



KOL HAMEVASER

The Jewish Thought Magazine
of the Yeshiva University Student Body

MUSAR AND JEWISH ETHICS



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of the Yeshiva University Student Body

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ABOUT KOL HAMEVASER

KOL HAMEVASER IS A MAGAZINE OF JEWISH THOUGHT DEDICATED TO SPARKING THE DISCUSSION OF JEWISH ISSUES ON THE YESHIVA UNIVERSITY CAMPUS. IT WILL SERVE AS A FORUM FOR THE INTRODUCTION AND DEVELOPMENT OF NEW IDEAS. THE MAJOR CONTRIBUTORS TO KOL HAMEVASER WILL BE THE UNDERGRADUATE POPULATION, ALONG WITH REGULAR INPUT FROM RIETS RASHEI YESHIVAH, YU PROFESSORS, EDUCATORS FROM YESHIVOT AND SEMINARIES IN ISRAEL, AND OUTSIDE EXPERTS. IN ADDITION TO THE REGULAR EDITIONS, KOL HAMEVASER WILL BE SPONSORING IN-DEPTH SPECIAL ISSUES, SPEAKERS, DISCUSSION GROUPS, SHABBATONIM, AND REGULAR WEB ACTIVITY. WE HOPE TO FACILITATE THE RELIGIOUS AND INTELLECTUAL GROWTH OF YESHIVA UNIVERSITY AND THE LARGER JEWISH COMMUNITY.

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THIS MAGAZINE CONTAINS WORDS OF TORAH.
PLEASE TREAT IT WITH PROPER RESPECT.

EDITORIALS

EDITORIAL AND PREVIEW

BY: Shlomo Zuckier

It is evident from reading the title of this issue, “Musar and Jewish Ethics,” that its theme is double-edged, combining the traditional and uniquely Jewish Musar with universal issues of ethics, approached from a Jewish perspective. Both fields aim to improve the individual morally, though they approach that objective from different perspectives and employ differing tools. The goal of this issue is to house both disciplines in the hope that their joint contribution can be most effective in promoting moral and proper *avodat Hashem*. (In addition, this issue, as all others, includes articles of a general nature, and they should contribute to readers’ intellectual-spiritual growth as well.)

The issue includes a few contemporary laments – including one by Professor of Business Ethics Dr. Moses Pava, as well as articles by Shaul Seidler-Feller and Dani Lent – on the low moral position Orthodoxy finds itself occupying in the media as a result of recent events. These pieces represent the equivalent of Musar schmoozes about ethical issues, a combining of the issue’s themes, as they examine the phenomenon of moral degeneration in the Orthodox community and provide suggestions for how to restore integrity to our society.

A few other articles present more of a classic Musar approach. R. Yitzchok Cohen, Rosh Yeshivah at YU, discusses the proper method of studying Musar and incorporating it into our daily lives. Alan Morinis, Director of the Mussar Institute, presents a unique perspective on Musar and a focus on doing *retson Hashem* despite countervailing values in society. Mordechai Shichtman considers the use of Musar in achieving religious growth and *teshuvah*.

Also relating to Musar, Ben Kandel presents two perspectives on whether Torah study or spending time to perfect one’s personality is more important for the growth of a *ben Torah*. author I myself wrote a book review on *Musar for Moderns*, which discusses the feasibility and approaches of modern man using Musar.

Specific investigations of moral issues include pieces by Yehudit Fischer on the ethical obligations of potential “righteous gentiles,” an exploration by Alex Luxenberg questioning whether censoring material for religious purposes is justified, an analysis by AJ Berkovitz on the evidence for vicarious punishment in the Bible, a moral examination by Ilana Gadish of animal experimentation from both a secular and Jewish perspective, and an investigation by Jonathan Ziring into the appropriate perspective necessary in pursuing an activist agenda.

Three articles deal with the interaction of ethics and Torah laws, considering whether

there is an ethic independent of Halakhah (Esty Rollhaus), whether ritual or moral laws are/should be emphasized more (Mijal Bitton), and what to do with Torah laws that seem to conflict with morality (Eli Putterman).

One theme to which several articles refer, with different degrees of directness, is the question of subjective morality in a changing world. This issue is a complicated and controversialⁱ one because it forces halakhic-moral man between a rock and a hard place: he does not want to say that the Torah is immoral, but at the same time it may be hard for him to accept laws, for instance, that might be called, in today’s world, mass murder. Logical moves in either direction are uncomfortable, and complacently remaining with the question can be downright painful. Believing in a subjective morality may allow one to squirm out of this problem, but it is a very tough pill to swallow.

I would like to add to this discussion a couple of sources from Rishonim that seem to characterize certain halakhot as being sensitive and responsive to issues relevant to their historical context. Rambam famously saysⁱⁱⁱ about *korbanot* that they were instituted as a way of weaning Israel off the approach to sacrifice taken by their pagan neighbors. In a similar fashion, Ramban^{iv} uncritically presents the possibility that *yibbum* existed prior to the Torah as a practice among the *hakhamim kadmonim* (early scholars). Of course, the fact that this type of explanation can be countenanced does not make it the preferred explanation, but in a case of intellectual, moral or societal *she’at ha-dehak* (however that may be defined, itself a tenuous question), it might be invoked.

As the Yamim Nora’im approach, the Editorial Board of *Kol Hamevaser* wishes everyone growth in their *avodat Hashem* and hopes for a time when there will be good answers for all of these questions.

Shlomo Zuckier is a senior at YC majoring in Philosophy and Jewish Studies and is an Associate Editor for Kol Hamevaser.

ⁱ I refer most specifically to the articles by Eli Putterman, AJ Berkovitz, and Mijal Bitton.

ⁱⁱ A mere glance at Aryeh Frimer’s response [“Guarding the Treasure,” *Bekhol Derakhekha Daehu* 18 (April 2007): 67-106] to Tamar Ross’ *Expanding the Palace of Torah* (Waltham, Mass: Brandeis University Press: 2004) and her rejoinder [“Guarding the Treasure and Guarding the Tongue,” *Bekhol Derakhekha Daehu* 19 (January 2009): 93-123] reveals the high stakes involved in these issues.

ⁱⁱⁱ *Moreh ha-Nevukhim* III:32.

^{iv} *Be-Reshit* 38:8.

THE YEAR IN REVIEW

BY: Shaul Seidler-Feller

As we approach the Yamim Nora’im, the time has come to take stock of the past year, both its positives and its negatives. This year has seen the beginnings of new political administrations both here and in Israel, a recent rebound from the worldwide economic crisis, and significant progress in the effort towards peace in Darfur. However, war continues to rage in both Afghanistan and Iraq, Iran has shown no sign of discontinuing its nuclear ambitions, and North Korea has tested its own nuclear power in defiance of world leaders.

On a more local level, the past year has been quite mixed for Jews as well. While Israel has managed to significantly slow the rate of rocket launches from Gaza across the border into its territory, the situation is by no means secure. Continued Hamas governance of the region threatens any peace between the Jewish State and the Palestinians and poses substantial risks to the country’s future security.

Perhaps more pressing, though, as we enter this period of *teshuvah* and self-reflection, are the numerous scandals that have hit the Orthodox community of late: the prosecution and conviction of the heads of Agriprocessors, the Madoff crisis, the founding of a website devoted to setting “frum” Jews up in adulterous relationships,ⁱ the Haredi riots in response to the opening of a parking lot on Shabbat in Jerusalem, child abuse charges levied against two Haredi women and the ensuing rioting, religious settler violence against Israeli soldiers and Palestinians alike, charges of organ trafficking by an Orthodox Brooklyn resident, and the arrest of several Orthodox rabbis from Brooklyn and Deal, NJ, on charges of money laundering (reminiscent of similar charges against the Spinka Rebbe two years ago). There is no shortage, in other words, of reasons for us to be embarrassed about our behavior this year. “*Annus horribilis*, as the Jewish year 5769 may someday be characterized by historians, seems likely to shape the image of American Jews, Orthodox and otherwise, long into the future.”ⁱⁱ

In addition, not only have all of these incidents resulted in tremendous *hillul Hashem*, especially those carried out by rabbinic figures, but they have further divided the already fragmented Jewish community in which we live. In particular, in the heat of the violence in Haredi neighborhoods in Jerusalem this past summer, tensions between Orthodox Jews and Hillonim in Israel turned so hot that in an entirely different part of the country, Tel Aviv, several media outlets quickly attributed the motive behind an attack on a homosexual club to Orthodox incitement without established proof to that effect.ⁱⁱⁱ The Orthodox community here and in Israel has received such bad publicity in recent months for the immoral and illegal acts of some of its constituents that a wedge has been driven between it and much of the rest of Jewish society.^{iv} And, as R. Shmuley Boteach notes, the result has often been that non-Orthodox Jews see in us a hypocritical community:

“Many people no longer believe that Jewish learning and observance make you a better person. They no longer believe there is any correlation between keeping Shabbat and keeping honest, between wearing *tzitzit* and avoiding adultery, or between lighting Shabbat candles and seeing the light of God’s

grace in every human being.”^v

When faced with these and other stains on Orthodox observance, the question we must ask is: how can all this happen? How can religious individuals, who profess to keep the Torah and all its multifarious obligations, act in such utter defiance of it, sometimes even in the name of religious observance itself? What flaws in our education systems and in our communal structures could lead to these violations of both religious and civil law? How can we stand by when so many self-identified Orthodox Jews are serving sentences in prison? These are the questions we must ask at this time of the year.

Part of the answer, I believe, is that this is both a halakhic and a sociological issue. From the standpoint of Halakhah, it is, of course, unquestionably *asur* to steal from a non-Jew, commit adultery with a married woman, and riot violently on Shabbat, maiming fellow Jews in the process. But there is also a social problem here, namely, on the one hand, the refusal of many in the Haredi community to accept the terms of modernity and state law, and on the other, the utter assimilation by many in the Orthodox world (both Haredim and not) of American values diametrically opposed to the Torah: ideas of the primacy of wealth and materialism as measures of success and the freedom of “two consenting adults” to do what they please, for instance.

While neither I nor anyone else can know for certain how to answer these questions or solve these problems, there are some steps we can take now that might put us in the right direction.

First, we have to make it clear in our communities that unethical and illegal behavior has no place in observant Judaism: “If we want to avoid future scandals, we must be clear in our condemnations of unethical behavior...We cannot leave any doubt whatsoever that dishonest and illegal business practices are strictly taboo.”^{vi}

Second, we need to model ethical behavior to children in Jewish day schools and teach them authentic Jewish values: “Our community needs a moral and spiritual renaissance. We are good, law-abiding, generous people, but money is becoming too important to us...We require a renewed articulation of Judaism’s most important values, and an even firmer resolve to live by its tenets.”^{vii}

And third, we need to be as punctilious in our observance of *mitsvot bein adam la-haveiro* (interpersonal mitsvot) as we are in our observance of *mitsvot bein adam la-Makom* (mitsvot between Man and God). We cannot allow ourselves to lose focus on those with whom we share this world, even as we serve God who is above this world. It is both anti-halakhic and hypocritical and has no place in Orthodox Jewish behavior.

We have a lot to be thankful for this year, but we also have much to contemplate and improve upon. The Haredi community in America has already started its own efforts to combat community problems uncovered by the recent money laundering scandals;^{viii} we, too, in the Modern Orthodox community must engage in the same sort of introspection. And so, as perhaps part of that process, the first issue of *Kol Hamevaser* this year focuses on issues of Musar and Jewish ethics, hoping to focus our attention on these essential issues in the days leading up to the Yamim Nora’im.

LETTER-TO-THE-EDITOR

KOL HAMEVASER MEVASSER VE-OMER...WHAT?:

ONE READER'S MUSINGS ON KOL HAMEVASER'S MISSION

Dear Editor,

In Alex Ozar's piece "One Editor's Musings" in the May edition of last semester, I felt that the author included several good points, but the overall perspective was somewhat flawed.

Ozar initially decried two opposing extreme perspectives regarding what is appropriate to publish in *Kol Hamevaser*. The first (as I would interpret it) was a very censorship-oriented position, limiting acceptable articles to those which fit an extremely strict set of rules and ensuring that the article not offend even the most "frum" of students. The second opinion was that "no article may ever be rejected on the grounds that doing so would constitute censorship, that gravest of sins." Ozar posited that either side was untenable, a point which I heartily concede. He then continued by describing what he felt constituted an article worth publishing, and here we diverge: I felt that his criteria for defining a suitable article were awfully misdirected.

"I think the following point is undeniable: instead of playing politics, it is only fair that *Kol Hamevaser*, as a self-respecting publication, give serious consideration to the real underlying issues in the debate surrounding what is appropriate or inappropriate to publish"

Ozar posited that an appropriate article is one which "facilitate[s] open, intelligent, and productive dialogue on issues of Jewish Thought of relevance to the YU community." He added two conditions to this description: 1) the article must not be so far from the consensus as to be rejected out-of-hand by the YU community, and 2) the article must be presented in a non-offensive way. To my mind, this definition contradicts the author's stated goal of expressing "what [Alex Ozar] believe[s] *Kol Hamevaser* should and should not publish." He begins with a statement that leaves tremendous room for interpretation; essentially, he opens the door to any sort of perspective. He then limits the scope on pragmatic grounds. Instead of clearly stating what is morally, philosophically, or theologically correct for *Kol Hamevaser* to publish, the author ultimately leaves the issue solely to pragmatic considerations: what is practically feasible or appropriate to publish and what is not?

It is certainly true that I am an unaffiliated third party who is free to armchair-quarterback without pressure from influential individuals on campus. Yet despite my admitted distance from the fray, I think the following point is undeniable: instead of playing politics, it is only fair that *Kol Hamevaser*, as a self-respecting publication, give serious consideration to the real underlying issues in the debate surrounding what is appropriate or inappropriate to publish. This is a crucial task, considering that (if I am correct) the issue really cuts to the heart of *Kol Hamevaser* and its mission.

Kol Hamevaser's mission statement entitled "About *Kol Hamevaser*," which appears on the inside front-cover page of every issue, is elaborate but vague and leaves much room for

interpretation. It seems as though *Kol Hamevaser's* goals are not entirely clear. *Kol Hamevaser* is supposed to be the "Jewish Thought Magazine of the Yeshiva University Student Body," but Jewish Thought is never defined in the mission statement. Perhaps the debate over what is appropriate to publish in *Kol Hamevaser* reflects a more subtle controversy regarding the exact definition of Jewish Thought. If so, rather than talking about what will facilitate open discussion of Jewish Thought, we might better spend our time defining Jewish Thought. Only once this is done can we contemplate the correct way to stimulate its discussion.

Let me be clear: I have absolutely no problem with *Kol Hamevaser* publishing articles with which I personally disagree, or even articles which I find offensive. The decision about what to publish and what not to publish is not in my hands, and I have no need for it to be. I am bothered, however, by the fact that *Kol Hamevaser* works with a vague, multiply interpretable notion of Jewish Thought and then

publishes an arbitrarily selected set of articles which sometimes espouse positions I do not consider to be particularly Jewish. As long as *Kol Hamevaser* remains undefined, I would posit, it will be accused of not being true to its mission of disseminating Jewish Thought.

To support this point, I should note that similar complaints have not emerged regarding "halakhically challenged" material appearing in *The Commentator* (consider a recent piece describing an erotic art gallery, or James Kugel's response to Dr. Bernstein in which the former espouses a theory of biblical origin which, as Rabbi Wieder and other significant individuals at YU and elsewhere have stated quite clearly and publicly, cannot possibly fall under the umbrella of Orthodoxy) – presumably because it makes no claim of being bound to the parameters of Halakhah. If *Kol Hamevaser* makes such claims, it should certainly be held accountable for violating them. If it does not, there should be no reason to limit pieces to specific viewpoints. (I might add, though, that there would be no reason for halakhically loyal students to become more religiously informed from reading it, and there should perhaps be some question as to whether it has a place in YU, presumably an Orthodox institution, at all. This, of course, ties into the general question of how bound YU and its component elements are, morally and practically, to Halakhah, but this is a larger discussion, "ve-ein kan makom le-ha'arikh").

To resolve the issue, the goals of *Kol Hamevaser* – or, more precisely, the boundaries of Jewish Thought as understood by *Kol Hamevaser* – certainly need to be clarified. To assist in the process, I suggest several models, though of course these only reflect my personal

thoughts. None of these options is necessarily the correct path, but their range can certainly form a framework for further pursuit of the question. (Warning: some of the options may be exaggerated for effect and entertainment – not to offend anyone, but to emphasize the potential pitfalls inherent in each approach. Also, I apologize in advance to residents the Beren campus; my personal experience is limited to one campus, so I may include some Wilf-specific references.)

- Jewish Thought refers to any thoughts put into writing by Jews through the centuries. This model places Mendelssohn and Maimonides on equal footing and is equally open to Spinoza and Sa'adiyah Gaon. It covers any topic at all, whether or not it is of specifically Jewish interest. It considers a historical framework interested in the question, "What have Jews been thinking about all these years?"

- Jewish Thought includes any thoughts written regarding topics of Jewish interest, whether by Jews or non-Jews. While more limited in topical scope, this version allows more freedom in terms of which sources one may cite and how one might frame the discussion. It would allow for a discussion of biblical authorship framed as a dialogue (or perhaps a tea party, were the author to be extra-creative) featuring Kugel, Kissinger, Kant, and Kierkegaard. It would equally quote the Rav and the Dalai Lama, and would toy around with R. Avi Weiss, Johannes Weiss,¹ and Rav Asher Weiss. It would probably feel like something of a free-for-all, no-holds-barred cage match of cosmic proportions where anything goes, "The rules are: there are no rules"-style, providing countless hours of entertainment and enjoyment. Of course, articles would range from masterfully written, serious, and contemplative magna opera² to one-sided opinion pieces with perfunctory research intended to back up a position rather than thoughtfully examine the issue – or perhaps no background work at all. It might be compared to an Indiana Jones adventure – you never know what to expect. From what I can tell, until now *Kol Hamevaser* has basically followed this model, in which case criticism is unjustified and unwarranted.

- Jewish Thought is what Jews of all stripes have to say about topics of Jewish interest. This format is essentially a combination of the previous two types, but limits the conversation to points of Jewish interest as discussed in specifically Jewish (although not specifically religious) sources. It essen-

It is my hope that together we will merit to build a better, stronger Jewish community this year, one committed to both Jewish traditions and civil law, and that we will manage to take the *shofar's* call of "shapperu ma'a-seikhem" (improve your actions)³ to heart, during these Days of Awe and into the new year.

Shaul Seidler-Feller is a senior at YC majoring in Jewish Studies and is an Editor-in-Chief for Kol Hamevaser.

ⁱ Sharon Udasin, "OrthodoxAdultery.Com?" *The Jewish Week*, 1 April 2009. http://www.thejewishweek.com/viewArticle/c41_a15362/News/Short_Takes.html. I am amazed that this report has produced virtually no public outcry of disgust within the Jewish community and that no attempts have been made to ascertain the identity of those responsible and exert social pressures upon them to take the website down. How can we be silent about this stain on our community?

ⁱⁱ Jonathan Sarna, "The Long Shadow of Scandal: Then and Now," *The Forward*, 5 August 2009. <http://www.forward.com/articles/111455/>.

ⁱⁱⁱ Jonathan Mark, "Rush to Judgment in Gay Club Killings," *The Jewish Week*, 12 August 2009. http://www.thejewishweek.com/viewArticle/c36_a16485/News/New_York.html. See also Matthew Wagner, "Haredim Lament Blame for TA Attack," *The Jerusalem Post*, 3 August 2009. <http://www.jpost.com/servlet/Satellite?cid=1249223905508&pagename=JPost%2FJPArticle%2FShowFull>.

^{iv} In an unrelated, though equally concerning, potential blow to Jewish unity, Sara Hurwitz suggested this year that the differences between Modern Orthodox and Haredi Jews have grown so great that the two streams should formally separate into their own movements. See Sara Hurwitz, "Orthodox Jews Ride Different Buses," "Morethodoxy," 2 July 2009. <http://morethodoxy.org/2009/07/02/orthodox-jews-ride-different-buses-maharat-sarahurwitz/>.

^v R. Shmuley Boteach, "No Holds Barred: Godly is as Godly Does," *The Jerusalem Post*, 3 August 2009. <http://www.jpost.com/servlet/Satellite?cid=1249275681103&pagename=JPost%2FJPArticle%2FShowFull>. The same sentiment can be found in the "OrthodoxAdultery.Com?" article: "Its members are well versed in Jewish law, even if the Seventh Commandment – you shall not commit adultery – eludes them."

^{vi} R. Moshe Rosenberg, "A Light Unto the Nations, or a Cautionary Tale?" *The Forward*, 29 July 2009. <http://www.forward.com/articles/111016/>.

^{vii} R. Shmuley Boteach, "No Holds Barred: When Rabbis Fall," *The Jerusalem Post*, 29 July 2009. <http://www.jpost.com/servlet/Satellite?cid=1248277925965&pagename=JPost%2FJPArticle%2FShowFull>.

^{viii} See Nathaniel Popper, "Ultra-Orthodox Rabbis Begin to Question Their Own Insularity: Latest Scandal Prompts Self-Reflection and a Rare Apology," *The Forward*, 29 July 2009. <http://www.forward.com/articles/110942/>. See also R. David Zwiebel, "Haredi Leaders Have Spoken Out on Scandal," *The Jewish Week*, 12 August 2009. http://www.thejewishweek.com/viewArticle/c55_a16474/Editorial__Opinion/Opinion.html.

^{ix} *Va-Yikra Rabbah, Parashat Emor, parashah 29.*

tially makes *Kol Hamevaser* into a “*reyd sefer*,”ⁱⁱⁱ limited to one general topic per issue, expanded to include non-halakhic (or even heretical) opinions, and printed in a nifty recyclable format.

- Jewish Thought is defined as the range of opinions on topics of Jewish interest, expressed by Jews or non-Jews, kept within the realm of halakhic acceptability. This would basically follow the model of YC academic Jewish Studies, where an attempt is made to “keep it clean” while still exposing students to the range of thought that exists within and outside of the Jewish world. The only difference is that the *Kol Hamevaser* filter would be somewhat less discerning and knowledgeable, which is the inevitable result of running a publication through students alone rather than having someone who is really an expert in the field making a more careful, weighed-out decision. Still, the system would be mostly workable, and an initial clarification of the rules should prevent anything really problematic from being published. (An extreme mistake could theoretically be retracted. However, it must be stated that I personally oppose retractions, since they are as ineffective as book bans, and they show little respect for the writers and publishers. It would probably be better to clarify the rules initially, as described above, and hope that they are appropriately followed.) This is, I think, how *Kol Hamevaser* tends to be perceived, which leads to objections from campus authorities, just as they would object to the Bible Department hiring a certified Bible critic who plans to teach every course assuming the validity of the Documentary Hypothesis, or to the YC English Department hiring a female professor who believes in group hugs as an integral part of the learning experience.

- Jewish Thought is the range of opinions on topics of Jewish interest, culled from religious Jewish sources modern and traditional, addressed from a basic assumption of halakhic commitment, with the goal of enhancing appreciation of Torah perspectives on a topic. It is *Beit Yitshak*, but for Mahashavah. This model is geared toward those who believe that Judaism is defined by Halakhah, and anything non-halakhic (even if it is not anti-halakhic) is, by definition, non-Jewish. While allowing freedom within the spectrum that halakhic commitment provides, it limits sources to those found within the walls of the *beit ha-midrash* (or, in special cases, on the top floors of the Gottesman library). Issues in this type of journal could be of individual or communal interest, but they would always be addressed from a halakhic perspective. This imaginary *Kol Hamevaser* would probably use *Yeshivish* transliterations (e.g., “Meseches Krisus”), or at least Tsiyyoni American ones (“Masechet Keritot”), rather than academic (“Qūqūqūæq”). The topic of its inaugural issue might be whether or not Stern students can contribute (maybe they can, as long as the pieces are limited to quotes from Humash, Rashi, and *Tse’edah u-Re’edah*), and GPATS would probably school RIETS on that one. Whatever form this model would take, it is probably the ideal that those students with whom Ozar takes issue would

seek to impose. Incidentally, it is also what most of them would like to see from the YC Bible Department, leading to the popularity of Rabbi Angel’s classes.

- Jewish Thought is whatever my Rebbe says. This is the “Daas Toyrah”^{iv} (not to be confused with Da’as Torah [or Da’at Torah, according to personal *minhag*] which is a well-founded Torah concept; perhaps writing “Daas Teyrah”^{vi} instead of “Daas Toyrah” would have been more accurate, though less clear and less phonetically sound) approach which Ozar seems to think the censorship-oriented students take. In his words, he feels that these students maintain that “*Kol Hamevaser* should be forbidden from publishing articles which express ideas at odds with...some perceived definition of Orthodoxy or another.” It is a very limited approach, considering that if “I” do not like what it says, it is wrong (“I” here refers to each person in YU, and there is almost nothing on which even those “I”s who fall within the realm of the halakhically committed will agree). This is a clearly untenable perspective, and I can understand why editors of *Kol Hamevaser* might find it to be a frustrating one to deal with. But I do not think there are many individuals within YU who fall under this rubric.

As stated at the beginning of this piece, *Kol Hamevaser* is free to choose whichever path it wants. Let the *Kol* be *Mevasser* in any form mentioned above, or in any form its editors agree upon. But *Kol Hamevaser* must decide what it is and make that clear if it ever wants to be free from external censorship. Obviously, each system has its challenges, which I have attempted to illustrate. But ultimately *Kol Hamevaser* must choose one path, anthropomorphically tighten its metaphorical belt, straighten its imaginary glasses, and forge ahead, prepared to stand up to whatever obstacles may come. In summary, I adjure *Kol Hamevaser* as Eliyahu ha-Navi adjured the undefined masses of his day: “How long halt ye between two opinions?”^{vii} Or, in English: “Will you make up your mind already?”

Sincerely,
Ariel Caplan, YC ‘11

ⁱ A German Christian theologian. Do not fret – I am not that educated: he turned up on a Wikipedia search for “Weiss.”

ⁱⁱ For those like me whose Latin is a bit weak: this is the plural of “magnum opus.”

ⁱⁱⁱ I.e., a book dedicated to spelling out basic details about, and positions on, particular Torah topics.

^{iv} This transliteration follows the *Yeshivish* pronunciation, where *holam* is pronounced “oy.”

^v This transliteration and the next attempt to reference the concept without the hashkafic variations on the idea implied by *Yeshivish* or *Litvish* pronunciations.

^{vi} This transliteration follows the *Litvish* pronunciation, in which *holam* is pronounced “ey.”

^{vii} *I Melakhim* 18:21. 1917 JPS translation.

EDITOR’S RESPONSE

BY: Alex Ozar

Dear Ariel,

First off, I should say that I enjoyed your article, largely, though not at all exclusively, because it was funny. Obviously, though, I did not write this letter just to congratulate you. I want to stress at the outset that your insinuation that I was in my editorial doing no more than “playing politics” is simply wrong. Now, you characterized my editorial as “framing the debate in pragmatic terms,” a judgment I deem not entirely unreasonable, but nonetheless largely misleading. I quite deliberately eschewed abstract philosophical discussion in favor of bottom-line, pragmatic formulations, partly, or perhaps even largely, because I felt this would result in a more favorable reception. If in so doing I was guilty of mild sophistry, well, would that it were the worst of my sins. I am though not at all convinced that I can be rightfully indicted on even that charge.

There is an important point to be made, and here, I think, lies the fulcrum of our dispute. Whether you meant this as a generalization or as an observation of the particulars of this case, you seemed to assume that pragmatic considerations could not themselves be moral, philosophical, and theological ones as well. However, my pragmatic considerations, questions of what is and is not feasible, are, in fact, predicated on and expressions of a philosophical and moral system. If we are going to use the word “feasible,” the question is not, “What can I feasibly publish and get away with politically?” but rather, “What can I feasibly publish and not violate my conception of a virtuous *Kol Hamevaser*?”

As you noted, I explicitly formulated a

“The real issue, I believe, is determining what the magazine’s purpose is and should be, and what role it plays in its communal, moral, and religious framework.”

principle which I intended not only as a guide for *Kol Hamevaser* in its practice, but as an essential component of its character. The initial sentence of the second paragraph reads: “*Kol Hamevaser*’s mission, as I see it, is to facilitate open, intelligent and productive dialogue on issues of Jewish thought of relevance to the YU community.” I believe *Kol Hamevaser* should produce a net gain, both qualitative and quantitative, in the Jewish thinking of its readership. And here, though I hesitate, I will add something more: I believe *Kol Hamevaser* should produce a net gain, both qualitative and quantitative, in the *yir’at shamayim* of its readership. What precisely these sentences and the terms they contain mean is highly unclear. Get over it. Rigorously and exactly detailed guidelines are simply not pragmatically feasible. And from a moral, philosophical, and theological perspective, I doubt they are desirable. I do, though, think they are meaningful, and I can tell you from experience that they are also

helpful.

Now, you claim that my two limiting criteria on acceptable publication “contradict my stated goal of expressing what I believe *Kol Hamevaser* should and should not publish.” This is wrong. Articles which are overly offensive or which discuss matters too far from our community’s mindset may fail to produce a net gain in the Jewish thinking and *yir’at shamayim* of *Kol Hamevaser*’s readership, or, in my original formulation, they may fail to be “productive.” Either way, the point is that their publication would be inconsonant with what I believe to be the moral, theological, and philosophical character of the magazine. I should add that this was perfectly explicit and transparent in my editorial, where the statement of the limiting conditions included repeated references to “productivity,” and so, too, in my formulation of *Kol Hamevaser*’s mission. In stating what, in my opinion, *Kol Hamevaser* should do, I was no less stating what *Kol Hamevaser* fundamentally is and that in a manner far more central and vital than merely defining its subject matter.

What Jewish Thought does and should mean is certainly interesting, but in this context it seems to me ancillary. Publishing articles on topics outside the bounds of Jewish Thought, even if they are unambiguously so, would be no great offense; I doubt including an article on the physics of lawn bowling, Spinoza, or even Spinoza’s Physics would arouse condemnation. Conversely, it is surely not the case that a magazine’s rigorous adherence to its declared subject matter is sufficient to ensure felicitous publication; just imagine if *Kol Hamevaser* were the YU Student Body’s Official Magazine of Vitriolic Heresy and Sacrilege. The real issue, I believe, is determining what the mag-

azine’s purpose is and should be, and what role it plays in its communal, moral, and religious framework. This is true in general; our evaluations – moral, religious, aesthetic, or whatever – if they are to be done well, must give regard not only to the immediate identity of the thing in question, but also to its place in the broader evaluative framework. I hope to elaborate on this idea one day, perhaps, assuming it proves morally, philosophically, theologically, and pragmatically feasible, in a *Kol Hamevaser* article.

I want to reiterate that, notwithstanding these criticisms, I honestly liked your letter and feel it contains valuable insight. I also want to thank you for engaging in dialogue on an important issue, and for the opportunity to more clearly and fully express my thoughts

Sincerely,
Alex Ozar ‘10
Editor Emeritus, *Kol Hamevaser*

MUSAR AND JEWISH ETHICS

LEARNING TO SPEAK ABOUT THE ELEPHANT IN THE ROOM

BY: Dr. Moses L. Pava

Rabbi Israel Meir ha-Kohen Kagan was born in Poland in 1838. Although his name is not well known, his book, the *Hafets Hayyim*, a compendium of Jewish laws aimed against *lashon ha-ra* (literally, evil tongue), has had a huge and lasting impact on Jewish attitudes towards unfair gossip and slander. The book became so popular among traditional Jews that Rabbi Kagan himself is usually referred to not by his own name, but by the name of his monumental work. As a result of the *Hafets Hayyim*'s popularity, the prohibition against *lashon ha-ra* has become a subject of much attention in the Jewish community today.

When it comes to appropriate speech, no one wants to promote more *lashon ha-ra* or slander. However, I suggest, against today's accepted opinion, that our focus on, and even our obsession with, *lashon ha-ra* in Jewish life may now be doing more harm than good.

Ours is a society that depends on open dialogue and ethical criticism. The lifeblood of democracy and a vibrant community, be it here in the Diaspora or in Israel, is the ability to communicate and express oneself without the

“I suggest, against today's accepted opinion, that our focus on, and even our obsession with, *lashon ha-ra* in Jewish life may now be doing more harm than good.”

fear of intimidation or retaliation. Political and organizational leaders, and even military leaders, must be accountable to citizens. Powerful institutions owe stakeholders legitimizing explanations about their behavior and its effects.

Appropriate speech demands, as a first principle (*le-ka-tehillah*), that we participate actively in conversations centered on ethical, political, aesthetic, scientific, spiritual, and social concerns. We must learn to listen to one another with increased openness. We must learn how to give voice responsibly to our opinions in an honest and non-strategic manner. Just as the Bible warns us against tale-bearing and slander, so, too, does it command us to engage in moral rebuke, or *tokhahah*.¹ Finally, the kinds of dialogues that I am imagining require a deep respect for one another. This implies concern and care for others, but it also demands a heightened toleration and appreciation of differences. Although the commandment to love the stranger² has been on the books in Judaism from time immemorial, its salience and urgency have never been greater.

In promoting dialogue, I am not encouraging the kinds of shrill and shallow game-like debates that fill the airwaves, but I am suggesting that we learn how to sit down and reason with each other in new and more mature ways.

This requires an openness to one another and a willingness to learn and to change. The goal is not only a change in action, but also a growth in consciousness, a new way of looking at ourselves. This means that we must expand and sharpen the vocabulary of Torah. In order to equip the next generation to meet the demands it will inevitably face, we need to pass on to it a living and breathing tradition responsive to the real world.

