

KOL HAMEVASER

The Jewish Thought Magazine of the Yeshiva University Student Body

Derekh ha-Limmud





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Kol Hamevaser, the Jewish thought magazine of the Yeshiva University student body, is dedicated to sparking discussion of Jewish issues on the Yeshiva University campus and beyond. The magazine hopes to facilitate the religious and intellectual growth of its readership and serves as a forum for students to express their views on a variety of issues that face the Jewish community. It also provides opportunities for young scholars to grow in their intellectual pursuits and mature into confident Jewish leaders. Kol Hamevaser is published on a monthly basis and its primary contributors are undergraduates, although it also includes input from RIETS Roshei Yeshivah, YU Professors, and outside scholars. In addition to its print magazine, it also sponsors special events, speakers, discussion groups, conferences, and shabbatonim.

The magazine can be found online at www.kolhamevaser.com.

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This magazine contains words of Torah.

Please treat it with proper respect.

Derekh ha-Limmud:

The Means, Modes, and Methodologies of Jewish Learning

BY: Jonathan Ziring

ocrates famously said, "The unexamined life is not worth living." The same can be said of the methods applied in scholarship. Almost all fields of study are dominated by methodology; it is rare to find an area of scholarship that does not attempt to approach the issues under investigation in a rigorous manner, with each discipline developing its own tools and techniques to approach the questions it is devoted to exploring. This process is often subconscious: the methodology may be used, but not understood. Sometimes the material is subject to rigorous study, but the process itself is not

However, sometimes this process is a conscious one, and in recent years many disciplines have attempted to become more aware of the methodologies they use. As a friend of mine once put it, "All good history these days is historiography." But what about Torah study? Should we cognizantly develop a methodology, either by trying to understand and formalize the tools that were previously implicitly used or by developing our own methods by assessing our goals in study and the best means of achieving them? Some would aver that we should not. I remember that one late Friday night in Yeshiva, a student from another yeshivah argued that when studying Torah we are looking for truth, and thus we should not bind ourselves to any specific methodology, because if we were do that, we would inevitably end up worshiping the methodology and looking for answers that we think should flow from that methodology rather than simply searching for truth. By doing this, we would have forgotten our commitment to understanding the word of God and replaced it with a commitment to our derekh ha-limmud. When you have a hammer, everything looks like a nail, and by creating a structure within which to understand Torah, you may forget to let the Torah speak to you and rather force the Torah to say what you think it should. It may be that you end up using similar means to understand different topics. but to spell out what tools should be used is to limit the tools you can and will use.

However, as appealing as this claim may be, it seems to me that the opposite is true. To completely remove ourselves from the texts is impossible. While we must try to be as objective as possible, at some point we are going to put ourselves into the texts anyways. As the Talmud itself claims, "Ein moshivin ba-Sanhedrin ella mi she-yakhol letaher et ha-sherets min ha-Torah, we do not appoint judges to the High Court who cannot [find a way to] purify an impure creature on a biblical level."ii As Gerald Blidstein puts it, "Texts can be interpreted [... and] Scripture is never a match for ingenuity."iii A sufficiently potent scholar can explain anything in any way he wants.

There are ways of minimizing this danger. When we actively develop a methodology, we formally stipulate what tools are to be used and

what standards are expected, and we become accountable to those standards that we have set up. To develop a methodology is to both recognize the complexity of the topic at hand and to admit that the process of human thought must itself be subjected to rigorous analysis if it is to be as objective as possible. For both these reasons, if we value the subject matter, we must value and understand the process we use to study it. This means not just developing and explicitly explaining methodologies, but questioning them. In other words, to paraphrase Socrates, "The unexamined methodology is not worth using." We must question the classic modes of study and ask how we can use new methodologies and new resources to enhance our understanding of every facet of Torah.

With self-conscious study come many questions, many of which will be dealt with in this issue, both through the articles written and the interviews conducted with Rabbis Moshe Kahn and Eli Baruch Shulman. For example, the question arises as to how much time should be spent studying Talmud and Tanakh, respectively? This question finds many answers in the various medieval understandings of the Talmud's suggested division of study, iv an issue which Ariel Krakowski examines in his article. Within the Talmud, what is the role of the legal portions in contrast to that of the aggadot? David Pruwer explores this question in his article. When we study the commentaries on the Talmud (or the legal codes that attempt to codify the laws of the Talmud), should we focus on Rishonim or Aharonim? If we are to favor the study of one over the other, is that a function of the assumed formal authority ascribed to the authors of the texts or is it based on the assumed quality of their work? Should we study theoretical texts or practical-legal ones?vi Within legal texts, should precedence be given to codes of law or responsa, which reflect the application of the law in reality?vii How much focus should be placed on Mahashavah (philosophy and theology in the broader sense) and Musar (ethical and exhortative literature)?

Others questions relate to our focus within the texts. Should we focus on iyyun (in-depth analysis) or beki'ut study (cursorily covering ground)? This question has been debated since the Talmud, which asked what type of scholar is most qualified to lead the academy: the sharper scholar (oker harim) or the one with a greater mastery of the basic texts (Sinai)?viii There are also the important questions regarding whether we are concerned with authorial intent in Torah study, or whether our interpretation is more important. In modes of interpretation, should we put our energies into exegesis or eisegesis?ix Danny Shulman will analyzes different perspectives on issues of truth in Torah study, building off of R. Aharon Lichtenstein's distinction between Torat hesed and Torat emet Moshe Peters and Josh Broyde deal with the questions of to what extent are we limited to precedent, bound to the understanding of earlier authorities, and to what extent are we expected to bring ourselves to the texts? Peters argues for the importance of *hiddush* (novel understandings) generally, while Broyde focuses on whether we should attempt to understand the Mishnah independently of the Gemara's lens. Each of these articles raises the question of why it is that we traditionally ascribe more validity to sources simply due to their historical precedence.*

With the questions of how and what we should study come the even broader questions: why do we study in the first place? To gather knowledge? To understand the word of God? To derive practical legal conclusions? Ilana Gadish discusses the importance of connecting existentially to even the most complex Talmudic discussions. Daniela Aaron analyzes how questions of theodicy should be approached in the study of Tanakh. Do we want to engage the word of God in its original context or understand it simply as it speaks to us today? Perhaps we should attempt a balance between these two, creating a calibrated worldview that combines both, understanding to what the Torah was responding and internalizing the values that emerge from the Torah's unique perspective. R. Micha Berger explores whether we are looking for the "what" or the "why," showing the problems of removing philosophy from legal questions. R. Berger highlights the potential shortcomings of the "Brisker Derekh," the dominant approach to Torah study in most Lithuanian yeshivot, as developed by R. Havvim Soloveichik of Brisk (1853-1918). by comparing it to the Telzer approach. We must ask whether this will depend on the texts we are studying. Perhaps we only care about the "what" in legal discussions, but the "why" has value on a philosophical level. Is it even possible to separate these two? R. Klapper and Danielle Lent each choose particular topics as case studies, applying Talmudic methodologies to each area. R. Klapper analyzes the Minhat Hinnukh's treatment of mitsvah ha-ba'ah baaverah (a positive commandment whose performance is predicated on sin) through Brisker eyes and demonstrates the potential shortcomings of extreme legalism. Danielle Lent applies philosophical categories of metaphysical identity in studying the legal discussions of tum'ah (impurity) and tohorah (purity).

Many of these questions have been asked in every generation, whether implicitly or explicitly. However, there are other questions that are unique to recent generations. With the advent of academic scholarship of the Tanakh and Talmud, including the discovery of materials from the Ancient Near Eastern context of the Tanakh and the Persian context of the Talmud, new questions have come to the fore. Should we introduce historical evidence to the discussion, and, if so, is it appropriate for the study of all texts - Talmud and Tanakh? AJ Berkovits considers some of these questions and shows the benefits of using these tools in learning Tanakh through a case study of the insights into Sefer Amos provided by the field of archeology.

The question can also be raised as to whether such findings can change Halakhah? The halakhic process generally does not allow for it, but are there circumstances in which it might? Even if they should not change Halakhah, should they change how we view or frame theology, the stories of Tanakh, and the aggadot and midrashim of Hazal? Are there distinctions between these categories, and, if so, why?

Jews are the people of the Book. Study has always defined us and continues to do so, and thus it behooves us to understand what we do in our study and how we do it. For a people whose identity is tied up with erudition, there are few things as central to understanding ourselves than developing and understanding darkhei ha-limmud.

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- ⁱ This is evident from the mass of literature that has developed about historiography, philosophy of science, and the like.
- ⁱⁱ For an argument against removing ourselves from texts, see "The Path of Torah" Introduction to R. Eliyahu Bloch, *Shi'urei Da'at* (Tel Aviv: Netsah Publications, 1948). He develops a theory of Torah study that posits an intrinsic connection between understanding of the self and understanding of the Torah.
- iii Sanhedrin 17a.
- iv Gerald J. Blidstein, "Who is Not a Jew? The Medieval Discussion," *Israel Law Review* 11 (1996): 369-390.
- Y See *Kiddushin* 30a, Tosafot ad loc., s.v. *lo tserikha*, and Rambam, *Mishneh Torah*, *Hilkhot Talmud Torah* 1:11, for example.
- vi This question is debated by Kesef Mishneh, Hilkhot Mamrim 2:1, Hazon Ish ad loc., and Kovets Shi'urim to Bava Batra 663.
- vii See the introduction to R. Ovadia Yosef's *Yabbia Omer* for a vitriolic attack on those who choose to focus on theoretical conceptual study rather than practical-legal study.
- viii See Responsa Ri Migash 114.
- ix See the concluding discussions in both *Masekhtot Berakhot* and *Horayot*.
- ^x Exegesis refers to the study of texts to derive the meaning of the texts themselves, while eisegesis refers to the study of texts by reading one's own ideas into them.
- xi See n. 4.
- xii See, for example, the introduction to *Yabbia Omer*, R. Hayyim of Volozhin's *Nefesh ha-Hayyim, Sha'ar* 4, and Rambam, *Mishneh Torah, Hilkhot Teshuvah*, ch. 10, etc.
- xiii For further discussion on these issues, see *Kol Hamevaser*'s issue on Academic Jewish Studies, Volume 3, Issue 3, available at: http://www.kolhamevaser.com/wp-content/up-loads/2009/12/khm-academic-jewish-studies-iii-3r.pdf.

Letters-to-the-Editor

BY: Daniel Danesh

n Kol Hamevaser's last issue, Reuven Rand had a piece on Modern Orthodoxy's understanding of interpreting natural disasters as a form of divine punishment. While it is not my intention to comment on the nature of Mr. Rand's article or the correctness of his opinions (or his choice of title, for that matter), it is my intention to protest the great amount of disrespect which he displayed towards one of the leading authorities of Orthodox Jewry.

The Torah requires us to revere and, if necessary, protect the honor of a *talmid hakham*.ⁱⁱ This commandment certainly includes the honor of a leading sage such as R.

"Though the democratic society in which we live grants us freedom of expression, regarding our sages, such as R. Yosef, we are not allowed to castigate them or their actions."

Ovadia Yosef, who, aside from his secondary role as the Shas Party's chief decision-maker, is one of the most respected leaders in the Orthodox world today, with Ashkenazim and Sephardim alike showing him due honor.ⁱⁱⁱ Therefore, I was quite shocked when Mr. Rand wrote

"When R. Ovadia Yosef famously proclaimed that the six million victims of the Holocaust were *gilgulim*, or reincarnations, of earlier sinners, many Jews were justifiably outraged. Though he was talking about the beloved parents and siblings of Jews still living that had died gruesome deaths, he somehow found it within him to label them the reincarnated thugs, murderers and rapists of previous generations. But for all of R. Yosef's insensitivity, we cannot ignore the Holocaust from a theological perspective."

I understand that Mr. Rand refers the reader to an earlier essay by Jack Katzenell,^v who also shows a tremendous lack of respect for the sage. However, I am at a loss to understand where Mr. Rand himself acquires the ability to refer to R. Yosef as insensitive. It is beyond any stretch of my imagination to try to comprehend how Mr. Rand, as an Orthodox Jew, can publish such comments. Does he feel he is qualified to dismiss R. Yosef's remarks as just those of another famous man who does not understand the Holocaust and its disastrous ramifications, like the Iranian president or some other bigoted leader? Is he of the opinion that our leaders are chosen solely because of their academic merit and not because of their immeasurable amount of care and concern for every living person? His words indicate a complete lack of respect or regard for R. Ovadia Yosef and possibly for other major Orthodox rabbinic leaders, as well.

Though the democratic society in which we live grants us freedom of expression, regarding our sages, such as R. Yosef, we are not allowed to castigate them or their actions. One can question a leader in order to better understand his statements or rulings, but to present the view of a Torah leader such as R. Yosef and begin to degrade him in a public forum is simply inexcusable.

I close by respectfully asking Mr. Rand to express sincere regret for his uncomplimentary remarks concerning R. Yosef's statement. The true test of man is not whether on to he is above making mistakes, but whether he possesses the ability to correct his mistakes.

Daniel Danesh is a Sophomore at SSSB majoring in Finance.

- ⁱ Reuven Rand, "On Bikinis and Earthquakes," *Kol Hamevaser* 4,3 (October 2010): 18-19. ⁱⁱ *Vayikra* 19:32, as interpreted by *Kiddushin*
- iii In the interest of full disclosure, I should point out that I am of Sephardic descent and though my custom is to follow R. Yosef, by no means should anyone mistakenly assume that I write this letter out of personal affront; rather, I write because all of our rabbinic leaders though not necessarily above making mistakes
- are beyond criticism.
- iv Rand, p. 19.
- ^v Jack Katzenell, "Rabbi Says Holocaust Victims were Reincarnations of Sinners," *The Independent* (August 6, 2000), available at: http://www.independent.co.uk/news/world/midle-east/rabbi-says-holocaust-victims-were-reincarnations-of-sinners-711547.html. (Originally cited in Rand's article, n. xii.)

BY: Reuven Rand

v editorials for Kol Hamevaser invariably generate controversy from the very lines that strike me as the least controversial. In his letter to the editor, Daniel Danesh castigates me, together with Jack Katzenell of The Independent, for showing "a tremendous lack of respect" to the former Sephardi Chief Rabbi of Israel, R. Ovadia Yosef, in noting the reaction to his remarks on the Holocaust. I will begin my response by defending Mr. Katzenell. Katzenell did not write an opinion piece; he wrote a news article which consisted of facts, and facts cannot be disrespectful. The Independent, along with the BBC, i New York Times, ii Jerusalem Post, iii and other national and international news services, felt that R. Yosef's speech was newsworthy and consequently published his remarks, along with the responses of public figures like Ehud Barak and Tommy Lapid. They were not disrespectful - they were accurately reporting the news - and while most of these organizations are frequently excoriated for one perceived bias or another, I think, in this case, we should applaud them for a job well done.

The cited article, which also quotes R. Yosef accusing Ehud Barak of "bringing snakes beside us" in negotiating with Palestinians, was not the last time R. Yosef appeared in the news: he reappeared the following year calling for the "annihilation of Arabs." R. Ovadia Yosef "caused outrage by apparently calling on God to 'strike down' Prime Minister Ariel Sharon in a sermon," the BBC reported in 2005. Later that year, he blamed the flooding of New Orleans on George W. Bush's sup-

"I do not claim to know how the Jewish People chooses its leaders. I do claim to know that most of those leaders recognize a concept called hillul shem Shamayim ba-rabbim (desecration of God's name in public)."

port of the disengagement from Gush Katif and on a lack of Torah study there: "Blacks will study the Torah?" he asked. In 2009, he famously proclaimed that anyone who votes for Israeli politician Avigdor Leiberman "supports Satan." Finally, this very year, he received international press when he called for Mahmoud Abbas and the Palestinian population to be killed by the plague in and again when he claimed that "[g]oyim were born only to serve us [the Jews]." Is leave it to the reader to decide whether such statements are offensive and

whether they are excusable.

Returning to Mr. Danesh's point, I do not claim to know how the Jewish People chooses its leaders. I do claim to know that most of those leaders recognize a concept called *hillul shem Shamayim ba-rabbim* (desecration of God's name in public).* I am not sure how R. Yosef gets around this problem, and Daniel Danesh does not address this in his letter. However, this is an immensely important issue for Orthodox Judaism to deal with, and I thank him for bringing it up.

Reuven Rand is a senior at YC majoring in Mathematics and Computer Science.

- i Jack Katzenell, "Rabbi Says Holocaust Victims were Reincarnations of Sinners," *The Independent* (August 6, 2000), available at: http://www.independent.co.uk/news/world/middle-east/rabbi-says-holocaust-victims-were-reincarnations-of-sinners-711547.html.
- ""Fury Over Holocaust Remarks," *BBC News* (August 7, 2000), available at: http://news.bbc.co.uk/2/hi/middle east/868578.stm.
- iii John F. Burns, "Israeli Rabbi Sets Off a Political Firestorm Over the Holocaust," *The New York Times* (August 7, 2000), available at: http://query.nytimes.com/gst/fullpage.html?res=9501E3D7103CF93BA3575BC0A9669C8B63&sec=&spon=&&scp=3&sq=ovadia%20yosef&st=cse
- iv "Ovadia Yosef: Shoah Victims Reincarnated Sinners," *The Jerusalem Post* (July 5, 2009), available at: http://www.jpost.com/Israel/Article.aspx?id=147578.
- "Rabbi Calls for Annihilation of Arabs," *BBC News* (April 10, 2001), available at: http://news.bbc.co.uk/2/hi/middle_east/127003
 8.stm.
- vi "Rabbi Says God Will Punish Sharon," *BBC News* (March 9, 2005), available at: http://news.bbc.co.uk/2/hi/middle_east/433309 9.stm.
- vii Zvi Alush, "Rabbi: Hurricane Punishment for Pullout," *YNet News* (September 7, 2005), available at: http://www.ynetnews.com/articles/0.7340.1_3138779.00 html.
- viii "Rabbi Yosef: Lieberman Voters Support Satan," *YNet News* (February 7, 2009), available at: http://www.ynetnews.com/articles/0.7340,L-3668135,00.html.
- ix "Abbas, Palestinians Should Die: Israeli Rabbi," *Reuters* (August 29, 2010), available at: http://www.reuters.com/article/idUS-TRE67S0GU20100829.
- x Jonah Mandel, "Yosef: Gentiles Exist Only to Serve Jews," *The Jerusalem Post* (October 18, 2010), available at: http://www.jpost.com/JewishWorld/JewishNews/Article.aspx?id=19 1782.
- xi Yoma 86a.

Can Retson Hashem matter in Londus?

Mitsvah ha-Ba'ah ba-Aveirah and the Limitations of Formalism

BY: Rabbi Aryeh Klapper

e live in the universe Brisk hath wrought, and I do not propose to begin Cartesian-style from first principles. So, in approaching the issue of mitsvah ha-ba'ah ba-aveirah (a commanded act accomplished through a transgression), let us grant that the term "mitsvah" must be formally analyzed into such categories as de-Oraita/de-Rabbanan (biblical/rabbinic), rather than hamur/kal (severe/mild), de-rabbim/deyahid (communal/personal) rather than rabba/zuta, (big/small), hiyyuvit/kiyyumit (obligatory/elective), ma'aseh/dibbur (actionbased/speech-based), and the like. Let us grant a similar analysis of "aveirah." Let us grant that "ha-ba'ah" must be interrogated to see whether it implies physical or legal necessary or sufficient causality, or simultaneity, etc. Finally, let us grant a full conceptual compareand-contrast regimen with such principles and categories as aseh doheh lo ta'aseh (positive commandments override negative ones) and lav ha-nittak la-aseh (negative prohibitions linked to remedial positive commandments) (and/or gadol kevod ha-beriyyot [great is human dignity], va-hai ba-hem ["and live through them"],ii et al.).

Now, the accepted categories in the paragraph above can all be seen as formal rather than religious, by which I mean that they can be understood without checking whether they correspond to any belief(s), text(s) or experience(s) outside the formal boundaries of halakhic deliberation. This can be seen as an advantage. While the impact of logical positivism has proved less lasting than that of Brisk, I still find its wholesale destruction of metaphysical language challenging and productive.

The positivists argued that metaphysical language has no nafeka minnah (practical ramification), as any metaphysical statement (think "God is just") is compatible with any observed data (think genocide). In our conversation space, the first question is whether a proposition of the form, "Halakhah does not count mitsvot as fulfilled if they are done with stolen objects because God does not want mitsvot fulfilled with stolen objects" means something different, i.e., generates a different understanding of the practical or theoretical halakhah in a particular case, than the shorter proposition, "Halakhah does not count mitsvot as fulfilled if they are done with stolen objects?

Let us turn to the Talmudic discussions. In the Vilna Shas, the term mitsvah ha-ba'ah ba-aveirah is cited on Sukkah 30a with regard to olah sacrificesiii and the lulav in order to explain why one will not fulfill his obligation if he uses a stolen object; iv on Bava Kamma 94a with regard to making a blessing when taking hallah from stolen dough (according to R. Eliezer ben Yaakov); and on Berakhot 47b with regard to a minyan formed by illegally manumitting an eved Kena'ani (non-Jewish slave). Other versions, cited by Rishonim, record it (on the equivalent of Sukkah 35a) with regard to an etrog taken from an ir ha-niddahat (city deserving destruction due to its mass idol worship) or from an asherah de-Moshe (a tree that was treated as a deity), each of which it is illegal to benefit from and both of which must be

The challenge posed by the Tosafists here is not so much to find the common ground among whichever of these positions one accepts le-halakhah (normatively), as to deal with the broad array of cases in which mitsvah ha-ba'ah ba-aveirah seemingly ought to be cited and is not. This challenge is particularly acute, ironically, not where citing mitsvah haba'ah ba-aveirah should generate a contrary result, but rather where it should generate the same result that a verse of the Torah is cited to generate, which appears to make the verse redundant.

Tosafot to Sukkah 9a specifically raise the question of why a verse is needed to prove that the mitsvah of sukkah cannot be fulfilled in a sukkah roofed with stolen materials. Their answer is that the rule invalidating a mitsvah haba'ah ba-aveirah is itself only de-Rabbanan, and therefore, were it not for the verse, such a sukkah would be valid on a biblical level. There are many difficulties with this answer, some of which are raised in this same Tosafot, and most Rishonim and Aharonim treat it as unsatisfactory. Among them is Minhat Hinnukh, to whose treatment of the issue we now

Minhat Hinnukh himself offers the following complex resolution:vi

- a) Mitsvot aseh de-Oraita (positive biblical commandants) can be divided into two categories: those whose obligation precedes any condition external to the personhood of the obligated (Category A) and those whose obligation depends on such conditions (Category B). As an example of the former, he cites tefillin, where the obligation is generated by Jewish maleness; as an example of the latter, he cites tsitsit, where the obligation is generated by Jewish maleness plus the wearing of an appropriate garment.
- b) The mitsvah de-Oraita of eating in a sukkah can itself be divided into the above two

categories: on the first night, the obligation devolves on all male Jews, but on the other nights only on male Jews who eat a particular amount and type of food.

- c) Failure to fulfill a mitsvat aseh de-Oraita, when one is obligated to fulfill it (whether Category A or B), is considered a violation of Halakhah known as "bittul aseh:" failure to arrange for an external condition necessary to achieve obligation, however, is not such a violation. Thus, there is no obligation to eat the appropriate amount and type of food on the second through seventh nights of
- d) Mitsvah ha-ba'ah ba-aveirah, with regard to Category A mitsvot, makes the attempted mitsvah-fulfiller guilty of bittul aseh; however, with regard to Category B mitsvot, it does not make the attempted mitsvah-fulfiller guilty of bittul aseh.
- e) Thus, with regard to the second through seventh nights of Sukkot, the principle of mitsvah ha-ba'ah ba-aveirah does not in practice ban eating in a sukkah roofed with stolen materials. A Jewish male eating in such a sukkah would neither fulfill the mitsvah nor be guilty of bittul aseh.
- f) The verse cited to invalidate a sukkah roofed with stolen materials is therefore necessary even if mitsvah ha-ba'ah ba-aveirah applies to this case, because it declares that a Jewish male eating in such a sukkah on the second through seventh nights is, in fact, guilty of hittul aseh

Thus far I have presented the pure mechanics of Minhat Hinnukh's answer. From a Brisker perspective, the rationale behind his approach is clear: mitsvah ha-ba'ah ba-aveirah is a din (legal qualification) in the ma'aseh hamitsvah rather than the heftsa shel mitsvah; namely, it invalidates the act but not the object.

This in turn raises the question of why sitting in a valid heftsa shel sukkah is sufficient to avoid bittul aseh with regard to Category B, but not with regard to Category A. A possible answer is that with regard to Category A, bittul aseh is defined as failure to perform a ma'aseh ha-mitsvah that fulfills the mitsvah (ma'aseh kiyyum ha-mitsvah), whereas with regard to Category B, it is defined as failure to perform a ma'aseh ha-mitsvah simpliciter. (This, in turn, requires us to claim that using an invalid heftsa shel mitsvah invalidates the ma'aseh hamitsvah and not just the kiyyum ha-mitsvah, the action and not just the fulfillment.)

The Brisker approach thus generates what I believe is a reasonably accurate positivist translation of Minhat Hinnukh, meaning that it accords with the formal content of every formally translatable statement made by him. However, I will now argue that it utterly ignores the semantic content of Minhat Hinnukh. Here is a roughly literal translation of some relevant sections of his exposition on this topic:

- "It seems to me that there are two kinds of mitsvot aseh:
- "1) One which is an obligation imposed on every Jewish male, such as tefillin and etrog and eating matsah. A mitsvah such as this - if he fulfills it, he does the will of the Creator, may He be blessed and exalted, because he was thus commanded by the King Who is blessed, whereas if he is mevattel (nullifies) this mitsvah and does not lay tefillin or did not take the lulay, he was mevattel the mitsvah and acted against His will, may He be blessed, and he will certainly be punished.
- "2) [...] The general principle is that if he fulfills this mitsvah, he does the will of the Creator Who is blessed, whereas if he does not fulfill the mitsvah, he does not transgress His will; he just does not fulfill the mitsvah. [...]

"So it seems that the reason that one does not fulfill one's obligation with a mitsvah ha-ba'ah ba-aveirah is that the Holy One Who is blessed does not will this and it is not in accordance with His will that a defender become a prosecutor, as "I am God Who hates robbery with regard to olah sacrifices" (Isiah 61:8) [...] Because of this, it is properly reasonable to say that he has not fulfilled his obligation with regard to the mitsvah, because this is not the will of the Creator, may He be blessed, and therefore he has not fulfilled the mitsvah. This is properly reasonable with regard to mitsvot hiyyuviyyot (obligatory mitsvot) [...] but with regard to mitsvot that are not hiyyuviyyot, such as tsitsit and sukkah after the first day of the festival, if they are ba'im ba-aveirah (done via a transgression), it is true that he has not fulfilled the will of the Creator Who is blessed, because this is not His, may He be blessed's, will, but it is only that he has not fulfilled it, and it is as if he is not wearing a garment at all or did not eat at all. [...] Because, in truth, he is wearing tsitsit and eating in a sukkah, just that this is not in accordance with His will so it is as if he has not fulfilled the mitsvah, but we cannot judge him as if he has been mevattel the mitsvah since regardless he is doing the mitsvah. [...] But if the Torah specifically invalidates a stolen sukkah, it is as if he roofed with invalid roofing that

did not grow from the ground or that can receive *tum'ah* (impurity), which is not a *sukkah* at all, so that if he eats inside it, he is like one eating in a house, for the Torah has decreed that this is not a *sukkah* at all. [...]"

It should be clear that the Brisker analysis requires one to believe that much, perhaps most, of the language Minhat Hinukh uses here is meaningless blather. Here is the same paragraph in literal Brisker translation, in the manner of Rudolf Carnap's memorable positivist translation of Hegel:^{vii}

(invalid object). From a formal perspective, it likely follows that *mitsvah ha-ba'ah ba-aveirah* should not invalidate a mitsvah performed with a *heftsa* stolen by someone else but which you legitimately acquired and/or legally own.

