While the practice of mediation and compromise is far from new, the systematic analysis of negotiation, conflict prevention and resolution is a relatively recent phenomenon. In the past two decades, the academic study and application of mediation, arbitration and wide variety of alternative dispute resolution (ADR) techniques has expanded greatly. Books and journal articles in the fields of psychology, sociology, political studies, and social work, and law, (as well as interdisciplinary sources, such as the Negotiation Journal), have extended the analytic framework considerably.

In many countries, including Israel, the courts and social welfare systems are attempting to reduce the burden of litigation and the level of conflict in society by expanding the use of mediation and other forms of ADR. Similarly, in international negotiations and ethno-national conflicts, the use of mediation, conflict prevention techniques, single-negotiating texts, etc. is also growing, with uncertain results.

Although some of the theories and techniques are universal, practitioners and theorists have also noted that particular cultural, social and
historical elements are also of major importance in conflict resolution processes. Rituals often play a significant role in the transition from confrontation to mutual acceptance, and different societies have developed their own CR rituals, techniques and models.\textsuperscript{1} A number of analysts have also presented analyses of CR techniques based on Islamic frameworks.\textsuperscript{2}

Similarly, mediation and conflict prevention are important elements in the Jewish tradition. In this context, the long and rich history of the Jewish people, as reflected in the Bible, Talmud, commentaries, and other sources, as well as religious practice in the Halacha (Jewish law), provide the basis for presenting a Jewish approach to conflict prevention and resolution. While the requirements to fear God and fulfill the commandments are absolute, interpretations vary widely, and the principle of “the golden mean” is stressed repeatedly. Extreme views are discouraged, and those who sit in judgement are urged to be moderate (m’tunim) in their decisions (Pirkei Avot). Under Jewish law, there are a number of infractions for which the death penalty is proscribed, but in reality, this penalty was rarely invoked. Similarly, the Biblical prescription of “an eye for eye” is not taken literally, but rather it is translated into a system of compensation for injuries that result from deliberate violence. The “cities of refuge” that are mandated in the Bible and existed during periods of Jewish sovereignty in the Land of Israel were created as means of preventing blood feuds and the cycle of violence resulting from manslaughter and accidental death.\textsuperscript{3}

The striving for “peace” (shalom, based on the root shalem, meaning complete) is a central element, and the importance of this goal is repeated in daily prayers. Leaders are enjoined to seek and pursue peace (“bakesh

...
The injunction to preserve human lives (“pikuah nefesh”) is one of the highest priorities, and takes precedence over almost all other commandments. In addition, the principles of “mipnei darchei shalom” (acceptance of an undesirable practice in order to avoid conflict in the community) and “shalom bayit” are given prominent consideration according to the norms of Jewish law.

Peaceful debate and the concept of “mahkloket le’shem shamayim” (literally, argument in the name of heaven, and, in practice, disagreement for the sake of a worthy cause) are also integral components of Jewish tradition. Pirkei Avot makes the distinction between such disputes, as in the case of Schools of Hillel and Shamai, who debated the proper interpretation of the Law, and destructive disputes, as in the case of Korach and his followers, who rebelled against Moses in the desert, and, according to the Midrash, also fought amongst themselves. The evolution of the Talmud and Halacha, as well as subsequent developments was essentially based on this process of constructive, if often intense, dispute.

However, Jewish history has also been characterized by a great deal of destructive and bitter conflict, both domestic and involving other peoples, nations and religions. The Biblical text recalls the rebellions in the Sinai desert shortly after the Exodus from Egypt; during the four hundred years of rule by the Judges following the conquest of the Land of Israel under Joshua; and after the rule of King Solomon, when the nation split into the Kingdoms of Judea and Israel. The destruction of the Second Temple two thousand years ago, following a Jewish revolt against the rule of Rome and civil war, is often attributed to “sinat chinam” – senseless hatred.
During the two thousand years of exile that followed, internal conflict and division continued. In the splits between the Hasidim and Mitnagdim, Ashkenazim and Sephardim, rabbis and lay leaders, and in countless other ways, Jews fought other Jews. In many cases, the issues were cast in terms of disputes over religious practice or tradition, but, some conflicts were also or primarily the result of power struggles between individuals and particular interests. Not infrequently, factions would appeal for assistance from outside powers and authorities in the struggle against their internal enemies.

