



Parashat Bo
Kiddush Ha-chodesh
By David Silverberg

Parashat Bo features the famous *mitzva* known as *kiddush ha-chodesh*, literally, "the sanctification of the month," or, perhaps more precisely, "the designation of the month." God appears to Moshe and Aharon in Egypt on the eve of the Exodus and declares, "This month is for you the head of the months; it is the first for you of the months of the year" (12:2). Maimonides, in his *Sefer Ha-mitzvot* (*mitzvat aseï* 153), cites this verse as the Biblical source for the obligation "to designate months and years." He elaborates on this *mitzva* in the *Hilkhot Kiddush Ha-chodesh* section of *Mishneh Torah*, where he delineates, based on the Talmud, the procedures whereby the Sanhedrin (Supreme Rabbinical Court) would hear testimony to the sighting of the new moon, and on this basis proclaim the beginning of the new month. This *mitzva* also entails the adjustment of the Hebrew calendar through the occasional addition of a thirteenth month to ensure an approximate correspondence between the Hebrew calendar's lunar-based cycle and the agricultural cycle that results from the earth's revolution around the sun.

This essay will explore several of Maimonides' comments concerning this obligation which have given rise to some confusion and controversy. But before we introduce the relevant passages, it is necessary to first clarify several basic terms and concepts concerning the Hebrew calendar. Firstly, we must emphasize the importance and centrality of the calendar to Jewish life, as no festivals can be observed without a system of determining dates. If we are to celebrate Pesach and bring on this festival the appropriate sacrifices mandated by the Torah, we must have a system with which to determine when the fifteenth of Nissan occurs. Countless laws, involving areas such as sacrifices, agricultural obligations, and personal observances depend upon a halakhic calendar date.

The Hebrew calendar operates based on the cycle of lunar revolutions around the earth, which occur roughly every 29.5 days. Accordingly, the Hebrew month extends for either twenty-nine or thirty days, and twelve such months constitute a Hebrew year. However, this period falls eleven days short of the 365-day revolution of the earth around the sun, such that over the course of time, the Hebrew calendar would fall out of sink with the solar, agricultural cycle. This would mean that Pesach would no longer occur around the time of the onset of spring, and Sukkot would not mark the end of summer. The *mitzva* of *kiddush ha-chodesh* thus involves as well the concept of *ibur shanim*, a thirteenth month added when necessary to prolong the Hebrew calendar and maintain its correspondence with the solar cycle. (This is why every so often a second month of Adar is added to the calendar.)

Historically, two methods were employed in determining when a Hebrew month would begin or end; meaning, to decide whether a given month should end after twenty-nine days, or should continue through the thirtieth day. Initially, the system known as *kiddush al pi re'iyā* was used, which meant that people who sighted the new moon would testify to this effect before the Sanhedrin in Jerusalem, who would declare *Rosh Chodesh* – the beginning of the new month – on the day after the night of the new moon's sighting. At some point during the Talmudic era, Jews adopted the fixed-calendar system known as *kiddush al pi cheshbon* ("calculation"), or *cheshbon ha-emtza'i* ("calculation of the average"), which works on the basis of a fixed mathematical and astronomical computation. Rather than deciding the length of each month based on the empirical observation of the culmination of the lunar cycle, the Jews calculated a system based on the average period of the moon's revolution. This system also takes into account the gap between the lunar and solar cycles

and therefore adds periodic adjustments through the addition of the thirteenth year. This pre-calculated system, which is still in use to this very day, is famously attributed to Hillel the Prince, a great-grandson of Judah the Prince, the redactor of the Mishna. (The earliest known source of this attribution is in the writings of the Geonim; the Talmud makes no reference to Hillel as the initiator of this system.)