However, Minhat Hinnukh himself is free to contend that the type of *pesul* created by *mitsvah ha-ba'ah ba-aveirah* depends on the severity of the *aveirah*, or the public impact of the *aveirah*, or the relationship between the *aveirah* and the *heftsa*, or the centrality of the *heftsa* to the mitsvah – so long as he can ex-

"The Brisker analysis requires one to believe that much, perhaps most, of the language Minhat Hinnukh uses here is meaningless blather."

"So it seems that the reason that one does not fulfill one's obligation with a mitsvah ha-ba'ah ba-aveirah is that NOTHING [...] because of this, it is properly reasonable to say that he has not fulfilled his obligation with regard to the mitsvah, because NOTHING. This is properly reasonable with regard to mitsvot hiyyuviyyot [...] but with regard to mitsvot that are not hiyyuviyyot, such as tsitsit and sukkah after the first day of the festival, if they are ba'im ba-aveirah, NOTHING it is only that he has not fulfilled it, and it is as if he is not wearing a garment at all or did not eat at all. [...] Because, in truth, he is wearing tsitsit and eating in a sukkah, just NOTHING it is as if he has not fulfilled the mitsvah, but we cannot judge him as if he has been mevattel the mitsvah since regardless he is doing the mitsvah. [...] But if the Torah specifically invalidates a stolen sukkah, it is as if he roofed with invalid roofing that did not grow from the ground or that can receive tum'ah, which is not a sukkah at all, so that if he eats inside it, he is like one eating in a house, for the Torah has decreed that this is not a sukkah at all [...]"

I suggest that something has been lost if the words of Minhat Hinnukh have become meaningless, and that it is worth considering whether we ought not make every effort to rediscover their meaning.

In the above exposition, I contend, Minhat Hinnukh clearly believes that there is a spiritual rationale to his legal distinctions. In other words, in his system, it is legitimate to ask why God would regard someone who uses a stolen sukkah on the first night as transgressing His will, but not on the second night. In yet other words, in his system, it is legitimate to reject approaches that make lucid formal distinctions on the basis of recognized formal categories if one cannot give spiritual significance to the halakhic outcomes thus generated.

This may have applications *le-ma'aseh*, as follows: in the Brisker translation, Minhat Hinnukh is bound to the claim that *mitsvah haba'ah ba-aveirah* can only generate a *pesul ma'aseh* (a ruined action), not a *pesul heftsa*

plain why in each case that criterion is spiritually significant. Thus, he may say in the case of a transferred stolen object that God does not will mitsvot that remind Him of other people's sins any more than He wills mitsvot that remind Him of the mitsvah-performer's sins. This position is possible within the Brisker translation, but I contend it is vastly less likely than in the original.

I have presented this issue solely within the context of regaining access to a particular Aharon, but I presume that the potential implications for our own learning discourse are clear, especially for those of us prone to (excessive) legal formalism.

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- The implications of these principles are spelled out in *Berakhot* 19b, *Shabbat* 81b, and many other places.
- ii This verse is used as the basis of the law that all obligations and prohibitions, with several exceptions, are waived in life-threatening situations; see *Sanhedrin* 74a and *Yoma* 85a.
- iii In Sukkah, the statement is presented by R. Yohanan in the name of R. Shimon bar Yohai. A version of the same statement appears on Bava Kamma 67a, but there it generates a halakhic principle related to property ownership rather than mitsvah ha-ba'ah ba-aveirah.
- iv This law is presented by R. Ammi, whom the Talmud presents as disagreeing with R. Yitshak bar Nahmani.
- Tosafot ad loc., s.v. "ha-hu."
- vi Minhat Hinnukh, mitsvah 325.
- vii Rudolf Carnap, "The Elimination of Metaphysics Through Logical Analysis of Language," in Logical Empiricism at its Peak: Schlick, Carnap, and Neurath, ed. by Sahotra Sarkar (New York: Garland Pub., 1996), pp. 10-31. Available at http://www.scribd.com/doc/10161587/01R-CarnapThe-Elimination-of-Metaphysics.

Torat Hesed and Torat Hayyim: Learning Torah as a Living Document

BY: Danny Shulman

merican law, like Halakhah, rests upon documents at the heart of its legal system. This gives rise to the ongoing debate as to whether the American Constitution should be read as a "living document" whose words can be understood and interpreted in various rational and logical ways to reflect the fluctuating needs and trends of society, or as reflecting only the "original intent" of the Constitution's authors regarding how to understand the law. In this vein, Supreme Court Justice Antonin Scalia, a leading voice of the "original intent" school, once commented that "the Con-

text is naturally infused with the author's intentions, the *Torat emet*, there is also latent in that text the potential for alternative understandings and approaches, namely the *Torat* hesed. Developing this point, Rav Lichtenstein explains that *Hakhmei Yisrael* (the "wise men" of the Torah tradition) have

"a dual corpus: their *Torat emet* – that which, as best as can be perceived, constitutes, [sic] an accurate statement of their consciously willed position; and their *Torat hesed* – the possible multiple readings of their dicta which, in a sense, lead their own lives, regarded both as independent entities and in relation to the

"If a given text becomes accepted or incorporated into the corpus we call 'Torah,' does the author's original intention define how we must understand the text or legal decision, or can we approach the text and legitimately suggest any interpretation which fits into our overall conceptual or analytical framework?"

stitution is not a living organism [...] it's a legal document," and legal decisions must therefore be based on probing the author's original intention in formulating the text. On the other hand, Justice William Brennan Jr. maintains that "the genius of the Constitution rests not in any static meaning it may have had in a world that is dead and gone, but in the adaptability of its great principles to cope with current problems and present needs;" it hus, the words of the Constitution can be analyzed and expanded upon based on cultural trends and societal demands.

Shifting this mode of analysis into the discussion of talmud Torah we are faced with a similar question. If a given text becomes accepted or incorporated into the corpus we call "Torah," does the author's original intention define how we must understand the text or legal decision, or can we approach the text and legitimately suggest any interpretation which fits into our overall conceptual or analytical framework? Are we trying to probe Rava's intentions when we study his view? Does Rambam actually agree with R. Hayyim's Hiddushei Rabbeinu Hayyim ha-Levi al ha-Rambam, which presents novellae on Rambam's teachings? Similarly, can we suggest an interpretation of a text if the author himself offers a different explanation in a responsum?iii

In his essay, "Torat Hesed and Torat Emet: Methodological Reflections," R. Aharon Lichtenstein explains that any given text has two layers of meaning and can be approached in two ways: through the aspects of Torat hesed and Torat emet. While any given

halakhic order as a whole."

In this light, R. Lichtenstein explains and analyzes the words of Rishonim in alternative and innovative ways – without concerning himself with apprehending the mind of any given Rishon – because his primary concern is learning "the Torah of Rishonim." Thus, although understanding the Rishon's viewpoint would be an exercise in studying the *Torat emet* of his words, when R. Lichtenstein approaches a *sugya* (Talmudic discussion), his understanding "is marked by vitality and growth" as he works to learn the Torah as a living entity with multiple levels of meaning that can transcend the author's viewpoint.

R. Lichtenstein clearly serves as a rav ha-makhshir (a rabbinic kashrut certifier), if not more than that, of learning with such a perspective. However, in addition to explaining what we are really doing when learning Torah, this theory, I think, can safeguard traditional learning from potential criticism. In this light, I would like to share some thoughts which demonstrate how and why R. Lichtenstein's view is so important for an inquisitive mind that approaches traditional talmud Torah in search for truth.

My first thought relates to the general notion of intellectual endeavor. As a rule, what does the study of a given discipline mean? Studying Physics, for example, means achieving understanding of the universe and laws that govern the world in which we live. Studying Biology means learning about the cells and DNA of organisms. Therefore, in order to study these fields, a student will look to the ex-

perts in the field and, using the hierarchy of significant opinions, attempt to understand and grasp the particular discipline. When studying Physics, names like Newton and Einstein are revered and respected, while biologists embrace the works of Watson and Crick.

However, is anything which these experts say in their fields inherently meaningful or correct? Of course not. Newton, Einstein, Watson, and Crick are only meaningful to their fields if the scientific evidence supports their theories. Since their ideas have been proven, their contributions are significant. Thus, if an expert carried his correct theory to a faulty conclusion, or even if a correct conclusion emerged from an incorrect assumption, the result is nonetheless meaningful and truthful, because we ignore the particular understanding of the individual and focus on the truthful component involved. Ultimately, all that matters is that the theory can be proven correct in the context of the larger field of study. Thus, while the expert's particular understanding, interpretation, and perspective comprise a fascinating component of the intellectual history of his or her personality and field, they are insignificant in relation to the veracity of the emergent ideas.

Similarly, if *talmud Torah* were based on the authority of individual *Hakhmei ha-Maso-rah* and their contributions, then we would be

compelled to study their personal interpretations and views. viii However, because talmud Torah is the study of a legal system which transcends the individual contributors, we must separate the contributions and understandings of each figure and focus on the entity of Torah as an independent discipline. Thus, when approaching a halakhic topic, our goal is to understand the law with all its complexities and nuances. Just like a physicist studying relativity theory guided by Einstein's insights, the ben Torah approaches a halakhic topic with the aid mankind. Thus, studying Torah entails apprehending and appreciating all the laws, details, and permutations. That being the case, any given thinker's interpretation or understanding is insignificant. Learning a halakhic text means viewing the words as if they are alive and can be continually reinterpreted and re-understood, much like the way we approach the Constitution if we regard it as a living document. Therefore, it is only in light of R. Lichtenstein's approach to talmud Torah that hours spent analyzing a halakhic text can be seen as

"Learning a halakhic text means viewing the words as if they are alive and can be continually reinterpreted and re-understood, much like the way we approach the Constitution if we regard it as a living document."

of the *Hakhmei ha-Masorah* in an attempt to analyze and comprehend the profundity of the Torah. Although understanding the view of a particular Rishon might be a fascinating study in intellectual history, it is not important for *talmud Torah*.

In other words, *talmud Torah* is the study of *Devar Hashem* (the Word of God). It consists of analyzing and understanding Halakhah, the legal code which God transmitted to

an exercise in the Torah of the Hakham ha-Masorah, and not simply as a study in theoretical thinking or intellectual history. Thus, as traditional learning appears to be the study of ideas and texts, R. Lichtenstein's penetrating insight allows the modern student to feel that talmud Torah is not a dry and arid study of a particular figure's viewpoint, but rather a probing of the depths and brilliance of the divine legal system.

Moreover, and R. Lichtenstein makes this point in passing, viewing talmud Torah as a search for historical accuracy poses an additional problem. If I were really searching for Rambam's viewpoint in his writings, I would be better advised to study his culture, family history and societal influences, as well as who his teachers were and what their methodology was. I should find out what girsa (version of the text) he was reading and ascertain the areas of Halakhah in which he was best versed. I should determine which parts he wrote when he was young and which he wrote when he was older. In fact, this is exactly what Academic Jewish Studies entails. As R. Lichtenstein notes, "the world of the Wissenschaftix envisions itself as primarily devoted to Torat emet. It focuses upon facts, is committed to the hegemony of authorial intent, and is marked by a measure of austerity - critics would say, of aridity."x However, because the goal of traditional learning is to understand Halakhah, the divine and transcendent legal system to which Rambam contributed invaluable insight, we can and must study his words and ideas without the limitations or backdrop of his personal

Nonetheless, understanding Rambam's view of his work, or his life in general, based on the questions posed above, is certainly a fascinating and intriguing issue for a ben Torah who reveres Rambam. However, these pursuits are best carried out in the halls of academia and not in the beit midrash. Such questions are irrelevant to the lamdan (the trained and skilled student of Torah law). When one learns Torah, he learns God's law. Law, by nature, transcends its individual contributors. It is the compilation of countless debates, discussions, and decisions. Halakhah is

a living system of law which is composed of all the contributions of the *Hakhmei ha-Maso-rah*, culled from logical, analytical, conceptual or other modes of analysis.

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ⁱ Chris Tisch, "Scalia at Stetson Praises Original Intent View of Constitution," *St. Petersburg Times* (April 5, 2007), available at: http://www.sptimes.com/2007/04/05/Tampabay/Scalia at Stetson pra.shtml.

"Biography of William J. Brennan Jr., Associate Justice of the U.S. Supreme Court," Arlington National Cemetery Website, Historical Information, available at: http://www.arlingtoncemetery.org/historical information/william brennan.html.

iii Marc Shapiro asks this question in "The Brisker Method Reconsidered: Review Essay," *Tradition* 31,3 (1997): 78-102.

iv R. Aharon Lichtenstein, "Torat Hesed and Torat Emet: Methodological Reflections," Leaves of Faith: The World of Jewish Learning (Jersey City: Ktav, 2003), pp. 61-87. Also see Marc Shapiro's review essay (ibid.) for a similar discussion of this topic.

^v R. Lichtenstein, "Torat Hesed and Torat Emet," p. 80.

vi Ibid., p. 78.

vii Ibid., p. 63.

viii A corollary to this point is the fact that nonhalakhic works of Rishonim (philosophical works, etc.) have neither the status of talmud *Torah* nor the flexibility of interpretation being afforded them in halakhic contexts. However, this is assuming that such works are not within the purview of halakhic analysis. In some instances, it is possible that they are within this purview. Alternatively, it is possible that such works are otherwise meaningful, because they instruct us regarding the particular thinker's view of a pressing issue. Said differently, surely it is worthwhile to know what someone as esteemed as Rambam thinks about ta'amei ha-mitsvot (the reasons for the mitsvot) or Creation, regardless of the question of whether this view can be considered as formal talmud

ix A movement of Jewish intellectuals dedicated to the scientific study of Judaism. These 19th-century German thinkers were the forerunners of modern academics of Jewish Studies.

^x R. Lichtenstein, "Torat Hesed and Torat Emet," p. 83.





Talmud Torah al Levavenu: Learning Transformatively

BY: Ilana Gadish

ne of the most famous appearances of God in the Gemara is found in the aggadeta (homily) about the tannur shel Akhnai (the oven of Akhnai). At the beginning of the story, R. Eliezer is found disagreeing with the Rabbis regarding the purity of an oven that has been cut into pieces and put back together with sand. After citing multiple proofs and arguments to prove to the Sages that the oven is impure (all of which they reject), R. Eliezer calls upon a carob tree to move, a river to flow backwards, and the walls of the beit midrash to fall down, attempting to use these miracles as divine confirmation of his position. Though all three miracles end up occurring (except for the third one, which only partially occurs, as the walls stop midway once R. Yehoshua demands that they not fall), the Rabbis ultimately declare that such occurrences cannot be used as proof for a halakhic position. R. Yehoshua then makes his famous proclamation about the Torah being in the hands of men and not under God's jurisdiction: "lo ba-Shamayim hi - not in the Heavens is she [the Torah]." Following this, R. Natan asks Eliyyahu ha-Navi what God was doing at the exact moment of this event, and he reports, "He [God] was laughing and said: 'My children have defeated me; my children have defeated me."ii

While this aggadah has been fleshed out and interpreted in various ways to shed light upon approaches towards Torah and the halakhic process, one idea that can be gleaned from this aggadah is that God, as a character in rabbinic literature, is quite removed.iii From a historical point of view, it is obvious that God is "removed" during this period - prophecy no longer exists, and thus, God is surely displayed as less involved, not openly revealing Himself like He does in the Tanakh narratives. Within the text of the Talmud, it is more difficult to find God as the focus of a discussion, for it is primarily a legal work concentrated on deriving laws and understanding them from their original sources and is less explicitly focused on relating the laws back to God. In this specific story, God does appear as a character, but explicitly states His non-involvement in the halakhic process. So while Tanakh presents characters with whom, and stories where God is involved, the Gemara only portrays God as a character in order to inform us that He will not

It is no surprise, then, that students sometimes remark that studying Gemara is not the best means towards achieving devekut ba-Hashem, a state of cleaving to God. This is especially true for students who did not grow up in an environment that cultivated a love for learning Gemara from a young age. Many might argue that Torah learning is a mitsvah lishemah, for its own sake, and thus is not focused on achieving the distinct goal of increasing one's connection to God.iv Similarly, one might claim that it does not matter if one enjoys figuring out whether the three years it takes to establish a hazakah on a house is based on the concept of three gorings of an ox or some other logical deduction based on shetarot, documents, for example.vi It should not matter if you revel in hakirot (halakhic inquiries) or not. However, we know this is not exactly true - the Torah does want us to have some sort of internal connection to the mitsvot and their study: "ve-havu ha-devarim ha-elleh asher Anokhi metsavvekha ha-yom al levavekha - and let these statutes that I am commanding to you today be on your heart."vii The more pointed question is not whether or not it is important that learning is enjoyable, but rather, does learning need to have an internal effect on a person, and, beyond that, how does one go about achieving this effect?

In an article discussing the importance of identifying existentially with Tanakh, R. Mosheh Lichtenstein writes:

"This means that (1) it [Tanakh] should be part of our lives and (2) that we involve ourselves in its life, i.e., the lives of its protagonists. Thus, the ethos of the neviim (prophets) should challenge us to live according to their charge, and we should turn to them in times of tragedy and triumph as a source of inspiration and direc-

Such an approach stresses the need to respond to life with a consciousness of Torah By learning Tanakh with this goal in mind, we confront the texts and connect with them existentially so that they impact our personal lives. Though the scope of R. Lichtenstein's article focuses more on Tanakh, I think this approach is equally relevant to Gemara study. However, the application of learning Gemara with this goal in mind might prove to be more challenging. Tanakh presents existentially compelling stories, stories with dilemmas and well developed characters. The relationships between the characters are complex, the narratives are thrilling; even the "boring Vayikra stuff" is filled with the notion that one must be meticulously careful in the avodah, the service of the Tabernacle and Temple, as well as with the korbanot, sacrifices. One can read those perakim and understand that the Torah is talking about aspects of the avodah that are filled with kedushah, holiness. In contrast, when studying technical details and halakhot in the Gemara, one is potentially less inspired, and thus it is harder to have an existential connection with such texts

While Tanakh gives us broad values by which we should live - "...leahavah et Hashem E-lohekha lalekhet bi-derakhav velishmor mitsvotav ve-hukkotav u-mishpatav to love Hashem, your God, to walk in His ways, and to keep His commandments and His statutes and His ordinances."ix or "tsedek. tsedek tirdof - justice, justice you shall pursue"x - the Gemara provides the finite examples in which those values find normative, legal expression. Tanakh characters teach us about how (or how not) to relate to God and to each other; characters in the Gemara give us insight into how to relate to Torah and how to relate to the mitsvot with the most fine-tuned accuracy. It is precisely this fine-tuned accuracy and extrapolation of mitsvot in the most exaggeratedly detailed manner that oftentimes engenders a feeling that learning Gemara is more about the intricate details of a halakhah than about Godliness.

It is easy to get frustrated with the level of detail into which the Gemara delves in laving out the parameters of a halakhah. Take, for example, the mitsvah of hashavat avedah, returning a lost object. The Torah tells us, "Hashev teshivennu - You shall surely return it to him."xi The second chapter of Bava Metsi'a is dedicated to expounding upon that very mitsvah. Almost thirteen dappim, full pages of Gemara, are spent laying out the parameters of top of the middle one; in which case we assume that they were placed thus. If, however, they are of one king, all being of equal size, then even if they are lying upon each other they belong to him [the finder]: we assume that they fell thus together by mere chance. R. Johanan [however] maintained: Even if of the same king, he must proclaim them.'

The sugya does not end there; the intricate discussions continue. Detail-oriented sugyot such as the one above hardly proffer the opportunity for a personally transformative learning experience. It is quite difficult to feel devekut in determining whether a stack of coins is considered distinguishable enough to return or not based on the number of coins found and the manner in which they are stacked.

Similarly, for a student who spends hours breaking down the lengthy sugva about determining who has to do bedikat hamets, the search for leavened bread, in a case where a person rents someone his house on the eve of Pesah, it is hard to remember that the conversation there really stems from an obligation related to a holiday commemorating Yetsi'at Mitsrayim, the miraculous Exodus from Egypt. The inability to remember the divine framework of a halakhah adds to the challenge of establishing a personal and existential connection with complex Gemara sources. When learning Gemara, especially be-iyyun, in depth, it is important to remember the sugya's context. It is

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when, where, and what to return to someone. When a student is inside the sugya, it is easy for him or her to get lost in all of the details. Consider this complex discussion about returning lost coins:

> "All [coins] not arranged conically, the Tanna designates as scattered. R. Hanina said: This was taught only of [coins of] three kings; but if of one king, he need not proclaim them. How so? If they lie pyramid-wise, then even [if they are] of one king [the proclamation should be made]; if they do not lie pyramid-wise, even if they are of three kings there should be no need [to proclaim them]? - But if stated, it was thus stated: 'This was taught only of [coins of] one king, yet similar to those of three.' How so? When they lie pyramidically, the broadest at the bottom, the medium-sized upon it, and the smallest on

always helpful to try to work out in one's mind the development of the halakhah or legal concept being discussed and to work backwards to the place from whence it originated. Zooming out of a sugya can be helpful every now and then to remember what exactly it is that one is learning, how it relates back to the broader picture, and what about it is existentially com-

It is also important to pay attention to the surrounding aggadot of a sugya. While many aggadot are perplexing and sometimes strange, many can be understood and can provide enduring themes and messages relevant to the legal discussions of the surrounding sugyot. These can only be gleaned if one spends some time thinking deeply about an aggadah as opposed to skipping over it. While many aggadot have weird anecdotes and incomprehensible plotlines, it is not helpful to characterize all of

them as "fluffy aggadot" that can be ignored. It is difficult to imagine that Hazal thought they were very fluffy.

There are many examples of aggadot that provide insight into complex legal issues in the Gemara. After a series of halakhic discussions about the laws regarding returning new, indistinguishable vessels to their rightful owners, the Gemara recounts this story:

"Mar Zutra once had a silver cup stolen from one of his guests. He saw one of the students there wine his hands on his friend's cloak. Mar Zutra then declared. 'That is him - the one who was not considerate of his friend's property!' They pressed him and he admitted to it."xiii

The Gemara continues with the discussion of whether or not one must return new vessels. Preceding this aggadah, there is a legal statement by Mar Zutra, so one could conclude that the story is simply added here because it is about the author of the previous statement. But Hazal did not include short aggadot about an Amora after every statement he made (this would be absurd). Hazal's inclusion of this story is an interjection within a heavily halakhic discussion about hundreds of distinctions made between different types of objects and their characteristics that would determine whether a person is required to return them or not. This interjection reminds us of why we are steeped in such a detailed discussion: one's attentiveness to the smallest details (i.e., minute details about the arrangement of coins, as mentioned above, or, here, someone merely drying his hands on his friend's cloak) is indicative of one's attitude towards larger, more important values (such as taking the time to fulfill the mitsvah of returning a lost object, or here, stealing someone's expensive silver cup). Aggadot can offer a breath of fresh air that reminds us of how the elaborate details in a halakhic discussion in the Gemara are microcosmic expressions of the important mitsvot and values that Torah learning espouses.

Furthermore the characters of the Gemara, though not always as fully developed as Tanakh characters, also offer important moral guidance.xiv Their devotion to Torah and the ethical lifestyle of hesed they promote should be noted when learning; this type of sensitivity and awareness fosters a personally transformative learning experience.

In our learning, we should see the characters of Hazal as our heroes in the same way that, as R. Mosheh Lichtenstein advocates in his article. Tanakh characters should be our heroes. Why should our children only look up to athletes and celebrities, such as Brett Favre or Miley Cyrus? Should our teenagers learn how to treat their parents like the obstinate, exorbitantly wealthy characters of the television show "Gossip Girl," or should they learn from R. Tarfon, who held his hands under his elderly value system. R. Mosheh Lichtenstein, at the beginning of the article quoted above, insists on the importance of imbuing talmidim with a love of Torah: "Simply put, Ahavat Torah is indeed religiously more important than Torah knowledge, and, therefore, its needs must be taken into account as a major factor in choice of curriculum."xvii

It is easy to make intellectual strides in learning, but if intellectual growth is not accompanied by a personally transformative experience, then the point of talmud Torah is being missed by a wide mark; then we are not ensuring that the words of Torah that we learn are al levavenu, on our hearts.

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"Why are the protagonists of 'Desperate Housewives' discussed more often than the Talmudic heroine, Beruriah, a brilliant, learned female scholar with an outstandingly deep sensitivity to the hardships of life?"

mother's feet when her sandal broke?xv Why are the protagonists of "Desperate Housewives" discussed more often than the Talmudic heroine, Beruriah, a brilliant, learned female scholar with an outstandingly deep sensitivity to the hardships of life?xvi Do we not want our youth to be excited and inspired by Reish Lakish, brawny robber-turned-fierce talmid hakham? Yes, we should appreciate gifted singers, actors, artists, and sports players for their amazing talents. But should they be our community's primary role models, the people to whom we look for ideals and lifestyles?

The Modern Orthodox community seems to value learning on an intellectual level, but, in my opinion, does not stress the importance of imbuing the values and lessons about humanity that the Gemara presents, in addition to the intellectual challenges it offers into its

- i Baya Metsi'a 59a
- ii Translation found in Devora Steinmetz, "Agada Unbound: Inter-Agadic Characterization of Sages in the Bavli and Implications for Reading Agada," in Jeffrey L. Rubenstein (ed.), Creation and Composition: The Contribution of the Bavli Redactors (Stammaim) to the Aggada (Tübingen: Mohr Siebeck, 2005), pp. 293-337, at p. 311.
- iii God, in a literal sense, does not appear at all: the voice from Heaven is a bat kol, not the actual voice of God, and the miracles being performed are described passively, "the carob tree was uprooted from its place a hundred cubits [...] the stream of water turned backwards [... I the walls of the beit midrash leaned to fall" the aggadah does not describe the miracles as. "God moved the carob tree, God reversed the stream of water," and so on. Even the famous

- statement by God, "Nitsehunni banai My children have defeated Me," is found in the text via a report given by Eliyyahu, and is not retold by the aggadah as "God said," etc. Even here, in this famous divine intervention. God is not explicitly involved.
- iv "Many argue" refers to the opinion most explicitly developed by R. Hayyim of Volozhin in his Nefesh ha-Havvim, Sha'ar 4. This opinion interprets "li-shemah" to mean "le-shem ha-Torah," for the sake of the Torah, and not for the sake of God. Many thanks to my fellow Associate Editor, Jonathan Ziring, for clarifying this point.
- An established ownership of permanent habitation.
- vi Bava Batra 28a-29a.
- vii Devarim 6:6.
- viii Mosheh Lichtenstein, "Fear of God: The Beginning of Wisdom and the End of Tanakh Study," in Marc D. Stern (ed.), Yirat Shamayim: The Awe, Reverence, and Fear of God (New York, NY: Yeshiva University Press; Jersey City, NJ: Ktav, 2008), pp. 135-162, at p. 144.
- ix Devarim 30:16 (author's translation).
- Libid 16.20 (author's translation)
- xi Shemot 23:4.
- xii Bava Metsi'a 25a (Soncino translation).
- xiii Bava Metsi'a 24a (author's translation).
- xiv While many of their statements regarding scientific matters or attitudes towards women are off-putting to those of us with modern sensibilities, their ethical and moral guidance, as well as their fascinating and powerful personality traits, are parts of Talmudic texts that should not be overlooked or downplayed.
- xv Kiddushin 31b.
- xvi As evidenced by her response to the death of her two sons that occurred one Shabbat, while her husband, R. Meir, was in the beit midrash, a story recounted in Midrash Mishlei 31.10
- xvii Lichtenstein, p. 139.



Why Chicken Scratch on Stone, Clay, and Pots Matters: A Case Study in Amos and Archeology

BY: AJ Berkovitz

lthough Tanakh is a work in which one finds ever-reverberating messages, it is important to acknowledge that its authors composed their various books while actively interacting with a certain time and culture. By seriously understanding this environment and its effect on the authors of Tanakh, we can gain a greater appreciation for, and more precise interpretation of, our Holv Scriptures. One aspect of that culture still visible today that we can easily incorporate into our studies of Tanakh is the inscriptions and archival evidence from the ancient Near East. While there are many extra-biblical texts that have drastically altered the landscape of biblical scholarship, this article will focus specifically on those related to the Book of Amos.