At the same time, and in part precisely as a result of this tendency towards internal conflict, Jewish tradition developed a complex approach to conflict amelioration and negotiation. The Talmud, (Tractate Sanhedrin), in which the foundations of Jewish legal procedure are expounded and debated, highlights the advantages of mediation over a legal decision finding for one or the other of the parties. (As will be discussed in detail below, other sages reject this view, arguing that compromise does not serve the cause of justice.) Since Biblical times, Jewish commentators and legal scholars have debated the implications of the “compromise” decision of Aharon, the High Priest, during the incident of the Golden Calf. In this case, Aharon accepted the popular demand to form this idol, in order to avoid a greater calamity, in the form of a mass rebellion. While some commentators are critical of this action, Jewish sources often cite this incident as an illustration of the merits of compromise, even when fundamental principles are at stake.

The nature and properties of communal conflict resolution, and of mediation in the context of a civil legal procedure, differ widely across contexts, both in general and in the particular Jewish context, but there are
also some important common threads. In the case of Aharon cited above, and in other instances, leaders are enjoined to act cautiously and to accept compromise in order to prevent conflict and to preserve the peace and welfare of the community. Similar themes can be found in the halachic (legal) discussions on the role of compromise (mediation or arbitration) in civil disputes (Talmud, Tractate Sanhedrin, p.5B).

As will be discussed in greater detail below, judges in civil disputes are encouraged to seek a mediated agreement, in order to prevent a situation in which one of the parties emerges from the process victorious, while the other is defeated. Maimonides and other Jewish legal experts and philosophers note that such processes perpetuate conflict, while compromise and mediation form the basis for reconciliation.11 This approach, which is linked to the broader principles that reject extremism and urge moderation in all parts of life, can be seen as the essence of the Jewish approach to conflict resolution, both with respect to civil disputes and broader communal conflict.

In this chapter, Jewish approaches to mediation and conflict resolution will be analyzed using existing academic frameworks, where applicable, in order to identify the key elements. After considering the function of mediation in civil disputes, and the ways in which the Jewish tradition views the role of the leader in preventing communal disputes, we will examine the application of these techniques in dealing with conflicts in Israel and in the Jewish world.

**MEDIATION IN CIVIL LEGAL PROCEDURES**

One of the central themes of modern approaches to conflict resolution
and the development of alternative dispute resolution (ADR) techniques is the use of mediation in the context of civil legal procedures. In order to reduce the burden on the courts, as well as to lower the level of conflict in the society, the legal systems in a number of countries, including Israel, have encouraged the use of mediation, arbitration, and similar procedures.

In Jewish tradition and practice, compromise, based on mediation and arbitration, is seen as an important means of adjudicating civil disputes (bayn adam l’ichavero) involving monetary issues (dinei mamonot). The legal code was developed on the core provided in the Torah (the Bible), expanded and developed in the Oral Tradition over many centuries. This legal framework was carried into the Diaspora following the Exile, and was developed further in the many Jewish communities that had largely autonomous systems of civil law.

Tractate Sanhedrin (5b- 6a) explores the advantages, as well as limitations of compromise “based on the exercise of the judges’ discretion”\textsuperscript{12}. (This process is defined variously and inconsistently as mediation and/or arbitration\textsuperscript{13}, indicating that in principle, these procedures were considered to be very similar). While compromise is generally considered to be preferable to a legal ruling, “embodying charity and justice”\textsuperscript{14}, some participants in this discussion, as well as later commentators, argue that the latter is seen to embody “pure justice”, and thus mediation is a deviation from the standard of justice and truth.\textsuperscript{15}

Those who argue that mediation and compromise is preferable to a full-scale trial also note that strict legal processes in which a court must decide in favor of one of the litigants, and against the others, contributes to bitterness
and expansion of the conflict. This is the antithesis of the commandment to seek peace in the community and avoid conflict, as cited above. Indeed, the Jewish sages noted that when the demands of pure justice are met, there is no peace (and when peace is the exclusive consideration, there is no justice). In contrast, compromise (“p’shara” in Hebrew, and based on the word “poshrim”, for a liquid that is neither hot nor cold), is seen as the basis for preserving the peace of the community. The authoritative code of Jewish Law (the Shulchan Aruch, compiled by Rabbi Yosef Karo in the 15th century) states that judges are required to open all civil proceedings by proposing a compromise to the litigants for consideration. A judge may also offer to mediate a solution (“to speak to their hearts”), even after the evidence has been heard, in order to encourage a peaceful settlement. However, once a judgement has been rendered, mediation is no longer an option.