In the *Shema* prayer, we are bidden to diligently teach our children the words of Torah, including love for one's neighbor³ and laws of ethical behavior, and to “speak of them when you sit down in your house and when you walk on the way, and when you lie down and when you rise.”⁴ Such positive speech is at the heart of the Jewish ethical vision. But the subjects of these dialogues, grounded in Torah values, must move beyond parochial concerns and be opened up to include a broad array of perspectives on today's most salient issues and problems, like the meaning of sustainability, the risks of global warming, unfairness of income and wealth inequalities, ethical limits of science, availability of healthcare, rampant ethical failures in business, and what it means to

live a spiritual life, a life of integrity and community (to name just a few).

In every class I have attended or in every book I have read on *lashon ha-ra*, the topic of appropriate speech is always introduced with a long list of ‘thou shalt not’s. Towards the end of the class or the book, the speaker or author adds on, seemingly almost as an afterthought, “Of course, there are exceptions when *lashon ha-ra* is permitted and perhaps even required. In such situations, always consult with a rabbi.” While this approach may or may not have been appropriate at other times in Jewish history, it is now anachronistic. What happens, for example, when it is the rabbi himself who is the problem?

Imagine for a moment optical illusions like the one that features an old woman and a young girl. When looked at from one perspective, the drawing looks like an old hag with a wart on her nose. The identical drawing, however, when looked at from a second perspective, looks like a young, attractive woman with her face tilted away from the viewer. Our perceptions depend on how our minds interpret and distinguish the figure from the background.

I am calling for a similar but self-conscious kind of mind-shift when it comes to our

understanding of appropriate language. Appropriate language is, first and foremost, a positive *mitsvah*. We have an obligation and a responsibility to one another to engage in dialogue, to learn from everyone,⁵ to report facts as we see them, and not to muddle truth for personal gain (*mi-devar sheker tirhak*).⁶

“And God said, ‘Let there be light,’ and there was light.”⁷ It is through language that God and we create worlds together. Language is the way we express our deepest thoughts and desires to one another. It is with words that we study and learn. Speech is the bridge that connects us to one another. It is finally time to re-

If we are to err here, it should be on the side of more and better disclosure. Advocating ever-higher standards for *lashon ha-ra* is often a reactionary form of passive-aggressive behavior.

conceive *lashon ha-ra* as merely a side-constraint on the more fundamental obligation of positive communication, and not as a central aim of Jewish ethics in and of itself.

Our Jewish day schools, if they are to remain relevant, should aim to give students the skills to communicate precisely and to express themselves creatively as a foundational goal. A day school I am familiar with threatened to expel a student if he did not take down a YouTube video he made that was critical of the school's Hanukkah play. This sixth grader should have been lauded and praised for his creativity and his ability to express himself with honesty and humor. Instead, this student was harassed by teachers, publicly reprimanded in front of the entire school, threatened, and reminded about the laws of *lashon ha-ra*. (And the intended lesson to the student was what, again?)

While this is a simple example, it is a poignant one that demonstrates one of the most unfortunate aspects of our obsession with *lashon ha-ra*. It is a principle of law that can be invoked inappropriately by those in power and with authority just as easily as it can be used appropriately. When it comes to *lashon ha-ra*, authorities often self-select in a way that promotes their own interests and not necessarily the interests of the Jewish community at large. I believe there is as much hypocrisy surrounding *lashon ha-ra* as there is real soul-searching.

Do newspapers in Israel and Jewish newspapers in the US have a responsibility to investigate and report on allegations made against the Israeli army? Can we as a community tolerate dissension even in times of war? When we call such reporters self-hating Jews, do we strengthen community and enhance democracy, or do we squash real and legitimate communication? I was told once by a former Israeli soldier that, when it comes to survival, we must always trust those in charge. Might not this be a recipe for disaster?

Similarly, when leaders do not report sexual abuse in their organizations to the appropriate authorities for fear of what non-Jews will do and say, should we play the *lashon ha-*

ra card again? And, more importantly, should the rest of us tolerate such obfuscation? These decision makers often neglect the fact that one is required to engage in *lashon ha-ra* when there is a *to'elet*, or social purpose. We are taught that we are all responsible for one another (*kol Yisrael arevim zeh la-zeh*).⁸ This is a deeply democratic sentiment, but one that demands open channels of communication and the courage to blow the whistle when appropriate.

Last year, a spokesperson for Agudath Israel complained publicly at Yeshiva University that anyone promoting new efforts in *kashrut*

standards as a direct response to Agriprocessors' alleged illegal business practices is engaging in slander, or *motsi shem ra* (*lashon ha-ra*'s more notorious first cousin). I would suggest that this is a knee-jerk reaction and not a defensible ethical position under the circumstances and given the evidence that was publicly available at the time. Similarly, when a Rabbinical Council of America rabbi called for an independent investigation of the Orthodox Union's handling of the Agriprocessors affair, publishing his comments in the *New York Times*, he was vilified online, and at least one well-known rabbinic colleague of his openly and publicly questioned this rabbi's character.

I interpret these kinds of broad criticisms as intimidation tactics meant to protect the powerful, wrapped in the cloak of false sincerity and pious platitudes. The elephant is in the room, and we are ordered in so many different ways to block our eyes and ears and keep our mouths shut.

Today, religious and secular ethicists recognize the importance of transparency. If we are to err here, it should be on the side of more and better disclosure. Advocating ever-higher standards for *lashon ha-ra* is often a reactionary form of passive-aggressive behavior. Warnings against *lashon ha-ra* play on our deepest fears surrounding the almost magical power of words. In the guise of ethical propriety, those who demand silence in the face of wrongdoing in fact become accessories to the crime.

My suggestion here to shift our focus away from *lashon ha-ra*, no doubt, entails some risk. If we choose to give each other more latitude to voice our real opinions and to speak truth to power, we will necessarily have to develop thicker skins and a greater ability to forgive one another when we inevitably exaggerate and make false claims. Those advocating a zero-tolerance policy for *lashon ha-ra* seem to think that we are the most delicate of creatures, incapable of surviving mere whippers, and unable to tolerate criticisms aimed against us. For the sake of the long-term benefit of open dialogue, we need to challenge and carefully test these assumptions.⁹

MUSAR, RELIGIOUS GROWTH, AND *TESHUVAH*

BY: Mordechai Shichtman

Teshuvah – A Long Process;

Musarⁱ – A Long-Term Investment

“Do not say that *teshuvah* only applies to sins which consist of an action such as licentiousness, theft, or robbery. Just as one must repent from these, so, too, he must search out faulty character traitsⁱⁱ in his possession and repent from them, from anger, hatred, jealousy, mockery, pursuit of money and honor and pursuit of food, and the like – from all of these one must return in repentance.”ⁱⁱⁱ

One of the central themes within R. Shalom Wolbe’s writings is that planting values is a fundamental educational process.^{iv} Just as a farmer plants seeds in the ground and, after the passage of time, the seeds sprout and plants develop, so does an educator plant seeds of proper character traits or love of Hashem in his or her students, which, over time, may sprout, leaving the student transformed.

“Mussar study – whether a lot or a little – elevates a person above his peers, both in thought and conduct.”

(This is true whether one is affecting another student or one is teaching oneself.) It follows that religious growth and development of proper character traits often do not occur instantaneously but rather through a lengthy but deliberate process.

Numerous proofs for the idea that authentic religious growth often requires time can be cited from Hazal and the Rishonim. The most explicit sources are charts of religious development, such as those of *Avot* 6:2 and R. Pinchas ben Yair in *Avodah Zarah* 20b; the progression within R. Bahya ibn Pekudah’s *Hovot ha-Levavot*;^v or R. Avraham ben ha-Rambam’s steps in *Ha-Maspik le-Ovdei Hashem*.^{vi} R. Wolbe brings a particularly interesting proof from the comment of Ramban to Deuteronomy 6:13:^{vii}

“...At all times, you should be like an owned servant, who constantly serves his master, making his master’s work primary and his personal needs secondary, until from this

“Since it is impossible to find a work which will discuss all the possible situations which may occur in life, especially in these areas of *hovot ha-levavot*, we must all be our own *posekim*.”

you come to that which [our Sages] said, “All your deeds should be for Heaven’s sake” (*Avot* 2:12) – that even your bodily needs are for the sake of God’s service: eating, sleeping, and performing bodily needs in order to sustain the body to serve God.”

In other words, from a prolonged attempt to make God’s commandments the dominating feature in one’s life, one should come to some level of performing all actions only for Heaven’s sake. R. Yisrael Salanter, the founder of the Musar Movement, elaborates on the effects that seeds planted by learning Musar^{viii} can have on an individual:

“Let a person’s heart not despair if he studies Mussar and is not awakened or if he feels no

impression on his soul motivating him to change his path. It is known with certainty that even if the physical eye does not perceive the impression, the eyes of the intellect nevertheless, perceive it. Through an abundance of Mussar study over an extended period of time, the hidden impressions will accumulate, and he will be transformed into a different person. Experience testifies even through a cursory observation, that Mussar study – whether a lot or a little – elevates a person above his peers, both in thought and conduct.

Our Sages allude to this concept in Avos D’Rebbi Nosson, where we read (chapter six):

“What was the beginning of Rebbi Akiva?

It is told that at the age of forty, he had learned no Torah whatsoever. Once, while standing next to a well, he queried, “Who chiseled this stone?”

They responded to him, “The water that continuously falls on it every day.”

Immediately, Rebbi Akiva reasoned: “If that which is soft carves into that which is hard, then all the more so, the words of Torah, which are as hard as iron, will penetrate into my heart, which is flesh and blood!” Immediately, he returned to study Torah...^{ix}

Let a person pour abundant water upon his soul by engaging in Mussar study. Slowly and imperceptibly, impressions will be generated within his heart that will guide him to the path of life...^{ix}

In *Hilkhot Teshuvah* 7:3, Rambam demands a great deal from us when he says we must perfect our character. How exactly do we go about developing proper character traits? If we study Musar properly, R. Salanter assures us that, over time, it will transform us and effect repentance and proper religious growth.

Awe of Hashem is Wisdom and Wisdom Requires Analysis

“And you should know today and emplace it in your heart...” (Deuteronomy 4:39)

As illustrated by Deuteronomy 4:39, where we see that one must first “know” and then have it “emplace[d] on the heart,” there are two stages in learning Musar: intellectual analysis and internalization.^x Just as it is necessary to learn Gemara *be-iyun*, one must learn Musar *be-iyun*. But why is this so – why is it not sufficient to simply read Musar works or Aggadeta passages? I believe there are four reasons for why we must learn Musar in-depth: If one does not learn *be-iyun*, the statements

themselves will often not make sense; one will not know the underlying principles and thus will be unable to apply Musar concepts in new circumstances; one will find the study bland and tasteless and eventually will discard it; and, perhaps most important of all, without learning *be-iyun*, Musar may not help us.

Just as when one learns a page of Gemara quickly one is left with many scattered points which simply do not make sense (and if the *daf* does make sense after a quick reading, it may be because one did not think about what the Gemara was saying when he was actually learning it), Musar and Aggadeta often mean little when read superficially. And just as in learning Gemara, arriving at the *peshat* in a *sugya* may require discerning between and formulating very precise logical distinctions, the same is true of Musar.^{xi} Ramhal writes:

“And behold, the verse says: ‘Behold [hen], awe of Hashem is wisdom’ (Job 28:28) and our Rabbis of blessed memory said: ‘Hen [in this verse] means “one” since *hen* in Greek means “one”’ (*Shabbat* 31b). Behold, awe is wisdom and it alone is wisdom, and certainly a subject lacking the need for analysis would not be referred to as wisdom. Rather, the truth is that incredible analysis is required on all these matters to understand them in truth, and not from the perspective of one’s imagination or false reasoning. [And] all the more so [analysis is needed] to acquire and achieve them.”^{xii}

It follows that just as one must toil and review to deeply understand a *sugya* in Gemara, so must one do so when studying Musar.^{xiii}

Legal reasoning, *sevara*, is an integral part of Halakhah, for without *sevara*, one would be unable to address halakhic questions which are not explicitly discussed. This is true in the area of Musar and *Hilkhot De’ot* as well. Since it is impossible to find a work which will discuss all the possible situations which may occur in life, especially in these areas of *hovot ha-levavot*, we must all be our own *posekim* – we need to learn Musar *be-iyun* to be able to

apply the Torah’s values to our unique personalities and life circumstances.^{xiv}

Each day we request from Hashem that Torah be sweet in our mouths.^{xv} Although we do not learn Torah because of ephemeral feelings such as love or pleasure but rather because we are obligated to learn, feeling the *arevut ha-Torah* (sweetness of Torah) is still very significant and many of us achieve this in our *amelut* (toil) while learning *be-iyun*. Feeling *arevut* in Musar is important, too, and perhaps the reason why many who have tried, failed to get into learning Musar is that they never learned it *be-iyun* and thus found Musar study to be a meaningless endeavor.^{xvi}

Finally, understanding Musar and Ag-

Lashon ha-ra is wrong when it is merely hurtful gossip with no positive function.⁸ This holds even when the content is true. Slander, the purposeful communication of false information intended to damage, is even worse. But to use these time-honored Jewish values to promote the interests of the powerful and well-placed against the needs of the worst-off members of society is a common contemporary sin with great allure and worldly returns. It is precisely here that we should keep our focus and avoid letting others, even our leaders, teachers, and rabbis, change the subject.

‘*Hafets hayyim*’ literally means ‘a lover of life.’ Would the Hafets Hayyim have written the same book if he were alive today? As a lover of life with all of its sacred messiness, I think not. His was a very different historical period, with its unique circumstances and problems.^{xi} Our task today is not to echo 19th century wisdom, but is rather to return to the deepest strands in our tradition to help us understand and solve our own contemporary ethical crises.

There is both a need and deep hunger for authentic Jewish ethics. We fool ourselves, however, if we think ethics come pre-packaged: “Read this book, speak with this rabbi, go to this lecture.” In the real world, it does not work this way. It is time to start speaking, teaching, and doing ethics in a new key.

Ethics is not a spectator sport. Jewish ethics come alive only when together we begin to openly discuss those issues that matter most to us. It is deeply ironic that an important Jewish value like *lashon ha-ra* is misused (and in some cases, knowingly misused) by so many to hamper this important work so crucial to our community’s long-term health and survival. The elephant is already in the room and the call of the hour is to learn how to say so with unapologetic force, precision, and respect.

Dr. Moses L. Pava is the Alvin Einbender Professor of Business Ethics at SSSB.

ⁱ Although it is written in the Talmud (*Arakhin* 16b) that in our time no one knows how to give *tokhahah* properly, I would argue that we must at least engage in self-criticism on a communal level, as, for example, I attempt to do in this paper. See my forthcoming paper, “The Art of Moral Criticism: Rebuke in the Jewish Tradition and Beyond,” in *Judaism and Economics*, ed. by Aaron Levine (Oxford: Oxford University Press).

ⁱⁱ Deuteronomy 10:19.

ⁱⁱⁱ Leviticus 19:18.

^{iv} Deuteronomy 6:7, emphasis added.

^v E.g. Ethics of the Fathers 4:1.

^{vi} Exodus 23:7.

^{vii} Genesis 1:3.

^{viii} *Shevu’ot* 39a.

^{ix} The suggestion here is that the application of Halakhah should be different in our changing world (and that we have to entertain new ideas in this context), not that Halakhah itself should change.

^x *Hafets Hayyim*, *Kelal* 10.

^{xi} For example, exposing problems within the Jewish community might have led to violent expressions of anti-Semitism in his time.

gadeta deeply is not only a means to achieve “*Ve-yada’ta ha-yom*,” to “know,” but it is also essential in “*ve-hashevota el levavekha*,” in internalizing the Torah’s values. This internalization is primarily accomplished through *hitbonnenut*, contemplation. R. Wolbe elucidates *hitbonnenut* as follows:

“‘Contemplation’ is one of the great secrets of the Torah. This is how it was explicated by Ramhal (R. Moshe Hayyim Luzzatto) in his work, ‘*Derekh Ets Hayyim*:’

“See now that both of them – the human mind, and the Torah which enlightens it – are of the same character. ‘Torah is light’ (Proverbs 6:22) – actual light, not mere wisdom. The Torah is also compared to fire, for all its words and letters are like coals, in that when left alone they may appear to be only somewhat dim coals, but when one begins to engage them they ignite. This is what characterizes the human mind as well, for its power of great understanding causes it to glow with the force of contemplation. Therefore it is an obligation incumbent upon the individual, to make himself into a contemplative individual.”

Why was the intellect only created in potential [and does not begin with its true strength]?

“And if knowledge was vast and on humans’ hearts, they would never sin; indeed, the evil inclination would not even be close to them or rule over them. But because God wished that a human have an evil inclination... therefore, humans contain the knowledge [required to defeat the evil inclination] but it [the knowledge] is closed like coals, although it can spread like a flame [through contemplation], and the choice is within Man’s hands.”

Behold, the necessity of *hitbonnenut* is one of the foundations of Creation because this is the means to actualize our intellect, and the more a human’s intellect is strengthened and spreads out, the more it negates the evil inclination. The Torah shares the characteristics of our mind, and contemplating [Torah] reveals actual light. The difference between ‘light’ and ‘wisdom’ is that ‘light’ is a [level of] knowledge that negates the evil inclination, and ‘wisdom’ is a [level of] knowledge which is incapable of negating the evil inclination...

This explains what is found in the introduction to *Mesillat Yesharim*, that “the better-known these things are and the more the truths [of Musar] are obvious to all, so do we find them being ignored and forgotten.” The reason for this is: since these facts are so widely known, contemplation of them is lacking, and therefore they lack the character of “light,” and are only “wisdom,” which means that their influence is hardly felt and

they are largely forgotten! ... This, then, is the work of Musar, to renew contemplation and through it, transform knowledge into light. We may know about Providence, but this knowledge has no light. We may know what our duty is in this world, but this knowledge has no light. Contemplation turns knowledge into light...”^{xvii}

“We should view the teachings of authentic sources of Musar and *Hilkhot De’ot* as *halakhah le-ma’aseh* and do our best to embody their lessons in all that we do.”

When our knowledge of Torah and Musar is only “wisdom,” we have not yet internalized it and, as such, that knowledge does not help us combat our evil inclination, just as dim coals do not really provide light or warmth. Through contemplation, a form of analysis, we are able to internalize the Torah we already know intellectually, transforming it into “light” and thus bringing us closer to the ideals and values espoused by our Torah, to the level where Torah is firmly planted in our hearts.

Living Musar

“R. Yishmael son of R. Yosei said: “One who learns Torah in order to teach will be provided with the ability to learn and teach, while one who learns in order to practice will be provided with the ability to learn, teach, safeguard, and practice” (*Avot* 4:5).

We saw that when our Torah knowledge reaches the form of “light,” it aids us in combating our evil inclination. But what exactly is the difference between Torah in the form of “light” and Torah in the form of mere “wisdom?” One significant difference is an awareness of specific details. While *lomdus* often concerns itself almost exclusively with the *kelalim*, the fundamental underlying principles, Musar requires one to both formulate the underlying principles and to see the myriad applications and ramifications of the principles in one’s life. While *lomdus* involves looking at many *peratim* and formulating a *kelal*, Musar often requires us to look at a seemingly simple statement (for example, “*tinaheg tamid le-dabber kol devarekha be-nahat le-kol adam*”) and to discern the *peratim*, the statement’s applications in one’s life.^{xviii} This form of learning, where one is always looking for the practical applications of general principles in different situations, may be an understanding of what Hazal mean when they say that one should learn in order to perform.^{xix}

From this perspective – that learning Musar involves taking general rules and working out their various applications – one can certainly argue that the study of Musar is not defined by studying classic Musar texts such as *Mesillat Yesharim* or *Hovot ha-Levavot*, but rather by a certain mode of study, one which seeks to have us internalize and apply Torah in our lives.^{xx} Thus, any authentic source of Torah values, from Ramban’s commentary on the

Torah to R. Soloveitchik’s *The Lonely Man of Faith*, can be a Musar text if we approach it in this manner and strive to live by and apply its teachings in our lives. We should view the teachings of authentic sources of Musar and *Hilkhot De’ot* as *halakhah le-ma’aseh* and do our best to embody their lessons in all that we do.^{xxi}

Conclusion

This article discusses the slow nature of religious growth and how Musar facilitates it and claims that Musar must be studied *be-iyyun* and with an eye to practical application in order to be properly appreciated. The piece was not intended to serve as an introduction to Musar nor to argue that it should be learned by everyone but was rather meant to help individuals who wish to learn Musar get started. Because this is not an introduction, I omitted discussions of important concepts such as self-knowledge and *hitpa’alut*.^{xxii} I hope that the reader will find this article a valuable resource which will give rise to a deeper understanding of *avodat Hashem*. May we all merit a sweet new year.

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dous source of Musar, each word filled with humility and dedication to Torah. Similarly, “R. Yohanan said: Had the Torah not been given, we would have learned modesty from the cat, [the prohibition of] theft from the ant, [the prohibition of] forbidden relationships from the dove, and the proper method of conjugal relations from fowl” (*Eruvin* 100b). For a discussion of deriving Musar from different sources, see *Alei Shur*, vol. 1, pp. 137-139; vol. 2, pp. 192-194, 272-273.

^{ix} R. Yisrael Salanter, *Ohr Yisrael: The Classic Writings of Rav Yisrael Salanter and his Disciple Rav Yitzchak Blazer*, trans. by R. Zvi Miller (Southfield, MI: Targum, 2004), letter 10. Translation from a personal communication.

^x R. Eliyahu Dessler, *Mikhtav me-Eliyahu* (Jerusalem, 1963), vol. 1, pp. 218-222; *Alei Shur*, vol. 1, pp. 88-91; *ibid.*, vol. 2, pp. 163-168; *Bi-Levavi Mishkan Evneh*, vol. 3, pp. 101-103.

^{xi} R. Itamar Schwartz’s shiur, available at: mms://go.shidur.net/bilvavi

^{xii} Introduction to *Mesillat Yesharim*.

^{xiii} Just as it is often not advisable to learn a *sugya* in depth for only fifteen minutes, the same may be true for Musar and a longer stretch of time may be needed to study Musar in-depth. One who cannot spare this time every day may want to instead try setting aside once a week (perhaps on Shabbat) an hour to learn Musar *be-iyyun*.

^{xiv} Above, n. 12.

^{xv} “Blessing over the Torah.”

^{xvi} Above, n. 12.

^{xvii} *Alei Shur*, vol. 1, pp. 89-90; translation partially based on that of R. Elyakim Krumbein, available at: <http://vbm-torah.org/archive/mus-sar/11salant.doc>. See also *Mikhtav me-Eliyahu*, op. cit., pp. 220-221, where R. Dessler quotes from Rabbeinu Yonah’s *Sha’arei Teshuvah* 2:25. Additionally, see *Alei Shur*, vol. 1, pp. 144-145. R. Wolbe’s comments there are very crucial for understanding exactly how we repair negative character traits and are strikingly similar to cognitive therapy. Since our actions are founded on our intellectual view of the world – for example, an angry person may believe that anger is an effective means of persuasion – to whatever extent we do not understand the values espoused by Musar works, those values cannot form a basis for our approach to life, and we will, consequently, not adhere to them.

^{xviii} R. Avi Fertig, *Bridging the Gap: Clarifying the Eternal Foundations of Mussar and Emunah for Today* (Jerusalem; Nanuet, N.Y.: Feldheim, 2007), pp. 45-47. See *Bi-Levavi*, vol. 3, pp. 100-102. In *Alei Shur*, vol. 2, R. Wolbe divides the stages into “*Sekhel*,” “*Regesh*,” and “*Hitpa’alut*.” See also *Mesillat Yesharim*, ch. 3, regarding the steps involved in self-accounting.

^{xix} *Avot* 4:5, 6:6. See the comments by the Derishah, cited by the Shakh in *Yoreh De’ah* 256:5. This comment by the Shakh is also quoted in R. Yisrael Meir ha-Kohen Kagan’s

MEHIYYAT AMALEK AND MODERN ORTHODOXY

BY: Eli Putterman

introduction to *Mishnah Berurah*.

^{xx} R. Micha Berger's comment, available at: <http://www.aishdas.org/asp/2008/01/what-is-mussar.shtml>.

^{xxi} Regarding authority of sources and different *shitot* in Musar, see R. Wolbe's *Iggerot u-Ke-tavim* (Jerusalem: Hotsa'at "Hazon," 2005), vol. 1, pp. 67-68 (translation my own; emphases R. Wolbe's):

"But even now I am unable to directly answer his question [regarding] the differences between different opinions [*shitot*] and paths of service, because my teachers, whose souls are in Eden, educated me not to search for the differences between the different opinions. This opinion [of my teachers] is life itself and who is capable of entering into the secret of life to explain it on paper? Each individual should walk in the heels of his parents and teachers and *serve* [*ve-ya'avod*] God with simplicity, provided that he is a student who served [his teachers] sufficiently, that whatever path he [the student] received, he adheres to it with understanding and completeness. And from his own service, he will see what are the differences between him and those serving on other paths, and will also see that *true* servants are extremely close to each other in spirit."

In *Alei Shur*, vol. 2, pp. 141-144, R. Wolbe explains that a path to serve God, formulated and exemplified by a true Torah scholar, cannot be judged from the outside. Rather, only by first receiving guidance from a teacher and following in that path can one judge the path's effectiveness. Additionally, different circumstances require different approaches. [See also *Alei Shur*, vol. 1, p. 170 and R. Yisrael Isser Zvi Herczeg, *Patterns in Rashi* (Southfield, MI: Targum, 2003), pp. 137-138, where R. Herczeg proposes, based on Rashi to *Ketubbot* 57a, that "These and those are the words of the Living God" may mean that each opinion is completely correct in a different situation.]

In a similar vein, R. Wolbe says that we cannot learn authentic Torah sources as abstract "Jewish thought." Instead, while we must study in-depth and with intellectual analysis, we must do so with the goal of walking in the footsteps of these teachings. On this point, see R. Avraham Yitshak ha-Kohen Kook, *Ein Ayah* (Jerusalem: Hotsa'at Makhon al shem ha-Rav Tsevi Yehudah Kook, 1995/6), vol. 1, p. 24.

^{xxii} One seeking such an introduction should ideally find a rebbe for guidance in *avodat Hashem*, or, failing that, should study volume one of R. Shelomoh Wolbe's *Alei Shur* or R. Avi Fertig's *Bridging the Gap*, op. cit.

"I don't believe in western morality, i.e. don't kill civilians or children, don't destroy holy sites, don't fight during holiday seasons, don't bomb cemeteries, don't shoot until they shoot first because it is immoral. The only way to fight a moral war is the Jewish way: Destroy their holy sites. Kill men, women and children (and cattle). The first Israeli prime minister who declares that he will follow the Old Testament will finally bring peace to the Middle East.... Living by Torah values will make us a light unto the nations who suffer defeat because of a disastrous morality of human invention."

Such is the response of Rabbi Manis Friedman of Chabad to the question of how the Israeli Defense Forces should approach a war in which enemy combatants attack from among civilian populations.^{lii}

"The purpose of divine revelation is to create an absolute obligation to act morally, in contrast to human systems of morality which can never transcend the relative."

Who among us Modern Orthodox Jews would not recoil at his statement? No doubt we would immediately protest that every human being is created in the image of God, that the murder of one person is considered as equivalent to the destruction of an entire world. We would immediately cite Maimonides, whose concepts of just war seem more palatable to us than those of Friedman's "Old Testament" denuded of the garment of rabbinic interpretation. We might also offer justifications for our own adherence to Western morality and our belief in its reconcilability with the Torah, though perhaps we would be less confident, realizing that we stand on shakier ground.

And yet, despite our protestations, our arguments and our justifications, the text does seem to be on Friedman's side:

When you draw near to a town to fight against it, offer it terms of peace. If it accepts your terms of peace and surrenders to you, then all the people in it shall serve you in forced labor. If it does not submit to you peacefully, but makes war against you, then you shall besiege it; and when the Lord your God gives it into your hand, you shall put all its males to the sword... Thus you shall treat all the towns that are very far from you, which are not towns of the nations here. But as for the towns of these peoples that the Lord your God is giving you as an inheritance, you must not let anything that breathes remain alive. You shall annihilate them—the Hittites and the Amorites, the Canaanites and the Perizzites, the Hivites and the Jebusites—just as the Lord your God has commanded, so that they may not teach you to do all the abhorrent things that they do for their gods, and you thus sin against the Lord your God.^{liii}

Of course, Palestinians are not pagans, but there is no denying that the Gaza Strip under Hamas exists in a state of war with Israel. The Torah asserts, in this case, the moral validity of exterminating all males of the enemy population. Indeed, the killing of the men, women, and children (and cattle) in the case of the seven Canaanite nations is justified by the consideration of preventing idolatry. No notion of "disproportionate force" or of any need to weigh the value of eradicating idolatry against that of innocent human life qualifies the Torah's license. It is logical to infer that military gain would be no less germane than the prevention of idolatry in justifying the killing of noncombatants.^{liv} This seems to be the logic behind Friedman's position.^v

This text is by no means unique. Myriad examples can be cited where the Torah permits or even commands actions contrary to 21st century Western moral values, or when Biblical

rulings in civil and criminal cases seem unjust on the basis of these values. However, rabbinic law in many of these cases differs from the simple reading of Torah legislation, conforming more closely to moral scrutiny.

In light of this apparent conflict, is it possible to claim that Judaism conforms to morality, particularly the post-Enlightenment liberal variety with which we are familiar? The issue is complex and multifaceted, drawing on several fundamental dilemmas that plague modern Judaism. Obviously, at stake here is the relationship between the divine command and human reason in general and morality in particular. However, the nature of the Oral Law and, more generally, the dialectic between received tradition and creative interpretation, also relates to this question. Rather than systematically and thoroughly discuss the issues, this article will develop and critically examine the positions of several modern Jewish thinkers in the context of their responses to the various issues.

The primary question is of course the moral one. Do humanistic moral considerations have any validity in Judaism, and if so, how is the contradiction between the Biblical and moral laws to be resolved?

Perhaps the boldest answer was offered by Yeshayahu Leibowitz, who completely denies any relation between morality and Jewish law, and indeed often describes humanistic morality as "atheistic," in contrast to the divinely commanded norm of Judaism. Directing particular ire at the Kantian categorical imperative, he asserts that Judaism does not see man as an end in and of himself. Only to God is intrinsic value ascribed, and humanity attains independent worth only in the service of God; mitsvot ought not to be performed because of their coincidence with ethical principles but

because God commanded them.^{vi} One quote will suffice in illustration of his approach:

There is no distinction between 'Love your neighbor as yourself' (Leviticus 19:18) and 'You shall surely erase the memory of Amalek' (Deuteronomy 25:19). As for "Love your neighbor as yourself," its characterization as the ethic of Judaism is none other than a heretical falsification of the Torah.^{vii}

Leibowitz's philosophy offers a comprehensive, unabashedly exclusivist solution to the moral issue. However, his dismissal of morality cannot sit well with devotees of Torah u-Madda who affirm the ability of human reason to discover truths of religious worth – the moral realm not excluded.

On the other end of the spectrum, Eliezer Berkovits sees Halakhah not as indifferent to morality but as teleologically subordinate to it; as his editor David Hazony put it, for Berkovits Halakhah is "merely one reflection of a set of

higher moral principles."^{viii} The purpose of divine revelation is to create an absolute obligation to act morally, in contrast to human systems of morality which can never transcend the relative. In response to the obvious question that Torah law contains many commandments having no ethical content, Berkovits explains the purpose of ritual law as training the naturally amoral body in self-denial and imparting a natural "appetite for goodness" which helps subordinate the body to the ethical law.^{ix}

Central to Berkovits's philosophy is his conception of the Oral Law. The purpose of the law is the governing of human society according to certain moral "Torah values," but no fixed, written law can represent the perfect embodiment of these values in every situation. As such, the oral tradition represents the flexibility and evolutionary capacity of the law, ensuring the proper application of eternal values to changing times.^x In support of this thesis, Berkovits compiles numerous examples of cases where rabbinic tradition limited or even disregarded Biblical laws due to ethical considerations.^{xi}

While this approach is compelling *a priori*, Berkovits did not devote time to refuting the potential problems with his conception of Halakhah, the most difficult of which is certainly the fact that certain Torah laws seem not merely irrelevant to, but in conflict with moral norms. Though Berkovits would certainly have argued that rabbinic tradition recognized this in denying the practical applicability of these laws or reinterpreting them to remove the moral problems, he would nevertheless have to uphold the moral validity of these laws at the time of the giving of the Torah. Yet Berkovits is silent on this issue.

As these two radical positions have been

found wanting, let us turn to the *einei ha-edah* of our own camp, Rabbi Norman Lamm^{xiii} and Rav Aharon Lichtenstein.^{xiii} They attempt to articulate a Modern Orthodox response to the question from a more traditionalist perspective on the nature and purpose of Halakhah.

R. Lichtenstein neither offers apologetics nor engages in legal analysis. After offering the

“In the end, the Modern Orthodox response must ... leave the matter as *tsarikh iyyun* while maintaining a firm belief in both the divinity of the Torah and the justice of the Divine.”

license to wrestle with God’s command and attempting to harmonize law and morality, he unequivocally states that “however much I wrestle, I do not for a moment question the authenticity or the authority of the *tzav*.”^{xiv}

R. Lamm’s analysis is more thorough, offering a detailed exposition of the moral quandary as well as of the parameters of the commandments to destroy the seven nations and Amalek. His presentation of a ruling of Maimonides, without precedent in Talmudic literature, which significantly limits the scope of the moral problem, is especially significant in this regard.^{xv}

Neither Maimonides nor R. Lamm, though, can completely eliminate the moral problematics of these mandated wars. As such, R. Lamm goes on to posit the notion of a developing morality in Judaism, “new moral notions that surpass those of the past,”^{xvi} such that the extermination of the seven nations and Amalek may be considered immoral now despite the fact that it would not have not been considered unusually cruel when the commandment was relevant.

