

# Democracy Through Jewish History

BY: Ruthie Just Braffman

Thomas Paine (1737-1809), British-born American writer and Revolutionary leader, in his pamphlet *Common Sense* (1776) attributes the British monarchical tyranny on the precedent set by the Jews: "Government by kings was first introduced into the world by the Heathens, from whom the children of Israel copied the custom... And here we cannot but observe that their motives were bad, viz., that they might be like unto other nations, i.e., the Heathen, whereas their true glory laid in being as much unlike them as possible... the Jews under a national delusion requested a king." Paine is referring to the event in Samuel I in which the people turn to the prophet and say, "Behold! You are old, and your sons did not follow your ways, so now appoint for us a king to judge us, like all the nations"<sup>1</sup>

In accordance with Paine's accusation, the Jewish people used a seemingly undemocratic system in accordance with Jewish law and verified through history, wherein a monarch led the Jewish people. Moshe, upon instruction from God, tells the people while they are in the desert, "When you come into the Land... you shall surely set over yourself a king whom Hashem your God shall choose."<sup>2</sup>

It is conceivable that the Jewish people introduced monarchy as a mainstream practice as Thomas Paine so passionately declares, however, monarchy may not be the only form of governance commanded by the Torah, nor seen in Jewish history. Rav Aharon Lichtenstein explains that the monarchical command found in Deuteronomy does not allude specifically to a king as ruler, but in fact to any, "civil sovereign... conceivably an oligarchie or democratic entity as well."<sup>3</sup> In fact, certain legal structures found in the Tanakh, as well as examples in Jewish history, exhibit what have come to be known as liberal democratic characteristics, similar to those espoused by the US Constitution.

In addition to Rav Lichtenstein's insight that halakhah condones a democratic leadership, there is also within the halakhic structure, a separation of powers, which is often linked to democratic governments, particularly that of the US government. Halakhah dictates that the monarchical authority figure coexist with a *Sanhedrin*, the high court of justice and supreme council of ancient Jerusalem: "Assemble for me seventy men of the elders of Israel, whom you know to be the people's elders and officers, and you shall take them to the Tent of Meeting, and they shall stand there with you."<sup>4</sup> Whether the Jewish nation is led by a monarch, or a "civil-sovereign", there is instituted in the halakhic system, "governance which is by definition not in the hands of religious leadership."<sup>5</sup> Not only does the *San-*

*hedrin* exemplify the separation of powers, but within the framework of the *Sanhedrin* exists the overriding factor of democracy: rule by majority. Rambam points out in his introduction to *Mishneh Torah* that a *navi*, prophet, carries no more weight in the *Sanhedrin* than his fellow members:

Regarding deductive logic, intellectual perception and comprehension of the mitsvot, the Prophet is exactly like the other Sages who are equal to him but who have not attained prophecy. For when a prophet maintains a point of logic, and another Sage who is not a Prophet likewise maintains a (conflicting) logical argument, even if the Prophet shall say, "The Almighty revealed to me that my logic is correct," you may not take heed of what he says."<sup>6</sup>



Thus, the Jewish model implements a separation of powers wherein the civil authority is held in the hands of a could-be elected official (not specifically a religious or rabbinic figure), who governs in partnership with a *Sanhedrin*, in charge of the religious affairs. A separation of powers – a potentially elected official – a court system ruled by the majority – does this not sound like the formulations of democracies that exist today?

The separation of powers, a term credited to the French Enlightenment political philosopher Baron De Montesquieu, was also exercised in Jewish autonomous rule during the second commonwealth era. From the very beginning of the Babylonian exile, the Jewish community was led by the *reish galuta*, or the Exilarch, who handled the secular affairs while the *rashei yeshivah* of the great Babylonian academies administered to the spiritual needs of the community.<sup>7</sup> The distribution of powers was also carried out within the system of the Exilarch, for the *reish galuta* appointed judges and then as the head, was himself the final court of appeal.<sup>8</sup> The symbiotic (although not always) leadership by the Exilarch and heads of the Babylonian yeshivot proved to be a success because during a great part of the second commonwealth era, "the Jews enjoyed a good deal of autonomous rule, with almost all internal civic administrative functions coming under the jurisdiction of the Exilarch."<sup>9</sup>