Maimonides urges judges to promote voluntary mediation, praising any judge who does not have to make a legal ruling in his lifetime, and is able to mediate a compromise between the rival litigants. In some cases, such as when the evidence is unclear and cannot be discovered, judges are advised or even required to impose a compromise (a form of binding mediation). In rare cases involving litigants with different economic means, the wealthier party may be asked to accept a compromise and less than would be due according to the strict interpretation of the law, for the sake of peace. (In a sense this can be compared to the technique of re-balancing power in an uneven mediation process, as found in the modern mediation literature.) In addition, Judge Bazak notes that the emphasis on mediation was also recognized as a means of reducing the burden on the judges and on the
Despite the emphasis on the desirability of mediation and compromise in civil disputes, the Jewish tradition and sources do not provide much direction regarding the process of mediation. Under Jewish law, adjudication of civil cases ("dinei mamonot") does not require professional judges, but rather, any three individuals accepted by the litigants and familiar with the law, can sit in judgement. (The *halacha* places some limits on eligible judges, including relatives, criminals, professional gamblers, and other "undesirables".) In contrast to the very detailed instructions on legal procedure, regarding witnesses, evidence, and other aspects, there is essentially no instruction regarding the mediation process, and few cases are presented as examples. Judges are simply told to seek a compromise solution.

Jewish tradition also does not provide guidance for mediation parties with different norms or cultural backgrounds. Modern "Western" or "European" mediation techniques focusing on interpersonal communications, or separating interests from positions, are essentially unknown in this context. Legal processes, including mediation, are assumed to take place in a culturally (or religiously) homogenous framework, in which the norms are universally accepted. These norms may differ to a relatively minor degree from community to community, but, as noted above, in the absence of a common foundation, such as in conflicts between different sects, mediation is not applicable.
THE ROLE OF LEADERS IN CONFLICT PREVENTION IN THE COMMUNITY

The principle of compromise and the preference for a mediated solution in legal proceedings involving individuals ("bayn adam l’chavero") are not directly applicable to societal or communal conflicts. In communal situations, in which sects or groups form around or adopt different interpretations, rituals, leaders, or calendars, compromise and conflict avoidance are often anathema. To make point bluntly, in a general sense, within the traditional Jewish context, there is no room for heresy or heretics, and rebellion against “the yoke of the commandments” is unacceptable.

When Korach led a rebellion against Moses in the wilderness (Numbers, Chapter 17), he and his followers were punished by death. Similarly, after the incident of the golden calf, Moses ordered his supporters from the tribe of Levi (Aharon’s tribe) to take their swords and go from “gate to gate” in the camp, to punish “each man his brother, each man his neighbor, and each man his relative”. In this punitive action, 3,000 men were killed “And the Lord smote the people, because of the calf that Aharon made.” (Exodus, Chapter 32). In the face of this blatant assault on the leadership, no compromise or mediated solution was possible. In addition, when dealing with external enemies whose behavior is irreparably immoral and whose hostility is uncompromising, mediation and dialogue are inappropriate, and are considered dangerous.\textsuperscript{29}

In other eras, rabbis have excommunicated members of sects that deviate from the normative models of the times and communities. In Eastern Europe as well in the Sephardi communities, Hasidim and Mitnagdim
excommunicated each other, and involved the Gentile authorities in these conflicts.³⁰

Nevertheless, in some circumstances, the Jewish tradition does provide for conflict resolution in the context of societal divisions involving religious practice. As will be discussed below, in such circumstances, responsibility for responding to communal conflict, and limiting its impacts, resides primarily with the elite leadership. Although the Jewish political tradition includes some democratic principles and processes³¹, particularly with respect to the requirement for popular approval of leaders,³² until recently, the community was structured on a highly hierarchical basis, and the guiding role of the leadership was very strong. When leaders of different camps or groups make peace between themselves, or reach a modus vivendi, they are usually able to bring along their followers to accept this agreement.

