

Jewish Legal Interpretation and Moral Values:

Two Responsa by Rabbi Hayyim David Halevi on the Obligations of the Israeli Government toward Its Minority Population

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The texts of a specific legal system provide a bedrock of authority and identity for the community that dwells within its precincts, and the community itself evidences its ideals and self-understanding through the ongoing way that its judges apply the rules and principles of that system to a contemporary case. The legal decisions that emerge from these writings mark a crossroads where traditional texts and current contexts meet in an ongoing process of legal hermeneutics. As the famed legal philosopher Ronald Dworkin has pointed out, a legal judgment is, therefore, an act of both fidelity and imagination.

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Legal pronouncements constitute acts of imagination in the sense that the judge, “in the interpretive spirit,” strives creatively, through the use of analogy, to apply inherited legal rules and principles to a current situation in order “to show” the community “the best route to a better future.” At the same time, such judgments establish themselves as acts of fidelity, for by “keeping right faith with the past,” the decisor sustains a universe of meaning that allows for the preservation of a communal identity that is expressed through citation of legal precedent.¹

Dworkin maintains that this dialectical approach to the legal system means that judicial decisions must not be narrowly construed as always comprising nothing more than a simple application of relevant rules and principles drawn from analogous precedents to an instant case. Instead, Dworkin urges the legal analyst to recognize that such judgments are often better understood more generally as policy pronouncements.² In these instances, the judge rules broadly, assuming responsibility “for imagining what his society’s public commitments to principles are, and what these commitments require in new circumstances.”³ In the final analysis, particular applications of the law in individual instances are thus reflective of the standards and values that inform and guide the community as its juridical leaders creatively attempt to address the demands of the present in light of the teachings of the past.

These observations that Dworkin provides about the nature of the legal process and the holdings that emerge from such a process provide an illuminating framework for approaching the responsa issued by Rabbi Hayyim David Halevi (1924–1998) of Tel Aviv that are presented in this paper. As a youth, the author of these responsa studied at the famed Jerusalem yeshivah *Porat Yosef*, where he became the *talmid muvhak* of Rabbi Ben Zion Meir Hai Ouziel, the first Chief Sephardic Rabbi of *Medinat Yisrael*. He later competed unsuccessfully with Rabbi Ovadiah Yosef for the post of his teacher, and ultimately was selected instead for the position of Chief Sephardic Rabbi of Tel Aviv-Jaffa, where he served until his death in 1998. A prolific author, R. Halevi published nine volumes of responsa under the title *‘Aseh l’kha rav* as well as over a dozen more volumes on various Jewish religious topics that gained him acclaim as one of the foremost exponents of traditional Jewish law and lore in Israel.⁴

In the responsa discussed below, R. Halevi seized the opportunity presented him by a questioner concerning selected points

found in Yebamot 78b–79a to issue a policy pronouncement that demonstrates that even seemingly morally problematic texts can be mined by a skillful interpreter for humanistic strains. In so doing, he hoped to make his Israeli constituency aware that the authentic Judaism as presented in the Talmud contained a moral vision requiring the Israeli government to adopt a policy that would accord respect and support to its minority citizens. The rulings he offered here are of contemporary import inasmuch as Israeli Jewish treatment of its minority populations remains a matter of vital consequence today.

R. Halevi was, of course, aware that even in Israel his opinion as a rabbi on an issue such as this did not have the force of law and that it would not necessarily be enforced by the state. Nevertheless, he also recognized that his reputation and moral stature as an outstanding *posek* were considerable among vast sectors of the Israeli public. R. Halevi clearly hoped that, by couching his legal exegesis of this passage in the form of responsa, he could exercise an influential religious authority among an audience of traditional Israeli Jews that would move them to act in an expansive way on the question of human rights.

It is in this spirit that I analyze and present these responsa written by R. Halevi. In the first section of the paper, I will indicate how R. Halevi addresses a series of textual and moral problems addressed in Yebamot 78b–79a in light of key Jewish values embedded in the text. I will then show how he analyzes the talmudic solution to these difficulties in each instance and will explore the political and moral entailments R. Halevi derives from these interpretations for Israeli life today. At the conclusion of my exposition of these major points, I will offer a few brief comments on what this genre of Jewish legal literature might mean to liberal religious Jews. Finally, I will attach relevant portions of the texts in complete translation so that others can employ them as objects of study. After all, my own identification of issues in these texts as presented in this article is hardly meant to be an exhaustive description of the matters raised by these writings. It is my hope that these sources can thereby serve as stimulants for ongoing communal discussions of the significant issues contained in these texts in voices anchored in a Jewish tradition that seeks to provide meaning and identity in a world marked by complex moral dilemmas and challenges.

