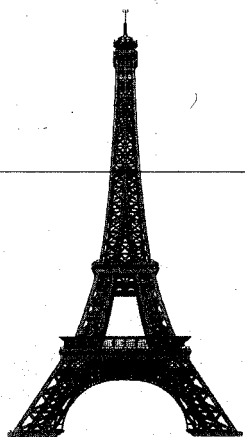
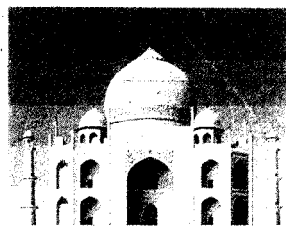
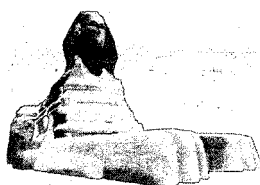
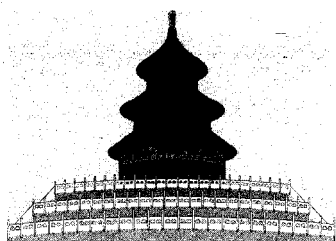


המבשר

Volume 34 No. 3

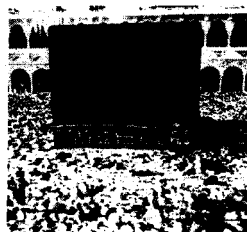
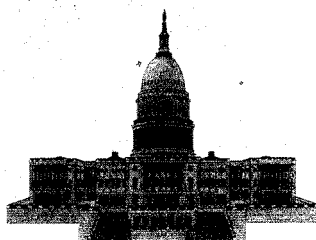
Nissan 5755, April 1995

Hamevaser



כי ביתי בית תפילה יקרא לכל העמים?

Does Judaism Have A Place For The Gentile?



Published by the Jewish Studies Divisions of Yeshiva University

From Our Editor

Tahnud Torah-What a Nuisance

Talmidim at Yeshiva University have always understood the need for compromise, even at the unfortunate expense of *Talmud Torah*. They have accepted upon themselves responsibilities that extend beyond the four *amos* of the Beit Midrash, beyond the struggles of deciphering a Tosafot or analyzing the intricacies of the Ramban's formulations. While an enriched appreciation for Madaa certainly offers substantial rewards to the *ben Torah*, it often demands from us a serious commitment to general studies. Sadly, as a result, many of us end up sacrificing time and concentration which we'd prefer to devote to our daily sedarim.

But though we concede that we must compromise the quantity of our *limud*, we must never compromise its quality, both in regard to intensity and degree of challenge. Thank God, the Yeshiva offers first class Roshei Yeshiva who deliver *shiurim* that rival, and often surpass, anything we can receive at another yeshiva. True, assignments and midterms may compel us to cut corners upon occasion, and our long schedules often leaves us exhausted during *limudei kodesh*, but certainly as a general rule, we don't strive merely to carve out our name among the elite yeshivot with a dual curriculum. When we actually open up our gemarat, *Talmud Torah* does not stand above the rest of our daily enterprises; it stands alone.

Or so we thought. Recently, however, both MYP and YC administrations have proposed mandatory credit for all shiurim, beginning next fall. What they hope to achieve truly confounds *Hamevasser*, and hopefully everyone else as well.

How can we dare hinder talmidim from Torah *lishmah*, from intense, passionate learning motivated only by "ve-hagita bo yomam va'layla?" While certainly many talmidim will continue to strive towards excellence in their *Talmud Torah*, these will probably be the same talmidim that flourished in any environment without the incentive of mandatory credit. The rest, instead of running to challenge themselves, to attend a *shiur* that demands a little more effort and struggle, a little more sensitivity to the subtleties and complexities within the rishonim, and a little more time during a hectic reading week to study for a *bechinah*, will now run to a *shiur* they can breeze through, assuring themselves of an easy A, thereby keeping alive their chances of moving on to a top-notch medical or law school. The administration wishes to elicit the same level of seriousness within the *shiurim*, with which the students approach their secular classes. Why not imbue the talmid with the same level of apathy and fear of challenging courses that plagues the rest of the University?

But what happens to the quality of his learning? What happens when he gazes repeatedly at the clock as it slowly ticks away, as he wonders when this boring shiur will end? What happens when Rashi no longer intrigues him, when the Rambam is glanced upon and then discarded? In the end, the vitality of *Talmud Torah*, the zeal to uncover its latencies and reveal its majesty, slowly disappears, replaced instead by what the talmid perceives as monotonous and superficial.

HAMEVASER

500 West 185th Street, New York, NY 10033

The views of signed articles are those of the individual authors and do not necessarily reflect the opinions of Hamevaser or Yeshiva University. Editorial policy is determined by a majority vote of the members of the governing board. Subscription rate: \$12 per year. All material herein copyright Hamevaser 1994.

Editor-in-Chief
Craig Berkowitz

Executive Editor
Ilan Haber

Layout Editor
Moshe Kahan

Art Editor
Tziona Berkson

Associate Editors

Copy Editor
Stephen M. Tolany

Managing Editor
Yehudah Jacoby

Tova Kohn
 Jonathan Kohn
 Tzvi Kassel
 Rebecca Rosen
 Jordanna Schaffel
 Emily Schapiro
 Kalman Schoor
 Eli Schorr
 Meni Schovershank
 Yaelle Weinstein

Mail to HaMevaser can be sent/carried/pigeon carried/ telegraphed to Ilan Haber at Mourgue 227, 2525 Amsterdam Avenue, New York, New York, 10033 or can be e-mailed to kahan@yu1.yu.edu. Moreover mail over the wonderfully breezy summer months can be sent to the RIETS office located at 500 West 185th Street, New York, New York 10033, located in beautiful Washington Heights. Telegraphs are preferred.

In This Issue...

Sophistry & Dishonesty
on Women & Judaism...4

The Lonely Gentile of
Faith...9

War Brides...5

Untold Sacrifice...11

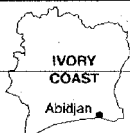
Korach, Tzitzit, and
Democracy...7

Capital Punishment...12

The Little Ben Noach
That Could...8

Abomination or Just
Plain Misunderstood...14

Mail From The



&



&



&



Coeducation Mandatory?

Dear Hamevaser,

In Stephen Tolany's article "Halakhic Outreach," Rabbi Mordechai Willig is quoted as saying, "If you're not interested in getting married right now, in my opinion, the halakha discourages, very strongly, any co-educational activities."

I disagree with this approach. First, it is not the approach that was espoused by our revered Rav, zatzal. For decades, the Rav led a co-educational Torah institution in Boston, the Maimonides School, *lifnei am va'eida*. He led it openly, with vigor and without apologies. Rabbi Willig's statement that "all *gedolei Torah* have been vocal in their opposition to this (co-educational activities) being accepted as the norm" is inconsistent with the Rav's demonstrated, public position regarding the Maimonides School and, for that matter, Yeshiva University's co-educational summer camp, Camp Morasha.

Second, Rabbi Willig's recommendation may belong in the category of "*Davar she'ein rov ha-tzibbur yachol la'amod bo*." Think of the unhealthy social pressures that can be created when we tell our young people to avoid social interactions until they are ready to get married. How should one decide when to get married, if not as an outgrowth of a normal, developmentally healthy, social maturation process, which enables a young person to develop the confidence, skills, and self-knowledge necessary for a credible spousal decision. This process has been one of the jewels of our Torah U'Madda lifestyle in this country for many decades. Many of us who have experienced coeducational schools, NCSY, Bnei Akiva, and summer camps have benefited greatly and have become better Torah Jews in the process.

This is not to say that separate schooling/socializing is not appropriate; it certainly is for many of us who prefer it. But to impose it on the *klal*, to say that we "may have become too accustomed to what begun as a forced situation" asks us to accept as desirable a position which, in fact, may harm the community more than the "*kula*" it seeks to eliminate. Look at the experience of the "right wing" community which forbids socializing until one is "ready" to marry. Those of us who have studied in "right wing" Yeshivas and who are familiar with the "right wing" community can tell you of many painful cases of socially immature people making catastrophic marriage choices.

Let us be more careful about issuing blanket "*issurim*" regarding matters that are halakhically supportable, that have halakhic precedent and logical justification.

Sincerely yours,
David Jacobowitz
RIETS '72
Sales/Philips Home Services

And The Meat Shall Inherit The Earth?

Dear Hamevaser,

I would like to commend Meir Zeitchik for his objective, well-researched, and balanced article, "Judaism on Vegetarianism: Burnt Flesh or Required Culinary Delight" (November, 1994 issue). As author of a book, *Judaism and Vegetarianism* (Micah Publications, 1988), I would like to comment on some of the points in his article.

1. Mr. Zeitchik correctly points out that "Judaism at times mandates the eating of meat." However, there is no mandate today to eat meat at any occasion. According to the Talmud (Pesachim 109a), after the destruction of the

Temple, Jews are not required to eat meat in order to rejoice on sacred occasions. Recent scholarly articles by Rabbi Alfred Cohen (The Journal of Halacha and Contemporary Society, Fall 1981) and Rabbi J. David Bleich (Tradition, Summer 1987) conclude that Jews do not have to eat meat in order to celebrate Shabbos and Yom Tov. This view is reinforced by the fact that Rabbi Shlomo Goren, former Ashkenazic Chief Rabbi of Israel, was a vegetarian, and Rabbi Shear-Yashuv Cohen, present Ashkenazic Chief Rabbi of Haifa, is a strict vegetarian as well.

2. Mr. Zeitchik correctly states that the importance of the Jewish mandate to take care of our health ("*U-shemartem et nafshotekhem*") brings the issue down to the purely scientific issue of the risks posed by meat consumption. It is hoped that he and others will pursue this issue, because there is a vast amount of documentation connecting meat-centered diets to heart attacks, strokes, various types of cancer, and other degenerative diseases. This is a major reason that medical costs have been skyrocketing in recent years, contributing substantially to governmental budget deficits at the local, state, and federal levels.

3. The author is also correct in stating that Judaism puts higher value on human life than on non-human animal life. However, we should recognize that a concern for how animals are treated does not negate a concern for human needs, since the mistreatment and con-

Continued on pg. 16

"Sophistry and Dishonesty on 'Women and Judaism'"

by Meir Zeitchik

Contemporary psychology logically assumes that most people seek to avoid conflict. Whether involving mundane matters such as two people vying for a better spot on a line, or the deep throes of a spiritual crisis, a clash between two contending ideas, people, or priorities often results in discomfort and anguish. Consequently, most people use whatever means they have at their disposal to ~~avoid~~ ^{avoid} a confrontation, even if it means obscuring the truth in the process.

We should expect professional thinkers and philosophers, bound by a need for intellectual honesty, to rise above this. But surprisingly, many Jewish thinkers have demonstrated this exact tendency in one of the most critical issues of our time -- women's equality.

The conflict is obvious. On one hand, the women's movement vehemently argues not only for practical equality, like equal pay for equal work, but for a more fundamental equality, an explicit acknowledgement of their similar status as individuals and as part of a larger community. On the other hand, a plethora of halakhot and Rabbinic statements seem to relegate women to a lower status. One only needs to open Masechot like Gittin and Kiddushin to witness this apparent discrimination.