**Analysis Using Rational Decision Models**

In elite theories of conflict resolution, the first concrete steps are taken by the leaders of a society, who recognize the high costs of continuing and escalating a conflict, both to their own positions, and also to the communities that they lead. In some cases, pressures from external events or from internal sources, force opposing leaders of factions, parties, sects, and social groups to seek an end to the conflict, or at least enact measures to contain its costs.

In terms of the academic models, elite decision makers can be considered to be unitary rational actors, at least in conditions of conflict and crisis, meaning that their actions are based on the consideration of different options, and comparison of costs and benefits. In such contexts, the impact of
narrow political factors and emotional issues is relatively small, and decisions are made on the basis of rational choice.

In the general conflict resolution literature, game theory is one of the major models for systematic analysis of actions taken by leaders and elite decision-makers. Game theory provides a matrix for analyzing relative utilities, scenarios, and decisions and outcomes in a conflict situation. For example, the “chicken” model, is based on a zero-sum scenario in which two opponents speed toward each other, either leading to a catastrophic crash (lose-lose), victory for one and defeat for the other party (win-lose), or a decision based on compromise by both actors (win-win). In a “prisoners’ dilemma” game, the actors can choose between defection, in the hope that they will emerge with a better payoff, while risking mutual defection (lose-lose), or can accept a lower payoff, while also reducing the risks of defeat, via a strategy based on cooperation, thereby creating a non-zero-sum or win-win situation.\textsuperscript{33}

Game theoretic approaches, in their various forms, are based on the assumption that decisions are made by rational actors, on the basis of clearly defined interests and goals (utilities). Conflict resolution is based on the decisions of the actors, based on their analysis of interests, costs, and benefits. In this context, negotiation strategies and tactics are developed in order to increase the possibilities of a positive outcome, and diminish the potential for a negative result.\textsuperscript{34} In this framework, personal and psychological aspects of conflict resolution, including the development of personal contacts, mutual understanding, empathy, etc. do not play a significant role.
Leadership Models of Conflict Resolution in the Jewish Tradition

As noted, religious and political leaders, at the national and community level, were vested with the legitimacy and authority to make decisions, and these are then binding on the general public. Rebellion against authority is considered to be rebellion against God, as illustrated in the incidents of Korach, and shortly thereafter, in the case of the golden calf. In both cases, the leaders of the rebellion, as well as their followers, were punished severely.

Ironically, the incident of the golden calf also provides one of the major models of conflict resolution in the Jewish tradition. Jewish commentators have devoted considerable attention to analyzing and debating the case of Aharon, the High Priest, and the temporary leader while his brother Moses was on Mt. Sinai receiving the Torah. This discussion has focused on the ways that Aharon, as a leader, responded to the turmoil and the popular demands for forming a golden calf to serve as an object of worship following what appeared to be the disappearance of Moses. Instead of confronting the rebellion, and preventing this gross violation of the cardinal prohibition against idolatry, Aharon went along and formed the golden calf from the gold that the people had brought.

According to some commentators, Aharon acted wisely, under the circumstances, choosing to avoid a head-on collision, in which he would have probably been killed. According to the commentaries (midrash), Hur, another leader, did attempt to block the rebellion, and was killed. This would have left the people who had recently left Egypt without a leader, and ended the possibility for the eventual fulfillment of the promise of safe arrival in the Land.
Aharon’s response is often cited in Jewish tradition as an example of conflict prevention, and he is remembered, not always approvingly, as someone who generally pursued (“rodef shalom”). This incident and the role of Aharon are cited in support of calls for compromise and concession over zealotry and divisiveness. (As noted, after Moses returned, the perpetrators were punished, but the deaths of 3000 individuals was far less costly than an all-out civil war in Moses’ absence.)

In analyzing Aharon’s decision, or at least the reconstruction of the according to the commentators, we can discern the clear considerations of a rational actor, weighing and ordering utilities and outcomes. His choices are 1) confrontation with the group demanding the fabrication of the idol, or 2) acceptance of their demands. Confrontation would be a catastrophe, from which there was no recovery, and is ranked as the most costly and least desirable outcome. The cost of compromise, meaning, in this case, sanctioning idol worship, while considerable, is ranked as “the lesser of the two evils”, and on this basis, Aharon makes his decision.

