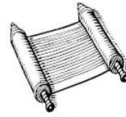


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"Taking Responsibility for Torah"

KAVOD HATORAH AND PROXY WARS

Rabbi Aryeh Klapper, Dean

Much of *Parashat Ki Tavo* is a record of experiential education: writing Torah law on giant stones, having everyone participate in the blessing and cursing on Mounts Gerizim and Eival. After several books of frontal education punctuated by passive assemblies, Hashem and Moshe pull out the progressive pedagogy playbook. But does Moshe use these pedagogies solely for review, or even to teach new material? Did he really trust what he was doing, or was he simply trying everything?

This is among the issues at stake in a fascinating if troubling early 20th century rabbinic controversy. A word of caution: I am not a competent historian, and I look forward very much to numerous corrections of my reconstruction of events. But I think the halakhic conversation cannot be understood without at least some human context.

In 5759, the journal *Tzohar* published an article by the late Rabbi Meir Don Plotzky, author of the Torah commentary *Keli Chemdah*. Rabbi Plotzky's article begins as follows:

Regarding what was published in the periodical "Heint" number 244 in the name of the gaon R.M.S., that he said about the Agudat HoRabbonim who wrote that anyone who comes to infringe on the boundary (P'hasig g'vul) of the Rav from Radom not in accordance with ד"ת (=daas Torah?) falls into the category "Cursed is the one who infringes on the boundary of his peer," that their words are those of ignorami (am ha'aratzus) . . .

Who was the gaon R.M.S. who spoke so sharply against the Agudat HoRabbonim (Union of Polish Orthodox Rabbis)? I had previously heard that Rav Moshe Soloveitchik, son of the Brisker Rav and father of the Rav, had written something controversial on the subject of *hasagat gevul* (infringing on boundaries; see below for the parameters

of this issue). Indeed, it turns out that Rabbi Plotzky's article was originally published in 1925, in a work called *Kovetz Derashot* published by that very same Agudat HoRabbonim, in a section called *Kovetz Itonai* (Newspaper anthology). In that version, available at the amazing site HebrewBooks.org, Rabbi Soloveitchik's name is spelled out. What was Rabbi Soloveitchik's substantive point? Here is Rabbi Plotzky's presentation continued:

. . . because it is a general rule that the "Cursed"s only apply to prohibitions which had a preceding 'Do not' statement in Torah. As for example "Cursed is the man who makes a pesel" relates to the "Do not" of "Do not make for yourself a pesel." Therefore, "Cursed is the one who infringes on the boundary of his peer" refers to the 'Do not' of "Do not infringe on the boundary of your peer," which applies only in your homestead, regarding land in the Land of Israel.

He added that he was not saying this out of his own heart, but rather that this is explained in Sifri and Rambam.

There are his words as they were published in the aforementioned journal. Now Rabbi Plotzky was shocked to read these words, as he tells us:

Initially I did not believe that these words had left his mouth, because not only is it afkeruta (heresy or lawlessness) to denigrate many of the sages of the generation and call them ignorami, but furthermore they are words of crude misunderstanding (בורות), as will be explained, and I imagined that he would contradict the report and say these were not his words.

In response, Rabbi Plotzky brings 3 kinds of evidence:

- 1) The Talmud clearly derives new legal details from the other Cursed;
- 2) Many great rabbis, in their approbations to Torah works, make use of this Cursed to establish a form of copyright protection;

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3) Rabbi Soloveitchik's illustrious ancestor Netziv wrote that *hasagat gevul* applies to the position of the rabbinate (and incidentally his father wrote approbations for two of Rabbi Plotzky's works, although at least in the second case without having read any of it).

Each of these points seems inarguably true, and we are left to wonder, with Rabbi Plotzky, why Rabbi Soloveitchik got himself into this mess.

Here we need to understand the reality.¹ The "Rabbi from Radom" in question was Yehudah Kestenber, and his position in Radom had long been controversial. The son of a local *dayyan*, he was appointed interim rabbi of Radom in 1912 after the death of the incumbent, but was not seen as a candidate for the permanent post. Nonetheless, 12 years later, he was still in office, albeit still as the interim rabbi. Several previous attempts to replace him had gone awry, with the candidates recusing themselves after mysteriously finding themselves in trouble with the Polish government.

In 1925, another attempt was in process. It seems clear from Rabbi Plotzky that Rabbi Kestenber obtained the public support of the Agudat HoRabbonim, which issued the statement about *hasagat gevul*. It seems plausible that Rabbi Soloveitchik supported the replacing of Rabbi Kestenber, although as of now I can only speculate as to why. His harsh statement to the press was likely not a disinterested academic judgment and attempt to correct the public scholarly record. Rather, it was an attempt to create a political and religious space in which traditional observant Jews could vote against Rabbi Kestenber without guilt.

But here I want to be crystal clear. Rabbi Soloveitchik would not have invented halakhic arguments to support his public policy position, although he likely would not have been so publicly harsh without a public policy motivation. So the question is: Since Rabbi Plotzky's counterarguments are obvious, and the facts on which they rest are undeniable, what justified Rabbi Soloveitchik's claim?

My suggestion is that we are involved here in a rhetorical dance. Halakhic rhetoric can make use of the *melitzah*, a rhetorical device that is intended *lesaber et ha'ozen*, to make ideas intellectually digestible to those not fully immersed in halakhic scholarship. Thus for example *dina*

demalkhuta dina, "the law of the land is the land," stands rhetorically for the proposition that Jews must obey the secular law of the countries they reside in. Halakhically that phrase has a much more limited ambit, but the proposition nonetheless is halakhically correct on other grounds. So, too, Rabbi Soloveitchik understood *hasagat gevul* as a *melitzah* when applied to jobs and copyright, but he would not have denounced the Netziv and the writers of approbations as ignorami for using it.

Rabbi Soloveitchik's claim about the relationship of curses to law is also easy to justify. In all the cases Rabbi Plotzky cites, the curse-verse is used to extend the scope of the prohibition. For example, it extends the prohibition against sexual relationships with in-laws to after the spouse's death. In our case, however, it is at best barely plausible to see the establishment of a (worldwide) right to keep a job as a mere extension of a prohibition against moving land boundary markers in Israel. If we treated the verse as a genuine source for this right on the level of *isur d'oraita*, prohibition with the force of Biblical law, we would likely regard it as a *lav shebikhlalut*, a verse of prohibition that has a variety of legal meanings which need not be closely related to one another.

What emerges is that Rabbi Soloveitchik and Rabbi Plotzky agreed that the cursed teach new law. However, Rabbi Plotzky held that they can also introduce new topics, and Rabbi Soloveitchik disagreed. What drove them to harsh public debate, however, was their differing evaluation of Rabbi Kestenber. Very possible he had been a friend to the Agudas HoRabbonim, and yet Rabbi Soloveitchik thought poorly of him, and/or thought that he had maintained his position by questionable means.

I admire Rabbi Soloveitchik's willingness, if I have correctly reconstructed his position, to brave and even invite the wrath of his colleagues rather than acquiesce to their support of a wrongdoer. At the same time, while neither side distorted Torah, each created the unjustified impression that the other had. The Torah conversation was a sort of proxy war, and I suspect *kevod haTorah*, the honor of Torah, was the primary casualty. Perhaps we can do better. *Shabbat Shalom!*

¹ See Gershon Bacon, *Jewish History*, Vol. 13, No. 1 (Spring, 1999), pp. 103-126; www.jewishgen.org/yizkor/radom/rade003.html

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