YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha and Israeli History**

**Rav Aviad Tabory**

**Shiur #22:**

**4 November 1995**

**Assassination of Yitzhak Rabin**

Yitzhak Rabin was born on 1 March 1922 in Jerusalem. As a member of the Palmach, he fought in the War of Independence (1948). Rising through the ranks of the IDF, he was appointed [Chief of the General Staff](https://en.wikipedia.org/wiki/Chief_of_General_Staff_(Israel)) (1964) and oversaw Israel's victory in the [Six-Day War](https://en.wikipedia.org/wiki/1967_Arab%E2%80%93Israeli_War) (1967). He then served as ambassador to the United States for five years. In 1974, after the resignation of Golda Meir, Rabin became Prime Minister. In the wake of a financial scandal, he resigned in 1977.

In 1992, Rabin was re-elected as prime minister on a platform embracing the [Israeli–Palestinian peace process](https://en.wikipedia.org/wiki/Israeli%E2%80%93Palestinian_peace_process). He signed several historic agreements with the Palestinian leadership as part of the [Oslo Accords](https://en.wikipedia.org/wiki/Oslo_Accords). Rabin also signed a peace treaty with Jordan. In 1994, Rabin won the [Nobel Peace Prize](https://en.wikipedia.org/wiki/Nobel_Peace_Prize).

On 4 November 1995, as he was leaving a rally in Tel Aviv supporting the peace process, he was gunned down by [Yigal Amir](https://en.wikipedia.org/wiki/Yigal_Amir), a political extremist.

Rabin's assassination shocked the Israeli public and much of the rest of the world. On 6 November 1995, he was buried on [Mount Herzl](https://en.wikipedia.org/wiki/Mount_Herzl).

Rabin's funeral was attended by many world leaders.

It is obvious why the assassination shocked the entire country much more than the murder of a private citizen. The murder of the Prime Minister of Israel was an attack against the entire country and a threat to the unity of the people living in it.

As the murder was committed by a religious Jew (Amir had been a student at Yeshivat Hesder Kerem B’Yavneh and Bar-Ilan University), there were many who were troubled by the connection between religion and political radicalism.

**How to commemorate the event religiously?**

In the decades since the assassination, many suggestions have been made for the proper way of commemorating the event.

The Knesset passed, in 1997, the Rabin Memorial Law, making his yahrzeit, 12 Marcheshvan, a national day of remembrance.

Some have proposed making a day of fasting and prayer, similar to the custom of commemorating the political murder of Gedalya ben Achikam, [the governor of Yehuda](https://en.wikipedia.org/wiki/Gedalia) immediately after the Destruction of the First Temple. His assassination by Jewish rivals, in approximately 582 BCE, marked the end of Jewish autonomy for generations. The Fast of Gedalya is observed annually on the first weekday after Rosh Hashana.

The reason for the Fast of Gedalya is to emphasize that, even after the physical Destruction of the Temple, it was the killing of a Jewish leader which led to the end of Jewish sovereignty, which ultimately is the essence of the Destruction. Fasting on the day Rabin was murdered would similarly deliver the message in our days that using violence and murder will ultimately lead to destruction, God forbid.

In today’s *shiur,* we will examine the halakhic status of the Israeli government and its prime minister and the meaning of mutiny and rebellion against them. Obviously, in the background of this dilemma is the reality that the State of Israel is a secular one, and it does not operate under a halakhic system.

The first question we will deal with is the following: what is the place of a Jewish State in Halakha and the religious world?

There are different approaches to this question; we will present three.[[1]](#footnote-1)

**Views of the *Melekh* in *Tanakh***

We will begin with the law in the Torah, which seems to indicate that there is a positive command to appoint a king (*melekh*):

When you come to the land which the Lord your God has given you and you possess it and dwell in it, and you say, “Let us appoint a king over ourselves like all the nations around us,” **You shall surely appoint a king over yourselves,** whom the Lord your God will choose; one of your brethren shall you appoint as king over you. You may not appoint a stranger over you who is not your brother.[[2]](#footnote-2)

It is therefore puzzling that God is upset with the request for monarchy in the days of Shemuel (as is the prophet himself):

And all the elders of Israel gathered…and they said to him… “Set up for us a king to judge us like all the nations.”

And the thing was **displeasing in the eyes of Shemuel,** when they said, "Give us a king to judge us," and Shemuel prayed to the Lord.