Yuval Sherlow goes beyond this relatively standard reading of the text, arguing that it provides religious or political leaders with a precedent for viewing issues through a complex lens, rather than a simple dichotomy between good and evil, or right and wrong. Rather than formulating a choice between two extreme paths, neither of which was desirable, Aharon sought to navigate between them, recognizing that there was no “good choice”. After making his decision, Aharon, setting the standard for a leader acting in the spirit of mediation and compromise, worked to offset the negative impacts of
this decision. “For this reason, his task is not completed by ending the conflict and restoring peace. Now, he must act with strength to repair the damage at both ends of the spectrum.” After accepting the building of the golden calf, under duress, when the emergency ended, he focused on correcting the conditions that led to this incident in the first place.

The framework provided by elite decision making models and game theory is also applicable, to some degree, in considering the traditional Jewish analysis of the conflicts that led to the destruction of the Second Temples, the loss of sovereignty, and the exile that followed. The Second Temple was destroyed during the revolt against Rome in 70 AD, following a long and bitter sectarian conflict. During this period, radically different religious and ideological sects battled for supremacy in Jerusalem. Rather than reaching a set of compromises that would have allowed the members of these groups to cooperate in preventing the defeat by the Roman army (or in avoiding the hopeless challenge in the first place), the leaders of these sects fought each other in an totally zero-sum situation. The Talmud and later commentators repeatedly emphasize the bitter nature of this all-out conflict, in which compromise and cooperation was impossible, and stress the lessons of this experience. For example:

Rabbi Yehoshuah the son of Levi said, “God said to Israel, you caused the destruction of my house and the exile of my sons. Ask for peace and I will forgive you… and he who loves peace and chases peace, and greets with peace and answers peace, God gives him an inheritance in the life of this world and the next world.”

In the analysis of this tragedy, the emphasis, both in the narrative talmudic texts and in the interpretative traditions (*midrash*), is on the failure of
the leadership. The rabbis and members of the social and political elite are criticized not only for their failure to provide leadership towards conflict amelioration, but also for their contribution to its exacerbation. The narrative of the buildup to and actions during the siege of Jerusalem stresses the intense mutual hostility among the leaders of the various factions (and the Zealots and Sadducees, in particular, although this can be attributed, in part to the fact that these texts were written by their opponents). The story of “Kamza and Bar Kamza”, involving two feuding members of the aristocracy (the priestly class) is frequently used to illustrate the extreme degree of hatred, on a personal level, that led to civil conflict and thus, to the destruction of Jerusalem.

Applying the framework of conflict resolution and game theory in this case, the conclusion is that the leaders did not act rationally in terms of maximizing the self-interests of the groups for which they were responsible. Instead of extending sufficient cooperation necessary to overcome the common enemy, the zero sum approach led to the destruction of the actors. Rather than making rational decisions to maximize the utilities of the people for which they were responsible, the narrow ideologies and political interests of the leaders overwhelmed the interests of the wider society.

This theme of the failure of the leadership during different periods in preventing civil conflict and internal violence, and the catastrophic results of these failures, is repeated and stressed in subsequent Jewish tradition. Most recently, many analysts and leaders warned that the violent disagreements regarding negotiations with the Palestinians and Arab states (the “peace process”), culminating in the assassination of Prime Minister Rabin in 1995,
could lead to divisions and civil conflict which would again result in the end of Jewish sovereignty and renewed exile.

**The Role of the Rabbi in Setting Community Standards and Preventing Conflict**

The special responsibility of the elite and community leaders in preventing communal conflict, and the importance of rational decision making based on comparing the costs and benefits of a particular course of action, is also stressed in the literature dealing with the role of rabbinical authority. As community leaders and religious authorities, the rabbis are responsible for interpreting and enforcing the Halacha (the legal code). At the same time, they also have the obligation to prevent divisions and conflict within the community. These two functions are often contradictory, as in cases when a rabbi must consider the problem of “reproaching the community”.

Religious commandments and prohibitions are taken very seriously in the Jewish tradition, and violators are punished. In addition, there is an unambiguous Biblical injunction to "rebuke thy neighbor, and not suffer sin on his account" (Leviticus 19:17). For generations, the Rabbis have wrestled with the implications of this requirement, recognizing that strict interpretation would be a source of continuous and intense conflict within the community.

