

IN MEMORIAM

Rabbi Berel Berkovits: *Hadayan Hametzuyan*

BY J. DAVID BLEICH

In the prime of life, Dayan Berel Berkovits, a *dayan* (judge) serving on the *beit din* of London's Federation of Synagogues, was abruptly summoned to the Heavenly Academy on this past sixth of Nisan. That tragic event occurred during a short stopover in Jerusalem on Dayan Berkovits' return from Egypt, where he was engaged in a mission associated with his communal responsibilities.

In Sephardic communities a rabbinic judge is accorded the encomium "*hadayan hametzuyan*—the excellent judge." That honorific connotes much more than judicial distinction, and, indeed, to describe Dayan Berkovits merely as an excellent judge would not at all do justice either to the person or to his memory.

Upon bringing the first fruits of the year's produce to Jerusalem, our ancestors proclaimed: "An Aramean sought to destroy my father; he went down to Egypt and dwelt there with a small number; and there he became a great nation, strong and populous" (Deuteronomy 26:5). The appellation "nation," conferred by Scripture upon the Israelites while yet in Egypt seems quite inappropriate. Our ancestors were entirely subservient to, and indeed enslaved by, their Egyptian masters. They had none of the perquisites of nationhood; they did not rule over any parcel of territory; they exercised no sovereign rights. And yet Scripture describes them as a "*goy*, a nation," and later their election

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Rabbi Berel Berkovits, z"l (1949-2005).

as that of a "*goy mikerev goy*, a nation from within a nation" (Deuteronomy 4:34)—an *imperium in imperio*.

Undoubtedly, it was this ostensive linguistic incongruity that prompted the author of the Haggadah to comment, "*Legoy. 'Melammed shehayu metzuyanim sham.*" The word "nation" must be understood as teaching that our ancestors were *metzuyanim* while yet in Egypt. But the author of the Haggadah, in attempting to explain a semantic anomaly, has only replaced it with one that is even more discordant. In common parlance the term *metzuyan* means "excellent" and is used, for example, to denote the highest evaluation that can be given to a student's academic achievement or as a description of the quality of an artistic performance. The term, as applied to our ancestors, seems entirely inappropriate. They hardly excelled in conduct worthy of divine approbation. Nor is excellence a hallmark of nationhood. A nation may excel in absolutely nothing and yet enjoy sovereign status; conversely, many ethnic groups are endowed with stellar qualities and have remarkable accomplishments to their credit but, nevertheless, have never attained nationhood.

The term "*metzuyan*" is derived from the noun "*ziyyun*" meaning a "sign." A sign customarily denotes a distinctive place or object. As an adjective, the term "*metzuyan*" connotes a singular person or entity representing or standing as a sign of a valued quality or achievement. If one may be permitted to coin a word, the nuance and flavor of the term "*metzuyan*" can most accurately be captured by the term "signular." In the accepted vernacular "emblematic" is probably the closest translation.

The Haggadah teaches us that nationhood is not necessarily a function of temporal sovereignty. Our ancestors constituted a nation not because they constituted a distinctive ethnic polity, but because they were an emblematic people possessed of noble attributes that rendered them uniquely qualified to receive the Divine Law at Sinai. That singularity sprang from a moral and spiritual independence emblematic of their unique nationhood.

A *dayan metzuyan* is a “singular” and emblematic individual in whom the requisite qualities of a rabbinic judge are epitomized. Rambam, in *Hilchot Sanhedrin* 2:7, enumerates the qualities that should be possessed by a person seeking judicial office:

... It is essential that every one of the members [of a *beit din*] possess the following seven qualifications: wisdom, humility, fear of God, disdain of gain, love of truth, love of his fellow men and a good reputation. All these prerequisites are explicitly set forth in the Torah. Scripture says, “*wise men and understanding*” (Deuteronomy 1:13), thus stating [that those chosen] must be men of wisdom; “*and beloved of your tribes*” (*ibid.*), that is, men with whom the spirit of their fellow creatures is pleased. What will earn for them the love of others? A good eye, a lowly spirit, friendly intercourse and gentleness in speech and dealings with others.