Inscriptional and archival evidence has drastically increased our understanding of the linguistic components of Tanakh. We can only understand the complexity of meaning in any given language if we are able to differentiate between similar words. Hence, by understanding diction, we can understand the subtleties of a text. This pursuit is productive, however, only if we understand the context of that language both internally and in relation to the languages of the neighboring areas. One misunderstanding that results from not properly understanding Biblical Hebrew in this way can be seen in Amos. While prophesying about the destruction of the house of Jeroboam and the temples associated with it, Amos encounters fierce opposition from the priest Amaziah. The priest says to Amos, "Seer (hozeh), leave and flee to the land of Judah. Get your sustenance there and there prophesy. Stop prophesying in Bet El because it is a sanctuary and palace." Amaziah, seething at Amos, disparages the prophet and encourages him to leave. During his diatribe, he calls Amos a hozeh, seer. In common biblical parlance, the word for a prophet is generally navi. Because of Amaziah's peculiar use of hozeh, one might be tempted to conclude that this word is part of the general polemic leveled against Amos. Such a conclusion, however, fails to take the broader context of Amos and his residence in the Northern Kingdom into consideration.

As seen from the Elijah and Elisha stories in I-II Kings, the Northern Kingdom had extensive dealings with the Arameans. These encounters led to an exchange of goods and services, as well as, for our purposes, an Aramaic influence on the Northern Kingdom's dialect of Hebrew. The notion of a slightly different dialect between Judah and Samaria should not be surprising. This difference may be likened to the differences in dialect found between English speakers living in various re-

gions in the U.S.A. Take, for example, the word used to describe a flavored carbonated drink: while people in the East refer to it as "soda," those in the Midwest call it "pop." They are identifying the same substance, albeit with different words. The phenomenon of varied dialects, perhaps even by tribe, clearly appears in Tanakh. For instance, in the bloody war between Jephthah and the tribe of Ephraim, we are told of the ingenious stratagem used by the people of Gilead to ensnare the fugitives of Ephraim. Whenever someone would attempt to cross the Jordan, the men of Gilead would say to him, "Say now 'shibboleth,' and he would say, 'sibboleth,' for he was not able to correctly pronounce it."ii Apparently, Ephraim, the chief tribe of the Northern kingdom, spoke with some dialectic variance that pronounced the letter "shin" as if it were a

In order to convincingly argue that *hozeh* is disparaging, we need to see what the common word for prophet in the Northern Kingdom or in Aram was. This can only be done using inscriptional evidence. Lucky for us, we have the Zakkur Inscription.

The Zakkur Inscription, found near Aleppo, describes King Zakkur of Hamath in his beleaguered city. In order to protect himself, he builds a higher wall, digs a deeper ditch, and prays to his god Baal Shamen for assistance. The answer to his prayers, according to the inscription, comes "byd hzyn wbyd 'ddn," "through the seers and 'ddn." Baal Shamen says to him, "Fear not, for I have made you a king and I will stand by you and I will deliver you from all these kings who have laid siege on you."iv In this inscription, the agent through whom the news is delivered is called a hozeh. In addition to being the conduit between King Zakkur and Baal Shamen, the seer is delivering good news. Using this information, it is very likely that when Amaziah calls Amos a "seer," it is not disparaging but is rather an example of simple Northern parlance. By understanding how the word hozeh is used in this inscription, we can confidently say that Amaziah's intentional diatribe against Amos did not include a unique usage of the word

Another section of Amos elucidated by inscriptional evidence is his "Basket of Summer Fruit" prophecy. In the midst of a slew of prophecies against the North, Amos says, "Thus God showed me: a basket of summer fruit (keluv kayits). And He said, 'What do you see, Amos?' and I said, 'A basket of summer fruit.' God said to me, 'The end (kets) has come to my nation Israel.'" While the wordplay between kayits and keits seems obvious, it may have resonated more sharply in the ears of a Northern Israelites.

made no distinction between the "ay" diphthong and "e," so the "ay" diphthong was always pronounced as an e. For all those who do not understand academic gibberish, let me explain. A diphthong is a complex vowel sound that begins with the sound of one vowel and ends with the sound of another vowel, in the same syllable. Thus, the vowel sound a + y =the "ay" diphthong. This is frequently found in Hebrew words like bayit (notice the "ay" sound) and also appears in the word kavits. In Biblical Hebrew, when a word with this diphthong is placed in the construct state, meaning "x of y" (e.g. House of Jacob), the "ay" diphthong changes to an e (a tseireh). Thus, "House of Jacob" is rendered as Beit Ya'akov. In the case of Amos, the Northern Israelites presumably did not distinguish between kavits and kets, pronouncing both as kets.

Both the Gezer Calendar and the Samaria Ostraca indicate that people in Northern Israel may have always been pronouncing their "ay" diphthongs in the construct state. The Gezer Calendar is our oldest known example of Hebrew writing. Like most early inscriptions, it is written in Paleo-Hebrew, what the Talmud calls Ketav Ivri. Discovered in Gezer in Northern Israel, this four-inch tall rock bears an inscription that dates to the 10th century B.C.E. Because of its content, many scholars believe it was either a scribal exercise or a ledger of sorts. It is called a calendar because it divides the year into eight distinct time periods. The last time period is called "yrh kz" (yereh kez), month of summer fruit, using the word kez, which is a diphthong but is presented here in construct form. From this calendar, we see that at least in the Gezer region the people constructed their "ay" diphthong as an e.

Another group of artifacts that supports the conclusion above is the Samaria Ostraca (plural for ostracon, which is a piece of shattered pottery containing written words). People in ancient societies constantly sought suitable writing media. Therefore, rocks, papyrus, clay, and anything receptive to the written word were all fair game. Pottery shards were particularly favored. Surfaces otherwise unused and disposed of, pottery shards were frequently turned into "I-owe-you"'s and various sales documents. The Samaria Ostraca represent one collection of such documents, specifically tax records that date to somewhere between the 8th and 9th centuries B.C.E. Ostracon #9 says: "In the ninth year, from Qosah, to Gediyahu: a jar of aged wine."vi Although we normally expect wine to be spelled yyn (yayin), in this ostracon it is spelled yn (yein). This document is close enough to the time of Amos to allow us to further establish that the people in the North did not distinguish the "ay" diphthong.

In light of this evidence, we can better un-

derstand either Amos' intentional wordplay or some unconscious textual pun. Amos, originally from the south of Israel, does distinguish between kavits and kets. Thus, when he answers God that he sees "a basket of summer fruit," he thinks it is an innocent object. Now imagine, for a moment, Amos' audience. To them, there is no distinction between kets (summer fruit) and kets (end). While Amos may not foresee the outcome of his description, once his audience hears "summer fruit." they will presumably begin cringing, understanding his words as a prediction of the destruction. Using inscriptional evidence further colors the biblical account. Starting with a single wordplay, the evidence above allows us to explore both what lies behind the wordplay, as well as the direct result of it.

Since Tanakh was written in a definite context, recourse to the world around it is of utmost importance. As seen above, inscriptional evidence elucidates and elaborates the biblical text. With it, we have understood some of the inner workings of the Northern dialect of Biblical Hebrew. Once we have done that, we see that *hozeh* is a non-disparaging term for prophet and that Amos' audience may have seen the future before Amos himself. Allowing oneself to be open to this method of analysis will ultimately deepen one's understanding of the world which produced the Tanakh, thereby strengthening his or her connection to its timeless messages.

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ⁱ Amos 7:12-13.

ii Judges 12:6.

iii For a discussion of what exactly this word means, see Hans M. Barstad, "The Prophet Oded and the Zakkur Inscription: A Case of Obscuriore Obscurum?," in J. Cheryl Exum and H. G. M. Williamson (eds.), Reading from Right to Left: Essays on the Hebrew Bible in Honour of David J. A. Clines (Journal for the Study of the Old Testament Supplement #373) (London; New York: T & T Clark International, 2003), pp. 25-37.

iv Translation according to Simon B. Parker in Stories in Scripture and Inscriptions: Comparative Studies on Narratives in Northwest Semitic Inscriptions and the Hebrew Bible (New York: Oxford University Press, 1997), p. 107. Vamos 8:1-2.

vi Translation by Mark W. Chavalas, *The Ancient Near East: Historical Sources in Translation* (Malden, MA; Oxford: Blackwell Publishing, 2006), p. 396.

An Interview with Rabbi Moshe Kahn

BY: Ilana Gadish

ow would you describe your approach towards teaching Talmud? What are L your goals when you tackle a sugya?

The first thing that I would want to emphasize is that the goal of teaching Talmud, or teaching anything, is to teach students how to learn. I think sometimes that gets lost, in that teachers or rabbe'im want to tell their students their chiddushim or their sevaros or how they understand a particular sugya - which is all very nice and wonderful, but it has to be done in a way that allows the students to learn how to learn, and, therefore, it has to be developed from the ground up. Students have to learn how to read a particular Gemara, how to go through a Rishon carefully and properly, and whatever sevara is going to emerge has got to emerge from the text. Therefore, the job of a rebbe is to teach students how to approach a text and how to learn. That is what I do when I learn a sugya; I identify which Rishonim I want to work with and I assign these Rishonim, and the purpose is for students to be able to go through the Rishon carefully, line by line, knowing exactly what they are reading. Whatever conceptual ideas one would want to attribute to this Rishon have to emerge from the text, and if they do not, then I do not think that it is pedagogically correct to offer a sevara, because it is not helpful to the students.

What should the balance be between Rishonim and Aharonim in the study of a sugya?

All the rabbe'im that I had in yeshivah just worked with Rishonim. The Rishonim are the ones who really tackle how to work through peshat in the Gemara, how to understand the sugva. The Acharonim tend to build on what the Rishonim said, and there is a value to that, but in terms of training students how to learn, I feel that the best way to do that is to work with the Rishonim who are working really closely with the text, in explaining the text of the Gemara and raising all the relevant issues. Acharonim will do that at times as well, but I think on a consistent basis the Rishonim in terms of pedagogy, offer a better way to do

So if students master reading the text and reading the Rishonim accurately, how do you think Aharonim help? Once students reach a certain level, what should be the balance between Aharonim and Rishonim, when learning a new sugya, for example?

I feel that that could be something that students can decide on their own; if they know how to go through a sugya with Rishonim, they can learn through Acharonim as well. How many Acharonim they decide to do, I do not think is critical. In terms of pedagogy, I think what is critical is if you can go through a Ram-

ban, Rashba, Ritva, and Tosfos on a sugva and understand what each one is saying, and what the differences are between them - and you understand it based on the text. I am very much opposed to offering an interpretation of a Rishon if it is not really coming out of the text of the Rishon; it has got to be compelling, and if it is not, then I think it is best not to say it.



You mentioned your teachers, and how most of them taught mostly Rishonim. Who was your most formative Talmud teacher, and what was the most important skill that you learned

The most formative teacher I had was the Rav. I was in his shi'ur for about seven years. I learned a lot of Torah from the Ray, which goes without saying, but in terms of skills that I really picked up, I think two stand out the most in my mind. One of them is that he taught us how to think things through on our own. That might sound dangerous in today's time. to be a thinker and to think independently, but that is absolutely necessary in order to be able to learn Gemara. You have to be able to come in with your own mind, in terms of going through the sugya, and try to understand it on your own; you have to rely on your own ability to be able to do that. One of the things that the Rav taught was that learning is not just repeating what other people say; it is using our own minds to understand something very well, very carefully, and, where necessary, to come up with a sevara and try to develop it by ourselves. This is something that the Rav did all the time, and I think he certainly instilled this in his students.

The other thing was that the Rav used to read Rishonim; he would take out a Ramban and read it, telling us that while we know how to say a sevara, we do not know how to read a Rishon correctly. That is really something that I find, at times, lacking in many students who learn Gemara; they might know a lot but they do not read through the Rishon carefully, properly, and fluently. I think if one is not able to do so, that is a big chissaron in one's learning. I really was impressed by the Rav emphasizing the importance of reading every word of the Rishon, so that every word should fit in and nothing should be extra, and so that whatever you say about the Rishon should come out of his words. We should not be putting things in that are not really emerging in a compelling way. The other point which I said was that we have to use our own brains to think things through, to ask questions, not to rely on what somebody else said - we have to make it our own Torah, and we have to use our own brains to do so.

How do you think your own learning experiences when you were a student were formative in developing your own derekh ha-limmud?

One of the things I really did on my own, even before I got into the Rav's shi'ur, was developing reading skills - just simply knowing how to translate something. This was something that my rabbe'im never did with us. We were expected simply to know it, but the truth is if you do not work on it, you are never going to know it. I found myself really working on knowing exactly what words mean, simply being able to read something and translate it correctly. I did that on my own, and eventually I felt that, in terms of being a teacher, that was critical in teaching students how to learn. If you do not know the language, then you cannot progress, you cannot develop

Do you feel that there are shortcomings to the standard methodology of the Brisker Aharonim? If so, how can one overcome those deficiencies?

The truth is, people say they are learning using the Brisker method and I might debate if what they are doing is really the Brisker method or not. It is hard to answer that question because when people say "the Brisker method," I am not sure I know what they mean by that, I think people mean different things, One of the things that I alluded to before was that people think that the Brisker method is simply to suggest sevaros, even when they are not compelling. For me, that is not the Brisker method. The Brisker method is where something comes out of the Rishon's words themselves; I do not feel that Rav Chayyim just formulated ideas without being able to root without them being rooted in a text, it is more like wild speculation than true learning of

When learning Halakhah, how would you recommend that students focus on understanding sources in depth while also emerging with practical halakhic knowledge?

If the goal of teaching Halachah is simply to tell students and to let them know what to do - what do you do for this, what do you do for that - just a practical guide to how to conduct yourself - if that is the whole purpose of the Halachah class, then we do not need a Halachah class in the first place. There are so many things now that are written in plain English and Hebrew that if you want to just know what to do, you could find out without entering a classroom. If you want to have a Halachah class, the goal should be to see the development of the halachah from its original source: you go back to the Chummash, Mishnah, and Gemara, etc., leading up to the Shulchan Aruch and posekim post-Shulchan Aruch. But just to get the bottom line without the entire background of what led to it - to me, that is not a meaningful study of Halachah. Of course, at the end of the day you want to know what to do, but the goal in a Halachah class should not be simply to teach students what to do: the goal should be to show how the halachah got from A to B to C to D and so on. Therefore, there has to be a balance between the development of the halachah, and, of course, the final pesak.

You have been teaching Talmud at Stern College for Women since the mid-1980s. How have you seen the field of Talmud for women progress since then?

I think it has progressed – I remember the very beginning. The Advanced Talmud class only met twice a week. I think in the very first class there were four students who came, and for a number of years that is how it was - a very small group of students. I remember there was one year when I only had two students. For quite a while, the class met twice a week. But now - and I do not remember when it

"We have to use our own brains to think things through, to ask questions, not to rely on what somebody else said - we have to make it our own Torah."

them in a particular Rishon in a compelling way. If it is not compelling, then I really feel it should not be said, and certainly not in a classroom. Our primary job is to teach students how to learn and it has got to be done with a very clear and distinct methodology and in a very controlled way. I feel that if sevaros are said

started, probably sometime in the '90s - it has been increased to four times a week, and there is an Intermediate Talmud class as well. I feel that more people are studying, although I still feel that in terms of numbers, it is a very, very small percentage of the student body that studies Talmud.

Why are other students not taking advantage of this opportunity? If they just do not feel that they have the ability, because Gemara is very hard to learn, that is one thing. But – and this is getting involved in another problem – if there is a hashkafic issue about women studying Gemara, that because of this haskhafah students at Stern choose not to learn it [Gemara] – not because they lack the desire or the ability, but simply they feel the hashkafah that they have been taught is against it – I think that issue needs to be addressed. I think that is one major issue that holds back more students from taking Gemara.

I do feel that the level of women's learning, from its inception to now, has increased dramatically. There is the GPATS program (Graduate Program in Advanced Talmudic Studies for Women), which was unthinkable back in the '80s – there was barely a Gemara

come normative. All girls' schools have to start introducing Gemara – not as a *bedieved*, but as a *lechatchilah*, with the feeling that there is nothing wrong with it. And it should be done intensively, no differently than you would do with a boy.

Do you believe that there is a general difference between male and female learning styles? Do you believe that there should be, or that there always will be?

No, I do not think that in terms of learning style that gender is an issue or should be an issue – I think it really depends on one's intellectual ability. Obviously, I am now teaching women and I have taught men, and I still teach men, but I have found that those who are intellectually capable of learning Gemara do well regardless of gender and those who are weaker

"Our primary job is to teach students how to learn. I feel that if sevaros are said without them being rooted in a text, it is more like wild speculation than true learning of Torah."

class then in the College. The very fact that we have a graduate program in Gemara is a tremendous achievement, and it really shows significant progress, but I feel there is still quite a ways to go. The Hashkafah issue is a real one, and I wish there were a way to address it more directly here at Stern College, so that students who would really gain from a Gemara class would not feel that it is wrong for them to study Gemara.

What do you think is the most important thing that must be improved for women's learning? How do you think we, as a community, should go about that?

The Hashkafah has got to change. I think within the Modern Orthodox community there are still educators and rabbanim who are not really happy with women learning Gemara. Maybe they do not oppose it openly, but they do not support it openly either. And then there are those who actually oppose it openly. So within the Modern Orthodox camp, number one, there has to be a change in attitude, and number two, the learning of Gemara for young women has to start, at the latest, in high school. When students come to college and they want to take Gemara and are then exposed to it for the first time, they are at a disadvantage because they are coming in at the age of 18, 19, etc. They are only at Stern for a few years, and they are taking a full secular studies program, so there is only so much time that they can devote to Gemara. And it is a shame - had they come in with 4 or 5 years of having learned Gemara intensively, they would be much more progressed. But this goes back to Hashkafah, too. Learning Gemara for women has to bein terms of having or developing Gemara skills find it harder to learn Gemara, again regardless of gender. So I do not think there should be a difference. To me, it is no different than Math or any other discipline; you teach it on the same level regardless of the gender of your students. You do not teach it to men differently than you teach it to women. I do not think we would do it for Chummash, so I do not feel that Gemara is any different in that regard.

Institutions for advanced women's Talmud are generally not under the direct auspices of a traditional yeshivah with a set derekh ha-limmud. Do you think that in this respect, women are at an advantage, in that their learning is not limited by one mode of learning, or is the lack of a unitary derekh ha-limmud detrimental in some way?

If you take the yeshivah uptown, the rabbe'im have different styles of learning; the learning is all based on conceptual analysis, but even so there are differences in style and in how to analyze something. Whichever style appeals to the student would be perfectly fine to accept. However, in a broad sense, there is a process everyone should follow. Whichever method you use, you have to get there in the same way. In other words, if you are going to be using a Brisker method, whatever you think that is, you have to get to the issues by analyzing the text that you are studying and you have to be able to be true to the text. So whatever method you take, I feel that you have to be on the conservative side and make sure that what you are saying is actually what the Gemara or the Rishon is saying. Everyone needs to approach it in the same way, to be faithful to the text. Once you feel you know, textually, the facts that the Rishon presented, you can try to explain them in different ways, and that should be a personal choice. If a particular method appeals to you and it fits into your style of thinking, that is fine. But for me, the major concern should be with being sure that the reading of the text is accurate and that what you are saying is really in the Gemara or the Rishon. This should be the *mehallech* and *derech ha-limmud* that everyone adheres to.

So you are saying that in that respect, it depends on the teacher and his or her own style, and that even within an institution different rabbe 'im have different darkhei ha-limmud for either men or women?

Yes. And to me, again, it should not be based on gender; it has got to be based on the level of the students. If you are giving a shi'ur to people who are advanced, then you should be giving an advanced shi'ur regardless of gender. And if you are giving a more intermediate or beginner's shi'ur, then, again, it should have nothing to do with gender – it has got to do with intellectual ability.

And with regard to learning style, while we tend to be more conceptual and people do relate to that a lot: sometimes people work on the sevara very much - they try to work out the sevara of what the machlokes is about; if someone wants to do that, that is fine, but the thing that we should all have in common is that we have to make sure that we are true to the text. I keep repeating that same point because I think that its where there are differences - people are suggesting ideas and sevaros that are really not compelling in the text. And I feel very strongly that as a teacher, it is not good pedagogy to interpret Gemaros or Rishonim in a way that is not compelling. Even if it is a nice idea and a wonderful sevara, if it is not compelling, then I think it would be wrong to offer that peshat.

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Yivhar E-lohim Hiddushim

BY: Moshe Peters

magine the following scene: you are in the beit midrash learning Gemara or Tanakh, Land you offer your own novel interpretation of the source text - a hiddush. Your havruta (study partner) or friend responds that he or she cannot accept what you just said. Why does he or she refuse to accept it? Not because he or she was able to disprove your hiddush, not because there was some logical flaw in your argument, but rather because, as your friend explains, "it's not found in any earlier sources – if it were really true, someone would have said it before you." Such an incident would prove to be extremely frustrating. But is your friend's claim valid? Is there a basis for such an assertion? What about the concept of "shiv'im panim la-Torah – there are seventy perspectives to the Torah?"i Is the fact that your idea cannot be found in an earlier source a reason to discount it?

The question at hand is a very broad one and, as such, the focus of this article will be on hiddush in interpretation as opposed to hiddush in its application to practical legal decisions (although some of those issues will be touched upon inevitably as well).

The Mishnah in Massekhet Orlah states: "he-hadash asur min ha-Torah be-kol makom,"ii which, in context, translates simply as: "the hadash (new grain) is prohibited on a biblical level in all places."iii Hatam Sofer, R. Moses Sofer,iv famously commandeered this mishnaic statement and (ironically) applied it in a completely new context, explaining that all hiddushim are forbidden. According to this interpretation, the line from the Mishnah would read as follows: "the hiddushim (novel ideas or interpretations) are always forbidden biblically." Given this comment of Hatam Sofer, it would appear as though the contention that "no one said it before you" is a valid one. However, before we jump to any conclusions, let us first examine some other literature v

Devorah the prophetess, in what is commonly referred to as *Shirat Devorah*, the Song of Devorah, says, "*Yivhar elohim hadashim* — they chose new gods." "Ine *Yalkut Shim'oni* has a novel midrashic reading of this verse." The interpretation offered there completely changes the meaning of the verse, looking at it in a positive light instead of the negative light implicit in the literal reading. The *Yalkut Shim'oni* explains:

"...ve-kol mi she-mehaddesh divrei Torah al piv, domeh ke-mi she-mashmi'im oto mi-shamayim ve-omerim lo, 'Kakh amar ha-Kadosh Barukh Hu: "Banneh li bayit," she-sekhar gadol shello.' Hu she-ne'emar: 'Yivhar Elohim hadashim' – and

anyone who is *mehaddesh* words of Torah in his mouth is likened to a person about whom it is proclaimed from the heavens, saying, 'So said the Holy One blessed be He: "Build for Me a house," as it is a great reward for Him,' as it says: Hashem cherishes novel ideas."

Based on this Yalkut Shim'oni, it appears that not only are hiddushim permissible, but even warranted and "cherished." R. Hayyim Volozhin, in his work Nefesh ha-Hayyim, expresses this sentiment and stresses the fact that Hashem cherishes hiddush immensely.ix He takes this idea even further, explaining that because of hiddush (in Torah learning), Hashem renews and creates new worlds, and that in any place where people are "mehaddeshim hiddushei Torah, simhah mithaddeshet la-Kadosh Barukh Hu – interpreting the Torah in a novel fashion, joy is renewed to the Holy One blessed be He." R. Joseph B. Soloveitchik, in his work Halakhic Man, also states that "the Holy One, blessed be He, rejoices in the dialectics of Torah' [a popular folk saying]. Read not here 'dialectics' (pilpul) but 'creative interpretation' (hiddush)."x

The Rav was a very strong proponent of creative and novel interpretations in the study of Torah - whether in Tanakh, Mishnah, Gemara, or any other Torah discipline. He believed that this was the very essence, the sine aua non, of talmud Torah. "The study of Torah," he explains, "by definition, means gleaning new, creative insights from the Torah (hiddushei Torah)."xi In one of his other famous works. U-Bikkashtem mi-Sham, he states: "Ha-Kadosh Barukh Hu natan Torah le-Yisrael ve-tsivvanu lehaddesh ve-litsor - The Holy One, blessed be He, gave the Torah to Israel and commanded us to innovate and to create."xii Talmud Torah requires us to approach it creatively – Hashem commands us so.

Many of R. Soloveitchik's works give the impression that the Torah was given on this condition. Hashem wants and commands us to be partners with Him in Creation, xiii and just as He is "mehaddesh be-kol yom tamid — renews [the world] daily," so, too, we must do the same with His Torah that He imparted to us. We must make it something personal by relating to it in a personal manner, by approaching it in a way that speaks to us both as individuals and as a collective whole.

Support for this idea that the Torah is ours to develop can be found in Kiddushin 32a-b in a discussion about whether a talmid hakham, a Torah scholar, can be mohel (forgo) the kavod (respect or honor) that others are obligated to show towards him. The Gemara explains that Hashem can forgo His honor because the world is His and the Torah is His, so the honor is His to forgo. But Rava questions whether the talmid hakham should have the same right, as the Torah he represents, and the honor it deserves, are not his to forgo. Rava subsequently explained "In - Torah dileih hi di-ketiv: 'Ube-Torato yehegeh yomam va-lailah' - Yes, the Torah is his [the talmid hakham's], as it is written: 'And in his Torah does he meditate day and night." Rashi explains that initially it is called "Torat Hashem - the Torah of Hashem,"

but as he studies and expounds it, "nikret Torato – it is called his Torah."xiv

Hiddushim are valued so much that the Shulhan Arukh tells us that while it is forbidden to write on hol ha-mo'ed, writing down a hiddush in Torah so that it will not be forgotten is among the few legitimate cases in which the prohibition can be waived.xv While this might only tell us the value of hiddush in Torah in the general sense, it does not say anything about an imperative to develop our own novel interpretations. The Mishnah Berurah, however, takes this one step further, explaining:

"It is permissible to write down a hiddush [on hol ha-mo'ed] even without the reason that it may be forgotten. This is because it is incumbent upon a person at all times and every moment to toil in Torah and produce new, novel interpretations and understandings - each according to his own level. Therefore, it is impossible for one to wait until after the festival in order to write down his hiddush, for at that time, there is a new hiyyuv (obligation) upon him to produce other hiddushim. If he were to wait until after the festival, he would have to re-study that which he already learned and remember that which he was already mehaddesh. This would prevent him from acquiring new hiddushim. There is no greater davar ha-aved (loss) than this!"xv

Such a perspective is fascinating, as not only does it very strongly support the idea that each and every person should be *mehaddesh davar ba-Torah*, but it even goes so far as to give this "*hiyyuv*" of *hiddush* halakhic implications!

We have mentioned several opinions explaining why creative interpretation is essential, and perhaps even necessary, when it comes to Torah study. However, it should be noted that in addition to the opinion of Hatam Sofer, there are other issues that need to be taken into consideration.

The Mishnah in *Avot* 3:11 says in the name of Rabbi Elazar ha-Moda'i that "he who unveils ideas in Torah that are not according to the Halakhah, even though he has in his hands Torah and good deeds, has no portion in the World to Come." Will While this might seem to be more relevant to issues of Halakhah and issuing incorrect *pesak* (legal decisions), Tosafot

Assuming we bypass the problem with proposing novel ideas, there is a second question: are we really saying anything new? Are all (or any) *hiddushim* really novel? Is there a possibility that everything that a person is *mehaddesh* has already been said previously?

mind of God, to which Eliyyahu responded, "Ellu va-ellu divrei E-lohim Hayyim – They are all (both) the words of the Living God." This incident highlights the fact that there can be more than one explanation to a pasuk or a sugya, etc. Furthermore, we see something

"There is room to deduce, expound, and interpret in ways of which earlier generations were unaware, allowing us to develop new ideas and explanations in our learning."