Tropper notes that in many cases, the Jewish tradition permits, and even encourages, restraint in such circumstances. Fundamental texts, such as Perkei Avot ("The Ethics of the Fathers") advises silence, rather than causing or adding to religious or social conflict. In his analysis, Tropper presents a number of cases in which important rabbis, including Rabbi Moshe
Feinstein (U.S., 20th century), Rabbi Isaac Bar Sheshet, (the Ribash North Africa, 1326-1408), Rabbi Yoash Bar Yosef Pinto (Damascus, 1565-1648), and R’ Yehezkel Landau and his son R’ Shmuel (E. Europe 18th century), cited this principle in their decisions in favor or restraint.

In the cases cited by Tropper, while the strict interpretation of Jewish law would have required a change in community practice, the religious leadership decided against a confrontation, since “to cause a dispute because of [a particular forbidden practice] is forbidden”. Rabbi Feinstein rejected a decision by members of an existing community to break away and form a new community free from a particular “unfit” or undesirable practice. “…Those who wish to establish for this reason a Minyan [a group of ten men for prayer] in another place, and think that they have done in this a great thing, are not behaving properly…” In another case dealing the divisive issue of conversion, Rabbi Feinstein wrote that while he totally rejected the particular form of the conversion in question, “there are many Rabbis in New York who accept such converts, and in any case I do not have the right to say this is forbidden. … I will not enumerate in prohibitions, and the writer shall do as he understands, according to his opinion, and according to the pressures that arise.”

In similar circumstances, the Rashba (Rabbi Shlomo Ben Aderet, Spain, 13-14th century) cautioned the rabbinical leadership to exercise caution, “or the fire of his zealousness for God will burn in him and causes the disappearance of the good and just path…”

To translate these examples, and the Jewish halachic decisions into the language and framework of modern academic conflict resolution, the Rabbinical leadership is enjoined to avoid situations of direct confrontation.
(lose-lose). Rabbis and other leaders must be able to anticipate the conflict that might result from the decisions, and to act in order to ameliorate or prevent such an outcome. The decisions in such circumstances should be based on rational evaluation of the alternative outcomes, with an emphasis on the avoidance of conflictual outcomes.

**COPING WITH INCREASING CONFLICT**

It is difficult to assess the level of conflict in any given period, and therefore, efforts to compare the situation at different times in Jewish history are likely to be quite speculative and subjective. However, the last 100 years have been particularly unstable and conflictual, reflecting the pressures and changes resulting from modernity, emancipation, secularization, anti-Semitism, and Zionism. As Baumgarten and others have noted, the divisions and conflict of the modern period seem to parallel the end of the Second Temple period 2000 years ago, and this comparison is not particularly encouraging.

Today, Jewish society, both in Israel and in the Diaspora, is divided across many dimensions. In some areas, such as relations between the secular and religious communities, and their leaders, and on questions of war, peace, and territory in the Land of Israel, the divisions in Israel are reinforced and exacerbated by similar conflicts in the Diaspora. The rapid growth of secular society, encouraged by an anti-rabbinical Israeli leadership that used the power of the state to promote and impose this ideology, has ended the exclusive authority of rabbinical leadership. (In the Haredi community, the rabbinical leadership remains dominant, but their authority is limited to their own constituencies. Between leaders of different groups, the levels of competition and conflict are often intense.) Secular and religious Jews lack a
common language and are unable to define shared interests.

In the past, as Kaplan and Bacon have noted, the balance of power that had existed between rabbinical and lay leaders encouraged compromise and moderation in terms of religious practice. However, during the past century, the weakening of the lay leadership allowed the religious leaders, and particular, those whose lives are immersed in religious institutions (yeshivot) and who do not serve as community rabbis, to dominate. Under the doctrine of “daat Torah”, these rabbis contend that by pure study of Torah, with no other worldly interests, they are able to “penetrate to the essence of any issue”, including complex political decisions. This has also contributed significantly to polarization, and rejection of moderation and compromise regarding different interpretations of Jewish law and practice. In addition, as Stern notes, the scope of religious law has been expanded to encompass claims of universal competence and exclusivity.

This combination, accompanied by a similar expansion of the scope and claims of the secular court system in Israel, has led to a fundamental clash over jurisdiction. Within the religious hierarchy, both in Israel and in the Diaspora, advocates of compromise and of pluralistic approaches to Jewish law (halacha) represent a minor voice. Differences over ideology and life style, and power struggles between religious and secular communities and their leaders have escalated, and are being described as battles for the future of the Jewish nation and soul. In this context, according to the participants, there is no room for compromise.

