

נתיבות עולם

עמדו על דרכים וראו ושאלו לנתיבות עולם. ירמיהו טז

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It is a fact, that the religion of the oral law has hitherto done but little to promote the temporal welfare of the Jewish people, and it is equally certain that, if supreme, it would destroy the happiness both of Jews and Gentiles. Its endless definitions would necessarily produce transgression. Its severity and readiness in excommunication would be the source of constant trouble to individuals and families, and the sanguinary spirit of its criminal code would make the Jews a nation of mourners. Indeed, we seriously doubt, whether any but a few fanatics, wish to see the oral law vested with supreme power, and ruling over the lives and properties of the Jewish nation. Every reflecting Israelite must know that the Sanhedrin, wielding the absolute power ascribed to it in the rabbinic traditions, would be the most oppressive tribunal that ever lorded it over the consciences of men. But we must remember that it would not be with the Sanhedrin and other tribunals alone, that the Israelites would have to do. Every rabbi, and every disciple of a wise man, would have the right of excommunicating any one who offended them. After determining that the tribunals can and ought in certain cases to excommunicate, the oral law adds—

וכן החכם עצמו מנדה לנבדו לעם הארץ שהקפיד בו ואין צורך לא עדים ולא התראה. ואין מתירין לו עד שירצה את ההכם. ואם מת החכם באין שלש ומתירין לו. ואם רצה החכם למחול לו ולא לנדה הרשות בידו.

"And in like manner the wise man himself may, on account of his honour, excommunicate an unlearned man who has treated him with contumely, and there is no need of witnesses nor admonition. And the excommunicate person is not to be absolved until he appease the wise man. But if the wise man die, three persons come and absolve him. If, however, the wise man wish to pardon, and not excommunicate him, the power is in his own hand." (Hilchoth Talmud Torah, c. vi. 12.) From this law we see that the restoration of Rabbinic power would be the most oppressive system of government ever devised. Every learned man would be a petty tyrant, constituting both judge and jury in his own person, and able, at his own caprice, to inflict a severe punishment. The most absolute aristocracy of the feudal times never

dared to assume or exercise a power so monstrous and so oppressive. No priesthood, even in the darkest times, ever claimed such personal authority as is here given to every individual rabbi. It is true that he may, if he please, forgive the unfortunate offender, but it is much to be feared that such absolute power would in most cases be too strong a temptation to the frail sons of men. And at all events the principle is utterly inconsistent with wise legislation, and most dangerous to the liberty of the poor and unlearned; for the reader will observe that it is only an unlearned man, an "am-haaretz," who may be dealt with in this summary manner. And this is another proof that the religion of the oral law is a religion devised for the advantage of the rich and learned, but regardless of the spiritual and temporal welfare of the lower classes. For the learned and the great the law is very different—

הכם זקן בחכמה וכן נשיא או אב ב"ד שטרח אין מנדין אותו במרהיאי לעולם. אלא אם כן עשה כירבעם בן נבם וחביריו. אבל כשהוא שאר חסאות מלוקן אותו בצנעה. שנאמר וכשלת היום וכשל גם נביא עמך לילה אף על פי שששל כסדור כלילה. ואומרים לו הכבר ושב בביתך. וכן כל תלמיד הכם שנתחייב נדו אסור לבית דין לקפוח ולדותו במדה:

"A wise man, old in wisdom, or a prince, or a president of a tribunal, who has sinned, is never to be excommunicated publicly, unless he have done as Jeroboam, the son of Nebat, and his companions. But when he commits other sins, he is to be flogged in private. For it is said, 'Therefore shalt thou fall in the day, and the prophet also shall fall with thee in the night.' (Hos. iv. 5.) i. e., although the fall cover him as it were with the night. And they say to him, 'Honour thyself, and abide in thy house.' (2 Kings xiv. 10.) In like manner, when a disciple of a wise man makes himself guilty of excommunication, it is unlawful for the tribunal to be too quick, and to excommunicate him hastily." (Ibid, c. vii. 1.) The rabbies have endeavoured to justify this different legislation for the learned and unlearned by a verse of the Bible, but their interpretation of that verse is quite erroneous. When God says, "Therefore shalt thou fall in the day, and the prophet also shall fall with thee in the night," he is not speaking of the learned and unlearned, nor of the different way in which their sins were to

be punished, but of the destruction which was coming upon Israel, as may be seen in Kimchi's Commentary. He interprets the verse thus—

ונשלה היום אמר כנגד ישראל בעבר מעשך חסל ותפל: היום ר"ל הזמן הזה בקרוב תבא מלחך וכן רודד אפי בו ביום ההוא' ביום ההוא שרש יש' הדומים להם עניינם עת וזמן: ונשל גם נביא עמך לילה נביא השקר המתעה אותך ינשל עמך כמו האדם נכשל בלילה בחשיכו וכן תמי:

"Therefore shalt thou stumble in the day."