**R. Halevi on Jewish Values and Selected Moral
Dilemmas in Yebamot 78b–79a**

An Ethic of Majority Responsibility

In 'Aseh l'kha rav 7:70, dated 4 Tammuz, 5745 (June 23, 1985), R. Halevi noted that a questioner had expressed "astonishment" at a series of interpretations the sages of the Talmud had offered in Yebamot 78b–79a. The individual who posed this query to R. Halevi was greatly disturbed by what he felt was an undue concern that the rabbis of the Talmud displayed concerning the opinion that non-Jews would hold of Jews. It troubled him that this concern seemed to be a major factor that influenced the rulings at which the ancient rabbis arrived in the Yebamot texts.

R. Halevi responded to these concerns by focusing, at the outset of his first responsum, with an exposition of a passage found in II Samuel 21:1, a text with which Yebamot 78b was concerned. The first part of the verse states, "And there was a famine in the days of David three years, year after year; and David sought the face of the Lord," looking for an explanation from God as to why this disaster had befallen the people Israel. And the last part of this passage supplies the answer in the following words: "And the Lord said, 'It is for Saul, and for his bloody house, because he put to death the Gibeonites.'" Rabbi Halevi noted that the Talmud was puzzled by this explanation inasmuch as the Bible nowhere indicates that Saul performed such a deed. In light of this, the rabbis naturally queried, "Where do we find that Saul 'put to death the Gibeonites'?" And the Talmud, R. Halevi reported, answers this question by asserting, "The truth is that as he killed the inhabitants of Nob, the city of priests whom [the Gibeonites] were supplying with food and water, *Scripture regards it as if he himself had killed them*" (Yebamot 78b; emphasis mine).

In order to comprehend this cryptic talmudic justification for the biblical condemnation of Saul as the man who had slain the Gibeonites, it is necessary to turn to accounts of several episodes recorded in I Samuel 21 and 22 as well as in Joshua 9. In I Samuel 22, it is related that Doeg the Edomite killed the priests of God at Nob at the directive of Saul. As the Bible states, Saul said to Doeg:

You, Doeg, go and strike down the priests. And Doeg the Edomite went and struck down the priests himself; that day he killed

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eighty-five men who wore the linen ephod. He put Nob, the town of the priests, to the sword: men and women, children and infants, oxen, asses, and sheep—all to the sword. (I Samuel 22: 18–19)

Saul had issued this order to Doeg because Saul was furious that the priest Ahimelech at Nob had provided refuge and arms to David as David fled from the wrath of Saul. This story is related in I Samuel 21, where the Bible states that, after David departed from his friend Jonathan in fear for his life, the unarmed David sought and received for himself provisions—as well as the sword with which he had slain Goliath—from Ahimelech. Saul had the priests as well as the inhabitants of Nob murdered by Doeg precisely because he regarded these acts by Ahimelech as treasonous.

Although it is clear that this act of murderous vengeance committed against the inhabitants of Nob was performed at the behest of Saul, it still remains unclear as to why Saul should, therefore, be held culpable for the deaths of the Gibeonites. After all, as R. Halevi himself observes, “According to the words of our sages there in Yebamot, Saul did not actually kill even a single Gibeonite.” In order to understand why the charge of murder was leveled against Saul, it is necessary to look at Joshua 9, which reports that the inhabitants of Gibeon, fearful that Joshua would destroy them as he had other indigenous peoples of Canaan during his conquest, “resorted to cunning” (Joshua 9: 4). These Gibeonites posed as non-natives, and told Joshua that they came “from a distant land.” They then persuaded Joshua to “make a pact” with them and agreed to be his “subjects” (Joshua 9: 6–8). Joshua assented to their request and, as the Bible states, Joshua “made a pact with them [the Gibeonites] to spare their lives and the chieftains of the community gave them [the Gibeonites] their oath” (Joshua 9:15).