And the Lord said to Shemuel, "Listen to the voice of the people, according to all that they will say to you, for they have not rejected you, **but they have rejected Me from reigning over them.”[[3]](#footnote-3)**

The Tanna’im debate this contradiction and offer different answers:

Rabbi Yehuda said: But it is a mitzva from the Torah for them to request a king over themselves, as it is written, “You shall surely appoint a king over yourselves.” So why were they punished for this in the days of Shemuel? Because it was too early for them to ask.

'Like all the nations around us” — Rabbi Nehorai said: They did not ask for a king over any other reason but so that he would institute idolatry, as it is written (*I Shemuel* 8:20), “And we, too, shall be like all the nations, and our king will judge, and he will go out before us and fight our wars.”[[4]](#footnote-4)

However, there is an alternative approach, which claims that within *Tanakh* we find two separate arguments, one for and one against the entire notion of kingship.[[5]](#footnote-5) They are not necessarily contradicting each other; rather, they are emphasizing the ambivalence of this matter.

Appointing a king is a sensitive matter, as it may be seen as a direct challenge to God’s kingship in this world. On the other hand, from a pragmatic, practical view, government is a necessity required to prevent anarchy. We may add to this suggestion a third source in *Tanakh* which suggests a new approach to the question of whether kingship is a good idea. In this source, we find that the king of Israel is somewhat a reflection of God’s kingship:

And they ate and drank before the Lord on that day with great joy, and they crowned Shelomo the son of David a second time, and they anointed [him] to the Lord as ruler and Tzadok as priest. And Shelomo **sat on the throne of the Lord** as king instead of David his father, and he prospered, and all Israel obeyed him.[[6]](#footnote-6)

This passage indicates that the throne of the Davidic dynasty reflects the kingship of God in this world.

Thus, in *Tanakh* we find three very different attitudes towards the idea of establishing a monarchy:

1. In *Devarim*, we have a positive approach suggesting the functional side of government.
2. In *Shemuel*, we have a negative approach warning us that every type of human kingship is a threat to the Kingship of God.[[7]](#footnote-7)
3. In *Divrei Ha-Yamim*, we have an understanding that kingship in Israel reflects God’s kingship in the world.

**Views of the Rishonim**

In the medieval period, we find similar ideas and approaches among the Rishonim. The great biblical commentator Rav YitzchakAbarbanel (1437–1508) is radically critical of the idea that appointing a monarch is a positive command. He understands that the Torah is merely suggesting that if the people are interested in appointing a king, then they must proceed to act upon the Torah’s detailed instructions for doing so:

When the Torah says, “When you come to the land... and you say: ‘Let us appoint a king over ourselves like all the nations around us,**’” this does not constitute a mitzva at all.** God does not command that they say this and request a king (as the Ramban has explained).

Rather, this is foretelling the future. It means, after your settlement in the chosen land, the conquest and all the wars, and after the division [of the land]... **I know that you will be ungrateful and say of your own volition,** “Let us appoint a king over ourselves,” not out of necessity to fight the nations and occupy the land, for it will have already come under your occupation, but rather to render yourselves equivalent to the nations that crown kings over themselves.[[8]](#footnote-8)

In his commentary, he mentions the disadvantages of creating a monarchy.

However, from the reading of the Rambam’s description of the King of Israel’s responsibilities, one senses a very different approach:

In all matters, his deeds shall be for the sake of heaven. His purpose and intent shall be to elevate the true faith and fill the world with justice, destroying the power of the wicked and waging the wars of God. For the entire purpose of appointing a king is to execute justice and wage wars as [*I Shemuel* 8:20](https://www.chabad.org/15837#v20) states: “And our king will judge, and he will go out before us and fight our wars.”[[9]](#footnote-9)

While reflecting on the Davidic king’s messianic task, the Rambam writes:

If a king will arise from the House of David who diligently contemplates the Torah and observes its commandments as prescribed by the Written Law and the Oral Law like David, his ancestor; who compels all of Israel to walk in (the way of the Torah) and rectify the breaches in its observance, and who fights the wars of God, we may, with assurance, assume him to be *Mashiach*… He will then improve the entire world, motivating all the nations to serve God together…[[10]](#footnote-10)

In the works of the Rav Nissim ben Reuven of Girona (1320-1380) we find a middle approach arguing that kingship serves a secular purpose, maintaining law and order.[[11]](#footnote-11) He explains that the Torah requires government in order to prevent anarchy. The king of Israel has no responsibility for Torah observance and religion. The reason that Shemuel is upset at the people for requesting a king is that they want the king to serve as a religious figure too.

