

"UNCLAIMED"

At the very beginning of this morning's Sidra there appeared two words which give their name to the entire Fourth Book of Moses, and in which our Rabbis saw a special, paradoxical significance. Midbar Sinai, the wilderness of Sinai, describes the place where the Torah was given. But the Rabbis taught that it also describes something about the nature of Torah itself. The word Sinai evokes the thought of the great revelation and giving of Torah. The word Midbar, wasteland, calls to mind the vast stretches of arid desert which belong to no one and remain unclaimed and unwanted.

The Sages formulated the relationship of these two apparently dissimilar words in halakhic terms: Ein ha-Torah niknit ela le'mi she'oseh atzmo hefker ke'midbar -- Torah can be acquired only by one who makes himself as unclaimed, as ownerless, as the desert. One can aspire to the greatness and holiness of Sinai, only if he approaches it as if he were unclaimed as Midbar.

Now, this doctrine of making one's self hefker as a wasteland when approaching Torah, has two very important consequences. First, it implies that the Jew must come to the enterprise of Torah fresh, clear, unclaimed by other ideals and philosophies, and uncommitted to any other way of life. If, however, you come to Torah with an alien bias, with a previous commitment, if you are not hefker when you approach the teachings of Sinai, then Torah cannot be acquired by you.

This thought comes to mind in the case of the British Rabbi who has involved himself and the entire community in an altercation with the Chief Rabbi, a controversy which has been widely reported by both the general and the Jewish press. This particular Rabbi has denied the fundamental Jewish principle of Torah min ha-Shamayim, the idea that the entire Torah is the work of God and not the work of man, and yet claims for himself the honorific title of "Orthodox."

Now this is not the place to discuss the significant political and social implications of the crisis that has gripped British Jewry. Nor do I wish now to enter into the substance of the ideological issues -- except to state the following two points. First, that there is no question that an Orthodox Jew, one who operates in the authentic Jewish tradition, must accept without modification the idea of the Torah as God's revelation. Maimonides formulated it as one of his Thirteen Principles of the Faith, saying: Ani maamin be'emunah shelemah she'kol ha-Torah ha-metzuyah ata be'yadenu hi ha-netunah le'Mosheh -- "I believe in perfect faith that all the Torah that is now available to us is identical with the one that was given to Moses our teacher of blessed memory." In his Code of Jewish Law, he characterizes one who rejects this principle as a kofer be'Torah, one who denies Torah. Even those who disagree with Maimonides and count only three great Principles of the Jewish Faith, include that of Torah min ha-Shamayim as one of the three.

Second, it is rather astounding to find a sophisticated individual attacking the principle of divine revelation, Torah min ha-Shamayim, on the basis of so-called Higher Biblical Criticism and archeology. It seems rather late in the day to offer to a gullible public these warmed-over dishes of stale 19th century petty heresies. These issues once agitated our people, but they have long since receded. Biblical Criticism itself has undergone severe changes, and promises to change much more radically in the future. No responsible archeologist has ever found anything in his discipline to contravene the Torah. And, for any serious student of philosophy in the mid-twentieth century to say what this rabbi has said, that reason must be the final arbiter in matters of faith and theology, is an amusing anachronism.

What should be said at this time, is that the religious approach to Torah requires that the enterprise of reconciling our Torah tradition with literary analysis and archeology and philosophy and so forth, comes after Torah has been -- as the Rabbis put it -- "acquired." But the acquisition of Torah can take place only if man approaches it when he is hefker, uncommitted to anything else:

neither literary method nor historical criticism nor philosophical analysis.

Just as when Einstein's theory of relativity is analyzed by a historian, all you have in the end is history; or when by a handwriting expert, all you have is graphology; or when by a psychologist, all you have afterwards is good psychology; but in no case do you emerge with physics except if it is approached by a physicist as physics --- so, if Torah is approached by one not in a state of hefker, but with a bias of one kind or another, he may conclude with history or archeology or philosophy, but never with Torah!

Torah demands a religious approach, an inner commitment to Torah accompanied by a freedom (hefker) from all else. Ein ha-Torah wiknit ela le'ini she'oseh atzmo hefker ke'midbar. Unless it is so, one cannot legitimately call himself "Orthodox." In other words, one cannot maintain that he operates as an authentic Jew.

There is a second consequence of the doctrine of making one's self hefker like the wasteland. In order to understand this we must follow the halakhic thinking of the Sages, for if we understand the halakhic implications of the concept of hefker, we may understand as well what they tried to teach us about the approach to Torah.