When Joshua and the entire community soon learned that the Gibeonite claim that they had come “from a distant land” was fraudulent, the people Israel was furious. Despite this fury, Israel could not now destroy the Gibeonites, since Joshua and the chieftains had sworn an oath before God to spare them. Consequently, the chieftains declared, “They shall live!” Nevertheless, they consigned the Gibeonites to menial labor, and assigned the Gibeonites and their descendants to roles as “hewers of wood and drawers of water for the House of God” (Joshua 9:21 and 23), that is, they would perform subservient tasks for the priests.

The tale in Joshua is surely troubling to modern ethical sensibilities on several counts. After all, the Book of Joshua itself may well be said to bespeak here, as it does elsewhere, an ethic of genocide against native peoples. Moreover, here the Gibeonites are reduced to a permanent low-caste status. In his responsa, R. Halevi did not address issues such as these, as such concerns were not in this instance addressed by the legal tradition he had inherited. In a broader study of these texts, these and other considerations would surely demand attention. However, here it was the line of reasoning put forth by the Talmud alone that was pertinent to the legal exegesis R. Halevi was to advance in these responsa. As a result, R. Halevi focused only on that which he had received from the Tradition—the talmudic exegesis of the biblical passage ascribing the murder of the Gibeonites to Saul. Indeed, he vindicated the talmudic pronouncement that declared Saul responsible for the death of the Gibeonites by offering the following exposition. As R. Halevi explained:

His entire punishment was meted out on account of the fact that through his slaughter of the priests of God in Nob, the Gibeonites lost their livelihood. We will now proceed with an explanation of the matter. As the Gibeonites had no part or inheritance in the land, they could not support themselves through farming. Their livelihood depended entirely upon their work as “hewers of wood and drawers of water” for the house of the Lord. And there is no doubt that as a result of the murder of the priests of the Lord in Nob, they suffered the indignity of famine, and many of them died as a result of famine. Therefore, they [the Gibeonites] said of Saul, “The man that consumed us” (II Samuel 21:5).

R. Halevi was not content simply to explain why Saul could legitimately be deemed responsible for the Gibeonites’ deaths. He also offered an expansive interpretation of the episode that caused him to delineate what he regarded as the legal obligations that emerged from this episode for those responsible for the administration of state. R. Halevi wrote that Joshua and the chieftains of the community had assumed responsibility for the Gibeonites inasmuch as they had sworn to the Gibeonites that they would allow this indigenous Canaanite people to live. Subsequent generations of leaders were likewise bound by this oath. A contemporary Jewish community and its leadership, no less than Joshua and his chieftains, could discharge this obligation only by supplying the

Gibeonites with work whereby they could earn a livelihood. R. Halevi therefore firmly maintained that Saul was “obligated to be concerned” and to find the Gibeonites work, “as this was his obligation as King of Israel.”

Most importantly, R. Halevi felt that only one present-day legal conclusion could properly be drawn from this reading, and he proclaimed it distinctively and succinctly. He wrote, “It is therefore the obligation of every government to be concerned for the subsistence of its citizens, whether they are permanent residents or strangers.” Obviously, it was the matter of how a majority Jewish government ought to act in regard to its minority populations that was of exclusive concern to R. Halevi in this responsum, and not any other ethical issue that could plausibly be raised in connection with these texts.

The Values of Ḥillul Hashem and Tzedakah and the Imposition of Divine Punishment

R. Halevi reinforced his argument concerning governmental responsibility for all citizens in a Jewish-dominated state by raising the notion of *ḥillul hashem*, the profanation of God’s Name, as one of the utmost import in guiding his ruling in this matter. R. Halevi maintained that the slightest failure on the part of a Jewish ruler to protect a dispossessed minority brought shame upon the Jewish people and thereby discredited the God of Israel before the nations of the world—a completely unacceptable outcome.

R. Halevi implicitly acknowledged that in the instant case one might argue that Saul had valid reasons for slaughtering the priests and Jewish residents of Nob. After all, Saul viewed their harboring David as an act of disloyalty. However, even if a hypothetical argument could be advanced that would justify the punishment Saul meted out at Nob, it would in no way be germane to the matter under discussion. R. Halevi insisted that it was Saul’s responsibility to the Gibeonites that was at issue here, and any feelings of fury that Saul, justifiably or unjustifiably, directed against the priests at Nob could under no condition touch upon or obviate the commitment he was required to fulfill concerning the Gibeonites. Indeed, by depriving the Gibeonites of their meager livelihood through the murder of the priests at Nob, R. Halevi charged Saul with the additional sin of “*ḥillul hashem*—profaning the Name of God in public.” Saul was guilty of committing the sin of *ḥillul hashem* precisely

because his determination to exact punishment from the priests at Nob made him impervious to the duty he possessed as king of Israel to care for the disenfranchised. His deed had the consequence of condemning the Gibeonites to die by famine. This responsibility to supply labor for the Gibeonites so that they could support their community could brook no compromise.

