

# KOL



Volume III, Issue 2

November 6, 2009/19 Marheshvan 5770

# HAMEVASER

The Jewish Thought Magazine of the Yeshiva University Body

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## Family and Community



# KOL HAMEVASER

The Jewish Thought Magazine  
of the Yeshiva University Student Body

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### COVER ART

"PLAYING KIDS" BY ELENA FLEROVA

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

# Family and Community

## The Modern Orthodox Response to Orthopraxy\*

BY: Eli Putterman

The Sea of Faith

Was once, too, at the full, and round earth's shore

Lay like the folds of a bright girdle furled.

But now I only hear

Its melancholy, long, withdrawing roar,

Retreating, to the breath

Of the night-wind, down the vast edges drear

And naked shingles of the world.

— Matthew Arnold, “Dover Beach”

I am less than enthusiastic at the prospect of broaching a topic having any relationship to the stale polemic that has raged around Dr. James Kugel, but, unfortunately, my article is in no small measure applicable to that subject. It is my intention here to offer an analysis of the Orthoprax Jew, one who lives in an Orthodox community and keeps the mitsvot while disbelieving the truth claims of Orthodox Judaism.<sup>1</sup>

This article will focus primarily on the halakhic status of the Orthoprax Jew,<sup>2</sup> who may be examined through several of the classical halakhic prisms through which dissenting Jews are viewed: *mumar*, *kofer*, or *tinok she-nishbah*. The legal and meta-legal issues will be considered with a historically conscious methodology that, in this author's opinion, should characterize Modern Orthodox *pesak*.<sup>iii,iv</sup> The article will conclude with a broader discussion of the Orthoprax phenomenon and the proper Orthodox response to it.

At the outset, we will adumbrate the relevant halakhic framework for our discussion. Firstly, the *mumar* is a purposeful violator of mitsvot. This classification has two subcategories: the *mumar le-te'avon*, who is liable to violate mitsvot for the sake of convenience or pleasure without denying the binding nature of the mitzvah, and the *mumar le-hakh'is*, who violates mitsvot out of spite. According to the

*Shulhan Arukh*, the latter is a subcategory of the *kofer* (or *appikoros*), which includes anyone who disbelieves in the basic principles of Jewish faith;<sup>v</sup> that is, to become a *mumar le-hakh'is*, it is sufficient to violate a mitzvah out of denial of its obligatory nature. However, the *Arukh ha-Shulhan* states that only one who, out of spite, specifically forsakes the permissible in favor of the forbidden is considered a *mumar le-hakh'is*.<sup>vi</sup>

The *mumar le-te'avon* is considered a full member of the halakhic community; his only disabilities are invalidity as a witness<sup>vii</sup> and treatment with a measure of suspicion, according to most decisors, only with regard to the mitzvah he violates.<sup>viii</sup> By contrast, the *mumar le-hakh'is* is deprived of the ability to perform many halakhically significant ritual actions, such as slaughtering,<sup>ix</sup> writing sacred texts,<sup>x</sup> and performing circumcision.<sup>xi</sup> More pertinently, he is excluded from the quorum of prayer<sup>xii</sup> and may not be called up to the Torah,<sup>xiii</sup> and a slew of prohibitions is associated with his food<sup>xiv</sup> and wine<sup>xv</sup> and with eating at his house.<sup>xvi</sup> It is quite clear that there would be great halakhic difficulties in including an Orthoprax Jew, if he were to be considered a *mumar le-hakh'is*, in the Orthodox community.

The *kofer*, as stated, is one who denies the basic principles of Jewish faith, such as the truth of the Torah or the validity of the Rabbinic tradition. The *Mishneh Torah* is the classic source for the grouping of the *kofer* together with the *mumar le-hakh'is* in terms of the severity of their treatment. In fact, Rambam treats the *kofer* even more strictly, ruling that one may not converse with him, even to respond to his heresy.<sup>xvii</sup> A *kofer* is also dealt with more stringently than the *mumar le-hakh'is* in the area of *berakhot* (blessings), as he denies their basic premise, namely that God exists and is the Creator of the world; hence, he may not serve as a prayer leader.<sup>xviii</sup> On the

other hand, Maharil is decidedly lenient towards the *kofer* who does not violate any prohibition, ruling that he is considered a full-fledged Jew in many of the areas the *mumar* is not.<sup>xix</sup>

Finally, the *tinok she-nishbah* is, broadly speaking, one who has been raised in a non-Orthodox environment, and hence does not know that he is obligated in mitsvot or in belief in the truth claims of Judaism. Although the Gemara uses this term specifically to refer to those raised by Gentiles,<sup>xx</sup> Maimonides includes the descendants of Karaites in this category, as they were born into their heretical beliefs.<sup>xxi</sup> The *Nimmukei Yosef*, however, states that the scope of *tinok she-nishbah* should be construed in a more limited fashion: only one raised among Gentiles with no exposure whatever to Judaism can be granted this lenient status, but anyone who is aware of Jews and their beliefs, yet does not adopt them, is an *apikoros*.<sup>xxii</sup>

Now that the foundations have been laid, we will begin our halakhic treatment of the Orthoprax. First of all, a basic distinction must be made between Orthoprax Jews who observe Halakhah fully, either from force of habit or because they derive spiritual comfort

**“It is Rambam himself, the oft-cited paragon and paradigm of Torah u-Madda, of openness to intellectual currents emanating from worlds foreign to the tradition, who is here leading the charge against the free exchange of ideas, against individual inquiry, and against tolerance.”**

from an Orthodox lifestyle, and those who observe mitsvot publicly but not when alone, who generally stay in the community only because of social or familial ties. While at this point it would seem that members of both groups should be considered *koferim*, the latter group may be categorized as *mumarim le-hakh'is* as well according to the *Shulhan Arukh*, though the *Arukh ha-Shulhan* would rule leniently. It seems clear that, even according to Rambam, the Orthoprax Jew cannot be placed in the category of *tinok she-nishbah*, as he has arrived at his heretical beliefs despite his upbringing in an Orthodox setting. According to Maharil, the former class would hardly be discriminated against at all by Halakhah, though Rambam and most other decisors would disagree.

The vista seems bleak. Though even the most extreme reading of the halakhic literature would not justify an inquisition to determine the beliefs of every Jew who steps through the doors of a *shul*, the harshness of the treatment which Halakhah would prescribe for the Orthoprax ought to give pause. Certainly an

openly Orthoprax Jew, according to the strict Halakhah, would meet a fate little short of (and indeed, according to Rambam, no different from) social ostracism, and a closet Orthoprax Jew would have to hide his beliefs for fear of suffering the isolation of his less circumspect colleague. While this situation might be unobjectionable, indeed, ideal, in a Haredi community, it is, to my mind, intolerable in ours; leaving my opinion aside, it should be quite clear that such a sociological situation would never prevail in Modern Orthodoxy. Yet this seems to be what Halakhah demands. And it is Rambam himself, the oft-cited paragon and paradigm of Torah u-Madda, of openness to intellectual currents emanating from worlds foreign to the tradition, who is here leading the charge against the free exchange of ideas, against individual inquiry, and against tolerance. At the very least, the reason for this requires further clarification.

As a first step towards a resolution, let us examine the crux of the dispute between Rambam and the *Nimmukei Yosef* regarding the breadth of the category of *tinok she-nishbah* and, conversely, that of *kofer*. For the *Nimmukei Yosef*, a person's knowledge of his own Jewishness and of the Jewish religion is suffi-

cient to render him a *kofer* if he fails to abide by these beliefs. However, Rambam requires that the *kofer* disbelieve by dint of his own intellectual speculation, not due to origin in a heretical environment, such as the Karaite sect or the family of a *mumar*.<sup>xxiii</sup>

The difference in the historical circumstances of the two decisors may explain their differing attitudes. Rambam served as a leader of the mixed Rabbanite-Karaite community of Fustat (old Cairo), and was in constant contact with sincere Jews who had different beliefs and practices on account of being raised differently.<sup>xxiv</sup> The *Nimmukei Yosef* (R. Joseph Habiba), in contrast, lived after the golden age of Karaism in fifteenth-century Christian Spain, an era of persecution during which many Jews abandoned their faith. The fact that some of these *conversos* took an active part in disputing with and persecuting their former brethren is well-known.<sup>xxv</sup> Naturally, then, Rambam would be more tolerant and respectful of the other than the *Nimmukei Yosef*, for whom dissident Jews would have been total apostates often hostile towards Judaism.,

What the preceding analysis shows is that Rambam felt comfortable in expanding the scope of the concept of *tinok she-nishbah* based on the sociological circumstances of his period. In fact, this is apparent even by comparing Rambam's understanding of the category of *tinok she-nishbah* to that of the Gemara. As stated, the Gemara applies the term only to those with no knowledge of Judaism or of their own Jewishness. Rambam reasons that this cannot be an arbitrary definition, but is rather based on the fundamental halakhic principle of *ones rahamana patreih* –

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the halakhic system does not penalize a person for committing a transgression under coercion, i.e., in a situation not in his power to avert. Since one born in a Karaite community, no less than a child captured by Gentiles, is not at fault for failing to believe in Rabbinic Judaism, he should be considered no less a *tinok she-nishbah*.

Nevertheless, Rambam did categorize those who reject Judaism for intellectual reasons as *mumarim le-hakh'is*, and did not regard them as coerced by their intellect. He lived in the medieval intellectual world, which, despite being philosophically inclined, still very much upheld traditional authority; for instance, one who disagreed with Aristotle was considered irrational, Aristotle's views having achieved a status similar to that of science in contemporary Western society. In this climate, one would not construct a philosophical system from scratch but based on the work of Aristotle; even the early Kabbalists accepted many key elements of Aristotelian metaphysics.<sup>xxxvi</sup> Thus, for a Jew in that age to have disregarded the Rabbinic *masorah* in favor of speculative philosophy would have been arrogant and spiteful indeed and certainly not a matter of coercion.

In contemporary times, these traditionalist words of Rambam strike a consonant note in Haredi enclaves, but we, as Modern Orthodox Jews, look at them through a different pair of glasses. We cannot honestly proclaim, in the post-Enlightenment era, that anyone who refuses to subordinate his reason to traditional authority is a deviant rebel. Individual reason is the foundation of the spirit of our age (one which various reactions up to the post-modernism of today have not succeeded in overcoming). On the contrary – the vast majority of the Western world, including the Jewish community, would today be subject to Rambam's censure, which originally applied only to scattered individuals. Meanwhile, it is the *shomerei emunim*, the steadfast guardians

and servants of the tradition, who are looked upon as the other.

