

Mrs. Prime-Minister

BY: Yossi Steinberger

Election season and fresh faces abound. In America and Israel, Sarah Palin and Tzippi Livni have sensationalized the elections by demonstrating that women can rise to the very highest level of politics. In Israel the appointment of Tzippi Livni raises halakhic interest too. Indeed, in the forty years since the election of Golda Meir, there has been vigorous halakhic discussion amongst *poskim* and academics concerning the election of a female prime-minister. This article presents a survey of the relevant issues, which include determining the extent of women's exclusion from leadership and comparing biblical *serarah* to contemporary communal leadership.

Rav Soloveitchik seemingly acquiesced to the selection of Golda Meir. In a conversation with students, Rabbi Brovender described the Rav's perspective on choosing a prime minister. Rabbi Brovender said, "It was once said that people were bothering Rav Soloveitchik about Golda Meir, the Prime Minister of the State of Israel... Now what did Rabbi Soloveitchik say, (I didn't hear him say this but he supposedly said), "and Ben-Gurion can be the Prime Minister of the State of Israel?"¹ The Rav, then, took a practical stance, understanding the imperfect nature of Israeli government.

Similarly, Rav Moshe Feinstein asserts that if confronted with a choice between a non-observant male and an observant female as a monarch, one should choose the female. He writes, "anyone lacking fear of heaven, though his wisdom be great, we do not appoint him for any position." Rather, "certainly it is required to aid in the appointment of the worthy woman."² Like the Rav, Rav Moshe has a utilitarian stance.³

In the last few weeks, R. Ovadiah Yosef has declared that one must elect the candidate who most supports Torah values. R. Ovadiah buttressed his declaration with the aforementioned statement of R' Moshe. Thus, R. Ovadiah too sometimes allows for electing a woman prime-minister.⁴

In the current imperfect society, then, a woman may certainly be prime-minister. In an ideal world, though, the halakhah becomes more complex. There is found in halakhic literature a prescription against women holding a position of *serarah*, or authority. One must first ascertain precisely from which forms of *serarah* women are excluded, and then evaluate whether the office of prime minister qualifies for the prohibition.

Assuming that the office of prime-minister does involve *serarah*, Rambam's position, recorded in *Hilkhos Melakhim* 1:4-5, presents the principle halakhic consideration for preventing a woman from election as prime-minister. After listing positions from which a *ger* is excluded, Rambam writes that a woman, too, may not be appointed to those positions of authority. In Halakhah 4, the Rambam writes,

"We do not appoint a king from amongst *gerim*... and not monarchy alone, but also all *serarah* in Israel. Not as an officer of the army, be it [the appointment] over 50 or 10, or even appointed over the water channel from which is distributed water to the fields." Rambam continues in Halakhah 5, "A woman may not be established as monarch as it is said "[You shall set] over you a king," but not a queen. Similarly with regard to all offices in Israel, only a man may be appointed to them." Rambam thus excludes women from all positions of leadership.

A passage in *Sifrei* (Deuteronomy 17:15) according to many commentaries serves as Rambam's source. Rav Moshe demonstrates that it is a weak proof, however. The *Sifrei* derives from the phrase "a king," that not a queen; and also relates the law that *gerim* are excluded not only from kingship but from all positions of authority as well. The Talmud (*Yevamot* 45b) derives the law regarding *gerim* from the phrase "...from among your brethren shall you set a king over you; you cannot put over you a foreign man who is not your brother." Because both phrases, concerning women and *gerim*, come from the same *pasuk*, therefore, explains Rav Moshe, Rambam must have equated the laws of a *ger* with those of a woman and therefore, like *gerim*, excluded woman from all forms of authority. However, Rav Moshe points out, the exclusion of a *ger* from all positions of authority comes from the repetition of "*som tasim*" or "place, you shall place," and a pleonasm regarding *gerim* does not logically extend to women. Moreover, Rav Moshe cites the many halakhos of authority that *gerim* and women do not share, and ones that they do share but only due to a special derivation.⁵