Of course, this flies in the face of Orthodoxy’s belief in the eternal truth and perfect justice of the Torah. So R. Lamm retreats somewhat, arguing instead that when humanity achieves a higher moral standard, it must in fact have been latent in the Torah to begin with. However, R. Lamm warns against overreaching in attempting to locate Biblical sources for every current in the contemporary moral *Zeitgeist*, arguing that this process must be left in the hands of halakhic decisors. Finally, he offers an apologetic for the original commandment to destroy Amalek based on the principle of reciprocity: since Amalek attacked Israel’s weak, Israel had to respond brutally so as not to open the door to further savage attacks by its neighbors.

R. Lamm’s solution to the moral problem combines apologetics with a position on moral development very similar to that of Berkovits. On the other hand, R. Lamm views the task of the modern interpreter somewhat more restrictively: While Berkovits advocated engaging in the process of “moral reinterpretation” of the Written Torah as did the rabbis of the Talmud, R. Lamm, in contrast, views the Oral Law itself as part of the bindingly authoritative backdrop against which we evaluate our own ideas rather than a work whose task we continue.

However, R. Lamm’s apologetic – the only authentic way to confront these texts from

a Modern Orthodox perspective – is difficult to accept. First of all, it applies only to the Amalekites, not to the seven nations of Canaan. Secondly, it fails to accord with the text: the commandment to eradicate Amalek in Deuteronomy 25:19 is to be fulfilled only after Israel is at peace (or an armistice) with its neighbors, long after the original attack oc-

curred, which is not consistent with a retaliatory measure meant to prevent other nations from repeating Amalek’s assault. Thirdly, the rationale simply seems too weak to justify wholesale slaughter – would not a sound military defeat of Amalek have sufficient deterrent effect? While R. Lamm, with R. Lichtenstein, recognizes the need for apologetics,^{xvii} his solution is less than airtight, to say the least.

In the end, the Modern Orthodox response must be R. Lichtenstein’s: leave the matter as *tsarikh iyyun* while maintaining a firm belief in both the divinity of the Torah and the justice of the Divine. For all this, though, Rabbi Friedman’s confident voice, echoing in our conscience every time we read *Parashat Zakhor*, remains profoundly unsettling.

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ⁱ Manis Friedman, “Ask the Rabbis,” *Moment Magazine* (May/June 2009). Available at: http://www.momentmag.com/Exclusive/2009/2009-06/200906-Ask_Rabbis.html (Accessed 1 September 2009).

ⁱⁱ As originally posed by *Moment Magazine*, the question was: “How should Jews treat their Arab neighbors?” In a later statement distributed by Chabad, Rabbi Friedman clarified that he was answering the question of wartime conduct in a situation where attacking a military objective will harm noncombatants or religious sites.

ⁱⁱⁱ Deut. 20:10-18. Translation taken from the New Revised Standard Version.

^{iv} This cursory analysis of the Torah’s view on the killing of noncombatants on the basis of external considerations according to *peshuto shel Mikra* happens to agree with Halakhah. See Michael J. Broyde, “Just Wars, Just Battles, and Just Conduct in Jewish Law: Jewish Law Is Not a Suicide Pact!” in Lawrence Schiffman and Joel B. Wolowelsky (eds.), *War and Peace in the Jewish Tradition* (New York: Yeshiva University Press, 2007), pp. 1-43.

^v The alternative is to assume that Rabbi Friedman considers the Israeli-Palestinian conflict as legally equivalent to a war against the seven nations, an even more extreme stance which is the position of the Kahanist movement.

^{vi} Yeshayahu Leibowitz, “What is the Difference Between the Principles of Judaism and Universal Values?” *Judaism, Religion, and the Jewish State* (Hebrew) (Jerusalem: Schocken Press, 1979), pp. 308-311. Eliezer Goldman has pointed out that Leibowitz, unlike some thinkers, does not espouse halakhic totalitarianism, and leaves room for moral considerations to dictate human behavior in the area of *devar reshut*. Indeed, his harsh moral critique of the State of Israel’s policies aroused great controversy. See Eliezer Goldman, “Religion and Morality in the Thought of Yeshayahu Leibowitz” (Hebrew) in Avi Sagi and Daniel Statman (eds.), *Between Religion and Morality* (Ramat Gan: Bar-Ilan University Press, 1993), pp. 107-114.

^{vii} Leibowitz, p. 310.

^{viii} David Hazony, “Introduction,” in *Essential Essays on Judaism* (Jerusalem: Shalem Press, 2002), p. xviii.

^{ix} Eliezer Berkovits, “Law and Morality in Jewish Tradition,” in *ibid.*, pp. 4-39.

^x *Idem.*, “Conversion Standards and the Decline of the Oral Law,” in *ibid.*, pp. 89-102, esp. pp. 96-97. It was Berkovits’ call for renewed boldness and creativity in *pesak* that led him to be described as a halakhic radical. See Shalom Carmy, “Eliezer Berkovits’s Challenge to Contemporary Orthodoxy,” *Torah Umadda Journal* 12 (2004): 192-207.

^{xi} *Idem.*, “The Nature and Function of Jewish Law,” in *Essential Essays*, pp. 41-87.

^{xii} Norman Lamm, “Amalek and the Seven Nations: A Case of Law vs. Morality,” in *War and Peace*, pp. 201-238.

^{xiii} Aharon Lichtenstein, “Being Frum and Being Good: The Relationship Between Religion and Morality” in *By His Light: Character and Values in the Service of God* (Jersey City: Ktav, 2003), pp. 101-133, esp. pp. 121-129.

^{xiv} *Idem.*, p. 124.

^{xv} Amalek and the seven nations, no differently from other enemies, are given the opportunity to accept terms of peace before they are attacked (*Hilkhot Melakhim* 6:1). According to many later commentators, Maimonides defined the category of Amalek as not ethnic but behavioral: the commandment to destroy Amalek only applies to those who persist in the barbaric ways of the original Amalekites (*Kesef Mishneh*, ad. loc.).

^{xvi} Lamm, p. 224.

^{xvii} Lamm, p. 233: “We must also be able to justify the implementation of the harsh commandments in Biblical times from a theological and moral point of view.”

RISKING ONE’S LIFE TO SAVE ANOTHER: PERSPECTIVES ON THE RIGHTEOUS GENTILES OF THE HOLOCAUST

BY: Yehudit Fischer

I.

Three men are engaged in quiet dialogue at a dining room table. The one in the middle, Chaim Federman, is quite elderly and appears somewhat disoriented. He wears thick glasses and a cloth kippah. Next to him are his two adult grandsons, Dovid Tzvi and Akiva Daum.

“Let’s say the situation was reversed,” says one of the young men to his grandfather, “You would have been the Pole, and he would have been the Jew... Would you do it?”

The older man attempts to evade the question, explaining, “In such a war... who would have taken the risk?” He does not appear uncomfortable despite the cowardly implication of his words.

The grandson persists. “You wouldn’t have done it?”

“No.”ⁱ

This documented scene describes a Holocaust survivor who had been hidden by Polish Gentiles for 28 months in a pit under their barn. What is so striking about it is that he openly admits that he would not have responded in the same way had the situation been reversed, while simultaneously acknowledging that he owes his life to the Poles who simply had pity on him.

The righteous Gentiles of the Holocaust, as they have come to be known, were Gentiles who saved Jews from the Nazis, often placing themselves in mortal peril in order to do so. In this article, I would like to explore their actions from halakhic, secular ethical, and experiential perspectives. I believe that each one will provide a unique contribution to our understanding of this exceptional historical phenomenon.

II.

Most halakhic authorities maintain that one is not obligated to endanger his or her life to save someone else.ⁱⁱ In fact, many outright forbid it, with only a small minority of opinions requiring this of an individual.

The discussion usually begins with R. Akiva’s famous proclamation of “*hayyekha kodemin*,” that the life of the savior is a precondition to his or her saving someone else.ⁱⁱⁱ Another fundamental Talmudic source relating to this topic is found in *Sanhedrin* 74a, where Rabbah requires an individual to give up his life rather than kill someone else based on the principle of “whose blood is redder?” This principle would seem to suggest that one should not risk his or her life to save someone else.^{iv} One interesting source particularly relevant to our topic is found in *Niddah* 61a, where R. Tarfon refuses to harbor the *benei gelilah* who were government fugitives. Tosafot, quoting the *She’iltot* of R. Ahai Gaon, explains R. Tarfon’s action as a halakhically-sanctioned one: he could not hide the *benei gelilah* be-

cause doing so would constitute a danger to his own life.^v The opposing opinion is usually based on *Yerushalmi Terumot* 8:4,^{vi} which relates that Reish Lakish placed himself in an ostensibly perilous situation in order to save R. Imi's life. It is implied that Reish Lakish's actions were based on the verse "*lo ta'amod al dam re'ekha*,"^{vii} which is the source for the obligation to save someone else's life.^{viii}

"It is my opinion that the righteous Gentiles' choice to endanger their lives by harboring Jews during the Holocaust must be understood as simply stemming from their 'decency.'"

The Rishonim grapple with these sources, and no unanimous stance is taken. R. David ben Zimra (Radbaz) is quoted on both sides of the debate, although he does not necessarily contradict himself. In one responsum, addressing the question of whether or not one is required to sacrifice a limb in order to save someone else, he seems to forbid any action which would pose even the slightest risk to the rescuer and deems a person who nevertheless takes such a step a *hasid shoteh* ("pious fool").^{ix} On the other hand, he also says that "*lo ta'amod*" creates an obligation to save someone else even if there is a substantial risk to the rescuer's life, so long as it is not close to certain.^x The *Shulhan Arukh* notably omits the discussion entirely, a fact which is discussed by many commentaries, particularly in light of his having followed the *Yerushalmi* in his earlier commentary to the *Mishneh Torah*, entitled *Kesef Mishneh*.^{xi} While noting this, the *Minhat Hinnukh* concludes that one must only endanger his life when the alternative is performing an action that would kill someone else.^{xii} Melech Westreich also notes that some Polish sages, notably R. Eliyahu of Lublin, considered the relative "personal merits" of the two individuals under question before ruling on whose life should be taken. Although this opinion was not generally accepted, it led a number of these authorities to require that one risk one's life to save another person.^{xiii}

Few modern-day responsa address the subject of risking one's life in order to save another in the context of the Holocaust or even in the general sense. On the subject of kidney donation, R. Ovadyah Yosef concludes that one is permitted, but not obligated, to do so because the procedure poses only minimal danger.^{xiv} This ruling, according to Daniel Eisenberg, M.D., seems to resolve the apparent contradiction within Radbaz.^{xv} In *The Holocaust and Halakhah*, Irving Rosenbaum cites a number of questions related to the issue that arose in the context of the Holocaust. In one place, he discusses the approaches of Netsiv in *Ha'amek She'eilah* 129:4 and the *Arukh ha-Shulhan* to *Hoshen Mishpat* 426:4, both of whom do not mandate that one endanger one's own life to save another's but consider it to be *middat hasidut*, a pious deed.^{xvi} In general, we can conclude that normative Halakhah does not require such behavior, but one could rely on several authorities in order to permit it. Certainly, the righteous Gentiles posed a very substantial risk to their own lives when they saved Jews during the Holocaust by harboring them or otherwise. This, coupled with the fact that they initiated the action rather than being forced into the situation, vastly exceeded halakhic requirements according to most rabbinic

authorities.^{xvii}

III.

The perspectives of secular ethicists vary widely on nearly every issue, and there is often no general thrust of opinion in the practical sense. The approach I present below represents what I consider to be normative, but I admit that this is somewhat subjective. In the case of the righteous Gentiles, this view does not ad-

vocate risking one's life to save someone else, although such an act is deemed exceptionally meritorious.

In his book *Moral Responsibility in the Holocaust: A Study in the Ethics of Character*, David H. Jones presents what he considers to be a normative view of ethics applicable to the Holocaust. He summarizes the criteria for moral culpability in the following statement:

Being fully blameworthy for one's action is being justifiably (deservedly) liable to judgmental blame because one has (1) performed a wrong act, (2) knowing it is wrong, (3) performing it intentionally, (4) voluntarily, and (5) from a bad motive; and so one has no excuse.^{xviii}

As he continues to discuss, if one of these factors is absent, moral blameworthiness is lessened or completely removed. Coercion is a valid moral excuse, and he illustrates this with an example of a German soldier who kills a Jew on threat of death to his own life. Jones considers the soldier to be morally blameless in this case, provided he would not kill the Jew otherwise. Thus, although he deems "the great majority of people who were bystanders in the Holocaust" to have "failed to fulfill the prima facie duty to give aid in an emergency by not helping or rescuing Jews and other victims of the Nazi regime,"^{xix} a realistic view of the con-

"Rather than their exceptional morality, it is their exceptional sense of humanity and character that truly deserves our praise."

sequences of such actions would probably exonerate these people because they were coerced into inaction.

Jones specifically addresses the case of the righteous Gentiles later on in the work. He considers saving Nazi victims to have been obligatory as a prima facie moral duty, and harshly criticizes those who could have done something without endangering their own lives, but did not. He even goes so far as to group the great majority of bystanders in this category. However, when considering cases where the risk to the rescuers' own lives was substantial, the author places their heroic actions into the category of supererogatory acts because self-sacrifice is not a moral obligation.^{xx}

IV.

Clearly, Halakhah was not the motive behind the righteous Gentiles' decision to save Jews at risk to their own lives. Similarly, it is improbable that they were motivated by some abstract, sophisticated ethical theory. Why, then, did they act as they did? In their own words,

"Nobody wanted to hide the Jews, but we

hid them...out of pity."^{xxi}

"It did not occur to me to do anything other than I did. After what I had seen...I could not have done anything else. I think you have a responsibility to yourself to behave decently."^{xxii}

"It happened. It was a spontaneous reaction, actually. Such things, such responses, depend on fate, on the result of your upbringing, your character, on your general love for people, and most of all, on your love for God."^{xxiii}

David P. Gushee, a professor of Christian ethics at Mercer University, concludes the following:

The evidence rules out any explanation that completely reduces rescue to an accident of circumstance or of sociological characteristics like age, gender, or class. Important clues can be found concerning the shape of rescuer socialization as well as personality, but the evidence is modest, suggestive rather than conclusive.^{xxiv}

What distinguishes the Holocaust from all of the cases discussed by philosophers and halakhic authorities alike is what Melech Westreich simply calls, "a Singularity, in the physics sense, in the human experience or perhaps a black hole, in the astrophysical sense."^{xxv} He continues, describing the Holocaust as "a situation where laws were no longer effective, even Jewish law stood by on the sidelines and was unable to penetrate and enforce its laws and order."^{xxvi} Regardless of whether his assertion that Halakhah "stood by" is true in the absolute sense, I believe that he is correct in the general experiential sense. When society reverts to complete moral chaos, most people will act on natural instinct rather than according to the precepts of predetermined ethical theories, whether halakhic or secular. As Viktor Frankl, a Holocaust survivor himself, put it, "There are two races of men in this world, but only these two—the "race" of the decent man

and the "race" of the indecent man. Both are found everywhere; they penetrate into all groups of society."^{xxvii} It is my opinion that the righteous Gentiles' choice to endanger their lives by harboring Jews during the Holocaust must be understood as simply stemming from their "decency," a conclusion that is supported by their own testimonies above. Jones correctly states that,

To be psychologically unable *not* to help victims... is a state of virtue or excellence. After all, what is personal integrity except the inability to bring oneself to do things that one sincerely believes are wrong or bad and the inability not to try one's utmost to do things that one sincerely believes are right or good. For committed rescuers, giving help to victims whose lives were in jeopardy fell into this latter category.^{xxviii}

V.

Pastor Martin Niemöller's famous quote, "First they came for the communists..."^{xxix} has become something of a rallying cry in the post-Holocaust "never again" era. Although often taken to simply criticize indifference to others' suffering, the implications of the quote, when

considered in historical context, are far more consequential. "Speaking up" in Nazi Germany resulted in almost certain death. Yet, Niemöller's hindsight seems to expect every individual to have done so in order to save the lives of others. The only ones who escape the moral culpability linked by Niemöller with silence are those who had the courage to risk their lives to resist the Nazi regime and the righteous Gentiles are one such group of people. While we may be quick to honor these individuals for having performed the moral actions incumbent upon them, their actions were not predicated upon either normative secular ethics or Halakhah. They simply did what they felt moved to do, whether by duty or sentiment. Rather than their exceptional morality, it is their exceptional sense of humanity and character that truly deserves our praise.

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ⁱ From "Hiding and Seeking: Faith and Tolerance After the Holocaust," directed by Menachem Daum and Oren Rudavsky (First Run Features, 2004).

ⁱⁱ I am indebted to R. Kenneth Auman for providing me with most of the sources in this section. For a more comprehensive discussion of this topic, see Irving J. Rosenbaum, *The Holocaust and Halakhah* (New York: Ktav, 1976), particularly ch. 2, and Melech Westreich, "One Life for Another in the Holocaust: A Singularity in Jewish Law?," *Theoretical Inquiries in Law* 1 (2000): 341-367. Another article of interest is Daniel Eisenberg, "Self Endangerment to Save Others," in *Jewish Law Commentary*, available at: <http://www.jlaw.com/Commentary/de-selfendangerment.html>

My overview is by no means complete both quantitatively and qualitatively, and I omit a number of relevant factors that a more thorough discussion would address. These include, but are not limited to, the concept of *mesirah* and how the halakhah of saving another's life would apply to Gentiles as opposed to Jews.

ⁱⁱⁱ *Bava Metsi'a* 62b.

^{iv} This may seem counterintuitive, but it in truth reflects a very consistent approach. The *Minhat Hinnukh* on *Sefer ha-Hinnukh*, Mitsvah 237 explains as follows: where an individual is placed in a situation where either he will die or someone else will, the only recourse is inaction. Taking action, either by killing someone else or risking one's life to save someone else, violates the principle of "whose blood is redder?" In other words, every life is considered to have equal value, and one cannot actively choose one over another.

^v Tosafot to *Niddah* 61a, s.v. "*atmarinekhu*."

^{vi} I learned this from R. Auman, and this opinion can be found in a number of sources. However, many sources just refer to the *Yerushalmi* without providing the exact reference. See Westreich, p. 350.

^{vii} *Va-Yikra* 19:16.

^{viii} *Sanhedrin* 73a.

^{ix} *Responsa Radbaz* 1052.

^x *Ibid.* 1582. This comparison is noted by Westreich, pp. 351-5.

^{xi} *Kesef Mishneh* to *Mishneh Torah*, *Hilkhot*

PHYSICAL FREEDOM AND SPIRITUAL LIBERATION

BY: Dr. Alan Morinis

An older man usually sits in front of me in the morning *minyan*. Sometimes, he has a comment to make, and as I am the one closest to him, he often makes it to me.

One day last year around this time of year, he turned to me and declared, "I learned the Yom Kippur *Shemoneh Esreh* in the concentration camp."

I was dumbfounded at the thought, but found words to ask, "How could that be?"

He continued: "The Germans were building bunkers, and they shipped building materials to the camp on a big railway car, and then two men were given the job of shoveling the material from the big car to a cart to go to the camp. I was shoveling with an older man. It was Yom Kippur, we knew, and when the guard—you know, the SS man—had walked past, that older man would recite a line of the *Shemoneh Esreh* from Yom Kippur, and I would repeat after him, following behind him. I was only 18. I hadn't said the Yom Kippur *Shemoneh Esreh* so many times by then. Like that, I *davened* in the camp, and learned the *Shemoneh Esreh*."

He then turned back to his *siddur*, and I was left with the sense of awe I often feel when I hear a personal story from the Holocaust. At that time, I was drawn into the impossible exercise of imagining myself in his situation.

I have long reflected on this story and have come to see this recitation of the Yom Kippur *Shemoneh Esreh* in the concentration camp as a tremendous statement of freedom. It meant that, though imprisoned, a part of this man had not surrendered. That part moved him to utter the words of the *Kedushah*:

"*Zeh el zeh sho'alim, ayeh Kel Elim...*" "The angels ask one another, 'Where is the God of gods, where is the One Who dwells in the heights?'" "... *u-ma'aritsim, u-makdishim, u-mehallelim.*" "And they all revere, sanctify, and laud."

Trapped in a concentration camp, the Jewish prisoners had a right to ask that question, too. Where is the God of gods right now? And this man's response was to revere, to sanctify, and to laud, from the place in him that could never fully be imprisoned in the camp.

Freedom is a theme of Yom Kippur, though we usually associate freedom with Pesah. Pesah celebrates our freedom as a nation; Yom Kippur is a time to free the individual. From where do we learn that? In the *Mishneh Torah*, Rambam writes:

Between Rosh ha-Shanah and Yom Kippur [of *Yovel*], slaves were not free to go home, but neither were they enslaved to their masters, nor did the fields revert to their original owners. Rather, the slaves would eat and drink and rejoice with their crowns on their heads. As soon as Yom Kippur arrived, the court would sound the *shofar*, and the slaves would return to their homes, and the fields reverted to their original owners.¹

Slaves would cease working on Rosh ha-Shanah but would only attain their freedom

when the *shofar* was sounded on Yom Kippur.

The definition of freedom that comes from this law is explained in the Talmud. On the verse, "And you shall proclaim *deror* [meaning, 'liberty'],"ⁱⁱ R. Yehudah asked: "Why is the word '*deror*' used? Because it indicates that [the freed slave] is free to reside in a dwelling."ⁱⁱⁱ Rashi explains, "This emphasizes that the free man may dwell wherever he pleases, and he is not under the control of others."^{iv}

The freeing of biblical slaves on Yom Kippur and the recitation of Yom Kippur prayers in a slave labor camp reflect different forms of freedom from physical slavery. In one case, the freed slave gains physical freedom and the right to live where he wants. In the other, physical release is not possible. According to my old friend who survived the camps,

"Most of us enjoy physical freedom today, allowed to live wherever we want, eat whatever we want, and associate with whomever we want... [but] the world we live in is rife with spiritual slavery."

the prisoners were so habituated to physical slavery that on the last day of the war, as they were being marched who knows where, the SS guards melted away, but the procession of prisoners kept marching on in file for quite some time until someone realized that they were no longer under guard. The prisoners were enslaved in body but were nevertheless able to assert spiritual freedom by reciting prayers.

I would like to explore a different permutation of these elements, which is, perhaps, more relevant to us today. That is to say: physical freedom and spiritual enslavement.

Most of us enjoy physical freedom today, allowed to live wherever we want, eat whatever we want, and associate with whomever we want. We are free to go to synagogue, and to the synagogue of our choice, just as we are free not to attend, and to select the synagogue we are not attending.

Yet physical freedom does not necessarily translate into spiritual freedom. Though our civilization has made the former one of its crowning accomplishments, it has also made spiritual deprivation into a norm. The doyens of consumerism have realized that it is entirely possible to enslave people without needing to own their bodies. Better just to control minds and hearts, and leave the business of housing and feeding to the slaves themselves. This might be the most pernicious form of off-load-ing costs that exists in our world today.

I mean something very specific when I say that the world we live in is rife with spiritual slavery. This can be explained by referring to what the Torah tells us is the real purpose of human life. Comb through the Torah and you will not find the instruction "*ashirim tihyu*" — you shall be wealthy. Nor will you find "*yafim tihyu*" — you shall be beautiful. That, despite the fact that wealth and physical appearance are matters given the highest priority in the world we inhabit.

No, what the Torah says is "*kedoshim tihyu*" — you shall be holy.^v The Torah repeats this injunction in several places in several

ways,^{vi} and when the Torah repeats something, that gives special emphasis. The pursuit of holiness is the purpose of human life. Everything else is secondary at best. Rabbi Yehezkel Levenstein, who was the Musar *mashgiach* of the great Mir Yeshivah during the 1940s, writes: "A person's primary mission in this world is to purify and elevate his soul."^{vii}

Modern society does not have the same priorities as the Torah. The messages broadcast through powerful media, advertising, politics, education, psychology, etc., insistently repeat that the physical is the priority. As a result, it is all too common in our world for Jews to waste the opportunity that is a human life by not truly internalizing the Torah's message of *kedoshim tihyu* — that our spiritual lives are the priority, perhaps even the reason we exist at all — and not living their lives accordingly.

Physical freedom is not the cause of our spiritual enslavement, but it does play a role in it. Being free to shop where we want, when we want, for whatever we want, can open up enthralling fields of possibility. The absence of external restraints make anything and everything possible, and because we are endowed with such capable imaginations, human beings are very easily beguiled by a world of possibilities.

When Moshe Rabbeinu asked Pharaoh to let the people go, he asked for them to be freed TO worship God. He did not ask for them to be freed FROM slavery. There is an enormous difference in the two prepositions. To be freed TO do something is to have a purpose. To be freed FROM something as modern society allows, however, is to be given the potential for purpose only.

In the political arena, we have seen the catastrophe that results when the bridle is taken off the marketplace and free enterprise is made entirely free. As good and praiseworthy as freedom is, then, it needs to be restrained by a framework of limitations that prevent excess. One of the keys to living with the right priorities in the midst of physical freedom is to have structures external to ourselves that guide us in our lives. A routine of scheduled exercise and defined limits on what we eat, and in what quantities, does that for the body. Similarly, only when we embrace a scheme of limitations can we enjoy spiritual liberation in the context of physical freedom. This is one of the principles underlying Halakhah as spiritual practice.

Rambam writes that each person is required to sound the *shofar* on Yom Kippur of *Yovel*:

It is a positive commandment to sound the *shofar* on the tenth of the month of Tishrei during the jubilee year, and this commandment is given over first to the court ... but every individual is also obligated to sound the *shofar*.^{viii}

On Rosh ha-Shanah, we fulfill our obligation if we hear someone else blow the *sho-*

Rotseah u-Shemirat ha-Nefesh 1:14.

^{xii} On *Sefer ha-Hinnukh*, Mitsvah 237.

^{xiii} Westreich, pp. 356-9.

^{xiv} *Responsa Yehavveh Da'at* 84.

^{xv} Op. cit. Personally, I disagree based on the wording of the *Radbaz*. In the first responsum (1052), he seems to say that any risk at all would be forbidden. To support his reasoning, he even brings a case where an individual died from scratching his ears excessively. The implied conclusion is that even the most seemingly benign procedure may not be undertaken for the purpose of saving someone else. This is contrary to Eisenberg's contention that *Radbaz* prohibits only those risks where the chances of death are greater than 50%.

^{xvi} Rosenbaum, p. 20.

^{xvii} The purpose of this halakhic analysis is not to judge gentiles by our halakhic standards. Rather, if we consistently blame gentiles for standing by, it is an interesting idea to see if our own ethical system would require what we claim they were obligated to do.

^{xviii} David H. Jones, *Moral Responsibility in the Holocaust: A Study in the Ethics of Character* (Lanham, MD: Rowman and Littlefield Publishers, Inc., 1999), p. 21.

^{xix} *Ibid.*, p. 41.

^{xx} *Ibid.*, pp. 199-228.

^{xxi} "Hiding and Seeking." This is a statement made by the Polish woman whose family hid Chaim Federman and his two brothers.

^{xxii} Carol Rittner, R.S.M., and Sondra Meyers, *The Courage to Care: Rescuers of Jews During the Holocaust* (New York: New York University Press, 1986), p. 33.

^{xxiii} *Ibid.*, p. 25.

^{xxiv} David P. Gushee, *The Righteous Gentiles of the Holocaust: A Christian Interpretation* (Minneapolis, MN: Augsburg Fortress, 1994), p. 116.

^{xxv} Westreich, p. 367.

^{xxvi} *Ibid.*

^{xxvii} Viktor Frankl, *Man's Search for Meaning: An Introduction to Logotherapy* (Boston, MA: Beacon Press, 1959), pp. 86-87.

^{xxviii} Jones, p. 223.

^{xxix} There are disagreements as to the correct version of the quote in full. One version reads: "First they came for the communists, and I did not speak out — because I was not a communist; Then they came for the socialists, and I did not speak out — because I was not a socialist; Then they came for the trade unionists, and I did not speak out — because I was not a trade unionist; Then they came for the Jews, and I did not speak out — because I was not a Jew; Then they came for me — and there was no one left to speak out for me." Available at: <http://www.history.ucsb.edu/faculty/marcuse/njem.htm>.

MORAL EDUCATION AND ITS PLACE IN JUDAISM

BY: Danielle Lent

In today's world, the mantra of "No news is good news" usually rings true. From the Madoff scandal, to Haredi riots in Jerusalem, to rabbis arrested for money laundering, there has been an overwhelming and negative presence of Orthodox Jews in recent media headlines. How can it be that people who profess great religious devotion and adhere to a spiritual lifestyle violate basic laws? Since when is there a split between "being good" and "being religious?" Why would anyone think that one

"While it is clear that adopting morality as the defining criteria for being Orthodox is neither possible nor accurate, a greater emphasis on social virtue would emphasize its importance in Orthodoxy."

could be *frum* without being a law-abiding, ethical person?

Today, an Orthodox Jew is typically defined as someone who keeps Shabbat and *kashrut*, regardless of his or her ethical choices. It is clearly not because these are the most important mitzvot, but rather because these are the easiest mitzvot with which to gauge a fellow Jew's commitment to a Jewish lifestyle. This emphasis on Shabbat and *kashrut* as being the criterion for deciding one's religious denomination has detracted, I believe, from many of the other mitzvot – namely, the civil mitzvot. While it is clear that adopting morality as the defining criteria for being Orthodox is neither possible nor accurate, a greater emphasis on social virtue would emphasize its importance in Orthodoxy.

One method of categorizing mitzvot is distinguishing between "mitzvot between man and God" and "mitzvot between fellow men." Whereas Shabbat and *kashrut* fall into the category of "mitzvot between man and God," all the civil mitzvot, such as business dealings, fall into the category of "mitzvot between fellow men."

Sociologically, the two categories of mitzvot, for our purposes "ritual" and "moral" mitzvot, respectively, are distinct from one another. Rav Aharon Lichtenstein, in his book *By His Light*, states, "Religiosity translates to doing the will of God and that 'good' is a main component of that will—it is therefore apparent that the ideal religiosity will contain also the good. Religiosity is not another name for good; however, it implies it."ⁱ At the same time though, this notion that religiosity implies good, as R. Lichtenstein states, is not so clear in everyday life. There are Orthodox Jews who are immoral and by the same token, atheists who are praised for their ethical natures. In the time of the Talmud, this dilemma seemed to exist as well:

"Praise the righteous man for he is good, for the fruit of their deeds they shall eat" (Isaiah

3:10). And is there a *tsaddik tov* and a *tsaddik* who is not *tov*? Rather one who is good for the Heavens and good for people, this is a *tsaddik tov*. One who is good for the Heavens and bad for people, this is a *tsaddik* who is not *tov*. 'Woe to the wicked [who does] evil, for the recompense of his hands shall be done to him' (ibid 3:11). And is there a *rasha* who is *ra* and a *rasha* who is not *ra*? Rather, one who is bad to the Heavens and bad to people this is a *rasha ra*. One who is bad to the Heavens and good to people, this is an example of a *rasha* who is not *ra*.ⁱⁱ

From this passage it seems that the

himself from society, a person who is so focused on becoming "good to God" that he expends no effort in becoming useful to mankind or sensitive to its needs. This may not constitute the ideal form of religious observance, but it is still legitimate and warrants one the title of a "*tsaddik*" (albeit "*ra*"). On the other hand, a person who is actively doing immoral and criminal acts, regardless of the degree to which he is keeping the other mitzvot, will not be rewarded for his ritual performance. We see from here that although our relationship with God usually precedes our relationship with man, when we are actively immoral, the level of our ritual observance becomes insignificant.

After the many recent scandals involving Orthodox Jews, it is clear that we have reached a point of actively immoral behavior and that our "hands are full of blood." It is true that many yeshivot educate their students to be "*mentshes*" in this world; what is often left out of the curriculum, however, is how to do so. While *hesed* trips and the study of *Mesillat Yesharim* may have become popular, an entire category of "how to be a *mentsh*" is often left out. To my knowledge, the majority of institutions of Jewish learning neglect to teach the practicalities of how to live in today's secular world in a financially ethical and responsible manner. These practicalities constitute the applications of many of the mitzvot between fellow men which otherwise fall by the wayside.

The halakhot in regard to following secular financial law and paying taxes are clear and typically summed up in the phrase "*dina de-malkhuta dina*," the law of the land is the law. Barring the existence of a tax collector who can levy whatever sum he wishes or does not represent the government, every Jew must pay his taxes without exception.^v The ability to live a halakhically honest life is greatly hampered by the *naïveté* of many Jews in regard to federal law. It is a virtual impossibility to run a financially honest checkbook, let alone business or institution, without some knowledge of the

"Jewish communities must also stress the importance of obeying secular law, and simply saying '*dina de-malkhuta dina*' is insufficient."

God will not acknowledge their righteousness until their morality is brought up to par as well. While *Kiddushin* seems to indicate that our relationship with man is only secondary to our relationship with God, Isaiah seems to show that ethics are of equal if not greater stature, as our fulfillment of "religious" commandments becomes worthless when we are in violation of basic morality.

Rav Lichtenstein explains the contradiction as follows: When discussing a *tsaddik ra*, the Gemara in *Kiddushin* is not referring to someone who completely tramples every standard of moral decency and commits outright crimes, but rather someone who withdraws

basic economics of tax and insurance law. In Jewish law, there is a concept of "*mesayyea yedei overei aveirah*," assisting the committers of sins.^{vi} This concept includes anyone who facilitates an illegal transaction. This means that anyone who knowingly patronizes a tax-evading institution or store is guilty of abetting them in their deceit. By not educating the average Jew about secular law, there is no possibility to allow people to rectify their ways. In order to rectify institutions and businesses and keep them honest, instruction must be given on how to do so!

It is not enough however, to simply offer economics classes and have a "business law of

far. On the Yom Kippur of *Yovel*, however, one must sound one's own *shofar*. On this day of freedom, each of us has a personal and unique responsibility to sound the call for freedom from within, just as air must come from deep within the lungs to make the *shofar* blasts.