Indeed, the intellectual *Zeitgeist* has not only thrown off the yoke of tradition but relates to traditional religion with active hostility. Critical scholarship, which enjoys the prestige the West grants to its universities, has contended forcefully against the dogmas of religion and the tenets of Orthodox Judaism in particular. In addition, the prevailing liberal moral discourse is laden with assumptions in complete contradiction to many elements, general and specific, of Orthodox doctrine.

The influences of secular society on Modern Orthodox Jews are vast, both in terms of the intellectual content of academic scholarship and, more fundamentally, in the osmotic absorption of the ideals of Western society – and this is no undesired side effect but the very *telos* of that strain of Orthodoxy which affirms the value of engagement with general culture.

What is relevant for our purposes is the degree to which this has drastically changed the nature of the phenomenon of leaving the fold. While to the *Nimmukei Yosef* it was clear that anyone who chose not to practice or believe was deliberately renouncing his Jewishness, nowadays this is simply untrue; the vast majority of self-identifying Jews are non-Orthodox. Similarly, Rambam's characterization of following individual reason as “foolishness”<sup>xxxvii</sup> is, quite simply, out of place after an Enlightenment whose motto was *sapere aude* (“dare to know”).

At this point, our way forward becomes clear: according to Rambam, the heretic – even of Orthodox stock – Orthoprax or otherwise, is to be considered coerced by the intellectual and cultural forces of the modern era and hence falls under the category of *tinok she-nishbah*.<sup>xxxviii</sup> The only explicit support to be found for this position is a letter of R. Kook stating that the youth of his day who “stray

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from the paths of Torah and faith due to the raging torrent of our time” are to be judged as “completely coerced.”<sup>xxxix</sup> This novel leniency could be construed fairly narrowly as applicable only in R. Kook's time of mass tergiversation from Orthodoxy, and not nowadays, when the phenomenon of youth leaving Orthodoxy, while not negligible, is well short of being a mass movement. However, it is equally possible to see intellectual or cultural, rather than sociological, conditions as the basis for R.

Kook's leniency, which would place him in agreement with our thesis.

Halakhah does not limit social contact with the *tinok she-nishbah* through mechanisms such as prohibiting his food or wine, as it does in the case of the *mumar*. Eating in his house is problematic, but only because of his ignorance of the laws of *kashrut*;<sup>xxx</sup> obviously, this problem does not arise in the case of the Orthoprax. However, it would appear that the Orthoprax Jew is nevertheless excluded in areas which directly relate to Orthodox belief, such as prayer and *berakhot*, a sanction of significant social ramifications in its own right.

One argument which may be adduced for inclusivity even in this regard has been advanced by R. Yehuda Amital: no one living in an era in which the prevailing post-Kantian epistemological framework asserts that absolute certainty cannot be reached can be considered to be a true *kofer* according to Halakhah, as *kefirah* refers only to categorical denial of the principles of faith rather than doubt, however formidable.<sup>xxxi</sup> This position, though appealing, cannot easily be accepted; ultimate epistemological uncertainty does not prevent James Kugel, for one, from making extremely confident claims with regard to the authorship of the Pentateuch. Despite the existence in the philosophical realm of unshakable doubt, in practice most people think in terms of proof and certainty. R. Amital's argument may cover some Orthoprax Jews who are merely agnostic about the truth claims of Orthodoxy, but it is difficult to extend it to a categorical leniency.<sup>xxxii</sup>

However sweeping its scope, though, the Halakhah does not provide a ruling as to the proper communal response to the phenomenon of Orthopraxy. I would like to conclude with a brief discussion of this issue, which, to my knowledge, has not been addressed anywhere else, perhaps as a result of lack of awareness.

But first, a historical and sociological prologue. The phenomenon of Orthopraxy is of recent origin. It is likely more common than complete defection from Orthodoxy was during periods when leaving Orthodoxy meant abandoning the Jewish community, but is far

less significant than the latter is today. While defection from Orthodoxy is prevalent among Orthodox youth, Orthopraxy, as alluded to above, primarily attracts more rooted adults.<sup>xxxiii</sup>

One of the earliest notable openly Orthoprax Jews was the rabbi Louis Jacobs, whose barring from certain positions by Chief Rabbi Israel Brodie on the basis of his theological views, especially on the authorship of the Pentateuch, led to fierce controversy in the British

Jewish community in the mid-20<sup>th</sup> century. (He and his congregation later left institutional British Orthodoxy and eventually founded the Masorti Movement).<sup>xxxiv</sup> Jacobs was an academic Jewish scholar, as are several Orthoprax Jews today (notably, James Kugel); it makes sense that Orthopraxy, throughout its short history, has had a high rate of incidence among this demographic for the simple reason that the positions of academia are most difficult to reject from within. A thorough knowledge of the academic arguments against the truth claims of Orthodoxy is obviously more widespread, if not near-universal, among Orthodox academics than in the broader community. Furthermore, it is more difficult to reject the results of the scholarly method in one area if one works in an atmosphere in which its reliability is simply assumed and indeed actively engages in employing the method in one's own research.

Scant information and no rigorous research are available on the extent of the Orthoprax phenomenon today. However many Orthoprax Jews exist now, I submit that their number will significantly increase in the future. The development of the blogosphere has brought with it the emergence of several anonymous Orthoprax bloggers, some of whom became Orthoprax during their blogging career due to Internet discussions. It stands to reason that easy Internet access to such blogs, and to other resources targeted at Orthodox Jews and arguing against Orthodoxy, has contributed and will continue to contribute to the spread of the Orthoprax phenomenon. This, however, is no more than conjecture.

With this background, some policy questions can be considered. The first is the stance to adopt towards the individual Orthoprax Jew; it should be self-evident that he is not to be despised for his beliefs. On the contrary, in many cases, the decision to remain observant rather than depart for a less demanding environment, whether Reform Judaism or humanism, demonstrates a profound appreciation for the social, intellectual, and psychological aspects of Orthodoxy. Some even remain Orthoprax out of a feeling of deep connection to and identification with the Jewish people and its traditions, for which they deserve naught but our admiration. In sum, the Orthoprax serve as living disproof to the oft-cited contention that the truth of Orthodoxy is so obvious that its denial arises solely from the desire to follow one's base impulses unencumbered by its self-denying regulation.<sup>xxxv</sup>

The impulse to attempt to return the Orthoprax Jew to the faith, which Rambam advocated in the context of the *tinokot she-nishbu* of his day,<sup>xxxi</sup> must be resisted in ours. For the very reasons that the Orthoprax Jew is considered a *tinok she-nishbah* in the

first place, there would be little chance of success. In the case that the Orthoprax Jew keeps mitzvot for social rather than idealistic reasons, he could very well decide to leave the community altogether if his comfort level there were to be shaken by misguided efforts at *keiruv*.

To combat Orthopraxy on the communal plane, the only possible measure true to our ideology<sup>xxxvi</sup> is for Modern Orthodoxy to educate its members about contemporary challenges to Orthodox beliefs and the Modern Orthodox response to those problems.<sup>xxxvii</sup> Whether or not to actually do so is a key question in Modern Orthodox Jewish education; the obvious problem is that some of those who otherwise would never have been exposed to the issues will find the questions more convincing than the answers.<sup>xxxviii</sup> I am of the opinion, however, that exposure to the problems, especially in an Internet age, will very likely happen in any case, and it is preferable that the first exposure be in an environment where serious consideration is paid to the Orthodox response. Perhaps the dilemma can be resolved once the first generation to be raised on the Internet reaches adulthood.

In any case, while such education may be granted to students in Modern Orthodox high schools, it is more difficult to reach great numbers of the adult Modern Orthodox population. In addition, having rooted themselves in the traditional community, they are less likely to be convinced by the arguments of academia; even those who are convinced of these arguments will mostly remain Orthoprax, which is less serious than the complete defection from Orthodoxy of which youth are at risk. Thus, there is little reason, in my opinion, to call for an explosion of community shi'urim on this topic.

Of course, this educational measure will not completely thwart Orthopraxy, even for the future. The winds of modernity continue to force the retreat of the sea of faith, and the *Zeitgeist* cannot be ignored or shut out without destroying everything for which Modern Orthodoxy stands. A full resolution may not be in our power to attain, but this does not justify our failing to work towards one.

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\* I would like to thank R. Mayer Schiller for many productive discussions regarding this topic, and for suggesting the halakhic references, cited later, upon which my analysis is based. I have also consulted R. Aharon Lichtenstein regarding several points made in the article; his responses are cited in the notes at

the appropriate locations. All errors are, of course, mine alone.

<sup>i</sup> In the following, this refers to beliefs whose denial would render one a *kofer* (as defined below) according to all decisors. A detailed discussion of who precisely falls under this category is, however, beyond the scope of this article.

<sup>ii</sup> I have relied upon several contemporary halakhic compendia which deal mostly with the halakhic status of secular Jews for use in locating primary halakhic sources. These are: R. Menachem Adler, *Binah va-Da'at* (Jerusalem: self-published, 2008); R. Yigal Senritz, *Shuvah Elai* (Kiryat Sefer: self-published, 2006); and R. Avraham Wasserman, *Re'akha Kamokha* (Ramat Gan: Re'ut, 2008). The first two are Haredi works, while the last is written from a more open, Religious Zionist perspective.

<sup>iii</sup> Of which this article is not intended to be an example. One should consult with one's local Modern Orthodox rabbi before applying the conclusions of this article *le-ma'aseh*.

<sup>iv</sup> This article would never pass muster as an example of standard modern *pesak*, whose method, at least when dealing with a well-trodden area of Halakhah, amounts to surveying the range of rabbinic opinion on a particular issue and, when a decisive majority on either side is lacking, ruling stringently. In this case, the oft-discussed issue in the halakhic literature is the status of secular Jews today, and the presence of significant decisors in each camp has led to the ruling that a secular Jew is to be treated with the stringencies of both *tinok she-nishbah* and *mumar*; *a fortiori*, an Orthoprax Jew would certainly be considered a *mumar* (see below). *Binah va-Da'at* and *Shuvah Elai* take this position, while *Re'akha Kamokha*, using an approach similar to the one adopted here, rules that the secular Jew should be considered a *tinok she-nishbah* alone.

<sup>v</sup> *Yoreh De'ah* 158:2.

<sup>vi</sup> *Ibid.* 251:13.

<sup>vii</sup> *Sanhedrin* 27a.

<sup>viii</sup> In *Hullin* 4a, a discussion of the *mumar le-te'avon* concludes that the slaughter even of one liable to eat the meat of carcasses (or of improperly slaughtered animals) is valid so long as the knife is checked. The reason given for this is that the *mumar le-te'avon* will not eat forbidden meat when permissible meat is available, so he is trusted to slaughter properly so long as it costs him no more effort (such as checking the knife). Rambam (*Hilkhot Shehitah* 4:14) strangely extends the requirement to check the knife even to a *mumar le-te'avon* for a different prohibition.

