

## What is the Torah's Ideal Political System?

By Rav Elchanan Samet

### a. APPOINTING A KING: MANDATORY OR OPTIONAL?

Does the Torah set out a particular social-political way of life for the nation of Israel dwelling in its land, or does it leave this sphere open to the people's choice? This question may be clarified in the context of the section of this week's parasha (17:14-20) dealing with the mitzva of appointing a king (and also by examining the chapters describing the establishment of the kingship in Shemuel I chapters 8-12).

The central question from an exegetical point of view is this: is the appointment of a king mandatory or optional? This question arises from a lack of clarity – perhaps it should be called a contradiction – in the text:

(17:14) "When you come to the land which Hashem your God has given you and you possess it and dwell in it, and you say, 'Let us appoint a king for ourselves like all the nations around us,'

(17:15) You shall surely appoint a king over yourselves, whom Hashem your God will choose, one of your brethren shall you appoint as king over you. You may not appoint a stranger over you who is not your brother."

R. Chaim ben Atar (Ohr Ha-Chaim 17:14) presents the problem thus:

"When the text says, 'When you come to the land... AND YOU SAY...', it means that it is not God's command to you that a king should reign; rather, if the nation speaks so, then they are permitted [to appoint him]. But later it says, 'You shall surely appoint' – the language here shows that God is commanding that they appoint a king!"

According to this commentator, the whole of verse 14 contains the conditions for the command (i.e., the circumstances in which it applies), while the command itself is given in verse 15. The conditions for the mitzva in verse 14 are twofold: the first condition defines the time and the historical circumstances in which the mitzva applies: after the inheritance of the land and the settlement of it. The second condition stipulates the necessary social and political circumstances: when Am Yisrael requests a king. If the mitzva is conditional upon an expression

of national will that the institution of kingship be established, then what this means is that the appointment of a king is voluntary, and the Torah merely details the procedure of this appointment. But if this is so, then why does the Torah in the next verse seem to formulate an absolute command to appoint a king?

### b. THE TANNAITIC DISPUTE

The beginning of the exegetical dispute on this question is to be found in a debate between Tana'im found in a beraita (Sanhedrin 20b, and Tosefta Sanhedrin ch. 4), and in the Sifri Devarim on our parasha.

"R. Yehuda said, Three commandments were given to Israel [to fulfill] upon their entry into the land: appointing a king, destroying Amalek, and building the Temple.

R. Nehorai said, This parasha [of appointing a king] was given only in response to their murmurings, as it is written (17:14), 'And you shall say, "Let us appoint over ourselves a king [like all the nations around us]."'

Rashi interprets the words of R. Nehorai thus: "You shall surely appoint over yourselves a king' is a command, but only in response to your murmurings, for it was known to God that they would murmur about this in the future." The predicted "murmurings" of Israel were realized in the days of Shemuel. The mitzva in the Torah was meant to create a response to address this murmuring in advance, i.e., to create a framework for this future appointment of a king, which is voluntary and based only upon their dissatisfaction.

The Sifri (156) formulates a slightly different explanation:

"And you shall say, Let us appoint over ourselves a king' – R. Nehorai says: This is a matter of disgrace to Israel, as it is written (Shemuel I 8:7) 'For it is not you whom they have despised, but Me whom they have despised from ruling over them.'

R. Yehuda said: But it is a mitzva from the Torah for them to request a king for themselves, as it is written, 'You shall surely appoint over yourselves a king.' So why were they punished for this in the days of Shemuel? Because it was too early for them to ask.

'Like all the nations around us' – R. Nehorai said, They did not ask for a king for any other

reason but so that he would institute idolatry, as it is written (Shemuel I 8:20), 'And we, too, shall be like all the nations, and our king will judge, and he will go out before us and fight our wars.'"

Attention should be paid to the fact that R. Nehorai's statement contains two parts. At first, when interpreting the beginning of the verse ("Let us appoint a king"), he says that the very wish for a king represents a rejection of God's rule over them, as expressed in Sefer Shemuel. R. Nehorai then interprets the continuation of the verse even more critically: their desire to be "like all the nations around us" reveals that their wish for a king is bound up with their wish to be free to engage in idolatry.

Despite the broad basis the R. Nehorai brings for his claim, the Rambam – and, following his example, most of the early authorities – rules according to R. Yehuda: he counts the mitzva of appointing a king as one of the 613 mitzvot (Sefer Ha-mitzvot, positive mitzva no. 173, Hil. Melakhim 1:1). This situation has caused many biblical commentators throughout the ages to interpret the text here in accordance with the explanation of R. Yehuda and the ruling of the Rambam, in order that their interpretation be compatible with the halakha.