Examples abound, ranging from the Halakha of a father's right to sell his daughter (but not his son) into slavery at an obscenely early age to all of the responsibilities and privileges provided to men, such as private mitzvot of like *tzitzit* and public ones like *keri'ut ha-Torah*. Rabbinic dictums seem vulnerable to the same biases, as evidenced by the Gemara in Nedarim (20a) which likens a woman to a piece of meat.

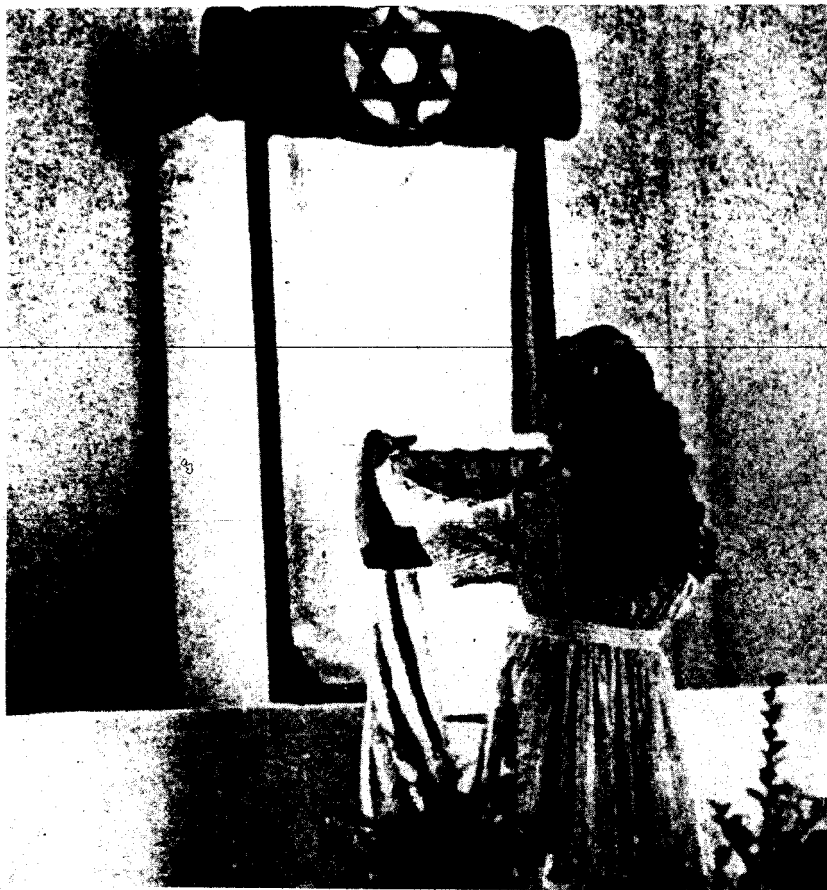
We may deal with this contradiction in several ways. One possibility, put forth by many in the right-wing camp, is to take a radical and closed-minded approach and not deal with it at all. Indeed, they admit, many laws in the Torah and statements in the Gemara treat women in an inferior manner, and by modern-day standards, the spirit and practice of Judaism fails a crucial test; it is immoral and unethical. But modern day culture is merely a human creation, at best a culmination of centuries of labor and intellectual effort, at worst a spontaneous compendium of norms synthesized by a bunch of elitists for their own aggrandizement.

Either way, humans devised these standards and we should not accord them much respect. The most compelling evidence is the standards themselves -- they seem to vary significantly from country to country (although not as significantly as many of us are inclined to believe) and from time to time, and they continue to evolve and change even within a country. Why should present-

day values have any meaning to today's Jew? After all, is it not only a coincidence that today's Jews were born in to the present era and not another? Why, then, should today's values command enough respect to warrant reconciling them with the values of the Torah?

While not terribly satisfying for a great majority of Jews no longer living in the shtetl, this approach has a certain allure. It keeps one's faith in the Torah and its value system intact. Also, by definition, it renders baseless all criticisms. Any logical argument that undercuts

problem if not an attempt to balance moral norms today with the values of the Torah? Those who support the above notion of Torah being the sole source of values clearly would find this approach impractical, if not philosophically reprehensible. They seem to feel that a true believer should simply close his eyes to the fact that a dire situation (at least from the woman's perspective) is currently taking place. No one should ever search for a solution, since no problem exists. To acknowledge that there is a "need" tacitly admits that there is a competing modern



the values of the Torah is simply countered by replying that as long as an argument is not compatible with the Torah, it is not even worth responding to. It also contains an additional virtue; it is internally consistent, maintaining Judaism as the sole source of values for any Orthodox Jew and preventing contradiction. It does not attempt to resolve over the conflict; it simply refuses to recognize that there was one in the first place.

This camp maintains that their opinion is the consensus of all gedolim. But upon analysis, many recent statements by gedolim implicitly deny these assumptions. For example, what are the "creative" solutions to the agunah

value worthy of consideration.

The opposite extreme runs directly counter to Orthodox Judaism and therefore must be rejected immediately. It is not necessary to elaborate on any part of the Reform doctrine; obviously, to reject the traditional values of the Torah in favor of everchanging modern values does not accord Torah the respect it deserves.

But perhaps more disturbing than this possibility is that taken by a much larger majority of contemporary Orthodox Jewish thinkers, such as Rabbi Aryeh Kaplan

Continued on pg. 10

War Brides!

Lo Dibbra Torah Ela Keneged Yetzer Hara
by Leah Safran

Man is said to have been created "be-tzelem Elokim" (Bereshit 1:28), in the image of God. Despite his physical limitations, the Torah often seems to be calling to man to push himself beyond his capacities, challenging him to be virtually God-like.

("ve-halachta bederachav"). Ostensibly, the mission with which God entrusts us seems unreasonable. It is God Himself who created us with built-in drawbacks -- our instincts and basic urges seem to be an essential part of our being. How can we possibly expect to fulfill the Divine mandate?

The key to answering this question is the realization that in order to become God-like, we must confront our humanity on its most basic level. Paradoxically, our instincts and urges, which seem to make us most vulnerable to sin, are exactly what we must acknowledge, utilize, and sanctify in our quest for the ultimate relationship with God.

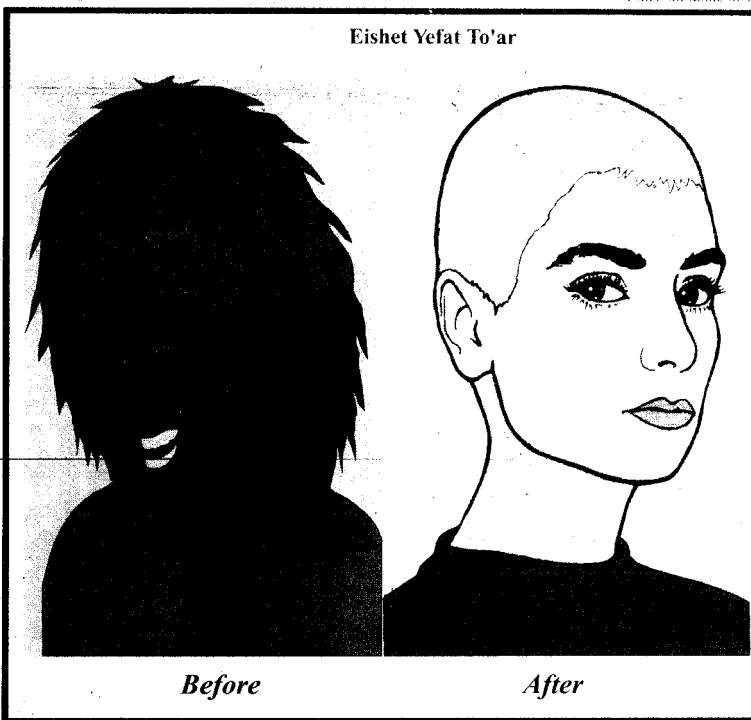
conceding to our weaknesses so that we are able to acknowledge them, confront them, limit them, master them.

A case in point is the connection between *korbanot* and Tanach's polemic against *avoda zara*. Living in the

temple, God did not invalidate the mode of worship. He knew that if, done so, He would alienate *benei Yisrael* -- it would be like feeding solid food to a baby. He therefore allowed traces of this old mode of worship to remain. The im-

portant aspect which was added, however, was that the *korbanot* should be directed exclusively toward the one God. In this way, God intended to erase all vestiges of the philosophy of *avoda zara*, while allowing the superficial outer trappings to remain. The revolutionary concept of God's existence and unity were less traumatic to absorb when clothed in familiar garb.

Yirmiyahu (7:22-23) chastises *benei Yisrael*: "For I spoke not unto your fathers, nor commanded them in the day that I brought them out of the land of Egypt, concerning burnt-offerings or sacrifices; but this thing I commanded them, saying, 'Hearken unto my voice, and I will be your God and you shall be my people.'" The problem is not that *benei Yisrael* bring *korbanot*, the problem is that they are doing so



I. The Rambam's Theory of *Tachbula*

Rambam (Moreh Nevuchim, 111:33) explains that the purpose of Torah and mitzvot is to aid us in creating a physical, mental, and social environment in which every individual can achieve lofty spiritual heights. To illustrate precisely how the Torah accomplishes this aim, the Rambam relates a striking phenomenon that applies to all planes of human existence.

People, he explains, are incapable of making sudden, extreme changes: "...a sudden transition from one opposite to another is impossible." (Moreh, 111:32). This is certainly true on a biological level. Many animals cannot eat solid foods the moment they are born. Therefore, God created a mechanism by which mammals are nourished by their mother's milk until their teeth have grown in and their digestive systems have developed.

Rambam's idea remains true on an emotional and spiritual level. The purpose of Torah and mitzvot is to aid man in his religious growth, to bring him closer to God. To harshly impose uncompromising restrictions without taking human nature into account would be useless. Rather, halakha provides focus: gently prodding us in the right direction, gradually easing us into a lifestyle conducive to growth. The mitzvot are what the Rambam calls a *tachbula* (Moreh, 111:32) -- a ruse, a circuitous way of attaining a difficult goal. The beauty of the Torah lies in that its code of behavior creates an eventual fusion of human nature and divine will. God meets us halfway, so to speak, by

Western hemisphere in the twentieth century, it may be hard for us to understand the tremendous attraction which idolatry must have held for our ancestors. In Biblical times, however, belief in idolatry was entrenched in society's consciousness. This philosophy placed disparate forces in charge of basic human needs such as crops, longevity, health, and security. Monotheism, when introduced, was an extremely radical concept. It asserted that the world was not a chaotic amalgamation of vying forces, but rather was controlled by a unified, ultimate, all-powerful Force. The Torah's novel approach went against the grain of everything that society stood for. It was thus very hard for the Jewish people to accept. Their struggle with idolatry is carried on throughout *chumash* and on into *nevi'im* and *kettuvim*. "[f]or the foundation of the Law consists in putting an end to this opinion." (Moreh, 111:32)

II. *Korbanot* as *Tachbula*

Rambam elucidates this theme in his discussion of *korbanot* (Moreh, 111:32). He argues that in the ideal scheme (i.e. if people were perfect), *korbanot* would not really have a place. The whole idea of animal sacrifice harkens back to the unenlightened days of *avoda zara*, and is only sanctioned in Judaism as a *tachbula*, a means, to bring man closer to Torah, to God, and thus, to his ultimate goal.