<sup>ix</sup> *Shulhan Arukh, Yoreh De'ah* 2:5.

<sup>x</sup> *Ibid.*, *Orah Hayyim* 39.

<sup>xi</sup> *Ibid.*, *Yoreh De'ah* 264:1.

<sup>xii</sup> *Mishnah Berurah* 55:46.

<sup>xiii</sup> *She'eilot u-Teshuvot Hakham Tsevi* 39.

<sup>xiv</sup> *Bread: Hazon Ish, Yoreh De'ah* 2:23.

Cooked food: *Pithei Teshuvah* 113:1.

<sup>xv</sup> *Shulhan Arukh, Yoreh De'ah* 124:8.

<sup>xvi</sup> *Taz to Yoreh De'ah* 119:4.

<sup>xvii</sup> *Mishneh Torah, Hilkhot Avodah Zarah* 2:5. Rambam's given rationale (elaborated upon in 2:3) is that the *appikoros* is guilty of intellectual arrogance in preferring the heretical results of his puny mind's philosophical speculation rather than deferring to the authority of tradition and its bearers.

<sup>xviii</sup> *Mishnah Berurah* 126:2 and *Iggerot Moshe, Orah Hayyim* 2:50.

<sup>xix</sup> *She'eilot u-Teshuvot Maharil* 194. It does not seem, however, that Maharil would consider the blessing of a *kofer* to be of halakhic significance, as the logic behind the opposite position is compelling.

<sup>xx</sup> *Shabbat* 69a.

<sup>xxi</sup> *Mishneh Torah, Hilkhot Mamrim* 3:3. Rambam is ruling *le-shitato* that the sin in heresy is following one's reason rather than tradition (see above, n. 16); the second-generation Karaite is guilty not of this but of following the wrong tradition.

<sup>xxii</sup> *Nimmukei Yosef to Bava Metsi'a* 42b (Rif pagination), s.v. "*oved kokhavim*" (42a). This is also the opinion of Rambam to *Bava Metsi'a* 71b, s.v. "*ve-im nafshakh*".

<sup>xxiii</sup> This analysis follows the position of the *Beit Yosef to Tur* 159, who holds that Rambam and the *Nimmukei Yosef* argue. However, the *Hut ha-Shani (Shabbat* 40) distinguishes between the Karaites discussed by Rambam and the children of *mumarim* discussed by the *Nimmukei Yosef*. While the historical analysis of the dispute is obviously invalidated according to this interpretation, the remainder of the argument is not essentially affected.

<sup>xxiv</sup> See Joel Kramer, *Maimonides: The Life and World of One of Civilization's Greatest Minds* (New York: Doubleday, 2008), pp. 273-275.

<sup>xxv</sup> See Yitzhak Baer, *A History of the Jews in Christian Spain* (Philadelphia: Jewish Publication Society, 1966), 2 vols. On Karaites, see vol. I, pp. 65, 77, 95. On the persecutions of the *conversos*, see vol. 2.

<sup>xxvi</sup> R. Ezra Bick, personal communication. Compare, e.g., Rambam's comments to Genesis 2:1 and Deuteronomy 13:1 with *Moreh Nevukhim* II:2-12; I thank Daniel First for pointing out these references.

<sup>xxvii</sup> *Mishneh Torah, Hilkhot Avodah Zarah* 2:5.

<sup>xxviii</sup> R. Lichtenstein stated that each Orthoprax Jew must be judged individually: one legitimately influenced by the *Zeitgeist* could be considered a *tinok she-nishbah*, while one who lived solely in the "Yeshivah World" until his exposure to biblical criticism might not. By the preceding, it seems clear that the vast majority of Orthoprax Jews, at least in the Modern Orthodox community, fall under the former category.

<sup>xxix</sup> R. Avraham Yitsahk ha-Kohen Kook, *Iggerot ha-Re'iyah* (Jerusalem: Mosad ha-Rav Kook, 1961-1965), letter no. 138 (vol. 1, p.

171).

<sup>xxx</sup> *Iggerot Moshe, Yoreh De'ah* 2:47.

<sup>xxxi</sup> R. Yehuda Amital, "A Torah Perspective on the Status of Secular Jews Today," *Tradition* 23,4 (1988): 1-13.

<sup>xxxii</sup> R. Lichtenstein agreed that "one cannot be *yotse* [with an Orthoprax Jew's] *Kiddush*."

<sup>xxxiii</sup> However, I can attest to the existence of several Orthoprax Jews, who intend to remain so, of college age.

<sup>xxxiv</sup> See his autobiography: Louis Jacobs, *Helping With Inquiries* (London: Valentine, Mitchell, 1989). For Jacobs' move away from Orthodox beliefs and its relationship to his academic studies, see especially pp. 75-79, in which Jacobs also points to the high incidence of Orthopraxy among academics. Jacobs' account of the events leading up to the "Jacobs affair" begins on p. 120.

<sup>xxxv</sup> The earliest expression of this is R. Yehudah's dictum that "the Children of Israel worshipped idols for the sole purpose of rendering public fornication permissible in their eyes" (*Sanhedrin* 63b); in various guises, the idea has continued to resound in the tradition up to the present day. Of course, as various people have pointed out to me, this psychological insight remains valid in many, if not most, cases of defection from Orthodoxy.

<sup>xxxvi</sup> Excluding such indiscriminate steps as banning the Internet, which are ineffective even in Haredi communities.

<sup>xxxvii</sup> Another possibility, based on a suggestion to me by R. Schiller, is to educate for a faith grounded less in rational arguments, such as that preached by Breslov Hasidut. As a rationalist, I cannot advocate this.

<sup>xxxviii</sup> See the discussion among M. Spiegelman, S. Carmy, and M. Bernstein in *Ten Da'at* 3:2, 33-34; 3:3, 44; 4:1, 35-37 (1989), which deals with the related issue of teaching about imperfect textual transmission.

# Prayer: A Call for Philosophical Inquiry

BY: Sarit Bendavid

When we think of *tefillah*, an inner feeling of haste might be evoked as we imagine ourselves running to *shul* in time for *Minhah*, or boredom as we think about the eternal Shabbat morning services, or even of a good friend who we hope to catch up with at the end of *davening*. We say that prayer is a focal point of our religious experience, a basic institution of the Jewish community. Yet how many of us understand the mechanics of prayer or appreciate its spiritual significance? Our neglect of *tefillah* stares us in the eye every time we step into synagogue and open up our *siddurim*, and yet we don't even know what it means to "talk to God." Furthermore, education of the subject is blatantly left out of most school curriculums. This can be explained (although maybe not excused) by the mere fact that while Tanakh narratives or Halakhic details can easily be taught, directives concerning prayer are far from clear. What is the right way to pray? What does it mean to have *kavvanah*? Is God actually listening? These are only some of the questions that immediately arise, preventing us from gaining any coherent picture of prayer, certainly from instructing others.

It is not surprising that when the *New York Times Magazine* contained an article a few weeks ago on prayer, Rabbi Marc Gellman stressed this point and was quoted as follows: "There is no prayer harder than suburban Jewish prayer...Evangelical Christians, Pentecostals, they go to church to pray...But Jews are different. People come to temple to identify with other Jews, or socialize."<sup>i</sup> Professor Uriel Simon, biblical scholar and educator, highlights the lack of *kavvanah* in Jewish prayer as well: "Prayer...generally stands out as an almost mechanical muttering, at a speed which prevents contemplation...The eyes of many prayers are closed and their faces asleep, and during weekday prayers or on regular Shabbatot they never awaken, except on a very few special occasions."<sup>ii</sup> After reading these accounts of our prayer services, it can only make us wonder: Why are our hearts asleep, our mouths dry from prosaic monotones, our *shuls* devoid of emotion or passion? Prayer is a critical part of our religious observance, so why aren't we properly performing it?

In comparing Judaism with Christianity, Gellman may be hinting at an important differentiating factor between them: Judaism is primarily a religion of action, while Christianity is a religion of belief. Prayer cannot easily find its niche of comfort in our religious system that does not focus on the inculcation of proper creed. Most people don't understand what it means to pray – not just the literal words, but the very concept of prayer. This seems to be a natural consequence of a religion that focuses on action instead of focusing on building a

foundation of correct thought and belief that would cause prayer to flow more naturally.

The questions that ought to be addressed in order to grant us a proper understanding of prayer are endless, but to name just a few: Is God actually listening, meaning that He is actively involved in human affairs? Is prayer meant for God, or for ourselves? What does it mean to have *kavvanah*? Is the specific text of the *siddur* significant, or is it only a guideline for us to form our own personal prayers?

At first glance, it may seem as if the haze clears away after one learns the answers to these questions. However, the answers vary so extremely, even in a mutually exclusive manner, and they depend upon the larger question of how one understands the nature of God and

**"We say that prayer is a focal point of our religious experience, a basic institution of the Jewish community. Yet how many of us understand the mechanics of prayer or appreciate its spiritual significance?"**

the world around us.<sup>iii</sup> For example, traditional or simple understandings of prayer follow the Biblical tradition of viewing prayer as a means of petitioning God, beseeching Him to provide us with something that is out of our control, such as when Moshe asks God to heal Miryam (Num. 12:13), or Hannah implores God to grant her a son (I Samuel 1:11). The underlying assumption is that God personally answers human prayers and changes (if He so chooses) the course of natural events as a result. However, for those who understand religion in more rational terms, prayer leads to a paradox. Rambam explains that since God is One, God is also incorporeal, and therefore has no possibility for change;<sup>iv</sup> individuals do not have intimate and personal relationships with God, but *hashgahah* is automatic, a product of one's intelligence.<sup>v</sup> According to this view of God's Presence in the world, prayer is merely meant for the pray-er as a tool for self-improvement.<sup>vi</sup> This model of prayer, however, creates a disconnect between the words of the prayers and the intended effect. For example, even though we literally ask God for health, we are really just encouraging ourselves to be more aware of the infirm around us and take our own initiatives in order to heal them. If one chooses to follow this model, there is a sense of self-deception involved in which one must intend the words literally, knowing, however, that petitioning God for the things in his prayers does not make logical sense. On the other hand, one who does not attempt to rationalize prayer can understand the prayers at face value. These two ways of understanding prayer seem to reflect the two different definitions of the word *le-hitpallel*: 1) to seek a favorable judgment for oneself, and 2) to judge oneself.

The situation becomes more complex for those who adhere to the Kabbalistic ideal of *tikkun*, of "fixing" the Sefirotic universe, which calls for the unification of God and His *Shekhinah*, or of the divine world above with

the physical world below. Kabbalists claim that prayer is a means of *tikkun*, of harmonizing the world of the *Sefirot*. Although the one who prays is only indirectly affected, since the improvement of the world above affects the physical world below, prayer is directed towards the universal goal of unifying the world of the *Sefirot*.