Yet those blasts of freedom's call require a scaffolding of frameworks to be effective. To exercise freedom, to maintain it, to make it a source of prosperity in society, to live lives that are physically healthy, to pursue holiness above all else – all these require structure. Without such frameworks, human nature will cause us to wander. That wandering over time becomes aimless, if not actually misdirected. And at that point, neither our lives nor our society will accord with the lofty vision of the Torah.

My neighbor in synagogue also told me another story. The Germans had put the remnants of the camp on a forced march. The camp had held 400 people when it opened, and only half were still alive. As those 200 people marched, the sick or weak fell to the side, where they died or were killed. My friend himself had grown exhausted and fallen to the back of the line, where he saw a man whom he knew to be a friend of his father. He told that man that he could not go on any more. "Come," said the man. "Put your arm in mine and we'll go together. Can't you see? The trucks are gone. They're taking us to our freedom."

That was the day they were liberated by the Americans. Had he not had the companionship of that man, he might have ended his life in a German ditch.

Spiritual freedom is fundamental, as the Torah emphasizes, because the spiritual is the essence of human life. In a situation like ours, where we are blessed with physical freedom, we preserve our spiritual freedom only by erecting and embracing external structure and limitation of a wise and balanced kind. And from this last story, we learn that we do not do that alone. We do it in community, for we need trustworthy others on whom to lean in times of distress and despair.

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ⁱ Rambam, *Mishneh Torah, Hilkhos Shemittah ve-Yovel* 10:14.

ⁱⁱ *Va-Yikra* 25:10.

ⁱⁱⁱ *Rosh ha-Shanah* 9b; *Torah Kohanim at Behar* 2:2.

^{iv} Rashi to *Va-Yikra* 25:10.

^v *Va-Yikra* 19:2.

^{vi} See, e.g., *Shemot* 22:30.

^{vii} R. Yehezkel Levenstein, *Sichos Mussar on Chodesh Elul and Yomim Noraim*, ed. by Yitzchok Kirzner (Lakewood, New Jersey: Alter Yosef and Tzvi Menachem Gartenhaus, 2004), *sihot* 12-13.

^{viii} Rambam, *ibid.* 10:10.

MISHLEI AND THE MODERN MUSAR MOVEMENT

BY: Ben Kandel

Throughout much of classical Mitnaggedic thought, learning Torah has been assumed to be identical with or at least conducive to moral development. In particular, the Vilna Gaon and his students place a remarkable emphasis on the study of Torah as a means for growth in the service of God. The Gaon is famous for his single-minded dedication to the study of Torah, and his writings emphasize the importance of the study of Torah for its own

“To be truly praiseworthy, one must achieve *sekhel* and knowledge of God, which presumably involves some sort of actionable or at least moral imperative.”

sake as a crucial component in personal growth. For example, he writes, “The stringencies and precautions... are not worthy enough to stop the yoke of Torah for even one moment, and the best repentance is similarly the yoke of Torah.”ⁱ This striking statement of the importance of learningⁱⁱ Torah indicates that, according to the Gaon, learning Torah is the most important part of one’s service of God, and devoting too much time to developing other areas of one’s personality comes with the danger of distraction from the study of Torah.ⁱⁱⁱ

Not every Jewish philosopher or educator has been so sanguine about the advisability of concentrating exclusively on learning Torah for one’s personal growth. One of the classic expressions of this concern can be found in the introduction to *Sefer Yere’im*, by R. Eliezer of Metz (12th cent.): “My thoughts react harshly when I see that their toil is in the various aspects of Torah and in careful analysis of the discussions in the Talmud, but they do not care about the roots and directives of the mitzvot, [nor] what the Creator commanded and how they will fulfill His decrees and laws...and they do not pay careful attention to the fear of the Rock [God].” Unless the intellectual study of Torah is coupled with an independent effort to develop one’s moral character, what should be a religiously inspiring and meaningful activity can deteriorate into arid intellectualism and breed spiritually obtuse scholars.

In modern times, R. Yisrael Salanter is famous for spearheading the effort to advocate directing energies towards personal development in addition to the study of Torah. Although R. Salanter viewed the study of Torah as a crucial and indispensable part of one’s service of God, he also stressed the importance of devoting time to personal moral development. In discussing the “disease” of lack of

fear of God, R. Yisrael Salanter makes a distinction between the “spiritual” disease, which can be cured only by the study of Torah for its own sake, and the “physical” disease, which can only be combated by studying Musar and the practical laws that govern one’s daily activities. Each component of the cure is necessary, and if one attempts to fight the physical disease without proper moral fortification, “the spiritual [cure], which is learning Torah, will not help in [combating] the Evil Inclination.”^{iv}

Historically, these two strains of thought represent distinct approaches to moral devel-

opment.^v From an experiential point of view, however, these two views of the importance of devoting special effort to deepening one’s religious personality independent of the study of Torah can complement each other. Each approach can apply to different people and situations. For some people, dedicated and focused study of Torah may be sufficient to cultivate their fear of heaven, whereas others may have to direct special efforts to hone their religious sensitivities.

These two approaches to the necessity of personal development independent of learning appear to reflect different messages as they appear in different areas in Tanakh. Throughout most of Tanakh, the emphasis is placed on the danger of arrogance or misplaced cunning that can come with high levels of *hokhmah*. For example, Yeshayahu declares, “You trust in your evil; you say, ‘There is none who sees me;’ your *hokhmah* and knowledge have led you astray; and you say to yourself, ‘There is

“When *hokhmah* is defined as Torah, the conclusion that one must study Torah to achieve moral perfection appears inescapable.”

none besides me” (*Yeshayahu* 47:10).^{vi} Yirmeyahu famously proclaims, “Let not the wise praise himself in his wisdom, and let the strong not praise himself with his strength; let the rich not praise himself with his wealth. Rather, through this shall one praise himself – through enlightenment and knowing Me” (*Yirmeyahu* 9:22-23). These verses clearly distinguish between the attainment of knowledge on the one hand and moral and religious development on the other. The *hakham*, although capable, can become haughty and rebellious. To be truly praiseworthy, one must achieve *sekhel* and knowledge of God, which presumably involves some sort of actionable or at least moral imperative.

A distinctly different impression is given in the books of Tanakh that deal primarily with the philosophy of wisdom, and *Mishlei* in particular.^{vii} Much of *Mishlei* is devoted to praising *hokhmah* and *hakhamim*. In fact, the root for *hakham* is used in parallel with righteousness and fairness.^{viii} For example, *Mishlei* proclaims, “I have guided you in the way of *hokhmah*; I have directed you in the paths of fairness” (4:11). “The *hakham* is fearful and turns from evil; the fool becomes angry and stumbles” (14:16). Unsurprisingly, *Mishlei* emphasizes over and over the importance of attaining *hokhmah* as part of one’s development and education.^{ix} In fact, within *Mishlei*, the *hakham* is virtually always identified with righteousness and goodness, and the fool with evil and shortsighted behavior.^x The philosophy behind this seems to be that “no one sins unless a foolish spirit enters him;”^{xi} a truly wise person understands the benefit that comes from doing good and the harm that comes from doing bad, and therefore is able to avoid the folly of evil, destructive behavior.

Apparently, then, the difference in emphasis between the Vilna Gaon and his students and the proponents of the Musar movement is reflected in the different ways in which Tanakh treats knowledge and those who are wise. The Gaon, who emphasizes the importance of learning and relegates moral development to a far inferior status, seems to have followed in the spirit of *Mishlei* that emphasizes the importance of *hokhmah*.^{xii} On the other hand, the proponents of the Musar movement emphasize the message contained in warnings in other places in Tanakh about the dangers of arrogance and folly that wisdom can bring.

The previous analysis is predicated on the assumption that the Torah that the Gaon em-

phasizes so much is identical with the *hokhmah* in *Mishlei*. In fact, the Gaon explicitly identifies the *hokhmah* in *Mishlei* as Torah, and the *hakham* as one who knows much Torah.^{xiii} When *hokhmah* is defined as Torah, the conclusion that one must study Torah to achieve moral perfection appears inescapable.

However, throughout Tanakh *hokhmah* normally seems to refer to a more practical sort of knowledge or set of skills rather than theoretical knowledge of Torah or any other field. The artisans of the *Mishkan* were filled with *hokhmah*,^{xiv} as military planners can be.^{xv} Even blacksmiths^{xvi} and pagan artisans^{xvii} can be *hakhamim*.

Obviously, *Mishlei* does not use *hokhmah*

the day” pronounced from the *bimah*. Jewish communities must also stress the importance of obeying secular law, and simply saying “*dina de-malkhuta dina*” is insufficient. America affords one the opportunity to practice the religion of his choosing, provides one with protection and will give money to one who has no income. Rather than take advantage of this benevolence, community leaders should use the current economic situation to teach valuable lessons on honesty and respect for secular law.

In connection to the story of *Pilegesh be-Giv’ah*,^{viii} the *Yalkut Shim’oni* stresses how important it is for leaders to publicly denounce immorality in order to deter similar incidents from happening:

The [members of the] Great Sanhedrin left by Moshe, Yehoshua and Pinehas were supposed to tie iron ropes around their waist, lift up their clothes and walk throughout all the cities of Israel. One day in Lahish...and one day in Jerusalem, and teach them *Derekh Erets* as many as five years, until the Jews were settled in their land and sanctifying God’s Name.^{viii}

No mention is given as to exactly *how* the Sanhedrin was supposed to teach *Derekh Erets* and create a sanctification of God’s Name. Rather, the Midrash makes it seem as if by simply making a big show of their mission, girding their loins to make a multi-year trip around the country, then that alone would have been sufficient in preventing this abomination from taking place, for it would have been nearly impossible for any Jew not to take notice and realize its importance.

While those who end up on the nightly news for ethical breaches are in all likelihood well aware of their mistakes, the average person is likely not sensitive enough to the seriousness of the illegalities of many of their money-saving ways. By bringing a great deal of attention to the gravity of the subject of common morality, in a way that the *Sanhedrin* in the time of *Shofetim* did not do, our leaders can educate us to hopefully reach the ideal level of “*tsaddikim tovim*.”

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ⁱ Aharon Lichtenstein, *By His Light* (New York: Ktav, 2003), p.103.

ⁱⁱ *Kiddushin* 40a.

ⁱⁱⁱ See Proverbs 21:27; Malachi 1:10; Isaiah 58:5-7.

^{iv} Isaiah 1:15.

^v *Bava Kamma* 113a. While the same Gemara does suggest that indirect theft from a Gentile may be permissible, the theft is definitively not permitted if the Gentile is honest, represents the king, or the situation may lead to a *hillul Hashem*.

^{vi} Rabbeinu Nisim to *Avodah Zarah* 6b.

^{vii} Judges 19.

^{viii} *Yalkut Shim’oni* at Judges 247:68.

to refer to such specialized skills; superior metalworking skills are hardly a guarantee for righteous behavior. At the same time, *Mishlei* does not appear to use *hokhmah* to refer to mere knowledge. In the more than 100 times that the root *h-kh-m* appears in *Mishlei*, not once is it connected with written words. Instead, *hokhmah* in *Mishlei* is most simply understood as moral wisdom.^{xviii} In a similar vein, ibn Ezra defines *hokhmah* in *Mishlei* as the fear of God.^{xix} Although ibn Ezra does not quite equate *hokhmah* with moral wisdom, his interpretation understands *hokhmah* as a behavioral, and not intellectual, quality.

Understanding *hokhmah* as moral wisdom, then, would turn the above analysis on its head. Instead of the Vilna Gaon and his followers following the spirit of *Mishlei* most closely, it is in fact the Musar movement that has come closest to the simple understanding of the message of *Mishlei*.^{xx} As *yemei ha-din* approach, we may take this encouragement and use it to help us concentrate on our moral and religious development in addition to our *talmud Torah*.

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Yirmeyahu 4:22, 8:9, and 9:22 are good examples of a similar warning. See Michael V. Fox, "Ethics and Wisdom in the Book of Proverbs," *Hebrew Studies* 48 (2007): 75-88. The danger that can come with *hokhmah* is not to be confused with the learning of the Torah necessary to be familiar with the laws as required in *Devarim* 4:10,14; 11:19; 31:19; etc. We will discuss the possible implications of this distinction later.

^{vii} In contemporary scholarship, *Mishlei*, *Kohelet*, and *Iyyov* are known as "wisdom" or "sapiential" literature. Their preoccupation with philosophy and questions of wisdom distinguish them from most of the other books of Tanakh that are concerned mostly with either laws or the history of the Jewish people, and it is perhaps unsurprising that they sometimes emphasize different ideas than those that appear in other books of Tanakh.

^{viii} In *Kohelet*, the *hakham* is also used in parallel to *tsaddik* (7:16), but this idea takes a much more central role in *Mishlei* than in *Kohelet*.

^{ix} *Mishlei* 2:2,10-12; 4:1-11; 7:1-8.

^x Of course, *Mishlei* describes many different characters, and the *kesil*, *lets*, and *peti* do not have the same characteristics or driving forces. Nevertheless, what unites all of them is their disdain of wisdom.

^{xi} *Midrash Tanhuma at Parashat Naso, siman 7; Sotah 3a.*

^{xii} In both *Mishlei* and the writings of the Vilna Gaon, there is no sharp distinction drawn between the study of Torah and the knowledge that comes with it. The Gaon does not imply that simply learning is enough; in fact, he emphasizes the importance of knowledge as a way to direct oneself.

^{xiii} Commentary on *Mishlei* 1:4. See also his comments on 2:2 and 8:12. In this identification, he follows in the footsteps of Rashi (*Mishlei* 1:2), who also identifies *hokhmah* with Torah. In at least one section of *Mishlei*, *hokhmah* is explicitly linked to divine knowledge (30:1-9).

^{xiv} *Shemot* 28:3, 31:3,6.

^{xv} *Yeshayahu* 10:13.

^{xvi} *Yirmeyahu* 10:9.

^{xvii} *Yeshayahu* 40:20.

^{xviii} See the excellent entry in the Brown-Driver-Briggs lexicon, p. 314. See also Marvin Fox, "Ethics and Wisdom in the Book of Proverbs" and Fox, *Proverbs 1-9, Anchor Bible* (New Haven: Yale University Press, 2000), pp. 32-34, who provides a similar definition of *hokhmah* in *Mishlei*.

^{xix} Commentary on *Mishlei* 1:2.

^{xx} To the best of my knowledge, R. Yisrael Salanter did not suggest that *hokhmah* in *Mishlei* does not mean Torah. Nevertheless, taking *hokhmah* as some kind of moral wisdom may give a further support to his general thesis from Tanakh.

KEEPING THE FAITH: INTELLECTUAL HONESTY AND CENSORSHIP IN THEOLOGY

By: Alex Luxenberg

Soren Kierkegaard, in his book *Fear and Trembling*, recounts four different narratives of the story of the binding of Isaac, each one with its own nuance that sheds light on the idea of faith. At the culmination of the first version, Kierkegaard recounts how Abraham convinces Isaac that it was his idea to sacrifice his own son by arguing, "Foolish boy, do you believe I am your father? I am an idolater. Do you believe this is God's command? No, it is my own desire."ⁱ After hearing this terrifying news, Isaac cries out to God, begging for mercy. Upon hearing Isaac's prayers, Abraham said to himself: "Lord in heaven I thank Thee; it is after all better that he believe I am a monster than that he lose faith in Thee."ⁱⁱ In this shocking version of the story it seems as though Abraham, "Knight of faith,"ⁱⁱⁱ is protecting Isaac, the son he loves, from the truth. But it is not *any* truth that he is protecting him from, it is the Truth, with a capital "T." Abraham is afraid, according to Kierkegaard, that if Isaac knew of God's will, he would lose faith. It seems, based on Kierkegaard's story, that

"The question that arises through the realization that censorship exists within Jewish Literature is the following: is there value in hiding certain theological and empirical truths just to protect the status quo? Should we not desire to see, as Maimonides phrases it, God and not just the 'Glory of God?'"

Abraham is censoring the true nature of God to prevent Isaac from seeing it, not giving him an opportunity to explore his own faith. Now, considering Kierkegaard was a 19th century Danish philosopher, can we relate his message and ideas to notions of Jewish faith and theology? Do we as Jews believe that it is appropriate to shield ourselves from theological truths if they will hinder our faith?

Rabbi Natan Slifkin, on his blog "Rationalist Judaism: Exploring the Legacy of the Rationalist Medieval Torah Scholars," recently responded to a book that he views as "rewriting Jewish intellectual history." The book, written by Rabbi Reuven Schmeltzer, *Sefer Hayyim be-Emunatam: Ha-Emunah be-Hazal u-be-Divreiheim ha-Kedoshim*, which I have not read, is subtitled: "A selection from the great ones throughout the generations in the matter of the tradition of faith, and the sanctity and truth of all the words of the Sages, and the methods of approach to studying concealed topics in Aggadah and matters relating to science." Slifkin goes on to critique the book at every turn, even accusing the book of "misquotations of the positions of the Rishonim themselves, which in some cases involves literally distorting their words (i.e. editing them to give them a different meaning), and in other cases involves unacceptable selectivity."^{iv} It seems

that Slifkin is illustrating that the author of this book, who happened to be one of the main supporters of putting Slifkin's book in *herem* (we will get back to that), is making classical Jewish text fit into his notion of how the map of Jewish Theology is supposed to be drawn. Slifkin notes that Schmeltzer believes that Hazal's statements on science are all divinely inspired, a concept that has been strongly contended with for a long time.^v The question that arises through the realization that censorship exists within Jewish Literature is the following: is there value in hiding certain theological and empirical truths just to protect the status quo? Should we not desire to see, as Maimonides phrases it, God and not just the "Glory of God?"^{vi}

In 2002, Rabbi Nathan Kamenetsky's book, *Making of a Godol*, was banned by a group of ultra-Orthodox rabbi's because it was damaging to the reputation of certain respected rabbinic figures (the same group that banned Slifkin's works in 2005). In a speech Kamenetsky later gave, he told the audience that he "naively believed that everyone would appreciate getting a true, human glimpse [of] our spiritual leaders," and that this honest portrayal

"is what bothered the zealots."^{vii} Kamenetsky thought that people wanted to hear the real story behind the people they look up to, not some fairy tale about supernatural human beings. While this may not have any implications on theology, it illustrates a culture of control and censorship: "If you do not like it, ban it." The habit of banning books creates a society in which people on the one hand do not explore their faith and on the other do not know how to reconcile their doubts about their faith. In many cases people fear that if they read something that contradicts their fundamental beliefs, then all of their faith will be thrown and they will be forever lost.

Kierkegaard, in a later section of *Fear and Trembling*, addresses the issue of Abraham's ethics, going so far as to say, "If one hasn't the courage to think this thought through, to say that Abraham was a murderer, then surely it is better to acquire that courage than to waste time on undeserved speeches in his praise."^{viii} He continues:

"For my own part I don't lack the courage to think a thought whole. No thought has frightened me so far. Should I ever come across one I hope I will at least have the honesty to say: 'This thought scares me, its stirs up something else in me so that I don't want to think of it.'"^{ix}

ⁱ Quoted by Emanuel Etkes, *R. Yisrael Salanter ve-Reshitah shel Tenu'at ha-Musar* (Jerusalem: Magnes, 1982), p. 35. See also the Gaon's Commentary on *Mishlei* 4:4 and 2:5, and *Pirkei Avot* 5:22. Most of the Gaon's "writings" were actually written by his students, not himself. For example, the commentary on *Mishlei* that bears his name was actually written by his grandson. Nevertheless, it is reasonable to assume that the comments recorded in the Vilna Gaon's name accurately reflect positions he held.

ⁱⁱ From the context, it is clear that the "yoke of Torah" is a reference to learning Torah, not general observance of the commandments.

ⁱⁱⁱ Dov Katz, *Tenu'at ha-Musar* (Tel Aviv: Avraham Tzioni, 1958), p. 87 notes that *Ma'aseh Rav, siman 60* reports that the Gaon did learn Musar. Nevertheless, the overwhelming emphasis of the Gaon's writings is on the importance of learning Torah, and whatever role Musar takes pales in comparison. See Norman Lamm, *Torah Lishmah: Torah for Torah's Sake in the Words of Rabbi Hayyim of Volozhin and His Contemporaries* (Hoboken: Ktav, 1989), pp. 286-293.

^{iv} R. Yisrael Salanter, *Iggeret ha-Musar*, reprinted in Menahem Glenn, *Israel Salanter: Religious-Ethical Thinker* (Brooklyn: Yashar Books, 2005), p. 153.

^v Tamar Ross, *Ha-Mahashavah ha-Iyyunit be-Kitvei Mamshikhav shel R. Yisrael Salanter bi-Tenu'at ha-Musar* (Ph.D. dissertation, Hebrew University, 1986), p. 145.

^{vi} It is beyond the scope to deal with every place that *hokhmah* is mentioned, but

Having thoughts and reading foreign ideas has not “frightened” him, has not made him a non-believer. If anything, Kierkegaard argues, one should consider Abraham, father of faith, a sinner in order to get a fuller understanding of the story. Now, it is apparent that Kierkegaard did not believe Abraham to be a murderer, for he says “We know it, all of us – it was only a trial.”^x Nevertheless, faith is not cheapened when questioned; on the contrary, critique and reassessment strengthen one’s ability to have a tighter, more concrete understanding of one’s faith. Through arguing, critical analysis and

“But what I am protesting is the culture of not leaving all doors open in the pursuit of knowledge, which is especially damaging when people are looked down upon for utilizing sources that others see as heretical, ingenuous or, frankly, wrong.”

understanding, one can come to a broader, more thought-out basis for faith.

As mentioned above, Slifkin’s books were banned in 2005, not due to anything novel he suggested, but:

“Rather [because of]...two basic positions adopted: that the account of six-day creation in Genesis was not literal and could be reconciled with modern cosmology, and, more significantly, that the Sages of the Talmud relied upon the scientific knowledge of their era, which was sometimes in error.”^{xi}

Slifkin goes on to defend himself by attributing these opinions to Maimonides and Rabbi Samson Raphael Hirsch. Strikingly, Schmeltzer starts off his books with a quote from Maimonides, the very source that Slifkin bases many of his opinions on! As noted earlier, Slifkin accuses Schmeltzer of picking and choosing, a more scandalous form of censorship to that of not allowing text to be read at all. Throughout history many texts that we regard as authoritative were not accepted at first. For instance, Maimonides’ adversaries strongly opposed his works, and if they would have succeeded, then his works would have been eradicated from the tapestry of Jewish theology – a crippling thought for many.

Marc Shapiro, at the end of his book, *The Limits of Orthodox Theology*, addresses why he thinks the publication of his work on the reappraisal of Maimonides’ thirteen principles was received so hostilely. Leaving the notion that Maimonides has the final say on Orthodox Theology aside, Shapiro argues that the reason people have such trepidation when it comes to understanding alternative views on theology “is because many fear that exposing people to what the great figures of the past have written will break down the walls of theological conformity that have been so patiently erected.”^{xii} Shapiro is saying that people are afraid of what they do not know, to the extent that they will not, or cannot, entertain new ideas. One can argue that it is understandable that people have a hard time digesting unfamiliar theological opinions, but is that an excuse not to explore them at all?

If we believe that Judaism is based on theological truths, then is it not our duty to ensure

that we understand those truths? Meaning, to a certain degree much of our understanding of theology, one can argue, is speculative, but how do we decide to canonize one opinion and not another? For many generations, Shapiro argues, theology was not a centerpiece of Jewish education, and was therefore not fully explored, allowing for many mistakes. Shapiro, in a footnote, points out that many of the greatest scholars are not as well versed in theological issues as, maybe, they should be:

“A particularly surprising example of this appears in Feinstein, *Iggerot Mosheh*,

‘Yoreh de’ah’ ii. 239. Although R. Moses Feinstein was the greatest *posek* of his time, he seems to have had no knowledge of Maimonidean philosophy. He was therefore able to state that Maimonides believed in the protective powers of holy names and the names of angels, as used in amulets. For Maimonides’ rejection of this, see his commentary on Mishna *Sotah* 7:4 and *Guide* 1:61-2.”^{xiii}

Shapiro’s purpose in quoting this is not to shame one of the greatest rabbinic figures of the last generation. He is trying to point out that we do not know as much as we may think about theology and should therefore devote more time to the exploration of ideas. What comes with a further understanding of faith, I believe, is knocking down the barriers of what we can and cannot read. If we do not fully understand issues of faith then how can we dictate that other people’s thoughts are wrong and should be banned? Now, I am not arguing that all religious literature from all of history should be included in our quest to understand the “Truth,” but certainly the standards set by the ultra-Orthodox community are unfair and counterproductive.

The Bible does not tell us that Abraham sheltered Isaac from any theological truths. And, as Kierkegaard argues, Abraham was in essence silenced by being commanded to sacrifice his son...whom could he tell? Who would understand?

Abraham offers no advice on how to interpret his struggle.^{xiv} That silence should not be taken as a stance of censorship, but as an indication of uniqueness. One of the many issues that arise from censoring writing is that different people approach the process of learning in different ways, and by not allowing certain works to be accessed one is limiting someone else’s ability to absorb knowledge. I am not saying that all people should be required to explore every issue through every source on that topic. But what I am protesting is the culture of not leaving all doors open in the pursuit of knowledge, which is especially damaging when people are looked down upon for utilizing sources that others see as heretical, ingenuous or, frankly, wrong. While I do realize that

this is a two way street—the left respecting the right and vice versa – it does not allow for the study, or creation, of censored text by masking opinions of earlier generations. As pointed out earlier, Slifkin accuses some of his ‘opponents’ of misquoting, as does Shapiro of R. Feinstein, and this is not acceptable. Intellectual honesty has to mandate how we approach not only issues of theology, but all of our studies.

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THE IMPORTANCE OF LIMMUD MUSAR

BY: Shaul Seidler-Feller and Shlomo Zuckier

Editor’s Note: The following article is based on a conversation between Kol Hamevaser and R. Yitzchok Cohen on issues relating to the study and practice of Musar.

Likboa Bo Es li-Lemod Sifrei Musar

The *Mishnah Berurah* 1:12 rules that one should set aside a period of time every day to learn Musar. “Musar” today refers to a *sefer*, like the *Mesillas Yesharim*, *Sha’arei Teshuvah*, *Chovos ha-Levavos*, and various others. Years ago, however, before R. Yisrael Salanter, it was not so necessary to learn a specific Musar *sefer*; a person who was an expert in Shas and in Nach could find Musar there – *hafoch bah va-hafoch bah de-kullah bah* (turn it over and turn it over, for everything is in it) (*Avos* 5:22). However, *niskatnu ha-doros* (the generations have become diminished) and we are not able to find Musar in daily learning, so R. Yisrael Salanter felt that his generation, and certainly ours, needed specific *sefarim* from which one could learn Musar.

A very popular *sefer* nowadays is *Mesillas Yesharim*. The Gra said that had the Ramchal lived in his day, he would have walked fifty *mil* to listen to the Ramchal’s shiurim, even though he (the Gra) might have been a bigger *lamdan* than him – and the Gra never wasted more than five to six minutes a year, nor did he exaggerate when he spoke.

As a side point, the Gra wrote many *peirushim* on Nach, Shas, and *Shulchan Aruch*, yet in his *tsavva’ah*, he wrote that the first *sefer* that should be published should be his commentary on *Mishlei* – because of the *pasuk* (*Tehillim* 111:10): “*Reshis chochmah yir’as Hashem*,” “The first knowledge is fear of Hashem.” That is the *sefer* the Gra considered most important among all his *sefarim* in that it shows the importance of being a *yerei shamayim*.

How important, then, is it for a *ben yeshivah* to have a Musar *sefer* in his day? Musar is like spiritual vitamins! Some of us do not take vitamins. For instance, if you go through and understand Shas and its aggados, as well as Nach, you might not need the vitamins. But in general we do not really learn Nach, and if we do, we do not look those *sefarim* as *sifrei Musar*. That is why we need these vitamins – to keep us going. Although some people do not take vitamins, they do not live as healthy a life as those who do.

The amount of time one spends on learning Musar should not be a *sefer* that runs 2-3

ⁱ Soren Kierkegaard, *Fear and Trembling* (London: Penguin, 2003), p. 45.

ⁱⁱ *Ibid.*, pp. 45-46 .

ⁱⁱⁱ *Ibid.*, p. 105.

^{iv} Natan Slifkin, “Rewriting Jewish Intellectual History: 1,” “Rationalist Judaism,” 2009. Accessed: 21 Aug. 2009. Available at: <http://www.rationalistjudaism.com/2009/08/re-writing-jewish-intellectual-history-1.html>.

^v See Avraham Steinberg and Fred Rosner, “Talmudic Remedies,” in *Encyclopedia of Jewish Medical Ethics* (Jerusalem: Makhon Shlezinger, 1988), p. 144, footnote 90; p. 161. A famous dispute on the front of protection theology, between a rabbinic figure and science, can be found in Rabbi Menachem Mendel Schneersohn’s *Iggerot Kodesh*, where he writes that dinosaur bones were placed in the ground without dinosaurs ever actually existing.

^{vi} See *Guide of the Perplexed* III:7.

^{vii} “The Making of a Ban” speech at about 59:00-1:01:00. Available at: http://www.yutorah.org/lectures/lecture.cfm/731293/Rabbi_Nathan_Kamenetsky/Making_of_a_Ban:_A_Look_At_the_Banning_of_Making_of_A_Godol.

^{viii} Kierkegaard, p. 60.

^{ix} *Ibid.*, p. 60.

^x *Ibid.*, p. 55.

^{xi} Natan Slifkin, “In Defense of My Opponents.” 5 Oct. 2008. Available at: <http://zootorah.com/controversy/controversy.html>.

^{xii} Marc Shapiro, *The Limits of Orthodox Theology* (Portland: Oxford, 2005), p. 157.

^{xiii} *Ibid.*, p. 157, footnote 1.

^{xiv} While it is not the norm for the narrative of a biblical passage to elaborate on the decision making process of a biblical character, there are numerous narratives in Tanakh that record such thought processes. For example, I Samuel 18:17: “And Saul said to David: ‘Behold my eldest daughter Merab, her I will give thee to wife; only be thou valiant for me, and the fight the LORD’s battles.’ For Saul said: ‘Let not my hand be upon him, but let the hand of the Philistines be upon him.’” See also Esther 6:6: “So Haman came in. And the king said unto him: ‘What shall be done unto the man whom the king delighteth to honor?’—Now Haman said in his heart: ‘Whom would the king delight to honor besides myself?’”

hours or more. That is not good at all. One should spend fifteen minutes to a half hour tops. One should learn it at a couple points in his day – before Minchah, before Ma'ariv, or before one goes to sleep, but the most important thing is that one should just pay attention to what he is saying. After all, what is Musar? The *Mashgiach*, *za"l* [R. Yaakov Moshe Hakohen Lesin], always used to explain that Musar is when one talks to himself. And no one likes to talk to himself; people like to talk to others about others, criticize others, or admire others. But ourselves – we do not criticize, admonish, or talk to ourselves. For Musar, one does not need a *chavrusa* – it is not a *shakla ve-tarya* (back and forth discussion) about this word or that word in *Mesillas Yesharim*. One needs to simply talk to himself. That is not to say that

“The Gra tells us, based on this, that one could be a *baki be-Shas* and could know a huge amount, but if he has no *yir'as Hashem*, what good is all that knowledge?”

it is *asur* to learn Musar *be-chavrusa*. It is simply preferable to learn on one's own and especially to learn *be-kol* (out loud).

In conclusion, then, Musar is supposed to be a source of *chizzuk*, not something a person is engaged in all day long.

Learning Musar as a Layperson

Someone once asked the Rav Yisrael Salanter whether in the time that he has to learn he should spend it learning Musar or a *blat* Gemara. He answered that he should learn Musar, since once one learns Musar, one realizes that he really has more time to learn than he at first thought. A layman needs to make this time, these few minutes, to learn Musar.

R. Dovid Lifshitz, *za"l* [a former Rosh Yeshivah at RIETS], was *kove'a zeman* every single day to learn *Sefer Orchos Chayyim* by the Rosh. Each time, he read through a couple of pages, just for five minutes, about having *kavvanah* when putting on *tefillin*, making *berachos* properly, *mitsvos bein adam la-chavero*, etc. The *Chayyei Adam* also wrote about *mitsvos* and is worth studying. It only has to be a few minutes a day, as part of *davening* or right before *davening*. This is what *Ha-Kadosh Baruch Hu* wants from us – to be constantly working on ourselves.

The Gemara (*Shabbos* 31a) comments on the *pasuk* (*Yeshayahu* 33:6): “*Ve-hayu emunas ittecha chosen yeshu'os chochmas va-da'as*,” “And the faith of your times shall be the strength of your salvations, wisdom, and knowledge.” He explains that this refers to the six *Sidrei Mishnah*, each word corresponding to another *Seder*. The *pasuk* ends off: “*Yir'as Hashem hi otsaro*,” “The fear of God is his treasure.” The Gra tells us, based on this, that one could be a *baki be-Shas* and could know a huge amount, but if he has no *yir'as Hashem*, what good is all that knowledge? It is like a

person who has a beautiful car, but he cannot drive it because he lost the keys, or like a person who has a vault full of money but does not know the combination to open it. What good is it? This is why it is important for every individual – every individual – to learn Musar. This is what Torah is all about (*Devarim* 10:12): “*Mah Hashem E-lokecha sho'el me-immach*,” “What does *Ha-Kadosh Baruch Hu* want from us?” “*Ki im le-yir'ah es Hashem E-lokecha*” – He wants us to be *yir'ei shamayim* and to learn *sifrei Musar*.

A person who wants to learn Musar, however, should know that it is not like learning other parts of Torah. If one is a *baki be-Shas* and is given a job as a schoolteacher, learning the first Mishnah in *Bava Metsi'a* is not going to teach him much – he knows it already. How-

ever, with regard to Musar, a person could give the same shiur for thirty-five years in a row and he would still learn new things, because the focus is on *teshuvah*. He has to feel something new when he teaches it each time.