Intense conflicts have erupted over issues such as the role of the religious bureaucracy in determining personal status, Sabbath observance in
public and of publicly owned and government services. (I.e., Should El Al, the state-owned air carrier, be allowed on the Sabbath? Should roads in Jerusalem that are located in religious neighborhoods or other areas be close on the Sabbath? Should non-kosher meat be displayed in public, when it is considered to be an abomination to religious Jews? Should the state adopt and enforce a prohibition on the sale of leavened bread during the Passover holiday?)

Other areas of intense controversy include the blanket exemptions from military service given to thousands of Haredi citizens, qualifications for conversion to the Jewish religion, and secular memorial rituals that are considered to be based on non-Jewish traditions. In many of these controversies, decisions of the secular court system have often exacerbated conflict.

In this environment, elite-based conflict resolution through rational choice based on avoidance of head-on collisions has, in general, not been successful. Internal political pressures within many of the groups involved, both secular and religious, often increase the level of extremism and rejection of compromise and mediation. There are a few important exceptions, such as in the case of the peaceful and even cooperative coexistence of Orthodox and Liberal Jewish communities in Hamburg during the 19th and early 20th centuries.47 In Israel, the joint efforts including representatives from the conflicting communities in the case of the Bar-Ilan road controversy, the conversion issue (the Neeman Commission), and the question of military service for Haredi students (the Tal Commission) demonstrate some success, even though the agreements were very narrow in scope and precarious.
However, these examples of agreement were very limited, and seem at this stage to be exceptions. In themselves, they demonstrate that compromise and cooperation for the common good is possible within a Jewish religious framework, without requiring any of the participants to relinquish their strongly held views.

In a broader sense, very few Israeli leaders, either secular or religious, have emerged that have the stature and authority to bring the participants in a dispute to discuss and develop compromise and mutual acceptance. In his discussion of Aharon and the golden calf, Yuval Sherlow argues that community leaders (rabbis) have a responsibility to play a mediating role in community conflicts. He notes three requirements – that the mediator has a reputation for acting “for the sake of God”, rather than from any personal motive, in order to gain the trust of the participants; that the mediator has a deep link and sympathy with both sides involved in a dispute\textsuperscript{48}, and that mediator is capable, in terms of resources available, of bringing the process to fruition. These qualities seem to be sorely absent in the Israeli environment.

Finally, the combination of changes in the nature of the society and the high level of conflict also highlight the need for new approaches to conflict resolution that do not depend entirely on accommodation between leaders, but involve broader popular participation. In dealing with the major conflicts that characterize the Israeli Jewish polity today, particularly in the realm of secular-religious relations, people-to-people processes are of major importance. The middle level of conflict resolution, involving the molders of public opinion, such as educators and journalists, are a central aspect of this conflict resolution effort. In this context, the principles of conflict resolution
and moderation that have been central to the Jewish tradition need to be adapted for use by the other levels, beyond the elite leadership. A number of such dialogues have begun, but the impacts are difficult to discern.

A combined long-term approach is required, based on the principles of moderation and compromise in civil disputes; the concepts embodied in “cities of refuge” where conflict is the result of accidental strife; the leadership exercised by Aharon in the incident of the golden calf; understanding the lessons from the civil conflict that led to the destruction of the Second Temple; and a realization that common interests in Jewish survival require limits on the scope of the ideological conflicts.


3 Numbers, 35; Joshua, 21

4 Psalms 34:15

5 Masechet Derech Eretz Zutah, Perek Hashalom

6 “Any dispute which is for the sake of heaven, shall in the end be of lasting worth; but that which is not for the sake of heaven, shall not in the end be of lasting worth. Which dispute was for the sake of heaven? That of Hillel and Shammai. And which was not for the sake of Heaven? That of Korah and his company.” Chapters of the Fathers, With a Commentary by Rabbi Pinhas Kehati, translated from Hebrew by Rabbi Abraham J. Ehrlich and Avner Tomashoff, Department for Torah Education and Culture in the Diaspora of the World Zionist Organization, 1984, Chapter 5, Mishnah 17, p.260.