At the time of *matan Torah*, the most popular method of *avoda zara* was the sacrificing of animals in

for the wrong reasons. The reason for *avodat Mitzrayim* is not so that *korbanot* could be brought. Animal sacrifices are simply one path, among hundreds of others, to the ultimate goal, which is a relationship with God.

An indication that *korbanot* are not ideal is the fact that their performance is greatly circumscribed. Only certain animals can be brought, only at a certain place, only certain people may officiate. God certainly does not want to invade our comfort zone too suddenly, but he still wants to limit concession. There is no limit on "*tefila u'techina*", for example, because they are methods of serving God which are unadulterated by foreign influence.

Once concession is "programmed into" the Torah, it, along with its limitations, becomes a perfectly valid mode of connecting with God. When evaluated from a purely philosophical perspective, *korbanot* may seem incongruous. When considered from a purely practical standpoint, however, they become an effective tool for connecting with God.

Rambam maintains that all of Torah serves as a *tachbula* in some way or another. Mitzvot, *azharot* -- the whole concept of *sekhav ve-onesh* and *genul* -- are external motivations

Continued on pg. 6

Hamevaser

War Brides

Continued from pg. 6

which God uses to control our actions. Obviously, to fulfill God's will solely because of external, pragmatic motivations is not ideal, but doing so is a necessary step in our lifelong endeavor to confront our primitive urges, and then to channel them into more lofty pursuits. We are not intended to suppress our natures, but rather to elevate them through channeling them into doing mitzvot. For example, one who feels an impulse to murder is encouraged to become a *shechit*.

III. The Example of Shechita

Thinking along these lines, the following statements of Chazal take on new meaning: "The commandments were given only *leitzaruf* (to purify) people. Why should God care if one slaughters from the throat or if one slaughters from the neck?" Thus -- the commandments were given only to purify. (Beresheet Rabba 41:1) "Why should God care if benei Yisrael eat without *shechita*?...Know that *shechita* was commanded only to purify Yisrael." (Tanchuma, Shemini 7)

The desire to eat meat starts out as the most primitive of human appetites, yet it acquires sanctity through the laws of *shechita*. Chazal here seem to be saying that where one actually slaughters is purely arbitrary. However, once a certain method was commanded by God, because it was commanded by God, it becomes sacred. By limiting the way we eat meat, God is creating yet another way of connecting with Him; there may be no intrinsic importance to where an animal is slaughtered, but once man follows God's instructions, he is admitting that there is really no difference between the most "mundane" parts of his life (e.g. eating meat) and the most elevated aspects of his relationship with God, since all are regulated by God's word -- halakha.

As Rav Soloveitchik, zt"l, writes, "the Torah regards man as both a natural and a spiritual being, and recognizes his need for pleasure. God wants him, however, not to allow his pleasures to become unbridled hedonism, with self-indulgence as the highest value. In abstaining from the fruit of 'one tree,' man acknowledges a relationship with, and an accountability to Him." (Reflections of the Rav, Vol. 1, p. 19)

IV. The Yefat To'ar

The idea that man should utterly quash all his primitive impulses simply does not come across in the Torah. The Talmud states that a man's *yefet hara* tries to get the better of him every single day, and it is only *siyyata di-shmaya* that allows it to potentially overcome it. The text of Tanach openly acknowledges man's physical and emotional needs; it does not denigrate them. While the Torah may seem to concede to man's *ta'avot*, he ends up elevated and purified. The *parsha* of the *yefat to'ar* is such an instance.

The beginning of *parshat ki teitzei* (Devarim 21:10-12) presents the following scenario: "When you go to war against your enemies...and you have captured captives. And you see among the captives a woman...and delight in her, that you would take her for your wife. Then you shall bring her home to your house..." In the uncontrolled, frenzied atmosphere of battle, man may conceivably be overcome by appetites that he cannot humanly control. Thus the Torah allows him the woman who has so aroused his passions.

However, before he can marry her, he must fulfill a myriad of conditions. He must shave her head, cut her fingernails, replace her clothing, let her mourn her family for an entire month. Only then may he take her as his wife.

Rashi's commentary gives us a glimpse into how the Torah gets man past his animalistic impulses, even while it seems as if he is being allowed to surrender to them. He cites the gemara in Kiddushin 21b that "*lo dibhru Torah ela keneged yetzer hara*", adding that if God would not allow the soldier to take the *yefat to'ar*, he would take her anyway -- *yisra'ona be-issur*. Halakha allows man to take the *yefat to'ar* with the Torah's own stipulations so that he will not feel trapped and driven to do anything even more disgraceful: "Better that *benei yisrael* should eat dead corpses and not diseased dead corpses!" (Kiddushin 21b). Better that a *ben Yisrael* should take the *yefat to'ar* and still feel that he is within the pale of halakha, rather than feel that there is no way to exist as a human being within the framework of Torah.

The gemara in Kiddushin demonstrates, through the *pesukim*, that it is possible for man to direct his desires even when his evil inclination is at its height. "and delight in her" [means] her and not her and her companion... "for your wife" [means] that he should not take two wives, one for him and one for his father, one for him and one his son. "then you shall bring her" [means] to teach that he should not oppress her at the time of war." By simply acknowledging a man's desire, and accommodating it to an extent, the Torah is then able to limit it to a great degree.

The *pesukim* (Devarim 21:12-14) continue: "Then you should bring her home to your house and she should clip the hair of her head and pare her nails. And she should remove the garment of her captivity from off her, and shall remain in your house, and weep for her father and mother a full month, and after that you may...

be her husband and she will be your wife." Rashi (21:12-14) quotes the Sifre, which extrapolates the gemara's reasoning to beyond the battlefield. "let grow her nails" that she may be repulsive and she shall remain in your house" when he enters he knocks up against her, when he leaves he knocks up against her (i.e. he cannot avoid meeting her constantly and the novelty of her appearance wears off); he sees her endless crying, sees her neglected appearance in order that she should become repulsive to him and she shall weep for her father. Why all this? In order to create a distinction -- that while the Jewish woman (the captor's Jewish wife) is

gladsome, she should be downhearted; while the Jewish woman adorns herself, she should bear a neglected appearance." The man guided by the laws of the Torah will eventually come to the realization that his desire was superficial and not as insurmountable and consuming as he had once thought.

The four *pesukim* at the beginning of *parshat ki teitzei* contain a profound psychological truth. If someone feels that God is making excessive demands on him without understanding his inner working, he will not even attempt to obey the mitzvot when they seem too difficult. He will simply assume that he is incapable of accomplishing the *retzon Hashem*. However, if a man realizes that the Torah understands him and therefore accommodates him, he will be much more confident in his ability to fulfill what is commanded. In a strange but beautiful way, the concession itself becomes the ideal. Not only can will a Jew turn a potential misdeed into an opportunity to fulfill a mitzvah, he will also emerge from the experience with an increased appreciation for the fact that Torah is not an elitist document that pertains only to a select few, but rather is relevant to every aspect of human nature and existence, with no situation too lowly or too remote for it to address.

Go To Moshava Kollel AND GET EATEN BY A BIG BEAR!

No, seriously, Camp Moshava of Wild Rose, WI, currently recruiting college age Bnei Torah for its kollel program. The Chaverim of the Kollel deliver daily shiurim to elementary and middle school aged day school children on topics of Halakha and Hashkafa, and spend the afternoons and evenings learning in the pastoral atmosphere of central Wisconsin. Gain valuable experience in Hinukh and help spread an atmosphere of Talmud Torah as well as Avirat Eretz Yisrael. For more information contact Daniel Yolkut (212) 781-4783, Mo311.



Korach, Tzitzit, and Democracy

by: Tzvika Nissel

Biblical commentators have traditionally viewed Korach as a power hungry rebel who lacked true nobility of cause. Nevertheless, this interpretation presupposes the dismissal of a simpler reading of the text which implies that Korach was genuinely distraught about the proposed system of hierarchy in Israel. Seeing no need to rank any group above another, Korach perceived a sanctification of the *Kohanim* as heretical.

Utilizing the simpler reading of the Korach story, Aviyah Cohen tries to find parallels with an analytical understanding of the commandment of *tzitzit* (defined in the *Targum* and in the Septuagint as "edges, hems"). Cohen makes reference to the biblical episode when David silently approached King Saul in the cave and cut off the corner of Saul's garment. David "reproached himself for cutting off the hem of Saul's cloak." After finding out what happened, Saul responds, "I know now that you will become king" (Shemuel I 24:6,20). What was so significant about this encounter that deserved such dramatic responses from both David and Saul?

Jacob Milgrom says that the hem of Saul's cloak symbolized his authority; it was an extension of his personality. David realized that God had not yet ordered him to take away Saul's authority, hence his self-reproach. Consequently, using the same logic, Saul perceived this as a sign that God rejected his kingship in favor of David.

Evidence of the hem of a garment's unique status can also be found in the customary dress of the Ancient Near East, where the hem was typically more ornate in comparison to the rest of the robe. The number of embellishments on the hem was often proportional to the prestige of its wearer.

Ancient Mesopotamians even used the hem of their garments in place of a signature on legal documents. E.A. Speiser suggests that the tradition of pressing the *tallit* to the *Torah* scroll is a survivor of this archaic custom. This act, following the recital of blessings on the *Torah*, symbolizes the participant's pledge to live by the commandments of the *Torah* both in words and deed. Thus, the significance of the *tzitzit* (as well as of the elaborate hem) lies partially in its use in identifying nobility.

Consequently, the requirement of *tekhelet*, the purple/blue chord, also reflects the *tzitzit*'s special identification qualities. Due to the minute quantities retrieved from each *chilazon*, the animal that produced the dye, *tekhelet* commanded a tremendous price. As a rule, only the rich could afford it. Indeed, Roman emperors retained for themselves the exclusive privilege of wearing purple mantles, hence, the color names still extant, "royal blue" and "royal purple." Thus, *tekhelet* serves to mark the individual wearing the *tzitzit* as having attained a certain noble status.

Nevertheless, not only did *tzitzit* symbolize nobility in a purely materialistic sense, it signified an elevation in holiness. This concept is expressed in the *Torah*'s prohibition of wearing garments made of *shatnez*, a mixture of wool and linen. However, starting from biblical times, *tzitzit* were actually fabricated with *shatnez*. One reason why *shatnez* is forbidden could be traced to its use as a holy mixture, reserved exclusively for priests, forbidden to non-priests. Historically, it was used in the manufacturing of the inner curtain of the Tabernacle and on the garments of the High Priest (Shemot 26-28). Its holiness is derived from the verse, "You shall not sow your vineyard with a second kind of seed, else the crop, from the seed you have sown, and the yield of the vineyard will be sanctified (*yikdash*)" (Devarim 22:9).

How then can we wear *tzitzit* that are made from *shatnez*? In the Talmud, the rabbis answer that the positive commandment of *tzitzit* overrides the prohibition of

shatnez (Menachot 39b,40a). Nevertheless, we might take this as a hint towards one of *tzitzit*'s main purposes. We see here a conscious effort to encourage all Israelites to strive for the level of holiness found in priests. The *Torah* illustrates a rationale behind *tzitzit*: "Thus you shall be reminded to observe all my commandments and to be holy to your God" (Bamidbar 15:40). The ultimate goal of *tzitzit* is to attain holiness, as stated in Shemot, Israel shall be "a kingdom of priests and a holy nation" (Shemot 19:6).