This refers to Israel, and means on account of thy deeds thou shalt stumble and fall. *This day*; that is, in this time; thy fall shall soon come. And so we read, "Then my anger shall be kindled against them in that day." (Deut. xxxi. 17.) And again, "In that day there shall be a root of Jesse" (Isaiah xi. 10), where day means time and period. *And the prophet also shall fall with thee in the night*, that is, the false prophet who deceiveth thee shall stumble with thee, as men stumble in the night in darkness, and so the Targum of Jonathan has it. (Kimchi. Comment. in Hos. iv. 5.) Kimchi and Jonathan, then, both testify that the oral law gives a false interpretation of this verse. This is in itself rather awkward for a law that professes to have been given by God, but still more so when it is made the basis of most unjust and partial legislation, to save the learned from the punishment which an unlearned man would have in similar circumstances to suffer. No one can deny that the learned and unlearned are here placed on very unequal terms. If an unlearned man provoke a rabbi, he may be excommunicated by that individual without either judge or jury, or even the form of a trial. But if a learned man makes himself liable to the same punishment, even a court of justice has not the power to pronounce the sentence. Who can doubt that the rabbies made these laws for their own convenience? Can any one believe that God has given this law, which makes the learned a privileged class of persons, who, though guilty of the same offence as the working classes, is to be spared, whilst they are to be punished? God is no respecter of persons, and therefore no such law can be from him.

The extreme injustice of this mode of legislation will appear still more from considering the nature of the punishment.

מדור המנהג שינהג המנהג בעצמו ושנהגין עמו מנהג אסור לשפר ולכבד מאבל כל מי נידרו ואין מוכינין אלו ולא כוללין אותו בעשרה לכל דבר שצריך עשה ולא יושבין עמו בארבע אמות אבל שניה הוא לאדריס ושונין לו ונשכר ושוכר ואם מה בגדיו ביה דין שולחין ומניחין אבן על ארזו כלומר שהן רומקין אותו לפי שהוא מובדל מן הצבור ואין צורך לומר שאין מספיקין אותו ואין מלויין את משתו . . . מי שישב בגדיו שלשים יום ולא בקש להתירו מניין אותו שניה יושב שלשים יום אדריס ולא בקש להתירו מחימין אותו:

"How is an excommunicate person to conduct himself, and how are others to conduct themselves towards him? It is unlawful for an excommunicate person, as for a mourner, to trim his beard or hair, or to wash all the days of his excommunication; neither is he to be associated in pronouncing the benedictions; neither is he to be reckoned as one of ten, wherever ten persons are required; neither may any one sit within four ells of him. He may however teach others and be taught. He may hire and be hired. But if he die in his excommunication, the tribunal send and lay a stone upon his coffin to signify that they stone him because he is separated from the congregation. And it is unnecessary to say that he is not to be mourned for, and that his funeral is not to be attended. . . . Who-soever remains thirty days in his excommunication without seeking to be absolved, is to be excommunicated a second time. If he abide thirty days more without seeking absolution, he is then to be anathematized." (Hilchoth Talmud Torah, *ibid.*) This, then, is the punishment which a learned man has it in his power to inflict at will. He may deprive him of the comforts of cleanliness and perhaps injure his health. He may hold him up to the public scorn by separating him by four ells from all decent people. He may heap obloquy upon his death and deprive him of a respectful burial, or if the man survive under the public contempt, and refuse to give the Rabbi satisfaction, he will be anathematized, and his prospects for this world, at least, irretrievably ruined. The law respecting the anathematized person is this:—

אינו שונה לאחרים ואין שונין לו אבל שונה הוא לעצמו שלא ישכח תלמודו ואינו נשכר ואין נשכרין לו ואין נושאין ונותנין עמו ואין מועסקין עמו אלא מעט עסק כרי טרנסחו:

"He is not to teach others nor to be taught, but may learn by himself that he may not forget his learning. He is not to be hired, nor to hire. Men may have no dealings with him, nor any business except a little that he may get a livelihood." Now then suppose that an unlearned man does or says something, which a rabbi interprets as contempt, he is first excommunicated. If, in the consciousness of innocence, he refuses to ask for the rabbi's forgiveness, he is at last anathematized, and all his business stopped, and all this is done to him because he is an unlearned man. He is himself to be dishonoured, his business ruined, and he himself to die of a broken heart, not because he has committed some grievous crime, but because he has been wanting in respect either to the rabbi's person or his words. The most absolute autocrat never made a law more despotic.