**Modern Views**

In the past century or so, it seems that the argument has continued. As Zionism has arisen as a political movement, beginning in the late 19th century, the place of the “king” seems to be within the context of a Jewish State.

In the works of the Satmar Rav and other rabbis who oppose Zionism, there is no religious value to a secular state.

Rav Shimshon Raphael Hirsch (1808-1888) argues that statehood has never been a Jewish ideal in and of itself, and it should be understood as a means for applying religious ideals:

The People of Israel were assigned to stand as a people among the nations, and as a nation to show all the nations that God is the ruler of the world and that He is the benefactor of the entire world.

…the People of Israel did indeed acquire a land and establish a kingdom, but these were not independent goals, but rather means needed to fulfill the commandments of the Torah. Therefore, the flourishing of our country and the existence of our kingdom depend only on the observance of the Torah.[[12]](#footnote-12)

Rav Yosef Dov Soloveitchik sees the worth of a Jewish State, as he believes it contributes to the values of the Torah. He recognizes that government and sovereignty have religious weight. In his lectures, he explains why he chose to “cross the lines” and move over to the Mizrachi movement:

First, we were the first to explain that the establishment of the State has halakhic significance, since by its means we shall be able to fulfill the mitzva of possessing and settling it. We said, this mitzva is fulfilled not only by building up the country economically, but also by our sovereignty there. The existence of the State of Israel and the fact that Jews and not Englishmen determine aliya; that Jews and not Arabs are the political masters in the country; and that a Jewish government, police force and army exist, is the greatest possible fulfillment of the mitzva of settling in *Eretz Yisrael*.

...Our movement understood this and welcomed the State's existence as a fundamental religious value within our scale of values. True, we are not always happy with certain actions and tactics of the government. But this does not detract from the importance of the State of Israel as the instrument for the realization of possessing the land. We know that the government is not itself the State. Governments come, and governments go, rulers come and rulers go, but the land — and the State, we hope to God — remain forever. Only our movement expressed itself unequivocally for the State of Israel and granted it halakhic status.[[13]](#footnote-13)

Rav Avraham Yitzchak Kook may be the first to refer to the future Jewish homeland as “the State of Israel.” In his writings, he seems to disagree directly with the words of Rav Hirsch, as it is clear that he foresees the State of Israel not just as a means for bringing the Jewish people together, but rather as the Throne of God in this world:

The nation is not the highest level of happiness for humankind. This can certainly be said about most regular countries whose value is not more than a large mutual insurance pact.  Ideals, which are the crown of human life, are irrelevant and beyond their purview.

This is not the case with a nation whose foundation is idealistic. A nation in which the highest content is embedded into its very being. This type of nation offers the highest happiness for the individual and it is the highest level in the ladder of satisfaction.

**And this nation is our nation, the State of Israel. It is the foundation of God’s Throne in the world,** and all its desire is that God will be one and His Name one. This is truly the highest happiness.[[14]](#footnote-14)

Rav Kook’s understanding of the meaning of a Jewish State is similar to the Rambam’s view of kingship.

However, the Rambam’s view on the legitimacy of the king of Israel is not clear. On the one hand, he writes that a *melekh* must be established by a prophet, but may be from any tribe of Israel;[[15]](#footnote-15) elsewhere he mentions that a king of Israel must be a descendant of Shelomo.[[16]](#footnote-16) Nevertheless, he mentions that the establishment of Hasmonean dynasty is part of the miracle of Chanuka, even though it was neither established by a prophet, nor were its members of the Davidic line.[[17]](#footnote-17)

It appears that the Rambam recognizes several models of Jewish kingship.[[18]](#footnote-18) The ideal king of Israel, whom the Rambam refers to as *melekh ha-mashiach*, is from the tribe of Yehuda. However, even a Jewish leader from another tribe, or one not appointed by a prophet, still has religious value.

Furthermore, it is possible that the Rambam values Jewish kingship and government as the essence of the mitzva of settling the Land of Israel.