Thus, expresses Milgrom, *tzitzit* represents the epitome of the democratic thrust within Judaism, equalizing not by leveling, but by elevating. All Jews are instructed to strive towards achieving a priestly level of holiness. This was precisely Korach's argument: Why should we consider one part of Israel holier than another one? Korach asserted that "the whole congregation in its entirety is holy" (Bamidbar 15:3). As a result, Korach was among the first documented activists for democracy.

Although Biblical sequence places the commandment of *tzitzit* before the story of Korach, chronologically, it should come afterwards. In fact, to highlight the dichotomy between the commandments pertaining to the priests and

to those of *tzitzit*, the *Torah* makes a concluding statement: "*Ki'asher tziva Hashem et Moshe*" just as God commanded Moshe. This statement serves as a transition to the next commandment, which is not a "*ki'asher tziva Hashem et Moshe*" type commandment. While Korach himself sinned through open rebellion, his cause was still essentially a sound and valid one. The commandment of *tzitzit* can be viewed as a corollary of Korach's complaint. After Korach's demonstration, God decided that something was needed to ensure the holiness of the entire nation of Israel. While the *Kohanim* had already been given holy tasks to uphold their sanctity and the High Priest retained the right to wear *shatnez*, the rest of Israel still lacked something tangible with which they could identify their potential holiness.

Thus, *tzitzit* as a garment came to represent Korach's struggle in three ways: first, it consecrates Israel as a holy nation; second, it establishes Israel as a nation consisting of equal citizens; third, it resembles the essence of Korach's cause, equality.



The Little Ben Noach That Could

by Nattali Bodoff

Common wisdom assumes that the Noachide laws are not only an abbreviated form of the Jewish code of law but a more lenient one as well. In many ways, however, the Noachide laws are stricter than those that were given solely to Jews. These stringencies shed light on Judaism's views of the role of non-Jews in the world.

The absolute intolerance of deviation from the Noachide laws exemplifies this seemingly undue severity. A Gentile who violates any precept receives capital punishment. Moreover, instead of *shenes* (strangulation), which a Jew would receive for adultery and various other crimes, the non-Jew endures the harsher death of decapitation.

Besides the actual punishment, the legal procedure required to convict a non-Jew is also significantly simpler. For example, we do not convict a Jew without at least two witnesses, who must not only not be relatives or friends of the defendant, but must not be associated with each other as well. In contrast to this, the testimony of one witness suffices to convict a non-Jew, who may even be a relative of the witness. Further, a Jew must be warned before he transgresses, and must be tried by at least twenty-three judges before capital punishment can be imposed. A non-Jew, however, can be tried by a court of one judge even in capital cases, and can be punished without having been given a warning.

Moreover, the definition of a punishable crime is more expansive for a gentile than for a Jew, thereby subjecting the gentile to punishment for many more actions. For instance, the Rambam clearly states (*milkhos Melakhim* 9:10) that a non-Jew is punished for eating even the smallest amount of a limb from a living animal; a Jew is punished only if he eats an amount equivalent to a *kezayit*. Additionally, a non-Jew is executed for the blasphemy with only so much as a descriptive reference to God (such as "Almighty" or the "Omnipresent") and regardless of the language. A Jew, however, is only executed if he pronounces the *shem ha-meforash* in Hebrew. Similarly, regarding the sin of murder, a non-Jew is executed even in a case where he only killed his victim indirectly, such as in the case of stranding someone without food or throwing him before a dangerous wild animal. A Jew is only executed if he directly kills a person.

The first two approaches to understanding these stringencies on Gentiles involve a dispute between Rambam and Ramban on the nature of one of the Noachide laws: the injunction to set

up a judicial system. Ramban interprets this command to mean that Gentiles must set up courts and officers to judge and punish those who transgress the Noachide laws. Ramban, however, is of the opinion that these judicial offices do not merely deal with issues of the Noachide laws, but even laws that pertain to the orderly and just functioning of society in a broader sense, like legislation regulating business. The stringencies placed on Gentiles can be easily explained according to the Rambam, based on his comments in his *Introduction to the Explanation of the Mishnah* (ch. 9). According to the Rambam, the purpose of the Gentile's existence in this world is solely to serve and benefit the Jew. For example, the work of Gentiles in the Midwest United States produces grain that sustains Jews, and those in the construction business build edifices that shelter Jews. At the most basic level Gentiles provide the context of a heavily populated civilization in which Jews can live. According to this approach, Jews are first-class citizens. Non-Jews do not serve a fundamental purpose and their whole existence is measured in terms of how they relate to Jews. Hence they must adhere to the basic rules of conduct comprising the Noachide laws.

The following analogy may bring about a greater understanding of why a Gentile is judged more harshly. If a senior partner in a firm and his lowly gofer both break a company rule but can be pardoned on a technicality, the senior partner may be the beneficiary of this loophole and not be punished, while the gofer would probably not enjoy a similar privilege. Similarly, according to this approach, the Jews are "senior partners," while the Gentiles are simply gofers who serve the Jews.

According to Ramban, however, there is another way of explaining the many formal requirements (which are, *de facto*, loopholes) required to convict and punish a Jew but not a Gentile. As previously stated, Ramban is of the opinion that the injunction to set up a system of justice includes many laws beyond the seven Noachide laws. This notion seems strongly correlated with the idea of Gentiles possessing a positive mission of their own in inhabiting the world. They must therefore enforce an entire array of laws in addition to the seven "basic" ones in order to ensure that society functions properly. Most importantly, according to this approach the role of Gentiles is not defined solely by how they relate to Jews. Therefore, their laws are fundamental rules for the functioning of a just, orderly, and moral society; if one violates a law, we do not care if he did so in the formal, precise way. The whole point of the laws is result-oriented -- we want to prevent effects that are harmful to civilized society. And so the gentile who kills somewhat indirectly is punished, because the fact of the matter is that he has murdered another person. Since the Noachide code describes how a non-Jew should fulfill his life's mission of settling the earth, one who violates any of its prohibitions is executed.

The third and final approach follows the opin-

ion expressed by Taz, the commentary on Shulchan Arukh. In *Hikchos Berachos*, the halakha is that every morning a Jew should bless God for, among other things, not making him a Gentile. Taz explains that the reason we do not bless him in the positive (...that you have made me a Jew) but in the negative (...that you have not made me a non-Jew) is, ironically, because we want to protect the image of the gentile. When we bless in a negative form we mention the Gentile, thereby reminding ourselves that despite our ethnocentrism, the gentile does occupy a significant place in the world. If we omitted the Gentile from the blessing we might come to the mistaken conclusion that the Gentile has no inherent value whatsoever. And what is the intrinsic value of the Gentile, according to Taz? The possibility that he may convert at some point in the future. This view certainly differs from those of both Rambam and Ramban. Although Taz is similar to Ramban in that he also believes the value of gentiles only exists in the context of the existence of the Jewish people, he differs by focusing not on what the Gentiles can do for the Jews but how the gentiles can elevate themselves and become Jews. What emerges is an exceedingly positive outlook towards Gentiles, as they possess great potential.

Based on the approach of the Taz, we find another way of explaining the lenient requirements to convict a Gentile. Because the merit of Gentiles rests in their potential to become Jews, perhaps the Noachide laws are intended to be a stepping stone to the entire Torah law. As such, how gentiles fare in their adherence to the Noachide laws is a test to see if they are likely to embrace the entire Torah. In any preliminary trial, the subject is evaluated based on only a few sample criteria, but later scrutinized carefully to see how he measured up to these criteria. Similarly, the Gentiles have a few sample commandments to follow and their adherence to them is closely scrutinized; hence, we demand more of the gentiles and can convict them for example for eating even a small amount of forbidden food. And when a Gentile violates a law and shows us that he will not come to embrace the entire Torah, he receives capital punishment.

Still, we have not explained why Gentiles are convicted so easily. If we require the testimony of two witnesses and the decision of a court of twenty-three judges in order to convict and kill a Jewish defendant, why is a Gentile executed based on one witness in a court of one judge? One possible answer is that it is unjustified to say that we judge Jews according to an absolute standard of justice, whereas the rules for Gentiles are to be viewed as *lifnim me-shurat din*. In actuality, the laws governing Gentiles is true justice while membership in the Jewish nation is nothing short of a tremendous privilege. One witness and one judge are enough to clarify the truth, and therefore sufficient for execution, but a Jew has the privilege of the stricter requirement of two witnesses and a court of twenty-three judges to convict him.



The Lonely Gentile of Faith

by Daniel Yolkut

From birth to death, a Jew is trained to look at all of life through a lens of Halakha. From the "Torah ziva lanu Moshe" taught to the toddler to the Vidui and *Shema* murmured on the deathbed, the Jew's emotional responses are directed in such a way so as to enhance his *avodat ha-borei*. His day is punctuated with *tefillot* and *berakhot*, his week with Shabbat, and his year with *moadim*. He is dedicated from birth with the "holy sign of the Covenant," *mila*, and his maturation, marriage, birth of children, and death are all celebrated in a spirit of praise to God. But what of the gentile? How, if it all, does Hashem expect him to channel his life towards *avodat ha-borei*?

Before addressing this question we must briefly explore what Halakha does, in fact, demand of a *ben Noach*, and what strictures it places on him. The Talmud (Sanhedrin 56a-59) lists, after some debate, a basic code of laws which apply to the *ben Noach*, generally referred to as *sheva mitzvot benei Noach*. While these laws do extend to form the basic constitution of a society concerned with justice and morality, they contain no positive direction for an individual looking for religious guidance. Indeed, some of the corollary laws of the *sheva mitzvot benei Noach* put significant blocks in such a path.

Talmud Torah, the primary Jewish way of relating to God, is at least partially barred to the *ben Noach*. The Rambam (*hilkhot Melakhim* 10:10) codifies the Halakha as follows: "An idolater that engages in Torah study deserves death, and they should only learn regarding their seven Mitzvot." The Talmud (Sanhedrin 59a) bases this on the unique relationship between *klal Yisrael* and the Torah attested to in the verse "*morasha kehilat Ya'akov*," an inheritance of the congregation of Ya'akov, and the Gentile use of the Jewish "inheritance" would be a form of theft. Alternatively, the word "*Morasha*" could be read as "*Me'orasa*," meaning "brothered", and the Gentile study of Torah would be forbidden based on the prohibition of adultery.