But some one will say, that the rabbi has the power of forgiving if he please, and that

the oral law recommends him to do so. It is true that if the affront be given in private he has this power, and is told to forgive, but not so if it be offered in public, he has then no choice. He is bound to excommunicate the offender. That we may not appear to act unfairly, we will give the whole passage:—

אף על פי שיש רשות להכם לנהוג לכבודו אינו שבה לתלמיד חכם להנהיג עצמו ברבו זה אלא מעלים אותו מדברי חכם הארץ ולא ישית לבו להן כענין שאמרו שלמה בזכמתו גם לכל הדברים אשר ידברו אל תתן לבך וכן היה דרך חסידים הראשונים שומעים חופתם ואינן משיבין ולא עור אלא שמוחלים למחרת וסולחים לו • חכמים גדולים היו משתבחים במעשיהם הנאים ואומרים 'שמעלים לא ינו אדם ולא הורמיהו לנבון' • זו היא דרכם של הלמידי חכמים שראוי לידך בה • במה דברים אמורים שבוטחו או חסידהו בכחו אבל תלמיד חכם שבוטח או חסידו אדם בפרסויה אמרו לו למה על כבודו ואם מזה נענש שיה בייחן תורה אלא נוקם ונוסר הדבר כנחש עד שיבקש ממנו מחילה :

“Although a wise man has the power to excommunicate on account of his honour, yet it is not to be praised in the disciple of a wise man who does so. On the contrary he ought to shut his ears against the words of an unlearned man (am-haaretz), and not to attend to them, according as Solomon has said in his wisdom, ‘Take no heed to all the things that are spoken.’ (Eccles. vii. 21.) And such was the custom of the saints of old, who heard their reviling, but did not answer; and not only so, but they pardoned the reviler, and forgave him. The greatest of the wise men used to glory in their good deeds, and say, that they had never excommunicated nor anathematized any man on account of their honour, and this is the way in which the disciples of the wise men ought to walk. In what cases is this to be applied? When they have been despised or reviled in secret. *But if the disciple of a wise man be despised or reviled by any man publicly, it is unlawful for him to forgive any affront to his honour, and if he forgive, he is to be punished, for this is a contempt of the law. He is, on the contrary, to avenge and keep the thing in mind, like a serpent, until the offender entreat to be forgiven.*” (Ibid, c. vii. 13.) The great object of these laws is plainly to uphold the power and dignity of the rabbies, and to make it impossible for the people to shake off their yoke. The care which is taken to punish every offence against the wise men betrays a lurking consciousness of error, and a fear lest the common people should compare their precepts with Scripture, assert the plain unsophisticated truth, and thus shake off the galling chains of Rabbinitism. To prevent this, the very first semblance of disobedience is to be punished with excommunication. But for the poor and unlearned, if insulted by a learned man, there is no satisfaction. He cannot thunder out an excommunication or an ana-

thema in return. For him the oral law makes no provision, except for his punishment. If Judaism, therefore, should ever attain the supreme power, the working and unlearned classes will be placed in the power and at the mercy of the learned, and every disciple of a wise man will wield the absolute power of an autocrat.

But some one may say, that if the disciple of a wise man should excommunicate any one hastily that the people would not regard his excommunication. But if they did not, they would do it at their peril, for the oral law expressly declares that they are bound to observe the excommunication not only of a rabbi, but of one of his disciples.

דבר שנדה לכבודו כל תלמידו חייבין לנהוג בו נדוי במבורה • אבל תלמיד שנידה לכבוד עצמו אין הדב חייב לנהוג בו נדוי אבל כל העם חייבין לנהוג בו נדוי :

