

Government in Torah Law

What does Torah Law (*halakha*), as summarized in Rambam's Mishne Torah, expect a proper government to be? This *shiur* will address the following questions:

- Is it a democracy (representative or otherwise)?
 - ... or a dictatorship / communism / fascism?
 - ... something else?
- How are leaders chosen and who is eligible?
- What rights and obligations do citizens have, and who can be a citizen?
- What rights and obligations do the leaders have?

The form of government

"Secular" rule

Mishne Torah lays out the *halakhot* of government in the Laws of Kings and Wars: <https://mechon-mamre.org/i/e500n.htm>, which is the last book of the M"t. The very first commandment Israel are required to perform upon their entry to The Land is to "appoint a king" (1:1) <https://mechon-mamre.org/i/e501n.htm#1>. The immediate question which arises (1:3) is, if so: "why was God displeased with the appointment of Sha'ul as king?" The reason Rambam gives there, is that the Israelites did it out of *discontent* rather than in order to *fulfill the commandment*.

So: we are *required* to appoint a king over us, thus a proper *halakhic* government is a monarchy.

How exactly is a monarch appointed? M"t (1:4) "Initially, only the *sanhedrin* (high court of 71) may appoint a king, in conjunction with a prophet". The examples given there are Moshe and his court appointing Yehoshua, and Sha'ul and David, who were appointed by Shemu'el and his court.

Who is eligible to be king? Again, M"t tells us (1:5) "We may not appoint a king from among the converts to Judaism, even after several generations; rather, his mother must be a (born) Jew". This restriction applies not only to the kingship, but also to any "leadership" positions (Minister of War; General, etc). Bottom line: any position of authority must be held by born Jews.

In (1:6) it continues: "a woman may not be appointed queen"; similarly, regarding other positions of authority. Nor may a High Priest (*kohen gadol*) be appointed king. Likewise, not someone whose profession is "base" (examples given: tanners and barbers, among others) because he would be disrespected by the people.

Once a king has been appointed, his sons inherit the kingship (in *halakhic* inheritance order).

But the Davidic line is special. In (1:10) the M"t states that once David was crowned king, he and his *kosher* male descendants, alone, are eligible for kingship. That narrows down the eligible candidates considerably! However, (1:11) if a prophet appoints a king from the other Jewish tribes, he's nevertheless a valid king as long as he behaves properly as king, even though the Davidic line

is "reserved" for kingship. Such a king's descendants will not perpetually be kings; instead, the kingship will eventually revert to the Davidic line.

"Religious" rule

In addition to the king, whose authority while broad, is restricted in scope to the maintenance of society, there is a "religious" branch: the Sanhedrin (High Court of 71). They are composed of Torah sages who've received their authority, individually, by "*semikha*" – the transference of authority by their teachers who, themselves, must have received their own "*semikha*" from their teachers. It bears noting that what is called "*semikha*" today, is in no way comparable to that required of a judge in the Sanhedrin.

The authority of the Sanhedrin extends to all areas of *halakha*. They can enact new laws or repeal old ones, under certain conditions; something the king cannot do. They are the ultimate authority regarding *halakha*, and their decisions are considered binding on all Jews (including kings).

Citizens rights and obligations

There are two categories of citizens under *halakha*: 1) Jews (*yehudim*) and righteous converts to Judaism (*gerey sedeq*), and 2) "resident aliens" (*gerey toshav*). The use of the term "*ger*" in common for the latter two is sometimes confusing, but in context it's typically clear which is meant.

The first category (Jews and converts) are equal under *halakha*, with a few minor exceptions. As mentioned above, a convert cannot become king or hold one of the positions of authority in the government. Because converts do not descend from one of the original twelve tribes, they also do not have an inherited territory in the Land.

The second category (resident aliens) are people who are neither Jews nor wish to convert. They are *required* to adhere to the "Noahide laws" in order to be residents. If they do, they are permitted to reside in the Land (Laws of Forbidden Relationships 14:7)

<https://mechon-mamre.org/i/5114n.htm#7>. However, the status of *ger toshav* only applies when the Jubilee year laws are in effect, which is when the majority of Jews are in the Land: Laws of Shemita and Yovel (10:10) <https://mechon-mamre.org/i/7710n.htm#10>.

Citizens are required to show utmost respect to the king (2:1)

<https://mechon-mamre.org/i/e502n.htm#1>, which includes such examples as not riding upon his horse (or car, presumably, today), or using his scepter or crown, etc. Nor may use be made of his servants except by another king. He may not be seen unclothed (2:3) or when having his hair cut etc. The bottom line: he's to be treated, always, as the sovereign, with honor and respect.

Nobody may sit in his presence, but rather they prostrate in front of him (2:5). Even a prophet must stand before him, and prostrate himself (2:6). The sole exception is the High Priest, who does not stand in front of the king; instead, the king stands in his presence. This emphasizes that the king serves God.

If one doesn't adhere to a king's decree because he's occupied with a *mitsvah*, he's exempt from punishment. And of course, if a king decrees to cancel a *mitsvah*, he may be ignored.

It is forbidden to avoid paying any taxes or duties levied by the king.

Leaders' rights and obligations

The king, as mentioned above, is to be treated at all times with utmost respect. By the same token, he must behave in a manner worthy of that respect. If he's of the Davidic line, when entering the *miqdash*, he alone may sit (nobody else is permitted to sit there). The king must have his hair cut every day (2:5), and dress in royal garments, and sit on his throne, and place his crown upon his head.

He must show respect for Torah scholars (2:7), must not be haughty (2:9), and must be merciful to all his subjects (2:10).

He must write a *second* Torah scroll for himself (3:1) in addition to the one every Jew must write. One scroll he must place in his treasury; and the second one must be with him all the time (except when he goes to the bathroom etc) (3:2).

He may not have "many wives" (3:3); that is, nor more than eighteen (simultaneously), whether wives or *pilagshim* ("concubines"). Nor "many horses" (3:4). Nor "excessive gold and silver" (3:5). Those are all direct Torah commandments, ensuring the king does not indulge himself. He likewise may not drink to excess (3:6).

Rather, he must engage in Torah study, and work on the public's needs day and night. And despite his allowance of 18 wives, he must not be "immersed in women".

The king has the right to execute anyone who rebels against him, even for minor infractions of his laws. Similarly, he has that right if they curse or otherwise disrespect him. However, he may only execute with a sword. He also has the right to imprison and whip offenders if he chooses. However, he is not permitted to take other's money (if he does, it's considered robbery).

The king also has permission to execute those who murder, even if there is no clear evidence nor witnesses or warning (as the Sanhedrin requires), in order to "fix society" (*tiqqun `olam*).

In monetary matters, he has the right to tax as he wishes for his needs, or for the purpose of conducting a war. He can collect duties. He can gather up healthy men from the among his citizens, to serve him in various capacities. Likewise, he can gather up professionals and craftsmen of various types to serve his needs. And he can gather up wives and *pilagshim* from across Israel.

Summary

A government according to *halakha* is a monarchy with restricted powers in the executive branch, and a religious "supreme court" which acts as the legislative branch. The citizens have equal rights and, in general, the "government" only interferes in their lives to keep the general peace and to conduct war.