Nevertheless, this Halakha is not as simple as it would seem at first glance. The Talmud itself quotes R' Meir's statement that a Gentile who studies Torah is equal to a Kohen Gadol, and resolves its question by maintaining that a Gentile can -- and indeed should -- study those laws which apply to him. Theoretically, one could construe this to mean that a Gentile could even rigorously study those Talmudic passages pertaining to his Mitzvot. The Rambam himself wrote a responsum (*teshuvot ha-Rambam* 149, Blau Edition) suggesting that it would be permissible for a Chris-

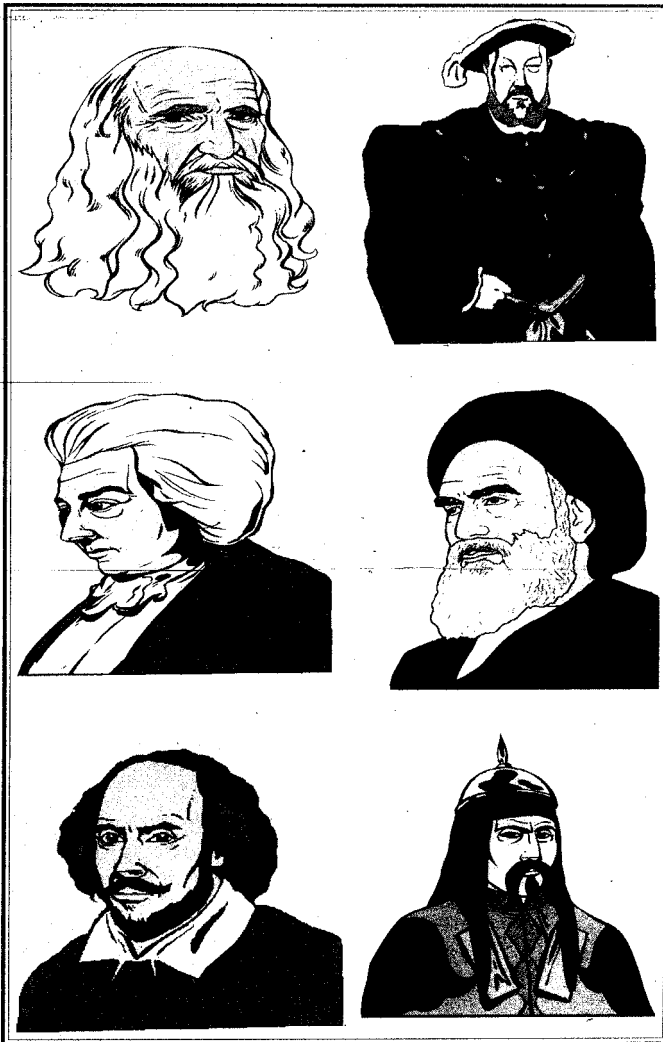
tian, who accepts the concept of the divinity of the Torah, to be taught by a Jew, although it would be forbidden to teach a Muslim. It would seem that this could be expanded to include the *ben Noach* who certainly accepts the sanctity of the Torah. Other poskim distinguish between study of Torah *she-ha'al pe* and Torah *she-hi-khetav*, and between intense and casual study. While the prohibition is clearly not as strict as it would seem at first blush, (for a full dis-

cussion on such role in the life of the *ben Noach*, see R' Pischel's *Chochmat ha-Chochma*, a treatise that observes *shabbat* deserves to be observed. R' Ramba extended this prohibition to days of *fasting* on another day, *fasting* on another day. However, the word "*shabbat*" is ambiguous. Rashi translates it to mean simply resting from work for one day. It is not clear whether he means a formal cessation from *melacha* or simply a day off. In any case, Rashi does not require the day to have a sacred character in order to prohibit it. The very cessation from work and the natural order of life is prohibited to a gentile. The Meiri, on the other hand, explains the prohibition as being of a religious nature. While the Rambam shares this position of the Meiri, he then extends it in such a way as to have major repercussions for the non-Jewish *homo religiosus*.

The Rambam extends the Talmud's ruling to cover other circumstances. Specifically, the Rambam prohibits the gentile from establishing religious holidays for himself. He then draws out a general principle: a new prohibition of "*chidush dat*," innovating a religion or creating new mitzvot for themselves. He presents a stark choice between conversion and full religious life as a Jew, on the one hand, and the seemingly comparatively poor religious life of a gentile, on the other, leaving no middle ground. Nevertheless, the Rambam goes on to contend that a Ben Noach can keep any other mitzvah in the Torah. The Radavaz further restricts them from doing any mitzvah that requires "holiness and purity,

such as a Torah, Tefillin or a Mezuzah." So while a gentile can wind *techelet* into his *tzitzit*, bring *korbanot*, (even possibly *bi-zeman hazeh!* see Rambam, *hilkhot Ma'ase ha-Korbanot* 19:16)

continued on pg. 10



cussion of this issue, see "Teaching Torah to Non-Jews," in J.D. Bleich, *Contemporary Halakhic Problems*: 311-340) it is obvious that Talmud Torah is not the gentile's most appropriate path to Hashem.

Additionally, the calendar, referred to by Rav Shamshon Rafael Hirsch as "the catechism of the Jew," can

Hamevaser

Lonely Gentile of Faith

pray, and perform a host of other mitzvot *asei*, the manifold restrictions on him indicate that mitzvot are not appropriate as a system to be adopted by the *ben Noach* as a *ben Noach*. The Rambam's principle of "*hidush dat*," rules out the possibility of creating a gentile religion from the base of *dinei benei Noach* coupled with Jewish theology. It would seem that this concept is based on a uniquely Jewish conception of religion as pure revelation. All of the ceremonies and rites of Judaism stem from the will of God; it is their nature as commandments which gives them meaning. Any other spiritual benefits reaped from *kivvum mitzvot* is secondary at best to the idea of carrying out royal demands. In fact, the creation of new ceremonies which do not enhance already existing laws is counter-productive, as it bypasses already existing divinely ordained paths to the encounter with God. Therefore a *benet Noach* religion would be at best superfluous and at worst an act of human arrogance. Additionally, an organized religious system other than Judaism carries within it the seeds of disaster, and in fact, both of the other monotheistic religions originating in Judaism found themselves somewhat distant from the pure faith of *benet Noach* in their eventual insistence on alternate forms of divine service, often at odds with Halakha.

The Seforno's commentary to Chumash suggests a way of understanding the difference between Jewish and gentile roles. On God's promise to the Jews that they would be a "*mamleket kohanim*," a "kingdom of priests," the Seforno comments, "to understand and to teach the whole human race to call in God's name and to serve Him, as it says 'And you will be called priests of God' (Yeshaya 61:6) and it says 'The Torah shall come out from Tzion.' (ibid. 2:3)" (Seforno to Shemot 19:6) In this paradigm, the Jews are analogous to Kohanim. Just as Kohanim are subject to special restrictions and have exclusive rights to perform certain ceremonies, so *klal Yisrael* has the unique *chiyyuv* in mitzvot compared to the other nations, whose role is to learn from the Jews. The role of the *ben Noach* is not to set up a new system, but rather to interact with *am Yisrael*, the kingdom of Kohanim, an international group of Kohanim with special restrictions and mitzvot, in an attempt to draw God into the world, which is indeed the Seforno's understanding of *mamleket Kohanim*.

What, then, should the individual *ben Noach* do to achieve *devekut* with Hashem? The Bet Midrash is barred, the Shabbat table is off limits, Tefillin are sealed off in their velvet bag, even the creative religious impulse is forbidden to them. Indeed, the lifestyle of the *ben Noach* would seem to be an austere one, and one quite distant from God.

There is, however a way to God open to the *ben Noach*, and perhaps he is better suited to traveling it than the Jew is. The Rambam writes that the way to both *virat Hashem* and *ahavat Hashem* is through contemplation of nature, leading to the recognition of both man's lowly stature and God's immense greatness (*hilkhot Yesodei ha-Torah* 2:2). While for a Jew the Revelation of Sinai is the moment of greatest contact with the divine, and Talmud Torah is the ultimate form of communion, the God-fearing gentile perceives that "the heavens declare the glory of God, and the firmament proclaims his handiwork." (Tehillim 19:1)

The Jewish people has a unique calling, Talmud Torah, and we have bent all of our talents in its service. The *ben Noach*, on the other hand, starting from a basis of the belief in the Sinaitic Revelation and an acceptance of his mitzvot, can experience God through science, literature, art, and music. As Rav Aharon Lichtenstein, *shlit*, wrote, "Who can fail to be inspired by the ethical idealism of Plato, the passionate fervor of Augustine, or the visionary grandeur of Milton? Who can remain unenlightened by the lucidity of Aristotle, the profundity of Shakespeare, or

the incisiveness of Milton? There is *chochma ba-goyim*... there is nothing in our medieval poetry to rival Dante and nothing in our modern literature to compare with Kant, and we would do well to admit it." (A Consideration of General Studies from a Torah Point of View) By reaching new heights in the arts and sciences, motivated by a desire to know God, his creation, and to praise him, the *ben Noach* helps usher in the Messianic age when "the world will be as full of the knowledge of Hashem, as the waters cover the seas."

-Women and Judaism

continued from pg. 5

zr"! The crux of the arguments advanced by him and those in his camp can be captured with the oft-quoted "different roles" mantra. According to this explanation, women are not necessarily inferior to men, but rather are supposed to play a different role in the Jewish community; hers is private while the man's is public. And when this line of reasoning fails, such as with the mitzvah of tefillin and tzitzit, other more local reasons are propounded. (For instance, Rabbi Kaplan suggests that men have a 'bayit' on their arms and heads, while women already have a bayit closely associated with them -- their unique "mitzvah" to raise a secure Jewish family.)

But this "different roles" explanation is, de facto, a manifestation of the aforementioned desire to avoid conflict, and hence, quite dishonest. Put simply, it is nothing more than apologetics, disseminated by people who are acting blind to logical as well as historical realities.

A teacher of mine is fond of quoting: "The Torah was not given in a vacuum." To assume that the underlying message being sent first to a nation living in the wake of the Egyptian empire and only later reaching twentieth century society would be anything but chauvinistic is ludicrous. And to assume that God expected humans living at that time who were interpreting and deriving halakha (with divine methods, although not necessarily divine inspiration) not to be influenced by the standards of their time is equally ludicrous. It follows then that many of the laws are indeed sexist and chauvinistic.

We must therefore come to grips with the grim reality and not obscure the truth with clever "different

roles" explanations. Judaism, in its original form (in both the letter and spirit) is discriminatory, in the full sense of the (modern) term. Women are regarded, in the Torah and Gemara, as lower beings and therefore deserving of fewer responsibilities, just like they were regarded by everyone else living in the eras in which the Torah was given and the Gemara developed. The question of whether the fact that men were commanded with hundreds more mitzvot and in many cases dominance over women (such as by the *gittin*, *kiddushin* and *amma ha-ivriya* issues) necessarily implies that the Torah views women as inferior or simply "different," is completely irrelevant. Given the historical conditions the Torah and Gemara were given in, it is nearly impossible to argue that they were placed on equal footing -- it is ridiculous to assume that the Jews were infinitely more progressive than their Gentile neighbors.

As shocking as these revelations sounds to some people (which, incidentally, helps explain why most people are so reluctant to even entertain the possibility: denial is one of the incipient stages of a difficult situation), it shouldn't be. This is a theoretical point, and should have few practical implications. The real question is where to proceed after we recognize this reality. For Orthodox Jews, who believe in the divine supremacy of both the written and Oral Torah, our halakhic system cannot be violated. Worked with, worked within, but never worked around. Sometimes it will be successful in alleviating the discrimination, sometimes it won't. We can attempt a viable solution, but we must first acknowledge the presence of a problem. And we must acknowledge that the problem is far too complex for the sophistry of "different roles" to address.

Hamevaser Mazel Tov

Matching Game!

(where if you don't win you've just committed Arayos! So be careful now.)

Shalom Rosner	Am Yisrael
GOD	Devorah Jacobs
Jerrold Rappaport	Inbar Schwartz
Burry Sirote	Tamar Schulman
Avi Levine	Leah Opperman

Mazel Tov!