To sum up, traditional understandings of prayer focus on influencing God, rational models emphasize the improvement of the individual, and Kabbalistic modes emphasize *tikkun* of the universe. Which one are we supposed to have in mind when we pray? It is unclear what we should intend to accomplish through our prayers. Should we believe that prayer is for us and does not actually influence anything else, or that our prayers can actually make a difference in the broader world?

Understanding prayer also relates to how one idealizes a relationship with the Divine.

Are we to connect to God through the intellect, using our rational faculty in order to *understand* the words of the prayer? If prayer is most effective through its conceptualization, then the actual prayer is no longer that important, and it is rather the concepts behind it that stand as integral to our worship of God. Additionally, if prayer is simply an intellectual pursuit, then the lines between prayer and Talmud Torah become blurred. Although this poses a challenge to some, Rav Soloveitchik in fact draws parallels between the two activities.<sup>vii</sup>

If prayer is something distinct from Torah study, then effectively performing it is not based on analyzing the text as one would scrutinize a page of Talmud. The Rebbe of Piaszno, Rabbi Kalonymus Kalman Shapira, explains that intellect can be used only to grasp what is outside of oneself, "the garb in which the holy words are clothed."<sup>viii</sup> In order to properly pray, and by extension fully worship God, one must experience the activity along

**"The aim of this proposal is not only to learn different theological opinions, but to understand that these matters have practical implications for us, for each of the numerous times a day when we open the *siddur* and try to 'talk to God.'"**

with his senses and emotions. Abraham Joshua Heschel explains: "Prayer is not thinking. To the thinker, God is an object; to the man who prays, He is the subject."<sup>ix</sup> When praying with intellect alone, God becomes some detached entity that we speak *about*, but true prayer places God at the center of the activity as the direct receiver. When truly praying, Heschel explains, more than just the thinking mind is required. R. Adin Steinsaltz recounts discussing the meaning of *kavvanah* with his friend, a Rosh Yeshivah in Israel, who explained that when he has proper *kavvanah*, he thinks about "the connection between one sentence and the next, between one word and another, between the various sections, and so on." Steinsaltz replied that while he sometimes engages in these types of thoughts, this rational

analysis of the text is not the essence of prayer, and it is not the definition of *kavvanah*.<sup>x</sup>

The two approaches to prayer necessarily understand the concept of *kavvanah* differently, either as cognition and awareness, or emotion and passion. In order to inspire a person to have *kavvanah*, therefore, recommendations would vary. If *kavvanah* is just based on cognition, then a thorough explanation of the prayers would allow one to accomplish that goal. However, if intent requires feeling and passion, then the best way to generate true *kavvanah* would be through such activities as dancing, singing, or even imbibing alcohol.

How one understands the nature of God's universe would also influence one's view of the fixed text of the *siddur*. Rationalists tend to focus on the ideas of prayer, viewing the exact words as insignificant, while Kabbalists maintain that every word, even every letter, has special significance, and prayer impacts the world (of the *Sefirot*) even if one does not understand the words he is saying.<sup>xi</sup> There is little room for *hiddush*, or phrasing things in one's own terms, in Kabbalistic prayer.<sup>xii</sup> The practical difference is critical: should we stress the idea of personalizing prayer, using the fixed text as merely a model to build off of, while concentrating on what one finds to be most important, or should we adhere to Kabbalistic ideas by stressing the importance of saying every word of *tefillah*, whether one finds meaning in it or not? Should we say fewer prayers but grant more time to meditate upon our words, or say everything, but in haste? The answers to these questions strongly affect the way that we conduct our public prayer services or individual prayers.

In our concept of *tefillah*, we can find traces of influence from various traditions and beliefs. We leave room for many different approaches. Yet does this eclectic framework simply leave people confused as to what prayer actually is or should be? Is our lack of decisiveness hindering proper prayer? It seems that the only way for people to more fully understand prayer is to delve more intensely into

their philosophical beliefs, for they form the foundation of how we understand prayer. *Tefillah* is a clear example of part of our religious service that is not

simply dependent on the fulfillment of halakhot, but relies upon the nature of our understanding of the universe. A call for a more thorough analysis of our beliefs seems vital, and failure to properly consider our principles risks the perpetuation of *tefillah* as unexciting, confusing, and unable to effect change. The problem is complex and multi-faceted, and my suggestion is only one possible way to improve the state of our prayers. The aim of this proposal is not only to learn different theological opinions, but to understand that these matters have practical implications for us, for each of the numerous times a day when we open the *siddur* and try to "talk to God." A thorough exploration into philosophy is a daunting challenge to some, but one we should not be afraid to face. Maybe, with a deeper understanding of

what we are doing, we may be able to pray with more clarity and conviction.

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# Rabbinic Leadership Reexamined

BY: Alex Luxenberg

**W**hat is the biggest problem in the Modern Orthodox community today?

Much ink has been spilled on this question. It is the *raison d'être* of many Jewish periodicals, seminars and rabbinic sermons. For many, the ultimate issue is the hashkafic shift to the right or left; for others, it is the dethroning of theology as the foundation of religion or the minutia of halakhic disagreement which present the greatest challenges. It seems to me, however, that the crux of all the issues faced by Modern Orthodoxy is the deep ravine between rabbis and their communities. We have come to a point where the values and goals of many rabbinic leaders are not in-sync with those of their own communities. In other words, it is not a communal shift in Hashkafah that must be addressed, but rather a rabbinic shift; it is the leadership that does not jive with its congregation, not the other way around.

I would like to consider three types of rabbinic leadership: communal/pulpit rabbis, high school teachers, and rabbis in yeshivot or seminaries in Israel. Each case presents a different framework in which the rabbi connects with his students and/or community. I hope to demonstrate that there is a significant chasm in all of these relationships and to discuss potential remedies. While I realize that each community is unique, it seems to me that many of the motifs that will be discussed have become commonplace in Modern Orthodox neighborhoods across America. I am not an expert either in sociology or in education, but I am the product of an Orthodox *shul*, school and yeshivah, and it is from these perspectives that I write this article.

Before we elaborate on each case, I would like to try to elucidate what is at the core of the disconnect between clergyman and layman. Rabbi Dr. Eliezer Berkovits, in an essay entitled "Towards a Renewed Rabbinic Leadership," seeks to define what is needed from rabbinic leadership:

"Rather, the point is to urge the need for personalities to exercise rabbinical authority in the sense of national leadership, based on the decisive influence of Judaism in all spheres of Jewish life... The new situation demands new men, men who themselves are children of this new situation. They must themselves have suffered all the agonies of the dualism in the life of the modern Jew... Only a personality harmonized within itself, after a

struggle of conflicting ideas, will be able to reveal the message of Judaism to this generation, for such alone will be in a position to translate it into the terms of our age.

"Such an achievement demands knowledge and character; real knowledge of Judaism combined with the critical insight into the structure and workings of Western civilization..."<sup>i</sup>

Berkovits argues that we need leaders who are in touch with their communities. We need authorities that understand our daily plights, concerns and struggles. Ideally, Berkovits claims, our rabbinic leaders should be products of our own systems, not outsiders from an alien civilization that has morals and ethics that seem strange and offensive to ours.

**"It is not a communal shift in Hashkafah that must be addressed, but rather a rabbinic shift; it is the leadership that does not jive with its congregation, not the other way around."**

## The High School Rabbi<sup>ii</sup>

Rabbi Myles Brody, a teacher at Yeshivat Hakotel and the online editor of *Tradition*, as part of a symposium in the recent *Meorot* publication, addresses the following question: "What skills among faculty and administrators should be strengthened to ensure the success of educating Modern Orthodox students for life and the continued success of the Modern Orthodox day school educational system?" He writes:

"This problem, which at its root is related to the complex engagement of Orthodoxy with modernity, will not be solved with more formal education training for teachers. Solutions will stem from faculty and administrators recognizing this unfortunate reality and doing what they can, given the circumstances, in making a halakhic lifestyle attractive. The most important method is to lead by example, and therefore it is an imperative to find (and cultivate) educators whom the students will relate to and respect."<sup>iii</sup>

According to R. Brody, it is our responsibility to ensure that educators in our schools are people who "respect" and "relate to" our community, for if they do not, how are our students supposed to look up to them? It seems, however, that this is not our reality. How often does a child come home excited by a relationship fostered with a teacher in school? How often is a teacher regarded as a role model by a fifteen-year-old? And even when one manages to come out of high school with a real relationship with an educator, more often than

not these relationships develop in the later years of schooling. I would like to suggest that the reason students and teachers do not mesh well is a result of different hashkafot.

Rabbi Dr. Noam Weinberg, Associate Principal of the Moriah School, in an article entitled "The 20<sup>th</sup> Century Jewish Educator in the 21<sup>st</sup> Century Classroom," illustrates the importance of what he calls "the educator as advocate." Weinberg grapples with a disconnect between teachers and students, explaining that "teachers that choose to teach in a specific school, must also be willing to work within the framework of the school's Hashkafah, and be true representatives of the school's Hashkafic perspective."<sup>iv</sup> This all seems so obvious, but just the opposite is true of our schools. I remember being taught a certain halakhah in a 10<sup>th</sup> grade Talmud class and only later finding out that the principal of the school has very strong views in disagreement with those of the classroom teacher. Later in the same paragraph, Weinberg discusses the instances in which Halakhah and Hashkafah clash:

"This is not to say that staff must condone a Halachically inappropriate behavior of a parent; however, the staff member must be willing to actively support the Hashkafa of the school in which they are employed. More often than not, teachers may teach in a school that does not mesh with their personal Hashkafa, and it is the administrator's responsibility to clarify with teachers the Hashkafic expectations of being a Rebbe or Morah in this particular school environment."<sup>v</sup>

Weinberg posits that it is the role of the administration to "clarify with the teachers the Hashkafic expectations" of teaching in that particular school to avoid sending mixed messages to the students. This notion, that each school is responsible to clarify the hashkafic expectations of its teachers, is at the foundation of recognizing that each community is *sui generis*.

Weinberg recounts an instance in which a young female teacher did not participate in an Israeli Independence Day celebration held at the school where he is the associate principal. He describes how infuriated he was that this teacher's values were so out-of-sync with his, the students', and those of the parents in the neighborhood. I have heard countless stories to this effect. A friend of mine from the West Coast once told me that pages were removed from her copy of a Shakespearean play because the head rabbi of her school found them to be inappropriate and that she was extremely embarrassed to find this out. The in-

<sup>i</sup> Zev Chafetz, "The Right Way to Pray?" *The New York Times Magazine*, September 16, 2009. Available at: <http://www.nytimes.com/2009/09/20/magazine/20Prayer-t.html>.