Opposition to the Musar Movement

R. Chayyim Volozhiner was very opposed to spending so much time on Musar and Chasidus. And the Gra was violently against Chasidus, even though he was very much in favor of the Ramchal. They both felt that the main thing was *limmud ha-Torah* and *avodas Hashem* and that with Chasidus, one can get easily carried away without understanding Torah properly. Also, Chasidus focuses on the *chitsoniyus* (externality) of Torah, not its *penimiyus* (the internality). One can *shokl* when one *davens* and can go through all the motions, but if one does not understand what one is doing, it is all meaningless.

This is the concern they had when R. Yisrael Salanter began the Musar Movement. They felt it was like Chasidus, with a rebbe's *tish* every Shabbos and visits to a rebbe whenever one has a problem. None of this is helpful, they felt, if one does not learn any Torah. There were certainly some Jews in the Musar Movement who were involved in *limmud ha-Torah* as well, using Chasidus to be *mechazzek* them. But overall, there was a lot of opposition.

Musar only started becoming more mainstream later on. In time, R. Yisrael Salanter saw to it that in every yeshivah there should be a *sefer Musar*. There was a certain *zeman* set for learning Musar, as well as a *Mashgiach Ruchani* to guide the *talmidim*.

Some held out, though, and there was strife. There were two big yeshivos in Slabodka, and they were very antagonistic towards each other. One was R. Baruch Ber

Leibowitz's yeshivah, which did not learn Musar, and the other was the yeshivah of R. Moshe Mordechai Epstein, the Alter of Slabodka, which learned Musar. It eventually became so bad that *talmidim* were not allowed to go from one yeshivah to the other. Why, though, did R. Baruch Ber resist? He felt that he and his *talmidim* were on high enough of a *madregah* to learn Torah and derive Musar from that. For instance, whenever he quoted Torah from R. Chayyim Soloveitchik, he shook. He was a man of Musar.

Our *Mashgiach* was a *talmid-chaver* of the Alter of Slabodka and was also a great man. He would always make sure to eat properly and with etiquette, sitting up straight, even when he was sick in the hospital. There was never a speck of dirt on his *kapote* (long coat). This shows that Musar was part him – part of the way he walked and talked. [This was all reflective of being a *mentsh*, of *gadlus ha-adam* – the view that Man is great, even though he is a *chotei* (sinner).]

Which Musar Sefer to Learn

One needs to find a *sefer* that speaks to him, that is right for him. Some very much like the *Chovos ha-Levavos* because it has so many details on every *middah*. R. Chayyim Soloveitchik once saw the Brisker Rav learning a Musar *sefer*, so he asked him what he was learning. He answered that he was learning *Chovos ha-Levavos*, to which R. Chayyim responded, “That is the *Shulchan Aruch* of

“Are you a fool? Then the Torah is for you!”

Musar.” The *Mesillas Yesharim*, too, really goes to the *middos* of a person.

Gadlus ha-Adam vs. Shiflus ha-Adam

There were two schools of Musar thought in Europe. The Novardok school stressed *shiflus ha-adam* (the lowliness of Man), the *surmera* (turn from evil) aspects of Torah, while in Slabodka it was just the opposite. There, they stressed *gadlus ha-adam* (the greatness of Man) and the *aseh tov* (do good) aspects of Torah.

Which one is better? It depends on the individual. For certain people, like those who are *ba'alei ga'avah* (haughty), the Novardok approach is more effective in instilling within them *pachad* (fear). The *Sefer ha-Chinnuch* writes that the reason a person should abstain from doing an *aveirah* is for fear of punishment. So some people need an extra dose of this *yir'ah*.

For many others, however, that would be very anti-productive. If a person is constantly instilled with fear, he can come to neurosis and it can be very dangerous. Such people need *chizzuk*, someone to tell them that they are great, even though they have sinned. This is the approach taken by *ba'alei teshuvah* today

– that despite their backgrounds, they can still rise up and achieve great heights. Where does one find the *Shechinah* today? Chazal say that it is at the *Kosel ha-Ma'aravi*. But what does the *pasuk* say? “*Ha-Shocheh ittam besoch tum'osam*,” “Which dwells among them in their impurity” (*Va-Yikra* 16:16). Find a *makom tamei* and that is where He is. Hashem has not abandoned those who have sinned, and, in fact, He dwells in their midst.

For a *ba'al teshuvah*, then, *gadlus ha-adam* is definitely better; for a *yeshivah bachur*, though, it depends on his personality.

Who is Qualified to Give Musar?

The Gemara states that no one today can give *tochachah*, even though the *pasuk* instructs us to do so: “*Hocheach tochiach es amisecha*,” “You shall certainly rebuke your friend” (*Va-Yikra* 19:17). A person can really only give Musar to others nowadays if he is working on himself at the same time – if he says, “I am not talking to you, I am talking to myself.” And once we are talking to ourselves, a person who wants to listen can do so and take *musar* from that.

Obviously, if a person is an *avaryan* and is not going to listen when one informs him that he is doing something wrong, one should not tell him anything. It really all depends on the circumstances. If one tells someone to be *makpid* on *chalav Yisrael* and *pas Yisrael* when he is not on that *madregah*, it is counterproductive. Similarly, if a *talmid* is not doing the best

in school and feels inferior to the other students, one should not tell him about all the things he has done wrong. It will cause him to leave *Yiddishkayt* completely. One has to encourage such people and tell them how great they are.

The truth is that we all have to ingrain within ourselves the fact that Torah is meant for us, not just for geniuses like the Brisker Rav. “*Edus Hashem ne'emanah, machkimas pesi*,” “The testimony of Hashem is faithful, making the foolish wise” (*Tehillim* 19:8). Are you a fool? Then the Torah is for you! Where does it say that one has to be a *chacham* to learn Torah? Being a *chacham* is not a prerequisite. A lot of people who do not possess a high level of intelligence feel like they do not have a *chelek* in Torah, but this is absolutely false.

Sometimes, it is very important to give someone Musar. If a person is very haughty and thinks highly of himself, without ever having been criticized for anything, he might need someone to bring him back down to Earth. In such cases, he probably will not leave *Yiddishkayt* because of that. But with *talmidim* who are weaker, one should be more careful in giving Musar.

The Musar Shmues

We have three types of *ahavah* that we must work on: *ahavas ishto u-banav* (love of one's family), *ahavas ha-beriyos* (love of all people), and *ahavas ha-Torah* and *Hashem* (love of the Torah and Hashem). These correspond to "Va-Ye'ehav Ya'akov es Rachel," "Ya'akov loved Rachel" (*Be-Reshis* 29:17); "Ve-Ahavta le-re'acha kamocha," "You shall love your friend as yourself" (*Va-Yikra* 19:18); and "Ve-Ahavta es Hashem Elo-hecha," "You shall love Hashem" (*Devarim* 6:5). And these *pesukim* are in order: *ahavah* has to start with the home, extend to one's friends, and finally to Hashem. So the goal of a *Musar shmues* should be to work on these relationships: *bein adam le-atmo*, *bein adam la-chavero*, *bein adam la-Makom*. The word "*ahavah*" comes from the root "*hav*," to give. In all of these areas, one has to give from his money, personality, and time. Even if the other party is not reciprocating, one has to initiate.

Here in Yeshiva, we do not have enough real Musar. We have a *sichas Musar* every Wednesday night, but it does not necessarily focus on Musar. All of the speakers are wonderful people, but often they talk about *limmud ha-Torah* or *peshat* in a Gemara or in a *pasuk*. A *Musar shmues* should relate directly to the audience and should not be talking in the abstract. The Rav would say that one cannot give another person a religious experience. A person has to live through the experience himself for it to have an effect on him. He said that when they *leined* "*Ve-Zos ha-Berachah*" as a small child in school, his rebbe was able to create an atmosphere of deep feeling on the part of the *talmidim* as Moshe Rabbeinu was about to die. Everyone was crying (this is a piece of Musar for us to exhibit our emotions). But over a piece of Gemara – there is no *hargashas haley* (heartfelt emotion) in the *sugya* of *yachloku* (dividing property)!

We need to have more *hargashah*, to be more emotional. So much of what we do is cold, very cold, including *davening*. We simply do not have the right *hargashah*; we do not cry enough.

Musar and the Yamim Nora'im

In light of the oncoming *Yamim Nora'im*, *bachurim* need to work on certain *middos*. One of them is *ga'avah*. A person needs to be *modeh al ha-emes* (to admit to the truth) and to be able to say, "I made a mistake, perhaps I need to reexamine my *hashkofos*." He needs to be intellectually honest with himself. Some boys do not want to wear a hat or a jacket and tie because they feel, "This is not who I am." Not that they should wear them, but they should at least have a *she'ifah* (desire) to grow, in both learning and *yir'as shamayim*. We

have to have a drive to learn more and to *daven* longer, not to knock off all of *Shacharis* in twenty minutes.

There are those people in the Modern Orthodox community who believe that part of being Modern Orthodox is not being *medakdek* in mitsvos like *bentshing*, *berachos*, and *tseni'us* – that the definition of being Modern Orthodox involves living a halachically *be-divad* lifestyle. This should bother us and should get us worked up. We should have more of a *she'ifah* for *gadlus* and *kiyyum ha-mitsvos*. There should be no room to distinguish in Torah observance between Modern Orthodox Jews and other Orthodox Jews.

We have to get this hashkafah into our heads – that we are all *benei Torah* and that we, too, should have a *she'ifah* to grow, not just R. Chayyim. The joke goes that someone comes to *Shamayim* and is asked, "Why were you not *medakdek* in mitsvos?" He answers, "I went to YU, not to Lakewood." "Oh, okay, that is fine then." *Chalilah va-chas!* We cannot have this attitude ourselves and should not allow others to come to this conclusion either.

Daily Musar

In everything one does, he can incorporate Musar ideals – in how he talks, walks, learns, does *chesed* and *tsedakah* with people, etc. He should feel for his friend in times of stress and participate not only in his happiness but in his sorrow as well. But a person has to do all of this *le-shem Shamayim*, not because at the end of the day he will get a thank you. That is the proper way to make Musar part of life. May this be *mechazek* us to have an *aliyah* in our *avodas Hashem*.

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ON THE LETTER AND SPIRIT OF THE LAW

BY: Jonathan Ziring

In the past several years, a number of organizations have arisen emphasizing ethics and values in different aspects of Jewish life, such as *kashrut* and social justice. The implicit (or explicit) claim these organizations make is that "keeping Halakhah" is not sufficient; a higher standard must be met for a person or movement to live *al pi ha-Torah*. While some might think that these organizations, at least ostensibly, believe that there is "an ethic outside of Halakhah," that it not the case. As R. Aharon Lichtenstein has pointed out,ⁱ the question of whether there is an ethic outside of Halakhah often comes down to how broadly one defines Halakhah and how narrowly one defines Ethics. In its most extreme form, the claim may be made that there is a moral system independ-

"As long as the claim is made that we are attempting to develop a system around the spirit of Halakhah, a prerequisite to do so is a mastery of the halakhic system."

ent of Halakhah to which Halakhah is answerable. This notion often finds expression in the words of the "proponents" of *aveirah lishemah* (performing a transgression for a greater goal), a notion that R. Lichtenstein rejects outright (though in passing he mentions the possibility of such an idea within Rambam's wordsⁱⁱ).

These organizations, however, usually do not claim to be acting on the basis of ethics external to the halakhic system. If they would have been, while the general epistemic question of how to discover these external morals would have to be dealt with, it would be difficult to place any restrictions on them from within the Torah; after all, such a position would circumvent any Torah-based restrictions by its definition.ⁱⁱⁱ However, these organizations make a much narrower claim, namely that they are basing themselves on the broader hashkafah of the Torah, as opposed to limiting themselves to the technical details of the laws it contains.

When discussing these types of topics, the first sources that come to mind are Ramban's discussions of "*ve-asita ha-yashar ve-ha-tov*" ("and you shall do the right and the good") and "*kedoshim tihyu*" ("you shall be holy"). In both places, Ramban asserts that the Torah demands of people to go beyond the technicalities of the Halakhah and live up to broader principles of *yashrut* (honesty), *tov* (goodness), and *kedushah* (sanctity). He famously describes the possibility of keeping the letter of the law in its entirety while still being immoral, a "*naval bi-reshut ha-Torah*," a possibility which necessitates the introduction of these broader principles. Perhaps Ramban can most accurately be described as mandating that one keep not only the letter of the law, but the spirit of the law as well.^{iv, v}

However, if, as I suggest, Ramban is not positing an ethic independent of the halakhic system, but rather a series of values which emerge from the totality of the Torah's code, discovering those values becomes on the one hand easier, as there is an identifiable way of accessing them, but on the other hand more demanding, as much knowledge is required to discover them. While one no longer has to answer the epistemic question of where values come from within Judaism if not the Torah, as the values being espoused are indeed part and parcel of the halakhic system, the spirit of the Torah's laws can only be derived from a deep understanding of the letter of those laws.

This point becomes clear from an analysis of one of the Ramban's comments that we have mentioned. Ramban in *Parashat Kedoshim* famously writes that in order to achieve holiness, one must not simply limit oneself by the sexual

prohibitions recorded in the Torah, but must rather lead a life restrained by the values that these laws represent. Ramban seems to have thought that these sexual prohibitions were not derivable from natural morality. In fact, in explaining why the world was destroyed in the *Mabul* as a result of *hamas*, theft, and not because of the sexual crimes committed, he writes that God could only punish for that which was an "*inyan muskal einenu tsarikh la-Torah*," a matter of logic which did not need the Torah (for its derivation). Ramban claims that while theft was derivable logically, sexual prohibitions were not.^{vi} Thus, the model Ramban sets up for sexual morality is that we could not have known these principles without the Torah, but once we have some of the laws, we are supposed to extrapolate a system of values beyond the specifics the Torah lists. In other words, we could not have known either the letter or the spirit of these laws through intuition.

Ramban seems to believe that this same model holds true for interpersonal ethics as well, as he continues his discussion by proposing a parallel system of social ethics:

"And this is the Torah's mode: to detail and then to generalize in a similar vein. For after the admonition about the details of civil law and all interpersonal dealings... it says generally, "And thou shalt do the right and the good," as it includes under this positive command justice and accommodation and all [that which is] *lifnim mi-shurat ha-din* [beyond the letter of the law] in order to oblige one's fellows."^{viii}

From this comparison, it seems that Ramban felt that even in the realm of interpersonal laws, the values cannot be intuited but rather

should be developed from the laws the Torah has itself set.^{viii} Hazal's statements often point to this idea as well, as they chose to formalize many of the laws that were implicit from the Torah in an attempt to clarify what perhaps could have been derived by anyone. For example, in light of the mandate to walk in the ways of God, "ve-halakhta bi-derakhav," *imitatio Dei*, Hazal enumerated the obligations to visit the sick, comfort mourners, and clothe the unclothed,^{ix} rather than leaving individuals to figure out what the ways of God are on their own.

It seems clear, therefore, that if one wants to accurately present the values that emerge from the laws of the Torah, one must be familiar with a significant portion of those laws, with all their complexities and minutiae. Otherwise, the values developed are mere (I hesitate to use "mere" in this context) moral intuitions and do not reflect the actual spirit of the laws. Whether or not we should be comfortable with such intuitions is the subject of another discussion, but as long as the claim is made that we are attempting to develop a system around the spirit of Halakhah, a prerequisite to doing so is a mastery of the halakhic system. Anything less is either flawed or a manifestation of *yuhara* (haughtiness).

Admittedly, it may be that the aforementioned organizations are not seeking just the spirit of the law, but rather the broader "will of the Torah." If so, there may be a way of accessing this without studying the spirit of the laws, namely by extrapolating the values implicit in the narratives recorded in the Torah. Rambam implies this when he explains that the source for the Gemara's ruling that *tsa'ar ba'alei hayyim de-Oraita*, causing pain to animals is forbidden on a biblical level, is the story of the *mal'akh* chastising Bil'am for striking his donkey.^x However, this does not mean to suggest the ability to access the will of the Torah without the study of the Torah; it simply expands and changes the corpus of texts that must be studied if one wants to accurately represent the Torah's implicit values. In fact, intensive study and fidelity to the texts are required to truthfully develop both the spirit of the laws and the will of Torah. Anything less would be disingenuous. Thus, the importance of involving true scholars when propounding the "will of the Torah" becomes obvious. The alternative runs the risk of distorting the Torah we are trying to preserve.^{xi}

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hedrin Press, 1978), pp. 102-123, and in R. Aharon Lichtenstein, *Leaves of Faith: The World of Jewish Learning*, vol. 2 (Jersey City, NJ: Ktav, 2004), pp. 33-56.

ⁱⁱ R. Lichtenstein, "Does Jewish Tradition," note 25. More extreme versions of this are expressed in R. Mordekhai Yosef Leiner (the "Izhbitser"), *Mei ha-Shiloah* (Benei Berak: Sifrei Kodesh Mishor, 1990) in his discussions of *Parashiyot Korah* and *Pinhas*. In order to neutralize the Gemarot in *Nazir* and *Horayot* that discuss *aveirah li-shemah*, R. Lichtenstein writes: "This apparent priority of *telos* and motivation over formal law has no prescriptive or prospective implications. At most, it means that we can sometimes see, after the fact, that a nominal violation was superior to a licit or even required act; but it gives no license for making the jump. Moreover, in the case at hand, Yael's sexual relations with Sisera, there was most likely no formal violation... The term *averah* refers, then, to an act that is proscribed under ordinary circumstances, but that here, its usual sinful character notwithstanding, becomes superior to a *mizvah*."

ⁱⁱⁱ The existence of an ethical system independent of Halakhah is a complicated topic about which much has been written. For one interesting attempt to prove that Halakhah must be answerable to some external system, see R. Aryeh Klapper's explanation of his motivation in writing the article "Ha-Zaken ha-Mamre ke-Gibbor ha-Masoret" *Beit Yitshak* 26 (1994), available at: <http://www.torahleadership.org/lectures.html#talmud>, under the heading "Talmud."

^{iv} I have also heard this suggested by R. Assaf Bednarsh of YU's Gruss Kollel in Jerusalem.

^v R. Lichtenstein adds much to this discussion in his article "Kofin al Middat Sedom: Compulsory Altruism?" *Alei Etzion* 16 (2009), pp. 31-70, available at: www.haretzion.org/alei/16-02sedom-final.doc.

^{vi} Ramban to *Be-Reshit* 6:2.

^{vii} Ramban to *Va-Yikra* 19:2 (translation by R. Lichtenstein, p. 39). Ramban discusses this more fully in *Devarim* 6:18.

^{viii} Another oft-quoted example is the source of the requirement to obey one's parents. While the Talmud (*Kiddushin* 31b) only mentions obligations that entail taking care of one's parents, the Hazon Ish (*Yoreh De'ah* 149) derives from the *mitsvah* of *kibbud av va-em* that it is the *retson ha-Torah* that one listen to his or her parents as well. See, however, Maharik to *Yoreh De'ah* 166:3.

^{ix} *Sotah* 14a.

^x *Guide to the Perplexed* 3:17. This point has been raised by R. Asher Weiss, *Minhat Asher* to *Parashiyot Va-Yera* and *Ki Tavo*. An audio shiur is also available on the subject: <http://www.s213209882.onlinehome.us/Shiurim/RWeiss/mp3/5769/5769-41-HWeissShoftim.mp3>.

^{xi} For a contemporary discussion on the importance of *talmidei hakhamim* heading the calls for social justice, see Michael Berkowitz's posts in response to Shmuly Yanklowitz and the ensuing responses. The string starts here: <http://lookstein.org/lookjed/read.php?1,17785,17785#msg-17785>.

"HE MADE A SNAIL, WHICH IS HELPFUL FOR CURING A SCAB..."ⁱ

MEDICAL ANIMAL TESTING AND HALAKHAH

BY: Ilana Gadish

"Rav said, 'Whatever God made in this world was not made for naught: He made a snail, which is [helpful for curing] a scab, [He made a] fly as an antidote for a hornet's sting.'"

Rav's statement in *Shabbat* 77b may not have been scientifically so far off. Recently, snail venom has been discovered to cure much more than just a scab. At the Miami Project to Cure Paralysis, Drs. Jaci Sagen and Shyam Gajavelli are using the venom of the *Conus magus* (the "fish hunting magician's cone snail"), which produces omega-conotoxins, in order to alleviate spinal cord injury-related pain. These omega-conotoxins are used by the snail to paralyze their prey, but, when injected into a mammal's spinal cord, have been found to produce pain-relieving effects.ⁱⁱ While spinal cord injury is more than just a scab, snails do seem to have curative purposes along the lines of those that Rav suggests as well. In order to determine the medical effects of the conotoxin, or any other curative substance, on humans, animal experimentation is often employed as a preliminary measure.

Before exploring the ethical-halakhic side of animal experimentation, it is important to discuss animal experimentation in general. Why should Halakhah care about animal testing in research? Why should anyone care? In the words of the Americans for Medical Progress (AMP), "Virtually everyone alive today has benefited from the medical advances made possible through animal research. Polio, smallpox, diphtheria, cholera and measles are no longer major threats to public health in the United States."ⁱⁱⁱ The development of vaccines via animal research has made it possible for thousands of people to be spared from diseases that until the 20th century were widespread and fatal.^{iv} Additionally, the AMP enumerates many advances in veterinary treatment, as well as the preservation of endangered species due to animal testing.

It is important to note that in accordance with the Animal Welfare Act (AWA), any lab that acquires animals for research must have an Institutional Animal Care and Use Committee (IACUC) to monitor the handling of research animals and protect the animals' welfare.^v Additionally, every lab must comply with the policies found in the *Guide for the Care and Use of Laboratory Animals*. For the research scientist, the *Guide* lays down the letter of the law regarding humane treatment of animals used for research.

Interestingly, there are many similarities between the *Guide* and halakhic literature regarding medical animal research. The rule of the "Three R's" is derived from the *Guide* by the AMP and described as such: "Reduce the

number of animals used; Refine studies to ensure humane conditions; Replace animals with other models whenever possible."^{vi} Furthermore, the *Guide* requires that extensive research be done before using animals for research in order to ensure that the research done will be both relevant to science and that it has not already been done by another lab.^{vii}

These requirements resemble a ruling by one of the 17th century *gedolim*, R. Jacob ben Joseph Reischer (the *Hok Ya'akov*), a commentator on the *Shulhan Arukh*. In an article entitled "Animal Experimentation," R. Alfred Cohen summarizes the answer given by the *Hok Ya'akov* in *Shevut Ya'akov*, his collected responsa, on whether or not medical research on animals is permitted in Halakhah:

"The *Shevut Ya'akov* limits his permission in two important ways: he would not allow animal experimentation if the benefit to scientific knowledge is negligible, trivial or minor, nor would he sanction it if an alternate method of acquiring the information needed is available."^{viii}

The limits that would render certain animal research as *asur*, forbidden, according to the *Hok Ya'akov* are almost identical to limits set up by the *Guide* and the AWA.

Additionally, the *Guide* sets rules that ensure that minimal pain is inflicted upon an animal during experimentation,^{ix} usually via anesthetics or analgesics. These regulations seem to comply with the words of Ran, who, when discussing what he believes to be the biblical nature of *tsa'ar ba'alei hayyim*, causing pain to animals, states that *tsa'ar ba'alei hayyim* refers to "*davka tsa'ar gadol; aval tsa'ar me'at, lo*," "specifically a great pain, but minor pain, not."^x Therefore, if the pain due to the experimentation were minimal to the animal, it would seem not to fall under the category of *tsa'ar ba'alei hayyim*.

It is clear that Judaism takes into account the complexity of the nature of man's relationship with the animal kingdom. The prohibition against *tsa'ar ba'alei hayyim*, as well as other attitudes derived from *mitsvot* such as the requirements of *perikah u-te'inah*, relieving an animal suffering under a load,^{xi} and *shilluah ha-kan*, sending out the mother bird,^{xii} create an obligation in Judaism to be merciful to animals. However, concepts such as *pikkuah nefesh*, saving a human life, explicitly emphasize the prime importance of human life. Additionally, the command by God to Man in Genesis of "*Mil'u et ha-arets ve-kivshuha u-redu bidegat ha-yam...u-be-kol hayyah ha-romeset al ha-arets*," "Be fruitful, and multiply, and replenish the earth, and subdue it; and have dominion over the fish of the sea...and over every living thing that creepeth upon the earth,"^{xiii} highlights the fact that man has some sort of higher placement and authority over the animal kingdom.

A CONTRADICTION OF BIBLICAL PROPORTIONS: *POKED AVON VS. LO YUMETU**

BY: AJ Berkovitz

One of the more troubling conflicts between religious doctrines expressed in the Torah is the dissonance between collective and individual punishment. In several places,ⁱⁱ the Torah expresses the notion of “*Poked avon avot al banim, al shilleshim ve-al ribbe'im*” – that God visits the sins of parents unto their children and their children’s children. This doctrine also applies in its broadest sense: the entire nation may be punished on account of

“God’s ability to punish collectively receives its justification from Israel’s acceptance of His law and divine sovereignty as a collective.”

one individual. Collective responsibility requires that the public be accountable as the source of moral and religious action.ⁱⁱⁱ Presented alone, this doctrine would remain unchallenged. God is the omniscient, ethical, and moral being *par excellence*; therefore, God’s doctrine of collective punishment is just.^{iv} However, the Torah also expresses the opinion of “*Lo yumetu avot al banim u-banim lo yumetu al avot, ish be-het’o yumatu,*”^v a parent shall not die for the sins of his son and a son shall not die for the sins of his parents. In the light of this verse, a conflict emerges. Is the Jewish nation punished collectively, on a scale of collective responsibility, or is each person punished for his own individual actions? Are these two doctrines reconcilable? This article will explore three different methods of reconciling this apparent contradiction.

Before investigating the methods of reconciliation, the doctrine of collective punishment as it relates to group intention must be properly understood. Collective responsibility operates as explained above; a unit is responsible for the action of every individual part. Hazal express this notion with the phrase “*kol Yisrael arevin zeh la-zeh*”^{vi} Some modern philosophers have presented collective punishment as unjust. They question the morality of ascribing responsibility to individuals who did not cause harm.^{vii} It is for this reason that H.D. Lewis, a twentieth century Welsh theologian and philosopher, claimed, “Collective responsibility is ... barbarous.”^{viii} Another critique revolves around the ability of groups to formulate intention. Lewis, in his 1948 critique of collective responsibility, claims that groups “cannot make choices or hold beliefs in the sense required by the formulation of intentions.”^{ix}

The first answer to this dilemma avoids any dissonance. Collective punishment is a divine right and may only be expressed by God or those following His directive. Systems lacking direct divine interaction must operate under the principle of individual punishment. This method closely follows that of Rashbam. According to him,^x the phrase “*u-banim lo yumetu al avot*” refers to a *Beit Din*; the human court

cannot kill collectively, “but God visits sin of the fathers unto the children.”

According to both biblical and rabbinic theology, in contrast with Lewis, groups do make joint choices and hold common beliefs. One example of a decision made by the Jews as a collective whole is the acceptance of Torah. As Israel crowded around Har Sinai to accept the divine law, the Torah states: “The entire nation answered *together* and they said, ‘Anything that God says we will do.’”^{xi} The entire Jewish people as a collective, as a unit, accepted the Torah. Even with regard to their

original encampment around Har Sinai, the *Mekhilta* states that the Jews camped *ke-ish ehad be-lev ehad*. This ideology helps explain how and why God punishes collectively. Israel accepted the Torah together as one unit; therefore, with regard to divine punishment, when they do not follow the Torah, Israel is viewed as a collective. Using this logic, one can surmise that collective punishment carried out by God is neither unjust nor barbaric. God’s ability to punish collectively receives its justification from Israel’s acceptance of His law and divine sovereignty as a collective.^{xii}

Many stories in Tanakh incorporate collective punishment as an exclusively divine form of retribution. One of the clearest examples of an individual sin being repaid unto the collective is presented in the story of Akhan. After destroying Yeriho, the Jews swore that all the spoils of Yeriho were to be *hekdesh*. Ignoring and violating this injunction, “Akhan son of Carmi son of Zabdi, son of Zerah, of the tribe of Judah, took of that which was proscribed.”^{xiii} Because of this sin, the Jews suffered a devastating defeat at the city of Ai. When asked why they did not receive divine assistance, God responded: “*Israel has sinned. They have broken the covenant by which I*

“The general historical trend has been to reject the doctrine of collective punishment in favor of individual sin.”

bound them. *They have taken of the proscribed and put it in their vessels; they have stolen; they have broken faith.*”^{xiv} God blames the entire Jewish nation for the sin of Akhan; it is as if every Jew stole and broke the agreement. God collectively punishes all of Israel for the sin of Akhan.

In a more specific sense, Akhan’s family is also punished collectively. Upon Akhan’s confession,

“Yehoshua, and all Israel with him, took Akhan son of Zerah – and the silver, the mantel, and the wedge of gold – *his sons and daughters*, and his ox, his donkey, and his flock, and his tent, and all his belongings and brought them up to the valley of Akhor. Joshua said, ‘What calamity you have

brought upon us! *God will bring calamity upon you this day.*’ And all Israel pelted *him* with stones. They put *them* to the fire and stoned *them.*”^{xv}

Yehoshua attributes the collective punishment of Akhan and his family to the will of God. Collective punishment exists, but only as a divine right.

Another instance of *poked avon* as a divine right can be seen regarding the era of the destruction of the *Beit ha-Mikdash*. According to the Book of Kings, “All this (the attacks on Judah) befell Judah at the command of God ... because of all the sins that Menasheh had committed.”^{xvi} This verse refers to the state of Judah many years after the death of Menasheh, yet God still punishes the Jews for his evil and idolatrous ways.

The Book of Kings generally espouses the theology of *poked avon*,^{xvii} though there is an instance of *lo yumetu*. After Yeho’ash is assassinated by some of his royal officials, his son Amatsyahu becomes king. The verse reads:

“Once he had the kingdom firmly in his grasp, he put to death the courtiers who had assassinated his father the king. But he did not put to death the children of the assassins, in accordance with what is written in the book of *Torat Moshe* where God commanded, ‘Parents shall not be put to death for children, nor children be put to death for parents; but rather a person shall be put to death only for his own crime.’”^{xviii}

This instance drastically breaks the pattern of *poked avon* in the book. This exception highlights the difference between God, who is allowed to collectively punish, and Amatsyahu, a human, who can only punish individually. This first method has eradicated any conflict between the two doctrines. Administering collective punishment is a divine right and cannot be claimed by humans.

The second method that can be used to understand the difference between *poked avon* and *lo yumetu* is the historical approach. This

approach, generally accepted by the academic scholars of Jewish study, acknowledges the difference and conflict between the two doctrines. They claim that, dependent on time and location, different doctrines were championed and adopted. According to them, the general historical trend has been to reject the doctrine of collective punishment in favor of individual sin. However, as shall soon be discovered, this simplistic view is untenable; the true answer lies between shades of gray.

Benjamin Sommer, in his essay on inner-biblical interpretation,^{xix} tries to reconcile the variant formulas of the thirteen *middot* of mercy. In Psalms 103.8-10, the Psalmist writes: “God is compassionate and gracious, slow to anger, abounding in kindness, He will

Any view on animal experimentation in accordance with Jewish ethics has to strike a balance between the aforementioned opposing ideas found in both Halakhah and Jewish thought. This delicate equilibrium can be seen in the following statement by R. Cohen: “...In general, halakha condones causing pain to an animal if a person will benefit therefrom... [but] much depends on the need and circumstances, on the pain to the animal and the expected gain to humanity.”^{xiv} With the understanding that animal experimentation is necessary for the advancement of medical research, and assuming that each laboratory follows the AWA and ensures minimal pain to its animals, it would seem that Halakhah should consent to the practice of medical animal experimentation. This approach balances the notion of being merciful towards animals with the inherent sanctity of human life, at the same time suggesting that perhaps all God’s creations were fashioned with intrinsic curative potential.

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ⁱ *Shabbat* 77b. Note: This article deals solely with medical animal research and testing, not to be confused with cosmetic testing on animals.

ⁱⁱ Baldomero M. Olivera and Russel W. Teichert, “Diversity of the Neurotoxic *Conus* Peptides: A Model for Concerted Pharmacological Discovery,” *Molecular Interventions* 7,5 (October 2007): 251-260.

ⁱⁱⁱ “Three Facts about Animal Research in Medicine,” available under *Reference Center* at: www.amprogress.org.

^{iv} The Committee to Update Science, Medicine, and Animals; National Research Council, *Science, Medicine, and Animals* (Washington, DC: National Academies Press, 2004), pp. 8-9.

^v Institute of Laboratory Animal Resources (ILAR), *Guide for the Care and Use of Laboratory Animals* (Washington, DC: National Academies Press, 1996), p. 9.

^{vi} “Facts About Animal Research,” available under *Reference Center* at www.amprogress.org.

^{vii} *Guide*, “Animal Care and Use Protocols,” p. 10.

^{viii} R. Alfred Cohen, “Animal Experimentation,” *Journal of Halacha and Contemporary Society* 11 (1986): 19-32.

^{ix} *Guide*, p. 10.

^x Ran to *Bava Metsi’a* 32, s.v. “*R. Yosei ha-Gelili*.” (This is also quoted in R. Cohen, p. 29).

^{xi} Exodus 23:5; Deuteronomy 22:4.

^{xii} Deuteronomy 22: 6-7.

^{xiii} Genesis 1:28; translation from <http://www.mechon-mamre.org/p/pt/pt0101.htm>.