R. Halevi was also quick to note that Saul was not the only culpable party in this incident. Indeed, the sin against the Gibeonites extended to the entire people Israel. R. Halevi emphasized the collective guilt that descended upon all Israel, for he observed that "the entire people Israel saw and knew" of this wrong that Saul had perpetrated against the Gibeonites. Yet, "not one person protested," nor did a single Jew "demand justice for the Gibeonites." He explained why this silence on the part of the Jewish people constituted a particularly egregious sin, for he observed, "I do not know how every government in the ancient world conducted itself concerning its obligation for the support of all its citizens. However, even if this obligation was not accepted in the ancient world, there was surely such an obligation concerning the Gibeonites as a result of the sworn oath that had been made [by the leadership of the people Israel to the Gibeonites]." By neglecting their obligation to the Gibeonites, the entire people, as well as their ruler, were responsible for the death of this Canaanite people by famine, as neither had fulfilled the oath sworn by Joshua and the chieftains "to sustain them." All Israel had violated the oath their ancestors had sworn. The Jewish people, no less than Saul, had in effect committed the sin of *hillul hashem*.

Furthermore, the need to display proper concern for the Gibeonites emerged not only from the commandment that demanded that the Jews and their ruler avoid profaning God's name in public by failing to fulfill their oath to a hapless minority. Instead, R. Halevi maintained that this obligation was equally incumbent upon the people Israel because a general ethic of *tzedaqah* animated and informed the very core of Jewish religious tradition. As R. Halevi put it, "The people Israel have always acted so as to express concern for the poor." Indeed, he quoted Maimonides, who wrote, "We have never seen or heard of a community in Israel that does not have a *tzedaqah* fund," as a warrant for the position that Jews are required to extend care to those in need. R. Halevi saw the duty to be concerned for those in dire straits as constituting the essence of

the *mitzvah* of *tzedaqah* and he contended that it was the most central of Torah commandments.

As a result of their refusal to stand up and protest what Saul had done, the entire people Israel had committed the sin of *hillul hashem*. However, they were equally guilty of not fulfilling the commandment to provide *tzedaqah* for those less fortunate than themselves. For these reasons, God justly meted out divine punishment against them. As R. Halevi wrote, "The Holy One imposed the punishment of famine upon Israel on account of such sin, as they thereby publicly profaned the Name of God. It is noteworthy to emphasize that the decrees of God are meted out measure for measure—the sin against the Gibeonites resulted in death by famine, so here the punishment was famine." The iniquity of Israel was so great that only such divine retribution could atone for the wrongs they had committed against this people.

Kiddush Hashem and the Problem of Retributive Justice

The primacy R. Halevi accorded *hillul hashem* and *tzedaqah* as value concepts worthy of application in situations where Israel was responsible for the welfare of an impoverished and impotent minority was supplemented by the emphasis he came to place upon the ancillary commandment of *kiddush hashem*. He noted that the sages in the Yebamot text, commenting upon II Samuel 21: 2–6 and 8–9, had made special mention of the fact that seven of the male descendants of Saul were delivered unto the Gibeonites and "hung in the mountain before the Lord." In this way, the Gibeonite demand for strict retributive justice was served.

David was disturbed by their request and, according to the Talmud, he regarded this demand as unspeakably cruel. Yet, David still acceded to their petition and these sons and grandsons of Saul were put to death. Only then were the Gibeonites pacified. The rabbis in Yebamot 79a were quite upset by this deed on other grounds as well, and they objected in the following manner: "But surely it is written, 'The fathers shall not be put to death for the children, and the children shall not be put to death for the fathers'" (Deut. 24:16).