Shelomim,
Shelomim!!

HaMevaser would like to thank Mr. Berkowitz and the entire staff of the Tandler Textile Co. for the use of their computers. May GOD grant them long life and nice fabric. We would like to additionally thank Micah Gimpel for the use of his computer for this issue.

Mazel Tov.
Kiddush,
Kiddush!

Untold Sacrifice

Echoes of *Se'ir la-Azazel* in the lives of Abraham's Children

by Yehoshua Engelsohn

The Jewish nation would stand in awe and reverence as the *Kohen Gadol* performed the Yom Kippur service in the *Bet ha-Mikdash*. The Mishnah in Yoma (4:1) describes the events of the day, "He would mix up the two lots. On one was written 'for God,' and on the other was written, 'for azazel.' The assistant was on the right and the head of the (high) court was on his left. If the lot saying 'for God' was drawn by his right hand the assistant would say, 'My lord High Priest, raise your right hand.'" The *Kohen Gadol* assigned each lot to one of two similar goats. One was to be sacrificed to God in the *Bet ha-Mikdash*, the other was to be taken from the Temple and thrown from a cliff in the desert.

The key to understanding the symbolism of this bizarre portion of the Yom Kippur *avoda* lies in the Torah readings of Rosh Hashanah. On the first day we read, "*va-Hashem pakad es sarai*," which contains the story of Yishmael's expulsion from Abraham's house. Sarah, disgusted with Yishmael's actions, demanded a reluctant Abraham to send away Yishmael. God subsequently told Abraham take his wife's advice, and expel the child with his mother. The next morning Abraham woke early and sent Yishmael and Hagar into the desert with some food and water he had packed for them. When their supplies run out, Hagar, unable to bear the sight of her child dying, leaves Yishmael and goes off to bewail his fate. At this critical moment God shows her a spring, and Yishmael is saved from death.

On the second day of Rosh Hashanah we read the story of "*Akedat Yitzchak*." God told Abraham to bring his son Yitzchak to the land of *Moriya* and sacrifice him there as a *korban*. Abraham woke early in the morning, traveled to *har ha-Moriya*, built an altar there, and bound Yitzchak thereto. As he raised a knife to slaughter Yitzchak, an angel called out, "Abraham, Abraham," and told him not to hurt the child.

The service of Yom Kippur parallels the stories of Abraham's sons: in both two are sent to their deaths, one in the desert and one on *har ha-Moriya*. By examining these stories *avodat Yom ha-Kippurim* takes on new significance.

The story of the Akedah as developed by Rashi and Chazal not only portrays Abraham's dedication to God, but also presents the key to future national Jewish existence. Rashi concluded that Yitzchak was thirty-seven at the time of the Akedah. This claim bothered Ibn Ezra: should not then the Torah have written, "and God tested Yitzchak," instead of, "and God tested Abraham?" The Ba'alai ha-Midrash strengthen Ibn Ezra's question by implying that indeed, Yitzchak was also a target of the test. Commenting on the phrase, "After these things (*devarim*) God tested Abraham," the Midrash Rabba suggests that "*devarim*" can mean words, specifically, Yishmael's boasts to Yitzchak. The Midrash reports that Yishmael said "I allowed myself to be circumcised at the age of thirteen and did not protest; you, however, were only eight days old when you were circumcised and could not have protested." Yitzchak retorted, "Now, at the age of

thirty seven, I would be willing to allow myself to be sacrificed to God."

Rashi and Chazal believe that Yitzchak passed the test. The Torah twice describes Abraham and Yitzchak as walking "together." Rashi (Bereshit 22:6) comments that the first time indicates that Abraham went just as willingly as Yitzchak, who did not yet know what was planned, while the second implies that Yitzchak went just as willingly as Abraham, even as Yitzchak became aware that he was walking to his death. Chazal (Midrash Rabba 56:8) add that Yitzchak even asked his father to tie him more tightly to the altar, lest he flinch and invalidate the sacrifice. Significantly, the test became known to generations of Jews as *akedat Yitzchak*, the "binding" of Yitzchak. Based on this understanding of Yitzchak's active participation in the Akedah, why indeed does this text maintain that Abraham was the one being tested?

The Torah tells us that when Abraham set out on his journey he took his two lads with him. Rashi (Bereshit 22:3) identifies these two lads as Eliezer and Yishmael. This identification is difficult given the fact that Yishmael must have been fifty at the time, and Eliezer even older than that. That is hardly the age at which one is referred to as a lad. What does Rashi gain by choosing these two to be identified as the lads?

When Abraham sees the place from afar he asks the two lads to stay "with the mule." Chazal (Midrash Rabba 55:2) read "*im ha-chamor*" as "*am ha-chamor*," a nation that is comparable to a mule. What did Yishmael and Eliezer do to deserve such an appellation? They were assisting Abraham in his performance of the Akedah; what could be more meritorious than that?

Though there were other great people in history, God chose Abraham "for I know him that he will command his sons and his household after him, and they will keep the way of Hashem." (Bereshit 18:19) Through the Akedah, God tested everything that Abraham stood for: his ability to command the future generations. Yitzchak was

not commanded directly by God to offer himself as a sacrifice, but was told by his father that that was God's will. Yitzchak accepted this and willingly offered his life to God. Similarly, Yitzchak's descendants, the Jewish people, have for generations given their lives to keep God's commandments, passed on to them by their fathers.

Before Yitzchak was born two others stood as possible heirs to Abraham's legacy. One was Eliezer, as we find Abraham complaining to God, "*ben damesek heiti hu damesek Eliezer va-hinei ven beti yoresh ot*" (Bereshit 15:2-3). Abraham feared that his servant Eliezer would inherit him, to which God assured him that Abraham's own child would be his heir. Later Hagar bore Yishmael, and Abraham believed that this was the child who was destined to be his heir. When God told Abraham that he would have another son who would inherit him, he became afraid that Yishmael would die. He told God "*la Yishmael yichye lifanecha*." (Bereshit 17:18) that he was satisfied with Yishmael. To this God replied "but Sarah your wife will bear you a child, and you shall call his name Yitzchak, and I will keep my covenant with him an ever lasting covenant, and to his children after him."

Now we can understand why Rashi and Chazal identify the lads as Yishmael and Eliezer, and speak negatively of them. When they reached a certain distance, they were told to stay behind. Only Yitzchak had the ability to ascend *Har ha-Moriya*. What separated Yitzchak from the lads was that only he would allow his father to sacrifice him if that was God's will. Since Eliezer and Yishmael were unworthy to go further, they were comparable to a mule.

In the beginning of the narrative, Chazal tell us that when God told Abraham to take his son, he replied that he had two sons. God responded, "your only son," to which Abraham replied, "this one (Yishmael) is an only son to his mother, and this one (Yitzchak) is an only son to his mother." Finally God told him that he was referring to Yitzchak. After the Akedah God told Abraham, "For you have done this thing, I will not withhold your son, your only son." There was no need to be more specific, for it became clear that Abraham's only one heir was to be Yitzchak.

On Yom Kippur the High Priest would designate two goats, one to be a *korban* and the other to be sent off to the desert. So too, God chose between the two sons of Abraham. Only Yitzchak could give his life to sanctify God, whose will had been made known to him by his father. This is the special character of the descendants of Yitzchak, the Jewish people. For this reason we ask God to forgive us for our mistaken ways, so that we may continue to command our household after us to keep the way of God.



A Capital Pain In The Neck

based in part on
"Capital Punishment in
the Noachide Code" by
J. David Bleich in
*Contemporary Jewish
Problems* Vol. III chap
ter XVII

By: Tami Buckman

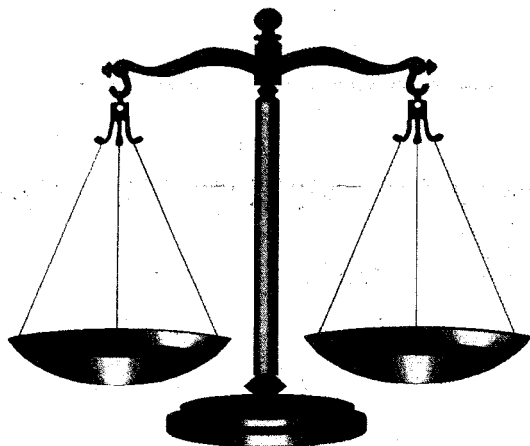
Should capital punishment be used to punish convicted criminals? Does fear of capital punishment decisively deter potential offenders? Is capital punishment necessary for the maintenance of order within society, or is it unjustifiable for human beings to play God and decide who should live and who should die? Moreover, does the risk of mistakenly executing the innocent override the social benefits of capital punishment?

Examination of the Torah's perspective on these issues will help in determining the answers to these difficult questions. Halakha sets up specific guidelines for the operation both Jewish and non-Jewish courts. Nevertheless, it must be established whether these laws remain in effect in a time without the sovereignty of a halakhic government.

Today the consensus of Rabbinic opinion is that halakhic courts do not have the power to impose capital punishment. At the outset, we encounter the following: "And you shall arise and go up to the place which the Lord your God shall choose. And you shall come unto the priests, the Levites, and the judges who shall be in those days..." (Devarim 17:8-9). From the inclusion of the priests, Levites, and judges in the same *pasuk*, we derive that a *bet din* appointed to judge the people in capital cases can only impose the death penalty in a time when the priests and Levites are performing their designated jobs in the *Bet ha-Mikdash*. Furthermore, the phrase "and go up to the place which the Lord your God shall choose" establishes another qualification, that the *Sanhedrin* must be sitting in the place that "the Lord your God shall choose," which is within the boundaries of the *Bet ha-Mikdash*. Rambam in *hilkhot Sanhedrin* 14:11 states that in order for the *bet din* to impose capital punishment both of these conditions must be met. Therefore, with the destruction of the *Bet ha-Mikdash*, capital punishment was abolished and cannot be reinstituted.

Moreover, the chain of *semikha*, passed down by the seventy elders appointed by Moshe, was broken in the middle of the fourth century C.E. Since only those who have received *semikha* can judge a capital case, today's dayanim are obviously unfit to impose capital punishment.

Even in the time of the *Bet ha-Mikdash*, the sages frowned upon capital punishment. The Mishnah in *Makkot* 7a states that any court that imposes the death penalty once in seven years is considered a "destroyer." R. Elazar ben Azariah extends this appellation to a court that imposes the death penalty once in seventy years. These statements reflect the tremendous reluctance of the



halakha to impose capital punishment.

