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Center for Modern Torah Leadership



חרות ואחריות

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"Taking Responsibility for Torah"

ORDINATION AND SUBORDINATION

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Can you imagine buying G-d? I can't either. But Chazal did.

Parshat T'rumah opens with G-d telling Mosheh to initiate the bringing of its eponymous collection of gold, silver, fabrics, etc. for the building of the Tabernacle. Except it doesn't say *v'yavinu* = "they must bring," but rather *v'yikchu* = "they must take," or perhaps "they must acquire."

How can one "acquire" via the process of donation? Midrash Rabbah suggests that *v'yikchu li* should be translated not as "they must take to Me", nor even as "they must acquire for Me," but rather as "they must acquire **Me**." Most sales of objects, the midrash says, do not entail the simultaneous sale of their seller; but when G-d sold us His *lekach tov*, the Torah, He made Himself part of the deal.

Rav A. Y. Kook (Responsa Orchot Mishpat CM 35) takes this midrash to a logical but shocking conclusion. If G-d sold Himself to us, He must now *k'b'yakbol* (=as if it were possible) be our *eved*!

Some background is necessary to understand Rav Kook's explanation of how this can be so.

Vayikra Chapter 25 concludes its presentation of the law of the Jewish *eved* as follows:

כִּי־לִי בְנֵי־יִשְׂרָאֵל עֲבָדִים
עֲבָדֵי הֵם

אֲשֶׁר־הוֹצֵאתִי אוֹתָם מֵאֶרֶץ מִצְרָיִם

אֲנִי יְקַוֶּה אֶל־הֵיכָם:

Because the Children of Israel are avadim to Me -

they are My avadim -

whom I have extracted from the Land of Mitzrayim

I am Hashem your G-d.

Chazal understood the repetition "*avadim to me . . . My avadim*" to imply that Jews must be **exclusively** Hashem's *avadim*, and not *avadim* to *avadim*, i.e. to human masters.

This seems incongruous, since as we noted, our verse comes as the conclusion to the laws of the Jewish *eved*! Rabban Yochanan Ben Zakkai responds (Kiddushin 22b) that a Jewish *eved*, because he can buy his contract out pro rata whenever he has the means, is merely an employee who was paid in advance. But this is true only for his initial six-year term; if he reenlists, there is no additional payment from the master, and so no way to buy himself out. The Torah therefore commands that his ear be pierced, since how could the ear which heard "they are **My avadim**" voluntarily enslave itself?!

Rabban Yochanan ben Zakkai thus argues that not all *avadim* are slaves. Generations later, Rav derived (Bava Metzia 10a, 77a, Bava Kamma 116b) the converse – employees are *avadim* in the full sense of the word if they are bound to specific performance, i.e. if they do not have the right to buy out their contracts. Therefore, "workers can back out of contracts, even at midday." The Talmud (explicitly on BK 116b, implicitly on BM 10a) suggests that Rav's principle applies in full only to workers who agree to a personal services contract over a definite time (*sekhirut*). Workers who contract to perform specific defined tasks (*kablanut*) have less robust protections, because they are not *avadim*; rather, they are performing tasks they chose for themselves at a time of their own choosing.

Rav Kook's responsum addresses the question of whether Rav's principle entitles community rabbis to break their contracts at will. He rules that it does not, for several reasons. His first reason exposes what seems to be a massive difference between his vision of the rabbinate and its contemporary reality.

דאין זה דבר ברור לע"ד

שרבנות תחשב שכירות כדין שכיר יום,

די"ל דאינה כ"א קבלנות . . .

וי"ל בזה שלא נקרא שכיר יום כ"א מי שעליו לעבוד תמיד כל היום

ואין לו זמן פנוי

שניכר שהוא עבד,

מה שא"כ ברבנות

שרק החובה עליו להורות כ"ד שאלת או"ה

ולדון כל דין תורה שיזדמן,

ואנו יודעין שהרבה זמן נמצא פנוי שאין בו עבודת הציבור כלל,

א"כ הדעת נותן

שאין שכירות הרבנים על הזמן

כ"א על ענין המלאכות והפעולות שעליו לעשות . . .

It is not clear to my impoverished intellect

that the rabbinate is considered sekhirut, like day-laboring, as one can say

that it is instead kablantut . . .

as we can say that one is only called a day-laborer if one is obligated to work

the entire day,

with no free time,

so that it is recognizable that one is an eved,

as opposed to the rabbinate,
where one is only obligated to rule on any questions that arise regarding the
permitted and forbidden,
or to judge any lawsuits that arise,
and we know that much time remains unfilled which involves no communal
work at all.

It therefore seems reasonable
that that the hiring of rabbis is not for their time
but rather for the specific tasks and actions they are obligated to perform . . .

