

Halachic Perspectives On Democracy

With the recent demonstrations in Hong Kong protesting the Chinese government, this week's article will focus on the right (or duty) of revolution, and explore some of the halachic perspectives on democracy.

The Right (Or Duty) Of Revolution

A strikingly

undemocratic stance appears in *Abravanel's* commentary to the Biblical discussion

of monarchy. He raises the question of the propriety of a nation rebelling against and overthrowing a king who is "evil and scoundrelly". He records that

"the sages of the nations" have analyzed this question, and determined that it

is indeed appropriate, "but I spoke on this topic before kings and their sages,

and I demonstrated that it is not appropriate, and that the nation has no right

to rebel against the king and remove his dominion and kingship even should he

commit all manner of villainy". He bases this upon three arguments, the first

two applicable to any king, and the third specifically to Jewish ones:

- The irrevocability of the social contract: the nation's covenant of obedience to the monarch is absolute and unconditional, and the former does not have the right to judge the latter's righteousness or villainy.
- The monarch's place in the land is analogous to Hashem's in the world, and lifting a hand against the former to remove him from his position is therefore equivalent to lifting a hand against Hashem Himself.
- One without the autonomy to choose a king cannot have the authority to depose him. The choice of a Jewish king is not in the hands of the people, but in that of Hashem (as per the Biblical verse opening this article), and since the people do not grant the kingship, they may not withdraw it. Hashem does not grant the nation the right to rebel and overthrow the king, no

matter how evil he is, and its only recourse is appeal to Him.

The *Abravanel* notes that "we have not seen anything on this in the words of our nation's sages", and I do not know to what extent

this reactionary perspective is accepted and shared by other Jewish thinkers.

Although he asserts that he has “demonstrated” that revolution is illegitimate, his arguments, particularly the first two, hardly seem compelling.

Consent Of

the Governed As the Basis Of Governmental Legitimacy

The

Lockian-Jeffersonian idea that governmental legitimacy derives from the consent

of the governed finds expression in the Rashbam’s famous explanation of the

Talmudic principle of *dina de’malchusa dina* (“the law of the government is [halchically

recognized as] the

law”):

For all the

subjects of the government willingly accept upon themselves the decrees of the

king and his laws and it is therefore the absolute *din*.

According to

the Rashbam, it seems obvious that if *Chazal* asserted the principle of *dina de’malchusa dina* in

the context of the autocratic governments of the ancient world, *a fortiori* does it

apply to modern democracies. Indeed, the consensus of the modern *poskim* does so extend the

principle, arguing that even according to the alternative rationales for the principle, a democratic government is no worse than a monarchy, with some going

even further and arguing that some of the limitations of the principle established by the *poskim* do not apply to the legislation of

democratic governments. Moreover, some *poskim* argue that democratic, consensual

government can derive its legitimacy from additional *halachic* frameworks such as

partnership (*shutfus*) or municipal government (*sheva tuvei ha’ir* – see

below), although these ideas are controversial.

Local

Government

Another

context in which *halacha* endorses the democratic idea is that

of local government. The Maharam of Rottenberg, responding to a

community riven
with strife that could not reach consensus on the appointment of leaders
("roshim"), laid down the following procedure:
All the
householders **who pay taxes** shall be assembled, and they shall accept
upon themselves under penalty of anathema ("beracha") that everyone shall
express his
opinion for the sake of Heaven and for the good of the city, and they shall
follow the majority, whether to select leaders, to establish *chazanim*, to
institute a charity fund, to
appoint *gabai'm*, to build or to demolish the
synagogue, to add and detract, to purchase a wedding hall and to build and
demolish therein, to buy a bakery and to build and demolish therein.
The bottom
line is, any communal need shall be addressed at their direction, according
to
whatever they say, and if the minority shall refuse and stand in opposition,
...
the majority, or whomever the majority shall appoint as leaders, have the
power
to compel and force them via either Jewish law or the law of the nations,
until
they say "we desire [to comply]" ...

One
Dollar, One Vote?
The Maharam
apparently takes for granted that suffrage is limited to taxpayers; his
student, the Rosh, propounds a similar view, at least in the context of
financial matters:
A community
that institutes an anathema ("*cherem*"), if it is in the context of
financial affairs, we follow the majority of wealth ... and it cannot be that
the
majority of individuals who pay the minority of the taxes shall decree an
anathema on the wealthy according to their views.
The *acharonim*
debate whether the
Rosh means that the wealthy minority can actually impose its will on the
impecunious majority, or merely that we view the two groups as equally
balanced, and they must therefore reach some consensus, or that those who
do
not pay the relevant tax do not vote, but all those who do pay tax are
counted
equally, regardless of the differences in their assessments.

Socialism
and Communism
The *Chavatzeles*

Ha'Sharon insists

that socialism and communism are fundamentally anti-Torah:

It is known

to us that the primary support for this [post Great War rent control] legislation comes from certain free [thinking] elected [representatives], who have among them the opinions and doctrines of the communists and socialists, to

squeeze the wealthy and to take their money, and all these doctrines are against *da'as Torah*.

Similarly, R.

Yehudah Silman concludes that at least the extreme case of the blanket nationalization

of property is illegitimate: it is considered theft, and not covered by the principle of *dina de'malchusa dina*.