<sup>ii</sup> Uriel Simon, "Teaching *Siddur* to Enhance Devotion in Prayer," in Gabriel H. Cohn and Harold Fisch (eds.), *Prayer in Judaism: Continuity and Change* (Northvale, NJ: Aronson Inc., 1996), p. 190.

<sup>iii</sup> I am indebted to Seth Kadish, the author of *Kavvana: Directing the Heart in Jewish Prayer* (Northvale, NJ: Aronson Inc., 1997), for providing a comprehensive study of prayer, including many of the sources quoted here, as well as outlining many of the distinctions between different opinions discussed in this article.

<sup>iv</sup> Rambam discusses the concept of Divine Unity in *Mishneh Torah, Hilkhoh Yesodei ha-Torah* 1:7. He explains that a Being that can be divided is necessarily imperfect, and God therefore cannot have any divisions. An implication of Divine Unity is that God has no compositionality and therefore has no affections that can be appealed to and influenced as a result of prayer. Furthermore, since God is perfect, our prayers cannot cause God to undergo any form of change. In *Moreh Nevukhim* I:59 Rambam labels individuals who pray with the intention of affecting God as "truly ignorant," for assigning God attributes is implying that He has a deficiency.

<sup>v</sup> *Moreh Nevukhim* III:18.

<sup>vi</sup> *Ibid.* III:36. This model of prayer as a means for self-training was accepted by many other medieval philosophers, such as Rabbeinu Bahya ibn Pakuda and R. Yosef Albo.

<sup>vii</sup> The Rav explains that prayer and Torah study are in fact very similar. They follow the same stages of "complete intellectual insensitivity and total unconcern," then "cognitive curiosity and amazement awaken," and then comes the "redemption," when a person realizes his needs-awareness. "He is aware of his needs because he prays; he is aware of his intellectual creative capacities because he studies." They both "unite in one redemptive experience" [R. Joseph B. Soloveitchik, "Redemption, Prayer, Talmud Torah," *Tradition* 17,2 (Spring 1978): 55-72, at pp. 68-70]. However, R. Soloveitchik has also been quoted by his students as saying that when he prays, a person talks to God, while when he studies the Torah, God talks to him" (Kadish, p. 48).

<sup>viii</sup> R. Kalonymus Kalman Shapira, *A Student's Obligation*, trans. Micha Odenheimer (Northvale, NJ: Aronson Inc., 1995), p. 150.

<sup>ix</sup> Abraham Joshua Heschel, *Man's Quest For God* (New York: Charles Scribner's Sons, 1954), p. 12.

<sup>x</sup> Adin Steinsaltz, "Education for Prayer," in *Prayer in Judaism: Continuity and Change*, p. 181.

<sup>xi</sup> Kadish, p. 235.

<sup>xii</sup> Kadish, pp. 239, 243.

justice here is not in the school having decided not to study that part of Shakespeare; I would never suggest that a Haredi school read literature it deemed offensive. Rather, the problem here is that the school masked itself in a cloak of modernity, but operated using tools of orthodoxy.

Is there a way of harmonizing the cacophony? How should we close the gap between the goals and ambitions of teachers and those of their students?

As noted above, the way to ensure that educators have the same values as the schools in which they teach is for each community to develop and train teachers that grew up in the community. In

a recent conversation with a friend, Daniel, who has chosen to go into education, I was informed of a sad reality. Everyone knows the famous warnings to the effect that being a rabbi is no job for a nice Jewish boy, but do people really feel this way? Daniel told me that a man in his community, someone who seriously values his inclusion in a Jewish community, advised against his choice of a career in education. It is this very mindset that needs to be eradicated from the halls of Modern Orthodox *shuls*, schools and homes. While the Modern Orthodox community puts education on the highest of pedestals, it discourages its youth from ever being educators. In order to guarantee that future generations receive an education that truly synthesizes secular and Judaic studies, we must first make sure that our own generation produces teachers that firmly believe in those ideals.

### The Rabbi in a Yeshivah or Seminary in Israel<sup>vi</sup>

It is common for many young men and women to spend a year in a yeshivah or seminary, respectively, after graduating from Modern Orthodox day schools. There are various types of programs in which one can study: those that are geared towards Americans and those meant primarily for Israelis, some with a focus on Talmud and others with a concentration on Musar. One common thread that weaves through all of these programs is the emphasis placed on the rabbi-student relationship that is supposed to develop and survive well into the alumni years, after the student has moved back to the United States.

Relationships between rabbis in Israel and students in America start at an early stage, namely the interviews, when the interviewer takes note of whether or not his program is appropriate for the interviewee. Often, it is the very rabbi conducting the interview who looks to build a relationship with the students once they arrive in Israel. After spending a year learning Torah, schmoozing and eating with one's rabbi, the relationship that one builds

can really be quite deep. Many students tell their *rabbeim* their deepest secrets, seeking advice and guidance. The type of rabbi who teaches at a yeshivah or seminary looks forward to forming these relationships, whether for *keiruv* purposes or not. At the end, a year of introspection and decision-making passes, but at every turn there has been a traffic officer, directing the student on the proper course.

After the year is over and one begins college life, one might be ready to date but not know how or where to begin. A common response among students who have spent a year

in Israel is to consult their rabbi there. The problem, of course, with this, is that they seek advice from a mentor who a) no longer lives in the American society in which they live, and b) has not necessarily ever lived in the community from which they hail. I would not suggest that the relationship between a student in America and a teacher in Israel is futile. On the contrary – it can be a beautiful, incredibly fruitful bond that leads to deep thoughts, emotions and even friendship. For a *talmid* or *talmidah* to be able to call his or her rabbi and ask a question on the weekly *parashah*, a *sugya* he or she is learning or about a certain halakhic issue is a connection that is revered by many. It makes sense then, that such a student would also ask his or her rabbi for advice on issues of dating and other social situations. What confuses me, though, is that these rabbis often feel equipped to answer these questions and proceed to do so. Greater than the connection between the rabbi in a yeshivah or seminary in Israel and a student in America are the differences that separate them, especially in terms of social norms.

Many people today are concerned with the so-called *shiddukh* crisis. It seems apparent to me, however, that one of the fundamental issues in Jewish dating today stems, again, from the issue of students and their rabbis being out of touch and out-of-sync. How often does a student from a co-ed school arrive in a yeshivah or seminary just to be told that it is not permissible to speak to members of the opposite sex? The rabbi spends an entire year or two convincing his students of the sinful nature of this act, and then we are left with socially awkward twenty-year-olds. It does not surprise me, therefore, that many twenty-two-year-old students who are looking to get married have forgotten how to speak to one another and then turn to the very source of their confusion for guidance. Realizing the inherent problem with this, it is often at this stage that many students begin to “un-flip.”

If we want our students to come back from Israel and still appreciate the communities they come from, then we must insist either

that yeshivah and seminary rabbis are, again, fully committed to the same hashkafot as we are, or that they should be aware of their boundaries if they do not have the same hashkafot. How do we monitor what the rabbis in Israel are teaching students? We cannot, so we should only patronize institutions that truly mesh with our values.

### The Pulpit Rabbi

Rabbi Elie Weinstock, Associate Rabbi at Kehilath Jeshurun, a *shul* on the Upper East Side of Manhattan, recently addressed his congregation on the role of the communal rabbi. R. Weinstock was concerned that pulpit rabbis in Modern Orthodox communities in America are losing touch with their congregants. He stated, “There is a trend here [in America] that devalues the individualism of both rabbis and congregants,” and feared that this will lead to “...putting the American rabbinate out of touch with a large swath of the Jewish community here, while distancing the community from the rabbinate.”<sup>vii</sup> Therefore, R. Weinstock argued along the lines of R. Eliezer Berkovits and R. Weinberg before him that we need rabbis that can relate to and understand the community.

R. Weinstock laid out what he felt to be two major considerations for communal rabbis today. The first is that “rabbis need to be ready to answer [halakhic] questions and make decisions.”<sup>viii</sup> This claim leads to two non-contradictory conclusions. Not only does it demand that communal rabbis have a strong understanding of the halakhic literature, it also encourages people to ask halakhic questions to rabbis that know them and their life situations.

The second major issue he raised is a broader one, by which *posekim* consult eight hundred-year-old halakhic handbooks for answers to their questions, leaving modernity in the dust. It is this culture of looking up fossilized Halakhah that leads people to ask R. Weinstock questions such as, “Who is your *posek*? To whom do you ask your questions?” These questions, R. Weinstock explained, bother him because he feels, as mentioned above, that “*posekim* have a role – an impor-

### “It is imperative that communal rabbis strike a balance between being an authority figure and being a representative of their community”

tant role – in Judaism. But communal rabbis are the best people to understand the individual needs of their own communities.”<sup>ix</sup>

The pulpit of a community is not a pedestal, nor is it a puppet show. It is imperative that communal rabbis strike a balance between being an authority figure and being a representative of their community. An *authority figure* is someone who makes decisions in the realms of Halakhah and Hashkafah that

best *represent* the community he is serving. Dr. Daniel Sperber, in an article entitled “How not to make Halakhic Rulings,” set out to illustrate how

“...halakhic decisors (posekim) should act in our day and age, arguing that they should seek to bring people closer to a love of Judaism and halakha, to be inclusive rather than exclusive, and to practice what I called “friendly decision making (pesikah yedidutit).”<sup>x</sup>

In an attempt to elucidate his understanding of the halakhic process, Sperber chose three recent cases in which he thinks something went awry. The case I would like to focus on is what Sperber calls the “The Lookstein Affair.”

“The Facts: Rabbi Haskel Lookstein was invited by President Obama to participate in an interfaith thanksgiving event that was to take place in the Episcopal National Cathedral on the morning after his historic inauguration as the 44<sup>th</sup> President of the United States of America. Representatives of the various religions were invited, such as the different streams of Christianity, Islam, Buddhism etc. For the first time in such an event, the three major streams in Judaism, Reform, Conservative and Orthodox, were asked to participate, and Rabbi Lookstein was chosen to represent American Orthodox Jewry. And indeed he accepted, and participated in this memorable event.

The Reactions: The Rabbinical Council of America (RCA) took Rabbi Lookstein to task, issuing a press release saying that he broke the rules by entering a Christian church, rebuking him and claiming he had violated an unnamed rabbinic rule by entering a church and reciting a prayer there in honor of the President’s inauguration.”<sup>xi</sup>

Sperber goes on to give halakhic backing for both sides, and tries to come to a conclusion as to who was correct through an understanding of the relevant laws. A full understanding of the arguments is beyond the scope of this article, but Sperber’s conclusions are key to understanding my argument:

“How would it have looked, if the representative of Orthodoxy had refused the President’s invitation while the Conservative and Reform agreed to be present? What would have been the perception of the general

public had they learned that an Orthodox Rabbi could not attend because he regarded Christianity as idolatrous? In our days of increased anti-Semitism, is this the sort of publicity we need? Would this have endeared us to the new President and the Christian public?