Truthfully, the first hints of democratic

characteristics did not start with the Davidic reign or second commonwealth era but can be found in the Tanakh. In the *Midbar*, Moshe sits by himself from "morning until the evening"<sup>10</sup> judging the people of Israel. His father-in-law Yitro looks at this impractical system and points out its impracticality saying to Moshe, "You will surely weary – you, as well as the people that are with you."<sup>11</sup> Yitro acknowledges the intensive labor on Moshe's part, as well as his lack of availability to the people. Therefore, Yitro suggests to Moshe that he set up a court system by appointing "leaders of thousands, leaders of hundreds leaders, of fifties, and leaders of tens. They shall judge the people at all times, and they shall bring every major matter to you, and every minor matter they shall judge."<sup>12</sup> Following Yitro's advice, Moshe sets up a system that ensures accessibility and response to the people on individual and national levels. In remarkable similarity, the U.S. Department of State affirms amongst its characteristics of democracy that "all levels of government must be (as) accessible and responsive to the people as possible". Unbeknownst to Yitro, his suggestion to Moshe to make judges available to the people would be a major factor in democratic policy.

Jumping ahead over 1500 years past the Davidic dynasty and second commonwealth era, the opportunity for self election and communal autonomy arose for the Jews in 16<sup>th</sup> century Eastern Europe, specifically in the areas of Great Poland, Little Poland, Red Russia, and Volhynia in the form of the *Va'ad Arba ha-Aratsot*, the "Council of the Four Lands".<sup>13</sup> The *Va'ad Arba ha-Aratsot*, "the supreme legislative and juridical as well as executive body of Polish Jewry"<sup>14</sup> was a governing system divided up by region and geographical locations. The U.S. Department of State publication lists the decentralization of the government to "regional and local levels" as a characteristic of democracy, which is in essence the foundation and structure of the *Va'ad*. Governing on a city level was the *kehillah*, which regulated the synagogue, cemetery, rabbis, *dayyanim* (religious judges) and all the other services required by an organized community. There were also sub-*kehillot*, small outlying settlements of larger cities that would be absorbed and maintained by the neighboring *kehillah*. Each *kehillah* had three officers within its structure; "the elders," who rotated office each month, functioned in a manner similar to a town mayor, the "*tovim*" (aldermen) who provided advice and practical assistance to the heads of the *kehillah* and the council. The *kehillah* led to greater systems called *galilot*, which had representatives from several *kehillot*. They would meet frequently to discuss the issues of their respective larger geographical areas. Ultimately, the leaders of the sub-*kehillot*, *kehillot*, and *galilot* would

convene four times a year in what became known as the *Va'ad*. At these meetings, representatives from all the *galilot* and would make decisions that affected the four lands that comprised the *Va'ad*.<sup>15</sup> In addition to the distribution and allocation of hierarchical governing roles, the rabbinic leadership of these positions was elected by the Jewish community, a core agent of democracy.

Noam Chomsky, American linguist, philosopher, political activist, author, and lecturer, once said "democracy and freedom are more than just ideals to be valued, they may be essential to survival." Is it possible that democracy has contributed to the illogical survival of the Jewish people that Mark Twain so famously illustrates in his essay "Concerning the Jews"? Maybe, maybe not. Either way, as one combs through Jewish history, and more importantly through the Tanakh, the traces of democracy are difficult to escape.

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<sup>1</sup> Samuel I 8:5

<sup>2</sup> God was displeased with the Jewish people's request for a king despite his command in Deuteronomy 17:5. However the depth of this topic warrants another article completely.

<sup>3</sup> Deuteronomy 17:14-15

<sup>4</sup> "Religion and State" *Contemporary Jewish Thought*, NY pp.774-775).

<sup>5</sup> Numbers 11:16

<sup>6</sup> *Halacha and Democracy*, Gerald J. Blidstein.

<sup>7</sup> "The only exceptions to this rule were cases calling for *hora'at sha'ah*, a temporary emergency injunction. Fendel, Zechariah. *Legacy of Sinai*. (New York: Hashkafah Publications, 1997).

<sup>8</sup> Fendel, 188

<sup>9</sup> Grayzel, Solomon. *A History of the Jews; From the Babylonian Exile to the Establishment of Israel*. (Philadelphia: The Jewish Publication Society of America, 1964), 225.

<sup>10</sup> Fendel, 236

<sup>11</sup> Exodus 18:14

<sup>12</sup> Exodus 18:18

<sup>13</sup> Exodus 18: 13-22

<sup>14</sup> Halpern, Israel. *The Jews: Their History, Culture, and Religion*. Third Edition. (New York: The Jewish Publication Society of America, 1966).

<sup>15</sup> Halpern, 309.

<sup>16</sup> For a time Lithuania was a part of it but ultimately they have their own *Va'ad*.