However, some commentators differ with the majority and maintain that the appointment of a king is a voluntary matter. The existence of such an opinion among the Tana'im certainly strengthens their case.

#### c. THE DISPUTE AMONG RISHONIM

As stated, many of the medieval authorities rule as the Rambam did (the Semag – positive mitzva 114, Sefer Ha-Chinukh 497, the Me'iri in Beit Ha-Bechira on Horayot 11b, the Ran in his eleventh derasha), and many of the early and later biblical commentators interpret the verses in the Torah accordingly (Radak in his commentary on Sefer Shemuel, Ramban, Rabbag, Rabbeinu Bechaye, Akeidat Yitzchak, etc.). We shall suffice with examining just one representative of this great camp: the Ramban. Thus writes the Ramban on the words, "And you shall say, 'Let us appoint over ourselves a king'":

"According to the opinion of our Sages, this is equivalent to the Torah saying, 'and you shall say.' In other words, 'Say: Let us appoint over ourselves a king.' This is a positive mitzva, obligating us to declare this after the inheritance and settling of the land..."

Indeed, the Ramban succeeds thus in resolving the contradiction in the text: he changes the boundaries between conditions for the mitzva and the mitzva itself, defining them differently than the Ohr Ha-Chaim previously did. "And you shall say..." is not, in his opinion, part of the conditions for the mitzva but rather the beginning of the mitzva itself, which in turn is composed of two parts: one is a requirement that the nation REQUEST of its leaders that a king be appointed, and the other part is that the nation receive a positive response and that a worthy king in fact be appointed. The logic behind this double

mitzva is that in this way the appointment of the king will not be forced on an unwilling nation. As for the end of the verse - "like all the nations" - the Ramban this phrasing is not mandatory, but rather a prophetic foreshadowing and warning of what they will actually request in the time of Shemuel.

Attention should be paid to the fact that the Ramban interprets the text thus in order to adapt it to "the opinion of our Sages" – i.e., the opinion of R. Yehuda. However, he ignores the existence of a different opinion among Chazal – that of R. Nehorai.

As opposed to the large group of commentaries who interpret the appointment of a king as mandatory, there are only a few who interpret it as voluntary. This latter group includes Targum Yonatan, Rabbenu Meyuchas of Greece, and Ibn Ezra. Ibn Ezra expresses his view clearly and concisely:

"'You shall appoint' - this is optional;

"'Whom God will choose' - through a prophet or the decision of the Urim Ve-tumim; meaning - not someone whom you yourself will choose."

#### d. ABARBANEL AND SEFORNO

If we say that the appointment of a king is voluntary, and that the mitzva involves merely the procedures that Benei Yisrael must follow under circumstances that they themselves bring about, one important question arises: Is it desirable for Benei Yisrael to bring about these circumstances? In other words, is it optional and encouraged or optional and discouraged?

Two commentators expressed their positions in this regard explicitly and in detail. The similarities between the two are not coincidental: both lived in Renaissance Italy and both involved themselves not only in Biblical exegesis, but also in Jewish philosophy. They were both involved in the general culture of their time and had direct contact with the European political philosophy of their period as well as the various regimes that ruled throughout Europe and Italian provinces. Thus, their comments regarding the issue of Jewish monarchy take on special significance.

##### A) Rav Yitzchak Abarbanel:

To properly understand his approach on our issue, we must first find out a little bit about his life. Abarbanel was born in 1437 to the minister of the treasury for the Portuguese king. His father provided him with both a Jewish and general education. The latter included Greek and Roman literature as well as command of the Portuguese language. Rav Yitzchak assumed the post as minister of the treasury upon his father's death, but shortly thereafter, with the change of rule in Lisbon, he was compelled to flee for his life to neighboring Spain. There he became the general economic advisor to King Ferdinand and Queen Isabella. In 1492 he left Spain as a result of the expulsion order. He resided in Naples where he served as royal economic advisor until he was again forced to flee, this

time as a result of the French conquest. At the end of his life he lived in Venice, which was then an independent republic, where again he worked as an economic advisor to the authorities. He lived in Venice until his death. Alongside his political and economic involvement, Rav Yitzchak Abarbanel remained intensely engrossed in Torah studies, writing commentaries to Tanakh and other works.

Abarbanel was the only Jewish exegete of his time whose knowledge of various forms of government was that of an insider. He literally lived in the households of kings and rulers and caught more than a glimpse of their respective qualities and shortcomings, as well as those of the differing political theories and policies of his period.