In other words, the sages took note of an additional moral problem posed by the biblical story and its tale of the deaths of the seven sons and grandsons of King Saul—that of retributive justice. Even if it were acknowledged that responsibility for the deaths of the

Gibeonites was rightfully assigned to Saul, then he alone should have received the punishment for this crime. In light of the rule enunciated in Deuteronomy 24:16, his children surely should not have been put to death on account of his sin. To exact retribution against the descendants of Saul was morally reprehensible. Rabbi Yohanan recognized the moral quandary that this represented. Nevertheless, he boldly asserted, "It is better that a letter be rooted out of the Torah than that the Divine name shall be publicly profaned." In other words, on this occasion, the directive from Deuteronomy should be ignored, despite the fact that Deuteronomy condemned the notion of retributive justice as a moral violation of Torah law. In the instant case, Rabbi Yohanan insisted that the commandment to avoid the profanation of God's Name received priority over the Deuteronomic injunction, and he therefore felt the punishment of death imposed upon the descendants of Saul—however horrific—was the proper course to pursue in this situation.

In short, two sets of Jewish values were in conflict in this element of the story. On the one hand, the value concept of *hillul hashem* demanded that justice be done for minority populations under Jewish rule, and the Gibeonites were within their rights to demand this morally problematic expiatory act. On the other hand, the Deuteronomic commandment indicated that even though retributive justice was a legitimate course of action for a court to pursue, such justice should be meted out only against those persons who had actually performed the transgression. The Bible completely opposed any attempt to justify such retributive justice as ethically unacceptable. Surely, the iniquity of the parents should not be visited upon their descendants. R. Halevi accorded, as had Rabbi Yohanan, primacy in this matter to the former value over the latter. He approvingly cited Rashi, who had stated in his gloss on Rabbi Yohanan's statement, "Lest the nations [of the world] state, 'It is not fit to cling to this nation [the Jewish people]. For they harmed strangers [the Gibeonites] by taking away their livelihood and they would not exact revenge for them [the Gibeonites].'"

Indeed, it was precisely this line of reasoning that had disturbed the man who had initially posed the question to R. Halevi in these responsa. After all, his interrogator had observed, the Gibeonite demand was in and of itself unjust. They were a malicious and fraudulent people. He therefore asked why the people Israel should be concerned "about what the gentiles would say."

To this, R. Halevi responded, "The matter pained them [the Gibeonites] greatly and justifiably so, and they were not able to forgive the injustice that was thereby perpetrated against them. Therefore [this famine persisted] until they (the Gibeonites) exacted the cruelest revenge [i.e., the capital execution of Saul's sons]." This demand for justice on the part of the Gibeonites was morally troublesome. Indeed, it was so horrific that the Talmud states that they thereby "demonstrated that they were not worthy of taking refuge in the inheritance of the Lord. David therefore issued an eternal prohibition barring them (the Gibeonites) from entering into the community of the Lord (i.e., from converting to Judaism) as is explained there in the *sugya* (Yebamot 78b)." Yet, R. Halevi continued, there was no way to avoid their demand, as "through this cruel deed itself (i.e., the execution of seven of Saul's sons), the Name of Heaven was sanctified" by Israel "among the nations." For, as R. Halevi pointed out, Yebamot 79a states, "For passersby were enquiring, 'What kind of men are these (that are being hanged)?'" These passersby were then told that these men were "the sons of a king," and that the men were being hanged as a result of the crime their ancestor had committed against a disenfranchised minority. These passersby then exclaimed, "There is no nation in existence that one ought to join as much as this one (Israel)." Indeed, this concern that justice be executed on behalf of such a minority at such a high cost constituted an act of *kiddush hashem* and the Talmud reports that, as a result of this, "150,000 men immediately joined Israel" on that day.

R. Halevi believed that the mandate to be derived from Jewish tradition on the treatment that Israel ought to accord disenfranchised minorities as a result of these teachings was absolutely incontestable. Jewish law and ethics required Jews to display care and concern for these people. Their own lack of moral sensibility and kindness in no way abrogated the duty of the Jewish people to behave properly in these matters. At the end of the previous responsum, R. Halevi had stated that the practical application to be derived from this obligation was that the Israeli government was required to provide "any person who lacks work" with "national insurance" as this would ensure a minimal standard of living for such people. Here he expressed a similar sentiment to the position he had advanced in the previous writing. Therefore, concluded R. Halevi, "The great moral to be derived by every government among the people Israel is that it possesses an obligation to conduct

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itself towards its minorities and those who are strangers in its midst with integrity and fairness. In so doing, it will sanctify the Name of Heaven and the Name of Israel in the world.”