With the exception of Ritva, it cannot be said with certainty that other major Rishonim agree with Rambam. That Rambam and Rashba⁶ both question the permissibility of Devorah's tenure as *shofet* from the *Sifrei's* "a king" and not a queen,⁷ may indicate that they were concerned with Devorah's holding any position. However, Rav Moshe asserts that *shofetim* had the status of kings.⁸ Thus, the position of Rambam and Rashba regarding other forms of leadership cannot be inferred from that discussion.⁹

Moreover, Rav Moshe states that Tosafot¹⁰ and Rosh¹¹ certainly disagree with Rambam's ruling that women are excluded from all positions of authority. Tosafot and Rosh ask how Devorah could have been a judge. They both answer that "they accepted her upon themselves because of the *Shekhinah* (*nevu'ah* in Rosh)."¹² As understood by Rav Moshe, Tosafot and Rosh are referring to the Mishnah, *Sanhedrin* 24a, which allows litigants to choose a judge that would otherwise be invalid (e.g. a close relative) if they both agree. At any rate, the answer of Tosafot and Rosh indicates that Devorah had an official post as a judge. It then

own individual specialty and identity.

Yet, these two facets of nationalism, Ginsberg's focus on national identity and Emerson's focus on the individual therein, can conflict. What happens when the national identity is jeopardized by some of its constituents? Or alternatively, what happens when the nation suppresses the uniqueness of the individual? How do we deal with the conflict between individual and the nation?

In fact, the above facets create a paradox. A nation is a conglomeration of unique individuals; without the individuals contributing their own specialties, the nation would cease to exist. At the same time, a nation has to main-

appreciate each unique note in the greater national melody.

Thus, the vision of Ahad ha-Am and Emerson combine to create a beautifully cyclical relationship. A nation is an organism made by a conglomeration of organisms. A nation is singular, has its own identity, and works to actualize and fulfill its uniqueness, just as the individuals who comprise the nation do. But the two are inextricably tied to each other; a nation is unique only insofar as its constituents are unique, and an individual is unique only insofar as he contributes something singular to the nation. Our common ground therefore lies not in the suppression of self for the whole; rather,



tain its own identity; it has its past to draw upon, and its future to look forward to. What is the solution to this puzzle?

We can borrow a beautiful image used by Maimonides in a similar context to explain our puzzle. Maimonides states that sometimes it is necessary to sacrifice a part of the law to secure the rest of it. He then gives an analogy to demonstrate the logic of this decision: sometimes a limb must be amputated to save the rest of the organism.¹³ This image works well with Herder's national model, coupled with Ginsberg's and Emerson's: each individual comprises a limb of the national body. A person does whatever he can to avoid amputating a limb; without it, he is incomplete. However, sometimes it is necessary to sacrifice a part for the whole. Thus, any individual who threatens the national goals must be sacrificed for the good of the nation. Though it is difficult to ascertain exactly when a person must be excluded from the nation, one thing is clear; just as an amputee is no longer whole without his festering limb, so too, after excluding one from the group, however necessary it may be, the nation is never whole again.

We live in a generation of divisionism and sectarianism, where hypochondriacs dominate the national terrain, seeing every difference as a cause for amputation. At the root of this sectarianism is a misunderstanding of the dynamic of nations, built on the erroneous belief that a nation is defined by a person's own niche of compatriots. But a nation is not a monotonous voice being echoed incessantly by others; it is a cacophony of sounds combining in symphony, various individual parts of the body combining to form a whole. We must learn to

lie in how we collectively utilize and extol our differences in the context of our common past and future. We become one only insofar as we preserve our distinctiveness. And it is only as one that we can progress towards our common future.

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¹ Exodus 19:6

² Simon, Leon. *Selected Essays of Ahad Ha-Am*. (Forge Village, MA: Atheneum, 1981). p. 82

³ *Ibid.*, p. 89

⁴ Emerson, Ralph W. *Five Essays on Man and Nature*. Ed. Robert E. Spiller. (Danbury: Harlan Davidson Incorporated, 1954). p. 41

⁵ *Pirkei Avot* 2:16

⁶ Emerson, p. 42

⁷ *Nineteen Letters*, # 12

⁸ *Mishneh Torah, Hilkhos Mamrim* 2:4