How do we relate to the verse, "Ein kol hadash tahat ha-shamesh – there is nothing new under the sun"xx? The Midrash explains that all halakhot were given to Moshe Rabbeinu at Mattan Torah, xxi including "Mikra, Mishnah, halakhot, Talmud, Toseftot, Aggadot," and continues:

"Va-Afilu mah she-talmid vatik atid lomar lifnei rabbo – kullan ne'emru le-Moshe be-Sinai, she-ne'emar: 'Yesh davar she-yomar, ''Re'eh zeh hadash hu. ''' Havero meshiv alav: 'kevar hayah le-olamim – And even that which a veteran student will say in front of his teacher – they were all told to Moshe on Sinai, as it says: 'Is there a thing whereof it is said: "See, this is new?" The following [part of the verse] answers: 'it hath been already, in the ages which were before us.'" xxii

If we take this literally, then a "hiddush" that we might come up with would not really be a "hiddush," per se, as it has already been said previously at Sinai. While this might seem somewhat disheartening to the most creative thinkers, it is in fact very uplifting. For one, it means that these statements have credence to the extent that they can be considered part of "Torat emet – the true Torah." Additionally, going back to the opening situation in the beit midrash, these "hiddushim" would in fact be considered part of the earlier "literature" – and not just any person's literature, but the literature of Ha-Kadosh Barukh Hu Himselftxiii

In a similar vein, the Gemara in *Gittin* 6b relates a story in which Rabbi Yonatan and Rabbi Evyatar were discussing an explanation

even more amazing here: each explanation offered was also being offered by God Himself, lending divine legitimization to each and every statement.

Avot de-Rabbi Natan takes this idea even further.xxiv Rabbi Yohanan ben Zakkai tells Rabbi Eliezer that he had the ability "to say words of Torah above and beyond what was said to Moshe on Sinai." At first, Rabbi Eliezer was hesitant, but he soon "sat and deduced words [of Torah] above and beyond what was recounted to Moshe on Sinai and his face shone like the light of the sun, and rays extended like the rays of Moshe['s face] and a person did not know whether it was day or night."xxv This story seems to indicate that there is room to deduce, expound, and interpret in ways of which earlier generations were unaware, allowing us to develop new ideas and explanations in our learning xxv

Mori ve-rabbi, R. Aharon Lichtenstein, Rosh Yeshivah of Yeshivat Har Etzion and Rosh Kollel of Yeshiva University's Gruss Institute, enjoys relating a story in which he was present while the Rav gave a shi'ur. «wii "He was scintillating. His chiddushim were absolutely brilliant. There was one stranger in the audience who was taken aback at the Rav's intellectual audacity and said to him, after the lecture, 'But Rabbi Soloveitchik, what is your source?' The Rav answered: 'A clear and logical mind.'"

We must also keep in mind that there is a debate over whether or not one has the right to argue against previous generations – specifically the Mishnah and Gemara. The cally the Mishnah and Gemara. The call though we will not go into this in-depth here, as this issue usually relates more to the world of *pesak Halakhah*, Jewish legal rulings, Rosh (R. Asher ben Yehiel), a major thirteenth-century legal decisor, has a fascinating statement in one of his *teshuvot* that is worth mentioning here. He says:

"Mi lanu gadol ke-Rashi, zts"l, she-he'ir einei ha-Golah be-perushav, ve-nehleku alav be-harbeh mekomot yotse'ei yerekho, Rabbeinu Tam ve-Rabbi Yitshak, z"l, ve-sateru devarav; ki Torat emet hi, ve-ein mahanifin le-shum adam — Who is as great as Rashi, zts"l, who enlightened the Diaspora with his interpretations, and whose descendants, Rabbeinu Tam and Rabbi Yitshak z"l (for example), argued against him in many places and they contradicted his words; for this is a Torah of

"Talmud Torah requires us to approach it creatively – Hashem commands us so."

Yom Tov provides an example in Tanakh where one should be wary of novel interpretations, an example that seemingly has no halakhic import.xviii.xxix The implication of this interpretation is that harsh consequences for misinterpretation of Torah may exist, regardless of whether the mistake leads to practical halakhic ramifications, making us wary about creative interpretation and hiddush in our everyday Torah study.

of a certain story in Tanakh (pilegesh be-Giv'ah, the concubine in Gibeah). Both offered their own, seemingly mutually exclusive, opinions. Rabbi Evyatar ran into Eliyyahu ha-Navi and asked him what God was doing at the moment, to which he responded that He was discussing the very same story and suggested both of the answers offered by these Amora'im. Rabbi Evyatar responded and asked how there could be uncertainty in the

truth (*Torat emet*), and we do not flatter (*mahanifin*) any person."xxix

R. Norman Lamm, in his book Seventy Faces: Articles of Faith, explains:

"Our Torah is a 'Torah of truth,' not a Torah of authoritarianism. We must never confuse authoritativeness with authoritarianism. A 'Torah of truth' requires that we challenge conventional opinions. That is what the *massa u'mattan*, the dialectic of Talmud is all about. Flattery – excessive respect – for an individual is harmful for Torah."xxxx

If we look at the declaration of Rosh in this light, we can posit that this would apply to "flattery" of previous generations as well, for, as Rosh correctly points out, Rashi's own grandchildren argue against him!

The value of *hiddush* is so great; it is essential to the definition of a beit midrash. The Gemara in *Hagigah* recounts:

"Our Rabbis taught: Once R. Yohanan b. Beroka and R. Elazar Hisma went to pay their respects to R. Yehoshua at Peki'in. Said he to them: What new teaching was there in the beit midrash today? They replied: We are your disciples and your waters do we drink. Said he to them: Even so, it is impossible to have a beit midrash without some novel teaching."xxxi

Later on, the Gemara compares *hiddush* to a pearl, emphasizing how beautiful it is. Additionally, on the very next page, the Torah is compared to a tree. It is not a mere coincidence that this comparison is made right here. The Gemara is trying to emphasize the fact that Torah, like a tree, continues to grow and increase, eventually sharing its fruit.

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- Bereshit Rabbah 13.
- ii Orlah 3:9.
- iii Author's translation.
- iv See, for example, Responsa Hatam Sofer, helek 4 (Even ha-Ezer 2), siman 19 and helek 1, siman 28, etc.
- ^v We should note that Daniel Sperber in his article, "Paralysis in Contemporary Halakhah?" *Tradition* 36,3 (Fall 2002): 1-13, points out that this statement of Hatam Sofer was meant to polemically combat the Reform movement that had been spreading throughout Germany at the time. However, even given that fact, many still apply Hatam Sofer's comment to *hiddush* in general (I myself have heard his explanation used in this manner).

- vi JPS translation.
- vii Yalkut Shim'oni, Shofetim, remez 49.
- viii Author's translation.
- ix See R. Hayyim of Volozhin, *Nefesh ha-Hayyim*, *Sha'ar* 4, chs. 11, 12, 25.
- x Joseph B. Soloveitchik, *Halakhic Man*, trans. Lawrence Kaplan (Philadelphia: The Jewish Publication Society, 1983), p. 99.
- xi Ibid
- xii Joseph B. Soloveitchik, *Ish ha-Halakhah*, *Galui ve-Nistar* (Jerusalem, 1944), p. 207.
- xiii This idea is extremely prevalent throughout R. Soloveitchik's *Lonely Man of Faith*.
- xiv Rashi ad loc. s.v. *u-be-Torato yehegeh*.
- xv Shulhan Arukh, Orah Hayyim 545:1,9.
- xvi *Mishnah Berurah* to *Orah Hayyim* 545:47 (author's translation).
- xvii Author's translation.
- xviii Tosafot Yom Tov ad loc.
- xix The discussion here is about how to understand the story of "*Pilegesh be-Giv'ah*."
- xx Kohelet 1:9 (author's translation).
- xxi Vayikra Rabbah 22:1.
- xxii JPS translation.
- xxiii Alternatively, we could say that the way in which a person relates to or comes to a certain thought or idea is part of interpretation itself, thus making all "hiddushim" real "hiddushim." xxiiv Avot de-Rathbi Natan 2:13.
- Avot ae-Kabbi Natan 2
- xxv Author's translation.
- xxvi We can also tie this back to the famous Gemara in *Menahot* 29b in which Moshe Rabbeinu is perplexed by the Torah teachings of Rabbi Akiva. See also the comments of *Ets Ya'akov* and *Hiddushei ha-Rim* ad loc.
- xxvii The following quote was taken from Norman Lamm's book *Seventy Faces: Articles of Faith* (Hoboken, NJ: Ktav, 2002), p. 16. However, I have personally heard this story from *mori ve-rabbi* Rav Aharon Lichtenstein himself.
- xxviii This, however, seems to be more within the world of pesak Halakhah. See, for example, Maimonides, Hilkhot Mamrim 2:1 and Kesef Mishnah ad loc., as well as Kovets Shi'urim to Bava Batra 663.
- xxix Responsa Rosh 55:9.
- xxx Lamm, p. 13.
- xxxi Hagigah 3a (translation adapted from Soncino).
- xxxii It should be noted that these accounts in the Gemara highlight what seems to be an ongoing *mahaloket* (dispute) throughout *Shas* between R. Yehoshua and R. Eliezer regarding Masorah. R. Eliezer insists on Masorah, whereas R. Yehoshua champions *hiddush*.

Theodicy in Tanakh – A Practical Lesson in Knowledge of God

BY: Daniela Aaron

ourses on Jewish philosophy tend to focus on studying theology through the lens of medieval treatises rather than through the lens of Tanakh. What knowledge we have about how God works is not culled from the narratives in the Torah or prophetic literature, but from such works as Rambam's Introduction to Perek Helek or the Kuzari. The reason for this is quite obvious: little about how God works is readily clear from the Tanakh. This is not for lack of illustrations or statements about His actions, but because these illustrations and statements are often inconsistent with one another, and therefore do not form a coherent theology, a fact which can become uncomfortable for those who view Torah as the source of their belief. This phenomenon is by no means limited to the discussion of torat ha-genul (how God metes out reward and punishment), but as it is a particularly complex and intriguing concept within Tanakh, I would like to use it to explore how a believer can comfortably read Tanakh and find meaning in its discrepancies. Such a method highlights the importance of not approaching texts with preconceived notions, but instead discovering the truth that actually emerges from them.

The difficulty of the issue of theodicy and God's providence is most pronounced when studying the books of Tanakh focused on galut and ge'ullah (exile and redemption). A stark contrast is set up within these works between two models of God's justice. In the first model, vicarious and collective punishments are acceptable; in the second model, God only punishes based on personal sin.

The first model is founded upon the Torah's statement that God "is a jealous God, visiting the sins of fathers upon sons until the third and fourth generations, to those who hate [Him]." While many commentators try to mitigate the force of this statement, "i the plain meaning is that if someone sets himself against God, he may expect punishment, even through the suffering of his children who may not have sinned against God themselves. It is unnerving to think that the Tanakh espouses what we may deem such a harsh view, but this is the sentiment expressed by the authors of *Melakhim* and *Eikhah* as well.

Melakhim is not merely a chronicle of the kings of the Israelite nation; it is also a work of profound religious and theological importance. iii Set during the period before the destruction of the First Temple, Melakhim attempts to explain to a confounded people how they could have fallen so far from God,

and, in doing so, sets up an almost fatalist view of the events leading to the exile. The reader may get the impression that the book is a long list of our ancestors' failings; however, it is much more than that, for there are several kings who are described not only as good, but as exceptional, even ideal. Yet, the impression of failure lasts because despite the attempts of kings (often supported by their subjects) to forestall destruction through good deeds, destruction does indeed come, and the text explicitly links the destruction of the Judeans at the hands of the Babylonians with the sins of their ancestors who ruled generations earlier.^[5]

The book of *Melakhim* fosters a sense that, to a certain extent, destruction comes upon children because of their fathers' sins. This theme is expressed most eloquently, and quite explicitly, by the author of *Megillat Eikhah*, who states, "Our fathers erred but are no longer here, and we have suffered for their sins." *Eikhah* is a book that goes out of its way to detail the breadth of the destruction of Jerusalem. Each chapter magnifies a different aspect of the tragedy," culminating with the sense that God's punishment was drastically disproportionate to the Jews' actions.

The second model of theodicy assumes that God is just and acts in a way deemed just by humans. This is a sort of Abrahamic ideal in which God's demands on us to mete out justice are matched by His own attribute of justice. This is a far more comfortable mode of thought for many of us since in this view God's modus operandi does not conflict with our own views of what is just, i.e. that we are only punished for our own sins. It is also a far more optimistic view of the world: each person makes his own destiny, and both good and bad choices are punished or rewarded without repercussions on the undeserving.vii This sentiment is promoted by works such as Divrei ha-Yamim and Yehezkel.

Like Melakhim, Divrei ha-Yamim is not merely a historical chronicle. However, by and large, that is where the similarities between the aims of the two books end. In its account of the deeds of the kings of Yehudah, Divrei ha-Yamim includes a considerable amount of information not found in Melakhim. While in Melakhim kings are good or evil, in Divrei ha-Yamim everyone is a little of both. Whereas Melakhim gives the impression that kings and their people may suffer undeservedly, Divrei ha-Yamim maintains that each king is met with the end he deserves.viii In this vein, the resolution of the book does not focus on the near century of exile after the destruction of the First Temple, but on Cyrus' proclamation sanction-

ing the rebuilding of the Temple, thereby giving the reader the sense that the Jews are being given a chance to rebuild something wonderful, rather than inviting the reader to dwell on past mistakes. The book draws the reader toward a view of divine justice that is fairer to humans, one that offers each person the possibility to improve his or her situation in life.

While Divrei ha-Yamim alters the message of Melakhim, the prophet Yehezkel makes his objections to Melakhim's idea of divine providence the subject of a public debate. Yehezkel speaks to a somewhat reluctant audience of exiles who see their brethren still suffering in Jerusalem under siege and begin to speculate about God's justice. God responds by instructing Yehezkel to take the people's doubts head-on. In a meticulously reasoned passage, the prophet explicitly states that God punishes and rewards each person according to his personal sins or merits. ix Sons, he says, may only suffer for the sins of their fathers if they continue in their fathers' evil ways.x,xi

The clash between these two models is obvious enough. Yehezkel publicly denounces the catchphrase among the besieged Israelites that "our fathers ate sour grapes, but our teeth are set on edge,"xii while Melakhim and Eikhah quite readily express this view.xiii As readers of the Bible, we are caught in a disturbing dialectic out of which there is no easy escape. That said, it seems to me that patterns do emerge from the murkiness. The most apparent is that the works written about and for the Jews suffering through the destruction of Jerusalem, such as Melakhim and Eikhah, encourage the view that God punishes people for others' sins, while the works written about and for the Jews who are trying to make a new life post-destruction Divrei ha-Yamim and Yehezkel emphasize God's absolute justice concerning each indi-

What is the significance of this distinction with regard to answering the question of why Tanakh provides us with contradictory explanations of divine punishment? To draw out the meaning here, we must first consider the role of a book of Nakh. Whether part of Neviim (prophetic works) or Ketuvim (usually defined as works written with divine inspiration), a book of Nakh must have a message to express. some sort of divine imperative or calling often, many such callings. The fact that these works were written or prophesied about a certain generation is significant to this message: each author's work has a theme fitting the setting and situation of the Jews at that time.xiv

"The fact that these works were written or prophesied about a certain generation is significant to this message: each author's work has a theme fitting the setting and situation of the Jews at that time."

Given that the two sets of books discussed above have very different settings and situations, we may surmise that their messages are bound to differ in their treatment of certain top-

If both models of God's providence are taken at face value, then it cannot be that God is trying to tell man through these accounts the ultimate truth of His providence, the mechanisms by which He administers justice in the world. If this were the ultimate truth, one would assume that the contradictions would not be present. Rather, these books discuss God's providence in order to express the nadraws a parallel between acting justly and knowing God. Similarly, Hoshea associates "knowledge of God" with "truth and mercy" as the key elements missing from society in Northern Israel.xix Justice, kindness and hon-

"These works are not necessarily trying to give us an absolute image of how God works. They instead provide us with visions of how to deal with the situations we find ourselves in, and how to move on from them."

couragement. To some measure, God, through the prophet-author, acknowledges the "unfair" aspects of His action in the world; He allows man a space to say that situations of terrible suffering are unwarranted, to wonder about the theological ramifications of affliction. However, God also wishes His people to move for-Yirmevahu told those who left in the first wave of exile that they must settle in galut and prosper there.xvii But in order to rebuild a life for themselves - and certainly for the returnees to

tion's grievances and provide them with enward from such speculation and despair.

the other accomplishes another purpose. The Israel to recreate what they once had - the peodifficulty with such an approach to the text, in "If both models of God's providence are taken at face value, then it cannot be that God is trying to tell man through these accounts the ultimate truth of His providence, the mechanisms by which He

this case, is that the reader must then decide which the "true" message is, and such an assessment will necessarily rely on his preconceived notions of providence rather than on the text alone. The reader may come to a unified theory of God's justice but at the expense of dismissing half of the material at hand.xvi

ics. Thus, those living through the destruction

of the Temple are given the prophet's sympa-

thies and are justified for asserting that they are

not being punished fairly. Expression of this

viewpoint is not denied or covered up, but

rather substantiated. In contrast, those who are

already in exile or who are embarking on a re-

turn to Israel to renew Jewish life there must

be encouraged in their reestablishment of society. Yehezkel therefore tells them that they

should not fear undue suffering. Similarly, the

authorxv of Divrei ha-Yamim stresses the im-

portance of the actions of individuals and the

of books will affect their message is not quite

enough to solve our problem. If we presume

that part of the purpose of Tanakh is to impart

religious truths, how can two works in the

same canon relate such contradictory ideas?

Based on this question, we may approach the

text in one of two ways. The first approach at-

tempts to resolve the contradictions between

these books by integrating the texts. This kind

of solution involves a deduction like this: God

must authorize both messages, but since they

contradict, one must be the true message while

However, understanding that the contexts

possibilities for change that God affords us.

Therefore, I would like to suggest a second way to resolve the contradictions. For this solution, the reader must assume that each of the opposing texts means exactly what it says and that what each says carries some inherent value. That is, it is not only a message for a certain context, nor do we judge its relevance based solely on our own conceptions of truth value. Rather, the texts together possess a larger message which is precisely sustained by the contradictions between them.

ple cannot be full of doubt as to whether the endeavor of building a society based on God's laws is desirable or even logical. (For how can one build a just society created by an unjust God?) These post-destruction works therefore bring something different to the reader: a focus on God's attribute of absolute justice.

This should not be confused with saving that the prophets are utilitarian when it comes to theology. They are not saying something untrue about God for their own purposes. Rather, they are saying that knowledge of God is something far more practical than being able to account for whether God keeps exact weights and measures on the scale of our deeds, or whether He is vengeful and punishes innocents. These works are not necessarily trying to give us an absolute image of how God works. They instead provide us with visions of how to deal with the situations we find ourselves in, and how to move on from them. Knowledge of God gleaned from the prophets is something entirely different from knowing exactly whether or how God tracks our actions. For the prophets, "knowledge of God" is equated with something seemingly far more mundane, as Yirmevahu savs about King Yoshiyyahu, "Didn't your father [...] do justice (mishpat) and righteousness (tsedakah)? [...] Then it was good for him. He judged the cause of the poor and the destitute, then it was good. Is this not to know Me?"xviii Here, Yirmeyahu

esty, the prophets say, are the makings of da'at E-lohim (knowledge of God). God asks us to forgo the pursuit of intellectually understanding His nature and delving to the center of His mystery and to instead pursue what He would rather term "knowledge of God" - the creation of a just society that fosters kindness and truth.

The works addressing a nation attempting to build such a society emphasize God's justice because creation of a truly just society must be founded on a belief that God is truly just - or, rather, that justice is attainable. Perhaps as a result of our creating a culture which embodies two of the deepest values of Judaism, tsedakah and mishpat, God will in fact show us His justice and reward us accordingly. At the same time, we must not forget that God's ways are in fact more complicated than this - we must not stray too far from the text and simplify our understanding of God - for when we do, and the focus turns to presumption of understanding the intricacies of God's ways rather than becoming exemplars of His ways, we arrogantly forget what God desires from us: to "do justice and love kindness, and walk humbly" with Him.xx

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Towards the end of Melakhim, King Yoshiyyahu led a teshuvah movement of previously unparalleled scale, but, despite his efforts, was told that the nation would still be

administers justice in the world."

i Shemot 20:4.

ii Targum Onkelos, Rashi, Rashbam and Ibn Ezra to Shemot 20:4 (and many more) One may ask - and would be justified in doing so why I do not accept such an explanation that mitigates the force of this statement. The answer is that for the purposes of this article, I am relying on an understanding of the peshat (plain meaning) of the text, by which I refer to the meaning of the words within their textual contexts. There is room to interpret this verse as Onkelos and the rest do, but these commentators are in fact not reading it literally.

iii I would like to acknowledge and thank Professor Smadar Rosensweig for her class on Melakhim and Divrei ha-Yamim, which provided the impetus for much of the work I did here regarding the two models of providence.



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punished for his ancestors' sins (II Melakhim 23:26): "But God did not return from his great anger against Judah for all the incitements with which Menasheh incited him." This is more specifically referring to his grandfather, Menasheh, whose degenerate rule nearly a century earlier is described in II Melakhim 21:10-12 as the leading cause of the destruction of the Judean kingdom. Menasheh's father, Hizkiyyahu, also made key misjudgments which slated the kingdom for destruction; see ibid. 20:12-19. All told, the general impression is one of collective punishment; though clearly the nation sinned, its later repentance was no match for the residual evil of Menasheh's reign.

I do not mention here the kingdom of Northern Israel, which was led by evil and unrepentant kings. Seforno, in his commentary to Shemot 20:4, actually describes the treatment of Northern Israel as a case of children who are punished for their fathers' sins because they continued the sins of their fathers. That is to say, they sinned on their own instead of breaking away from the idolatrous behavior of their forebears and thus were presumably punished for their own actions as well. (Note that Seforno does not provide a similar explanation for the punishment which befell the kings of Yehudah.)

^v Eikhah 5:7. Though the poet does add that the people going to exile have also sinned in 5:16. the earlier complaint expresses a view that, to my eyes, colors much of the text. I would read this also in light of chapter 3, where the narrator begins by describing his situation in terms of his being unfairly and deliberately sought after by God. (His language does not go as far as Iyyov's, but the similarities abound.) There, too he recoils afterwards from his irreverence and describes God's mercy, insisting in 3:40 that the proper response is to search one's ways: "We will search our ways and examine [them], and we will return to God." The fact that they must search in order to account for the situation suggests that their sins are not apparent, and, therefore, that actions of others might have also been taken into consideration in their punishment.

vi For a good treatment of this subject, see Gavriel H. Cohn, Iyyunim be-Hamesh ha-Megillot, (Jerusalem: The Jewish Agency for Israel - Eliner Library, 2006).

vii The clear detriment to this view is the reality that the good suffer and the evil prosper. But the believer may understand that God has His ways in governing this world. Alternatively, one can always hope for justice in the afterlife. viii For example, II Divrei ha-Yamim 26 views Uziyyahu's (Azaryah's) theretofore unexplained leprosy as the result of an attempt to appropriate a part of the priestly service, while Menasheh's lack of a punishment in his lifetime is explained by his eventual teshuvah (repentance); see ibid. 33.

It is commonly explained that the additions in Divrei ha-Yamim aim to glorify the Davidic dynasty, as they idolize David and Shelomoh. If

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seen in terms of being written for Jews rebuilding a society, it seems like this idealization is meant to provide the Jews with a model to strive for (as opposed to Melakhim which explains the mistakes as the cause of exile). Additionally, its negative treatment of Uziyvahu and other kings, as well as its descriptions of the various civil wars between the Jewish kingdoms, seem to point to a different or additional motive to the book than merely a glorification or legitimization of the kingdom.

ix Yehezkel 18.

x The question may be asked here, as well as above, why I do not see this as an explanation of Shemot 20:4. The answer is two-fold. First, it is a strange thing to say that the word of the prophet should subvert that of divine law by explaining it entirely outside of the peshat. In such a view, the prophetic account says, "Shemot had some of it right, but what it really meant was this other thing, which is essentially different." It makes more sense to say that Yehezkel is fighting against a very strong view in his time - that God punishes vicariously and espouses an entirely different viewpoint, which is that God punishes individuals for their own sins. Especially in 18:19, it seems as though Yehezkel is being met with opposition to this view: "You will say, 'Why doesn't that son carry his father's sin?" – but that son did tsedek and mishpat and kept all of My laws and did them: he shall live!" The prevalent logic is that sons are punished for their sinful fathers. As such, the people of Yehezkel's time are not viewing his statements as explanations of their current beliefs, but as entirely new beliefs.

Second, there is cause to believe, given the information above, that there are also contradicting prophetic accounts on this matter, such as Melakhim, as explained above. There are two parallel streams of thought on this subject: one is much more clearly expounding on Shemot 20:4; the other seems to be a separate view, probably with a different source.

xi Many connect this statement with Devarim 24:16: "Fathers will not be put to death for their sons, and sons will not be put to death for their fathers; each person will be put to death for his [own] sin." They contend that this Torah statement reveals the idea that God only punishes people for their individual sins. However, this verse is interpreted differently in Melakhim by King Amatsyah. In II Melakhim 14:6, Amatsyah does not kill the sons of his father's assassins because of the Torah's statement in Devarim 24:16. This implies that the accepted interpretation of this pasuk is not that it describes an aspect of God's punishment but is rather a directive to the Israelites to not punish

xii Ibid. 18:2.

xiii As mentioned earlier, this tension is noted in Makkot 24a, where R. Yosei ben Hanina interprets Yehezkel as "nullifying" the decree of Moshe (i.e., Shemot 20:4).

Yehezkel's prophecy: rather than saying it con-

tradicts the Torah or Melakhim, implying that there may be room for two opposing views on this subject, the impression is that Yehezkel is attempting to overturn a divine declaration by introducing an entirely new concept in its stead - the prophet (and God speaking to him) has found the old model wanting and is replacing

xiv Bava Batra 15a names the authors of the books of Tanakh. Yirmeyahu - a tortured figure himself in the throes of exile - is listed as the author of both Melakhim and Kinot (Eikhah), while Ezra and his assembly are listed as the authors of Divrei ha-Yamim Ezra himself was fulfilling the vision of the prophecies of returning to Israel. The Talmud here points us to the fact that understanding the historical/cultural context of the writing has significance; that is, the reader should understand something about the author and thereby the context of the sefer.

xv Multiple authors, according to Hazal; see Bava Batra 15a.

xvi I have found this to generally be the case. For example, with regard to providence, most people will choose Yehezkel's message over Yirmeyahu's when explaining theodicy, despite both accounts being on equal grounds in terms of divine origins. In terms of peshat in the Torah, people will emphasize the narrative of Avraham arguing with God against collective punishment over the legal exposition of God declaring His vengeance on sons for their fathers' sins. This suggests to me a skewed way of approaching a text, particularly one which the reader believes to be divine in origin

xvii Yirmeyahu 29:4-7. The prophet instructs the people to build a society in the exile.

xviii Ibid. 22:15-16.

xix Hoshea 4:1. xx Mikhah 6:8.

I think this agrees with the statement in Makkot 24a (see n. 13) which describes Yehezkel as "nullifying" Moshe's decree. He is not explaining it but attempting to cancel its force.

vicariously in their own courts.

This is a more radical understanding of

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An Interview with Rabbi Eli Baruch Shulman

BY: Staff

Then you approach a sugya, what are your goals and what steps do you take in order to achieve them?

The first thing that I want to do when I learn a sugya is get a handle on the tsurasa dishema'atesa, the structure of the sugya. "Sugya" in this context may mean the page of Gemara in front of me, or it may have a larger ambit and include related discussions elsewhere in Shas. I want to know what the issues facing the Rishonim were when they looked at the sugya and how they dealt with those issues, as well as how the various pieces of the sugya fit together and how they are interrelated.

Out of this analysis emerge the various issues in *lomdus* and the conceptual underpinnings of the topic, so that eventually we can get a rich account of the whole matter.

The various kushyos (difficulties) that the mefareshim (commentators) point out, or that we discover ourselves, are also helpful. They are like the irregularities in the marble that tell you where to chisel. R. Aharon Kreizer – who was a great man, and who taught here at Yeshiva for many years – used to say that a kushya is a "shpalt" – a crack – that allows us to peek inside the sugya. R. Akiva Eiger's questions are particularly good in this regard; he has an instinct for the jugular, for the living heartbeat of the sugya.