In my opinion, Rabbi Lookstein’s participation constituted a kiddush ha-Shem, whereas the RCA’s press release was not



only totally irresponsible, but may also be regarded as a hillul ha-Shem.”<sup>xii</sup>

As a member of R. Lookstein’s congregation, I can tell you that Sperber’s conclusion was in conformity with that of my community. It is highly improbable that even a single member of the community was ashamed or embarrassed by R. Lookstein’s actions. To the contrary, his congregants were proud!

Did R. Lookstein attend the Episcopal National Cathedral that day because he knew that his community would respect his decision? Did he take a popular opinion pole before flying to Washington, D.C.? No. But it is comforting to know that my leadership is in sync with my values and morals.

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<sup>i</sup> Eliezer Berkovits, *Essential Essays on Judaism* (Jerusalem: Shalem Press, 2002), p. 198.

<sup>ii</sup> The position held by a high school rabbi is really that of an educator; therefore, this section is not limited to those with *semikhah*, but rather extends to all teachers in Modern Orthodox day schools.

<sup>iii</sup> Myles Brody, “On Modern Orthodox Day School Education – Symposium,” *Meorot: A Forum of Modern Orthodox Discourse* 7,2 (Tishrei 5770): 9-14, at p. 12.

<sup>iv</sup> Noam Weinberg, “The 20<sup>th</sup> Century Jewish Educator in the 21<sup>st</sup> Century Classroom,” “Ideas and Ideals,” July 31, 2009. Available at: <http://www.jewishideas.org/articles/20th-century-jewish-educator-21st-century-classroom>.

<sup>v</sup> Ibid.

<sup>vi</sup> Note: This section has a different tone, one that is less textual and more based on experience and observation.

<sup>vii</sup> Elie Weinstock, “A Festival of Personality.” Sermon given Sukkot 2009.

<sup>viii</sup> Ibid.

<sup>ix</sup> Ibid.

<sup>x</sup> Daniel Sperber, “How Not to Make Halakhic Rulings,” “Ideas and Ideals,” August 28, 2009. Available at: <http://www.jewishideas.org/articles/how-not-make-halakhic-rulings>.

<sup>xi</sup> Ibid.

<sup>xii</sup> Ibid.

## On the Virtue of Followership: *Ein Melekh be-Lo Am*

BY: Noah Cheses

The social and religious challenges of the Jewish world today have been identified and classified, in every way possible, as an outgrowth of a dearth in leadership. I believe, however, that this is a slight misdiagnosis. Our issue is more with followership than with leadership. We have role models and visionaries but we, by and large, do not put our trust in them, nor empower them with our support, confidence and hope.

Jews have historically been poor followers. We are a strong-willed and tenacious people. The Torah itself repeatedly points out that “you [the Jewish people] are a stubborn nation.”<sup>i</sup> Unfortunately, this ethnic character trait often translates into a suspicion of those who hold leadership positions. We are reluctant to believe in other human beings and instead we believe in our own self-sufficiency. The tendency to carry ourselves with a sense of independence and autonomy significantly undermines the power of community.

### In Praise of Followers

In one of the few works on the topic of followership, entitled *The Power of Followership*, Robert Kelly writes:

“We are convinced that corporations succeed or fail, compete or crumble, on the basis of how well they are led. So we study great leaders of the past and

present and spend vast quantities of time and money looking for leaders to hire and trying to cultivate leadership in the employees we already have.

I have no argument with this enthusiasm. Leaders matter greatly. But in searching so zealously for better leaders we tend to lose sight of the people these leaders will lead. Without his armies, after all, Napoleon was just a man with grandiose ambitions. Organizations stand or fall partly on the basis of how well their leaders lead, but partly also on the basis of how well their followers follow.”<sup>ii</sup>

Generally, followership has a negative connotation, but Kelly argues that a follower is not necessarily passive, inferior, or lacking in drive and ambition. He defines the ideal follower not as a subordinate but as an individual who acts with intelligence, independence, courage, and a strong sense of ethics. By stripping away the term’s associations with passivity, he reinterprets the role of “followers,” ascribing to them the power and responsibility to support, confront, engage, foster, and leverage the talents and wisdom of their leaders.<sup>iii</sup>

Ira Chaleff also talks about the ideal follower in his book, *The Courageous Follower*:

*Standing Up to and For Our Leaders.*<sup>iv</sup> He claims that “courageous followers,” the title he gives to ideal members of this class, do everything possible to contribute to their leader’s success, but also have the courage to constructively challenge the leader if they disagree with the decisions being made. Such individuals orbit around principle, not around ego, and dare to challenge those with greater power based on the strength of their convictions.<sup>v</sup> Whereas a leader exercises leadership on a regular basis, a courageous follower exercises leadership occasionally, and not out of opposition but out of admiration and respect.

### An Overlooked and Understudied Phenomenon

The field of followership is so young that it is currently in a stage where thoughtful academics and professionals are trying to justify its importance.<sup>vi</sup> A search for books or articles on the concept of “leadership” produces thousands, perhaps millions of hits. But one who looks for resources on “followership” will find hardly anything.

In the preface to his book, Chaleff offers a sociological rationale for the lack of literature on followership:

“I have been absorbed with the subject of followership most of my life, since becoming aware as a child of the systematic

**“In this new reality of continual technological progress, the role that followers play is essential. Nowadays, it is the enablers and supporters who are often most responsible for actual change and growth.”**

destruction of six million European Jews by the Nazis during WWII. In my heart, like so many others, I held the German people responsible, not just their leader Adolph Hitler. When I was seven or eight I made up games in which I rescued as many people as I could from the German death camps. It was never enough. How could a whole country follow a vicious leader to the logical conclusions of his psychosis? The mass support for a psychotic leader may have well created the contemptuous association my generation has with the term ‘follower.’”<sup>vii</sup>

In previous generations, explains Chaleff, strong leadership was needed in order to get things done, but in our information age, organizations are comprised of many interconnected units working towards overall success.<sup>viii</sup> As a result, institutions have had to develop new models for managing in order to create multiple team-like structures that work together. In this new reality of continual technological progress, the role that followers play is essential. Nowadays, it is the enablers and supporters who are often most responsible for actual change and growth.

### A Torah Model of Followership

Who can we, as Torah Jews, look to as a model of courageous followership? Perhaps Avraham should serve as our paradigm.<sup>ix</sup> After all, Avraham sacrifices almost everything to follow Hashem, but at the same time argues with Him on behalf of Sodom and Amorah. Audaciously, Avraham holds Hashem up to His own standards of goodness and justice: “Far be it from you to do such a thing, to bring death upon the innocent as well as the guilty, so that innocent and guilty fare alike. Far be it from you! Shall not the judge of all the earth deal justly?”<sup>x</sup>

It is astonishing and inspiring that Avraham is able to muster up the courage to demand that Hashem be true to His own principles. This story highlights that one of the best ways to exert influence is to remind people who exercise leadership of their own values. (This is also how individuals often keep their friends honest and on-track.) Similarly, Dr. Martin Luther King, Jr. acted with this type of moral courage in his efforts to end segregation in America. He did not threaten violence or rebellion; he simply demanded that America live up to the explicit values of its Constitution: “We hold these truths to be self-evident, that all men are created equal.” He was holding the American people accountable for lack of commitment to their own principles.

As the first courageous follower in Jewish history, Avraham challenged Hashem, not in an obnoxious or belittling fashion, but with respect and humility. Avraham should serve as our exemplar of followership because he delicately balanced a devout trust in Hashem, while at the same time pushing back at Him when he felt it necessary. Although we are not privy to

Hashem’s evaluation of Avraham’s behavior, the fact that Hashem takes his challenge seriously by responding to it is significant. It is quite possible that Hashem was not

angered by Avraham’s courageous followership, but instead delighted in the bravery and moral strength of His own creation.

### Bringing This Back to the Jewish World

In our Jewish world, where many members of our communities are enlightened, capable, and independent people, I believe that we should spend more time thinking about the nature of followership. How can we create a community of better followers?

Erica Brown<sup>xi</sup> recently published an article entitled “Choose Civility,” where she writes:

“When things go wrong and we see leaders as the sole owners of our Jewish institutions, they become an easy target. But if we all saw ourselves as owners, investors and stakeholders in institutions, problems no longer belong to someone else. They belong to us. We each become more personally accountable. And we become more civil in the process because we understand up close how hard it is to navigate politics thoughtfully.”<sup>xii</sup>

We can create a better community of followers by educating towards a new concept of ourselves. Instead of viewing ourselves as con-

## “Am le-Badad Yishkon.”

# Must the Singular Nation Always Reside Alone?

BY: Nicole Grubner

sumers of the communal structures that we benefit from, we should see ourselves as stakeholders and trustees. This means that we must provide encouragement and support to those worthy individuals who have taken the responsibility to lead our organizations and institutions. At the same time, we should internalize our responsibly to occasionally push back, but with love and admiration.

Robert Kelly's research shows that followers contribute to 80 percent of the work in an organization, whereas leaders provide 20 percent.<sup>xiii</sup> Leadership is but one strand in the complex web of human relationships that hold our Jewish communities together. We often focus on how to become better leaders, but this keeps the spotlight off the value and importance of followership. Maybe the Jewish community in America and in Israel should be focusing more on developing followership skills. What would the Jewish world look like if we ran “Followership Training Conferences” where we taught followership skills such as *how* to provide criticism constructively or *how* to enable and empower those around you? Although few people would attend these conferences at first, I think that heading in this direction would provide for more robust Jewish communities and institutions in the future.

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<sup>i</sup> *Shemot* 32:9, 33:5, 34:9 and *Devarim* 9:6, 9:13.

<sup>ii</sup> Robert E. Kelley, “In Praise of Followers,” *Harvard Business Review* 66,6 (November-December 1988), p. 142.

<sup>iii</sup> *Idem*, *The Power of Followership* (New York: Doubleday/Currency, 1992).

<sup>iv</sup> Ira Chaleff, *The Courageous Follower: Standing Up To and For Our Leaders* (San Francisco: Berrett-Koehler, 1998).

<sup>v</sup> Chaleff, p. 7

<sup>vi</sup> Ryan J. Landino, “Followership: A Literature Review of a Rising Power Beyond” (Lambda Pi Eta, 2006), p. 2. Available at: [www.natcom.org/nca/admin/index.asp?downloadid=885](http://www.natcom.org/nca/admin/index.asp?downloadid=885).

<sup>vii</sup> Chaleff, p. xii.

<sup>viii</sup> *Ibid.*, p. 4.

<sup>ix</sup> This suggestion was made by Dr. Michael Siegel in a sermon where he applied the modern terminology of “courageous follower” to Avraham. Available at: <http://followership2.pbworks.com/Abraham+as+a+Courageous+Follower>.