^{xiv} R. Cohen, p. 32.

not contend His anger forever.” This divergence from the standard formula prompts Sommer to claim that the Psalmist is indeed quoting Ex. 34 but, “revises the morally troubling part.” Instead of the God who collectively punishes and visits sin unto children, “God does not contend forever.” According to Sommer, this and other repetitions which fail to mention *poked avon*^{xv} are not arguing that *poked avon* means something other than its *sensus literalis*, “rather, they repeat it while also disagreeing with part of it.” While interesting, this approach is very problematic. Using this methodology, one would need to reconcile each time a variant appears in the 13 *middot* formula. It is more probable to suggest that the Psalmist and other various citers are working with a rough variant of the 13 *middot* and are trying to get a general message across. However, if Sommer is correct, this would indicate an early shift away from collective punishment

The idea of individual punishment was championed by Yehezkel. A prophet living in Babylon during the destruction of the *Beit ha-Mikdash*, Yehezkel consistently employed the philosophy of individual sin when prophesying to the exiled Jews. The idea of individual sin is explicitly mentioned in his book:

“The person who sins, he alone shall die. A child shall not share the burden of a parent’s guilt, nor shall a parent share the burden of a child’s guilt; the righteousness of the righteous shall be accounted to him alone, and the wickedness shall be accounted to him alone.”^{xxi}

This statement by Yehezkel parts from the pattern of collective punishment mentioned above. It is possible that Yehezkel, due to the historic time period he was living in, emphasized the doctrine of individual sin. The *Beit ha-Mikdash* lay in ruin; the populace in Babylon was despondent. The exiled Israelites were under the impression that they had been exiled because of their ancestor’s sins and now were being destroyed on account of them. This idea is expressed poignantly by Yehezkel: “What do you mean by quoting this proverb... ‘Parents eat sour grapes and their children’s teeth are blunted’? As I live –declares God – this proverb shall no longer be current among you in Israel.”^{xxii} A nation steeped in depression because of the collective punishment mentality was comforted and told that there was hope for continued existence. They would bear only their individual sins.

The dissonance between Yehezkel’s theology and that of *poked avon* does not escape the eyes of Hazal.^{xxiii} Hazal acknowledged this dissonance and boldly claimed that while Moshe established the doctrine of *poked avon*, Yehezkel rejected it. Until the time of Yehezkel, the doctrine of *poked avon* was the standard theological construct through which the world was viewed. Yehezkel understood that this doctrine was doing more harm than good and therefore eradicated it from contemporary *haskafah*. From now on, each person is only punished for his individual sins.

Ezekiel is not the only biblical book to reject individual sin for a historical reason. Kings’ presentation of Menasheh as responsi-

ble for the downfall of Judah is completely overturned in Chronicles. Not only does Chronicles not vilify Menasheh, but the book even includes the narrative of Menasheh’s repentance and return to God. This can be attributed to the book’s general emphasis on individual sin. Chronicles was written during the time of *Shivat Tsiyyon*, an era of a marginally successful return to Israel. Anyone perusing the books of Ezra-Nehemiah, Haggai, Zechariah, and Malachi will notice that the times were extremely harsh and the environment hostile. With this mentality, the author of Chronicles, which according to Hazal was Ezra, wrote the book through the lens of individual sin. Although fully aware of collective

“Although fully aware of collective punishment, Ezra stresses the fact that the sins of the past no longer weigh them down. Exilic Jewry has an opportunity to rebuild without fear of divine reprisal for ancestral sins.”

punishment, Ezra stresses the fact that the sins of the past no longer weigh them down. Exilic Jewry has an opportunity to rebuild without fear of divine reprisal for ancestral sins.

While historical rejection – such as that proposed by the Gemara and the academics – is a possibility, it is also possible to suggest that different doctrines were emphasized depending on the historical circumstances. The idea of emphasizing a certain doctrine is not foreign in biblical history. Yirmeyahu, Yehezkel’s contemporary, emphasized the doctrine of collective punishment movingly in the Book of Kings. This emphasis was done with precisely the same general intent of Yehezkel; the Jews needed to cope with the destruction of the *Beit ha-Mikdash*. The emphasis on collective punishment spared them from the full brunt of the punishment. Both prophets were cognizant of the different doctrines and had the divine right to emphasize the doctrine most suited for their prophetic constituents.

The third method of reconciling *poked avon* and *lo yumetu* is expressed by the classical exegetes. It reconciles the difference by explaining that God will only visit sins of parents unto children if they continue to rebel. This interpretation is expressed in Targum Onkelos. God will place the sins of the fathers on “*banin mardin*,” rebellious children.^{xxiv} If the child remains rebellious and continues in the path of his father, God will punish the child in accordance with his father’s sins. Most major biblical exegetes, such as Rashi, Ibn Ezra, *Seforno*, Ramban,^{xxv} Rasag, and Rashbam translate the verse of *poked avon* in accordance with this method.^{xxvi} This reading may stem from an ambiguity in the verse. The verse reads: “*Poked avon avot al banim al shilleshim ve’al ribbe’im li-sone’ai*.” To whom does *le-sone’ai* refer? Two possibilities exist—the father and the children. If *le-sone’ai* refers to the father, then the verse would be understood as ‘the sons get punished for the sins of the father who rejected me.’ This reading enables the other two resolutions discussed above. The other option would require *le-sone’ai* to refer to the children. If the sons follow the path of their father and hate God, then they will be punished even for their father’s sins. The latter is perhaps the

most theologically comfortable. Every person is responsible for his or her own sins. Once the rebellious forgo their protective righteousness, their familial storehouse of iniquity will be poured out.

This article has discussed three methods of reconciling the conflict between *poked avon* and *lo yumetu*. The first method displayed that both doctrines do not necessarily conflict. One can understand the difference between the two as a separation between two distinct realms of operation; collective punishment is strictly a divine right, and immoral if practiced by humans. Non-divine mechanisms of justice are restricted to individual punishment. The second method of understanding views both doc-

trines as dialectic. Both doctrines are possible and do function simultaneously. However, different prophets emphasized different doctrines at different junctures in time. The last reconciliation explored is that of the classical exegetes. Collective punishment is only an option if the sons remain rebellious. Although the two doctrines seemed to be irreconcilable, various methods of understanding do exist to appease the troubled mind.

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^{vi} As quoted, the phrase is found in *Shevu’ot* 39a. However, see *Sanhedrin* 27b for a slight variant and a discussion of the principle. *Sotah* 37b also has an important discussion of collective responsibility in the eyes of Hazal. Note Rashi there (s.v. “*amar Rav*”): “*she-kullam nit’arevu zeh ba-zeh al hovotam*.”

^{vii} Marion Smiley, “Collective Responsibility,” in *Stanford Encyclopedia of Philosophy* (Stanford, Calif: Stanford University Press, 1997).

^{viii} H.D. Lewis, “Collective Responsibility,” *Philosophy* 24 (1948): 3-18.

^{ix} Ibid.

^x Rashbam to Deut. 24:16.

^{xi} Ex. 19:8.

^{xii} The Jewish People’s ability to form group intention is also seen in rabbinic philosophy. According to Hazal, the holiday of Purim was accepted through the mechanism of *kivyemu ve-kibbelu*, a collective choice of intent to institute a holiday.

^{xiii} Joshua 7:1.

^{xiv} Ibid. 7:11.

^{xv} Ibid. 7:24-25.

^{xvi} II Kings 24:3.

^{xvii} The idea of the collective pervades the book of Kings. Examples of collective punishment include but are not limited to the sin of Menasheh, prophecy of the destruction of the houses of Ahab, Jeroboam, and Jehu, and the lack of mentioning the precursor to Josiah’s death.

^{xviii} II Kings 14:6.

^{xix} Benjamin D. Sommer, “Inner-Biblical Interpretation,” in Adele Berlin and Marc Zvi Brettler (eds.), *The Jewish Study Bible* (New York; Oxford: Oxford University Press, 2004).

^{xx} Deut. 7:9-10, Jonah 4:2, Joel 2:12.

^{xxi} Ezek. 18:20.

^{xxii} Ibid. 18:2.

^{xxiii} *Makkot* 24a.

^{xxiv} See Targum Onkelos to Ex. 20:5, 34:7; Num. 14:18; Deut. 5:9.

^{xxv} Ramban in the end of his commentary on this verse (Ex. 20:5) explains another reconciliation between collective punishment and individual sin. Collective punishment only applies to the sin of idolatry. The rest of the commandments operate under individual sin. Ramban then states that you will find the hidden secret of *poked avon* in Ecclesiastes. Happy hunting.

^{xxvi} Originally found in *Sanhedrin* 27b, “*hatam ke-she-ohazin ma’aseh avoteihen bi-yedeihen*,” see note 5 for more details.

^{i*} Translation follows that of the New JPS.

ⁱⁱ Ex. 20:4, 34:7; Num. 14:18; Deut. 5:8.

ⁱⁱⁱ Collective punishment can exist in multiple forms. The first definition assumes that each person is responsible for the next; therefore, if an individual sins, God’s wrath is kindled against the entire nation. Since all of Israel is considered one unit, God punishes the whole for its parts. When using this definition, collective punishment assumes collective responsibility. This first option will be the one primarily dealt with in this essay. The second definition claims it is possible for the individual to be punished even without having blame assigned to him. The second definition maintains that responsibility is not a factor. The second definition is used by Prof. Yechezkel Kaufman in his magnum opus *Toledot ha-Emunah ha-Yisraelit mi-Yemei Kedem ad Sof Bayit Sheni* (Tel Aviv: Mosad Bialik, 1937-1956), p. 594, in discussing kingship. He claims that often the people are punished for a king’s actions. Therefore, when David counts the people and a plague ensues, it is by no fault of the nation. The classical exegetes tend to disagree with the second definition. Although God is omnipotent, the classic exegetes dislike the idea of God punishing an individual who is blameless. Therefore, they interpret the verse of *poked avon avot* to only apply to a child who continues in the wicked ways of his father.

^{iv} This is not a simple assumption and is dealt with in other places in this paper.

^v Deut. 26:16.

THE STATUS OF NATURAL MORALITY AND DIVINE LAW IN THE WORKS OF MAIMONIDES: AN ANALYSIS OF THE INTERPRETATIONS OF MARVIN FOX AND RAV AHARON LICHTENSTEIN

BY: Esty Rollhaus

Does Judaism recognize an ethic independent of Halakhah? A clear-cut answer would not only be fallacious; it would be distinctly un-Jewish. Many differing opinions have been voiced in regard to this question and even individual positions fail to offer explicit, unequivocal solutions. The outlooks of Marvin Fox and Rabbi Aharon Lichtenstein have emerged as critical, albeit contrasting, view points in this debate. Both scholars cite the

“Morality is a functional necessity in that it maintains society and keeps it in order. However, there is no intrinsic truth or value to the specific rules.”

logical reasoning of Maimonidean texts to bolster their positions. It is exceptionally difficult to discuss Maimonides’ definitive opinion on the matter, however, since his works span different times and genres and seem to contradict each other. Ultimately, though, Marvin Fox and Rav Lichtenstein both present valid interpretations of the thought of Maimonides on the interaction of morality and Halakhah.

Marvin Fox accepts the position that the existence of natural law is not recognized in Rabbinic literature. He asserts that Maimonides considers natural law from both a philosophical and religious perspective, and each one leads Maimonides to reject the notion of natural law. Since, from a philosophical standpoint, ethics, a relativistic system, is dependent on the norms of society, it cannot form a basis for normative Jewish practice. Furthermore, from a religious perspective, it is clear to Fox that Maimonides believes that all moral values are subsumed under the rubric of Halakhah.

In keeping with his theory, Fox argues that Maimonides rejects any form of philosophical validity to the notion of natural ethics. He cites a telling passage in Maimonides’ *Mishneh Torah* in which Maimonides asserts that one who keeps the seven Noahide laws without acknowledging their divine source is not considered “one of the righteous of the nations” nor “one of their wise men.”⁷ Fox infers from this statement that Maimonides denies the legitimacy of the claim that law is accessible by logic or binding by rational thought.⁸ He asserts that Maimonides assumes that the truth of moral rules is minimal. In other words, morality is a functional necessity in that it maintains society and keeps it in order. However, there is no intrinsic truth or value to the specific rules. Seemingly, morality is reflective purely of convention, so whether behavior is termed “beautiful” or “ugly” is entirely dependent on what society feels is socially acceptable.⁹ It seems clear from Fox’s analysis that Maimonides regards natural ethical rules as morally relativistic and thus philosophically unacceptable.

Fox argues that, from a religious perspective, Maimonides does not distinguish between moral values and divine law. Maimonides states: “In these times we do not need all these laws; for divine laws govern human conduct.”¹⁰ He believes that Halakhah supersedes any attempt at subjective, utilitarian ethics. In *Eight Chapters*, where Maimonides addresses morality in great depth, he maintains that it is rooted in religious command and not accessible by natural reasoning. In *Guide of the Perplexed*, Maimonides furthers that these laws are meant to be “adopted in virtue of tradition, not to the

class of intellecta.”¹¹ Divine revelation is the force that dictates moral law.

In fact, in Fox’s view, Maimonides does not, and cannot, distinguish between morality and Halakhah.¹² He cites examples in which Maimonides upholds strict halakhic observance to the exclusion of accepted moral principles. In one such case, Maimonides claims that a Jew may choose a legal system that gives him a monetary advantage over a gentile. “The reason is that a being who does not possess the perfection of human virtues [i.e. the gentile] is not truly a member of the category “human” at all. The purpose of such beings is simply to serve the needs of those who are truly human [i.e. Jews].”¹³ In this passage, Maimonides essentially rejects the notion of the equality of human life, or at least hints to a superior status of Jews. Even with regard to Jews, Maimonides mandates that “it is our duty to despise [a heretic] and to destroy him.”¹⁴ He does not feel a need to qualify his statement or reconcile it with the principle of, “Thou shalt love thy neighbor as thyself.”¹⁵ Halakhah, in Maimonides’s opinion, is not subject to general or natural ethical principles.⁸

In contrast, Rav Lichtenstein seems to argue that Judaism accepts an ethic independent of Halakhah. He maintains that, in fact, Halakhah is ultimately defined by natural ethics and is dependent on moral values. According to Rav Lichtenstein, natural morality is assumed by Jewish tradition and is, in fact, central to halakhic decisions. While Rav Lichtenstein might concede to Fox that natural morality may be subjective, he maintains that it does exist. He certainly does not advocate the rejection of Torah law in favor of a more general human ethic. However, he does grapple with whether Halakhah can ultimately be self-sufficient.

To deal with this question, Rav Lichtenstein enlists Maimonides as support. In *Hilkhot De’ot*, Maimonides advocates behavioral adherence to the median path. However, pietists who act in accordance with the principle of *lifnim mi-shurat ha-din* (going beyond the letter of the law), he says, may deviate from that

mean.¹⁶ Rav Lichtenstein understands this as an aspirational requirement. Each Jew must strive to adjust his or her path in accordance with higher ethical principles. According to Rav Lichtenstein, Maimonides “most certainly does not regard character development, ethical sensitivity, or supralegal behavior as non-halakhic elements, much less as optional.”¹⁷ All such moral elements, including *lifnim mi-shurat ha-din*, are subsumed under the halakhic principle of “*ve-halakhtha bi-derakhav*,”¹⁸ or *imitatio Dei*. Since Rav Lichtenstein cites the passage in *Hilkhot De’ot* as his central source for Maimonides’ position, it is of utmost importance that Maimonides’ conception of *lifnim mi-shurat ha-din* be carefully examined.

An analysis of the text of Maimonides is inconclusive; it is unclear whether his position on *lifnim mi-shurat ha-din* acknowledges some mandated supererogatory behavior. While the phrase can be understood, from Rav Lichtenstein’s perspective, as the source of aspirational moral command, Fox’s position is not compromised by Maimonides’ attitude toward *lifnim mi-shurat ha-din*. Fox himself does not articulate his defense, but from his work it seems that he regards Maimonides’ *middat hasidut* simply as a promotion of halakhic sensitivity.¹⁹ Because this claim is not entirely compelling, Rav Lichtenstein himself suggests a more tenable defense for Fox’s opinion.²⁰ Rav Lichtenstein cites Maimonides’ earlier work, *Eight Chapters*, in which Maimonides seems to make Aristotelian assumptions that *lifnim mi-shurat ha-din* is simply a corrective device for regrettable deviation from the ideal mean. Furthermore, *lifnim mi-shurat ha-din* is neither an ideal nor a vital component of Halakhah; it is the equivalent of the Aristotelian metaphor of

“According to Rav Lichtenstein, natural morality is assumed as a given by Jewish tradition and is, in fact, central to halakhic decisions.”

straightening a bent stick.²¹ Since, in *Eight Chapters*, *lifnim mi-shurat ha-din* does not present a serious challenge to the notion of the self-sufficiency of Halakhah, Rav Lichtenstein argues that Marvin Fox may still maintain his original position.

However, Rav Lichtenstein does not entirely stake out his own position in this debate. While he strongly asserts that the *Mishneh Torah* is a more decisive source of Maimonides’ views than *Eight Chapters*, Rav Lichtenstein shies away from definitively proving that the *Mishneh Torah* supports the notion of the centrality of ethics in Halakhah. Rav Lichtenstein initially seems to resolve his question. In his opinion, people must adjust conventional terminology and accept that “traditional halakhic Judaism demand[s] of the Jews both adherence to Halakhah and commitment to an ethical moment that, though different from Halakhah, is nevertheless of a piece

with it and in its own way fully imperative.”²² However, when he concludes with a restatement of his central question, he does not assert the thesis he had been advancing throughout the essay. It appears that Rav Lichtenstein, for some reason, is not comfortable with bolstering an intellectual argument for the recognition of an independent moral component of Halakhah. One may surmise that, instead of a biblical exegesis, halakhic discussion, or philosophical treatise, Rav Lichtenstein’s article is meant as a reaction to an undesirable religious phenomenon encountered in modern Jewish culture, namely the ethical apathy of some religious Jews.

While this suggestion may explain why Rav Lichtenstein does not vigorously assert his own opinion in the article, we are still left with the question of Maimonides’ position on the relationship between ethics and Halakhah. A thorough analysis of the four sources in the *Mishneh Torah* regarding *lifnim mi-shurat ha-din* is necessary to get a clearer picture of Maimonides’ views. Most of the cases in which Maimonides mentions the responsibility to supersede general halakhic requirements deal with elite, dignified individuals lowering themselves for a higher moral purpose. For example, Maimonides cites a Talmudic account in which R. Pappa acted *lifnim mi-shurat ha-din* when he interrupted his meal in response to his son’s *zimmun*, or invitation to recite grace after meals.²³ It seems from this source, as well as from the others, that *lifnim mi-shurat ha-din* applies only to individuals of superior social status. However, Maimonides elsewhere says that one who wishes to act *lifnim mi-shurat ha-din* will return a lost object to a Jew, even if the area in which the object was found is populated predominantly by gentiles. Even though one

is not mandated by basic Halakhah to return the object, it appears that a higher principle emerges.

Ultimately, then, even within the *Mishneh Torah*, the status of *lifnim mi-shurat ha-din* is unclear. Is *lifnim mi-shurat ha-din* a halakhic “extra-credit” that recognizes moral action as indistinguishable from Torah law or is it a command that acknowledges the moral sensitivity incumbent upon every Jew under the principle of *imitatio Dei*? From Maimonides’ ambiguous presentation in these sources, it appears that one can make the case for the positions of both Marvin Fox and Rav Lichtenstein.

We are therefore left with our fundamental question: does Maimonides recognize an ethic independent of Halakhah? I would like to suggest an approach to Maimonides that combines the opinions of Marvin Fox and Rav Lichtenstein. It would appear from the majority of the sources that Fox is correct. After all,

I WANT NOT YOUR SACRIFICE OF INJUSTICE

BY: Mijal Bitton

Maimonides himself admits that he cannot distinguish between morality and the Torah. Like many sages of his era, he could not conceive of divine law and morality as separate entities; from his perspective, Torah *is* morality. Since some modern scholars, however, are willing to recognize the distinctions between law and ethics, they, too, can find within the works of Maimonides intimations of independent morality. While Maimonides himself may have believed that the ethical principles he describes are simply intrinsic elements of divine law, modern scholars can examine them as entities unto themselves.

This explanation, though by no means authoritative, seems to at least explain a reason for some of the ambiguity. Both Marvin Fox and Rav Aharon Lichtenstein are aware of the difficulty in interpreting Maimonides' stance on the relationship between ethics and law. Both viewpoints reflect a certain ambiguity in his words, and thus each position is both supported and compromised by Maimonides. Perhaps the best explanation for all of this is that a simple yes-or-no answer to the Euthyphro dilemma would be un-Jewish.

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ⁱ Maimonides, *Mishneh Torah, Hilkhot Melakhim* 8:11.

ⁱⁱ Marvin Fox, "Maimonides and Aquinas on Natural Law" in *Marvin Fox: Collected Essays on Philosophy and on Judaism*, ed. by Jacob Neusner (Binghamton, NY: Academic Studies in the History of Judaism Global Publications, 2001), p. 188.

ⁱⁱⁱ *Ibid.*, p. 191.

^{iv} *Ibid.*, p. 64.

^v Maimonides, *Guide of the Perplexed* II:33, ed. Shlomo Pines (Chicago: The University of Chicago Press, 1963), p. 364.

^{vi} Marvin Fox, "Law and Morality in the Thought of Maimonides," in *Marvin Fox: Collected Essays on Philosophy and on Judaism*, op. cit., p. 210.

^{vii} Maimonides, *Commentary on the Mishnah to Bava Kamma* 4:3; *Guide* III:51, p. 51.

^{viii} *Idem.*, *Commentary on the Mishnah to Sanhedrin* 10.

^{ix} Leviticus 19:18.

^x Fox, "Law and Morality," p. 214.

^{xi} Maimonides, *Mishneh Torah, Hilkhot De'ot* 1:5.

^{xii} R. Aharon Lichtenstein, "Does Jewish Tradition Recognize an Ethic Independent of Halacha?" *Modern Jewish Ethics*, ed. by Marvin Fox (Columbus, OH: Ohio State University Press, 1975), p. 42.

^{xiii} Deuteronomy 10:12.

^{xiv} Fox, "Law and Morality," p. 219.

^{xv} Lichtenstein, p. 43.

^{xvi} *Ibid.*

^{xvii} *Ibid.*, p. 52.

^{xviii} *Berakhot* 45b.

It is common and ordinary for secular and religious thinkers alike to quote the words of the later Jewish Prophets as paradigms of the importance of social justice and morality. Yeshayahu and Yirmeyahu's expressions are used by ministers, presidents, and non-believers to paint a picture of the ideal humanity: one in which ethics reign: "Wolf and lamb will graze as one"ⁱ and justice prevails. Many religious leaders of Conservative Judaism used the prophets as examples of what a Jew should be like: compassionate, loving, and relentless in pursuit of social justice. Abraham Joshua Hes-

"Hashem does not want the sacrifice of a man who would take his poor neighbor's sole sheep."

chel, a leading figure in the conservative movement in the 20th century and a famous civil rights activist, wrote a masterpiece called *The Prophets*.ⁱⁱ Therein, he designates the *nevi'im* as the ultimate advocates for a moral people. He declares elsewhere that, "A religious man is a person who holds God and man in one thought at one time, at all times, who suffers harm done to others, whose greatest passion is compassion, whose greatest strength is love and defiance of despair."ⁱⁱⁱ This attitude elevates to an almost sacred pedestal the human duties towards the less fortunate and the goal of erecting a just society.

This approach tends to focus nearly exclusively on the messages that the *nevi'im* present about equality and moral behavior. The presentation of *these* prophets seems to neglect the Jewish heritage of ritual and religious acts. It is not by chance, though, that the non-Orthodox world focuses on messages for a society without corruption, rather than advocating the myriad religious acts within Judaism. These *nevi'im aharonim* do seem to preach about *mitsvot bein adam la-haveiro*, general righteousness, and Teshuva: all moral mitsvot, rather than rituals or *korbanot* in the *Beit ha-Mikdash*. The emphasis is on what Hazal categorize as *mishpatim*, logical commandments, rather than on *hukkim*, divine mitsvot which one would not have thought to keep in absence of Hashem's command. Not only do the prophets and even *Tehillim* concentrate on glorifying and elevating the importance of general morality and *mishpatim*, but some *pesukim* in these texts predicate the *avodah*, the sacrifices, on the moral nature of the Jewish people (the sacrifices symbolize the ritual, *hok*-like, aspect of Judaism). King David expresses this thought in his beautifully inspiring psalm of repentance after the incident with Batsheva. His cries that Hashem "delightest not in sacrifice." Instead, "The sacrifices of God are a broken spirit; a broken and a contrite heart."^{iv} David ha-Melekh summarizes the revelation which his *teshuvah* brought about: Hashem does not rejoice in our *korbanot*; rather, He prefers sac-

rifices of a broken spirit and a just nation.

In last year's closing lecture of the *Yemei Iyyun ba-Tanakh* held by Yeshivat Har Etzion, Rabbi Yuval Cherlow asked whether the prophets send a message seemingly different than the one in the Torah.^v The head of the Petah Tikva *yeshivat hesder*, an inspiring scholar, and one of the leaders of the Dati Le'umi movement in Israel, R. Cherlow pointed to the seventh *perek* in *Yirmeyahu* as exemplifying this question. Hashem commands Yirmeyahu to stand at the gates of the *Beit ha-Mikdash* and give Musar to the Jews coming to serve Him. Yirmeyahu is told to scream out against the corruption of the society: the stealing, lying, murdering, idolatry, and injustices that stain the very hands bringing of-

ferings to God. Hashem rages at those who rely on His palace but commit iniquity and are removed from morality. The message from this *perek* is one that rejects sacrifices – *hukkim* – when decency and ethics – *mishpatim* – are lacking.

One point that might provide an answer as to the moral focus of the later *nevi'im*, as opposed to the Torah's content, which balances *hukkim* and *mishpatim*, might simply be the historical context of these prophecies. The late prophets lived in times of social corruption, a time in which their call for morality was needed. The Talmud declares that the First Temple was destroyed because "of three evil things which prevailed: idolatry, immorality, and bloodshed."^{vi} A society saturated by these kinds of sins would have a greater need for prophets to instill ethical teachings, while requiring less reinforcement of the relatively stronger ritual observance.

Rabbi Dr. Binyamin Lau, Director of the Center for Judaism and Society as well as the Institute for Social Justice at Beit Morasha, addressed the evils of the pre-first-Hurban society in the closing lecture of this year's Ir David

"The prophet would focus on instilling ethical teachings rather than on propagating ritual observance."

conference in Ramat Rahel.^{vii} The description of the last remnants of Jews living in Israel before the final exile is depicted in *Yirmeyahu, perek* 24. Hashem decries the many evils of the Jews in Israel and promises that a terrible and painful destruction will come. Rabbi Lau explained that it was in the days of Menasheh, the terrible king who immersed himself in the three sins that the Talmud mentions as cause for the *Hurban*, that the decree of destruction was made. However, the decree was not truly sealed until the days of the generation living ten years before the destruction. The ninth *perek* of *Yirmeyahu* details their sins and it paints a picture of a corrupt society, one which oppresses the poor and victimizes the weak. In Menasheh's times, it was the king who was the

main disseminator of evil and sin. The Jerusalem described in its last decade before destruction was one corrupted from the inside; the people were unjust, not the governing heads. For such a 'rotten' society, the morality-centered message of the prophets is needed.

R. Cherlow offers an alternative explanation for the later prophets' messages of morals and seeming rejection of sacrifices based on a careful examination of a passage in *Yirmeyahu*. Hashem says that "I spoke not unto your fathers, nor commanded them in the day that I brought them out of the land of Egypt, concerning burnt-offerings or sacrifices;" rather, Hashem says, "I commanded them, saying: 'Hearken unto My voice.'^{viii} R. Cherlow sees extreme importance in the fact that Hashem reminds the Jews that they were not commanded in *korbanot* when they left Egypt. These crucial words are present to emphasize the fact that there was a divine reason for the order in which the Torah's commandments were given. According to the *peshat*, seven weeks after the Jews left Egypt Hashem revealed Himself to them at Har Sinai, and they received there the Ten Commandments, which deal mainly with moral mandates. In the following phase of their growth as a nation, the Jews received the *mishpatim*. They were taught about the different laws regarding other people, *tsedek* and *mishpat*.^{ix} *Sefer Shemot*, which presents the first commandments that the Jews receive, deals largely with *mishpatim*. Only after that comes *Va-Yikra*, the archetypical book of *hukkim*. *Va-Yikra* teaches almost exclusively about the *Mikdash*, laws of purity, and the Kohanim's rituals. After *Sefer Be-Midbar* functions as an interlude telling the experiences of the Jews in the desert, *Devarim* continues to list mitsvot. A careful examination of these mitsvot shows that they follow a clear theme: they repeat many of the *mishpatim* from *Sefer Shemot* and they are largely unconcerned with the *hukkim* from *Sefer Va-Yikra*.

This overall view of the order in which the mitsvot were given in the Torah forms the

basis for Rabbi Cherlow's main idea. The prophets were not trying to give over a different message than the one in the Torah in their nearly exclusive focus on *mishpatim*. In reality, the prophets are mirroring *Sefer Devarim*: they are repeating the social and moral commandments to draw the Jewish nation's attention to them. No Jew can opt out of any commandment in the Torah. But it is imperative to realize that the commandments were transmitted in an order that symbolizes their place in a hypothetical mitsvot-pyramid. The basis of this pyramid is formed by ethics and justice – by the *mishpatim* that hold the fabric of society together. This level of mitsvot is one that can be inferred logically, and one which is present in the spirit of the universal Noahide laws. Every

single human being has an obligation to act in a moral and righteous way. Beyond that level exists that of the Jew. As the chosen nation, Jews are commanded in *hukkim*-rituals and religious observance which form our Jewish character. *Sefer Devarim*, *Tehillim*, and the *Nevi'im Aharonim* are concerned about the right way of fulfilling mitsvot. A Jew cannot fulfill his "Jewish" commandments correctly if he is shirking basic human duties. A non-righteous individual is not exempt from *korbanot* and ritualistic *avodah*. Rather, his sacrifices are intrinsically damaged by his lack of morality and ethics.

A moral Jew who does not follow any of the *hukkim* is an imperfect Jew. An immoral Jew who does not live ethically through the *mishpatim* is an imperfect human.

Even the most skeptical secular thinkers realize that man has a duty to establish a society to preserve justice and order. Seventeenth century English philosopher Thomas Hobbes, a skeptic who did not believe in any intrinsic selflessness within man, wrote about the obligation of man to establish a commonwealth. In his *Leviathan*, Hobbes explains that man has no natural inclination towards "justice, equity, modesty, mercy, and, in sum, doing to others as we would be done to." In fact, our "natural passions of men" to pursue wealth and selfish satisfaction with no regard for others, will follow a natural path towards "that miserable condition of war." In order to prevent this great suffering, and only for this practical and selfish need for humanity's self-preservation, will people choose to establish governments to carry out "observation of justice."^x Disregarding Hobbes' main point about the nature and need of government, we can focus on his insight about humanity's need to form societies in order to control injustices towards the weak. The prophets had to speak out to the Jewish nation because men who observed the highest level of ritual performance did not understand the message that secular Hobbes would impart centuries later: a society cannot survive if it has no social justice.

Our prophets are quoted by great people across the world and across different faiths as the flag-bearers of morality and ethics because they did bear the banner of justice. They stated that Hashem does not want just our sacrifices – He wants us to be good and righteous. Their message screams that to be good Jews we must have a basis of humanism and sensitivity.

This Article is not claiming that *mishpatim* are more important than *hukkim*. This has been the errant approach of many non-Orthodox movements which exclude most "Mosaic" rituals and embrace the humanism of the prophets.^{xi} They overlook the fact that the prophets' own lives were governed by the laws of Moshe. They raise their voices in a call for social justice (what today is called *tikkun olam*) – not in the spirit of the Prophets who abhorred the hypocrisy of those who uphold rituals and dismissed morality – but to call for a universal and unchecked humanism. Traditional Judaism never preached for one particular type of mitsvah; the Law of Moshe organically encompasses the *hukkim* and *mishpatim*, in a way that

makes them indivisible one from the other.

This article advocates an understanding of the nature of mitsvot. *Mishpatim* are a prerequisite to *hukkim*; morality *must* be present for Hashem to rejoice in our ritual sacrifice. If *mishpatim* are absent, our observance of *hukkim* is seen as hypocritical and intrinsically damaged before God. *Mishpatim* represent a universal and moral calling, *hukkim* characterize our Jewish constitution, that of "a kingdom of priests and a holy nation."^{xii}

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ⁱ *Yesha'yahu* 65:25 (Tanakh translations are from www.mechon-mamre.org).

ⁱⁱ Abraham Joshua Heschel, *The Prophets* (New York: Harper and Row, 1962).

ⁱⁱⁱ *New York Journal American*, April 5, 1963.

^{iv} *Tehillim* 51:19.

^v Rav Yuval Cherlow, "Ha'im ha-Nevi'im Hid-deshu Mashehu she-Lo ba-Torah," *Yeshivat Har Etzion*, July 23rd 2009.

^{vi} *Yoma* 9b.

^{vii} Rabbi Dr. Binyamin Lau, "Ki Im Ma'os Me'astanu: Al Metsukat ha-Dattit shel ha-Navi Yirmeyahu Ekev ha-Hurban," *Ir David Conference*, Ramat Rahel, July 2009.

^{viii} *Yirmeyahu* 7:22-23.

^{ix} Some *hukkim* are mentioned in *Parashat Mishpatim*, but they are not the focus of the scripture and can be read through an ethical and moral point of view.

^x Thomas Hobbes, *Leviathan* (London: Dent; New York: Dutton, 1973), The Second Part of Commonwealth, Chapter XVII of the Causes, Generation, and Definition of a Commonwealth.

^{xi} See the conclusion of the Reform assembly, Frankfurt, 1842. Specifically: "We recognize in the Mosaic legislation a system of training the Jewish people for its mission during its national life in Palestine, and today we accept as binding only its moral laws, and maintain only such ceremonies as elevate and sanctify our lives, but reject all such as are not adapted to the views and habits of modern civilization."

^{xii} *Shemot* 19:6.