The ultimate goal is to have a clear and deep understanding of how the various Rishonim understood the *sugya*. That is not a small thing. The Avnei Nezer once wanted to know what the greatness of R. Chayyim Brisker was, so he sent his student, the Chelkas Yoav, to Brisk to get to know him. When the Chelkas Yoav returned, he told the Avnei Nezer that R. Chayyim knows how the Rambam learned every *sugya* in *Shas*. The Avnei Nezer responded that if that is the case, then he is greater than the two of them.

The *lomdus* of the *sugya* is also very important, but it should emerge organically out of the internal logic of the *sugya*. You know, R. Aharon Kotler used to say a shi'ur that was

sis; R. Aharon was, according to the Chazon Ish, the greatest product of the Lithuanian yeshivah world. But the shi'ur was tremendously difficult to follow, even for seasoned students. So some of them proposed that he split each shi'ur into two; one would focus on the cheshbon of the sugya, which not everyone could really handle, and the second one would focus on the sevara, the conceptual analysis. which was more accessible. He adamantly refused. The students have to know, he insisted, that sevara is not hefker (a free-for-all) - a sevara has to emerge from the rigorous working through of the cheshbon of the sugya; otherwise, you would be able to say anything, and it would be chaos.

Are all Rishonim created equal? In other words, on a fundamental and educational level, should each Rishon's shittah (position) be studied equally and given equal authority when studying a sugya?

Generally, the rule is that lu yeda'ativ hayisiv (if I could understand him, then I would be him) - we are not Rishonim and we are not in the position to evaluate their stature. Nonetheless, it is accepted that there are gedolei ha-Rishonim (the greatest of the Rishonim), and there is a certain hierarchy. Someone once said to R. Chayyim Volozhin that the Vilna Gaon was like a Tanna. R. Chayyim, whose esteem for the Gaon was limitless, nevertheless replied that, great as the Gaon was, he was not like a Tanna, nor like an Amora, nor like the Geonim, nor like the Ramban, but maybe he was like the Rashba. (Apparently, he felt that there was a difference between the stature of the Ramban and that of the Rashba)

Of course, when we are working on a *sugya*, we will begin with the Rishonim who are most on the *daf*, such as Rashi, Tosafos, the Rosh, the Rashba, etc.

So it would be okay to move on to the next sugya if one only learned Rashi, Tosafot, and Rambam, without learning the opinions of the other Rishonim on the sugya? the great rashei yeshivah, who were great pedagogues. I am not referring to somebody who is doing a specific study or a monograph on a sugya. R. Elchanan Wasserman used to recommend learning Rashi, Tosafos, the Rosh, and one Rishon, such as the Rashba or the Ran. Nowadays, for better or for worse, the pace of learning in yeshivos has become much slower, so we usually look at more Rishonim than that, but there still has to be a limit, especially for young bachurim. You have to be careful not to overload.



What should the role of Aharonim be in one's talmud Torah? Do the answers to the previous two questions depend on whether one is studying Halakhah le-ma'aseh (practical Halakhah) or not?

First of all, it is important to understand that learning Acharonim is different than learning Rishonim. Rishonim wrote very precisely, so every word is freighted with meaning. (Maybe this is related to the fact that the Rishonim wrote before there was printing.) So when you learn a Rishon, you must read it slowly, exhaustively, and must attempt to understand every word and phrase. Acharonim wrote much more discursively, so the challenge of reading an Acharon is to follow the

body is doing a study of a particular sugya, then he may want to see what all the major Acharonim say on it. R. Shach used to say that, in general, mi'utam yafeh, a little bit is healthy; you can have too much of a good thing. One should see enough to know what the discourse of the Acharonim is, but he does not necessarily have to see every Acharon on the sugva. This is not to be dismissive of the Acharonim but Acharonim are complicated and you can easily get lost. In the yeshivos, they particularly valued certain Acharonim, such as R. Akiva Eiger, the Ketsos, and the Nesivos, so you do not want to miss those, especially if they have something major to say on the sugya. If there is a major Ketsos on the sugya and you do not know about it, then there is really a hole in your learning of the topic.

If a person is learning without a shi'ur – on his own or with a *chavrusa* – then I think it is very worthwhile to find one contemporary yeshivah-style work that he feels comfortable with, in order to make sure that he is plugged into the discourse; usually, those kinds of works will cite the major Acharonim that he really should not miss.

Do you feel that there are shortcomings to the standard methodology of the Brisker derekh (Brisker methodology of learning), and, if so, how is it possible for one to overcome those deficiencies?

I would begin by observing that in the YU community, the term "Brisk" is used almost interchangeably with the yeshivishe derech halimmud. I suppose that is not a cardinal sin, but it is not how the term is used in the rest of the Torah world. The veshivishe derech ha-limmud is the approach to learning that developed in the Lithuanian yeshivos from the founding of Volozhin until the Holocaust and beyond, and while it is hard to overstate R. Chayyim Brisker's importance in that movement, his derech was not the only one. Within that framework, there are many different streams and battei midrash, creating considerable variety, but it is still a recognizably coherent intellectual movement. In a real way, it is also a collaborative movement, perhaps the most collaborative that the world of learning has seen since the days of the great yeshivos of the Ba'alei ha-Tosafos.

The term "Brisk," on the other hand, is particularly associated with R. Chayyim himself, of course, but more especially with the beis midrash of R. Chayyim's son, R. Yitzchak Ze'ev, the Brisker Rav. (In YU circles, he is usually referred to as R. Velvel, but outside of those circles nobody calls him that anymore.) Even though the Brisker Rav did not have a yeshivah in Europe, R. Leyzer Yudl used to send the most select *talmidim* from the Mir to learn by him. These were men, such as R. Leyb Malin, R. Yonah Minsker and R. Noach Borenstein, who were already accomplished *talmidei*

"It is hard enough to work out how Rashi learned the sugya, and then it is another whole undertaking to see how Tosafos learned it. If you are going to do that with twenty Rishonim, you will just walk away confused, and you will not get very far either, so you have to limit your scope."

magisterial in its dissection of the *cheshbon*—the logical and textual structure—of the *sugya* in all its complexity; and for R. Aharon, the *sugya* included every discussion in the Bavli and Yerushalmi that related to the topic. His technical prowess was unbelievable. The shi'ur was also rich in *lomdus* and conceptual analy-

It is hard enough to work out how Rashi learned the *sugya*, and then it is another whole undertaking to see how Tosafos learned it. If you are going to do that with twenty Rishonim, you will just walk away confused, and you will not get very far either, so you have to limit your scope. This was the unanimous opinion of all

thread of his argument, which might extend over several pages. Very often, our students are used to reading Rishonim and then they read an Acharon and get bogged down because they are not used to the style of the Acharonim.

As to how much Acharonim should occupy us, again, it is a question of time. If some-

chachamim and steeped in yeshivishe learning, yet they would get from the Brisker Rav a certain something - a certain austereness, an intellectual fastidiousness - that was recognizably the hallmark of Brisk. And, of course, here at YII we associate Brisk particularly with the Rav.

In any event, call it what you will, the derech ha-limmud that developed in the Lithuanian veshivos is tremendously powerful. and its influence has spread to other circles as well. Many Chasidic yeshivos - even before the war - took Lithuanian rashei yeshivah because of it. R. Shach was a rosh veshivah in a Chasidic yeshivah in Europe. The Tshebiner Ray, who was the greatest posek in the Chasidic world after the war, took products of Lithuanian veshivos to teach in his veshivah. Even in Merkaz HaRav, despite R. Kook's opposition to R. Chayyim's approach, they learn in this way.

A word about derech ha-limmud in general: If a person has a good, sound derech halimmud, that by itself will not make him a lamdan, any more than knowing the principles of good chess playing - that you should try to control the center, for example - will make you a good chess player. To be a lamdan, you need a certain set of skills, some of which are not easy to acquire and some of which are best acquired when you are young and your mind is still plastic. You additionally must have a certain critical mass of knowledge. Returning to the analogy of chess, you also have to develop the knack of seeing the good moves. Perhaps most important is a critical sense: the ability to distinguish between what is plausible and not, what is straight and what is crooked. Thirtyfive years ago, when I went to study in Israel, R. Nachum [Partzovitz]'s shi'urim were considered to be the greatest available; since his passing, his reputation has only grown, espe-

We can talk about derech ha-limmud on two levels. On the micro level, how do I actually go about learning the sugya? How do I start? What do I do first? What do I do second? One of the things I recommend over and over to my talmidim is to go over the shakla vetarya (give-and-take) of the Gemara, Rashi, and Tosafos by heart - not by rote, but simultaneously with in-depth learning. It focuses one's attention on the sugya itself and its struc-

On a macro level, what are my goals when I am learning this sugya? What am I working toward? What are the set of intellectual tools that I have in my toolbox, and how do I apply them? What do I consider an important issue, and what do I consider secondary? What kinds of questions are admissible, and what kinds of answers are satisfactory? How do I organize the sugya in my mind? And so on. So derech ha-limmud is the overarching framework, but not a substitute for particular skills or for knowledge.

You mentioned that the Brisker derekh is a phrase that is overused. Would you say that R. Havvim Soloveitchik and his sons, acknowledged for initiating the Brisker derekh, did indeed establish a revolution in Torah learning?

R. Chayyim changed everything, and he changed nothing. R. Chayyim changed everything in that, through his talmidim and his general influence, he had a very strong impact in shifting the focus of learning in the yeshivos away from the kinds of purely textual concerns that had become the preoccupation of learning at that time towards the concentual underninnings of the topic. Not that textual concerns were abandoned, but there was a shift in balyou what not to say. I think it could be argued that a large part of R. Chayyim's contribution lay in teaching us what not to say.

Of course, R. Chayyim himself was a titan. The Meytsheter Illui [R. Shlomo Polachek] said of him that he was simply incapable of saying anything shallow; everything he said reached down into the very depths of the sugya. R. Chayyim Ozer, himself a giant beyond our ability to measure, used to quip taking the famous taxonomy of domem, tsomeach, chai, and medabber (mineral, veg-

What is the role of yir'at Shamayim in Talmud or in Tanakh study and in pesak?

First of all, "Reshis chochmah yir'as Hashem" (Fear of God is the beginning of wisdom). The gateway to Torah is vir'as Shamayim. The Avnei Nezer was once told a Torah idea in the name of the Oneg Yom Tov, whom he did not know personally, and he said that from the lucidity of the idea, he could tell what a great tsaddik the Oneg Yom Tov must

"Not only is vir'as Shamayim a prerequisite for Torah study; it is also the result of such study. It is a virtuous cycle."

etable, animal, and human) one step further that there are really five categories of being: domem, tsomeach, chai, medabber, and R. Chavvim Brisker.

One last point: R. Chayyim's revolution cannot be separated from the yeshivah movement as a whole, which brought together the finest young minds from all over Eastern Europe to a self-contained archipelago of a few large yeshivos and created an intellectual ferment that did not exist when you only had little battei midrash in every town.

Is there a specific methodology that should be used in the study of Tanakh?

One thing I know is that Tanach has to be studied with yir'as Shamayim (fear of Heaven). R. Yaakov Kamenetsky once said

The Gemara in Pesachim (22b) says that vir'as Shamavim includes reverence for talmidei chachamim. The Vilna Gaon used to say that if a person learns with showy casuistry then he grows arrogant, because he convinces himself that he has solved all the problems that the commentators raise. But if he learns properly, then he constantly sees how the questions which confound him are already addressed by the Rishonim with a few spare words, and he grows humble.

Not only is yir 'as Shamayim a prerequisite for Torah study; it is also the result of such study. It is a virtuous cycle. R. Yisrael Salanter used to say that if someone does not toil over the ve-im tomar (question) of Tosafos and over the ve-yesh lomar (answer), then from where will he draw yir 'as Shamayim?

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"A talmid chacham should know Tanach and have the twentyfour kishutim (adornments), which, as the Midrash puts it, are the twenty-four sefarim of Tanach."

cially with the ongoing printing of his shi'urim. A major part of his greatness was his critical sense. You could see his shi'urim emerge from the words of the Rishonim themselves. He had a very highly developed sense of what is a plausible reading of the Rishonim and what is not. He used to say that he does not believe that the Rishonim did not know how to write, so whatever interpretation we offer of their words has to emerge from those words themselves in a natural way.

So derech ha-limmud by itself will not make you a lamdan. On the other hand, having a bad derech ha-limmud will certainly stand in your way. Roger Bacon writes somewhere that genius without method is like being fleetfooted but headed in the wrong direction.

What exactly does derekh ha-limmud consist of if it is not a critical sensibility or a set ance. But at the same time, R. Chavvim changed nothing because conceptual analysis existed before him as well - we have it in the Rishonim and in the great Acharonim such as R. Akiva Eiger, the Ketsos, and the Nesivos. The whole of yeshivishe lomdus can be found in the Ramban.

Yet there is something unique and revolutionary about R. Chayyim which was widely recognized, but which is hard to pin down. In his own oeuvre, he brought conceptualization to a very high pitch. And he conveyed a new sense that sevara has to be rigorous in its own right and that it is not just a handmaiden of cheshbon R Baruch Ber was once asked why one needs a rebbe; after all, one can open up a volume of R. Akiva Eiger's writings and read the most profound Torah thoughts. R. Baruch Ber answered that R. Akiva Eiger can teach you what to say, but you need a rebbe to teach

that after he passes away, he wants to be buried next to R. Chayyim Heller (who was a great academic scholar of Bible, as well as a gadol in traditional learning), because of an episode in which he was deeply impressed by R. Heller's yir'as Shamayim. They were once conversing about a certain verse in Tanach, and R. Yaakov mentioned that there are those who would like to emend the text of that verse. R. Chayyim turned white and almost fainted.

Would you say that a bahur yeshivah should spend some time learning Tanakh while he is in his yeshivah years?

Yes, absolutely. A talmid chacham should know Tanach and have the twenty-four kishutim (adornments), which, as the Midrash puts it, are the twenty-four sefarim of Tanach.i

ⁱ This metaphor can be found in Shir ha-Shirim Rabbah 4:11

Tehillim 111:10.

Why Doesn't Halakhic Man Learn Aggadah?

BY: David Pruwer

The arts of defining, categorizing and systematizing are hallmarks of the modern age. Indeed, sociologist Max Weber dubbed this an era in which "one can, in principle, master all things by calculation." Along with a whole tradition of German thinkers, Weber felt that a spirit of rationalism had ingrained itself within modern man. Much like the persona of Adam the First described in R. Soloveitchik's Lonely Man of Faith, the dominant approach to life in today's society is entirely result-oriented, seeking to mechanically explain and produce concrete results rather than to ponder abstract and existential notions about the world. In this atmosphere of extreme rationalism, Weber understood that "the world's processes become disenchanted lose their magical significance."ii Importantly, Weber saw this modern "drive to methodology" as a distinctively negative phenomenon, will be useful to condense the nature of derekh ha-limmud to its two principle elements: it adopts a certain group of key questions in which one ought to engage, and it utilizes a very specific set of tools and models with which to answer these questions. In short, the ideal type of Torah study remarkably resembles the mindset of R. Soloveitchik's Halakhic Man, whereby the entire world is to be broken down into lucid conceptual halakhic categories.

But where is the Halakhic Man when it comes to the world of Aggadah? Does he discard his critically systematic approach to life when studying it? Noticeably, when it comes to learning Aggadah and Midrash, there are very few, if any, well-developed darkhei halimmud. Together, these portions of Torah she-be-Al Peh stand in stark contrast to the halakhic sections of the Gemara, focusing upon biblical interpretation, stories and moral messages rather than strict legal regulations.

outlook, asserting that when a sufficient level of wisdom is attained, "one should devote one's days solely to Gemara according to the breadth of his heart and the peace of his mind,"x No mention, at least here, is made of Aggadah. There is, however, a more elementary argument that lies at the very heart of this attitude. Midrash and Aggadah, as a common justification goes, do not necessitate advanced proficiency; they can be penetrated with relative ease and little effort. Conversely, Gemara demands a level of expertise and a breadth of knowledge that requires a lifetime to master. Aggadot are seen as a mere collection of fanciful Talmudic stories that ultimately require neither systematic nor critical thought. The Gemara in Ta'anit 7a reflects a certain strand of this sentiment: "R. Yirmiyah asked R. Zeira to teach him (Halakhah) R Zeira replied: 'Halish libba'i ve-la vakhilna,' 'I do not feel well and am unable to learn.'xi Whereupon R. Yirmiyah said: 'Then tell me, master, someposed fundamental irrationality of Rabbinic Judaism. "The problem of the Aggada," in Jewish historian Marc Saperstein's assessment of this age, "had become bound up with the very survival of the books in which it was contained." "viv

In this volatile context, an eclectic range of rabbinic responses developed to counter the challenge.xv In a famous response to Pablo Christiani, Ramban explained that aggadot were not meant to be accepted at face value and read literally. Given their human origin, one does not suffer any harm by either rejecting or reinterpreting their meaning.xvi At the turn of the eleventh century, R. Hai Gaon adopted a similar approach to the problem, claiming that Aggadah does not enjoy such a sacred status in the corpus of Torah she-be-Al Peh: "Know that aggadic sayings are not like a received tradition; they are simply what an individual expresses of what occurs to him personally. [...] That is why they enjoy no authority."xvii R. Sherira Gaon, too, wrote that aggadic statements "are approximate assumptions [umdena].... Therefore, we do not rely on aggadic utterances; that portion of their words which is confirmed by reason and the Biblical text is correct."xviii

Thus, one crucial Geonic school of thought adopted the stance that Aggadah remains within the realm of individual creative interpretation of pesukim and of the world.xix This explains the rich use of imagery and parables in midrashim, whose primarily goal is to express individual and novel conceptions of Torah. The human origin of Aggadah should not, of course, degrade its significance; after all, it still emanates from the mouths of the very same Tannaim and Amoraim who fill every page of Gemara. Still, if certain midrashim remain incomprehensible, Rambam calmly allays any cause for distress: we can comfortably dismiss the setback, stating, "I do not understand the words of this prophet or the words of this sage."xx

"Aggadot are seen as a mere collection of fanciful Talmudic stories that ultimately require neither systematic nor critical thought."

distancing man from his natural and healthy mode of life. iii

However, this sentiment is a far cry from the dominant view of talmud Torah in the yeshivah world. As many articles in this issue will no doubt suggest, a methodological and systematic approach is not only tolerated but highly esteemed within the dalet ammot (four cubits) of the beit midrash. Methodology is so ingrained in the very fabric of the yeshivah world that a particular derekh ha-limmud is to be expected of its students. The benefits of developing a conceptual framework and methodology hardly need enumeration. As R. Aharon Lichtenstein has noted, "There is power, majesty, and grandeur in Torah, conceptually formulated, that a patchwork of minutiae. largely molded by ad hoc pragmatic considerations, simply cannot match."iv Not only is a theoretical methodology viewed as logically elegant, but it is also seen by many of its contemporary practitioners as the most efficient and effective way to understand a given sugya. This "Brisker" approach to learning, which has achieved almost complete acceptance in the yeshivah world, largely due to the influence of R. Hayyim Soloveitchik, seeks to emphasize the "how" of a given concept rather than the "why." Strict legal and result-oriented methodology is preferred over fanciful metaphysical musings. For the purposes of this article, it

Whenever a wandering attempt to enter the chambers of Aggadah is braved, it is invariably approached in a haphazard and sporadic manner. This methodological dearth warrants particular analysis given the singularly high value placed on an orderly attitude in studying the other spheres of Torah. Maharsha, in his introduction to Hiddushei Aggadot, criticizes a remarkably similar trend in his own generation, lamenting that "many who learn Aggadah are not careful when examining the words of Hazal and do not seek to understand the full truth of their words, only to utter their voices in public."vii Similarly, in a recent article on the current state of Aggadah learning in yeshivah high schools, R. Yitzchak Blau points out the widespread practice of Torah educators to skip midrashic passages altogether when teaching Gemara.viii Although this phenomenon remains perhaps axiomatic for most yeshivah students, one ought to examine why this trend has become so rife.

From a certain perspective, the lack of clear methodology in the realm of Aggadah is justified in light of the issue of priorities. People simply devote a comparatively minute proportion of their precious learning hours to the world of Aggadah. To an extent, this is justifiable; the bread and butter of Torah study most definitely ought to lie within the discussions of Abaye and Raya. Rambam iterated a similar

thing aggadic [...]" The message that R. Yirmiyah imparts is that Aggadah is a lighter and more relaxed endeavour. This suggests that serious and devoted intellects ought to spend the lion's share of their time and efforts on other, more challenging realms of Torah. Whilst this remains a rather pervasive belief in contemporary society, this article will attempt to correct this misconception.

This article will not focus so much on the sociological explanations for this phenomenon as much as the theoretical role that Aggadah plays in Jewish thought.**ii Understanding the function of Aggadah in Judaism will shed light upon the issue of methodology in that realm. Consequently, a brief analysis of the two broad traditional approaches to Aggadah that contemporary Jewish thought has inherited will provide an excellent point of departure.

Aggadah as Human Creation

At first glance, it appears that many of the Geonim and Rishonim understood Aggadah as a human commentary running parallel to *Torah she-bi-Ketav*. This approach became particularly strong during the early medieval period. As Aristotelian Rationalism began to permeate medieval society, initially through the Muslim world, many Christian and Karaite thinkers latched onto seemingly outlandish aggadic passages in order to attack and expose the sup-

Aggadah as Part of Torah mi-Sinai

A drastically different approach has been exemplified by R. Hayyim of Volozhin. R. Hayyim categorically reinstated the divine authority of Aggadah. Just as the *Torah she-bi-Ketav* and *Halakhah le-Moshe mi-Sinai* were issued in their entirety at Har Sinai, so, too, were all the midrashim. R. Hayyim posits:

"And he should direct his thoughts towards attaching himself with all his might to the Word of God. [...] And even if he involved himself in the study of Aggadah, which has no implications regarding law, this, too, is attachment to the Word of the Holy One, blessed be He, for all the Torah, down to the last detail [...] came from His mouth to Moshe at Sinai."xxii

On one plane, Aggadah, thus understood, commands absolute authority and forms a fundamental part of the Masorah that finds its roots at Sinai. This approach not only asserts the divine origin of Aggadah, but also impacts the way in which we ought to practically relate to this world of learning. Presumably, if midrashic passages were iterated at Sinai, then a commensurable response of diligent acceptance ought to follow. In this vein, R. Moshe Taku (thirteenth-century Germany) defended a fierce commitment to the plain and simple peshat of the aggadot.xxii Not only did he dismiss allegorical and literary understandings of Aggadah, but he viewed Aggadah as a source of historical fact. Thus, midrashim presenting accounts absent in the simple reading of Tanakh are to be regarded as factually accurate truths. In this light, the world of Aggadah is much closer to the realm of Gemara, which we understand as literal, than we might previously have assumed. Consequently, a similar methodological approach perhaps ought to be applied to the study of Midrash. If Aggadah is not merely a mode of expression used by Hazal, but rather contains divine truths and facts, a stricter methodology ought to aid the discovery of this information.

A Synthetic Approach

At the current juncture, it would appear as though we need to decide whether Aggadah is firmly rooted in the celestial spheres of Har Sinai or if it springs from the more humble and earthly origins of human interpretation and exegesis. Upon reflection, though, perhaps these two approaches are not as starkly opposed as our senses might have us believe. In a recent article outlining his theory on Midrash, R. Mosheh Lichtenstein adopts a model that reconciles these two extremes. R. Mosheh writes: "Through the midrash, a further layer is added to the story, one that joins the pre-existing strata to create an expanded narrative [...] in the same way as the Torah Shebe'al Peh is built upon the Torah Shebichtav in the halakhik [sic] sphere."xxiii In a dialectical manner, Aggadah adds new layers to the existing mass of Torah, but simultaneously becomes part of its essence. When Hazal developed these midrashim, they were not doing so in a theoretical vacuum. They were reacting to themes and ideas already latent in the pesukim themselves. Just like Hazal were given the authority to create and add Torah she-be-Al Peh in the halakhic sphere, so, too, were they afforded this authority in the realm of Aggadah.

Thus, in many respects, Aggadah bears a remarkable resemblance to Halakhah. Both are undeniably shaped by Hazal but also form part of the corpus of Torah that demands complete deference and respect. However, despite these similarities, it is also clear that Hazal were acutely aware of the fundamental differences that separate the worlds of Halakhah and Aggadah. The Gemara in *Bava Kannna* 60b relates the following incident which encapsulates this point:

"R. Ammi and R. Assi were sitting before R. Yitshak Nafha. One said to him: 'Let the master teach Halakhah.' The other

said to him: 'Let the master teach Aggadah.' He started to teach Aggadah, and one student did not let him proceed; he started to teach Halakhah, and the other student did not let him proceed. He said to them: 'I will give you a parable for comparison to this matter: A man had two wives, one older and one younger. Since the younger wife plucked out his white hairs, and the older wife plucked out his black hairs, the two of them made him bald.'"

Evidently, there are a number of important messages embedded within this story. Most prominent, however, is that Halakhah is placed in stark opposition to Aggadah. R. Yitshak Nafha does not even attempt to refute the notion that these two realms are distinct; he merely criticizes the hostile attitudes that both R. Ammi and R. Assi adopted towards each other. So what are these differences?

Elaborating upon some of the key distinctions between these two realms will allow us

for through this endeavour you will come to know God and cleave to His ways."xxvi The goal of Aggadah, in this light, is to accentuate and rekindle our perception of the infinite and transcendental nature of life. Rather than focusing upon external actions, Aggadah offers a timeless insight into the human condition and man's relationship to God. Thus, a vital aspect of midrashic texts is lost if we view them solely as mere tools to glean historical information about the Avot. Aggadah is aimed primarily at influencing the individual's existential interaction with the world, and, only as a secondary consequence, stimulating his external actions. Given the variegated and multifaceted nature of individual life, it is expected that there will exist multiple layers and themes within the aggadic world. Within the walls of Aggadah, opposing opinions unite to offer a multilayered perspective on life aimed at diverse people, creating an environment where contrasting and disparate views can sit much more comfortably side by side.xxvii

fire is considered like one's arrow (for the purposes of determining tort malfeasance)."

The message with which R. Nafha leaves the reader is that both Aggadah and Halakhah are enmeshed in the very same pesukim of Torah. A single verse can convey both pure dispassionate law and inspiring moral messages. A heavy focus on Halakhah, whilst shunting the plethora of aggadic literature to one side. fails to realize the richness and fullness of the Torah. By placing Aggadah alongside Halakhah on the very same pages of Gemara, Hazal patently sought to emphasize the point that both of these perspectives on life ought to be embraced. This explains why the greatest compliment one could bestow upon any individual is that "he did not neglect Torah or Mishnah, Talmud, Halakhah, or Aggadah."xxx Evidently, a balance between systematic lomdus and free-flowing Aggadah is vital. However, one ought to be aware of the significant differences between these realms. The world

"By placing Aggadah alongside Halakhah on the very same pages of Gemara, Hazal patently sought to emphasize the point that both of these perspectives on life ought to be embraced."

to appreciate the unique features of Aggadah. On a superficial level, the very composition of the aggadic literature indicates that its ambition differs from that of Halakhah, Whilst Aggadah is generally cryptic, free-flowing and esoteric, Halakhah strives to be concise, precise and plain. In contrast to Halakhah, Midrash, by its very nature, does not seek to root itself in dayto-day mundane actions, but rather focuses on values, emotions, human existence and God, A further difference between Aggadah and Halakhah is the way in which argument and opposition are treated. In the halakhic realm, one is generally forced to choose between the different legal positions. Although not always true, contrasting halakhic positions are often viewed as mutually exclusive of one another. If a posek (halakhic authority) decides upon a halakhic conclusion in a truly legal fashion, he seeks to apply his ruling universally, xxiv Conversely, the world of Aggadah is much less concerned with different parties adopting seemingly contradictory "aggadic positions." The multilayered and obscure nature of aggadic passages not only implies that Hazal intended to imbue diverse messages within their words, but that they also sought to invite individual interpretation. Thus, whilst multiple truths present a perennial conceptual quandary in the halakhic realm, R. Michael Rosensweig suggests that no such problem exists when it comes to debates in midrashim.xxv The reason for these discrepancies, I would contend, is that Aggadah at its very core is a drastically different entity.