Concluding Thoughts

The search for divine justice and religious meaning in the midst of the complex and oft-times nasty world that humans inhabit is hardly easy. Indeed, precisely how one attains perfect justice in the human setting may well always remain beyond our grasp. Yet, the struggles R. Halevi displayed in these writings remind us that enduring values of real worth are embedded in our tradition and a vital interpretive process remains at work in our religious heritage.

Ours is an age in which the coercive political power that formerly characterized the political structure of the medieval Jewish community has dissolved, and the religious certainty that formerly informed so many in prior ages now appears to be so elusive. Few Reform Jews would assign the responsa literature the authority that many of our more traditional coreligionists would. Nevertheless, it is hoped that this paper has provided an example of why this literature remains a crucial resource for the expression of Jewish teachings. It is a fundamental part of our patrimony as Jews. We should recognize that if we ignore this literature, then we impoverish the spiritual resources and truths available to our community as we seek a renewal of contemporary Jewish life rooted in the resources provided by a common Jewish heritage in an authentic Jewish idiom.

Appended Portions of 'Aseh l'kha rav 7:70–71 in English Translation
The Obligation of the Government
for the Support of Its Citizens

Behold, I received your letter dated 4 Tammuz, 5745 (1985), in which you expressed your astonishment at the words of our sages, may their memory be for a blessing, regarding an interpretation they offered in Yebamot 78b on the passage in the Prophets, "And there was a famine in the days of David three years, year after year; and David sought the face of the Lord. And the Lord said, 'It is for Saul, and for his bloody house, because he put to death the Gibeonites'" (II Samuel 21:1). And our sages there commented on the phrase, "'And for his bloody house, because he put to death the Gibeonites.' Where, however, do we find that Saul 'put to death the Gibeonites!'" The truth is that as he killed the inhabitants of Nob, the city of priests who were supplying them with water and food, Scripture regards it as if he himself had killed them." [See I Samuel 21:2–7; I Samuel 22:6–18; and Joshua 9:23 and 27] The sages also stated there that in response to the demand of the Gibeonites, seven of the sons of Saul were delivered unto them [the Gibeonites] and they [the sons of Saul] were put to death and hanged in the mountain before the Lord, and they [the Gibeonites] were thereby pacified [See II Samuel 21:2–6 and 8–9]. And concerning this, our rabbis wrote (Yebamot 79a), "But surely it is written, 'The fathers shall not be put to death for the children, etc.' (And the thrust of their comment is directed to the continuation of that verse, 'And the children shall not be put to death for the fathers' [Deut. 24:16].) And Rabbi Yohanan explained, 'It is better that a letter be rooted out of the Torah than that the Divine Name shall be publicly profaned.'" And the commentary of Rashi [on this passage in the Gemara, states], "Lest the nations [of the world] state, 'It is not fit to cling to this nation [the Jewish people], for they harmed strangers [the Gibeonites] by taking away their livelihood, and they would not exact revenge for them [the Gibeonites].'"

This means, according to the words of our sages, may their memory be for a blessing, there in Yebamot, that Saul did not actually kill even a single Gibeonite. Rather, his entire punishment was meted out on account of the fact that through his slaughter of the priests of God in Nob, the Gibeonites lost their livelihood. We will now proceed with an explanation of the matter. As the Gibeonites had no part or inheritance in the land, they could not support them-

selves through farming. Their livelihood depended entirely upon their work as “hewers of wood and drawers of water” for the house of the Lord. And there is no doubt, that as a result of the murder of the priests of the Lord in Nob, they suffered the indignity of famine, and many of them died as a result of famine. Therefore, they [the Gibeonites] said of Saul, “The man that consumed us” (II Samuel 21:5). And according to the explanation of our sages concerning “famine,” it is known that those who perish by the sword are better off than those who die by famine.

And it is most obvious that inasmuch as Joshua and the chieftains of the community had sworn to them [the Gibeonites] that they [the leadership of the people Israel] would sustain them (Joshua 9:20–21), that is, they [the leadership of the people Israel] would accomplish this by supplying them work whereby they could earn a livelihood. It is, therefore, the obligation of every government to be concerned for the subsistence of its citizens, whether they are permanent residents or strangers. And this is all the more so [in an instance such as this] where they [the leadership of the people Israel] had sworn [such concern]. Through this [act of destroying the priests of God in Nob, Saul thereby committed] the great [sin] of profaning the Name of God in public. For if Saul, for reasons of his own, slaughtered the priests of the Lord, then he was obligated to be concerned and find them [the Gibeonites] other work, as this was his obligation as King of Israel.

