



Making the case for a Jewish court

By AARON HOWARD

Halakha (Jewish rabbinic law) is more than a code to teach religious and moral values. It's a genuine legal system. Rabbi Yosef Carmel would like to see a functioning Jewish court in every community.

Rabbi Carmel is av beit din (one of the three rabbinic judges) of Mishpat VaHalacha BeYisrael, a newly established rabbinic court in Israel that offers alternative dispute resolution to the broad Israeli public. He also is the rabbinic dean of Eretz Hemdah, the Jerusalem institute training rabbis and scholars to serve as rabbinic court judges. The rabbi was in Houston Feb. 14-15 to give classes, raise money for Eretz Hemdah and visit with friends of the institute, including Rabbi Barry Gelman of United Orthodox Synagogues.

Rabbi Gelman calls Rabbi Carmel a leading Halakhic authority. "Eretz Hemdah trains people with the intent to serve the Jewish people and to make Jewish law accessible and understandable to people. The paradigm of Eretz Hemdah is a religious Zionist one. The organization represents the greatest character traits of what a Torah personality should be," Rabbi Gelman says.

For most American Jews outside the ultra-Orthodox community, going to a beit din (rabbinic court) to settle a legal dispute is not an option. That is to say, Jewish law generally is seen as a private discipline of those individual Jews who are willing to be bound by it. "We can change that," Rabbi Carmel says, "and we are going to change that."

The Israeli court system is backlogged, he says. "You have to wait years to get justice, and the cost is unbelievable. I'm sure in the States, it's also not cheap to go to the courts."

On a practical level, a cheaper and swifter solution is the arbitration process. "This is a flourishing part of the flourishing system," he explains. "If we can bring people to throw their problems to this court according to Jewish law and legal arbitration, I'm sure that many Jews, and some non-Jews, will come to solve their problems.

Jewish law differs from other legal systems in that it includes both a legal code and a moral code. The rabbi believes that Halakha came from God. But from the beginning, he says, God gave the people the tools to develop Halakha. More important, Halakha cannot exist without the society. "Our sages gave us the rule: We must have people who represent Torah. We must understand the meaning of the law. And the people on the street were supposed to observe Halakha. All three make up Jewish law."

He doesn't envision resurrecting some medieval rabbinic court. In fact, that's the problem with many of the Israeli rabbinic courts, he says. The battei din usually are headed by judges who never received any secular education, have not served in the Israel Defense Forces, have no contact with the larger academic and scientific world and who, in some cases, reject the legitimacy of the state.

In contrast, members of the first graduating class at Eretz Hemdah have completed seven years of legal studies and served in IDF combat units. Rabbi Carmel served as a member of an armored corps crew in an IDF hesder unit, combining study with military service.

The rabbi envisions a rabbinic court able to handle almost any case in civil law, especially monetary disputes. For example, he described a recent case he handled in Bucharest, Romania, where a man sued his friend for 400,000 euros. The two litigants could choose between going to a civil court in Romania or a beit din. Rabbi Carmel says that he flew from Israel to Bucharest. He heard all the witnesses and collected all the details of the case within one day. And, he rendered a decision within two weeks.

"We prepared an arbitration agreement which both sides signed (at the outset of the case)," he says. "The verdict was just like a decision of the courts."

Such a system could work in almost most civil cases if both sides, even if they are non-Jews, signed a contract stating they believe that the beit din would solve the problem and that both sides would be bound by the final decision. There's even an avenue for an appeal of the decision, even though, under current Israeli law, one cannot appeal the decision of a beit din.

More important than the practical aspect, Rabbi Carmel says, is the concept of widely implementing Jewish jurisprudence in a Jewish society. The present Israeli legal system is a mixed system that combines English common law, German civil law and European Union codes.

"Every legal system is one of the facets of the culture of a society," he explains. "You can really learn about a society if you look at its legal system. We believe Jewish values are something all the world can appreciate. It's important that such a system works and is part of our daily life. That's presently not the case in Israel or in any Jewish community. But it will be. It's a process. But we can see in Israel that people are enthusiastic to use it, and they are speaking about it in the streets.

"The best way to advertise something is to make a good smell. If our system smells good, people will use it. We are providing a service to the people and I hope it will be a good service."