The Sifrei offers a crucial perspective which augments this approach to Aggadah: "If you want to know (lehakkir) the One Who said and the world came into being, learn Aggadah,

In this sense, there appears a rather convincing explanation for Halakhic Man's absence from the halls of Aggadah. Applying traditional darkhei ha-limmud and approaching one's learning with a specific set of tools and questions would harm the infinite spirit of Aggadah. The beauty and brilliance of Midrash lies in its ability to capture the imagination and to inspire the individual with a sense of the limitless and divine nature of the world. In addition, its triumph is its ability to communicate with all minds and all intellects. Subjecting this to a strict methodology would critically impede this aggadic achievement. Methodology is vital when seeking to obtain hard data and to achieve results. Aggadah, though, is based upon experience and existence.

Although the emphases of Halakhah and Aggadah are noticeably distinct, a balance between these two worlds is clearly the ideal. Returning to our story in *Bava Kamma* 60b, R. Yitshak Nafha's retort to the standoff between R. Ammi and R. Assi illustrates this point with the utmost profundity:

"That being the case, I will teach you something that will please both of you. 'If a fire goes out and finds thorns' xxviii — even though the fire goes out on its own, the person who kindled the fire must nevertheless pay. So the Holy One, blessed be He, says: 'I must pay for the fire that I kindled. I lit a fire in Zion, as it says: "He kindled a fire in Zion and it consumed the foundations." XXXIX I will, in the future, rebuild it with fire' [...] The halakhic part is as follows: Scripture begins with damages caused by a person's property and then concludes with damages caused by the person himself. This teaches that one's

of Brisk hath indeed wrought upon us a great deal, but perhaps Halakhic Man might benefit from the occasional leap into the uncharted waters of Aggadah.

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- i Max Weber, From Max Weber: Essays in Sociology, eds. H. H. Gerth and C. Wright Mills (New York: Oxford University Press, 1946), p. 139.
- ii Max Weber, Economy and Society, eds. Guenther Roth and Claus Wittich (Berkley: University of California Press, 1978), p. 506. iii Wolfgang, Schluchter, The Rise of Western Rationalism: Max Weber's Developmental History (Berkley: University of California Press, 1981), p. 256.
- ^{iv} R. Aharon Lichtenstein, "The Conceptual Approach to Torah Learning: The Method and Its Prospects," in R. Yosef Blau (ed.), *Londut: The Conceptual Approach to Jewish Learning* (Jersey City, N.J.: Ktav, 2006), pp. 1-44, at p.
- ^v For an excellent analysis of the Brisker approach, see R. Mosheh Lichtenstein, "'What' Hath Brisk Wrought: The Brisker Derekh Revisited," in ibid., pp. 167-188.
- vi Although there exist important differences between Aggadah and Midrash, for the purposes of brevity and clarity, this article will refer to the two synonymously. Given the conceptual similarities between the two realms, I believe that this position is indeed justified.
- vii Maharsha, Introduction to Hiddushei Ag-

gadot.

viii Yitzchak Blau, "Redeeming the Aggadah in Yeshivah Education," in Jeffrey Saks and Susan A. Handelman (eds.), Wisdom From All My Teachers: Challenges and Initiatives in Contemporary Torah Education (Jerusalem: Urim Publications, 2003), pp. 305-322, at p. 305

- ix Bava Batra 134a.
- x Rambam, Mishneh Torah, Hilkhot Talmud Torah 1:12.
- xi Rashi ad loc., s.v. "lo yakhilna."
- xii For a brief analysis of the sociological reasons for this trend, see Blau's aforementioned essay (above, n. 8).
- xiii Marc Saperstein, Decoding the Rabbis: A Thirteenth-Century Commentary on the Aggadah (Cambridge: Harvard University Press, 1980) p. 6
- xiv Ibid., p. 6.
- w One must always be cautious when extrapolating beliefs from polemical situations. However, given the array of legitimate alternatives open to these Geonim and Rishonim, one can assume that they were indeed being sincere in the statement of their beliefs here. However, a debate on this issue within the Aharonim can be found in the footnotes of *Kitvei ha-Ramban* (Jerusalem: Mossad Harav Kook, 1964), p. 308.
- xvi Kitvei ha-Ramban, ibid.
- xvii Otsar ha-Geonim, Hagigah 14a.
- xviii Saperstein, p. 10.
- xix Michael Gross, Yair Barkai, and Yossi Melamed, *Derakhim be-Parashanut ha-Aggadah* (Tel Aviv: Mekhon Mofet, 2008), p. 37. xx *Teshuvot ha-Rambam*, II, p. 715.
- xxi R. Hayyim of Volozhin, *Nefesh ha-Hayyim*, part 4, ch. 6.
- xxii Saperstein, p. 7.
- xxiii R. Mosheh Lichtenstein, *Moses: Envoy of God, Envoy of His People* (Jersey City: Ktav, 2008), p. 236.
- xxiv This is not to deny the fact that halakhic authorities, often out of necessity, issue different opinions to people in extenuating circumstances.
- xxv R. Michael Rosensweig, "Elu Va-Elu Divre Elokim Hayyim: Halakhic Pluralism and Theories of Controversy," *Tradition* 26,3 (1992): 4-23, at p. 6.
- xxvi Sifrei, Parashat Ekev.
- xxvii This is not to say that those engaging in halakhic debate cannot do so with respect and reverence.
- xxviii Shemot 22:6.
- xxix Eikhah 4:11.
- xxx Avot de-Rabbi Natan, ch. 5.

On Things, Theseus and *Tum'ah*: Metaphysical Underpinnings in the Talmud

BY: Dani Lent

▲ Metaphysics attempts to tell the ultimate truth about the World, about everything. But what is it we want to know about the World? What are the questions whose answers would be the ultimate truth about things?" This formulation of the study of metaphysics would seem to find its answer in the succinct declaration that "there is no truth other than the Torah,"ii This implies that, should one want to know the ultimate truth about the world, the most general features of reality, the appropriate reference book would be the Torah and, more specifically, the Talmud. Often, however, the philosophical lessons of the Talmud are lost amidst the halakhic discourse. Most philosophical and metaphysical exposition of the Talmud focuses solely on the aggadic passages. However, the legal discussions, which far outweigh in which questions of identity impact anything other than a philosophical understanding of reality. A passage highly relevant to this topic, which I will quote in full, is the discussion of panim hadashot, literally a new entity, presented in the Talmud:

"We learnt elsewhere: As for all utensils belonging to private people, their standards are [holes as large] as pomegranates. Hizkiyyah asked, What if it [a utensil] acquires a hole [large enough] for an olive to fall through, and he [the owner] closes it, then it receives another hole [large enough] for an olive to fall through, and he closes it, [and so on] until it is made large enough for a pomegranate to fall through? R. Yohanan said to him, Rebbe, you have taught us: If one of the straps of a sandal is broken and he repairs it, [the sandal] still retains tum'at midras.

Brandeis University, attempts to answer these questions through a metaphysical reading of this Talmudic passage. At first glance, R. Yohanan's explanation of the case of the wooden dish seems like a violation of the philosophical axiom "transitivity of identity." This law, accepted by seemingly all philosophers in regards to identity, states that if x=y and y=z, then z must necessarily be equal to x. In relation to the case of the keli, if a small change is made to the keli, the original keli is still the same keli as the changed one. If this keli is then changed a little more, the keli has the same identity as it did after the first change. If this is true, it would seem impossible that a series of small changes, each only large enough for an olive to fall through, would lead to a loss of identity once the cumulative (though filled) gap is large enough for a pomegranate to fall

"Talmudic discourse is one of the only areas in which questions of identity impact anything other than a philosophical understanding of reality."

the aggadic portions of the Talmud, can yield just as much philosophical reasoning when read critically.

A central discussion among metaphysicians is the question of identity. Defining what an individual thing is and how that one thing has a separate identity from everything else is a necessary topic in any study of metaphysics.ⁱⁱⁱ
Two theories that have been proposed in answer to this question are Nihilism and Monism. Nihilists believe that there are *no* individual things, whereas Monists subscribe to the theory that there is only the One thing and everything else is just a manifestation of it. Each of these views stands in contradiction to the common Western view that there are individual things—unique arrangements of particles in space.^{iv}

This "common view" does not resolve all the metaphysical problems in the identification of objects for Western philosophers. Thomas Hobbes best poses the problem in his treatment of the metaphysical problem of Theseus's ship: if each plank on Theseus's ship were replaced with an identical plank such that none of the original planks remained in the ship, is the resultant vessel still Theseus's ship? If the planks that were originally on Theseus's ship were collected and formed into another ship in their original arrangement, is that vessel Theseus's ship?" What is an object and how much must an object be changed for it to become a new object? More importantly, why do these questions matter?

The identity of an object is an issue of great import in the Talmud. It can be argued that Talmudic discourse is one of the only areas

If the second [strap] is broken and he repairs it, [the sandal] loses tum'at midras but retains magga tum'at midras. Now we asked you, "What is the difference between [a case in which] the first [is broken] and the second is sound and [a case in which] the second is broken and the first is repaired?" And you answered us, "panim hadashot have entered here." Here too [in the case of the dish] panim hadashot enter. He [Hizkiyyah] exclaimed concerning him [R. Yohanan], "This one is not the son of man!" [or] according to others, "Such a one is indeed the son of man!" viii

This Gemara discusses the mending of utensils, kelim, and the subsequent applications of the laws of purity and impurity, taharah and tum'ah. A repaired wooden dish is only halakhically considered to be a new dish if the size of the patch is large enough for a pomegranate to fit through.ix This asserts that an object obtains a new identity, and, consequently, will no longer be tame, impure, if it is changed to the extent that the repaired part comprises a substantial portion of the keli.x The concept of panim hadashot, first discussed in regard to repairing the leather straps of a sandal, is applied by R. Yohanan to the gradual breaking and mending of a wooden dish, and the Gemara sees this analysis as deserving of great praise. What was so groundbreaking about R. Yohanan's sevara, his logic, in applying a known principle to a new case? Is this not done on nearly every page of the Talmud with no praise accorded to its practitioners?

Eli Hirsch, a professor of Philosophy at

R. Yohanan's appeal to the case of the leather sandal can help explain the logically problematic resolution arrived at in regard to the case of the wooden dish. The leather sandal discussed in this sugya is one that can function with the loss of one strap but not both. The straps themselves are not capable of acquiring tum'ah on their own because they have no utility when not attached to the keli, the sandal. The sandal, on the other hand, is capable of acquiring tum'ah, as are the straps when attached to it.xi Tosafot explain that the case here is where the first tum'ah, midras, is acquired from the outset, when there are two intact straps. The second type of tum'ah, magga midras, is acquired by the sandal when the first strap is replaced. Tosafot then continues that panim hadashot, the principle of acquiring a 'new identity," does not apply to tum'ah acquired at the middle stage, when only one strap is replaced. That is why midras, acquired at the initial stage, is lost once both straps are replaced, while magga midras is retained in the final state of the object.xii

Hirsch explains how Tosafot's formulation of the case is not a violation of the transitivity of identity. In the initial state, the sandal (S) exists with both original straps (T1 and T2) attached and two separate *kelim* can be derived from the initial *keli*. Each possible *keli* results from the presence of just one of the straps and can be denoted A1 and A2, corresponding to each of the straps, respectively. It is at this point that *tum'at midras* is acquired. In the middle stage, after one of the straps has been broken and repaired, S still exists along with T2 and A2 (the second original strap and its de-

rived keli). Now, however, there exists T1' and A1', which correspond to the new strap and its derived keli and it is at this point that tum'at magga midras is acquired. At the final stage, after both straps have been repaired. S no longer exists according to the principle of panim hadashot. Instead, there are T1', T2', A1' and A2'. Tum'at midras is no longer present because there is nothing from the original sandal in existence, while tum'at midras mag'ah still applies because it was acquired in the middle stage, when T1' and A1' were already in existence. According to Hirsch's interpretation of Tosafot, the threat to transitivity of identity does not exist in this case because there is no keli, derived or whole, in existence that was already in existence at the initial stage.xiii

As mentioned above, R. Yohanan's great sevara lies in his application of this concept of panim hadashot to the case of the wooden dish. The more obvious application of panim hadashot regards functional changes in an object. For example, a goatskin bottle that is converted into a rug no longer retains its tum'ah, xiv while a cowbell that is made into a doorbell still retains its tame status.xv In the former case the object is changed so that it has an entirely new function, while in the latter case the basic function remains the same, so panim hadashot does not apply. R. Yohanan reformulated the principle of panim hadashot to include not just functional changes, but also compositional changes. He appealed to the case of the leather sandal to show that it was not a functional change (i.e. from a fancy shoe that can be worn to a meeting to a repaired shoe meant for wearing around the house) but a compositional change that was the deciding factor. He used related this new idea, that a compositional change to an object could remove its status of tum'ah, to explain the case of the patched-up wooden dish. It was this new application of panim hadashot that won R. Yohanan widespread praise.xvi

theory, he draws upon the example of a man who, despite the fact that his cells are constantly changing, is the same man at the start of his life as at the end of it. R. Yohanan's application of both compositional and functional changes to panim hadashot pertains to these cases in that wax changes function but not composition when it changes shape, while man changes composition over the course of his life but not function. Both retain their former status as the original object, despite these changes. Attaining the status of a new object due to either functional or compositional changes seems to be unique to the area of panim

R. Joseph B. Soloveitchik connected the metaphysical idea of a priori concepts, knowledge that is obtained prior to experience, to the area of Halakhah. In Halakhic Man he writes, "The theoretical Halakhah, not the practical decision, the ideal creation, not the empirical one, represent the longing of the halakhic man." The concept of panim hadashot represents just such an idea. Wittgenstein's approach to philosophy favored a multitude of examples with principles serving as an abstract framework from which to approach reality. The Talmud operates in a similar vein: there is no explication of the principles guiding the halakhic process at the very start. Rather, through the examination of the sea of examples, involving everything from sandals to doorbells to pits and oxen, Talmudic philosophical principles can be extracted. In the specific case of the principle of panim hadashot, the sanctification of the commonplace, the elevation of the ordinary is brought to the forefront. Through the examination of what defines a keli, and when it becomes something different than it was before, the metaphysical questions of identity obtain their meaning and objects obtain their

This metaphysical underpinning to the Talmud is best exemplified by one of the most famous aggadot, that of the tannur shel

Many interpretations of the symbolic meaning of the case exist. These include issues of fragmentation versus unification of rabbinic opinion and ruling, xxiii as well as a debate surrounding the persecution of the Jews in Jerusalem. $^{\text{xxiv}}$ It is possible, however, to read this case in light of the prior metaphysical discussion. Immanuel Kant was the first to outline the differences between reality as it actually exists, the noumena, and man's perception of reality, the phenomena.xxv Man, according to Kant, has specific categories, such as time and space, which he imposes upon reality so that his mind can comprehend it. The crux of R. Yehoshua's assertion, that Torah laws are subject to man's view of how they should be rather than God's, seems to correspond to Kant's distinction. God, who is Omniscient, can "experience" the noumena, whereas man is limited to what his mind can grasp. As such, halakhic principles should be based upon what the majority of men experience, not what God experiences.

The overt discussion of metaphysics in the story of tannur shel Akhnai surrounds the laws of impurity. The laws of impurity, as discussed in this article, represent a constant reminder of the sanctification of commonplace. ordinary objects. They represent the metaphysical bridge between man's phenomena, the principles such as panim hadashot he uses to determine the law, and God's noumena, the overarching concept of tum'ah and taharah that has no physical bearing on reality. It is through this bridge that objects gain meaning and metaphysical questions begin to acquire significance.

Theophrastus, a Greek philosopher, described the Jews as a "nation of philosophers."xxvi The Rabbis of the Talmud, who lived approximately 800 years after Theophrastus, continued this tradition not only in their didactic stories but covertly in the legal system and rulings they established. A comprehensive study of the halakhic system for metathe Talmud in his "Metaphysics" class.

iv Van Inwagen, p. 24.

Thomas Hobbes. "Concerning Body," In Mary Whiton Calkins (ed.), The Metaphysical System of Thomas Hobbes in Twelve Chapters (Chicago: The Open Court Pub. Comp., 1912), p. 85.

vi This argument, as well as many of the Talmudic examples and understandings drawn upon in this article are credited to the following article: Eli Hirsch, "Identity in the Talmud," Midwest Studies in Philosophy 23,1 1999: 166-

vii Midras tum'ah is the impurity a utensil contracts from supporting people who have specific levels of impurity. Magga midras tum'ah is the impurity contracted from coming in contact with a utensil that is impure with midras tum'ah. Explanations obtained from: Yoseph Shechter A Lexicon of the Talmud (Tel Aviv-Dvir Publishing House, 1990.

viii Shabbat 112b. (Soncino English Translation.)

ix Kelim 17:1

x If this Mishnah is extrapolated to the case of Theseus's ship, it would seem that the ship is no longer Theseus's original ship from the point at which enough planks are removed and then repaired so that the patch represents a substantial portion of the ship, in the same way that a hole large enough for a pomegranate would represent a substantial portion of a standard wooden dish.

xi This understanding of the status of a keli, that it must have a function independent of other things, is based on the Hazon Ish's comments to Kelim 31:2.

xii Tosafot to Shabbat 112b, s.v. aval.

xiii Hirsch, p. 175.

xiv Kelim 28:5.

xv Shabbat 58a-58b.

xvi Hirsch, p. 169.

xvii Hobbes, p. 84.

xviii Joseph B. Soloveitchik, Halakhic Man, trans. Lawrence Kaplan (Philadelphia: Jewish Publication Society of America, 1983), p. 24.

xix Hirsch, p. 176.

xx Bava Metsi'a 59a-59b.

xxi This explanation of the debate is based on Rambam's commentary to Kelim 5:10.

xxii Baya Metsi'a 59b.

xxiii Jason P. Rosenblatt and Joseph C. Sitterson, Jr. (eds.), "Not in Heaven: Coherence and Complexity in Biblical Narrative. ed. by (Bloomington, IN: Indiana University Press, 1991), pp. 2-4.

xxiv Joseph Elijah Henkin, Kitvei ha-Gaon Rabbi Yosef Eliyyahu Henkin, Zts"l, vol. 2, ed. Avraham Yitshak Zeshoravel (New York: Ezrat Torah, 1989), pp. 211-214.

xxv Immanuel Kant. "Analytic of Principles" Critique of Pure Reason, transl. J. M. D. Meiklejohn (London: Henry G. Bohn, 1855), pp.

xxvi Quoted in Hyam Maccoby,. The Philosophy of the Talmud. (London: Routledge Curzon, 2002), pp. 10.

"The laws of impurity represent the metaphysical bridge between man's phenomena, the principles such as panim hadashot he uses to determine the law, and God's noumena, the overarching concept of tum'ah and taharah that has no physical bearing on reality."

Thomas Hobbes, about fifteen hundred years after this discussion in the Talmud took place, addressed the ongoing problems in regard to how to understand an object's identity. He states, "Some place individuality in the unity of matter; others in the unity of form."xvii I view Hobbes's formulation of the existing views of identity as a correlation of the two variant applications of panim hadashot that Hirsch ascribes to R. Yohanan. The unity of matter, the individuality that gives an object its function, is not complete without the unity of form, the individuality of an object's unique composition in material and structure. In support of the unity of matter theory, Hobbes posits that wax is the same no matter what shape it is in. In support of the unity of form

Akhnai.xx The oven in the story, instead of having been made into one whole, was made from separate tiles with a layer of sand between each to connect them. R. Eliezer said that the oven cannot acquire tum'ah since each tile on its own was just a portion and not a keli, the layer of sand between each tile prevents the tiles from becoming one united keli. The Sages, however, held that the outer layer of cement unites all the tiles into one keli, and thus it is capable of acquiring tum 'ah. xxi R. Eliezer then attempts to prove the veracity of his judgment through all kinds of miraculous means, even calling upon a Heavenly Voice to agree with him. R. Yehoshua rejects even this proof because "[the matter] is not in heaven [...and] after the majority must one incline."xxi

physical indications could yield both a better understanding of the reasoning for specific halakhic concepts, as well as a Talmudic response to the metaphysical questions that have plagued philosophers since ancient times.

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¹ Peter van Inwagen. Metaphysics (Boulder, CO: Westview Press, 2009), p. 4.

ii Yerushalmi Rosh Hashanah 3:5.

iii I thank Dr. David Shatz for first introducing me to this field and for sparking my interest in the specific topic of the role of metaphysics in

Brisk and Telz

BY: Rabbi Micha Berger

some point during my time in Yeshiva University, I chose not to follow the more popular "track," leading to R. Hershel Schachter's and R. J. B. Soloveitchik's shi'urim. Instead, upon my return from Israel for my junior year, I joined R. Dovid Lifshitz's shi'ur, where I remained until my graduation from Yeshiva. A large part of my motivation was that my great-grandfather, R. Shlomo Zalmen Birger, had a klovz, a small beit midrash, in Suvalk, and Rav Dovid, the Suvalker Rav, knew him and remembered my family. However, the primary impetus of that decision was my sense that something inherent in the Brisker derekh did not speak to me, whereas Rav Dovid's derekh ha-limmud was that of his rebbe, R. Shimon Shkop, a variant of the Telzer derekh, which was a methodology that did speak to me. I do not claim that I could have articulated this clearly at the time, but I have given a good deal of thought to the matter since and hope to explain it now, as well.

First, what is the Brisker *derekh*? Perhaps a good place to start, not in the least because it is somewhat humorous and therefore memorable, in addition to still being pretty accurate, is with R. Yosef Gavriel Bechhofer's essay comparing how various *darkhei ha-limmud* would try to answer the question, "What makes tea sweet – is it the sugar or the spoon stirring?"

The Brisker answer:

"There are two (tzvei) dinim in sweetening tea: The cheftza (substance), i.e., the sugar; and the pe'ula (activity), i.e., the stirring with the spoon. Everyone knows that Lipton is the 'Brisk' tea bacause [sic] it has a double (tzvei dinim) tea bag."

This is typical of the Brisker derekh, which seeks distinctions, hakirot. One therefore contrasts multiple cases, or multiple opinions within a single mahaloket (dispute), to see how they differ. The explanations involve ideas like heftsa vs. pe'ullah, heftsa vs. gavra (is it that the object must have something done to it [heftsa], or that a given person has a duty to do something [gavra]?), pe'ullah vs. halot (the time or location of the action [pe'ullah], vs. the time or location of the change of halakhic state [halot]), etc. This allows the Brisker to fit the specific positions under discussion into overarching halakhic categories.

In a sense, the Brisker derekh is a scientific endeavor. In an experiment, one compares the experimental set with the control set, trying to find two cases that only differ in one point so that the scientists can determine which point is the cause of the phenomenon. Then, the phenomenon is fit into a larger pattern in order to derive or generate a single formula that fits a wider variety of cases. The goal is to find the hakirah and use it to tie the case into a broader principle

In contrast, the following is R. Bech-

hofer's response to the question about tea in the style of R. Shimon Shkop: "It is the *Hitz-tarfus* (Fusion) of tea molecules and sugar molecules that makes the tea sweet." The point here is that R. Shimon often goes beyond the limits of Halakhah to appeal to the reality or experience it generates in his answer to a question. These first principles, givens that are selfevident before entering the halakhic system,

looking at the differences in answers created by the differences in learning styles, one must realize that the types of questions that each *derekh* considers significant and worth exploring also differ. I am therefore choosing a question actually discussed by R. Shimon Shkop that is more "Brisker" in tone than some others.ⁱⁱⁱ

Let us look at how the two darkhei ha-

"R. Shimon [Shkop] often goes beyond the limits of Halakhah to appeal to the reality or experience it generates in his answer to a question. These first principles, givens that are self-evident before entering the halakhic system, allow R. Shimon to discuss the lessons the Halakhah was intended to impress on the one following it."

allow R. Shimon to discuss the lessons the Halakhah was intended to impress on the one following it.

I would like to give a real example, but first, let me apologize for its complexity. By the very nature of the topic of derekh ha-limmud, it is difficult to find simple examples that are illustrative. If the topic were straightforward, the lines of reasoning would be short and probably not be made explicitly. As a side note, side-by-side comparisons of darkhei ha-limmud are also difficult to find. Before even

limmud would understand the mechanics of bittul hamets, of nullifying one's hamets (leaven) before Pesah. In reality, Halakhah does not recognize real ownership of the hamets, since ownership means rights to use, and one may not use hamets on Pesah. The "ownership" one is nullifying is that created by a special biblical decree. The Gemara (Pesahim 6b) compares this to a pit dug in public property. You are culpable for any harm that comes from stumbling on "your" pit, even though it is in the public domain and your ownership of the pit is not real. Rabbeinu Nissim (Ran, ad loc.) explains that this "non-ownership" is why bittul hamets is effective; since the whole problem is caused by non-ownership, simply making a statement of nullification is enough to eliminate it. However, no one would claim that one could declare that he or she no longer has an attachment to the pit and thereby avoid payment! Why shouldn't we draw this conclusion, though, if the Gemara itself compares these two forms of pseudo-ownership?

This question is more typical of Brisker analysis, using a distinction to find the borders of an idea. A Brisker answer to such a question focuses on the difference between a prohibition related to an object (heftsa) and, in this case, the responsibility for an event that occurred due to someone's action (pe'ullah). The prohibition is not to eat hamets, an object. However, the financial obligation to make restitution for someone's injured or lost property that fell into a pit dug in public land is due to the event of that property falling into the hole, an action. Therefore, one needs more than a simple declaration to eliminate one's ties to the pit.

Rav Shimon (Sha'arei Yosher 5:23) gives a different answer. He says that the validity of bittul hamets rests on the fact that it is the Halakhah that generates the non-reality of the ownership. Had the Torah not prohibited the use of hamets, the person would remain the full owner. Therefore, he has the authority to re-



nounce what remains of the ownership (which Ran tells us is slight and can therefore be eliminated by a simple formula). In the case of the pit, the "ownership" is itself the verse's decree – the property in question is public property. Since one does not have inherent ownership of the pit, one cannot distance oneself from it. Within Rav Shimon's worldview, the question is whether one's "ownership" of the object is inherent or scriptural, and from that point the discussion moves on to what this notion of inherent (perhaps I should say "pre-halakhic"?) ownership means and how it impacts bittul and related matters

To Brisk, the problem is collapsed into the object vs. action distinction made in the Gemara elsewhere with respect to oaths and vows. To Rav Shimon, though, it is an instance of a basic principle about the philosophy of ownership, a return to first principles.

Telz's first rosh yeshivah was R. Eliezer Gordon, a student of R. Yisrael Salanter. Although it had a strong Musar (ethical improvement) program, its approach was far too intellectual to qualify as a genuine "Musar shmues (ethical discourse), the Telzer approach focused on shi 'urei da' at, classes on thought and attitude. One attended a shmues not so much to learn information he did not yet know, but to be moved by the experience of the presentation. In a "shi 'ur da' at," one would reach for the same goal of spiritual wholeness as in the Musar yeshivot, but via an intellectual path. Without the experiential focus of Musar and its

of the self. Therefore, while Brisk sought the explanation of individual laws in terms of halakhic principles, Telz looked for a purposive explanation. And while Brisk looked at multiple opinions of a single case, or multiple cases, Telz focused on the singular. Even when looking at multiple opinions, its purpose was to find what they shared in common, not to find contrast. What do these approaches say about what is essential about the meaning, purpose and role of the mitsvah?

Fundamental to Brisker philosophy is the idea that Halakhah has no first principles. It can only be understood on its own terms. As R. Soloveitchik describes in *Halakhic Man*, it is only through Halakhah that man finds a balance between his religious need for redemption and his creative, constructive self. As the book

"Halakhic man reflects two opposing selves; two disparate images are embodied within his soul and spirit. On the one hand he is as far removed from homo religiosus as east is from west and is identical, in many respects, to prosaic, cognitive man; on the other hand he is a man of God, possessor of an ontological approach that is devoted to God and of a world view saturated with the radiance of the Divine Presence."

This notion is a major theme running through the work, if not its primary thesis.

(fronically, a true Halakhic Man would never explore the questions addressed by *Halakhic Man*! R. Soloveitchik's loyalty to Brisk, This distinction is also manifest in the two derakhim's approaches to going beyond the letter of the law. The Brisker view on humra, stringency, is one where the person is "hoshesh le-shittat peloni almoni," concerned for the position of so-and-so. It is the notion that while the baseline law is lenient, one may want to "cover all the bases" and satisfy all opinions. In Telz, a humra would be chosen based on a person's plan for shelemut, an awareness of what personal flaws he is ready to address, and the identification of opinions that can be related to them.

