

CENTER FOR MODERN TORAH LEADERSHIP

Center for Modern Torah Leadership



חירות ואחריות

www.TorahLeadership.org

"Taking Responsibility for Torah"

WHAT DOES G-D THINK OF YITRO'S ADVICE?

By Rabbi Aryeh Klapper

Rambam writes (Introduction to the Commentary on the Mishnah) that the tasks of a prophet in the name of G-d can be divided in two. The first part is

That he prophesy in the name of Hashem
declare and caution regarding His service
and say that Hashem added a mitzvah or subtracted a mitzvah
from all the mitzvot included in the Torah.

It makes no difference whether this is done by adding or
subtracting from the text
or rather by adding or subtracting from the received
interpretation.

However, anyone after Mosheh Rabbeinu seeking to fill this prophetic role is by definition a false prophet and liable to execution. Post-Mosaic prophets are constrained by the Mosaic verse that Torah "*is not in Heaven ... rather the matter is very close to you, in your mouth and in your heart ...*", which Rambam understands to refer to Written Torah (ironically *in your mouth* because recited) and Oral Torah (*in your heart* because derived intellectually). But while Mosheh lived, the Torah was still in Heaven, and Mosheh Rabbeinu himself continually added mitzvot and interpreted prior mitzvot via prophecy.

The second set of prophetic tasks is

To call to the service of G-d and caution regarding His Torah,
and to command people regarding observance of the Torah
without addition or subtraction

as the last of the prophets said: *Remember the Torah of Mosheh
My servant . . .*

and to guarantee good things to those who observe it and
punishment to those who transgress it
as did Yeshayah and Yirmiyah and Yechezkel and others
and to command commands and caution cautions that are not
about religious matters,

for example to say 'Make war on City X (or Nation X) now!'
as Shmuel commanded Shaul to make war against Amalek then,
or to caution not to kill . . .

Rambam may derive this expansive list from Mosheh's self-justification to Yitro in Shemot 18:15-16.

Mosheh said to his father-in-law:
Because the nation comes to me to *lidrosh Elo-him*
When they have a matter – it comes to me
I will judge between a man and his fellow
I will make known the *chukkei haElo-him* and His *torot*.

We can read this as Mosheh as providing a long description of the single task of judging lawsuits (Rashbam) or read verse 16 as a detailed explanation of *lidrosh Elo-him* from verse 15 (Shadal, HaKtav veHaKabbalah). But I suggest that Rambam read *lidrosh Elo-him* as a separate phrase that referred specifically to prophetic statements about vital national policy questions. This reading is also adopted by Seforno:

The *nesi'im* and the heads of the generation,
who come regarding the affairs of the public and how to
organize them,
necessarily come to me,
because *they encamped at the instruction of Hashem*

Ramban fundamentally agrees as to the meaning of *lidrosh Elo-him*, but he provides a very different list of non-religious matters.

"Because the nation comes to me to *lidrosh Elo-him*" –
to pray regarding their sicknesses and to make known what was
lost to them,
because this is called *drishat Elo-him*
and this is what they do with prophets, as Scripture says:
Earlier in Israel a man would say this when he went lidrosh Elo-
him: 'Come, we'll go to the seer'
so too: *You will be doresh Elo-him from him as follows: 'Will I*
survive this illness?'
meaning to pray for him and make known to him whether his
prayer was heeded.

For Ramban, Mosheh's time was not being taken up by vital national affairs of war and peace, but rather by quotidian pastoral tasks such as finding lost objects and praying for the sick.

Netziv denies that praying for the sick was a prophetic function; one went to the prophet to find out what would happen, not to change it. However, he admits that one might respond to a prophetic doom by praying, and thereby seeking to change it, as Chizkiyah successfully did when Yeshayah prophesied his death.

But the most radical reorientation of the phrase *lidrosh Elo-him* I've found is in Keli Yakar and Or HaChayyim. They understand Mosheh as arguing to Yitro that it was necessary for him to sit as the sole judge, and inevitable that people

would come to him regardless of how many other judges he appointed, because he judged on the basis of substantive rather than procedural truth. Mosheh judged not on the basis of heuristic rules and eyewitnesses, but rather based on what G-d told him had actually happened, and on what G-d told him would be the most just outcome.

Mosheh thought that people would never give up the confidence and certainty that their case had been decided justly. Yitro countered that people will give up a great many things to avoid standing in long lines.

One can see Mosheh as idealistic about human nature in this reading, and Yitro as cynically realistic. But I don't see it that way. Rather, the real issue between them was that Moshe did not realize that time is a cost, and therefore correct justice inefficiently administered imposes unjust costs on both parties. Rabbi Abraham Halbfinger of blessed memory taught me this over and over again with regard to the Boston Beit Din.

Take an illustration from a different context: sometimes it takes so long to look at replays that the game itself is damaged, even though the specific decision is ultimately made correctly.

Or in a different beit din context: Suppose you implement a policy that every convert or child of a converted mother must have their Jewish status reexamined from scratch before being allowed to marry a Jew. Even if you eventually decide every case correctly, the psychological costs imposed on people whose status is left in doubt for long periods are so great that IMHO they overwhelmingly outweigh marginal improvements in accuracy.

Even worse, under such a policy no convert or child of a converted woman can ever be certain that their case won't be reopened in the future, possibly under judges with different legal standards, or after crucial evidence gets lost.

I sadly concede that this policy has been implemented on and off in Israeli Rabbinic courts, and that some elements of the United States government seem now to be implementing a similar policy with regard to naturalized citizens. (Let us be clear: in Israel, specific ethnic groups may also be asked to prove that their parents were born Jews rather than converts. These policies eventually give one group the power to threaten everyone else with social and legal exclusion. Within the halakhic community, a group in the United States some decades ago goal tried to achieve that power through bullying and bribery. Conversion is the immigration/naturalization policy of the Jewish people.)

Perhaps Ramban correctly understands what Mosheh means by *lidrosb Elo-him*. Yitro responds that Mosheh is shortchanging the nation by dealing with so many details, even though he deals with them better than any substitute could. The conceptual understanding of prophecy remains the same, but Yitro convinces Mosheh to budget much more of his time for national issues, in other words to implement the reading of Rambam and Seforno.

A more radical reading is that Mosheh in principle opposed the idea of *lo bashomayim hi*. He did not understand that heteronomy is a cost, because *tzalmei Elokim* should, to the extent possible, play a role in determining the rules they live by. He thought that ideally everything would be directly decided by G-d.

Yitro shakes Mosheh's worldview by pointing out that G-d had not told him what was going through the minds of the people waiting on line, or how they would react if the system changed.

Perhaps He would not have answered Mosheh if asked, because G-d did not want to decide everything at the cost of human responsibility and freedom. Mosheh shows that he understands this by not asking G-d before implementing Yitro's advice.

Shabbat shalom!