The Relationship Between *Re'iya* and *Cheshbon*

The precise halakhic classification of these two methods – *re'iya* and *cheshbon* – is subject to debate. Maimonides, in *Mishneh Torah* (Hilkhos Kiddush Ha-chodesh 5:2), writes that in the absence of a Sanhedrin in *Eretz Yisrael*, a *halakha le-Moshe mi-Sinai* – oral tradition dating back to Moshe at Sinai – mandates the implementation of the *cheshbon* system. The "prefabricated" calendar in use since the Talmudic era is not merely an emergency measure enacted once the Rabbinical court system could no longer hear testimony regarding the new moon, but rather reflects a second, parallel method of maintaining a calendar according to *Halakha*. Together with the Torah, God provided the Jewish people with a means of determining months and years without receiving testimony; Hillel (though, it should be noted, Maimonides does not mention Hillel by name) did not innovate a new method, but simply implemented the oral tradition that had been passed from one generation to the next.

Nachmanides, in his critique of Maimonides' *Sefer Ha-mitzvot* (asei 153), claims that this notion is "neither stated in the Talmud nor mentioned anywhere." Accusing Maimonides of fabricating a *halakha le-Moshe mi-Sinai* that never existed, Nachmanides advances an entirely different theory concerning the nature of the *cheshbon* method devised by Hillel. Foreseeing the imminent disappearance of qualified scholars and authoritative rabbinical courts, Hillel found it necessary as an extraordinary measure to designate the months ahead of time through calculation. This was not based on any formal tradition or *halakha*; Hillel simply felt that there was no alternative other than to designate the months in advance for centuries and millennia henceforth while the Jews still had a court invested with the authority to do so.

Thus, whereas Maimonides sees *re'iya* and *cheshbon* as two parallel institutions explicitly sanctioned already at Sinai, Nachmanides believed that *re'iya* represents the true means of *kiddush ha-chodesh*, and the *cheshbon* system was devised as an emergency measure to maintain the calendar system in the absence of qualified rabbinical courts.

Rabbi Menachem Kasher, in a comprehensive treatise on the subject of *kiddush ha-chodesh* entitled *Sod Ha-ibur* (printed in the thirteenth volume of his *Torah Sheleima*, chapter 1), traces this debate between Maimonides and Nachmanides to divergent texts of the *Midrash Bereishit Rabba* (72:18). The passage in question describes how the members of the tribe of Yissakhar were afforded authoritative status on the complex issues relating to this area of establishing and maintaining the Hebrew calendar. One version of the text reads that when an issue arose, the presiding scholar from Yissakhar would "respond to them as if a *halakha* to Moshe from Sinai," whereas other editions read that he would "respond to them a *halakha* to Moshe from Sinai." The first edition casts the Yissakharite scholar as a figure of rabbinical authority comparable to that of a *halakha le-Moshe mi-Sinai* – an oral tradition from Sinai. According to the second version, however, the Yissakharite actually conveyed information that came to him through *halakha le-Moshe mi-Sinai*. This second version of the text provides a basis for Maimonides' position, that these calculations, regarding which Yissakhar's descendants became the authoritative scholars, were communicated to Moshe at Sinai. Nachmanides, Rabbi Kasher speculates, likely had before him the first reading, which merely compares Yissakhar's authority to that of *halakha le-Moshe mi-Sinai*, without insinuating that this material was actually transmitted through such an oral tradition.

It should be noted that there exists a third position, as well. As Rabbi Kasher documents (in the second chapter of his treatise), Rabbenu Sa'adya Gaon was of the position that *kiddush ha-chodesh* was conducted exclusively based on the *cheshbon* system of calculation. The hearing of

testimony, in his view, served a purely ceremonial function of sorts, whereas the actual determination of when the new month would begin resulted from the Sages' calculations. This position represents the opposite extreme from Nachmanides' view, which perceived the *cheshbon* system as a measure enacted as a last resort when the *re'iyah* system could no longer be used. Maimonides disagrees with both positions, and held that both systems were envisioned and sanctioned at the time of *Matan Torah*. *Re'iyah* is the primary method of determination, which should be used whenever the Jewish people have a functioning Sanhedrin, and *cheshbon* takes its place in the absence of a Sanhedrin.