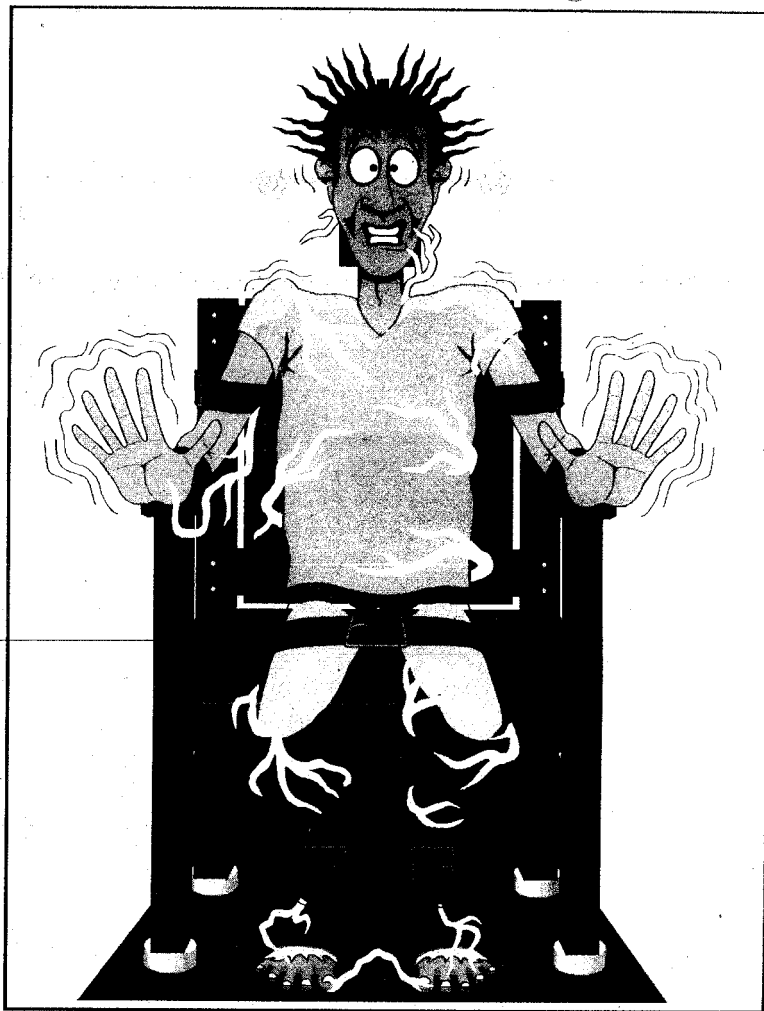
The halakhic stringency regarding testimony and evidence further discourage imposition of the death penalty. First, to be eligible for the death penalty, the defendant must have received a warning (*hatra'a*) before committing the crime. Then the Torah requires the testimony of at least two eye witnesses: "At the mouth of two

witnesses, or three witnesses shall he that is worthy of death be put to death..." (Devarim 17:6). The testimonies are subjected to a very rigorous examination by the *bet din* to insure that their testimonies are not inconsistent. If they contradict one another in any way, the testimony is invalid. The source of this stringency is from Shemot 23:7, "The guiltless and the righteous you shall not kill". This is understood to be an admonition to judges not to give any conviction when there is a possibility of innocence. Even the defendant's confession of guilt is considered insufficient to sentence him to death. It is evident that as a result of the requirement to satisfy all necessary conditions, incidence of capital punishment was unusual, if not almost effectively impossible.

There is another halakhic authority who may impose capital punishment. A Jewish king has two responsibilities: to lead the people in war and to sit in judgment. In *hilkhot Melakhim* 4:10, Rambam declares "... a king is not appointed in the first instance other than for the purpose of executing judgement and (waging) wars." The king's judgement is not bound

by many of the stringent laws governing the other judges. Rambam (*ibid.* 3:10) states that "One who murders without clear proof, or without warning, even if (in the presence of) a single witness, or an enemy who kills unintentionally, the king has the authority to execute him and to

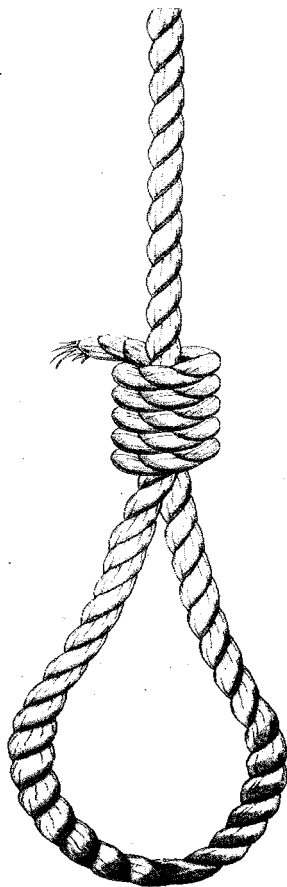




ish courts to establish laws that will govern Jewish people as well.

Does the restriction of the Jewish court to administer the death penalty only when the *Beit ha Mikdash* is standing apply also to non-Jewish courts? In the sources that discuss the suspension of capital punishment from Jewish courts, there is no mention made of a similar requirement for non-Jewish courts. Therefore, even in our days, non-Jews have a responsibility to set up laws to govern the people and a court system to judge anyone who violates these laws. These laws also apply to Jews living under a non-Jewish government by the principle of "*dina de-malekhuta dina*."

The Talmud in Sanhedrin 37a explains why capital punishment is such a complex and serious issue. "Know you that capital verdicts are not comparable to monetary judgments. In monetary matters a person can return the money and find atonement; in capital cases the blood (of the executed) and the blood of his progeny until the end of time hang in the balance."



perfect the world in accordance with what the hour requires." Furthermore, in *hilkhot Sanhedrin* (18:6) Rambam states that a king may inflict the death penalty based on a confession, unlike *dayanim*. The king has minimal limitation placed on his powers since he is responsible for the maintenance of a peaceful and orderly society. Halakha gives the king the authority to override the judicial system, since it values the creation of such a society. The existence of these two different judicial bodies represents the necessity for balance between restriction of judges for fear of punishment of the innocent on the one hand and the empowering of the king to prevent lawlessness as a result of the restrictions of the judges on the other.

Benei Noach, non-Jews, are commanded to keep seven mitzvot: do not kill, do not steal, do not engage in incestuous relations, do not engage in idolatry, do not eat a limb from a live animal, do not curse the name of God, and establish *dinim*. There is controversy as to the explanation of the last mitzvah. According to Rambam, this precept requires the establishment of a judicial system to maintain social order. *Benei Noach* should develop laws

governing wages, thefts, commerce and so forth. Rambam (*hilkhot Melakhim* 9:14) states that *dinim* means the establishment of judges to judge the populace in cases involving the other six commandments. He adds that anyone who violates one of the six should be put to death. In *Teshuvot ha-Bach* no. III, Rabbi Joel Sirkes states that in our day non-Jews may impose capital punishment for a violation of any of the seven mitzvot of the *benei Noach*.

These courts of *benei Noach* may convict a suspect based on the testimony of one eye witness, as Rambam states (*ibid.* 9:14), as opposed to the two witnesses required in a Jewish court. Additionally, unlike a Jewish court, a confession of guilt may warrant the death penalty according to *Sefer ha-Chinukh* no. 26. Rashi in his commentary to Shemuel 1:16 explains that the Amalekite who killed Shaul ha-Melekh was convicted and executed "by his own mouth" (assuming that "*ger*" means stranger and not convert). This explanation is consonant with the ruling of the author of *Sefer ha-Hinukh*.

Rashi in *Gittin* 9b explains that the concept of "*dina de-malekhuta dina*" comes from the obligation of *benei Noach* to establish *dinim*. This empowers non-Jew-

Abomination OR Just Plain Misunderstood

The Cardozo Controversy

One of the most painful and frustrating issues centering around the Yeshiva University community in recent times has been the existence of gay and lesbian clubs within the university. The existence of these clubs has caused unwanted distractions, including attacks from other organizations and individuals against Yeshiva and divisiveness and heartache within, as people struggle to find a suitable reaction to the disturbance.

A priori, any attempt to deal with issues related to homosexuality from a Torah perspective would seem relatively clearcut. Leviticus 18:22, the Mishnah, Sanhedrin 54, and Maimonides, *Issurei Bi'ah* 1:14, state in unequivocal terms that male homosexual activity is forbidden and punishable by stoning. Maimonides, in *Issurei Bi'ah* 21:8, states that homosexual activity is prohibited for women as well, albeit not a capital offense as there is no forbidden action or specified negative commandment, but rather, a Biblical admonition (of Leviticus 18:2, according to its interpretation by the Midrash). To find a way to permit such behavior, by men or by women, would be to reinvent and redefine halakha in such a way that would be well outside the grounds of normative Judaism.

Hashem involved, and in our effort to do so, complexities arise and the distinctions get blurred. As a result, formulating and executing a proper and effective response is far more intricate than it might initially seem.

To find a specific halakhic infraction incurred by Yeshiva University's handling of the situation would be difficult. Clearly, nowhere along the way does anyone with the sparsest sensitivity to the Torah advocate involvement in the clubs under discussion. The causes of concern are funding from Yeshiva sources that reaches the clubs, albeit indirectly, and further, the administration's failure to ban the clubs altogether. Neither of these charges, though easily reflecting the Torah's values and a commitment to uphold them, points to any specific halakhic violation.

What makes the controversy over the gay and lesbian clubs such a quagmire is that potential *Chillul Hashem* exists on many different levels and wears many different faces. It seems that every attempt to ameliorate one dilemma causes another to arise, and not taking any course of action leaves a predicament deemed contemptible to continue unabated.

As the situation stands now, without taking any measures to alter it, the fundamental problem is that organizations exist where the members involved endorse and

sitive issue to arise in the continuation of this discussion) and convey an image of Torah violations being perpetrated even by people who state a connection to, and active involvement with, Torah's ideals.

The charge of the inappropriateness of funding the clubs, although less far-reaching than failure to eliminate them, may be the more severe of the two as it involves a more active role in which the Yeshiva supports the clubs. Giving support, financial or other, to activities (and in this case statements backing them) intolerable in the eyes of the Torah raises a Pandora's box of *issurim* and moral perplexities. However, in this case, Yeshiva's support of these organizations is done in such a way where, by its nature, it does not engender these difficulties in as serious a manner. The administration's funding goes directly to an umbrella student activities fund, and it is from this pool of resources that individual student groups receive their sponsorship. If one were to argue that even this is inadmissible based on halakhic grounds, the same would hold true about paying taxes to the government. Taxes are placed into a central collection from which the monies eventually reach their individual destinations. These funds are used to provide a wide range of activity extending from what is valuable and commendable, such as feeding and housing the

very least, challenge the Human Rights Law of the New York City Administrative Code, a law forbidding discrimination (of several types) based on one's sexual orientation (among other personal distinctions). Legal representatives asked to research the issue feel that especially with Yeshiva University's long-standing status as a non-sectarian organization, and probably even without it, the courts would rule that such behavior by Yeshiva would indeed violate the statute. This legal infraction could generate and provoke problems that any action to eliminate the clubs must be scrupulously weighed regarding its potential consequences.