R. Soloveitchik famously declared that "there is no ritual in Judaism;" he saw no reason for additional rituals. To quote one example:

"For instance, a recent booklet on the Sabbath stressed the importance of a white tablecloth. A woman recently told me that the Sabbath is wonderful, and that it enhances her spiritual joy when she places a snow-white tablecloth on her table. Such pamphlets also speak about a sparkling candelabra. Is this true Judaism? You cannot imbue real and basic Judaism by utilizing cheap sentimentalism and stressing empty ceremonies. Whoever attempts such an approach underestimates the intelligence of the American Jew. If you reduce Judaism to religious sentiments and ceremonies, then there is no role for rabbis to discharge. Religious sentiments and ceremonies are not solely possessed by Orthodox Jewry. All the branches of Jufrom following Halakhah. The notion of extrahalakhic spiritual experience does not fit the Halakhic Man's framework.

In short, Brisk asks the scientist's "Vos?" (What?), and Telz asks the philosopher's "Far vos?" (Why?). In my own desperate search for a more meaningful avodat Hashem, worship of God, I found it much more easily in the latter.

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i Rabbi Yosef Gavriel Bechhofer, "An Analysis of *Darchei HaLimud* (Methodologies of Talmud Study) Centering on a Cup of Tea," available at: http://www.aishdas.org/rygb/derachim.htm. His complete survey is broader than these two examples, and includes some less humorous discussion as well.

ii Ibid

iii If you do not wish to slog through the example, skip ahead to the paragraph that begins, "Telz was founded by..."

iv Rabbi Joseph B. Soloveitchik, *Halakhic Man*, trans. Lawrence Kaplan (Philadelphia: Jewish Publication Society of America, 1984), p. 1.

v Lecture, "The Role of the Rabbi," given to the Yeshiva University Rabbinic Alumni, May 18, 1955 (Yiddish). Translation by Rabbi Aharon Rakeffet, *The Rav: The World of Rabbi Joseph B. Soloveitchik*, vol. 2, (Hoboken, N.J.: Ktav, 1999), p. 54.

"The Musar elements of Telz meant that the notion that Halakhah as a whole has a purpose was a given. This was further enforced by the claim that the purpose of Halakhah is shelemut ha-adam, completion and perfection of the self. Therefore, while Brisk sought the explanation of individual laws in terms of halakhic principles, Telz looked for a purposive explanation."

shmuesn (talks), its exercises and unique practices, its more emotional approach to internalizing texts, Telz still fit within the main Lithuanian yeshiyah mold.

Rav Dovid Lifshitz was a strong believer in the use of the *shmues* and emotion. For example, *shmuesn* usually included singing a song, and the first shi'ur of a semester was among the occasions that were always marked with a *shmues* and a song. Once, we sang the song "*Ve-taher libbenu*," a song containing a total of four words, over and over for more than twenty minutes, asking for Hashem's aid to "purify our hearts" for the start of the *zeman*, the term. And this was typical.

Still, the Musar elements of Telz meant that the notion that Halakhah as a whole has a purpose was a given. This was further enforced by the claim that the purpose of Halakhah is shelemut ha-adam, completion and perfection

while true in terms of *derekh ha-limmud*, style of studying Gemara, and the shi'ur he gave in Furst Hall, was also compromised on the perspective level by his interest in philosophy – as heard in his public discourses.)

The Brisker derekh gave the post-Haskalah (Enlightenment) observant Jew a mental experience that compared to the thrills of scientific study. The Telzer derekh gave him the excitement of philosophical study and connected his learning and mitsvah observance to his quest to be a better Jew.

Loosely along similar lines, Rav Hayyim Soloveitchik, known as Rav Hayyim Brisker, rejected the argument in favor of accepting Radziner tekhelet (blue dye used in tsitsit) because it was a scientific one, not halakhic in basis. Accordingly, Halakhah is itself the primary basis – non-halakhic argument is irrelevant

daism have ceremonies and rituals."

I was once asked by someone if wearing Rabbeinu Tam tefillin necessarily expressed a lack of certainty that Rashi's opinion about the ordering of texts in the tefillah worn on the head was correct. I would say his question reflects a Brisker position — "Brisker humrot" are about hashash, uncertainty in ruling. A typical explanation of such a humra would be: "We hold like Tosafot, but it pays to be stringent to be hoshesh for Rosh's opinion." In Telzer thought (and not uniquely Telzer - it is typical of the Hasidut and Musar movements, as well), one might do so because one found a kayyanah (intent) that better fits the order of parashiyyot in Rabbeinu Tam tefillin, and thus wishes to experience that in addition to fulfilling what he knows to be the accepted law.

To R. Soloveitchik, *kavvanah* and religious experience can only authentically come

To Understand and to Comprehend: The Study of Talmud From Joshua to the Present

BY: Ariel Krakowski

o mitsvah is as essential to Judaism as the study of Torah. There are different parts to Torah study, as the Gemara states: "A person should split up his learning: one third Bible, one third Mishnah, one third Talmud." Nowadays, most Orthodox students focus on the Talmud, spending many hours each day involved in its study. Yet, many do not know the nature of the mitsvah in which they are involved. This paper will focus on understanding this "third part" of Torah, Talmud. In order to reach a deeper understanding of its nature, it will explore the development of Talmud study and Oral Law over the course of history.

The Nature of the Oral Torah and Talmud Study

To understand Talmud study, one must understand how Jews learned in the centuries before the Mishnah was written down. The only written texts they used were the twenty-four books of Tanakh, for there was a prohibition against writing down the Oral Torah contained within the Mishnah and Talmud. As the Gemara states:

"R. Yehudah b. Nahmani, the public orator of R. Shim'on b. Lakish, discoursed as follows: It is written (*Shemot* 34:27), 'Write thou these words,' and it is written, 'For according to the mouth of these words.' What are we to make of this? It means: The words which are written down you are not at liberty to say by heart, and the words transmitted orally you are not at liberty to recite from writing. A Tanna of the school of R. Yishmael taught: [It is written] 'These:' these you may write, but you may not write 'halakhot.'"

The Gemara states a clear prohibition against writing down the Oral Law, which was followed until the days of R. Yehudah ha-Nasi. However, how was Oral Law learned before it

text, but the highest level is to study God's Word itself rather than an intermediary commentary. The Masorah (Tradition) of *Torah she-be-Al Peh*, before it was committed to writing, passed on the principles of learning and some halakhot, but scholars would then derive the sources for halakhot from the Pentateuch itself as well as apply known halakhic principles to new cases. The oral nature allowed for different people to learn in their own styles, since there was no text confining them. This is how R. Sherira Gaon (c. 906-1006) describes how Torah was taught before the Mish-

memory, as were the Beraitot. "ii In this way, it was comparable to the oral traditions of earlier days. Although there was now a set text of the Mishnah, learning was still similar to how it had been earlier. Jewish scholars still attempted to find the sources for the halakhot of the Mishnah as well as derive new halakhot directly from the Torah.

Similarly, after the Talmud was written down, people still learned primarily in an oral manner. The Geonim during this period did not learn from a written text of the Talmud, but recited it orally. They were not as bound to the

concept from another and comparing concepts, understanding [the Torah] based on the principles of biblical exegesis, until one appreciates the essence of those principles and how the prohibitions and the other decisions which one received according to the oral tradition can be derived using them. The latter topic is called 'Talmud.'"x

Rambam's description of Talmud study seems similar to the study of Oral Law before the Talmud was written down. He explains the mitsvah of Talmud as being focused on the pri-

"The oral nature allowed for different people to learn in their own styles, since there was no text confining them."

nah was written down: "Despite the unanimity among the sages in the underlying principles and teachings, each sage taught his students with whichever order and whichever method he preferred. [...] Some taught general rules; others added details; and others expanded and offered many, many examples and analogies."iv The actual learning did not consist of reading a frozen text, but of creating a lively discussion of the Torah itself, ensuring a constant connection with the divine Word. Not every detail of every law could always be remembered, but this methodology allowed people to constantly rediscover the laws in the Written Torah. The study of Torah was not about the spread of information, but about having a personal connection to Sinai.vi

The History of the Study of Talmud

This oral manner was the ideal way to study Talmud, and this is how Jews learned since the Torah was given. In the words of Rambam: "Just as Yehoshua and Pinehas studied in matters of analysis and law, so did Ravina and R. Ashi [the last of the Amoraim]."

specific wording of the text, but recited the general discussions of the Talmud. Some may never have even used a written Gemara text. It seems as if their focus was less on analyzing and comparing the Gemarot themselves and more on partaking in the Talmudic process.

Eventually, the Jews left Babylon and the era of the Geonim ended. The oral nature of Talmud could no longer be maintained in the far-flung lands in which the Jews found themselves. Different schools of learning in Ashkenazic and Sefaradic lands developed their own approaches. We will focus on how Rambam (from Sefarad) and the Ba'alei ha-Tosafot (from Ashkenaz) viewed Talmud study in their times. Their views on this subject can be seen both in their discussions of the mitsvah of talmud Torah and in the way they themselves learned

Talmud According to Rambam

Even though hundreds of years had passed since the writing of the Talmud and hundreds more since the compilation of the Mishnah, Rambam still described the funda-

mary source, the Torah, and on understanding and analyzing it based on the oral traditions. Rambam does not say that the mitsvah of Talmud consists of merely analyzing earlier generations' statements. Furthermore, Rambam attacks the focus on intermediary sources: "Such is the mentality of even the elect of our times that they do not test the veracity of an opinion upon the merit of its own content but upon its agreement with the words of some preceding authority, without troubling to examine that preceding source itself." xi,xiii

While it is clear that Rambam does not consider the writings of the Geonim to be binding, his views on the authority of the Talmud are more nuanced. The Talmud itself is not exactly an intermediary source; in a way, it is more like the traditions that earlier generations had passed down orally.xiii Yet, this does not mean that the Talmud's conclusions are the final word on every matter. Since Rambam views the fundamental mitsvah of learning Talmud as being focused on understanding the divine Word above any intermediary source, he sometimes even breaks with the apparent conclusion of the Talmud. He views Talmud study for us as partaking in the same process the scholars in the Talmud did, granting us much authority in the halakhic process. For instance, Rambam uses midrashim and the Talmud Yerushalmi extensively, sometimes ruling in accordance with a passage in the Yerushalmi over an apparently conflicting passage in the Bavli.xiv,xv At times, he even seems to focus more on the primary source in a passage than the explanation of the Talmud Bavli itself (though normally without contradicting the Bavli), xvi,xvii or follows a different explanation of the Mishnah than that of the Gemara.xviii These bold rulings are all in accordance with his view of Talmud

According to Rambam, it seems that the

"How was Oral Law learned before it was written down? Furthermore, why was it not permitted to write the Oral Law? It would have helped the spread of information if the halakhot were written down and not just memorized!"

was written down? Furthermore, why was it not permitted to write the Oral Law? It would have helped the spread of information if the halakhot were written down and not just memo-

An important aspect of the study of Talmud is that it provides the opportunity for the advanced student to think, innovate and apply his conclusions to practice. One can study any Yet, the oral nature of Halakhah could not continue unchanged. Due to persecutions and hardships, the Oral Law came in danger of being forgotten and was, therefore, partially written down. Yet, even after *Torah she-be-Al Peh* was codified, the nature of learning did not radically change. People tried to maintain as much of the oral nature of Torah study as they could. The Mishnah was mostly recited from

mental mitsvah of Talmud as if there had been no such change to the original nature of the Oral Law:

"A person is obligated to divide his study time in three: one third should be devoted to the Written Law, one third to the Oral Law, and one third to understanding and conceptualizing the ultimate derivation of a concept from its roots, inferring one

main purpose of talmud Torah is to understand the halakhot themselves and know how to apply them. Even the Talmud Bavli is a means toward understanding the fundamental components of Torah she-bi-Ketav and Torah she-be-Al Peh, not an end unto itself. And since the halakhot themselves are fundamentally oral in nature, people should not be bound to specific texts to be able to learn them. Thus, Rambam wrote two important works, the Perush ha-Mishnayyot and the Mishneh Torah, which provided alternatives to the Talmud as a means of acquiring halakhic knowledge.xix

Talmud According to the French Rabbis

Other Rishonim understood the nature of Talmud differently. Rashi explains the nature of Talmud that the Tannaim studied as follows:

""Talmud'xx – this is sevara (reasoning), that the later Tannaim would be medayyek (analyze) the difficult words of the early ones to explain them and give reasons, just as the Amoraim after the Tannaim explained the words of the Tannaim before them and established the Gemara; that diyyuk (analysis) in the days of the Tannaim was called 'Talmud."

Perhaps, according to such a definition, one can say that the fundamental mitsvah of Talmud is to analyze and compare the words of the previous period of scholars. This fits well with the view of R. Isaac ha-Levi Rabinowitz, in his *Dorot ha-Rishonim*, xxii that the *derashot* (hermeneutical conclusions) that the sages seem to derive directly from the Torah are in fact derived from the analyses of scholars in the previous period. xxiii

The Ba'alei ha-Tosafot continued in the direction of Rashi and also understood Talmud as an explanation of the previous generation's words. They developed new ways to study Talmud, comparing various Talmudic passages to each other and trying to resolve contradictions and explain differences. They analyzed the Talmud in a way similar to how the scholars in the Talmud analyzed the Mishnah.

This approach to Talmud was novel. The Geonim did not compare different passages of the Talmud as extensively as the Ba'alei ha-Tosafot did, since they partook in its own

to Talmud: "With our Talmud (Babylonian), we exempt ourselves from what our Sages said, 'A person should split up his learning: one third Bible, one third Mishnah, and one third Talmud." "xxiv According to Tosafot, the study of Talmud can possibly replace all of talmud Torah. This is clearly very different from Rambam's focus on interpreting the Written Torah itself.

A Deeper Examination

It is possible that the difference between Rambam and the French rabbis in their views on learning Talmud relates to their different conceptions of *yeridat ha-dorot* (decline of the generations).

Rambam's understanding of *yeridat ha-dorot* allows for more independent analysis by later generations, justifying the instances cited above in which he breaks with the understanding of the Talmud. It also may explain why Rambam views the fundamental mitsvah of learning Talmud as being focused on the primary sources rather than on intermediary commentaries.

Ellu va-Ellu

It is possible that Rambam and the French rabbis also understood the concept of *mahaloket* (argument) differently, or more specifically, the Talmudic dictum of "Ellu va-ellu divrei E-lohim Hayyim" ("These and these are

"The Ba'alei ha-Tosafot moved the focus of analysis one step further away from the original biblical source, from working within the Talmudic process to analyzing the Talmud from the outside."

The approach of Tosafot is compatible with acceptance of a literal understanding of yeridat ha-dorot – that each generation, or era, is at a lower level than the previous generation. According to this understanding, it is clear why Talmud would consist of analysis of the previous generations' statements. It would be presumptuous for later generations to independently interpret the words of significantly earlier sources. Each generation can only try to understand the previous generation's explanations of the more primary sources. This would possibly explain why the Ba'alei ha-Tosafot view the Talmud as the absolute final word on a matter, for they lived too long after the Talmudic statements were made in order to retain the right to question them.

However, Rambam may have had a different conception of historical decline. In the quotation cited above from his Introduction to Sefer ha-Mitsvot, Rambam seems to imply that part of the reason for yeridat ha-dorot is precisely that people blindly accept a preceding authority.** According to Rambam, there were other factors that may have caused the decline,

"According to Rambam, it seems that the main purpose of talmud Torah is to understand the halakhot themselves and know how to apply them. Even the Talmud Bavli is a means toward understanding the fundamental components of Torah she-bi-Ketav and Torah she-be-Al Peh, not an end unto itself."

analyses. The Ba'alei ha-Tosafot moved the focus of analysis one step further away from the original biblical source, from working within the Talmudic process to analyzing the Talmud from the outside. This shift may have caused them to lessen the importance of studying the primary biblical sources. This is evident in Rabbeinu Tam's understanding of *Kiddushin* 30a (mentioned in Tosafot), which states that a third of one's learning time should be dedicated to Bible, a third to Mishnah, and a third

such as persecutions, dispersions of Jewry, and collapses of central rabbinic authority. xxvi Later generations may have forgotten some of the Torah that the earlier generations knew. However, Rambam does not appear to believe in a historical rule of steady decline. While these reasons explain why we must ultimately accept the authority of the Talmud, and also explain why Amoraim accepted the authority of the Tannaim, they are not as fundamental as the Tosafists' understanding of yeridat ha-dorot.

the words of the Living God"). The Talmud describes the disputes between the School of Hillel and the School of Shammai:

"R. Abba the son of Shemuel said: The House of Shammai and the House of Hillel argued for three years; these said the Halakhah is like us, and these said the Halakhah is like us. [Eventually,] a voice [from Heaven] declared, 'These and these are the words of the Living God, but the Halakhah is like the House of Hillel.'"xxvii Ritva wonders how both sides of an argument can be true:

"The French rabbis asked, 'How is it possible that both sides are the words of the Living God, when one forbids and the other permits?' And they answered, 'When Moses went up on high to receive the Torah, they [the angels] showed him on every matter 49 views to forbid and 49 views to permit, and he asked God about this, and He said that it will be handed over to the sages of Israel in each generation, and the ruling would be like them.' And this is correct according to derash (homiletics), but [kabbalistically] there is a reason in the matter."xxxviii

Ritva, citing the French rabbis, understands "ellu va-ellu" literally: God showed Moses many possibilities within every matter and there is no single, original Truth. Every view can be considered the exact truth of God at Sinai!

This understanding of *ellu va-ellu* can be seen in the Ba'alei ha-Tosafot's approach to Talmud study and in their own analyses of the Talmud.xiix As mentioned above, Tosafot understood the mitsvah to be focused on intermediate sources. But what if the intermediate source explained the primary source incorrectly? One will focus so much on the intermediate source that he may not even try to understand the true explanation of the primary source! Yet if one understands "*ellu va-ellu*" broadly, this is not a problem, for both sides of a dispute are true, and surely an intermediate

source that is undisputed is true! One need not worry that an intermediate explanation is mistaken. This also allows Tosafot to characterize both sides of a dispute as containing truth, each one built up by the added layers from previous generations. This also fits with Tosafot's style of citing many views on a matter without emphasizing final conclusions.

Rambam never mentions *ellu va-ellu*, and he considers *mahaloket* as something that should be resolved, for the primary focus of one's learning should be to reach halakhic conclusions, not analyze *mahaloket*. If one analyzes intermediary sources, he may correctly understand them but still be incorrect. Therefore, one must return to the original sources in order to discover the one Truth. Rambam specifically omits all rejected opinions from his *Perush ha-Mishnayyot* and *Mishneh Torah*, and only renders final conclusions.**

Contemporary Learning

The custom nowadays in most yeshivot is for students to spend most of their learning time analyzing the words of Rishonim and Aharonim. They often ignore the study of more primary sources, from Tanakh to Mishnah to even broad knowledge of the text of the Talmud itself. This custom clearly does not fit with the opinion of Rambam, who criticizes such reliance on secondary sources and emphasizes reaching final halakhic conclusions. He also stresses the obligation to learn Tanakh and Mishnah and does not exempt from it those who study the Talmud.xxxi Perhaps modern practice can be justified on the basis of the views of the French rabbis, who explain the nature of Talmud as analysis of an earlier generation's words and exempt students from focusing on Tanakh and Mishnah.

Yet, even Tosafot would probably not approve of modern-day learning. Although the Ba'alei ha-Tosafot may have emphasized the study of Tanakh less, they surely believed in studying it in depth,xxxii for they clearly knew the primary sources that they studied very well! Furthermore, many students only cover a few folios a year, studying tiny details within halakhic works by Aharonim, such as Birkat Shemuel or Ketsot ha-Hoshen, while remaining ignorant of vast areas of the Torah and Talmud.xxxiii This style of learning, which overlooks more primary sources, seems to be a newer phenomenon of the last century and has little precedent in any earlier source. Perhaps there should be a greater focus on learning and analyzing the primary sources of the Torah. The starting point for one's analysis need not be the text of an Aharon. The Tanakh and the works of Hazal are also worthy of one's focus.

Whatever path people ultimately choose in their learning, a reflection on these issues should still be helpful. As long as their learning continues in the traditions of the past, perhaps each *derekh* can be considered "*divrei E-lohim Hayyim.*"

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■ Kol Hamevaser ■

- i In the words of Rambam, Mishneh Torah, Hilkhot Talmud Torah 3:3: "None of the other mitsvot can be equated to the study of Torah. Rather, the study of Torah can be equated to all the mitsvot, because study leads to deed. Therefore, study takes precedence over deed in all cases."
- ii Kiddushin 30a.
- iii Gittin 60b.
- iv Translation from R. Nosson Dovid Rabinowich, *The Iggeres of Rav Sherira Gaon* (Jerusalem: Rabbi Jacob Joseph Press – Ahavath Torah Institute; Moznaim, 1988), p. 15.
- As it states in *Temurah* 16a, there was always the possibility of rediscovering forgotten halakhot: "1,700 kallin va-homarin, gezeirot shavot, and dikdukei soferim (types of hermeneutical derivations) were forgotten during the mourning period for Moshe. R. Abbahu said: Even so, Otniel b. Kenaz returned them with his sharp analysis."
- vi See Kiddushin 30a, which explains an important biblical verse about talmud Torah that states the importance of this connection to Sinai: "R. Yehoshua b. Levi said: Anyone who teaches his grandson Torah, the Torah considers him as if he received it from Mt. Sinai, as it says, 'And you shall teach them to your sons and your grandsons' (Devarim 4:9), and next to this, 'The day that you stood before God at Horeb [Sinai]' (Devarim 4:10)."
- vii Rambam's Introduction to the Mishnah. Although some Rishonim may say there were some developments over time, I think all would agree to the basic idea that Jews were always involved in the same basic study of Torah she-be-Al Peh.
- viii See, for example, Yaakov Elman, "Orality and the Redaction of the Babylonian Talmud," *Oral Tradition* 14,1 (1999): 52-99.
- is See Robert Brody, "The Talmud in the Geonic Period," in Sharon Liberman Mintz and Gabriel M. Goldstein (eds.), *Printing the Talmud: From Bomberg to Schottenstein* (New York: Yeshiva University Museum, 2005), pp. 29-35, at p. 31. He quotes from R. Aaron Sarjado Gaon (head of the academy at Pumbedita from 942-960), who says that most of the Academy "does not know what a book is." Brody argues that the Geonic style of learning was different than that of the Academy because of its oral nature.
- x Mishneh Torah, Hilkhot Talmud Torah 1:11.
 xi From Rambam's Introduction to Sefer haMitsvot; translation from Menachem Kellner,
 Maimonides on the "Decline of the Generations" and the Nature of Rabbinic Authority
 (Albany: State University of New York Press,
 1996), p. 39.
- si Something may be lost when intermediary layers of commentary replace the primary sources as the new focus of learning. One may use Rambam's description of the development of idolatry in *Mishneh Torah*, *Hilkhot Avodah Zarah* 1:1 as an analogy. By replacing the references to idolatry with the use of intermediary sources, one would emerge with something along these lines: People began saying, "Since the commentators are servants of the Torah, they deserve to be studied and analyzed [...] and this is the honor of the Torah." So they

- began building *sevarot* and offering inferences [...] saying this is the way of the Torah. And after the years passed, people arose and said, "Study this commentator or all the commentators in this way and that way." Eventually, the Holy, Awesome Torah was forgotten from all people.
- xiii See the discussion of *yeridat ha-dorot* below where Rambam's view of the Talmud's authority is explained.
- xiv For more on this, see Herbert Alan Davidson, Moses Maimonides: The Man and his Works (New York: Oxford University Press, 2005), p. 119 and n. 130. He mentions how there are many examples of cases in which Rambam seems to rule like the Yerushalmi, but the Bavli can be interpreted to accord with it. If this is the case, then it would fit with the idea that Rambam freely interprets a primary source when it does not directly contradict the Talmud Bavli
- xv A possible example in which Rambam follows the Yerushalmi over the Bavli (at least according to some commentators, such as Remakh) is found in *Mishneh Torah*, *Hilkhot Yesodei ha-Torah* 5:5, where Rambam discusses the requirement that a city sacrifice all the lives of its inhabitants rather than give over one Jew to be killed. Rambam takes his ruling from a passage in the Yerushalmi, even though some explain that the Bavli seems to contradict it.
- xvi For example, see Kiddushin 6b (concerning one who betroths with a loan) and 58b (concerning the sprinkling of water from a sin-offering), where Rambam's explanation seems to be focused on the primary source and is simpler even though it does not accord as well with the Gemara. I believe that he may have felt it was preferable to give the best explanation of the more primary source because that reading could be true independent of the Talmud's explanation. Therefore, even if his reading does not fit with that of the Gemara, it may still fit with the primary source. In both examples, other Rishonim give a simpler explanation of the Gemara, but their readings do not as easily fit with the more primary sources. For another possible example, see Yad Malakhi, Kelalei ha-Rambam #38.
- See also the case cited in the previous note from Hilkhot Yesodei ha-Torah where Rambam seems to focus on the primary sources instead of following the rules of pesak. Rambam rules like Reish Lakish over R. Yohanan despite the fact that there is a rule in pesak to follow R. Yohanan when the two of them argue—that a city cannot hand over a specified person who is not liable to the death penalty. The Kesef Mishneh explains that Rambam follows Reish Lakish because the implications of the Tannaitic and biblical sources are in his favor. See, however, Yad Peshutah, ibid., who argues that Rambam had a different text.
- xvii This idea of trying to fit with a more primary source or understanding may be seen elsewhere also. For example, the Talmud Bavli often rules in a certain way based on its understanding of the Pentateuch and rules of *derash*. If an objection is raised from the Mishnah, the Talmud dismisses it with an answer that either

- seems forced (dohak) or that requires a textual addition or emendation (hassurei mehassera). The Talmud may recognize that the answer is weak, but is basing itself off a primary understanding of the Torah and at the same time trying to avoid outright contradiction with the Mishnah.
- xviii See many examples of this in Elhanan Samet, *Yad la-Rambam: Diyyunim be-Piskei ha-Rambam be-Yad ha-Hazakah* (Ma'aleh Adumim; Jerusalem: Ma'aliyot, 2005/6). See also Joshua Broyde's article in this edition of *Kol Hamevaser* for more on this issue.
- xix As Rambam states in his Introduction to the Mishneh Torah, he felt his work could be read after Tanakh, without any work in between, meaning that he believed that studying the Mishneh Torah is an alternative to studying Mishnah and Talmud.
- xx The standard text says "Gemara," but the more correct version is "Talmud."
- xxi Rashi in his commentary to Sukkah 28a.
- xxii R. Isaac ha-Levi Rabinowitz, *Dorot ha-Rishonim*, part I, vol. 5.
- xxiii This is not to say that the Rishonim themselves held as extreme a view as the *Dorot ha-Rishonim*, but it suggests a possible alternative outlook to that of Rambam.
- xxiv This is found in Tosafot's commentary to Sanhedrin 24a, s.v. belulah be-Mikra u-be-Mishnah; Tosafot explain similarly at Kiddushin 30a, s.v. lo tserikhah le-yomei.
- xxv Menachem Kellner, ibid., explains that quotation in a similar manner. His book is devoted to arguing that Rambam did not accept the idea of the decline of the generations, but only that the authority of previous generations was accepted. While he may take his claim too far, it is sensible to argue that Rambam had a different view on the matter than Tosafot did. The claim in this section that Rambam viewed yeridat ha-dorot differently is partially based on Kellner's claim.
- xwvi See, for example, Rambam's Introduction to the Mishneh Torah: "After the court of R. Ashi, who wrote the Talmud in the time of his son and completed it, the people of Israel scattered throughout all the nations most exceedingly and reached the most remote parts and distant isles, armed struggle became prevalent in the world, and the public ways became clogged with armies. The study of the Torah declined, and the people of Israel ceased to gather in places of study in their thousands and tens of thousands as before."
- xxvii Eruvin 13b.
- xxviii Ritva, commentary to Eruvin 13b, s.v. ellu va-ellu divrei E-lohim Hayyim.
- xxiix Much of the following discussion of "ellu va-ellu" is based on Moshe Halbertal, "Three Medieval Theories of Jewish Law: Geonim (restorative); Rambam (accumulative); Rambam and Tosefot (constitutive)," in Noam Zion, Elu v'Elu: Two Schools of Halakha Face Off On Issues of Human Autonomy, Majority Rule and Divine Voice of Authority (Jerusalem: Shalom Hartman Institute, 2008), pp. 49-53, available at: http://www.hartmaninstitute.com/uploads/Holidays/Elu-02062008 0957 45. pdf.