***Re'iyah* in Talmudic Times**

As mentioned, Maimonides hinges the use of the *re'iyah* system on the presence of a Sanhedrin, the Supreme Rabbinical Court. He writes in *Hilkhot Kiddush Ha-chodesh* (5:1), "Everything that we have said regarding establishing *Rosh Chodesh* based on *re'iyah* and a leap year...is done only by a Sanhedrin in the Land of Israel, or a court of ordained scholars who were authorized by the Sanhedrin." Maimonides proceeds to extract this provision from the aforementioned verse in Parashat Bo, where God tells Moshe and Aharon, "This month is for you the head of the months." He cites an oral tradition interpreting this verse to mean that this matter, of designating months based on the sighting of the new moon, is entrusted "to you" – to people of a stature and level of authority similar to that of Moshe and Aharon. This stature was held only by members of the Sanhedrin and by courts given explicit authorization by the Sanhedrin. In the absence of a Sanhedrin, then, *re'iyah* falls into disuse and is replaced by the *cheshbon* system. A partial basis for Maimonides' view is the *Mekhilta* (the halakhic Midrash on the Book of Shemot), which comments on this verse, "A leap-year is established only by the High Court in Jerusalem." Maimonides seems to have understood that this applies not only to designating leap-years, but to the designation of months, as well.

Nachmanides, however, disagrees, noting the clear historical evidence to the contrary. Maimonides himself (*Hilkhot Kiddush Ha-chodesh* 5:3) writes explicitly that the *re'iyah* system remained in use during Talmudic times, until the generation of the legendary *Amora'im* Abaye and Rava. As Nachmanides records from the Talmud, the Sanhedrin lost its authority several decades prior to the destruction of the Second Temple, or approximately three hundred years before Abaye and Rava. According to Maimonides, who demands the presence of an authoritative Sanhedrin for the *re'iyah* system to be applied, how could this system have survived three centuries after the decline of the Sanhedrin?

This question was the subject of an article written by Rabbi Joseph B. Soloveitchik, which was later printed in the collection of his and father's essays, *Kovetz Chidushei Torah* (pp. 47-65). In approaching this difficulty, Rabbi Soloveitchik posited that in general, the Sanhedrin functioned in two different capacities. Most commonly, it was the supreme authoritative religious body entrusted with the responsibility of clarifying *Halakha* and legislating measures as it saw fit to ensure compliance and safeguard Torah law. These and similar duties were charged specifically and directly upon the Sanhedrin. But in addition, Rabbi Soloveitchik explained, we find on occasion that the Sanhedrin acted not as the supreme authority, but rather as the nation's legal, or halakhic, representative. Thus, for example, when Maimonides outlines how territory can achieve the formal, halakhic status of "*Eretz Yisrael*" with respect to the various agricultural laws that pertain only in the Land, he requires (in *Hilkhot Terumot* 1:2) that the given area be conquered by a Jewish king or prophet "with the consent of the majority of Israel." Elsewhere, however, in describing the actual process (*Hilkhot Melakhim* 5:6), he requires the consent of the High Court. Apparently, Rabbi Soloveitchik concludes, the Sanhedrin, in addition to its more common function as the supreme legal authority, also serves as the nation's representative body, speaking and deciding on behalf of *Am Yisrael* at large.