I do not know how every government in the ancient world conducted itself concerning its obligation for the support of all its citizens. However, even if this obligation was not accepted in the ancient world, there was surely such an obligation concerning the Gibeonites as a result of the sworn oath that had been made [by the leadership of the people Israel to the Gibeonites].

Moreover, the people Israel have always acted so as to express concern for the poor, according to the words of our rabbi, Rabbi Moses ben Maimon (in the *Mishneh Torah*, Laws of Gifts to the Poor, Chapter 9, and cited by our master [Joseph Karo] in the *Shulḥan Arukh*, Yoreh Deah 256), and this is his language. [He writes,] “Every city that has a Jew in it is obligated to appoint prominent persons as collectors of *tzedaqah* funds from among them to collect from each Jew that which each one is able to give. And they divide the funds and disperse them to all the poor. And we have never seen or heard of a community in Israel that does not have a *tzedaqah* fund.” And all this is widely known and recognized [as among the

most important] of Torah commandments—to be concerned for the support of those in need. And today, this obligation is widespread among every advanced nation, and each person who lacks work is deemed worthy of national insurance [that will ensure] a minimal [standard necessary] for subsistence.

For all this reason, Saul sinned against the Gibeonites when he caused their death through famine and neglected [not only] his governmental obligation, [but,] at the very least, the oath that the princes of the community had made [to the Gibeonites] “to sustain them.” And this is the first thing we have to learn from the words of our sages.

The Governmental Obligation to Act with National Integrity

And this we are also given to learn from their words: The Gibeonites were abandoned to die by famine, [whose ravages] we cannot grasp in all their dimensions and parameters, on account of the sin of Saul. And the entire people Israel saw and knew this, and not one person protested, and not one demanded justice for the Gibeonites. However, the matter pained them [the Gibeonites] greatly and justifiably so, and they were not able to forgive the injustice that was thereby perpetrated against them. Therefore, the Holy One imposed the punishment of famine upon Israel on account of this sin whereby they publicly profaned the Name of God. It is noteworthy to emphasize that the decrees of God are meted out measure for measure—the sin against the Gibeonites resulted in death by famine, so here the punishment was famine. [And this famine persisted] until they (the Gibeonites) exacted the cruelest revenge [i.e., the capital execution of Saul’s sons]. Indeed, for this reason, they demonstrated that they were not worthy of taking refuge in the inheritance of the Lord, and David therefore issued an eternal prohibition barring them (the Gibeonites) from entering into the community of the Lord as is explained there in the *sugya* (Yebamot 78b).

Through this cruel deed itself (the execution of seven of Saul’s sons), done at the demand of the Gibeonites, the Name of Heaven was sanctified among the nations [by Israel]. As it states there in the Talmud (Yebamot 79a), “For passersby were enquiring, ‘What kind of men are these (who are being hanged)?’ Then they exclaimed, ‘There is no nation in existence that one ought to join as

much as this one (Israel),’ and 150,000 men immediately joined Israel.”

From this, the great moral to be derived by every government among the people Israel is that it possesses an obligation to conduct itself with integrity and fairness toward its minorities and those who are strangers in its midst. In so doing, it will sanctify the Name of Heaven and the name of Israel in the world.

Notes

1. Ronald Dworkin, *Law’s Empire* (Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 1986), p. 413.
2. See Dworkin, “Is Law a System of Rules?” in R.M. Dworkin, *The Philosophy of Law* (Oxford: Oxford University Press, 1977), p. 45, for a discussion of how law frequently operates as “policy.”
3. Dworkin, *Law’s Empire*, p. 413.
4. Two significant English language articles on R. Halevi are Marc Angel, “Rabbi Hayyim David Halevy: A Leading Contemporary Rabbinic Thinker,” *Jewish Book Annual* 52 (1994), pp. 99–109; and Zvi Zohar, “Sephardic Religious Thought in Israel: Aspects of the Theology of Rabbi Haim David HaLevi,” in Kevin Avruch and Walter Zenner, eds., *Critical Essays on Israeli Society, Religion, and Government* (Albany: SUNY Press, 1997), pp. 115–36.