GENERAL JEWISH THOUGHT

RAV SOLOVEITCHIK'S "A YID IZ GEGLAYCHN TZU A SEYFER TOYRE"

WHAT IS A JEW? - THE HALAKHIC FOUNDATIONS OF KEDUSHAT YISRAEL - THE EQUATION OF A JEW TO A TORAH SCROLL

BY: Rabbi Joseph B. Soloveitchik

the burning of a Torah scroll, one is obligated to tear *keri'ah*.

Rashi's words on that Gemara in *Shabbat* are interesting:

"[One must rend one's garments when a Torah scroll is burned] as we say in *Mo'ed Katan* (26a) regarding the scroll which Yehoyakim burned, 'They did not fear nor rend their garments.' So, too, is the soul of an Israelite, when it is taken, similar to this, for there is no [completely] empty person in Israel who has no Torah in him and has not fulfilled [any] mitsvot."

2) In the Gemara in *Megillah* (26b), it is said:

"And Rava said, 'One buries a Torah scroll which wore out next to a Torah scholar.'"

Rambam rules that "one places a Torah scroll which wore out or was invalidated into an earthenware vessel and buries it next to a Torah scholar – and that is called 'its *genizah*.'"ⁱⁱⁱ

When a Torah scroll is physically destroyed, one must bury it exactly as one buries a person who has died.

3) The halakhic requirement to stand up before a Torah scroll when it is carried by is based on the mitsvah, "Before an elderly man shall you stand and you shall honor the countenance of an old man,"ⁱⁱⁱⁱ which obligates each person to honor Torah scholars.

The Gemara in *Kiddushin* (33b) regarding the requirement to stand up before a Torah scroll states as follows:

"It was asked: 'What is the halakhah regarding standing before a Torah scroll?' R. Hilkiyah, R. Simon, and R. Elazar would formulate an *a fortiori* argument: if one stands before those who learn it, should one not stand before [the Torah] itself?"

4) The identification of a living person with a Torah scroll is also symbolically demonstrated, according to the Halakhah, in another way. According to the law in the Gemara, at the time of the funeral procession of a Torah scholar, a Torah scroll must be carried out [as well].

In *Bava Kamma* (17a), it is said: "Our Rabbis taught: "They honored him in his death"^v – this [refers to] Hizkiyah, King of Judah, etc, upon whose bed they laid a Torah scroll and said, "This one fulfilled what is written in this." And today, do we do this as well? We carry [the Torah scroll] out, but we do not lay it down."

5) On a communal fast day, when a fast is decreed due to a lack of rainfall, the Mishnah in *Ta'anit* (15:1) explains:

Editor's Note: The following is from the aggadic section of a yortzayt shiur given by R. Soloveitchik in Yiddish entitled "A Yid iz Geglaychn tzu a Seyfer Toyre" – "A Jew is Compared to a Torah Scroll." [The first half of this shiur was a Halakhah shiur, printed in R. Joseph B. Soloveitchik, Shiurim le-Zekher Abba Mari Zal, vol. 1 (Jerusalem: Mekhon Yerushalayim, 1982/3), p. 240 ff.] The shiur was transcribed by Dr. Hillel Zeidman and published originally in 1959 in Di Yidishe Voch. Dr. Zeidman then republished it, with an introduction, in R. Elchanan Asher Adler (ed.), Beit Yosef Shaul, vol. 4 (New York: Rabbi Isaac Elchanan Theological Seminary, 1994), pp. 17-67. A Hebrew translation by R. Shalom Carmy appeared in the same volume (pp. 68-103). The present translation from the Yiddish, by Shaul Seidler-Feller, utilized both Dr. Zeidman's version and R. Carmy's helpful Hebrew equivalent.

All translations, including those of pesukim and Gemarot, are those of the translator. References cited in footnotes and emphases are those of Dr. Zeidman.

Dr. Zeidman's Introduction:

We present here a shiur from Ha-Gaon ha-Rav Yosef Dov Soloveitchik, *zts"l*, given on 3 Shevat, 5719 [1959], on the *yortzayt* of his father, Ha-Gaon Rav Moshe, *zts"l*, at the Rabbi Isaac Elchanan Theological Seminary. This section deals with establishing the halakhic and aggadic foundations for Judaism's hashkafic outlook on the essence of a Jew.

The entire shiur forms a whole, a uniform structure, which is only understood when taken in completion, from beginning to end.

Section I

A Jew is compared to a Torah scroll. This equation is axiomatic in Halakhah and Aggadah. Let us cite several examples, both halakhic and aggadic, of this very equation.

Halakhah

1) The Gemara says in *Shabbat* (105b): "One who stands over a dying person at the time of the soul's departure is required to rend [his garments]. To what is this comparable? To a Torah scroll which was burned."

When one is present at the death of a Jew, of every Jew, one must tear *keri'ah*. Why is that? For when a Jew passes away, a Torah scroll disappears along with his death, and at

“They remove the Ark [from the synagogue] to the main city street and place burnt ashes upon the Ark, upon the head of the Prince, upon the head of the *Av Beit Din*, and each person puts it on himself [as well].”

Rambam added the following words to the formulation of the Mishnah: “...and upon the Torah scroll.”^v This means that one not only lays ash upon the Ark, but also upon the Torah scroll itself.

“A person must act appropriately, and only through his effort does holiness descend upon an object.”

What is the meaning of this halakhah? [It means that] if *Kelal Yisrael* is sunk deep in mourning, the Torah must also grieve! As it says: “In all of their narrow places, it is narrow for Him.”^{vi} We are again prodded to the full identification of a Torah scroll with a living Jewish individual.

6) Yet another statement – that of R. Huna in *Berachot* 47b – can be added here. The Gemara there states: “R. Huna said, ‘Nine men and an Ark join together [to form a *minyan*].’” In reality the Gemara shows further on that R. Huna meant something else, but the original understanding shows, nevertheless, the thought process of the Gemara.

In *Pirkei de-Rabbi Eliezer* (ch. 8), cited by Tosafot in *Berachot* (48a), a similar law is discussed regarding the process of calculating leap years:

“With three men, one may add an extra month to the year. R. Eliezer says, ‘[One does so] with ten men, but if they are reduced, one may bring a Torah scroll and create a circle.’”

In addition, one finds in the *Yerushalmi* the halakhah regarding joining a Torah scroll to the *minyan* when the quorum is missing a person: “A young child and a Torah scroll – we make him into a supplemental branch.”^{vii}

We see how in some of the halakhot a Torah scroll is compared to a Jewish individual in general, and how in others it is compared to a Torah scholar. In any case, a Torah scroll is treated as if it were a living individual: if a Torah scroll becomes worn out, one must bury it; one must behave respectfully in relation to a Torah scroll; a Torah scroll is wrapped in mourning, enveloped in sorrow, when the community is in mourning; and a Torah scroll, along with a young child, can be joined together to a *minyan*.

In some of the above halakhot, the comparison is made in the opposite direction – the esteem of a Jewish individual in general, and of a Torah scholar in particular, is equated with the holiness of a Torah scroll. Consequently, one tears *keri’ah* over the physical death of a typical Jew [a *stam Yidn*],^{viii} and a Torah scroll takes part in the funeral procession of a Torah scholar.

Aggadah

In the Aggadah, there are innumerable statements which use metaphors involving a Torah scroll in describing a great man. Let us cite several of them:

1) The Gemara in *Sanhedrin* (101a) tells us about an episode regarding the meeting of R. Eliezer ha-Gadol and his students at the time that the great rabbi was lying on his deathbed:

“When R. Eliezer got sick, his students entered to visit him... They began to cry... [R. Akiva] said to them, ‘Why are you crying?’ They responded, ‘Is it possible that a Torah scroll should be sunk deep in distress and we should not cry?’”

2) *Sanhedrin* (68a) reports the visit of R. Eliezer’s students, minutes before his death:

“He lifted his two arms and placed them on his heart. He said, ‘Woe unto you, my two

arms, which are like two rolled-up Torah scrolls! I have learned much Torah and have taught much Torah... but my students have not emptied me [of my Torah] except as an applicator [draws out a small amount of liquid] from a tube.”

Again, the comparison between a Torah scroll and a Torah scholar is introduced here.

(As an aside, R. Eliezer here hinted at the tragic fate, from which even the greatest man in Israel cannot be saved, namely that a student can only learn from his rabbi a small fraction of his rabbi’s knowledge – and the rabbi’s great treasury of knowledge remains forever sealed like a closed Torah scroll. The same idea is also expressed in the Gemara in *Berachot* [42b-43a], when students, leaving the funeral of their rabbi, Rav, were uncertain about an already-ruled upon halakhic question and, at that point, remarked, “Rav has died, and we have not learned [even the halakhot regarding] *birkat ha-mazon*.”)

3) The Gemara in *Berachot* (63b) tells of the discussion of the Hakhamim – “when our Rabbis entered the ‘Vineyard’ [rowed yeshivah] in Yavneh” – as follows:

“R. Eliezer, son of R. Yosei ha-Gelili, opened with remarks about honoring hosts and explained: “Hashem blessed Oved Edom [ha-Gitti] because of the Ark of Hashem.”^{ix} Are not these matters subject to *a fortiori* logic? For if [it is true that blessing came on account of] the Ark, which did not eat or drink but rather stayed put and hovered, one who hosts a Torah scholar in his house, feeds him, gives him drink, and allows him to benefit from his property – how much more so [will he be blessed]?”

We see here how the Ark of the Covenant with its tablets and with the Torah scroll is compared to a Torah scholar.

4) In the Gemara in *Yoma* (72b), we read: “R. Yohanan said, ‘There are three crowns: that of the Altar, that of the Ark, and that of the Table. That of the Altar – Aharon merited and grabbed it. That of the Table – David merited and grabbed it. That of the Ark – it is still resting in its place; anyone who wants to take it should come and take it...’ ‘Inside and outside should you coat it’^x – Rava said, ‘Any Torah scholar whose inside [private, religious piety] is not as his outside is not a Torah scholar.’”

Again, we see the identification of a scroll with a Torah scholar.

5) In the Gemara in *Berachot* (8b), we learn:

“...And be careful with an elder who has forgotten his learning because of some mishap, for we say: ‘The Tablets and the shards of the Tablets are both lying in the Ark.’”

Again, we see the comparison between a Torah scholar and the Tablets.

6) In the Gemara in *Makkot* (22b), a famous statement is cited:

“Rava said, ‘How foolish are the general population, for they stand before a Torah scroll but do not stand before a great man! For while in the Torah scroll it says “forty” [as the number of lashes given in punishment for a transgression], the Rabbis came and subtracted one.’”

The importance of a great man is placed above that of a Torah scroll. And so we see, as stated, both according to Halakhah and according to Aggadah, the identification of the Jewish individual with the Torah and that of the Torah with the Jewish individual.

No Holiness Without Action

Now, we come to a second matter which is related to the one previously treated. According to Halakhah, we know that, except for Shabbat, no holiness takes effect on any physical object if a person does no act to sanctify the object. Judaism has always hated fetishism, animism, and all magical approaches to the physical world. As a result, Judaism did not attribute any intrinsic holiness to any physical object. A person must act appropriately, and only through his effort does holiness descend upon an object. If we find different ideas about holiness in Halakhah in respect to place, time, and objects, the realization of all of these ideas is dependent upon the actions of Man.

For instance, the sanctity of the Temple [Walls] must be created by the actions of Man; many halakhot were formulated in respect to the process of sanctifying the city and the *Azarot* (Courtyards). At one point, Man sanctified Jerusalem and the Temple for all generations (“he sanctified it for its time and for the rest of time”). At another time, he did not have the wherewithal to eternalize that holiness and

“A Torah scroll does not absorb any holiness from the text alone, despite the fact that the words comprise the Word of God. For only the human act sanctifies, creates holiness.”

had to limit it to a temporal holiness (“he sanctified it for its time but not for all time”).

Also, in relation to the holiness of a sacrifice, *hallah*, *terumot*, and *ma’asrot* (various types of tithes and priestly gifts) a person must do something so that a given object can become holy. Holiness only descends upon objects through a human act, in this case through words or through separation of *terumot* and *ma’asrot*. He must say, “[This is a] sin-offering for God,” or, “[This is a] completely-burned offering for God.” He must separate *ma’aser*, *terumah*, and *hallah* and declare each as such by name. Automatically, by themselves, they do not become holy.

Holidays are set by the *Beit Din* (during the times when they would declare the new month through a sighting of the New Moon) and by *Kelal Yisrael* (nowadays). We stress this halakhah in our prayers on Yom Tov: “He who sanctified Israel and the Times.” The Gemara in *Berachot* (49a) says about this: “God sanctifies Israel, who [in turn] sanctify the Times.”

The date of the Exodus from Egypt, of the Giving of the Torah, of the Day of Judgment, of Moshe Rabbeinu’s bringing the tidings of forgiveness to the Jews [Yom Kippur] – these

very dates do not become holy automatically. Only a special act of the *Beit Din* imposes holiness on a historic day.

The Soul Put Into Writing

The same rule is also valid for the holiness of a Torah scroll. And it is quite possible that in the case of a Torah scroll, one can ascribe a more noticeable significance to the human deed than in the case of other holinesses. A Torah scroll does not absorb any holiness from the text alone, despite the fact that the words comprise the Word of God. For only the human act sanctifies, creates holiness. We require [in the production of Torah scrolls, *tefillin*, and *mezuzot*] that the processing of the parchment be done for the sake of the mitsvah and that the writing be done for the sake of the mitsvah. In the Halakhah shiur, we clarified regarding the opinion of Rambam that it is not the mechanical act of writing [which sanctifies]; rather, it is the individual’s handwriting, which reflects the characteristic features and qualities of that person – their emotional spurts, visions and dreams, pride and falls, happiness and grief, courage and despair, and fear and excitement for redemption. It is precisely this individual, personal handwriting that sanctifies.

When a person pours into his handwriting all of what his soul contains, he fills the cold, black letters, written on dead parchment, with holiness. At that point, the ink is transformed into a black fire and the parchment into a white fire. The parchment and the letters are uplifted with human passion, warmed with the human soul, and become holy.

Even the Holy Names cannot be raised to the level of holiness if a human being does not sanctify the four letters of the Names. In a word, holiness in all realms cannot be realized without human initiative.

Can One Give What One Does Not Have?

However, in connection with the human role in the realization of holiness, we encounter a halakhic difficulty. Earlier, we stated that holiness is a result of human action. However, we have a question about this – how can a human being bestow something which he himself does not own? We have a rule in monetary law that “a person cannot transfer ownership of something which is not his.” The law also demands that the object which the owner would like to transfer should not only be legally under his ownership, but also that it be located in his physical possession, in his estate. For, according to the law, not only is the theoretical ownership of the object important, but so is the practical ability to use the object. If the object is, for instance, stolen, the victim cannot sell it or give it away to someone else.

As the Gemara says in *Bava Metsi’a* (7a): “Did not R. Yohanan say, ‘If one stole an item and the owner has not given up hope of recovering it, both of them [the owner and the thief] may not set it aside for the Temple’s use – this one [the thief], because it is not his, and this one [the owner], because it is not in his possession’?”

PRIDE PREJUDICE AND PUNCTUATION

by ariel krakowski

The object is outside of the possession of the victim of theft and is no longer in his control. There is a logical argument to be made that even with regard to a lost object one can apply the halakhah of the object being "not in his possession."

Perforce, the question arises: How can a person, through his actions, sanctify the Temple, the holidays, the Torah scroll, and other Holy Scriptures if he himself does not own all of these holinesses? How can he transfer holiness to place, time, and the parchment with the letters if the holiness is not his and is also not in his physical possession?

A Jew is Blessed with Sanctity

The answer to the question is simple; the question is based on a false premise. If Halakhah has ruled that the action of a person sanctifies the Temple, the holidays, and a Torah scroll, Halakhah must hold that the Jewish individual is blessed with all of those holinesses.

According to the worldview of Halakhah, independent holiness, with regard to place, time, and objects, does not exist. All that which external sanctity reflects is the basic holiness of the Jewish individual, which radiates outward and becomes crystallized in the different "holiness-ideas," like the sanctification of the holidays and the Torah scroll.

R. Joseph B. Soloveitchik (1903-1993) was a Rosh Yeshivah at YU/RIETS, was active in the Boston Jewish community, and is widely recognized as the gadol of Modern Orthodoxy.

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almost all books people read nowadays come with punctuation whether a novel a chemistry book a rambam or even a humash everything comes with punctuation theres a simple reason for this punctuation makes things easier to read without diluting or altering anything and yet for some reason when it comes to learning the text that needs it most people dont use punctuation the talmud contains the complicated discussions of torah shebeal peh and would obviously benefit from some punctuation yet everyone from brisk to yu from lakewood to migdal oz doesnt use punctuated gemaras why is that these are the reasons that some people give it makes no difference whether or not theres punctuation once you get used to it struggling over the punctuation is part of the necessary amelut of talmud torah especially when theres a mahaloket in punctuation in addition the amelut helps you remember what you learned punctuated gemarot have a different tsurat hadaf which is assur to change how will you find a passage of gemara in another set of shas how will you learn to read a real gemara if you use a punctuated one none of these arguments seem very strong ill go through each one it makes no difference whether or not theres punctuation once you get used to it having punctuation makes things clearer especially when reading the complicated back and forth of the gemara having things punctuated helps ill admit its not the biggest deal but ive seen great scholars struggle for a moment to figure out the punctuation theres a reason everything else in the world is punctuated including most articles struggling over the punctuation is part of the necessary amelut of talmud torah especially when theres a mahaloket in punctuation in addition it helps you remember what you learned with a punctuated gemara a person can think about the real issues of the gemara beyond how to read the words and where the comma goes a mahaloket in punctuation is extremely rare i know of just as many questionable two dot markings and a punctuated gemara could note the dispute in those few cases having paragraphs and punctuation allows a person to go through the gemara faster and see it more clearly giving him more time for hazarah all of which helps him remember it better but why just ban punctuation there are all sorts of shortcuts all around the gemara page it started first with the masoret hashas and the ein mishpat and now the gemaras have likkutei rashi and haggahot vet-siyunim not to mention the pesukim on the side which might cause someone to read a pasuk or two from tanakh i think all these new laser print gemarot should be banned and peo-

ple should return to using old manuscripts preferably with some letters rubbed out that would require true amelut punctuated gemarot have a different tsurat hadaf which is assur to change how will you find a gemara in another shas there are some gemarot that put in punctuation and manage to keep the tsurat hadaf so one can use those though i admit they may be hard to find alternatively one can use tuvias edition but it just has nekudot without punctuation anyway i think that unless youve already finished shas with the old daf it might be a

the truth is that i dont think people say any of these arguments because of rational consideration of the issue they just want to justify what they already have

good idea to use an improved tsurat hadaf designed using computers you might find it slightly harder to locate something in an older gemara but most of the time youll be using your own plus you can always look things up in the index or do a search on the computer it doesnt seem like a very big issue how will you learn to read a real gemara if you use a punctuated one for one you wont need to read the old fashioned gemarot because youll always be able to use a punctuated one also using a punctuated gemara will probably help people use the other ones because theyll have been able to learn more gemara and have more experience which brings me to another point even if people are against punctuated gemarot why on earth cant they let 5th graders use them it definitely would make a difference for beginners and they would be able to pick up gemara skills significantly faster: the truth is that i dont think people say any of these arguments because of rational consideration of the issue they just want to justify what they already have they use punctuation in many other sefarim even though all the same arguments could be applied to mishnayot and rishonim they even use a full pasuk marking and trop system in torah she-biketav which actually was given from god in a perfect unmarked form if theres anything that shouldnt be punctuated its humashim gemarot on the other hand are torah shebeal peh and punctuating them just makes them more like the spoken word no one would say any of these arguments if gemarot had already been punctuated the real reasons people are against punctuated gemarot are not the justifications they give but rather because of the following reasons its very hard for people to accept big changes especially with respect to something theyve been doing a long time after having struggled so much as a beginner without punctuation its difficult to recognize there wasnt much of a point also it takes courage to read from a punctuated gemara you risk looking like youre not capable of reading from a real

gemara the real reason gemarot arent punctuated is not because of any of the justifications given many of the kitvei yad did have some punctuation in themⁱ it was just too hard for the printers to print all of it so they left it out the beginning of some masekhtot like berakhot have some periods in them but it sort of tapers out at least they tried nowadays when the gemarot can easily be punctuated and published theres no reason to continue using gemarot from the 1600s we can use punctuation like people did before printing: this whole

article may seem like making a mountain out of a molehill but it represents much more the refusal to change the gemarot is a prime example of refusing any change in practice even a halakhically legitimate change for the better however i predict things will change soon in the near future learning gemara on digital screens will become more common and if the default on the program is a punctuated version of the gemara no one will get rid of it the change would already be there and people could then use it without looking like ignoramus:

editors note if youre too ignorant or lazy to read this article in the original tsurah you can access a punctuated version at <http://arikrak.webs.com/talmudica/puncpost.html>

ariel krakowski is a sophomore at yc and an undeclared major; you can view more of his articles on torah and judaism at <http://nebach.blogspot.com>

ⁱ see r adin steinsaltz the essential talmud new york basic books 2006 p 117 it can be viewed here

http://books.google.com/books?id=keXGJjd4TheC&lpq=PA117&ots=z_1ieYB4uQ&dq=punctuated%20gemara%20text&pg=PA117#v=onepage&q=&f=false

ⁱ Yirmeyahu 36:24.

ⁱⁱ Mishneh Torah, Hilkhhot Sefer Torah 10:3.

ⁱⁱⁱ Va-Yikra 19:32.

^{iv} II Divrei ha-Yamim 32:33.

^v Mishneh Torah, Hilkhhot Ta'anit 4:1.

^{vi} Yeshayahu 63:9.

^{vii} This is cited by Tosafot to Berakhot 48a, s.v. "ve-leit."

^{viii} "Stam Yid" should not be translated according to that well-known definition, "whoever is a Jew," but rather as the Kotzker Rebbe, zts"l, said: "stam" connotes the first letters [of the words] sefer Torah, tefillin, and mezuzah.

^{ix} II Shemuel 6:11.

^x Shemot 25:11.

KIDDUSH HASHEM, TORAH U-MADDA, VE-YESODEI HA-TORAH

THREE APPROACHES TO AN INTELLECTUAL-ORTHODOX

WORLDVIEW

BY: Reuven Rand

Three years ago, I read Dr. Norman Lamm's *Torah Umadda*ⁱ and, like many, I came away feeling disappointed. The "Hasidic Model" that Dr. Lamm wound up embracing did not lift Torah u-Madda onto a pedestal and enjoin us to commit to it as a life philosophy; it merely permitted secular studies under a rationale that would excuse a lifetime devoted to bass fishing.ⁱⁱ I developed an alternative approach to Torah u-Madda and, while I feel it

"Religion has become a synonym for willful ignorance in many places (and often for good reason); does our obligation *le-kaddesh Shem Shamayim ba-rabbim* (to sanctify God's Name in public) permit this to go on?"

has more validity than Lamm's model, it suffers from the same basic limitation: it tries to justify a fundamental value on the basis of narrow and easily reinterpreted halakhic concepts. Hence, I offer two additional models for Torah u-Madda, which, I hope, reflect the actual values of people who embrace it as a worldview.

A note, though, before I begin: People often assume that a philosophy that enshrines Madda as a primary value (as two of my approaches do) must seek to redefine Halakhah on Madda's terms. I reject this contention. Notwithstanding Maimonides' arguments to the contraryⁱⁱⁱ, it should be self-evident that the majority of the mitzvot (particularly, *tum'ah ve-tohorah*, *korbanot*, and rituals like *netilat lulav*) have no discernable effects.^{iv} Hence, our inability to perceive the impact of the fulfillment of these *hukkim* precludes us from altering them in any meaningful way. While there may be exceptions (for example, a Torah u-Madda acolyte might take issue with defining *talmud Torah* as "the study of Tanakh and Gemara that purposefully neglects modern scholarship"), these concerns lie beyond the scope of this article and should not affect its central arguments.

My first approach mirrors Dr. Lamm's in limiting itself to justifying Madda on the basis of Torah and Jewish tradition. Central to this tradition is the idea that the condition of the Jewish people reflects strongly upon their Protector. In *Hallel*, we declare: "Why should the nations say, 'Where, now, is their God?'"^v But how could the nations say otherwise when faced with a backward nation which knows neither scholars nor scholarship? Can halakhic Judaism devolve to that state; can the tradition

charged with serving as an *Or la-Goyim* (a Light unto the Nations) become a religion of the ignorant and the destitute? Rather, we must take pride in our strong educational heritage, recalling our historically high literacy rate and reminiscing about how the great universities needed to institute quotas to keep out our best and brightest. We may boast of producing Spinoza, Freud and Einstein, great thinkers born into a culture that embraced thought. And, in truth, what could serve us better than having an Orthodox Einstein, an intellectual giant who could proudly declare that *yir'at shamayim* is

not only for the low and the fearful? Religion has become a synonym for willful ignorance in many places (and often for good reason); does our obligation *le-kaddesh Shem Shamayim ba-rabbim* (to sanctify God's Name in public) permit this to go on?

There are two problems with this approach, the first technical and the second philosophical. As Maimonides makes clear,^{vi} the commandment of *kiddush Hashem* is first and foremost a commandment to martyr oneself rather than transgress one of the Torah's cardinal sins.^{vii} In the final halakhah of his chapter on *kiddush Hashem*, Maimonides adds that there are other things that fall within the category of *hillul Hashem* and its converse, *kiddush Hashem*. This additional law requires a great man to act honestly and courteously towards all people so that he may earn their respect. In that case, can we extrapolate from this great man and these narrow guidelines to require considerable education of *Kelal Yisrael* as a whole? Moreover, does this additional obligation imposed by *kiddush Hashem* bear sufficient weight to justify the radical changes inherent in adhering to a Torah u-Madda lifestyle?

Even if we acknowledge such an injunction, carrying it out presents its own set of problems philosophically. Much like the requirement to act *lifnim mi-shurat ha-din* (beyond the letter of the law), *kiddush Hashem* seems to present us with a contradiction. If the Torah forms the basis for our morality, on what grounds can we add to it or go beyond it? Shall we augment the halakhic value system with the values of society at large? Which values, liberal or conservative? I have claimed that an Or-

thodox Einstein would be a great symbol and spokesperson for Judaism because I idealize what he accomplished and what he stood for, but others might suggest an Orthodox LeBron James. I do not suggest that we all become athletes and rock stars, so should we be academics simply to gain the respect of a secular society? If not, the *kiddush Hashem*-based foundation for scholastic pursuits begins to appear shaky indeed.

Perhaps, then, we should take another approach and look at the implicit background to this search for a valid Torah u-Madda worldview. As I have indicated, I wish for an Orthodox Bohr, Oppenheimer or Einstein because I idealize the physicist, committed to learning the secrets of the universe. I would be shocked to hear an Orthodox Jew proclaim the necessity of a *frum* Michael Phelps; I imagine we all perceive some dignity in the scientist that we do not perceive in even the greatest sportsmen and entertainers. In that case, why not conclude the discussion here? Why can't we have two primary values, a devotion to a God-given Torah and a similar commitment to the acquisition of secular wisdom? If they conflict, we can try to resolve the conflict, and if and when we cannot, we will have to decide where our interests lie. In general, though, let us embrace both as primary values – can we abandon either?

Upon further reflection, this approach smacks of cognitive dissonance.^{viii} Can our core values really jump between two foundations? If we believe in a divine code established at Sinai, then we are moral absolutists and those absolutes come from God's Torah – "and ye shall have no other gods before Him."^{ix} So how does one justify this academic god? On the other side of the equation, does an intellec-

"Shall we claim that the willful ignoramus who never bothered to inquire whether he served God or Satan is righteous before God? Shall we join with liars; shall we bring a sacrifice of pure *geneivat da'at* (in an almost literal sense) on the altar of God?"

tual, rationalistic worldview justify (and therefore demand) adherence to Halakhah? If so, we have solved the problem and can be Orthodox solely by virtue of being academics. If not, we find ourselves in a quandary.

I do not propose to lay out all the arguments for and against Modern Orthodoxy in particular and religion in general in a *Kol Hamevaser* essay. But for those for whom the claims of Judaism ring true, or who are willing to recognize an open question and take the side that holds meaning for them, I offer this third

approach. We may justify free inquiry upon the very grounds by which we identify with it: as children of the modern world, we believe that the scientific method of founding evidence upon experiment and observation reveals fundamental truths in a way no other method can. We further perceive in the academy a willingness to seek out and accept truth that we see nowhere else. We recognize the dangers of close-mindedness and ignorance, and so we stand upon ivory towers and call forth: "Let he who believes the earth is 6,000 years old come and learn Physics; let he who disbelieves evolution come and learn Biology!"

And how can we take any other approach? Shall we claim that the willful ignoramus who never bothered to inquire whether he served God or Satan is righteous before God? Shall we join with liars; shall we bring a sacrifice of pure *geneivat da'at* (in an almost literal sense) on the altar of God? "*Mi-devar sheker tirhak*" ("Distance yourself from falseness")^x may support this argument but it does not form its basis; simply put, what use have we for a false god and false beliefs? Madda is foundational to faith, not external; we are committed to truth and from truth we shall approach God. As the Tur states, paraphrasing the Talmud: "Truth is a foundation and a great pillar for all things."^{xi} On this matter, Ibn Ezra famously proclaimed: "*Lo nittenah Torah la-asher ein da'at lo, ve-ha-mal'akh bein adam u-bein E-lohav hu sikhlo*" ("The Torah was not given to those without intelligence, and the intermediary between Man and God is his reason").^{xii}

Thinking about the many Torah environments in which I was educated, I wonder if Judaism is compatible with any Madda-free worldview. When I was in a yeshivah high

school, one well to the right of Yeshiva University, I had a *menahel* who never failed to mention the *Het Adam ha-Rishon* in his weekly *musar schmooze*. It occurs to me that, for all the time I spent there, and in Israel and YU, I have never heard the simple explanation for Adam's sin, the explanation contained in the very name "*Ets ha-Da'at Tov va-Ra*:" Adam's sin was to seek enlightenment, to pluck the apple of Harvard from the Tree of Knowledge and take a bite from the gold embossed *Veritas* upon its glossy peel ("*Emes*" on a fig, if you

must).^{xiii} Yet we do not give this explanation because none of us have been raised to believe that knowledge is evil or that truth can be a bad thing. And so, why not commit to Torah u-Madda, recognizing that education and intellectual depth necessarily precede, and go hand-in-hand with, Torah?

I believe that all three approaches have value and reflect the true motivations of those who believe, to varying extents, in Torah u-Madda. The Yeshiva Program rabbi, who recognizes that many of his students do not accrue half the *talmud Torah* hours of their counterparts in the Mir, may take solace in the fact that these *benei Torah* may take their places among the world's intellectual elite and thereby bring glory to the name of God. The Orthodox Bible scholar, who reaches for the label of "myth" when the alternative bears no mention, may proudly proclaim that he propagates his two greatest values. And someone else might hear discussion of Torah u-Madda and wonder how scholarship, on any level and in any culture, but most of all in a culture of believers, could ever require justification. And this alone justifies him.

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^{vi} Maimonides, *Hilkhot Yesodei ha-Torah* 5.

^{vii} Indeed, most early sources identify *kiddush Hashem* solely with martyrdom. (Note the work *Ma'amar Kiddush Hashem* – also called *Iggeret ha-Shemad* – which deals exclusively with martyrdom.) The possible exception may be *Bava Kamma* 113a which neglects to define the term.

^{viii} In *The Battle for God* (New York: Alfred A. Knopf, 2000), Karen Armstrong claims that early religious believers actually maintained distinct methods of thought which she labels "logos" and "mythos" (an idea she borrows from Johannes Sloek's *Devotional Language* [Berlin; New York: Walter de Gruyter, 1996]). The logos, by this system, governs analytic thought, our conventional, rational approach towards reality. Mythos, on the other hand, is a mystical, intuitive approach towards knowledge that judges claims based on spiritual meaning, not scientific likelihood. For those who perceive such a duality in the rabbinic corpus, this approach may resolve the tension and permit twin religious and academic world-views.

^{ix} Exodus 20:2 paraphrased. A more pertinent quote may be Maimonides' statement: "No other Torah shall come from the Blessed Creator besides it; nothing shall be added to it." (*Peirush ha-Mishnayot le-ha-Rambam to Sanhedrin*, ch. 10)

^x Exodus 23:7.

^{xi} *Tur*, *Hoshen Mishpat* 1; *Shabbat* 104a.

^{xii} Ibn Ezra, Introduction to the Torah.

^{xiii} That is to say: Adam invited James Kugel over to give a lecture on Cryptology.

ⁱ Norman Lamm, *Torah Umadda: The Encounter of Religious Learning and Worldly Knowledge in the Jewish Tradition* (Northvale, NJ: Jason Aronson Press, 1990).

ⁱⁱ This deficiency is typified by his quote from R. Elimelekh of Lizhensk: "For the *Zaddikim*, there is no difference between the study of Torah and prayer [on the one side] or eating and drinking [on the other]. All are... [forms of] the service of the Creator, and it is merely a matter of switching from one form of service to another." (Lamm, 175; his formatting) (In the endnotes, Lamm quotes R. Yehoshua Baumol to similar effect.) It should further be noted that the "Hasidic Model" model rests heavily upon Lurianic mysticism, which I imagine is foreign to most of Lamm's readers.

ⁱⁱⁱ See his *Guide to the Perplexed*.

^{iv} Ramban to Deuteronomy 22:6 actually contends that the commandments serve *no* purpose except to test the religious, though this approach will appear unsatisfying to some.

^v Psalms 115:2. Psalms 79:10 and Joel 2:17 express the same sentiment in slightly different forms. See also Moses' famous line in Exodus 32:12 ("Why should Egypt say...").