It is in this second capacity, Rabbi Soloveitchik contended, that the Sanhedrin functions in declaring *Rosh Chodesh* and leap-years. He cites a number of sources (*Masekhet Berakhot* 49a;

Shemot Rabba 15:3, 24, 30) that speak of "Israel"- rather than just the Court – declaring the new month. The Gemara famously explains that for this reason the blessing recited during *kiddush* and prayers on *Yom Tov* concludes by describing God as "He who sanctifies Israel and the hallowed occasions" ("*Mekadesh Yisrael ve-ha-zemanim*"). We mention the sanctification of Israel before that of the festivals because it is only through the sanctity of Israel, who are endowed with the power to declare the onset of a new month, that a given day receives its status of sanctity as *Yom Tov*. This clearly indicates that the entire nation, rather than just the Sanhedrin, is assigned the responsibility of maintaining the calendar. (Rabbi Soloveitchik brings other proofs to this premise, as well.)

Apparently, in the area of *kiddush ha-chodesh* the Sanhedrin operates as the representative body of the entire nation. As in the case of waging war to expand the land's borders, the responsibility essentially lies in the hands of *Benei Yisrael*, but practically, it is the Sanhedrin who executes the task.

On the basis of this theory, Rabbi Soloveitchik suggested a possible solution for the endurance of *kiddush al pi re'iya* even after the Sanhedrin's dismantling shortly before the Temple's destruction. Since the process of *kiddush al pi re'iya* is, fundamentally, the duty of the entire nation, and was not assigned directly to the Sanhedrin, it is possible for this role to be filled by a different representative body. Even after the Sanhedrin's dissolution, there remained in *Eretz Yisrael* scholars who exerted halakhic authority over the entire nation, and in this sense constituted the representative voice of the Jewish people. They were therefore authorized to continue the system of *kiddush al pi ha-re'iya*. It was only during the latter part of the Amoraic period, during the time of Abaye and Rava, when *Eretz Yisrael* no longer had such an authoritative body, that *kiddush al pi re'iya* thus fell into disuse.

***Kiddush Ha-chodesh* Nowadays**

Maimonides writes in *Hilkhos Kiddush Ha-chodesh* (5:13):

That which we calculate nowadays each person in his locale and they declare that *Rosh Chodesh* is on such-and-such day and *Yom Tov* is on such-and-such day – it is not based upon our calculation that we establish, and it is not upon it that we rely, for leap-years and months are not established outside the Land. We rely only on the calculation of the people of the Land of Israel and their declaration. And that which we calculate – we do so only to reveal the matter.

These comments might rank among the most difficult and obscure passages in the *Mishneh Torah*, as they have baffled many writers over the centuries. Maimonides here claims that Diaspora Jews (which in his time, of course, comprised the overwhelming majority of world Jewry) do not declare *Rosh Chodesh* and leap-years based on their computation. Rather, they are entirely dependent upon the Jewish communities in *Eretz Yisrael*. It is they who determine the occurrence of *Rosh Chodesh* and the addition of the thirteenth month, and it is their computation that formally assigns the given status to the days or months in question.

Already Nachmanides, in the aforementioned piece, dismisses Maimonides' remarks, wondering to whom exactly Maimonides refers as the ones declaring the new months in *Eretz Yisrael*. After all, the system was established and put into practice centuries earlier, by Hillel the Prince. Why does Maimonides require a formal declaration even nowadays, and who in *Eretz Yisrael* was making these declarations in his time?

Maimonides' position earned considerable attention several centuries later, during the famous "*Semikha Controversy*" that erupted in the Land of Israel in the early part of the 16th century. (This controversy was the subject of our essay on Parashat Pinchas.) The two scholars involved in this heated debate – Rabbi Yaakov Beirav of Tzefat and Rabbi Levi Ben Chaviv of Jerusalem – incidentally addressed Maimonides' comments as part of their efforts to substantiate their respective views concerning the possibility of reinstating the formal *semikha* (ordination) that had been

discontinued several centuries earlier. Rabbi Kasher, in his treatise, summarizes their conclusions and delineates three different approaches that emerge from their treatments of this subject:

1) Rabbi Yaakov Beirav contended that Maimonides alludes here to his famous and controversial ruling in his commentary to the Mishna (Sanhedrin, chapter 4; Bekhorot, chapter 4) and in *Mishneh Torah* (Hilkhos Sanhedrin 4:11), that the formal *semikha* can be reinstated through the universal consent of all rabbis in the Land of Israel. Since the Jews dwelling in Israel have the potential to reinstate *semikha*, Rabbi Yaakov Beirav argued, their leadership has the status of quasi-*semukhim*; on some level, they are given a degree of *semikha* authority. This authority, in Maimonides' view, is necessary even for the secondary method of *cheshbon*, and therefore Diaspora Jews observe *Rosh Chodesh* strictly on the basis of the decision and calculation of their brethren in the Land of Israel. This theory appears in the writings of later scholars, as well, including the famous early 20th-century commentary *Meshekh Chokhma* by Rabbi Meir Simcha Ha-kohen of Dvinsk, Lithuania.

It is unclear, however, why the potential to reinstate the institution of *semikha* lends the communities in Israel a degree of authority roughly comparable to *semikha*. Furthermore, the precise nature and classification of this "in-between" status requires further clarification, as does its relevance to the area of *kiddush ha-chodesh*. Maimonides would have, presumably, stated more clearly that although the *cheshbon* system does not require a Sanhedrin, it does demand the presence of at least "quasi-*semuchim*."

2) Rabbi Levi Ben Chaviv suggests that Maimonides here refers to the initial designation of months and leap-years by Hillel. Since the formal process of *kiddush ha-chodesh* can take place only in the Land of Israel, the declarations of *Rosh Chodesh* among Diaspora Jewry cannot possibly be of any halakhic significance. Undoubtedly, then, it was Hillel who pronounced in advance the official designation for the forthcoming centuries and millennia, thereby absolving future generations from doing so. (This view projected onto Maimonides corresponds with Nachmanides' position, which we cited earlier.) Maimonides thus seeks to clarify that the formal *kiddush ha-chodesh* has already been performed for us many centuries ago, and we must therefore not mistakenly perceive our announcements of *Rosh Chodesh* as the fulfillment of this *mitzva*.

This explanation hardly seems to accommodate Maimonides' formulation, which strongly indicates that he refers to the Jews living in Israel in his time, rather than then during the time of Hillel the Prince. Indeed, Rabbi Levi Ben Chaviv ultimately dismisses this reading.

3) Rabbi Levi Ben Chaviv concludes upon a different explanation, claiming, quite simply, that the verse that Maimonides cites – "*Ki mi-Tziyon tetzei Torah*" – establishes that ultimately, authority over the process of *kiddush ha-chodesh* lies in the hands of the Jews living in *Eretz Yisrael*. Hillel the Prince established the fixed calendar system, but determining the occurrence of *Rosh Chodesh* based on that system requires the authority invested specifically in the Jewish communities in the Land of Israel. It is only due to their acceptance each and every month of Hillel's calculation that the rest of world Jewry may likewise follow the given determination of *Rosh Chodesh*.

Rabbi Kasher concludes his discussion by suggesting a solution of his own, one which entails a novel interpretation of the common expression, "*bi-zman ha-zeh*," which is generally understood to mean "nowadays." According to Rabbi Kasher, we might understand the term in this context as a reference not to Maimonides' lifetime, but rather to an earlier period, when the Sanhedrin had already been dissolved but there were still Rabbis with the formal *semikha*. Maimonides perhaps felt that even in the absence of the Sanhedrin, when the *cheshbon* system must supplant the process of *re'iya*, the presence of *semukhim* in the Land of Israel grants them final authority over the calculation. So long as *semukhim* lived in Israel, the Jewish communities throughout the world were dependent upon their determination of the months. But later, once the *semikha* was discontinued, all Jews indeed maintain the calendar in accordance with the fixed system, and they are no longer dependent on the leadership in *Eretz Yisrael*.

This, too, seems to be pure speculation, and thus Maimonides' remarks remain somewhat of an enigma.