7 See Rosman in this volume

8 See Rosman, Harel in this volume

9 According to the commentators, Hur, the son of Miriam, whom Moses appointed as joint leader with Aharon while Moses was on Mount Sinai, confronted the rebellious mob, and was killed. The magnitude of this crime was compounded by Hur’s status as a prophet. Aharon was the High Priest, and had he also been killed, the combination of murder of the High Priest and the murder of a prophet (Hur) would have been unforgivable. Louis Ginzberg, The Legends of the Jews, Vol. III, Moses in the Wilderness, Jewish Publication Society of America, Philadelphia, Fifth edition, 1968 p. 121


11 Cited by Yuval Sherlow, in this volume; also Judge Jacob Bazak, Hebrew, p. 1-2 (?)


13 The Talmud, The Steinsaltz Edition (English translation), Volume XV, Tractate Sanhedrin,
Based on the Biblical verse “And David executed judgement and charity to all his people.”

(II Samuel 8:15)


14 Based on the Biblical verse “And David executed judgement and charity to all his people.”


Bazak, p. 1

17 Bazak, p. 1-2, citing Toseftah Sanhedrin, ḥ binnen, Menachem Elon, p. 18 Bazak, p. 1-2, citing Maimonides ṣ ṭ ṣ ṭ e ṭ i ṭ e ṭ e ṭ e ṭ e ṭ e ṭ e ṭ e

19 Elon, fn. 207; Bazak, fn. 13

Choshen Mishpat, Hilchot Dayanim, Section 12, Halacha 20.

21 Even in this case, there are exceptions, and the Shulchan Aruch states that an independent mediator (not one of judges in the case) can provide a compromise between the litigants, even after the judgment is rendered. Shulchan Aruch, Hilchot Dayanim, Section 12

22 Hilchot Sanhedrin, Chap 22, cited by Elon, fn. 203; see also Bazak, fn. 17

23 Bazak, fn. 41

24 Bazak, p. 11, fnnts 46-50

25 add footnote on re-balancing power

26 Bazak, fn. 9


28 The Talmud also uses the term “bitzuah”, which may refer to a procedure like “splitting the difference”. However, the precise meaning of this term remains obscure. Sanhedrin 6b; Steinsaltz, 6b, p. 50)

29 Commentators disagree regarding the commandment to obliterate Amalek in post-Biblical times. Many assert that Amalek, per se, no longer exists, and this commandment is no longer relevant. Others, however, argue that the requirement is valid with respect to groups that act with the same characteristics of the Amalekites, who attacked the weak stragglers at the end of the camp following the Exodus from Egypt. (Deuteronomy, 25)

30 Rosman, in this volume


35 Sanhedrin 7:A, cited by Sherlow in this volume.

36 Shelow in this volume

37 Schwartz in this volume

38 Masechet Derech Eretz Zutah, Perek Hashalom

23
Similarly, the murder of Gedalliah ben Ahikam after the destruction of the First Temple is also cited as an example of tragic self-destruction that could have been avoided. The Prophet Jeremiah records that after the Babylonian forces breached the walls and destroyed the Temple, a Jewish presence remained, under Gedalliah, who was appointed governor. Gedalliah was assassinated by another faction, and many of his followers were killed. As a result, the exile became complete, and the reconstruction delayed. Uriel Simon, "The Murder of Gedalliah - Anatomy of Self Destruction" (Jeremiah chapters 40-41), Daf Shavui, Hozaah Meyuchad Litzion Yom Hashloshim I'moto shel Rosh HaMemshalah Yitzchak Rabin, z'l, (Hebrew) -- December 1995.

Pirkei Avot, 1:17

Rabbi Moshe Feinstein, Letters of Moshe, Orech Chaim 1:46 (Tropper, p. in this volume)

Rabbi Moshe Feinstein, Letters of Moshe, Orech Chaim 1:46 (Tropper, p. in this volume)

Rabbi Moshe Feinstein, Letters of Moshe, Orech Chaim 1:46 (Tropper, p. in this volume)

Rabbi Moshe Feinstein, Letters of Moshe, Orech Chaim 1:46 (Tropper, p. in this volume)


Stern in this volume

Gillis-Carlebach, in this volume.

Sherlow (in this volume) posits an example of a mediator between supporters of settlement in the Land of Israel and supporters of peace, arguing that such a person should have a demonstrated committed to both causes and objectives.