"WITH ALL THY HEART:" PERSPECTIVES ON THE INTERPLAY BETWEEN AHAVAT HASHEM AND AHAVAT YISRAEL

BY: Eli Wiesenfeld

"If we want to know in what relation we really stand to God, we cannot do better than to consider our feelings about other people. This is peculiarly the case when one person above all others has touched our affections. If he is seen to be the source of all our happiness and all our pain, if our peace of mind depends on him alone, then, let it be said that we are separated as far from God as we can be, short of having committed mortal sin. Not that love of God condemns us to aridity in our human relationships, but it does lay on us the duty of seeing that our affections shall not be an end in itself, shall not usurp the place of that utterly complete love which no one can begin to understand who has not felt it."ⁱ

In this passage from Francois Mauriac's novel, *The Woman of the Pharisees*, the abbot Calou takes a position on a potential dilemma that might occur specifically to a religious individual. The priest believes that one's love for God should be (ideally) all-engrossing, to the extent that all one's other interests and con-

"Proper fulfillment of these mitzvot includes the intention to give to others what they are owed (kindness, compassion, right to property, etc.) concurrent with the intention to obey God's Will, and the latter alone would not suffice as the ideal form of service."

cerns vanish in the wake of this overpowering passion. The priest's affection for Jean de Mirbel, the boy who was placed into his care, troubles him because, as the priest would have it, one who is entirely consumed with the love of the Almighty and the desire to fulfill His will can have no emotional investment in anything, even anyone, else. Hence, he felt that his love for the boy demonstrated a lacking in his relationship with God.

When assessing the priest's argument, we should begin by noting that the Torah itself commands: "Thou shalt love thy neighbor as thyself."ⁱⁱ In fact, on the priest's assumptions, we might present a contradiction: on the one hand, the Torah commands one to love his neighbor as himself, yet elsewhere the Torah commands: "And thou shalt love the Lord thy God with all thy heart."ⁱⁱⁱ How, one might ask Calou, shall one fulfill both of these commandments according to his own understanding of the second? After all, if we devote ourselves solely to God, then there is no place for our neighbor to be loved, and if we devote ourselves to Mankind, then we cannot simultaneously love God in the manner described by Calou.

The priest might suggest, in response to this question, that the command to love God

requires us to invoke all of our emotional faculties, so that our emotional world and interests belong to God exclusively. The command to love Man, however, demands mere moral action, not emotional interest in, or affection for, others. This view lines up with that of some modern-day ethicists who believe in an "ethics of action," rather than a "virtue ethic."^{iv} Those who espouse the "ethics of action" view claim that morality places demands on behavior, not attitude. A moral person need not concern himself with whether he cares about or feels compassion for others, as long as he performs actions that a compassionate person would do. Virtue ethicists, in contrast, claim that feeling concern and sympathy for others is part and parcel of what it means to be a moral person. One who is coerced, even by his conscience, to act morally is not truly in line with that morality.

Calou, we see, adopts the "ethics of action" approach in his religious philosophy but carries it a step further. He claims not only that one need not, but rather that one should not, feel concern or compassion for another, because doing so demonstrates a lack of total commitment to the Almighty. Instead, one

should certainly do all he can for another person, but only because it is God's Will that he do so and not because of any personal interest in his fellow man's well-being.

Where does Judaism stand? Are *mitzvot* *bein adam la-havero* (interpersonal mitzvot) merely categorized separately from their counterparts, *mitzvot bein adam la-Makom* (mitzvot between Man and God), for practical reasons or is it because of a deeper philosophical truth about how one must relate to each? According to the first view, both categories of mitzvot are expressions of God's Will, except that the latter category involves inanimate objects like a *shofar* or *lulav* while the former regards living, breathing human beings. Alternatively, there might be something extra implied in this categorization. *Mitzvot bein adam la-havero* include a third party, another consciousness, and so these commandments demand not only obedience to God but also a recognition of an "Other" (to borrow the post-modern phraseology), as if God instructs us to regard the other person involved in the commandment as a subject and not an object. When we observe these commandments, we fulfill both our obligation to God and our debt to Man; therefore, proper fulfillment of these mitzvot includes the intention to give to others what they are owed (kind-

ness, compassion, right to property, etc.) concurrent with the intention to obey God's Will, and the latter alone would not suffice as the ideal form of service.

Considering that Judaism is more law-oriented than Catholicism, we might expect, *prima facie*, that Judaism would fit squarely within the actions-based camp. However, further analysis will prove that this is not necessarily the case. In determining what the standard Jewish approach is, we shall look to the Halakhah for guidance. Aggadic sources, though invaluable in our tradition, do not always reflect the accepted Jewish position. However, if Halakhah draws a distinction between these two categories of mitsvot, we can be sure that the discrepancy reflects the standard view on the subject.

Perhaps one of the most famous distinctions between these two types of mitsvot appears in a Gemara in *Yoma*¹ and is codified by Rambam in *Hilkhot Teshuvah*:

"Repentance and the day of Yom Kippur only absolve one of sins that are between Man and God...But of sins involving one's fellow man: for example, injuring one's fellow or cursing him, stealing, and so on, one is never forgiven until he returns what he owes the victim and appeases him. Even if he returns the money that he owes the other, he is obligated to appease him and ask from him forgiveness."^{vi}

If *mitsvot bein adam la-havero* were no different than *mitsvot bein adam la-Makom*, then we would be hard-pressed to explain why, as regards only the former, one must take the extra step to seek forgiveness from his fellow. After all, if one eats a forbidden food, he does not apologize to the food after doing so! Yet, if we assert that *mitsvot bein adam la-havero* differ in that a third party has been added to the equation, and that God Himself wills that we respect and enter into a relationship with our fellow man, then amending that relationship must be a prerequisite to achieving atonement from God. Only after we have rectified our misdeed to our fellow man and demonstrated that we do care about and respect him can we face God and ask for forgiveness.

If our analysis is correct, we have come upon the subtle but profound distinction between performing *mitsvot bein adam la-havero* solely because God commanded them, versus performing those same actions with a motivation to benefit our fellow man. In accepting the latter notion, we must reject the priest's position that one cannot truly love man and God simultaneously. After all, he claims that a person has a limited store of love or affection, and this love is divided up like a pie among the numerous objects of his affection. He contends that if loving other people steals away love that could potentially be directed toward God, then, clearly, one is not wholeheartedly devoted to God. But if we reject his conception of how love works, then there is no problem with asserting that one can have complete love for and

devotion to God and other people at the same time. By way of analogy, when a couple has a second child, they do not suddenly love their first child less. Granted that when the two children's interests are in conflict, the parents might find it impossible to choose between them, yet it does not follow that the first child is now loved less than before. Of course, the analogy is not perfect because the religious individual agrees with Kierkegaard that God's Will trumps all, even moral, considerations.^{vii} Still, when performing God's will, one should not neglect the suffering of his fellow man, even when God's Will conflicts with interpersonal morality.

In light of our investigation, it is not surprising that R. Joseph B. Soloveitchik accepted the notion that love of one's fellow man is, indeed, a religious value. Yet the Rav adds an important wrinkle that reveals how vastly his view differs from that presented by Mauriac. When dissecting the worldview of Adam II, the Man of Faith, R. Soloveitchik describes the process by which Adam II becomes a religious individual. Adam II finds that there is no other being with whom he can share an in-depth, ex-

"For the Rav, the ethico-moral mission given to Man by God allows him to relate to others with a newfound sense of commitment and concern."

istential experience, and he, therefore, suffers from loneliness. To alleviate his loneliness, God creates Eve, but the process by which she is created entails sacrifice on the part of Adam, namely the removal of Adam's rib.^{viii} The resulting union between Man and Woman, forged by pain and sacrifice, is an in-depth relationship of caring and mutual commitment. This, the Rav argues, is true friendship – not a mere commonality of interests but a common interest in the Other. Only when all people are committed to one another can the I-Thou-He community formed between Man, Woman, and God Himself come about. The Rav's perspective, therefore, is not that relationships with other people serve as deterrents to an all-consuming, all-engrossing love that we should feel for God. In fact, Calou's view could not be further from the truth: love of one's fellow man, the forging of a covenantal community between man and his fellow, is a *sine qua non* to our relationship with God.

The Rav proves that God relates primarily to the covenantal community, or *Keneset Yisrael*, rather than to the individual alone, from the phenomenon of prophecy. The primary goal of prophecy, argues R. Soloveitchik, is not merely the prophet's communion with God that he enjoys while God's Presence is upon him. The goal is the message conveyed via the prophecy to the prophet, which he is then obligated to relate to the people.^{ix} That the main objective of prophecy lies in the message conveyed and not the experience per se underscores the notion that prophecy is meant to lead to normative interpersonal action on the part of

the covenantal community:

"Isaiah, Ezekiel or the prophets were not led through the habitations of heaven, past the seraphim and angels, to the hidden recesses where God is enthroned above and beyond everything in order to get the overpowering glimpse of the Absolute, True, and Real, and to bring their individual lives to complete fulfillment... What did Ezekiel hear when he completed his journey through the heavenly hierarchy to the mysterious sanctuary of God? 'And he said unto me: son of Man, I send thee to the children of Israel, to a rebellious nation that hath rebelled against me... ' The prophet is a messenger carrying the great divine imperative addressed to the covenantal community."^x

Prophecy illustrates that the I-Thou-He community formed when God partners with Adam and Eve only comes to be when Adam and Eve partner with each other in shared commitment to each other and to God.

The concept of prayer, as expounded by the Rav, serves as further evidence to this point. He notes a parallel between prophecy and prayer: both are ways of communing with

God, though in prophecy God initiates the communion while in prayer, Man initiates. More importantly, both involve the I-Thou-He community that relates Man to God and his fellow man. In prophecy, as explained above, a single man must serve as a messenger for the greater community of the faithful. Likewise, in prayer we find evidence of a three-part structured community in the fact that petitions are not meant to simply be personal requests but rather prayers for the good of the greater community as well. The Rav points to the plural form of prayer mandated by the Halakhah as a source for this assertion, for the *Shemoneh Esreh* contains only requests for the Congregation of Israel ("Grant us," "Heal us," etc.) and does not address the needs of the lone individual. The message is clear:

"Man should avoid praying for himself alone...The foundation of efficacious and noble prayer is human solidarity and sympathy or the covenantal awareness of existential togetherness, of sharing and experiencing the travail and suffering of those for whom majestic Adam the first has no concern."^{xi}

Again, the Rav claims that prayer reflects Judaism's general attitude toward the Man-God relationship (the "total faith gesture") and that without the formation of a covenantal community, that is, individuals wholly devoted and committed to each other, a relationship with God is impossible.

Yet the opposite is also true. Were it not for the Man of Faith within us, true friendship, which means total commitment and concern

for the other person, would have been unfathomable:

"If God had not joined the community of Adam and Eve, they would have never been able nor would have cared to make the paradoxical leap over the gap, indeed abyss, separating two individuals... Only when God emerged from the transcendent darkness of He-anonymity into the illumined spaces of community knowability and charged man with an ethical and moral mission, did Adam absconditus and Eve abscondita, while revealing themselves to God in prayer and in unqualified commitment, also reveal themselves to each other in sympathy and love on the one hand and in common action on the other."^{xii}

For the Rav, the ethico-moral mission given to Man by God allows him to relate to others with a newfound sense of commitment and concern. But, in order to have that relationship with God, there must be an acceptance of that ethico-moral mission and, simultaneously, a commitment among fellow men that is subsequently engendered. Thus, the Rav concludes that, when "total commitment to God and fellow man is the order of the day," friendship is created and, in turn, man communes with God. Friendship is, in fact, a necessary religious gesture. We have thus ventured far indeed from the position presented at the beginning of this essay articulating a position where devotion to God and, simultaneously, to Man are not incompatible, but are instead interdependent.

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ⁱ Francois Mauriac, *The Woman of the Pharisees* (New York: Carroll and Graf, 1988), pp. 169-170.

ⁱⁱ Lev. 19:18.

ⁱⁱⁱ Deut. 6:5.

^{iv} See R. Yitzchak Blau, "The Implications of a Jewish Virtue Ethic," *The Torah u-Madda Journal* 9 (2000): 19-41.

^v *Yoma* 85b.

^{vi} *Mishneh Torah, Hilkhot Teshuvah* 2:9 (translation my own).

^{vii} Soren Kierkegaard, *Fear and Trembling* (Cambridge: Cambridge University Press, 2006), p. 58.

^{viii} Genesis 2:21.

^{ix} Cf. *Mishneh Torah, Hilkhot Yesodei ha-Torah* 7:7.

^x R. Joseph B. Soloveitchik, *The Lonely Man of Faith* (New York: Doubleday, 2006), pp. 59-60.

^{xi} *Ibid.*, p. 57.

^{xii} *Ibid.*, pp. 65-66.

TO BE AND NOT TO BE: THE VAGARIES OF *NEVU'AH*

BY: Jake Friedman

In the days preceding the *Yamim Nora'im*, it is fitting to contemplate *teshuvah*. The concept of *teshuvah* compels belief in two principles: that our futures are not predetermined, and that we are therefore responsible for our sins. Rambam addresses these two issues in *Hilkhot Teshuvah*. He asks, simply, that if God already knows what will happen before it happens, what accountability does a person have for his sins or virtues – are they not inevitable, completely beyond his control? If, however, notwithstanding God's foreknowledge of a particular event, there still exists the possibility of a different event occurring, God's knowledge would, inconceivably, be flawed. Rambam declines to answer the question. Though he says that the solution is too vastly intricate to be dealt with in *Mishneh Torah*, he concludes his discussion of the topic by asserting that the Torah endorses the precept of a fair system of ultimate responsibility.¹

A similar problem surfaces when we examine the inevitability of future events revealed through *nevu'ah*, or prophecy. When a *navi* experiences a revelation, the information he learns comes from God. Seemingly, the word of God should be equally, if not more, definitive than His knowledge. Nevertheless, it is clear that the events described in many prophecies are not inevitable; several times in *Humash*, Hashem promises disaster for *Benei Yisrael* and Moshe averts these crises through prayer.ⁱⁱ Other examples can be found in the books of the *Nevi'im*, like the recovery of Hizkiyah ha-Melekh after Yeshayahu prophesied his impending demise.ⁱⁱⁱ Either these unforeseen outcomes render the original prophecy untrue or they relegate the significance of prophecy to a sort of divine warning. Both possibilities diminish the grandeur and sacrosanct nature of *nevu'ah*.

Oddly, both Rosh ha-Shanah and Yom Kippur centralize stories of *nevu'ot* that, at least in appearance, did not come true. Rosh ha-Shanah is a day replete with references to *Akeidah Yitshak*. The *keri'ah*, the *shofar*, and the *piyyutim* all recall the drama of Yitshak's ascent. Obviously, the *Akeidah* is a prime example of a *nevu'ah* that did not come true – Avraham was instructed to offer Yitshak as a sacrifice, and that certainly did not happen. Yom Kippur brings the story of Yonah into prominence during the *maftir* at *Minhah*, in which Yonah's prophecy of Nineveh's destruction was also somehow averted. Why do these two days – crucial ones for the *teshuvah* process and for determining the events of the coming year – call attention to these open-ended instances of *nevu'ah*?

R. Yohanan addresses the mutable quality of prophecy in *Berakhot* (7a): “God does not retract any beneficial pronouncement that he issues, even if it was issued with a condition.” This statement provides some direction for approaching the question of unfulfilled prophecy.

R. Yohanan implies that in order for events to unfold in a way other than that implied by a prophecy, a retraction of the statement is necessary. R. Yohanan teaches that prophecy is binding in nature, but not final; unforeseen outcomes are the result of God's reconsideration.

What is the scope of R. Yohanan's teaching? While beneficial prophecies are clearly included and detrimental pronouncements are clearly not, there is a third kind of pronouncement, a type of *nevu'ah* that has not yet been considered in this paper. At times, a *navi* is exposed to information that cannot be classified as good or bad, but simply *is*. For instance, the *nevu'ot* through which Moshe Rabbeinu wrote the Torah or through which Yeshayahu and Yehezkel spoke of the *Ma'aseh Merkavah*^{iv} convey facts that are neither good nor bad. Can these prophecies be retracted? And what about divine imperatives, such as Avraham's “Leave your land,”^v Ya'akov's “Return home,”^{vi} or Moshe's “Speak to the rock”^{vii} – are *nevu'ot* such as these also subject to repeal?

It is a tenet of Maimonidean dogma that Mosaic prophecy is not subject to change. In the eighth of Rambam's famous Thirteen Principles he writes that integral to belief in the divine origin of the Torah is the belief that the *tsitsit* we wear, the *shofar* we blow, the *sukkah* we build, and all other physical mitsvot we perform embody the *nevu'ah* of Moshe

“It is this engagement of the *navi's* own faculties of imagination and interpretation which engender the non-definitive messages of *nevu'ah*.”

Rabbeinu. With this assertion, he rules out the possibility that the Torah can change as history progresses.

It is more difficult, however, to attempt to determine whether *nevu'ot* of the type revealed to Yeshayahu and Yehezkel could ever change. The esoteric content of their revelation makes it hard for us to even understand the intended messages, let alone grasp the ramifications of a change to those truths.

With regard to divinely imposed imperatives there is a source for assessing the possibility of change, as well as a discussion by R. Yitshak Hutner on the subject.^{viii} Using *Akeidah Yitshak* and its unforeseen outcome as a case study, we can make inroads in discerning if leeway can be built into *nevu'ot* of the type Avraham received, instructing him in his final *nissayon*, or test.

The precise translation of Avraham's *nevu'ah* reads as follows:

“Please take your son, your singular one, that you love, Yitshak. And go to the land of Moriyyah, and bring him up (“*ha'alehu*”) there as a consumed offering...”^{ix}

At this point, the reader and, more importantly, Avraham feel serious tension; human sacrifice is no small matter, filicide even less so. But Rashi allays any fears, quoting a Midrash:

“[Hashem] did not say ‘slaughter [Yitshak]’

because He did not desire that he be slaughtered, but only that he be *brought up* as an offering. Once he was up there, He said, ‘Take him down.’”^x

Perhaps Rashi's remark that God did not ultimately want Yitshak to be slaughtered would be edifying if placed at the end of the story, but it does not illuminate the events that occurred between this point and the later instructions that forestalled Yitshak's death. It is obvious from the progression of the narrative that Avraham was not aware of this midrashic double entendre; thus, the Midrash is irrelevant to understanding Avraham's ensuing actions.

The Midrash offers further support for this approach:

“‘And [Avraham] took in his hand the fire and the knife [*ma'akhelet*] and the two of them went together’ (Gen. 22, 6) – this his one (Avraham) to bind and this one (Yitshak) to be bound; this one (Avraham) to slaughter and this one (Yitshak) to be slaughtered.”^{xi}

In fact, as Rashi later informs us, even after hearing the message to spare Yitshak, Avraham was still unconvinced that he need not harm his son. The hidden meaning behind the term “*ha'alehu*” was not perceived by Avraham.

Yet, as R. Hutner points out, it seems that even Hashem interpreted Avraham's instruc-

tions as necessitating slaughter. The *berakhah* that Avraham earned,^{xii} acknowledging the completion of his *nissayon* to completely surrender his son, was not granted until after the slaughter of the ram that took Yitshak's place. Had “*ha'alehu*” meant simply “bring him up,” what reason would there be to forestall the blessing until after the sacrifice of the ram? It is unlikely that Avraham's accolades were earned for his willingness to accomplish a task that he was never asked to do. More likely, fulfillment of the prophecy demanded that an actual sacrifice take place.

Rashi, the Midrash, and the narrative of the *pesukim* are at odds. Rashi, along with the Midrash, claims that God never demanded Yitshak's blood, but Avraham's understanding and the timing of the *berakhah* in the *pesukim* present God's message as a call for Yitshak's death. Surprisingly, the Midrash states that Avraham was puzzled by the same contradiction upon hearing the news of Yitshak's reprieve:

“R. Aha said that Avraham began to raise questions: ‘These instructions are absurd! Yesterday you told me, ‘That Yitshak will be called your progeny.’ Then you go back and say, ‘Please bring your son...’ Now you say, ‘Do not touch him.’ I do not understand! So Hashem replied: ‘I will neither violate my covenant, nor change my word (Psalms 89:35).’”^{xiii}

R. Hutner proposes that the confusion surrounding Avraham here is simplified by a paradox. Man's uniqueness upon the earth is a function of his ability to choose to pursue God's will as opposed to his own inclinations. Because the concept of choice implies the possibility of evil, the demand upon Mankind to eschew all forms of evil should necessitate the forfeiture of free will. Here the paradox begins: if choice itself did not exist, then there would also be no occasion for Man to demonstrate a responsible performance of God's will, no *avodah* at all. The proposition of Yitshak's death is analogous to the preclusion of the *opportunity* of sin. True – both directives illustrate unswerving subservience to the dominion of God, but they also imply the negation of the possibility for the ongoing triumph of good over evil.

With Yitshak bound on top of the pyre, beneath Avraham's knife, the two *avot* personify the paradox of the ideal human life. This is a life in which we sacrifice ourselves completely to God, not in a single act of martyrdom, but rather through the many smaller sacrifices we offer on a day-to-day basis. This is the lesson hidden in the midrashic interpretation of “*ha'alehu*.” “Bring him up,” says God, “offer him to me completely and without reserve,” but then, “take him down – now that I see that you have no reservations about serving Me, take that devotion and let it motivate your every action.”

This explanation also accounts for the culmination of the story through the sacrifice of the ram. Avraham was instructed that there was no need, nor was it even desirable, that Yitshak's life end. Instead, he sacrificed the ram, recognizing his duty to God, and lived with his son to serve God throughout their lives.

Complicated as this explanation may be, R. Hutner was prompted by Rashi's “*ha'alehu*” Midrash to clarify its premise that the meaning of Avraham's *nevu'ah* never actually changed. Avraham's original interpretation remains correct, yet, in the way outlined above, the demand for Yitshak's life did not require his death. The *nevu'ah* was related as a paradox simply because it represented one.

However, R. Hutner explains that *Akeidah Yitshak* presents a unique case. Other *nevu'ot* can have evolving meanings without invoking the paradox above. While Moshe is the singular *navi* to whom the word of God is revealed patently, all other *nevi'im* must interpret cryptic visions in order to discern God's message.^{xiv} It is this engagement of the *navi's* own faculties of imagination and interpretation which engender the non-definitive messages of *nevu'ah*.^{xv}

Yonah's warning to Nineveh is offered by R. Hutner as an example of this type of variability. Yonah's exact words to this errant city were, “Forty more days and Nineveh will be overturned.”^{xvi} The usage of the ambiguous term “overturned” represents the abstract way in which the *nevu'ah* was conveyed to him. He

BOOK REVIEW

REVIEW OF R. KRUMBEIN'S *MUSAR FOR MODERNS*

BY: Shlomo Zuckier

Reviewed book: R. Elyakim Krumbein, *Musar for Moderns* (Jersey City, NJ: Ktav and Alon Shevut: Yeshivat Har Etzion, 2005).

Musar, loosely defined as moral and/or religious exhortation, has been a part of the Jewish religious experience since the times of Moshe Rabbeinu. Moshe describes the people seeing the Musar that God applied to the Egyptians (*Devarim* 8:5), and, later in Tanakh, *Mishlei* discusses Musar as a method of educating one's son (*Mishlei* 19:18).ⁱ The term and phenomenon of Musar continued to represent a significant portion of Jewish thought throughout the ages, reaching its apex as Musar became a focal point of many yeshivot in Eastern Europe with the advent of the Musar Movement. But this was prior to the full impact of the modern age on European Jewry,ⁱⁱ as it brought its advances in psychology and changes to the world order.ⁱⁱⁱ Some Jews may not have been affected by this shifting of the winds, but for those who were, could Musar still pack the same punch and strengthen their religious lives as it had for generations?

Musar for Moderns, by R. Krumbein,^{iv} presents a response to this question, attempting to communicate Musar ideas against a backdrop of modernity.^v The book consists of a combination of resolutions to conflicts between Musar and modernity, presentations of various methodologies of Musar from a modern perspective, and some original ideas by the author. As a whole, it constitutes a broad-ranging work on the topic.

The book is definitely self-aware (a good trait for any *ba'al Musar*), asking both at its beginning and end whether this type of composition is actually necessary. Once it asserts its relevance, pointing out that one must learn from the Torah, not just Torah itself, and claiming that Musar ideas can still impact modern people today, the book engages the question of the relationship between Musar and modernity. Some Musar ideas in the book receive a greater degree of acceptance than others in appealing to modern man. For example, the book presents opposing approaches to the *Mesillat Yesharim*'s focus on the next world (using ideas from the Rav, among others), moving away from a Musar theme. At the same time, there is a clear appreciation for the classic Musar approaches of Rav Yisrael Salanter and the Novardok Musar yeshivah.

The author of the book describes it as "eclectic,"^{vi} combining different sources to best make the point he is explaining.^{vii} It is interesting to note the span of authors quoted, in terms of both area of expertise and time frame. The range includes secular sociologists and thinkers such as Georg Simmel and Professor Reuven Feuerstein to Musar proponents like R. Shelomoh Wolbe and R. Yosef Leib Bloch, with Modern Orthodox thinkers such as R. Yehiel Ya'akov Weinberg and R. Shimshon Raphael Hirsch occupying the middle of the spectrum. This doctrine of *kabbel et ha-emet mi-mi she-amaro* (accept the truth from whoever said it) is refreshing and is helpful for dealing with an issue as complicated as this one. The book's sources also range temporally across the last few centuries, from the beginnings of the Musar Movement and Hasidut to contemporary Israeli thinkers.

The book makes many powerful points on its subject matter. One insightful comment re-

garding *anavah* (humility) deserves mention. R. Krumbein presents a somewhat unexpected dissonance between the rejection of *ga'avah* (egotism) and the goal of living a productive religious life. If the opposite of *ga'avah* is the negation of one's self-worth, and if this may cause psychological distress, how should an ideal religious personality find balance? R. Krumbein, based on R. Kook, explains that the antithesis of *ga'avah* is not low self-worth but rather an honest and healthy self-esteem. People use *ga'avah* as a recourse when they feel that they lack something in their person, so self-esteem is the best way to combat this problem. Thus, the problem is solved and one can both be an *anav* and a psychologically healthy person at the same time.^{viii}

One drawback of the work is that it approaches the sensitive topics at hand in a somewhat detached manner. The reader gets the feeling that this is less of a primary text of Musar and more of a secondary work on the state of Musar in the modern world. Furthermore, the book lacks an ultimate message. In fact, R. Krumbein writes that the book is "not actually 'doing' musar" but is rather "remov[ing] obstacles" to religious growth.^{ix} It may be part of the blessing and curse of being modern that every claim in this book is carefully considered and each idea rigorously analyzed, such that the presentation is a range of ideas rather than one, powerfully presented, conclusive and cohesive belief system.

It is this writer's view that significant and real personal change usually stems from instilling deep feelings of commitment and identification in a strong religious environment and not from detached discussions of the material, no matter how insightful. These more abstract discourses on Musar can assist a person in his understanding of the relevant issues and may direct those seeking inspiration toward the right sources, but they are no replacement for a good *Musar schmooze* or intense learning of a *Musar sefer*.

One other distinction between a classic *Musar sefer* and this book regards the organization and choice of content in the book. While *sifrei Musar* usually determine the significant Musar ideas and discuss them in order (*Mesillat Yesharim* provides a prototypical example of this phenomenon), this book chooses specific themes of interest for discussion.^x The ramifications of this are self-evident: *Musar for Moderns* manages to present these selected topics in an organized manner, but certain Musar themes are left untouched, presumably for reasons of space and focus. Thus, *Zerizut* (zeal) and *Zehirut* (carefulness), probably the two most discussed topics by avid readers of the *Mesillat Yesharim*, are not mentioned at all in the book.

In a related vein, the book has a very expansive parameter for what it considers Musar. It not only discusses classic (of both recent and older provenance) Musar works like *Sha'arei Teshuvah*, *Mesillat Yesharim* and *Alei Shur*, but also many works outside of the mainstream. R. Elisha Aviner and R. Yaacov Ariel are quoted (to different degrees of agreement), as are the philosophical works of the Rav and R. Dr. Sol Roth, and even the Hasidic works of R. Nahman of Breslav. This is no coincidence, as R. Krumbein writes: "One can certainly learn Musar ... [not only] from the great teachers of Chassidut, but also from modern Orthodox writers such as Dr. Eliezer Berkovitz and Dr.

Walter Wurzburger."^{xi} The book ends with an exhortation that its readers continue to pursue the study of Musar in other *sefarim*, considering itself only one stage in a long process of growth.

Musar for Moderns is a very good read which deepens one's sensitivity to the issues it discusses, though it is not a *Musar sefer* per se. It can serve as an introduction to a more extensive and textual study of classic works of Musar or it can be a self-sufficient look at ways in which modern man and Musar man can coexist. In pursuing this goal, the book both expands the canon of what is included in Musar and considers the relevant issues seriously, such that it is an important work for those seeking to reconcile Musar with modernity.

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ⁱ The word "Musar" stems from the root "y-s-r," to hit (see *Devarim* 8:5 for another instance of the verb form). Both of these cases use Musar in a slightly more violent manner than its current mainstream usage, but the educational connotation is present even here.

ⁱⁱ There is some literature on how some aspects of Musar constituted a response to modernity. See, for instance, David Eliahu Fishman, "Musar and Modernity: The Case of Novardok," *Modern Judaism* 8,1 (1988): 41-64. However, there are still some significant discrepancies between the Musar movement and the modern era.

ⁱⁱⁱ The book discusses several of these conflicts, some of which will be mentioned later in this review.

^{iv} R. Elyakim Krumbein is a *Ram* at Yeshivat Har Etzion. He has written on *derekh ha-limmud*, including a valuable article on the *Brisker Derekh* ("From Reb Hayyim and the Rav to Shiyurei ha-Rav Aharon Lichtenstein: The evolution of a tradition of learning," 229-297) in the Orthodox Forum on *Lomdus* [R. Yosef Blau (ed.), *Lomdus: The Conceptual Approach to Jewish Learning* (New York: MSYU and Jersey City, NJ: Ktav, 2006)], and also writes and lectures on matters of Musar, most recently in his article "Nefesh HaChayyim and the Roots of the Musar Controversy" in the Orthodox Forum on *Yir'at Shamayim* (New York: MSYU and Jersey City, NJ: Ktav, 2008).

^v The book restricts itself to an analysis of Musar in the modern world. One can only wonder how different a book on ideas of Musar in the post-modern world might have been, but this is a case where one appreciates the "*meshiv al ha-rishon rishon*" approach.

^{vi} P. 28.

^{vii} The book is split into "bite-sized" chapters of ten pages or so, even if it stops in the middle of one specific topic. This makes the chapters more manageable but also seems somewhat artificial.

^{viii} Pp. 25-32.

^{ix} P. 8.

^x The themes discussed in this book's chapters (aside from the introductory and closing chapters) are This world and the Next, *Anava*, Musar and Normality, the Dynamics of Growth, Rav Yisrael Salanter's technique, Depth of mind, Ethical Ascent through prayer, and Cognition.

^{xi} P. 142.

perceived that a great restructuring was coming for Nineveh, but not whether it would be a destructive or constructive one. Similarly, *nevi'im* occasionally perform physical actions to symbolize the desired outcome of their *nevu'ah*, like when Elisha shoots arrows with Yoash.^{xvii} This is a way in which the *navi* attempts to assign one of multiple possible meanings to the prophetic intuition he has received.

These two forms of unpredictability in a *nevu'ah*, namely that it represents a paradox or that it has multiple interpretations, act as the basis for understanding the *Yamim Nora'im* themselves. The central role of the *Akeidah* in the observance of Rosh ha-Shanah eases the tension between contradictory notions of the day's prayers; in light of the paradox of the *Akeidah*, we can justifiably declare that the dominion of God subsumes all existence while simultaneously praying for an individual place within His Kingdom.^{xviii} Yom Kippur, on the other hand, relies on the type of indeterminate future that is exemplified by the story of Yonah. On Yom Kippur, we do not find ourselves examining our own creation and existence (as we do immediately after each blowing of the *shofar* in the Rosh ha-Shanah *Musaf* with the prayer, "Today the world was born..."). Instead, the Day of Atonement is one of commuting sentences and seeking clemency. These rely on the concept that the decisions of the Divine tribunal remain, somehow, soft or abstract, subject to our influence in their outcomes, just as in Yonah's *nevu'ah*.

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ⁱ *Mishneh Torah, Hilkhot Teshuvah* 5:12-13.

ⁱⁱ See, for example, Num. 14 and Deut. 9.

ⁱⁱⁱ II Kings 20:1-7.

^{iv} Isaiah 6; Ezekiel 1.

^v Gen. 12:1.

^{vi} Gen. 31:3.

^{vii} Num. 20:8.

^{viii} *Pahad Yitshak: Sukkot, Ma'amarim* 29 and 79.

^{ix} Gen. 22:2.

^x Rashi ad loc., quoting *Be-Reshit Rabbah* 56:8.

^{xi} *Be-Reshit Rabbah* 56:3.

^{xiii} Gen. 22:16-18.

^{xiii} *Be-Reshit Rabbah* 56:8.

^{xiv} Num. 12:6.

^{xv} See Rambam's Seventh Principle where he asserts that, in fact, Moshe completely eliminated his imaginative abilities in order to receive the objective prophecy of the Torah.

^{xvi} Jonah 3:4.

^{xvii} II Kings 13:14-20.

^{xviii} By way of a simile I enjoy immensely: Like one of innumerable points in Seurat's *La Grande Jatte* that are each painted individually by the artist and create a cohesive image, so we ask, in the coming year, to be one part of the masterpiece that is God's world.

GET EXCITED FOR THE COMING ISSUES OF *KOL HAMEVASER!* THIS SEMESTER BRINGS WITH IT MANY OPPORTUNITIES FOR WRITING AND EXPLORING JEWISH THOUGHT. THE FOLLOWING ARE THE UPCOMING EDITIONS OF THE PAPER WITH DIFFERENT IDEAS FOR ARTICLES (ARTICLES ON TOPICS OTHER THAN THOSE OF THE ISSUE ARE ALWAYS WELCOME, TOO):

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DENOMINATIONS AND SECTS

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