

Attitudes to the State - Jewish Texts

There is little in the Torah about 'normal' relations with a secular governmental authority. as the sacred history it recounts deals with the Jewish people either in slavery or wandering in the wilderness. The book of Genesis gives us one example of benign authority, however, in the figure of the Pharaoh who made Joseph vizier over all Egypt. Under this Pharaoh, the Jews were given their own land (Goshen) and were treated with respect. That situation did not last, as we all know. In the first few verses of the book of Exodus (1:6-11) we read:

וַיָּמָת יוֹסֵף וְכָל־אָחָיו וְכָל־הַדּוֹר הַהוּא: וּבְנֵי יִשְׂרָאֵל פָּרוּ וַיִּשְׂרְצוּ וַיִּרְבוּ וַיַּעֲצְמוּ בְּמֵאֵד
מֵאֵד וַתִּמְלֵא הָאָרֶץ אֹתָם: ח וַיִּקַּם מִלֶּדֶד־חֲדָשׁ עַל־מִצְרַיִם אֲשֶׁר לֹא־יָדַע אֶת־יוֹסֵף:
ט וַיֹּאמֶר אֶל־עַמּוֹ הַזֶּה עִם בְּנֵי יִשְׂרָאֵל רַב וְעָצוּם מִמֶּנּוּ: י הִבֵּה נְתַחֲכֶמָה לוֹ פֶּן־יִרְבֶּה
וְהָיָה כִּי־תִקְרָאנָה מִלְחָמָה וְנוֹסַף גַּם־הוּא עַל־שְׂנְאֵינוּ וְנִלְחַם־בָּנוּ וְעָלָה מִן־הָאָרֶץ:
יִשְׁמִימוּ עָלָיו שָׂרֵי מִסִּים לְמַעַן עֲנֹתוּ בְּסַבְלָתָם וַיִּבְּנוּ עָרֵי מִסְכָּנוֹת לַפְרֹעָה אֶת־פְּתוֹם
וְאֶת־רַעְמֶסֶס:

6. And Joseph died, and all his brothers, and all that generation.
7. And the people of Israel were fruitful, and increased abundantly, and multiplied, and became exceedingly mighty; and the land was filled with them.
8. And there arose up a new king over Egypt, who knew not Joseph.
9. And he said to his people, Behold, the people of the children of Israel are more and mightier than we;
10. Come on, let us deal wisely with them; lest they multiply, and it may come to pass, that, when there would be any war, they should join our enemies, and fight against us; and so get them out of the land.
11. Therefore they did set over them taskmasters to afflict them with their burdens. And they built for Pharaoh treasure cities, Pithom and Raamses.

In other parts of the Bible, the stories are also mixed. Certainly, the Jewish exiles in Babylon found that the state had little sympathy for them:

א עַל־נְהַרֹתַי בְּבַל שָׁם יָשַׁבְנוּ גַם־בְּכִינּוּ בְּזָכְרֵנוּ אֶת־צִיּוֹן:
ב עַל־עֲרָבִים בְּתוֹכָהּ תָּלִינוּ כְּנֹרֹתֵינוּ:
ג כִּי שָׁם שְׁאַלוּנוּ שׁוֹבֵינוּ דְּבַר־יְשִׁיר וְתוֹלְלֵינוּ שְׁמַחָה שִׁירוּ לָנוּ מִשִּׁיר צִיּוֹן:

1. By the rivers of Babylon, there we sat down, we also wept, when we remembered Zion.
2. We hung our lyres on the willows in its midst.
3. For there those who carried us away captive required of us a song; and those who tormented us required of us mirth, saying, Sing us one of the songs of Zion.

But not all external authorities were cruel, as these lines from the book of Ezra show: (6:1-23)

1. Then Darius the king issued a decree, and search was made in the house of the archives, where the treasures were laid up in Babylon.
2. And there was found at Achmetha, in the capital that is in the province of the Medes, a roll, and in it was a record thus written:
3. In the first year of Cyrus the king, Cyrus the king issued a decree concerning the house of God in Jerusalem: Let the house be built, the place where they offered sacrifices, and let its foundations be strongly laid; its height sixty cubits, and its breadth sixty cubits;

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4. With three rows of great stones, and a row of new timber; and let the expenses be paid from the king's palace;
5. And also let the golden and silver utensils of the house of God, which Nebuchadnezzar took from the temple which is in Jerusalem, and brought to Babylon, be restored, and brought back to the temple, which is in Jerusalem, every one to its place, and put them in the house of God.
6. Now therefore, Tatnai, governor beyond the river, Shethar-Bozenai, and your companions the Afarsakites, who are beyond the river, keep far from there;
7. Let the work of this house of God alone; let the governor of the Jews and the elders of the Jews build this house of God in its place.
8. Moreover I make a decree regarding what you shall do for the elders of these Jews for the building of this house of God; that from the king's goods, from the tribute beyond the river, expenses be given to these men, so that they should not be delayed.
9. And that which they need, young bulls, and rams, and lambs, for the burnt offerings of the God of heaven, wheat, salt, wine, and oil, according to the requirements of the priests which are at Jerusalem, let it be given to them day by day without fail;
10. That they may offer pleasing sacrifices to the God of heaven, and pray for the life of the king, and of his sons.
11. Also I have issued a decree, that whoever shall alter this word, let timber be pulled down from his house, and let him be lifted up and impaled on it; and let his house be made a dunghill for this.
12. And may the God who has caused his name to dwell there destroy all kings and people, that shall put to their hand to alter or to destroy the house of God which is in Jerusalem. I Darius have issued a decree; let it be done with speed.