***Mitzvat Yishuv Eretz Yisrael***

The Ramban writes that there is a positive command to settle in the Land of Israel.[[19]](#footnote-19)

Many rabbis are troubled by the fact that the Rambam does not list this mitzva himself in his *Sefer Ha-mitzvot.*

Rav Yitzchak de Leon (15th century) explains that the mitzva only applies in the era during which the Jews reside in *Eretz Yisrael,* and it will only be reinstated in the Messianic times.[[20]](#footnote-20)

Rav Avraham Bornsztain (1838–1910) of Sochaczew suggests that the Rambam includes *yishuv* *Eretz Yisrael* in the mitzva of destroying the Seven Nations.

Similarly, using the same logic, Rav Hershel Schachter argues that:

It would appear that the simple explanation for the Rambam's omission of this mitzva is that he views it as identical to that of appointing a king, which he already enumerated elsewhere.[[21]](#footnote-21)

This view understands that settling the Land of Israel is not just a “technical” mitzva of living in the land but rather means establishing sovereignty over it.[[22]](#footnote-22)

Thus, throughout the generations, we see a mix of opinions regarding the importance of Jewish government and its meaning. According to those who believe Jewish kingship, government and sovereignty have religious value, assassinating a Jewish leader is not just the murder of an individual but rather an act against the government, which ultimately represents Jewish kingship in our time.[[23]](#footnote-23)

1. See Uri Dasberg, *Shana Be-shana* 1998. [↑](#footnote-ref-1)
2. [*Devarim* 17:14-15](https://www.sefaria.org/Deuteronomy.17.15?lang=he-en). [↑](#footnote-ref-2)
3. *I Shemuel* 8:4-7. [↑](#footnote-ref-3)
4. *Sifrei Devarim* 156, appears similarly in *Sanhedrin* 20b. [↑](#footnote-ref-4)
5. My good friend Dr Assaf Malach wrote an article on this theory, available at: <https://musaf-shabbat.com/2011/10/04>. Many of the ideas mentioned here are based on his article. [↑](#footnote-ref-5)
6. I *Divrei Ha-Yamim* 29:22-23. [↑](#footnote-ref-6)
7. When Gidon the Judge is approached by the people and offered kingship, he claims that any form of kingship by humans is a challenge to God’s kingship; see *Shoftim,* Chapter 8. [↑](#footnote-ref-7)
8. *Commentary* on *Devarim.* [↑](#footnote-ref-8)
9. *Hilkhot Melakhim* 4:10. [↑](#footnote-ref-9)
10. *Hilkhot Melakhim* 11:4. [↑](#footnote-ref-10)
11. *Derashot Ha-Ran* #8. [↑](#footnote-ref-11)
12. *Iggerot Tzafon* #8. [↑](#footnote-ref-12)
13. *The Rav Speaks*, pp. 137-138. [↑](#footnote-ref-13)
14. *Orot Ha-techiya,* pp. 283-284. [↑](#footnote-ref-14)
15. *Hilkhot Melakhim* 1:8. [↑](#footnote-ref-15)
16. *Sefer Ha-mitzvot*, Negative #362. [↑](#footnote-ref-16)
17. *Hilkhot Chanuka* 3:1. [↑](#footnote-ref-17)
18. See the article by my father, Rav Binyamin Tabory, in *Daf Kesher* #118, available at: <http://gush.net/dk//1to899/118daf.htm>. Also see Ya'akov Blidstein, *Ekronot Mediniyim Be-mishnat Ha-Rambam,* pp. 31-39; and Rav Elyakim Krumbein, *Afikei Yehuda: A Volume in Memory of Rabbi Yehuda Gershuni*, pp. 214-226. [↑](#footnote-ref-18)
19. Positive #4. [↑](#footnote-ref-19)
20. *Megillat Ester* on *Sefer Ha-mitzvot.* [↑](#footnote-ref-20)
21. “Land for Peace: A Halachic Perspective,” *RJJ Journal of Halacha and Contemporary Society*, 16, p. 82. [↑](#footnote-ref-21)
22. See Rav Itamar Warhaftig’s article in *Techumin* 18, pp. 421-432. He claims that the establishment of the State of Israel is a mitzva, based on our claim that sovereignty is the essence of the mitzva to live in Israel. [↑](#footnote-ref-22)
23. Rav Kook claims that the duly-elected government of Israel has the status of a *melekh* (*Mishpat Kohen* 144:14-17). [↑](#footnote-ref-23)