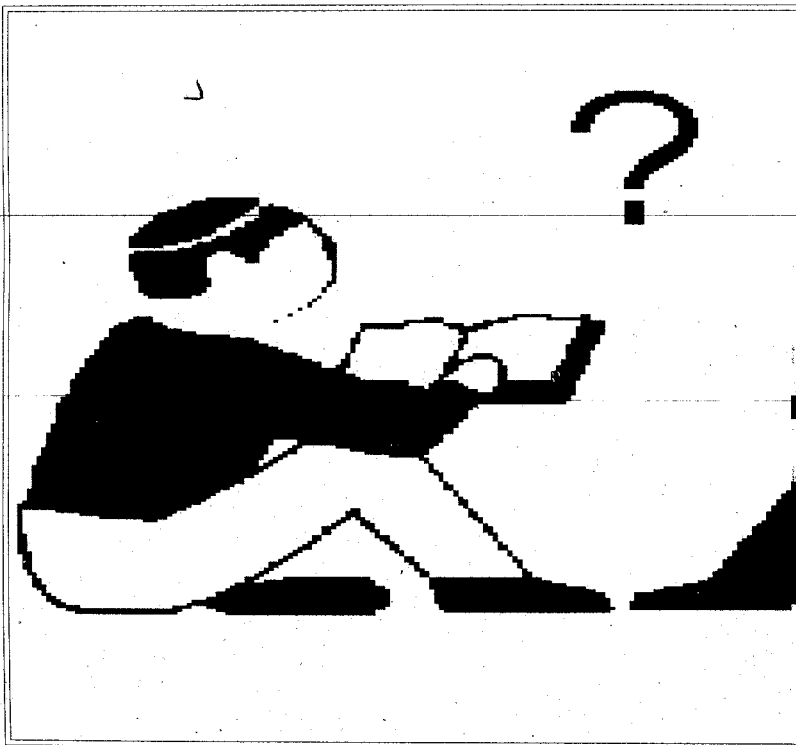
The first and clearest repercussion of the clubs' closure would be loss of funding to the school from government sources, and possibly from others as well. To be sure, such a statement implies selling one's principles and values for money. However, the effects of such a reduction in income would necessarily extend well beyond moderate decreases in spending or increases in tuition, and the concerns are hardly petty or vain. According to one high-ranking administrator, "Yeshiva University as we know it would cease to exist" if such cuts were suffered. To recover lost finances, tuition raises would have to extend well into the thousands of dollars, an impossibility for many students throughout the university. Additionally, Yeshiva would be placed in a very weak position in relation to competing institutions, due to the lack of programming and benefits that would be available. The sacrifice would be felt strongly in each student's education and in the Yeshiva's service to the Jewish community, undermining what should be her *raison d'être*.

Nonetheless, the argument can be made with regard to this situation that *Chillul Hashem*, and the humiliation *beni Torah* endure by witnessing the degradation and cheapening of the Torah, necessitate such a sacrifice by Yeshiva. Such an ardent attitude toward preventing the clubs' existence, representing a notion which may emanate from

the purest motives, would engender such far-reaching consequences that very few Torah observant members of both the university and RIETS administrations feel that the pain would outweigh the losses. To those who admire and respect Yeshiva for what she stands for, accomplishments, and contributions to the Jewish community as a whole, her loss would be devastating.

One avenue short of funding to ban the clubs, through which the problems associated with them might be somewhat alleviated, exists in light of an exception to the Human Rights Law. In a suit brought against Georgetown University, based on a law similar to New York's, the appellate court ruled that although the university was not permitted to deny privileges (such as access to times, mailboxes, and other services) to homosexual clubs, they were not required to give recognition to such organizations. Since it does not fall under the category of discrimination, it would be legally permissible for the university to state its opposition to the clubs, although even a course of action as slight as this may bear significant consequences as well.

Being that the ambition of any management of the gay club controversy need necessarily be the minimizing of *Chillul Hashem*, speaking out, even in opposition, fans the flames of the debate. This causes the clubs' existence to draw even more attention to them, thus generating even more disgrace for the Yeshiva community. There is fear that problems can also be exacerbated along these lines through a public condemnation by the RIETS faculty, as faculties from other university schools, not composed of Torah-observant staff, would follow the general public trend and come out in support of the gay clubs.



Hamevaser's *Elli Schorr* gives us a Halakhic perspective into the Cardozo world. *Schorr*, in preparation for this assignment, got himself engaged to a girl to allay all fears and choshoshot. *Mazel Tov & Kiddush, Kiddush!*

Therefore, any confusion regarding dealing with gay and lesbian clubs cannot center around this specific issue, as its basic outcome would be quite straightforward and predictable. It is important to note, however, that it is specifically homosexual activity that is forbidden, as halakha does not recognize one's being a homosexual, and such a recognition, commonplace in today's society and celebrated by the clubs under consideration, is non-existent and insignificant in the eyes of the Torah. Nonetheless, whether or not it is appropriate to join such clubs is hardly a conundrum. Rather, the main concern is how to most effectively handle the situation so as to minimize the *Chillul*

support a lifestyle which completely opposes halakhic norms. This, of course, regardless of the specific people or violations involved, is always a *Chillul Hashem* (using the broader definition of the concept through its literal interpretation, as opposed to its common usage in the Talmud and its ilk, where it usually refers to sins performed before a *minyan* of Jews). This imbroglio is confounded even further by the fact that such organizations may exist under the banner of Yeshiva University. Thus, in addition to the fact that there exist proud and flashy representations of this nature taking place over and above what may be transpiring on the individual level, this phenomenon specifically reflects an involvement on the part of Yeshiva (a sen-

poor and ensuring safety and security, across the spectrum to operations heinous and abhorrent in the eyes of the Torah, such as certain abortions and executions. Similarly, the student activities funds, provided in significant numbers by the administration, serve praiseworthy student services organizations as well as odious ones. Thus, even here, any opposition to Yeshiva's behavior in this area must be based on violations of general morality and Torah values, rather than of specific halakhic details.

In order to show fault in Yeshiva's behavior with regard to its refusal to eradicate the clubs, the critic must put forth and define more attractive alternatives. Any measure taken to put the groups out of existence would, at the

OHAVEI SHALOM TSEDAKA FUND

DEDICATED TO THE MEMORY OF
RABBI SOLOMON P. WOHLGELENTER ZT"l
(1901-1976)
FOUNDED IN 1977 FOR THE FIRST YAHRZEIT
INTRODUCED AT Y.U. IN SPRING, 1979

Distributes your contribution through devoted agents to needy families in Israel before *Pesach*, as well as before *Shavuot*, the *Yomim Noraim*, and *Sukkot* - In a word, throughout the year.

Contributions can be given to:
Judah Wohlgelehter
Pollack Library, YU
Campus Representative

Contributions can be mailed to:
Rabbi Eliahu P. Rominek
Chairman
611 BEACH 8th Street
Far Rockaway, N.Y. 11691

All Contributions
Are Tax-Deductible

All expenses of funds
are paid by
family sponsors

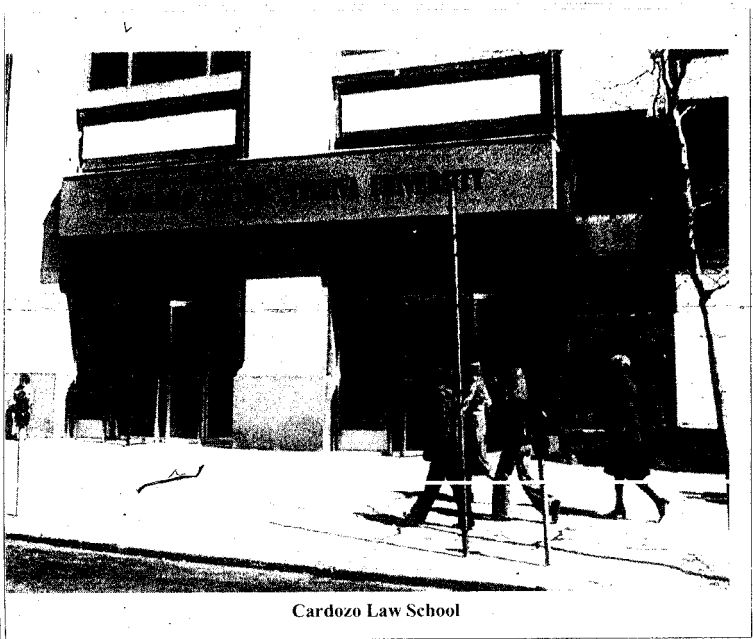
and even embrace homosexuality as a lifestyle as legitimate as any other. This sort of publicity would be the exact type that any member of Yeshiva, concerned about the negative effects of the gay clubs' existence, would want to avoid. It may ease one's conscience and satisfy one's desire to act against this abomination, but if its overall effect only aggravates matters further, its wisdom is surely suspect. It is for these reasons, in fact, that the RIETS faculty has not acted (beyond placing a public statement of clarification in an Israeli newspaper), according to some prominent Roshai Yeshiva (who also even wished not to be identified here, for fear of provoking further publicity). An even greater worry is that challenging gay organizations would provoke protests on campus, leading almost to the ultimate in a public display of their offense and threatening the security of the people in Yeshiva.

If closing down the clubs, and even speaking out against them, would only be counterproductive in their outcomes, what can be done? The very sad reality is that there exists presently no fruitful possibilities for active intervention. The only beneficial occurrence would be the clubs', if by necessity present, fading out of the public eye. Of course, this is not the type of solution that anyone could put to work. It is one that may be out of reach, but to a large degree, it can probably attain success.

It is critical that the gay and lesbian organizations, and the members thereof, not be provoked by senseless and irresponsible behavior on the part of those who believe they are doing a favor to the community by acting out against them, but are in reality only exacerbating the quandary. By no means are the gay and lesbian lifestyles to be accepted as normative or condoned, but that does not license anyone to act irresponsibly and destructively when dealing with those who do endorse homosexuality. One must be conscious of the distinction noted earlier, that it is homosexual activity we must oppose, and not the people themselves who are unfortunately engaged in it, just like with people who violate almost any of the other commandments in the Torah. Why is it that people endeavor to reach out to non-observant Jews from Moscow to Melbourne, yet many are quick to write off those in their own backyard? The only appropriate method of protest is a defense of the Torah's principles, not empty intolerance toward people

who may be different; otherwise, we are not fighting for the Torah's honor, as the unnecessary friction would just cause the situation to deteriorate. On the other hand, opting not to respond must result from a cautious assessment of what intervention may provoke, despite one's being incensed and driven to oppose the clubs in any way possible. Banal apathy is an unacceptable incentive for inaction by a *ben Torah*.

It is undoubtedly frustrating for any person sensitive to the Torah's standards to sit by idly while this anathema continues to exist. However, the best hope for putting this unfortunate chapter to rest is precisely by not challenging the gay and lesbian clubs and inciting them further, but by a quiet and patient balanced approach tied to Yeshiva's firm principles and ideals based on the eternal standards of the Torah.



Cardozo Law School

Mail Continued from pg. 3

sumption of animals results in much environmental damage, including soil erosion and depletion, destruction of tropical rain forests and other habitats, pollution of streams from animals wastes, excessive use of water, energy, and other resources, and increased hunger and malnutrition, since huge amounts of grain are fed to animals destined for slaughter (in addition to the human disease and skyrocketing medical expenditures, previously mentioned).

While Mr. Zeitchik is, in a sense, correct in concluding that "a person's own biases, intuition, and logic should determine whether or not he accepts these justifications (for vegetarianism)," I hope that every committed Jew will consider the following question: In view of the strong Jewish mandates to be compassionate to animals, preserve health, help feed the hungry, protect the environment, conserve resources, and seek and pursue peace, and the very negative effects flesh-centered diets have in each of these areas, how can a committed Jew justify not being a vegetarian?

Very truly yours,
Richard H. Schwartz, Ph.D.

**Rabbi Isaac Elchonon
Theological Seminary
2540 Amsterdam Ave
New York, NY 10033**

**Non Profit Org.
U.S. POSTAGE PAID
New York, NY
Permit No. 4729**