In his lengthy introduction to our parasha, Abarbanel asks: If appointing a king is a mitzva, why didn't Yehoshua or others fulfill it? Furthermore, he asserts, Jewish history demonstrated that most Israelite kings led the people astray, and general history has shown that the more power is concentrated in an individual, the more corrupt he is likely to be. Abarbanel then presents his explanation of our verses:

"When the Torah says, 'When you come to the land... and you say: Let us appoint a king for ourselves like all the nations around us,' this does not constitute a mitzva at all. God did not command that they say this and request a king (as the Ramban had explained). Rather, this is foretelling the future. It means, after your settlement in the chosen land, the conquest and all the wars, and after the division [of the land] ... I know that you will be ungrateful and say of your own volition, 'I will set a king over me,' not out of necessity to fight the nations and occupy the land, for it will have already come under your occupation, but rather to render yourselves equivalent to the nations that crown kings over themselves. He mentioned that when this occurs, they should not crown that king based on their own will, but rather [they must crown] the one who God chooses from among their brethren... According to this, then, the issue of the king is a positive commandment that depends upon a voluntary situation, as if to say, when you want to do so, notwithstanding its impropriety, do so only in this manner."

B) Rav Ovadia Seforno:

Seforno (born in 1470) lived a generation later than Abarbanel and acquired vast scientific knowledge in the university in Rome. Although he never worked as a politician, Seforno, too, had close relationships with important figures in Italy and was quite familiar with the political culture of his time. He writes:

"Let us appoint a king for ourselves like all the nations around us' - that the kingship will belong to him and his offspring, as opposed to the system of judges [shoftim] whereby only the judge himself serves, not his children after him.

"They were commanded regarding the appointment of a judge in this manner (that is, without automatic transfer of authority to his children) upon their entry into the land, as it says (Bemidbar 27:17), 'So that God's community may not be like sheep that have no shepherd.' True, a king like the kings of the gentiles - who hold kingship for themselves and their offspring - is despicable to God. However, He commanded that when they insist upon setting up a king over themselves in this manner, they should select only a deserving person whom God chooses. He will not bring Yisrael to violate their religion, and he will not be a gentile... When they sinned by asking for a king who will rule as would his offspring 'like all the gentiles' (as described in Sefer Shemuel), they were punished through the mishaps suffered by the masses as a result of the king, as it says (Shemuel I, 8:18), 'The day will come when you cry out because of the king whom you yourselves have chosen; and God will not answer you on that day.'"

The comments of the Abarbanel and Seforno resemble each other, but here we will point out their differences:

- A. The ideal government in the eyes of the Abarbanel is a republic (as he witnessed in Venice). Unlike Seforno, Abarbanel did not see in a single, authoritative figure who rules until his death an ideal example of government.
- B. Abarbanel sees the problem with the request for a king as relating to the desire to grant exclusive authority to a single individual. According to Seforno, by contrast, this is not the problem at all. Only the establishment of a hereditary kingship renders the request worthy of criticism.
- C. Abarbanel emphasizes the failure of the institution of the monarchy as demonstrated by both Jewish and general history, a failing that he attributes to the ethical shortcomings inherent in the institution. Seforno, however, speaks of the punishment that will befall Benei Yisrael only for their sin of requesting a king who will bequeath his power to his heir.

Thus, Rav Ovadia Seforno expresses more mild opposition to the institution of the monarchy than does Rav Yitzchak Abarbanel (perhaps because he did not have firsthand experience with kingship as did Abarbanel).

Seforno's approach raises the question: Wherein lies the fundamental difference between a king who bequeaths his rule to his son, a system that God deems "despicable," and a king who does not pass down his reign, the appointment of whom constitutes a mitzva? One would perhaps suggest that hereditary kingship contains the potential for corruption and the ascent of unqualified rulers to the throne. This answer, however, fails to justify the ireligious between these two forms of government as expressed by the Seforno.

A non-dynastic monarchy requires in every generation - or even more frequently - a selection of a new ruler over the people.

When God Himself performs this selection, whether He does so directly through a prophet (the way Shaul and David were appointed) or in a roundabout manner through the emergence of a charismatic leader who saves the people from their enemies (as occurred during the period of the judges), then the sense of the presence of divine supervision remains among Benei Yisrael. By contrast, a dynastingship "like all the nations" gives the nation a sense of political stability that undermines their awareness of divine providence. This concern forms the basis of God's words to Shemuel when the people came to him to ask for a king (Shemuel I 8:7): "For it is not you that they have rejected; it is Me they have rejected as their king."