Elsewhere it is said, “*men of valor*” (Exodus 18:21), that is, men strong in the performance of the commandments, and strict with themselves, men who control their passions, whose character is above reproach, aye, whose youth is of unblemished repute. The phrase “*men of valor*” implies also stoutheartedness to rescue the oppressed from the hand of the oppressor, as it is said: “*But Moses stood up and helped them*” (Exodus 2:17). And just as Moses, our teacher, was humble, so every judge should be humble. “*Such as fear God*” (Exodus 18:21)—this is to be understood literally; “*hating gain*” (*ibid.*), that is, they are not anxious about their own money and do not strive to accumulate wealth, for he that hastens after riches, want shall come upon him; “*men of truth*” (*ibid.*), that is, they pursue righteousness spontaneously and of their own accord; they love the truth, hate violence and flee anything that savors of unrighteousness.

Radvaz, in his commentary *ad locum*, notes that the Gemara, *Sanhedrin* 17a, cites Biblical verses indicating that Moses’ judicial appointees possessed but three of the qualifications recorded in Scripture and comments that Rambam seeks to describe the ideal *dayan* but that when the ideal candidate is not available, lesser individuals may be designated as *dayanim*.

Certainly, the *dayanim* appointed by Moses were not totally lacking in four of the seven requisite attributes. Assuredly, the Torah withholds those appellations only

because they were not present to the degree to which those individuals should have aspired. A *dayan metzuyan* is an individual whose very personhood is emblematic of the full complement of those qualities, a person whose manifestation of these traits far surpasses that of his peers.

Dayan Berkovits was the very personification of each of these qualities. Rambam considers the wisdom and understanding referred to in the cited verse as a single trait. “*Wisdom*” is knowledge and information;

“*understanding*” is the ability to make astute inferences and judgments based upon that knowledge. Erudition is not mere book learning; rather, it connotes the ability to assimilate and integrate information in creating a whole greater than the sum of its parts. Wisdom bereft of understanding is a scant value—certainly in a *dayan*. Dayan Berkovits was not only learned but sagacious, a man possessed of keen analytic talents and understanding.

Halachah does not mandate that a *beit din* issue opinions incorporating the precedents, principles and reasoning upon which a decision is based. But Dayan Berkovits did author many such decisions, each one a scholarly gem marked by clarity of analysis and elegance of style. In the common law system reasoned opinions are necessary in order to establish a record from which an appeal becomes possible. *Sema, Choshen Mishpat* 14:26, remarks that elaborate opinions on the part of a *beit din* are unnecessary for “we all have [but] a single Torah,” i.e., a qualified appeals court will readily understand the considerations that led to the original decision and then either concur in the opinion or reverse the judgment. That was certainly true in days gone by when comprehensive knowledge was ubiquitous among rabbinic scholars. In our age, opinions of the caliber written by Dayan Berkovits serve to open new vistas of knowledge for so many of us.

Moreover, Dayan Berkovits frequently brought Jewish wisdom to bear upon contemporary social issues. In addressing both the Jewish and general communities he spoke with the authentic voice of Judaism expressing himself with a felicity of language, literary sophistication and a poetic touch. His keen moral sensitivity reflected in writings probing issues affecting contemporary society demonstrated a passionate rabbinic concern for justice and morality and brought honor to the Jewish community.

“*Beloved of your tribes*”—and beloved he was not only by those of his own cultural, religious and scholarly milieu but by members of all Jewish “tribes” regardless of personal orientation or institutional identification. That love was justly earned by friendliness toward all, by gentleness in every facet of his personality, with a “good eye” and genuine concern for the welfare of others and, above all, with a

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humility to the point of fault. Dayan Berkovits' self-effacing nature and lack of personal assertiveness made it quite possible for others not to realize what a formidable personality he was.