On this basis, the contemporary 24/7 pulpit rabbinate might
very well be halakhic *avdut*. This would enable rabbis to become
free agents at will, and might seem to decisively settle the
contemporary controversy over whether pulpit rabbis have *serarah*.

However, Rav Kook offers two further explanations for his
ruling. The first suggests that we can distinguish not only among
types of contract, but also among purposes.

דעיקר כונת התורה
שלא יהי אדם מישראל משועבד בדרך שפלות לזולתו
משום שעבדי הם וראוי שיהי' מכובדים . . .
וחז"ל אמרו:

אמר הקדוש ברוך הוא:
בתי נתתי לכם –

כביכול, כאילו נמכרתי עמה

וא"ז ח"ו נגד כבוד של מעלה להתעסק בצרכי קהל קודש עם ד' אלה,
וק"ו לבשר ודם שזהו כבוד גדול לו שזכה לעבודה קדושה כזאת.
ומי זה שיוכל לומר שבכה"ג יהי' יכול לחזור בו מטעם עבדי הם,
לא יעלה עה"ד על הדעת כלל וכלל.

The root intent of the Torah is
that a Jewish human should not be subordinated (=made an eved) in a
degrading manner to another because "they are My avadim and it is
appropriate for them to be honored" . . .

and Chazal said:

"Said The Holy Blessed One:

I have given you My daughter (=Torah);
k'b'yakhol it is as if I was sold with her."

But it is not, G-d-forbid, in opposition to the Honor of Above
to be engaged with the needs of the Holy community the nation of Hashem,
All the more so for flesh and blood,

it must be a great honor for them to merit such holy avodah,
so who would be able to say (or: would have the chutzpah to say) that in such
a case,

a person could break a contract (to perform such avodah) on the basis of
"they are My slaves?!"

Such a thought should not even arise!

So for Rav Kook there is no difficulty with rabbis – and G-d!!
– being *avadim* for the purpose of serving the Jewish community.

This argument leaves me cold. The Torah's objection to *avdut*
is a question not just of social, externally derived, honor, but of
autonomy and the dignity that derives from making free decisions
and accepting responsibility for their consequences. Communal
avadim do not necessarily have more autonomy than private avadim,
and communities can abuse their power just as individuals can.

Rav Kook's last reason seems more promising to me:
ולבד זה יש מקום לומר שברבנות לא שייך חזרה מטעם עבדי הם,
עפ"ד הסמ"ע בה' שותפין קע"ו סקנ"א
דה"ט דשותפין הם משועבדים זה לזה, ואינם יכולים לחזור בהם
מטעם עבדי הם
דל"ש עבדי הם כ"א

כשהוא משועבד לחבירו וחבירו אינו משועבד לו כלל . . .
א"כ י"ל ברב עם הציבור,

שישנם גם על הציבור כמה עיני עבדות שמשותפין לרבם
נוסף על סתם ת"ח,

ומחוייבים לשמוע לדבריו בכל הנהגות הקהילה
אפילו בדברי רשות, ובעיני מעות הצדקות וכיו"ב,
וכמה שיעבודי כבוד הרב ששייך רק לרב העיר ולא לשום ת"ח אחר,
כל אלה עבדות הוא מצד הציבור,
א"כ הם שניהם עבדים זל"ז

וכה"ג אפילו זולת טעם הקבלנות אינו יכול לחזור.

There is also room to say that the rabbinate may not renege on the basis of
"They are My avadim"

on the basis of the opinion of Sefer Meirat Einayim Hilkhot Shutfin 176:51
who explain that partners are subordinated to one another,
and therefore cannot renege on the basis of "They are My avadim,"
because "They are My avadim" applies only
when one is subordinated to another who is not subordinated to you at all
but partners are avadim to each other, so they are not subject to "They are My
avadim" . . .

We can therefore say regarding the relation of a rabbi and community
that since the community is also subordinated to their rabbi
over and above their relationship to other scholars
and they must obey his word in all communal practices
even matters that are halakhically optional, charity disbursement, and the like,
and certain aspects of rabbinic honoring apply only the city rabbi and not any
other scholar,

all these are avdut of the community to the rabbi,
therefore the rabbi and community are avadim to each other
and under such circumstances even a day-laborer may not renege.

Here Rav Kook indeed describes the rabbi-congregation
relationship as "a community consisting of a master, a mistress, and two
slaves, making in all, two."

But the analogy to partnership is not perfect. Partners are
subordinate and dominant to each other in the same way, on the
same axes. In Rav Kook's description, rabbis and congregations
have very different obligations to each other, and it's not obvious
to me that they offset. Put differently, partners are equal to each
other, and subordinate only to the abstraction of the partnership;
neither partner is an *eved*, and neither has *serarah* over the other.
This is not true of employees and employers, or rabbis and
congregations, who may be *eved* and *sar* to each other, meaning that
even employees with great responsibility may be entitled to quit at
will if their jobs are totalizing.