#### e. THE NETZIVS INNOVATIVE APPROACH

Two commentators tried to resolve the contradiction between verses 17:14 and 17:15 by suggesting that the appointment of the king involves both an obligation as well as a voluntary measure. The first is the Ohr Ha-Chayim (in his interpretation of R. Nehorai's view), which I will leave for the reader to look up. The second commentator who adopts this approach is the Netziv, in his "He'amek Davar," only he develops this theory within Rav Yehuda's view:

"And you say: Let us appoint a king for ourselves' - This is does not imply 'saying' in the typical sense, that is, verbally (as the Ramban explained), but rather [it denotes the people's desire]... Indeed, from this expression it appears that this does not signify an outright obligation to appoint a king, but it is rather voluntary...

However, it is well known in the words of Chazal that there does exist a mitzva to appoint a king. If so, then why is [the mitzva written in an equivocal fashion]? It seems that [this is] because national leadership changes [with regard to] whether it is controlled by the will of the monarchy or by the desire of the population and their elected officials. Some countries cannot tolerate royal authority, and other countries are like a ship without a captain when they do not have a king. This matter (determining the form of government) cannot be done according to a mandatory positive mitzva. For with regard to matters relevant to leadership over the nation at large, this involves issues of life-and-death that override a positive commandment.

Therefore, it was impossible to command in absolute terms the appointment of a king UNTIL IT WAS AGREED UPON BY THE NATION to tolerate the royal yoke based on their observation that the surrounding nations managed better [under a monarchy]. Only then is it a positive mitzva for the Sanhedrin to appoint a king. ... This is why throughout the three hundred years that the Mishkan was chosen to stand in Shilo there was no king -

because there was no consensus among the people."

Underlying this original position of the Netziv are two basic assumptions, and only upon these cornerstones could he posit his startling approach. His first assumption he writes explicitly: that Chazal viewed the appointment of a king as a mitzva. Of course, this assumes the viewpoint of Rav Yehuda and ignores the opposing position of Rav Nehorai. The Netziv was most likely influenced by the ruling of the Rambam and others.

The second assumption emerges from his words more subtly. It is clear to the Netziv that careful consideration of the different forms of rule among the nations will bring those contemplating this issue to the conclusion that absolute monarchy is preferable over other forms of government (such as that which operates "according to the desire of the population and their elected officials"). The Netziv attributes this assumption to the Torah itself, which patiently waits for Benei Yisrael to arrive at this "correct" political outlook. Only then does the Torah mandate the appointment of a Jewish monarch. Of course, living in nineteenth-century Russia under the Czar, this presumption may have seemed to him natural and self-evident, but it is one which is difficult for contemporary man to accept.

#### f. ANOTHER PERSPECTIVE ON THE ISSUE

In conclusion, we should note that most commentators saw the parasha of the king as the locus for a discussion regarding the Torah's preferred form of government. However, in the textual and historical contexts in which the issue of the monarchy arose (especially during the time of Shemuel), it seems that the question here involves a different issue: is there, according to the Torah, a need to establish any central authority at all? In other words, does the Torah destine Benei Yisrael for life within the framework of a political state, or does it prefer existence within a more anarchic social framework lacking any governmental authority?

This second possibility describes Benei Yisrael's history during the time of the judges until the period of Shemuel. They lived within the framework of tribal treaties and agreements with no central authority endowed with the power of legislation or coercion. This social system was not easy for them, as external pressures from enemies did receive proper response given the lack of a king or organized military and governmental mechanism. Indeed, thoughts of a central authority arose from time to time throughout the period of the judges. Gidon responded the people's request for a hereditary monarchy by proclaiming, "I will not rule over you myself, nor shall my son rule over you; God alone shall rule over you!" (Shoftim 8:23). Apparently, behind this anarchistic societal life stood a firm, religious outlook. The same may be inferred from Shemuel's reaction to his constituents' request for a monarch. Their request in essence meant turning the voluntary treaty among the tribes into a single political body with central authority. The issue of the precise character of such a government is but a secondary question.

The Tanna'im who disputed the issue of the mitzva to appoint a king - R. Yehuda and R. Nehorai - seemed to have debated the

question of the necessity of a state, not of the best form of government. According to Rav Yehuda, there is a mitzva for Benei Yisrael to establish a political framework in its land, for only thereby can they carry out the tasks with which they were charged upon entry into Eretz Yisrael - destroying Amalek and building a Mikdash. The Gemara notes that the appointment of a king had to precede the other two, since only a political entity with concentrated authority can draft the necessary resources for the other two tasks. Shaul's victory over Amalek and Shelomo's construction of the Mikdash could not have occurred during the period of the judges.

According to what we have said, an anarchist could find in the Torah and the commentaries cited here a basis for his political theory, just as one who insists upon one form of governmental authority or another can find support for his view.

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