"*Men of valor*," according to Rambam's understanding of the term, has a dual meaning: tenacious adherence to performance of the commandments and the exercise of stoutheartedness to rescue the oppressed from the hand of the oppressor. In a *dayan*, the two are really one. Only a person strong in his commitment to the dictates of God can

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be relied upon to render judgment solely upon consideration of the merits of the case without being buffeted by extraneous and self-serving considerations. At times, if one may dare to say so, oppression is caused by the laws of the Torah itself. Such a statement would border on the blasphemous had it not been uttered by God Himself. The verse "Behold the tears of the oppressed and they have no comforter, and on the side of their oppressor there is power" (Ecclesiastes 4:1) is quite eloquently interpreted in *Vayikra Rabbah* 32:7 as a pronouncement by God regarding the tears of *mamzerim* whose misfortune could in no way be the result of their own guilt:

They have no comforter "from the hand of their oppressor" ... from the hand of the power of the Great Sanhedrin which comes upon them with the power of the Torah and distances them.... Said the Holy One, blessed be He, "It is for Me to comfort them."

God shares in their anguish and comforts them by purifying them in the World to Come. And so must a *dayan* endeavor to do in this world. "*But Moses stood up and helped them.*" It could only have been that anguish that caused Dayan Berkovits to find strength to persevere for five long years to uncover factual information and halachic grounds to cure the status of one such unfortunate individual. He well understood that compassion lies not in subverting the halachic process but in leaving no stone unturned in applying it correctly.

"Such as fear God," "hating gain" and "men of truth." None of this is possible without fear of God. And those who fear God cannot love wealth. Man simply does not have the capacity to be utterly devoted both to the spiritual and to the material. Being oblivious to material blandish-

ment is, in turn, a necessary precondition for becoming a man of truth, a person who pursues righteousness instinctively and as an end in itself. In Dayan Berkovits one could readily see how his *yirat Shamayim* led to a total lack of concern for material gain and self-advancement and how his very being was permeated with a love of truth.

It would not be amiss to note that, although members of inferior courts need not possess additional qualifications, Rambam, in *Hilchos Sanhedrin* 2:1, adds that members of both a Great and Small Sanhedrin, in addition to proficiency in Torah, were required to be “versed in many other branches of learning.” That knowledge is not an end in itself. Such scholarship is of extreme value in dealing with matters coming before the court “so that they be competent to deal with cases requiring such knowledge.” Dayan Berkovits was an accomplished secular jurist. Indeed, he resigned a prestigious university position and renounced a promising academic career to accept a position as registrar of the *beit din* of Britain’s United Synagogue and subsequently an appointment as a *dayan* of the Federation of Synagogues. He utilized his secular erudition as a handmaiden to Torah. He was uniquely qualified to grasp the implications of governmental legislation and the nuances of decisions of secular courts upon the application of provisions of Jewish law, most particularly in the area of domestic relations, in which he had a special expertise. It was he who succeeded in the extraordinary feat of drafting and guiding the enactment of an amendment to Great Britain’s Family Law Act 1996 that assures cooperation of both spouses in executing a religious divorce without beclouding the validity of a *get* entered into pursuant to its provisions. In an age of polarization in which sanctified melding of the sacred and the secular is a rarity, Dayan Berkovits filled a paradigmatic role in demonstrating how the blending can and should be accomplished.

Dayan Berkovits was a *dayan metzuyan* in the fullest sense of the term. A fiercely independent person, he embodied, personified and signified those traits to a degree to which others only aspire. And that is why his untimely passing is so tragic. The loss of Dayan Berkovits is not only a sorrowful loss to his family, his *beit din* and his community but a grievous loss to the entire Jewish people. We have lost the *dayan hametzuyan* who raised the benchmark for rabbinic judges, a role model whose integrity and erudition commanded emulation. Dayan Berkovits proved that such an individual can exist even in our day. Demonstrating that there could be such a person among us was undoubtedly his greatest and most lasting accomplishment. *Yehi zichro baruch.* 

