make me an Ark" (Shemot 24:8-13)

Regarding the Mishkan, the use of the plural form is understandable because the contributions that were made towards the construction of the Mishkan came from Am Yisrael. Yet with regards to the Ark, the use of the plural form is unclear. Midrash Rabbah clarifies this when it teaches:

"Why is that regarding all the vessels of the Mishkan the Torah says "*You* shall make" and when speaking of the Ark it says "*They* shall make"? Rabbi Yehuda, son of Rabbi Shalom said: Hashem said that all of Am Yisrael should be involved in the construction of the Ark, so that they will merit the Torah."

Ramban quotes this Midrash and explains that each member of Am Yisrael either donated gold for the construction (in addition to their contribution for the Mishkan) or helped Betzalel in its construction or at least had intent to take part in its construction.

We learn from the Ramban that there are three levels of "They shall make":

1. Financial contribution to the construction of the Ark.
2. Taking part physically in the construction of the Ark.

3. Directing one's heart and thoughts to the construction of the Ark.

This idea is relevant when we ponder the idea of the Mikdash. Yearning for the Mikdash is considered as contributing to its construction even when building it is impossible. Throughout the long years of exile we have been unable to involve ourselves in the actual construction of the Mikdash. The most we could do is look towards Har HaBayit with sorrow and longing.

Now that we have returned to Eretz Yisrael, we have the sense that it is time to move beyond longing. While there are certainly many practical and Halachic issues to be settled before building the Beit HaMikdash, the Six Day War and the capture of Har HaBayit have set the stage for Israeli sovereignty over Har HaBayit. There is great interest concerning the Mikdash as evidenced by the many Yeshivot and Institutes dedicated to learning all the relevant Halachot. Yet there has been no action taken to establish Israeli sovereignty.

The solution is to strengthen the longing of the Jewish People for Har HaBayit and the Mikdash. The more we understand the value of the Mikdash and its significance for the life of the Jewish Nation, the greater our desire to see Israeli sovereignty and the building of the Beit HaMikdash. As we learn from Rabbi Yehuda HaLevy in the Kuzari, "Jerusalem will indeed be rebuilt when the People of Israel long for it with such desire that it's stones and dirt will reunite."

Shabbat Shalom

The Effects of Censorship on Jewish Legal Texts **Simon M. Jackson, Legal Advisor to Torah MiTzion**

In the Aloni judgment discussed by us in recent columns, Israeli Supreme Court Justice, Menachem Elon, argued that, when Jewish autonomy was limited, the Halachic scholars were extremely reluctant to aid the government in bringing Jewish criminals to justice before non-Jewish courts. Their reservations were justified "by the nature of Jewish-gentile relations in the medieval world, anti-Jewish discrimination, and corruption and injustice within the non-Jewish courts, especially regarding a Jewish defendant." After the emancipation, however, when the Jews were accorded equal rights, there was no need, Justice Elon argues, to preserve that autonomy, which was willingly abandoned, and "the prohibition on litigating before non-Jewish courts was thus transformed."

Justice Elon cites two great Torah scholars, Rav Yechiel Michal Epstein, and Rav Meir Dan Plotzky, Av Beit Din and Rav of Novardok and Ostrova in Poland, respectively, as support for his contention that the emancipation changed the attitude of the Halacha towards the law against litigating before gentile courts.

The Aruch HaShulchan

Rav Y.M. Epstein writes in his famous work, *Aruch HaShulchan* ChM 388:7, in the same section of the Shulchan Aruch in which the statements of Rav Yosef Karo and the Rama appear, prohibiting delivery of a criminal to the non-Jewish authorities, as follows:

"Everyone who is familiar with history knows that in ancient times, in distant lands, no man was safe in his person or property from robbers and extortioners, even if they bore an official title, as is known even today in some lands in Africa, where the government officials commit robbery and theft. We commend the kings of Europe, especially our Master His Royal Highness the Czar, his ancestors the czars, and the kings of Britain, who extended the rule of their governments over distant lands in order that each and every man be secure in his person and property, so that the rich need not conceal themselves in order that their property not be taken and they be killed. All the laws of informers and delivery (of Jews and their property to non-Jews) in the Talmud and the codes revolve around this point, as one who informs on his fellow and delivers him into the hands of these robbers is pursuing him in his person and property, and therefore we save him (at the expense of) the life (of the pursuer)."

Justice Elon comments on this passage:

"The Aruch HaShulchan considered the monarchies of Europe in his time to be governments which guarantee to all their inhabitants, including the Jews, security in person and property, and hence he ruled that the laws against informing and delivery, which were formulated against ancient governments characterized by "robbery and extortion," do not apply. His optimism seems exaggerated.... especially in the period of the Holocaust and immediately afterwards. **However, in principle, the approach of this great Torah scholar to our problem and his bold, explicit reasoning is very important.**"

The Kli Chemda

Justice Elon proceeds to cite Rav M. D. Plotzky (the Kli Chemda) regarding the prohibition of having recourse to a non-Jewish court: "After a lengthy analysis of this prohibition, observed throughout the history of Jewish autonomy, the Kli Chemda states:

"There is, however, no practical application of this law, as it does not apply to the judges of our times, who are not, God forbid, idolaters. **It is evident that we should litigate before them**, because of *dina de-malkhuta dina*. I outlined the laws only in order to apply them to *distant* lands, such as China and Japan, where they worship idols and their courts are forbidden."