<sup>x</sup> *Be-Reshit* 18:25.

<sup>xi</sup> Erica Brown is the director of adult education for the Partnership for Jewish Life and Learning, which serves as a catalyst for lifelong learning and identity-building experiences in the Greater Washington area.

<sup>xii</sup> Erica Brown, “Choosing Civility,” *JTA: The Global News Service of the Jewish People*, September 2, 2009. Available at: <http://jta.org/news/article/2009/09/02/1007608/op-ed-choose-civility>.

<sup>xiii</sup> Robert E. Kelly, *The Power of Followership* (New York: Doubleday/Currency, 1992).

For a majority of history, the Jewish people have lived on their own. Whether it was the ghetto of Germany, the Pale of Settlement in the Ukraine, the *shtetl* of Russia, the cities of Alsace and Lorraine in France, or the Lower East Side, Jews over the centuries have chosen to remain a nation apart. It was not until the “emancipation” of Jews in France during the period of the Enlightenment that members of the Jewish community began leaving the fold, both in the physical sense of leaving the community, and in their level of religious observance.

While in our modern day we still find strong Jewish communities in places like New York, New Jersey, Chicago, and Baltimore, among others, the separation of the Jewish community from the secular world is far less distinct than it was less than one hundred years ago. The challenge of today is trying to find a balance between being a part of the Jewish community and still remaining a part of the “real world.” What exactly is the role of the Jewish people? How separate should our communities be? Should these communities be physically separate, ideologically separate, or perhaps some combination of the two? What exactly does it mean to be an “*am le-badad*” – a nation apart?

In *Sefer Be-Midbar*, the king of Mo'av, Balak, calls on the prophet, Bil'am, for assistance in cursing the Jewish people. Bil'am, after receiving permission from God, agrees to come, but says he may only do that which God allows. Bil'am attempts to curse the Jewish people three times, and in each of his attempts, he ends up blessing the Jewish people, according to God's will. In the first of these blessings, Bil'am says: “*Ki me-rosh tsurim er'ennu u-migeva'ot ashurennu; hen am le-badad yishkon u-ba-goyim lo yithashav.*” “For from the top of the rocks I see him, and from the hills I behold him: lo, it is a people that shall dwell alone, and shall not be reckoned among the nations.”<sup>xi</sup> This *pasuk* identifies the Jewish people as a nation that will be separate. Furthermore, it will not be reckoned among the nations.

Rashi explains that the origins of the Jewish nation are strong and its roots are entrenched like the rocks in the hills. They are strong due to the merit of the foremothers and forefathers who laid the foundations for the nation. Rashi continues in accordance with Targum Onkelos, saying that the Jewish people merit to live in solitude due to the efforts of their ancestors and that in the End of Days the nation will not be destroyed among the other nations. The Jewish people will not be counted with them. Sforno interprets this *pasuk* along the same vein, saying that the Jewish people alone will inhabit the earth in the End of Days.

Sforno cites a *pasuk* in *Devarim*, “*Hashem badad yanhennu.*” “Hashem alone guided them.”<sup>xii</sup> Sforno quotes this *pasuk* and expounds upon Rashi by adding that Hashem would not destroy the nation that He alone led.

It appears from these interpretations that to be a nation apart is a blessing. The Jewish people are not meant to mix and mingle among the other nations, and, in fact, this separation seems to be a privilege that the forefathers and foremothers earned for their descendants. Rav Ruberman, in his *sefer*, *Zikhron Me'ir*, brings a source from the *Yalkut Shim'oni* that explains the distinguishing characteristics of the Jewish people as compared to idol worshippers. The Jewish people do not change their dress, their food or their bodies (referring to *berit milah*), and this is what sets them apart as an “*am le-badad.*”

Rambam in *Hilkhot De'ot*, chapter 6, says that the nature of man is to imitate his surroundings. A person observes how his friends, co-workers, neighbors, and family members live and act, and he adapts his actions to those of his environment. Bil'am saw in his time that the Jewish people did not do this, and it can be observed that throughout history, the Jewish people have been known and hated for their insularity and their unwillingness to assimilate with the surrounding culture. Even so, they remained steadfast in their commitment to this dogma of non-integration.

Rambam continues, saying that it is the responsibility of each individual to connect himself to righteous and wise people so that he learns from their deeds. Seemingly, Rambam is saying that even when the Jewish people are living amongst other nations, it is imperative that the individual remains connected to the community. If one is living outside of the physical Jewish community, he still needs to be spiritually connected to members of the community who will influence him to behave in the correct manner.

The *Midrash Tanhuma* on *Parashat Toldot*<sup>xiii</sup> compares the Jewish people to a sheep surrounded by seventy ravenous wolves. They are not devoured; they stand strong against the wolves, against the seventy nations of the world. The Jewish people have the strength to stand up to the nations because of the foundations laid by the *Avot* and *Immahot*. The Gemara quotes the Caesar, Adrianus, as saying that the nation that withstands the other seventy nations of the world is great, but the One who saves this nation is even greater. While the Jewish people are given credit in their own right for being able to stand strong against the nations, and survive, ultimately, there is a factor that cannot be forgotten. There has to be a certain protection given to the Jewish people by God. The Jewish people must put in their

effort to be classified as the *am le-badad*; however, there must also be the awareness that the Jewish people are protected by the Almighty.

Rabbeinu Bahya brings an alternate explanation to the words “*am le-badad.*” The Jewish people are not just physically separate, but rather, “*le-badad*” connotes a special quality, which the nation possesses. This unique quality in the Jewish people stems from their connection to God; it comes from the faith and commitment to the Torah, which was given to the Jewish people. God says to the Jewish people in *Sefer Va-Yikra*: “*Va-Avdil etkhem min ha-ammim li-heyot li.*” “I have separated you from the peoples to be mine.”<sup>xiv</sup> Unlike Rashi, Onkelos, and Sforno, who say that the nation

**“The challenge of today is trying to find a balance between being a part of the Jewish community and still remaining a part of the ‘real world.’”**

will be separate at the End of Days, Rabbeinu Bahya says that the Jewish people are always separate. It is not just a physical or geographic separation, but this separation is based on the special quality that is alluded to in the word *le-badad*. The Jewish people are an *Am Meyuhad*. That is to say, that even if the Jewish people are integrated into society at large, there will always be an element of intrinsic separateness.

Ramban takes yet another approach to this *pasuk*. The Ramban does not focus on the origins of the Jewish people as their distinguishing factor. Rather, it is their *common law* that binds them as a nation. No other people can be counted with the Jewish nation. Other peoples gather together physically and can be counted as nations because they are physically connected to one another; however, the Jewish nation is one nation because of shared laws and ordinances. The Jewish people will always succeed over other nations, and will not be destroyed or assimilated, because they share an identity based on a system of law. While some nations are nations based on a common space, the Jewish people share more than just a common space; they share a common destiny that sets them apart ideologically.

Rav Shimshon Refael Hirsch makes a distinction between the words “*am*” and “*goy.*” He says that the Jewish nation will live in an insulated land as an *am* with an internal mission as a national social body. The nation will not mix excessively with other nations, and will not seek greatness as a *goy* among *goyim*. Rav Hirsch seems to imply that in order to be a true nation and to carry out its national mission, the Jewish people must be a nation apart both physically and ideologically, as opposed to a nation achieving greatness among other nations. Rav Hirsch seems to go a step further than Ramban in saying that the destiny of the Jewish people that is based in a shared ideology will be carried out in a specific land.

All of these *mefreshim* give diverse assessments of what it means to be a “nation apart.” Some state that this means a separation, either physical, ideological, or both, others say that the separation will only come at the End of Days. There seems to be a missing element, however. All of these *mefreshim* explain this prophecy assuming that the Jewish people are acting in accordance with the Torah. However, throughout history, the Jewish people have not always behaved in accordance with the Torah. Furthermore, the Jewish people have seen some very difficult and trying times, having experienced expulsions, persecutions, pogroms, the Holocaust, terrorism and anti-Semitism. While the nation has continued to survive, how is it supposed to live in the mod-

**“It seems that the best way for a person to balance his identity as a Jew and his identity as a part of the secular world is to ensure that he has a solid community to come back to at the end of each day.”**

ern era as this “nation apart,” as an “*Or la-Goyim*” in the face of so much adversity? It seems that the *berakhah* of “*am le-badad yishkon*” is conditional on the behavior of the nation.

The *Emet le-Ya'akov* discusses a very important principle at the beginning of *Sefer Shemot*. He illustrates the principle of the Jewish people in exile. In Yosef's dream, Ya'akov was the sun, and the brothers the stars. Ya'akov went down with his family to Egypt, to the darkness of *galut* (exile), and he was the sun that lit up the path for everyone. When Yaakov died, the *shevatim* were stars, guiding the family in the right direction and lighting up the darkness. The generation of the *shevatim* (tribes) eventually died, and the stars that had lit up the darkness of *galut* were no more. At this point, a new Pharaoh arose to embitter the lives of the Jews. The principle that Rav Yaakov Kamenetsky explicates here is that of “*galut teluyah ba-mekabbel*,” “Exile is dependent on the one who receives it.” As soon as the Jewish people forget they are in *galut*, as soon as they lose sight of the land they are supposed to be in, and the nation they are supposed to be, they become comfortable in their surroundings. They need to be given a reminder that they are indeed still in *galut*. If a small reminder is not sufficient, then greater reminders will be sent until the nation realizes that its current state is not the ideal.

The prophecy from Bil'am is two-sided. The Jewish nation is supposed to be a nation apart, untouchable by other nations, but this is dependent on whether the nation is cognizant of its position. When the nation recognizes its position, when the people recognize that they are in *galut*, and when they are acting in a way congruent with *retson Hashem* (the will of God), they are an “*am le-badad*,” and cannot be reckoned with by other nations. The prophecy becomes a *berakhah*. However, when the Jewish people forget their *galut*, when they forget their mission in this world, when they are not behaving like an *Or la-Goyim*, they need to be reminded of their true identity as an “*am le-badad*.” They must be re-

minded that they are a *mamlechet kohanim* and a *goy kadosh*.

In today's world, many Jewish communities are very tightly knit, while others are more dispersed amongst the general population. Many Jewish people work or go to school within the Jewish community, while many others are involved in the secular workplace. It seems that in this modern world, to be physically close to a Jewish community is more important than ever, but even more than this is the mentality which a person needs to have – that is, the mentality of “*am le-badad yishkon*.” It is with this mentality that the Jewish people will be able to survive and prosper.