In purchasing real estate, the Halakhah teaches that it is not enough to pay money; the actual, legal, official transfer of property requires an act on the part of the buyer. This act may either be a minor one, such as eating of the fruits of the tree (perot ha-ilan), or a more fundamental act of taking ownership: maaseh be'guf ha-ilan o guf ha-karka, performing some physical act in the tree itself or in the ground itself -- such as pruning the tree or carving your initials into it, or plowing the ground. (Rambam, Hil. Zekhiyah U-matanah, 2:2).

However, these two methods of acquisition of property hold true only if one buys from an owner who sells it. But if one wishes to acquire property that is ownerless, that is hefker or unclaimed, then the act of eating from

perot ha-ilan, fruit, is insufficient in order to effect the acquisition of the property by the one who does the eating. Instead, hefker can be acquired only by means of maaseh be'guf ha-ilan o guf ha-karka -- the more intensive and thorough act which goes to the core of what is being acquired.

This, then, is what the Rabbis meant by counselling that we **approach** Torah in a state of hefker! In order to have a **real** relationship to Torah, in order to acquire Torah and be acquired by it, you must give yourself to it completely and thoroughly. A secondary, casual, half-hearted approach (perot ha-ilan), is utterly inadequate. To acquire Torah, you must remember that a state of hefker exists; therefore you must apply yourself with your whole heart, with all your life and all your hopes and all your dreams. There must be a maaseh be'guf ha-ilan o guf ha-karka.

This pertains to all of us. It means that ^{as} adults we must not treat Judaism as a merely respectable social amenity. It means that young people cannot achieve a life of Torah by applying themselves to their studies as a mere after-thought. It means that for young children, Torah must become the central part of their education -- "an act in the body of the tree or the body of the ground." Nothing less will do.

It is interesting that Maimonides, who in his Code **usually** records the bare decision and rarely mentions a case history, here does report an actual case: U-maaseh be'ishah ahat she'akhlah perot dekkel shelosh-esreh shanah, u-va ehad ve'hihzik ba-ilan ba-avodah she'avad be'guf ha-ilan, u-va maaseh lifnei hakhamim ve'amru: zeh ha-aharon kanah. A woman ate the fruit of a tree, on ground which was hefker, for a period of thirteen years. Then another person came and took possession of the tree by means of an act he performed in the body of the tree.

It seems, almost, as if Maimonides spoke not only as a jurist but as a prophet; not only as a lawyer but as a seer. He foresaw one of the great problems of our age: for thirteen years we give our children Torah -- but only perot ha-ilan, only a bit of fruit, a nibble, a taste, a lick, but nothing really substantial;

all else has precedence over Torah. We want our youngsters to remain Jewish, but we are not willing for us or for them to invest too much in the enterprise of Judaism. But in that case, we have much to fear indeed. For like the woman in Maimonides' Code, we must remain apprehensive lest someone else come along and ve'hiyazik ba-ilan ba-avodah sheavad be'guf ha-ilan, grab their hearts and win their loyalties. For if we fail to reach them with Torah, someone else will, and with something quite different --- from Christianity to Yoga, from Scientism to the all-pervasive agnosticism. For where there is a spiritual vacuum, something must rush in to fill up the void. All too often we give our children, Jewishly, only perot ha-ilan, only a taste. Then, when they grow up and enter the universities and delve deeply into other disciplines, ve'hiyazik ba-ilan ba-avodah she-avad be'guf ha-ilan, it is clear that the little we have given is no match for the far more intensive and fundamental awareness they have of other subjects and ideologies; and in that case, unfortunately, zeh ha-aharan kanah, we are the losers.

If we are not hefker as we confront ^Torah, and if we do not give ourselves to it completely, then we must remain hefker to every spiritual disease, to every religious affliction, to every ersatz faith.

These, then are the two consequences of the doctrine of hefker as a Midbar. First, we must expose ourselves to Torah as un-pre-claimed as a wasteland or wilderness. And second, we must allow Torah to effect its transforming magic upon us in depth and in profundity.

As we stand ready to reenact the great drama of the giving of ^Torah, let us remember and take to heart the comments of our Rabbis on "Midbar Sinai": for in the desert we can find a Sinai; in the wasteland, a mountain. In the vast stretches of emptiness, a Torah; in the infinity of nothingness, a spark of holiness; and within each of us of flesh and blood and dust and ashes, a divine image which is challenged to rise to ever greater heights.