“When a rabbi excommunicates on account of his honour, all his disciples are bound to treat the excommunicate person as such. But when a disciple excommunicates on account of his own honour, the rabbi is not bound to treat that person as excommunicate, but all the people are bound.” (Ibid, c. vi. 13.) Nothing can more clearly prove the injustice of such excommunication. If the rabbi be not bound to regard the disciples’ excommunication, why should all the people be bound? If the offence committed against the disciple be a sin before God, and such it ought to be to require such severe punishment, the excommunication ought to be as binding upon the rabbi as upon the people. But if it be not binding upon the rabbi, then the offence for which it was inflicted cannot be a sin in the sight of God, it is therefore an arbitrary and unjust punishment, and it is both wicked and cruel to require the people to obey it. But the principle itself is monstrous, that the disciple of a rabbi should be constituted both judge and jury in his own case, and have the power of lording it over those, whose circumstances do not permit them to devote their time to study, and who, therefore, cannot be enrolled in the privileged class. Just suppose that the clergy of this land, or the professors and students at our Universities, were to claim such power, and to excommunicate and anathematize all who treated them with disrespect, and that without any trial or conviction before a legal tribunal, and that the unfortunate victims were to be separated from society, ruined, and then their dead bodies treated with dishonour, would not this be regarded as a monstrous and insupportable tyranny? Yet this is what the oral law claims for the rabbies and their disciples, and what they would possess and exercise if Judaism ever attains to supreme power. Would the Jews wish such a power established? Do they desire to live under such a government? If they do not, if

they prefer the personal liberty and the even-handed justice secured to them by Christian laws, then they confess that the Christian principles are better than those of their own religion, and they must be charged with inconsistency in professing and asserting the truth of a religion, which they hope may never triumph. Every man who believes his religious principles to be Divine, must wish that they should triumph, and that they should have free scope for their development. Any man who dreads the triumph of his religion must have secret misgivings that it is false. We therefore ask every Jew whether he desires that the oral law should attain that absolute power which it claims, and that every rabbi and his disciples should have the power of excommunicating and anathematizing all who affront them? One of the most perfect tests of a religion, is to consider what would be its effects if supreme. At present there are various systems of religion in the world, some of which, as directly contradicting others, must be decidedly false. The hope of all reflecting men is, that the truth will ultimately triumph, that God himself will at last interpose, and establish the dominion of truth and eradicate all error. Each hopes that his own system will then prevail, but let him follow out that system, and see how it will work, when all resistance shall be vain. Let the Jews calmly consider the state of things, when the rabbies and their disciples shall be masters of the world, as they must one day be, if Judaism be true. The unlearned will then be completely at their mercy, their servants and their bondmen. Will this be a happy condition, or is this state of things desirable? In the first place, there will be no personal liberty. Any man who may chance to differ from a rabbi, and treat him with disrespect, will immediately be excommunicated. In the second place, there will be no liberty of conscience or of thought. Every man must then let the rabbies think for him, and he must be content to receive their decisions without any appeal. The body will scarcely have the appearance of being free, and the intellect will be bound in fetters of adamant. It will no doubt be a glorious period for the wise men and their disciples, but they will always form a small minority, compared with the bulk of mankind. The majority of Israel, not now to speak of the Gentiles, will then be degraded into poor, crouching, submissive servants of the learned, afraid to use their reason, and always having the fear and dread of excommunication before

their eyes. Do they then honestly wish for such a state of things, to be tied hand and foot, and given into the hands of their learned men? If they do not, if they see the horror and the injustice and degradation of such a state of things, why do they profess a religion which will inevitably lead to it, if it be true? If such laws be unjust, and such a consummation dreadful, instead of desirable, the religion of the oral law must necessarily be false; and it is the duty of every Israelite to consider what he is doing in upholding it. The present state of things will not continue always. The Jewish nation cannot always wish to be wanderers in foreign lands. They look forward to a restoration to the land of their fathers, and they wish in that land to be happy and prosperous. But happiness and prosperity will be unknown words, if they are then to be governed according to the principles of the oral law. That law gives the learned a monopoly of power and happiness, but leaves the mass of the nation in bondage. Do they then, in contemplating the re-establishment of the kingdom of Israel, expect another than the oral law, and other principles of religion and justice? If they do, they confess that the oral law is false, and if it would be false and hurtful, and destructive of all happiness, if supreme, it is equally false and hurtful now. The Israelite, therefore, who upholds it, is upholding a false system. He may do it in ignorance, and we believe that this is the case with the majority; but it is most unbecoming in any reasonable man to profess a religion of which he is ignorant. He may answer, I have no time to acquire an accurate knowledge of my religion. The books in which it is contained are too voluminous to admit of my acquiring an acquaintance with them. I must work for my bread. We grant that this is the fact, but then this brings us back to our original position, that Judaism is only a religion for those who have leisure, that is, for the rich and the learned, and we conclude, on that very account, that it cannot be from God, who looks neither at riches nor learning, but considereth the welfare, and, above all, the religious welfare of the poorest of his creatures. The especial character of the Messiah is, that he will care for the poor. "He shall judge the poor of the people, he shall save the children of the needy." (Psalm lxxii. 4.) He, therefore, cannot have the religion of the oral law. He will not be a rabbi, nor a rabbi's disciple.

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