Justice Elon's Conclusion

Great authorities of Jewish Law of the 16th century prohibited the handing over of criminals to the non-Jewish authorities unless their crimes posed a threat to the community (see Shulchan Aruch, ChM 388: 9,12, and Rema's Glosses). However, according to later authorities, that ruling refers only to *uncivilized regimes* from whom justice and fair treatment could not be expected, even where the cooperation with non-Jewish courts was *coerced* on the Jewish community. Consequently, **there is no prohibition of handing over a criminal to a non-Jewish civilized regime from whom a fair trial may be expected.**

Justice Elon proceeds to argue that extradition is all the more justified when it is executed *freely* by a sovereign Jewish state, *equal in rights to the state requesting the extradition*. The Bach, whom we quoted in our last column, was willing to rely on the integrity of the judicial system of his day in Poland, which was not subject, of course, to any supervision whatsoever by the Jewish community. *This surely can be assumed, argues Elon, in regard to a country whose judicial system can be monitored by observers sent from Israel, both*

before and after the signing of the extradition treaty. Moreover, he argues, according to the extradition law, a person cannot be extradited at all for a crime where he may face the death penalty, whereas the Bach accepted the *possibility* that there would not be a death sentence as sufficient to allow extradition.

Rav Yisraeli's Criticisms

Rav Yisraeli criticizes as "quite ridiculous" the above statements by Justice Elon, which, he argues, were clearly made "only in order to placate the government censor (who was usually an apostate Jew)." In order to publish his work, the Aruch HaShulchan has no choice but to effusively praise the Czar and, in order to give his statement the appearance of sincerity, he included the other rulers of Europe. "Our Master His Royal Highness the Czar" refers to non other than Alexander III, who was a known enemy of Russian Jewry! ***"Nonetheless, Justice Elon builds an entire theory on the basis of this statement, perceiving an "important approach" and "bold reasoning" to the effect that a prohibition "observed diligently throughout the Diaspora until the emancipation" has been annulled in modern times."***

Proceeding from "this erroneous conception," Rav Yisraeli argues, Justice Elon discovers a similar approach in a statement of R. Meir Dan Plotzky. The statement is found in his homiletic commentary to the Torah, Kli Chemda, and not in a legal work (the source quoted from the Aruch HaShulchan similarly appears as an addendum to the text, and not in the legal sections themselves). Here, too, Rav Yisraeli sees the Kli Chemda's statement that "it is *evident* that we should litigate before them [the judges of our times]" as nothing more than lip service. According to Rav Yisraeli, "a high degree of naiveté is required to believe that the Kli Chemda maintained that the prohibition of non-Jewish courts did not apply in his time and place. ***It is clear and indisputable that the prohibition to litigate or deliver a Jew to a non-Jewish court remains in force...***"

Justice Elon's Rejoinder

Justice Elon agrees that the distinction made by some Halachic authorities between a civilized and uncivilized regime, regarding the prohibition of extradition, had its origin in fear. However, he argues that the distinction is also based on "an established Jewish practice 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).

Final Column: Injustice and Local Law, and the Merits of the Land of Israel

Family Learning: Parshat Truma Bluma Zalcman

- 1) Why is the Aron referred to as "the Edut"?
- 2) How many "covers" did the Aron have, and what was each one made of?
- 3) How does Rashi say the Menorah was made? (25:31)
- 4) What was the Parochet?

Answers follow below

Looking Back: The Battle of Ammunition Hill (Jerusalem)

The Ammunition Hill (Givat Hatachmoshet) was a Jordanian post in East Jerusalem. It was one of the toughest battles in the Six Day War.

The hill was part of a site which included a police school, which had ditches to connect the school with the post itself. It was built by the British during the mandate in the 1930's, and it was used to store the police school's ammunition. After the War of Independence, the post remained under Jordanian control, thus preventing Israel from linking Har Hatzofim (Mt. Scopus) with West Jerusalem, which was the only part of East Jerusalem controlled by Israel. It also controlled the road to the old city.

The post consisted of tens of bunkers built along 3 main ditches. When the Six Day War broke out, it was defended by a reinforced Jordanian company of about 150 soldiers. The actual Jordanian-Israeli fighting took place June 6th 1967 at the Police School and on Ammunition Hill. The fighting broke out at 2:30 A.M. and ending four and a half hours later at 7:00. The mission of capturing the site was given to the 3rd Company of the 66th Regiment of the Paratroopers Brigade led by Commander Mordechai (Motke) Gur (the man who was the commander of the Brigade that recaptured the Temple Mount). During the battle, a force of the 2nd Company joined in led by Commander Yossi Yaffe.

After the fighting ended there was a total of 37 casualties, 21 of them killed on Ammunition Hill. 3 of the soldiers who fought were given a citation by the Israeli Chief of General Staff.

In 1975, a memorial site was inaugurated. Part of the old post was reserved and a museum was built. One of the walls in the museum has the names of the 182 soldiers killed in the battles of liberation of Jerusalem. In 1987, the site was declared a national site and every year the main ceremony for Yom Yerushalayim is held there.

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. Edut means testimony. The Aron was a testimony to G-d's relationship to Israel.
2. 3. One was wood, one was gold and was gold covered wood.
3. Hashem actually made the Menorah. Moshe had a bit of difficulty making it because it was supposed to be from one big piece of gold, so Hashem made it.
4. The curtain separating the Kodesh from the Kodesh Hakdoshim.