

Halakhic Guidance for New Realities: Thoughts on Parashat Vayigash, December 11, 2010

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When Jacob and family set out for the land of Egypt to re-unite with Joseph, the Torah informs us that Jacob sent Judah ahead "to show the way before him unto Goshen" (Bereishith 46:28). The Midrash offers an interpretation: Judah was sent ahead in order to establish a center for Torah study and "hora-ah"--a place for giving definitive halakhic rulings to guide the family in their new setting. This anachronistic interpretation (the Torah wasn't given to the Israelites until hundreds of years later!) reflects an interesting rabbinic insight.

I believe that this Midrash is indicating the vital importance of proper spiritual leadership--especially in new circumstances. Jacob had been able to provide religious leadership while the family lived in Canaan. But now that the family was moving away to settle in Egypt, Jacob was concerned about the spiritual health of his family in the new environment. He was already an old man; he may not have been confident of his ability to adapt to the new circumstances and meet the needs of the younger generations. So he sent Judah to establish a base for Torah study and "hora-ah"--instruction in practical religious living. Jacob understood that a new situation demanded new insights, new interpretations, new applications of old principles. He sent Judah ahead to set the spiritual framework for the Israelites.

"Hora-ah"--halakhic decision-making by our teachers--is an essential ingredient in religious life. The public needs to have clear answers and definitive guidance on matters affecting their religious observance. But the public also needs to have halakhic decision-makers who are not only versed in sacred texts, but who are fully aware of new realities and new circumstances.

Rabbi Haim David Halevy, late Sephardic Chief Rabbi of Tel Aviv, indicated that various rabbinic texts needed to be re-evaluated in light of the newly established State of Israel. He argued that it was halakhically unsound to point to texts written during the many centuries of Jewish exile, and to apply those texts uncritically to problems facing a sovereign Jewish State. For rabbis to offer proper guidance to the Jewish State, they first need to recognize that they are living in a new situation, a new era; that the Jewish State has new responsibilities and

challenges not explicitly discussed in the rabbinic literature that developed while Jews lacked their own State. Rabbis cannot make proper halakhic decisions relating to the State of Israel, unless they first understand the nature of governmental responsibility for society--economics, military matters, diplomacy, international relations, democratic principles etc.

A "ruling" was recently issued by over 40 rabbis in Israel that it is halakhically forbidden for Jews in Israel to sell homes or land to non-Jews. These rabbis cited texts from Maimonides and the Shulhan Arukh. This "ruling" is an example of narrow halakhic interpretation that ignores the new realities of maintaining Israel as a democratic State. The rabbis--in their concern for strengthening the Jewish population in Israel (especially in the North)--ignore the democratic principles upon which Israel was founded; foster discriminatory policies against non-Jewish Israeli citizens; shame Israel in the eyes of the democratic world; justify anti-Jewish policies in territories and countries under non-Jewish control. These rabbis demonstrate a pre-modern mindset that does not factor in the real needs and responsibilities of a sovereign democratic Jewish State.

Fortunately, many--including the Prime Minister of Israel--have raised their voices in strong criticism of the statement by this group of rabbis. Rabbi Yuval Cherlow, the Rosh Yeshiva of the Yeshivat Hesder in Petah Tikvah, has argued that it is halakhically permitted to sell homes and land in Israel to non-Jews, and that this indeed is demanded by the democratic principles of Israel. If the rabbis are concerned about increasing the Jewish population in various areas of Israel, they should encourage Jews to move in--not forbid non-Jews from buying homes.

Our forefather Jacob understood that new times and new circumstances created new challenges for "showing the way" of Torah and halakha. We can't operate as though nothing has changed in the past hundred years. We can't provide meaningful and valid guidance if we are not fully aware of the broader implications and ramifications of our decisions. Narrow learning and narrow perspective lead to a stunted view of Torah and halakha--and ultimately undermine the credibility of those who claim to be halakhic decision-makers.

Let us remind ourselves of the fundamental Jewish teaching about Torah: "Her ways are ways of pleasantness, and all her pathways are peace."

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