After this section was written, Eliyahu

- Krakowski showed me Ephraim Kanarfogel, "Torah Study and Truth in Medieval Ashkenazic Rabbinic Literature and Thought," in Howard Kreisel (ed.), Study and Knowledge in Jewish Thought (Beer Sheva: Ben-Gurion University of the Negev Press, 2006), pp. 101-119, which provides more examples that demonstrate the Ba'alei ha-Tosafot's stronger interpretation of "ellu va-ellu." It is available online at: http://hsf.bgu.ac.il/cjt/files/Knowledge/Kanarfogel.pdf.
- xxx This is despite the fact that matters were somewhat different for Rishonim who comment directly on the Talmud.
- xxxi In Mishneh Torah, Hilkhot Talmud Torah 1:1, Rambam merely exempts one who has "grown in wisdom" and who only needs to review the material periodically so he does not forget it from the first two parts of talmud Torah, Tanakh and Mishnah.
- xxxii For example, the Ba'alei ha-Tosafot wrote multiple *perushim* on the Torah, such as the *perush* of Rashbam.
- xxxiii In some yeshivot, it is now common for *talmidim* to study only a few folios a year, even during their "*beki'ut*" *seder* (set time for survey-style learning of Talmud)!
- xxxiv At least according to Tosafot. Rambam would probably consider many *derakhim* to be examples of *yeridat ha-dorot*.

Who's in Charge of Understanding the Mishnah?

BY: Joshua E. Broyde

ne of the primary cornerstones of Jewish law is the principle that the Gemara is the authoritative source in deciding Halakhah. If the Gemara hands down a ruling, later scholars cannot disagree with it. However, outside of Halakhah, there is considerably more leeway. Thus, we find many Rishonim (Rashi, Ibn Ezra, Rashbam, and Ramban, to name a few) who do not necessarily interpret biblical passages in accordance with the Gemara's exceptical understanding.

Thus, it is clear that the same rule that applies for the text of the Torah also applies to the text of the Mishnah. However, one example does not form a rule, and I would like to bring a few examples of this concept as applied to various Mishnayot.ⁱⁱⁱ

In Shabbat 7:1, the Mishnah begins with the phrase "Kelal gadol ameru be-Shabbat," "[The Rabbis] formulated a great rule (kelal gadol) regarding the laws of Shabbat." The Gemara that follows has a lengthy explanation as to why it is called "kelal gadol," a great rule, as opposed to most other places in the Mishnah

"There is a concept, at least according to Rambam, R. Ovadiah mi-Bartenura, and Me'iri, that one has the right to interpret Mishnayyot against the Gemara within certain constraints."

This is allowed because the authority of the Talmud, while carrying huge weight, does not fully bind us in terms of how we understand the text of the Torah. Similarly, we find that some Rishonim think that the Gemara's agadic portions are not authoritative like the halakhic sections are. This rule is summarized in Shemuel ha-Nagid's Introduction to the Talmud: "One learns from [the aggadic sections] only those parts that are logical and does not rely [on those aggadic sections] that are illogical."

I would like to explore this concept in a different arena: the interpretation of the Mishnah. As I said before, we already know that the Tanakh can be interpreted against the Gemara. On the surface, it would seem strange to say that one may interpret the Mishnah against the Gemara. After all, given the fact that the Gemara is a halakhic work and the Mishnah deals with Halakhah, it would appear that one must always defer to the Gemara's understanding of the Mishnah. However, I will try to show that, in fact, the Rishonim sometimes go against the Gemara when interpreting Mishnayyot.

The first Torah scholar to lay out principles guiding how we explain the Mishnah was the author of the *Tosafot Yom Tov*, R. Yosef Lipmann Heller. In an attempt to defend Rambam's interpretation of *Massekhet Nazir* 5:5, he writes as follows:

"Even though in the Gemara they did not explain the Mishnah [the same way Rambam did], since for practical purposes there is no difference, one may explain the Mishnah in any way one wants. Because I do not see a difference between explaining a Mishnah and explaining the *pesukim* [...] as long as one does not explain any law in a way that contradicts the Gemara." ii

that state "ha-kelal," the rule, without using the word "gadol." Rambam, however, in his commentary to the Mishnah, seems to largely ignore the discussion in the Gemara and instead simply says that it is called a "great rule" because the punishment for intentionally violating Shabbat is stoning, and since stoning is the harshest punishment that can be meted out, the Mishnah calls this rule "gadol." Note that Rambam's approach here to Mishnaic interpretation accords with the rule set out by Tosafot Yom Tov. Since "gadol" is completely irrelevant to Halakhah and is just a linguistic discussion, Rambam does not feel bound by the Gemara's explanation.

Another example of this type of interpretation of the Mishnah is in Shabbat 3:5. The Mishnah there goes as follows: "R. Shimon says: One may move any candle on Shabbat except a candle that is currently lit." Rambam, in his commentary to the Mishnah, explains that the reason for R. Shimon's view is that one may accidentally extinguish the candle if it is moved while lit. However, this explanation is just a hava amina, an initial assumption, in the Gemara, and is eventually rejected in favor of a different explanation. It seems as if Rambam thought that the hava amina of the Gemara. even though it is ultimately rejected, fits better with the Mishnah, and therefore explains it in that fashion.

However, unlike the previous example, this is a halakhic discussion with real practical differences! Therefore, what right does Rambam have to explain this Mishnah in a way that is inconsistent with the *maskanah* (conclusion) of the Gemara? The answer seems to be that since we do not *paskn* like R. Shimon, one may interpret his opinion against the *maskanah* of the Gemara. Thus, we emerge with an important principle: not only does the topic have to be halakhic in order for the Gemara's opinion

to be binding, but the opinion has to be accepted *la-halakhah* (as halakhah). From this interpretation of Rambam, one sees that one is free to analyze rejected opinions in the Mishnah even against the *maskanah* of the Gemara. Vi In general, it is not uncommon for Rambam to explain Mishnayyot according to the *hava amina* when he is explaining a rejected *shittah*. Vii

It is also possible to argue that Rambam is driven to this explanation for the sake of simplicity. According to this understanding, one is bound to the Gemara's interpretation of rejected opinions, but Rambam simply does not bother to give the correct explanation. The Gemara's explanation of R. Shimon relies on a deep analysis of the concept of *muktseh* (the prohibition of moving certain objects on Shabbat). Rambam, in his commentary to the Mishnah, does not want to delve into these complexities. Therefore, since this view is rejected anyway, he explains it in the simplest fashion possible.

Interestingly enough, Rashi also presents the rejected explanation found in the Gemara. viii However, since Rashi's *perush* is primarily a commentary to the Gemara and not the Mishnah, it is possible that he is working with the *hava amina* with the assumption that the reader will reject it when the Gemara does.

Another example of an interpretation of the Mishnah that differs from that of the Gemara can be found in Bava Batra 4:9: "R. Shimon says: One who gives his field to the Temple as hekdesh (consecrated property) has only given the grafted carob tree and the mature sycamore tree." Rambam, followed by R. Ovadiah mi-Bartenura, explains this Mishnah as a presentation of R. Shimon's opinion, According to the Gemara, however, this is a misrepresentation, as the Gemara explains that R. Shimon is only saying this opinion in accordance with the Rabbis, but that it is not really his own opinion. Therefore, how can Rambam and Bartenura contradict the Gemara by presenting this as R. Shimon's opinion?

The Tosafot Yom Tov, in response to this problem, says, "Rav Ovadiah mi-Bartenura explains our Mishnah like its simple and basic meaning." in From reading the Mishnah, it appears as though R. Shimon stands by this position. Since R. Shimon is rejected la-halakhah, Bartenura does not feel compelled to say that R. Shimon is speaking according to the Rabbis. However, I would submit that if R. Shimon's actual opinion (as set forth in the Gemara) was accepted la-halakhah, then R. Ovadiah would have explained in accordance with the Gemara and noted that R. Shimon's opinion presented in the Mishnah does not really belong to R. Shimon.

To summarize, we now have examples of interpretations where the Rishonim explain a rejected opinion of the Mishnah against the opinion of the Gemara. This seems to result from one of two concepts. Either these Ris-

honim do not feel that the Gemara's explanation of the Mishnah is authoritative, or, for practical reasons, they would prefer to give an incorrect but simple explanation of the Mishnah

However, as noted above, this type of simplification does not happen when Halakhah is involved. To further emphasize this point, I know of no place where Rambam or Bartenura sacrifice accuracy for the sake of simplicity when they are discussing Halakhah. When Rambam is discussing an opinion that is accepted la-halakhah, he always includes the okimta'ot, the qualifications or restrictions of the case, found in the respective Gemaras, to the extent that the reader fully understands the Mishnah la-halakhah. This is true even when the Gemara's okimta'ot are not clear from the literal meaning of the Mishnah.

Bava Metsi'a 1:1 also provides an example of where some commentaries ignore the view of the Gemara. The Mishnah there says: "Two people are holding a garment: one says, 'I found it,' and the other says, 'I found it.' This one says, 'It is all mine,' and this one says, 'It is all mine.' They both swear that they each have no less than half and split it."

The Gemara there says that the phrase "This one says, 'It is all mine' and this one says, 'It is all mine' is completely separate from the first part of the Mishnah and is discussing a sale. Me'iri, on the other hand, explains that the first phrase is a general rule, and that the second phrase (and the third phrase that follows in the Mishnah) are all dealing with different permutations of cases where people make different claims of ownership on the items that they find.

Note that Me'iri's view is not against Halakhah, as the Mishnah, in his opinion, is simply talking about finding an object, but is silent on the halakhot regarding a sale. The Gemara, on the other hand, thinks the Mishnah is discussing both a sale and the finding of an object. It seems that Me'iri would be of the opinion that even though the Gemara's analysis of a sale regarding a garment is correct, it is simply not explicit in the Mishnah.

These are only a few examples out of many. Nevertheless, they demonstrate a point: there is a concept, at least according to Rambam, R. Ovadiah mi-Bartenura, and Me'iri, that one has the right to interpret Mishnayyot against the Gemara within certain constraints.

It seems that not only the Rishonim, but even the Aharonim agree with this principle. The Gra, in his commentary to the Mishnah, does not always agree with the Gemara's interpretation. For example, the Mishnah in Berakhot 4:1 says: "Tefillat Arvit ein lah keva—the Ma'ariv prayer is not set." The Gemara there explains that the Mishnah means that Ma'ariv is optional. However, the Gra, in his commentary to that Mishnah, explains that the Mishnah's statement means that Ma'ariv has no time limit.xi This example is not an aberra-

tion for the Gra. R. Yehudah Leib Maimon, in his *Sefer ha-Gra*, xii gives many examples of places where the Gra disputes the Gemara's understanding of the Mishnah and other Tannaitic material such as the Tosefta.

"Even though the *din* (legal ruling) presented in the Gemara is correct and true, it is not the case that the Mishnah is talking about." This type of analysis also allows the student of the Talmud to appreciate the bridge between the

"It would seem to me that while this type of interpretation or explanation does not lead to a halakhic nafeka minnah (practical difference), it does lead to a tremendous nafeka minnah in terms of how we should think about and even learn Gemara."

It would seem to me that this opinion of the Gra can be connected to another one of his puzzling views. The *Pe'at ha-Shulhan*, in an effort to explain the concept of "hassurei mehassera ve-hakhi ka-tanei," notes in the name of the Vilna Gaon:

"There are no words missing in the Mishnah that Rabbi (R. Yehudah ha-Nasi) wrote, and it is not Rabbi's style to omit words. Rather, Rabbi holds like a certain Tanna and wrote the Mishnah like him. The Gemara, on the other hand, holds like a different Tanna, and, according to that other Tanna, gives the answer of hassurei mehassera." xiv

This approach fits very well with the principle above. On a purely analytical level, the Mishnah makes perfect sense on its own and can be understood completely independently of the Gemara. However, since the Gemara holds by a different opinion than the Mishnah, it must reconcile the plain reading of the Mishnah with the accepted law.* The bottom line of this approach is that the Mishnah can be correctly understood according to its basic meaning, just as long as it is not understood la-halakhah. The Gra seems to have accepted this approach in his commentary to the Mishnah.

It appears that there is a strong tradition of understanding the Mishnah not in accordance with the final conclusion of the Gemara. However, everyone agrees with the final conclusion of the Tosafot Yom Tov mentioned above: that the alternative interpretation of the Mishnah must not disagree with the final halakhah found in the Gemara.

It would seem to me that while this type of interpretation or explanation does not lead to a halakhic nafeka minnah (practical difference), it does lead to a tremendous nafeka minnah in terms of how we should think about and even learn Gemara. When I learn Gemara and encounter a halakhah. I never think to myself. "Josh, do you agree with the halakhah that the Gemara just stated?" The question simply never enters my mind. If the Gemara states a halakhah, the halakhah, by definition, must be true. To assert the opposite would seem to border on the heretical.xvi However, based on the above analysis, it would appear that one may ask oneself, "Does the okimta of the Gemara actually fit with the Mishnah?" If the okimta does fit, then the Gemara's okimta is to be accepted. However, based on the final example that I gave, one is perfectly allowed to say,

halakhah of the Gemara and the original text of the Mishnah.

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- i See, for example, Rashi to *Bereshit* 3:8, s.v. *va-yishme'u*; Rashbam to *Bereshit* 37:2, s.v. *elleh toledot*. The Gemara itself (e.g. *Shabbat* 63a) occasionally invokes the principle that the plain interpretation of the verse is not superceded by the Gemara. This could be taken to mean that even when the Gemara gives an interpretation of a verse, one is not bound by it
- ii Tosafot Yom Tov to Nazir 5:5.
- iii Most of these examples come from Massekhet Shabbat. When I learned Massekhet Shabbat, I specifically was looking for places where the mefareshim explain the Mishnah against the Gemara. The other examples are ones that I found incidentally while learning.

 iv Rambam, Perush ha-Mishnayyot to Shabbat
- 7:1.

 * Sanhedrin 49b.
- vi The Tosafot Yom Tov stakes out a similar view of Rashi in his commentary to *Pe'ah* 2:2. vii For another example, see *Shabbat* 21:1.
- viii Rashi to *Shabbat* 44a, s.v. *huts min ha-ner*
- viii Rashi to Shabbat 44a, s.v. huts min ha-ne. ha-dolek be-Shabbat.
- $^{\mathrm{ix}}$ Tosafot Yom Tov to Bava Batra 4:9.
- x Me'iri, Beit ha-Behirah, Bava Metsi'a 2a.
- xi Gra to Berakhot 4:1.
- xii R. Yehudah Leib Maimon, Sefer ha-Gra (Jerusalem: Mosad ha-Rav Kook, 1953), p. 47. xiii Literally translated as: "[The text] is missing words and this is what [the text] says." This is the phrase the Gemara uses to introduce an interpretation of the Mishnah that involves inserting missing words into the text.
- xiv R. Yisrael of Shklov, *Pe'at ha-Shulhan*, Introduction.
- xv Since, in general, the Mishnah reflects the final law, the Gemara would rather create a forced reading of the Mishnah than simply say that the Mishnah is not *la-halakhah*.
- xvi This is, of course, barring cases where there is another Talmudic source that impacts the final halakhic decision.

General Jewish Thought

Rock the Vote: Jews, Politics, and *Tikkun Olam*

BY: Chana Cooperi

hen forming political positions and affiliations in modern-day America, it can be incredibly difficult to determine the proper relationship between one's personal religious convictions and political stances. As Orthodox Jews, we ask ourselves: what role should Halakhah play in informing our political views in secular society? What are our responsibilities, if any, to our non-Jewish American neighbors, and how should these obligations impact our political opinions and affiliations?

When grappling with these issues, two polar opposite views form. The first divorces religious and political beliefs. Adherents of this view develop political views based solely on universal principles and values rooted in American culture and government. With an eye towards the First Amendment, they believe that to allow personal religious convictions to affect public, legal, and political views is to be

to reach outwards and bring the entire human race along on the journey toward moral perfection. This Jewish duty is found throughout Tanakh as God exhorts His people to serve as a "light unto the nations" and to bring the world to religious wholesomeness. '

For the Jewish nation, reaching spiritual perfection necessarily means completely observing the Torah and mitsvot. However, as non-Jews are not commanded in all of the mitsvot, attaining spiritual perfection for them cannot entail fulfillment of all the mistvot, though it would require the fulfillment of the Noahide laws. V Although some, possibly including Rambam, believe that Jews are required to enforce the Noahide laws through coercion, the majority of halakhic authorities maintain that no such requirement exists.vi Furthermore, most authorities maintain that Jews have no obligation to prevent a Noahide from violating one of his seven laws and can even assist him in sinning, if the non-Jew could have committed the sin without the help of the

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un-American and not in-line with the spirit of the constitution, particularly when such views impose on the rights of the others.

In contrast, others assume that one's religious convictions must not be separated from political views, and thus they support those legal positions most in line with their religious ones. Without particular concern as to the constitutionality of such an approach, these individuals argue that Orthodox Jews should press the American government to enact laws, in both social and moral realms, inspired by the Torah's vision. However, each of these approaches is overly simplistic and fails to take into account the complexity of the Torah's perspective on the relationship between the religious and political views of a Jew in a non-Jewish country.

In order to fully understand this relationship, we must first investigate the nature and extent of the Jewish obligation of tikkun olam, of bringing the world to a state of perfection. The term "tikkun olam" is found in the Aleinu prayer in which the Jew yearns "letakken olam be-malkhut Sha-ddai," "to perfect the world under the sovereignty of the Almighty," so that "kol benei vasar yikre'u vi-shemekha," "all mankind will invoke Your name." "ii Thus, the mission of Am Yisrael is not simply to look inwards and develop its own moral character, but

Jew.vii However, there may still remain an obligation to ensure the general acceptance of Noahide laws among the non- Jewish public.viii Despite the absence of an obligation to spread the observance of the Noahide laws, it is certainly still commendable to do so.

In addition to any possible halakhic obligation to spread the Noahide laws, each Jew has an obligation to improve society that stems from the inherent ethical value of such a mission, R. Joseph B. Soloveitchik writes, "We have always considered ourselves an inseparable part of humanity and we were ever ready to accept [...] the responsibility implicit in human existence."ix Our responsibility to the general world stems from being human, not just from being Jewish. Additionally, though Jewish self-interest certainly comes into play, the drive to improve society must also come from "[s]elf-interest, not as Jews, but as full members of society."x The Torah itself alludes to such an obligation by warning Am Yisrael not to oppress the stranger "ki gerim hevitem be-Erets Mitsrayim," "for you were strangers in the Land of Egypt."xi The rationale for this obligation is not simply because God forbade it but because Jews are expected to understand the universal experience of oppression and the pain it causes.

Rambam highlights this imperative in

Mishneh Torah where he states that Hazal obligate us to visit the non-Jewish ill and bury their dead.xii In explaining this halakhah, Rambam quotes the pasuk, "Tov Hashem la-kol, verahamav al kol ma'asav," "Hashem is good to all: His mercies are on all His works,"xiii Though Rambam also includes darkhei shalomxiv as a justification, indicating that Hazal are driven by Jewish self-interest as well, the citing of this pasuk makes it clear that we must treat non-Jews with kindness and respect, for that is the right way to behave.

The role of Jews in improving society is not limited to purely spiritual causes. The obligation of tikkun olam includes ensuring that the material needs of members of our society are met as well. Enjoinders to care for the needy and extend a giving hand to the poor permeate the Torah and Talmud. R. Soloveitchik states, "We consider ourselves members of the universal community charged with the responsibility of promoting progress in all fields, economic, social, scientific," in addition to ethical.xv Furthermore, "we are human beings, committed to the general welfare and progress of mankind [...] we are interested in combating disease, in alleviating human suffering, in protecting man's rights, in the helping of the needy, et cetera."xvi Thus, for example, the religious Jew discussing nationalized healthcare must consider the improved physical well-being of those covered under proposed healthcare reform legislation.

In regard to governmental regulation of morality, it is impossible to ignore the fact that a society whose government is unconcerned with the moral welfare of its citizens will become corrupt. With no ruling body to set consequences for morally inferior behavior, it is inevitable that immorality will prevail. Living in a spiritually corrupt country is terrible for the soul, both Jewish and not. It is important to note that American law permits religious belief, or any other ideology, to affect public policy, so long as a secular justification for the policy also exists.xvii Thus, for a Jew in today's world, the need to improve the moral condition of his non-Jewish neighbors must inform his political views and can legitimately do so in an American legal system.

Although it is clear that, as Orthodox Jews, Halakhah should inform our general vision when it comes to politics, this is not necessarily true when it comes to specific political issues. In his article "Jews and Public Morality," Marc D. Stern, a renowned expert on religious liberty, claims that since many contend that there exists an ethic separate from Halakhah, political decisions aimed at improving society need not necessarily be based on Halakhah.xviii In fact, in certain situations, using secular, political logic is preferable and will result in a better solution than if one turned to Halakhah. It must be noted that this principle is not universally accepted and others argue that a religious Jew should only use religiously-based logic.xix

Putting aside the question of how we should derive our political views, there remain a number of obstacles in the Jew's path to fulfill his imperative to improve the spiritual and

physical welfare of his non-Jewish neighbors in the modern world. In regard to spreading knowledge of Noahide laws, the parameters and applications of these laws are often ambiguous and difficult to determine, as there is little source material dealing with these issues.xx Thus, it is not always clear what the Torah thinks a "spiritually perfect" non-Jew should do in many situations.

Additionally, in certain circumstances, even where the proper, Torah-informed perspective is clear, self-interest may prevent us in accordance with the Torah's perspective, unlike the majority Democratic view. However, the social values of the Democratic Party are often far closer to those of the Torah than are the Republican Party's. The Democratic Party views governmental responsibility for the physical welfare of its citizens as essential and advocates for more government involvement in social justice issues. In contrast, the Republican Party believes that the government ought to take a more laissez-faire approach and let each individual fend for himself.

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from encouraging legislation supporting it. Although from the vantage point of Halakhah homosexual relations are prohibited for both Jews and non-Jews, pushing an anti-gay legislative agenda may harm Jewish interests, as such legislation would open the door for the American government to discriminate against individuals based on their moral practices. American Jews have long been protected under U.S. law against discrimination, and pushing an anti-gay policy could jeopardize this protection, which would be a very negative development for the Jewish community. It should be noted, however, that in a case where a law stands in opposition to the religious beliefs of a certain group, legal exemptions can be obtained to prevent the group from violating its religious strictures.xxi Thus, the fear that enacting certain legislation will directly harm the Jewish community is mitigated.

Perhaps the most daunting obstacle to the Jew's mission to spread the Torah's moral vision is promoting an agenda that runs counter to the Western principles that stand at the core of the American governmental system. For example, Torah law (Noahide law for non-Jews, Halakhah for Jews) sometimes treats Jews and non-Jews differently, even when the cases are identical. This is true, for instance, of the legal standards of evidence needed in order to prescribe a capital punishment for certain crimes. which make it easier to execute a non-Jew than a Jew.xxii In modern times, the ubiquity of the legal principle of "all men are created equal" precludes the possibility of treating Jews and non-Jews differently. From a practical perspective, then, it can be more beneficial to support views more in line with Western values in order to maximize effectiveness.

For the tikkun olam-minded observant Jew, party affiliation presents an incredible challenge, as the present-day Republican and Democratic Parties both often abide by tikkun olam principles in certain realms but not in others. The Republican Party often emphasizes "the right to apply religious values to public policy" and supports governmental regulation of morality to a greater extent than does the Democratic Party. xxiii Thus, the Republican Party's view on gay marriage, for example, is

This tension in choosing a party affiliation based on social versus moral values is not a new one. Many Orthodox Jews in the late 19th century in Germany often associated themselves with Catholic parties, whose religiouslyinformed political stances, they felt, were closer to the Jewish position than were the views of the more liberal parties. However, other Orthodox Jews supported the more liberal political causes and felt that "the victory of basic, liberal ideology represented progress for Jewish religious liberalism."xxiv

Thus, in forming and deciding political views and affiliations, the Torah-dedicated Jew must accept his responsibility to general society, both in improving its moral ways and in caring for its physical needs. I believe that neither of the two approaches outlined at the beginning of this article constitutes a suitable answer to this challenge; a more middleground approach is needed. It is clear that our political positions must, and legally can, be influenced by our Torah values and our mission to be metakken olam. However, I believe that in certain cases political reasoning should take the place of halakhic reasoning, though to ascertain which cases is difficult. Furthermore. we must find a balance between pragmatism and principle and attempt to spread our values while still recognizing and addressing obstacles, such as the lack of clarity about the Noahide Laws, Jewish self-interest, and conflict with Western values. I do not know what the parameters for weighing each of these considerations in the decision-making process should be, for to any given political issue there may be multiple legitimate approaches. However, we must be willing to arrive at the conclusions through honest, thorough examination of all the issues involved.

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- ii When the term "moral" is used in this paper, it indicates a religiously-inspired morality that relates to one's relationship with God and does not necessarily have a secular justification.
- iii Metsudah Siddur translation.
- iv Isaiah 42:6.

^v Although a few halakhic authorities state that the Noahide laws for non-Jews are no longer binding, the majority opinion holds that non-Jews are still legally bound by these laws. See: Michael J. Broyde, "The Obligation of Jews to Seek Observance of Noahide Laws by Gentiles: A Theoretical Review," in David Shatz, Chaim I. Waxman, and Nathan J. Diament (eds), Tikkun Olam: Social Responsibility in Jewish Thought and Law (Northvale, NJ: Jason Aronson, 1999), pp. 103-143.

vi Broyde, pp. 120-129. Some, including the late Lubavitcher Rebbe, believe that Rambam requires coercion to whatever extent possible, while others limit such an obligation to the times of absolute Jewish sovereignty. Others maintain that Rambam has no such requirement at all. In any event, most other authorities, including Nahmanides, Tosafot, the Tur, the Shulhan Arukh, and Rema, do not require

vii Broyde, p. 131.

- viii J. David Bleich, "Tikkun Olam: Jewish Obligations to a Non-Jewish Society," in Tikkun Olam: Social Responsibility in Jewish Thought and Law, pp. 61-102, at p. 73.
- ix Joseph B. Soloveitchik, "Confrontation," Tradition 6,2 (1964): 5-29, at p. 20.
- Marc D. Stern, "Jews and Public Morality," in Tikkun Olam: Social Responsibility in Jewish Thought and Law, pp. 159-200, at p. 161.
- xi Exodus 22:20, ArtScroll translation.
- xii Rambam, Mishneh Torah, Hilkhot Melakhim 10.12
- xiii Psalms 145:9.
- xiv The literal translation is "ways of peace" but the interpretation of the phrase is disputed.
- xv Soloveitchik, "Confrontation" (addendum),
- xvi Ibid., pp. 20-21.
- xvii Marc D. Stern, "Civil Religion is an Obstacle to Serious Yirat Shamayim," in idem (ed.), Yirat Shamayim: The Awe, Reverence, and Fear of God (New York: Yeshiva University Press, 2008), pp. 349-376, at p. 350.
- xviii Stern, "Jews and Public Morality," pp. 176-178. A detailed analysis of this issue is beyond the scope of this article but can be found in Stern's essay.
- xix Meir Soloveichik, "A Nation Under God: Jews, Christians and the American Public Square," in Yirat Shamayim: The Awe, Reverence, and Fear of God, pp. 321-347, at pp. 335-336
- xx Bleich, pp. 80-85.
- xxi Stern, "Jews and Public Morality," p. 172. xxii Bleich, p. 87.
- xxiii GOP 2008 Platform, available at: http://www.gop.com/2008Platform/2008platform.pdf, p. 54.
- xxiv Mordechai Breuer, Modernity Within Tradition: The Social Thrusts of Orthodox Jewry in Imperial Germany (New York: Columbia University Press, 1992), p. 337.

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