Early rabbinic texts reflect this ambivalent attitude towards the state, adding a measure of ambivalence about ourselves as a people to govern.

Pirkei Avot 2:3

הוּוּ זְהִירִין בְּרִשׁוֹת, שְׂאִין מְקַרְבִּין לוֹ לְאָדָם אֶלָּא לְצַרְדָּ עֲצָמוֹ. נִרְאִין כְּאוֹהֲבִין בְּשַׁעַת הַנְּאֻתָּו. וְאִין עוֹמְדִין לוֹ לְאָדָם בְּשַׁעַת דְּחִקּוֹ:

Be cautious with the authorities, for they do not befriend a person except for their own advantage; they appear as friends when it is to their benefit, but they do not stand by a person in their time of distress.

...and 3:2

רַבִּי חֲנִינָא סָגֵן הַכֹּהֲנִים אָמַר, הָיִי מִתְפַּלֵּל בְּשִׁלּוּמָה שְׁלַ מְלָכוֹת, שְׂאֵלְמָלָא מוֹרָאָה, אִישׁ אֶת רֵעֵהוּ חַיִּים בְּלַעוּ.

Rabbi Chanina, the Deputy High Priest, used to say: Pray for the welfare of the ruling power, since but for the fear of it, people would eat each other alive.

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The thinking behind this latter text is reflecting in an halakhic dictum based in pure pragmatic strategies for survival, as is evident from this piece from the *Jewish Virtual Library*:

DINA DE-MALKHUTA DINA (Aram. דִּינָא דְּמַלְכוּתָא דְּדִינָא), the halakhic rule that the law of the country is binding, and, in certain cases, is to be preferred to Jewish law.

The Historical Background

The original significance of this rule, which was laid down by the *amora* Samuel, can be deduced from the historical events of that era. The conquest of Babylon from the Parthians by Ardashir I, king of the Sassanids in 226 C.E., brought an end to the period of tranquillity from which the Jews in Babylonia had benefited. Losing their political and religious autonomy, they had to adapt themselves to the powerful and centralized rule of the Sassanids. In 241 Shapur I, son of Ardashir, succeeded to the throne and granted the minorities under his rule cultural and religious autonomy which also applied to the Jews. Samuel, their leader at that time, imbued Babylonian Jewry with the consciousness that they must become reconciled to the new government, and a personal friendship was apparently established between Samuel and Shapur (Neusner, *Babylonia*, vol. 2; 16, 27, 30, 45, 71). Consequently Samuel's rule had important political significance, since it recognized the new Sassanid kingdom as a civilized rule possessing good and equitable laws which Jews were bound to obey, as they were to pay the taxes it imposed (*ibid.*, 69, 95).

The Principle in the Talmud

Samuel's principle is cited only four times in the Talmud (Ned. 28a; Git. 10b; BK 113a; BB 54b and 55a). Three *halakhot* that are cited by Rabbah (according to another reading by Rava, fourth generation of Babylonian *amoraim*), in the name of the exilarch Ukban b. Nehemiah, and are attributed to Samuel deal with the relationship of Jews to the Persian government and with the relationship of Jewish to gentile law. These *halakhot* establish that the Persian law of the presumptive ownership of land is to be recognized even if it is opposed to Jewish law (see *ʔazakah*); that the sale of land confiscated by the government for non-payment of tax on the land is valid, but only if the sale is because of non-payment of the land tax and not because of non-payment of the poll tax (BB 55a; et cf. BK 113b).

Additional *halakhot* adopted in consequence of *dina de-malkhuta dina* are: recognition of the Persian rules for the transfer of land even if they are not in accordance with Jewish law (BB 54b and 55a); the right of the king to sell a person into slavery for evading payment of the poll tax and the option of a Jew to buy him from the government executive officers and to enslave him (Yev. 64a; BM 73b); a prohibition against cheating tax collectors and concealing assets from them, unless the taxes are illegal for the reasons mentioned in the Talmud (Ned. 28a; BK 113a); and the recognition of bills executed by, or endorsed by, non-Jewish courts despite their being invalid according to Jewish law.

The Legal Basis of the Principle

No legal basis for Samuel's principle is given by the Talmud; nor, apparently, did this problem engage the attention of the *geonim*. In one responsum of the geonic period an effort was made to establish the principle for practical religious reasons. The responder, having regard to the realities before him – Jews under a foreign government – states that it is the will of God that Jews should obey the laws of their rulers, a verse from the book of Nehemiah (9:37) being quoted in support of this view (S. Assaf (ed.), *Teshuvot ha-Ge'onim* (1942), no. 66).