With all of this being said, the question still remains – should the Jewish community

work harder to physically isolate itself from the secular world? Is it necessary, or even practical to be isolated? Seemingly, it is important to have a structured Jewish community. There needs to be a centralized location with synagogues, kosher food, *mikvehs*, schools and the like. However, it does not seem necessary to be completely cut off. In John Milton's *Paradise Lost*, the character of Satan says, “The mind is its own place, and in itself/Can make a heaven of Hell, a Hell of Heaven.”<sup>i</sup> A person's reality exists in one's own mind. If the mentality is, “I am a Jew, that is my identity no matter where I am,” then it is possible to enter the secular world. One must be wary however, because as Rambam writes, it is the nature of man to act as those around him act. It seems that the best way for a person to balance his identity as a Jew and his identity as a part of the secular world is to ensure that he has a solid community to come back to at the end of each day. The strength of the community is the only thing that will enable a person to venture out into the world with the mentality of *am le-badad yishkon*.

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<sup>i</sup> *Be-Midbar* 23:9. Translation from the Jewish Virtual Library.

<sup>ii</sup> *Devarim* 32:12. Translation from the Stone Edition of the ArtScroll Tanach.

<sup>iii</sup> *Midrash Tanhuma* on *Parashat Toledot, siman* 5.

<sup>iv</sup> *Va-Yikra* 20:26. Translation from the Stone Edition of the ArtScroll Tanach.

<sup>v</sup> John Milton, *Paradise Lost*, ed. Christopher Ricks (New York: Signet Classics, 1982), Book 1, lines 254-255.

## An Interview with Rabbi Yaakov Neuberger

BY: Staff

**W**hat are some of the greatest challenges of being the rav of an Orthodox synagogue?

It would seem to me that the greatest challenges *rabbanim* face are quite similar to the challenges that confront so many observant Jews – just trying to get it all done. Who is not inundated and overwhelmed with the stresses of earning a *parnasah*, spending quality time with his family, growing spiritually, learning seriously, and making a serious contribution to his community? The rav of a *shul* is no different. He has to learn rigorously for his own self-growth and, as part of his communal service, has to respond to *she'eilos* in an appropriate fashion, having done the proper research. He also has to prepare shi'urim and *derashos*, meet with people about their broader life and family concerns, focus on *keiruv rechokim*, and organize *shul* events – on top of broader communal responsibilities and aspirations. The greatest challenge, then, is putting it all together.

Does leading a community in particular create greater responsibilities than a layman might have to face?

The number and variety of issues that a rav faces are greater than those a layman faces, because hopefully the rav and rebbeztin are involved as *talmidim* and *balabatim* confront so many of their own difficult situations and challenges. That means that in addition to *paskning she'eilos* and giving shi'urim, the rav takes part in everyone's *semachos*, difficulties, challenges, school decisions, *parnasah* decisions, and family issues.

On the other hand, that also means that the rav and the rebbeztin have many more opportunities to touch and inspire people since

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the manner in which they serve is often impressive and impactful. This also has a lot to do with people's expectations and openness to be inspired by their rav.

What role should the rav play in communal pesak Halakhah and religious policy? Should a Rosh Yeshivah be consulted for a pesak or should one consult one's rav?

I think that consultation is always valuable. The more *rabbanim* and Rashei Yeshivah with whom one consults, the better the outcome on any matter will be. Regarding *pesak*, the roles of the rav and the Rosh Yeshivah are very similar within our community. In other words, the Rashei Yeshivah are very well aware and understanding of what is going on in the Jewish community. In fact, a large number are themselves *rabbanim*, and many Rashei Yeshivah, if not all, stay in touch with their *talmidim* and are involved with their life

decisions *ad me'ah ve-esrim shanah* (until the age of 120). By the same token, many *rabbanim* are top *talmidei chachamim* and *posekim* and learn seriously and rigorously.

The people who should be making communal decisions are those who bring to the table a deep understanding of Torah and communal needs, as well as the wisdom to give the community direction and to nurture it spiritually. In our world, that includes numerous Rashei Yeshivah and *rabbanim*. *She'eilos* that include judgment calls on questions of *she'as ha-dechak* (emergency situation), communal unity, and the tolerance of the *sho'alim*, however, will almost always be the responsibility of the communal rav, as he will be most attuned to all necessary variables.

In essence, going to one's Rosh Yeshivah or rav for a *pesak* is, in our community, equally legitimate. Some families experience tension over whether to take counsel with their community rav or with a Rosh Yeshivah. Usually, this occurs when young, well-educated men or women are the *sho'alim*. I think, though, that *rabbanim* are very excited when someone who grew up in their *shul* is so involved in his or her learning that he or she enjoys a close relationship with his or her mentors.

Have the roles of Rosh Yeshivah and rav grown closer over time, then?

I think that people often picture the Rosh Yeshivah as an ivory tower personality and the rav as a hands-on personality. Therefore, they feel that while the Rosh Yeshivah brings greater and purer knowledge to the discussion, the rav, who is sometimes burdened with many of the issues that come up in the community, does not. I do not feel comfortable with that notion. In fact, I doubt if that notion was ever universally true and think it is certainly not descriptive of our community today.

Instead, I would say that both Rashei Yeshivah and *rabbanim* bring to communal decisions the requisite talents and *kochos*, and both groups could probably therefore make these decisions on their own. However, as noted, consultation of multiple authorities and further deliberation serve *Kelal Yisrael* and the *Ribbono shel Olam* much better.

How much, if at all, should a rav voice his opinion about American and/or Israeli politics?

*Rabbanim* often have the opportunity and responsibility to bring to light the Jewish voice on moral issues. We are supposed to be an *or la-goyim* (a light unto the nations) and we can fulfill that to some degree when we try to bring Torah values to the prevailing culture. Similarly, in *Erets Yisrael*, *rabbanim* have that ability to introduce Torah concerns and perspectives into the communal conversation. In

addition, practically speaking it often serves a community well if its *rabbanim* are involved in political discussions, whether on a local or national level.

Having said that, political involvement, I think, is a sub-specialty within *Rabbanus*. It requires people who have an understanding of how politics and people work and a sound knowledge of American and Israeli history and culture so that they will be viewed as astute, wise, and well-spoken. In terms of actually taking positions on these issues, then, I think that should be reserved for *rabbanim* who have invested themselves in understanding the system. If, however, a rav is not well-versed in these areas, then he will say something that is inaccurate and perhaps unwise, which will not serve us at all.

**“We gain everything by being warm and welcoming and very little by being distant.”**

*Do you think that it is invalid for an American rav to comment on Israeli politics that have to do very much with what is occurring on the ground in Israel?*

I think it is very important for a rav to comment and observe. For American *rabbanim* to try to exercise their influence in Israel, though, they have to act with a great deal of caution, primarily because they may not fully grasp the ramifications of their comments and ideas on Israeli society. I would therefore be very, very hesitant in that area. Having said that, there may be certain issues that are so important for *Kelal Yisrael* that attempting to affect them may override the necessary caution.

*How should a rav relate to members of the congregation who may not be fully observant?*

He should relate to them with a great deal of *ahavah*. One has to be welcoming and treat them as precious, communicating to them that the time that they spend in the *shul* and their connection to the community are very important to us. Furthermore, he has to galvanize the community to be as embracing of such people as every situation allows them to be.

*Is it ever appropriate to put distance between irreligious members of the community and the rest of the congregation?*

I am sure there are certain situations where *rabbanim* have made such decisions. Probably if a rav is concerned that observance of mitsvos will suffer, that type of *keiruv* will detract from the *shul*'s culture. Our experience recently, however, is usually the opposite – that *keiruv* and teaching Torah raises the passion and the level of observance of a religious community. There were situations 40-50 years ago where *rabbanim* had to draw certain lines and make very strong comments in public to prevent negative influences from affecting a community. There could be certain situations today as well where irreligious individuals would be negative influences and where one might have to take a hard line. In general, though, the contemporary unaffiliated families have little to no exposure to Torah and embracing them will only raise the spiritual level of the welcoming community. The way I see

it, we gain everything by being warm and welcoming and very little by being distant. Distancing them is also just the wrong thing to do.

*To what degree should the Orthodox community focus on education? How has the recent economic downturn affected communal focus on education?*

The recent economic downturn has brought to light certain failures in our current educational system, in particular that paying school tuitions has placed undue pressures on families. As a community, we have developed a system which is not healthy for us, where being able to afford tuition demands a certain economic level and two incomes per household, keeping mothers away from raising their children and placing terribly unfair pressures and expectations on our young women. It also pushes families to take on huge workloads and reach the top earning positions of their professions. All of that is unhealthy for a family – two incomes are unhealthy for family life and requiring people to work for their maximum income and for unreasonable hours threatens Torah growth. In the recent downturn, much of this has become more pronounced and apparent.

We realize now that the current model, which, for the most part, is funded by parents' tuitions, should be gradually changed by creating communally funded schools. We should therefore try to figure out an arrangement where education is partially funded by the people whom the school serves and partially funded by the entire community.

*Have you seen certain families, because of the downturn, not be able to afford a yeshivah education and have to send their children to public schools?*

I have not experienced that within my own community, but I have heard that it is happening and I assume that it has to happen in families that are not absolutely and unconditionally committed to day school education. In my community, though, families make tuition probably one of the highest priorities on their budgets. In addition, the lay leadership of my community has committed itself to ensure that lack of funds will not deprive any suitable child of a Torah education.

*Which values is it important to instill in one's children as they grow up? How can one best inculcate religious attitudes and keep those antithetical to Torah out?*

*La-aniyus da'ati* (in my humble opinion), one can accomplish this by introducing as much Torah learning, at all its levels, and Torah culture into one's home as possible. Creating a passion for Torah study will naturally overwhelm or at least combat the introduction of negative and unhealthy elements of the general culture into our home.

I do not think, the way our community is structured, that we can altogether block out the decadence and materialism of secular society. That means, then, that parents need to work with their children in setting up filters and in establishing rules that govern what can and cannot be done or watched. In our community, we have to be a little more aggressive in drawing lines the forms of entertainment parents

engage in and in which they allow their children to engage.

But all the lines and filters will not meet with full success unless we accompany them with our best bet and most successful approach: encouraging increased involvement by every child in learning, doing mitsvos, and engaging in acts of *chesed*. Other Jewish values, like tranquility, peacefulness, and *yir'as shamayim*, will all come through learning and involvement in Torah, and opportunities should be taken to stress them directly as well. The privilege of serving Hashem, the unique status it gives us, and the *simchah* it can generate are all ideas that parents and *rabbanim* should communicate with wisdom and warmth, at times directly and at times very delicately.

*How should a layperson balance his or her family and communal lives?*

This is no doubt one of the burning issues that families are grappling with in our community. A man has to have *kevi'as ittim* (time set aside) for learning. He has to first earn a *parnasah*, then spend time with his family, and then concentrate on learning. To what extent learning will take up his time will depend on how much he enjoys it. If he enjoys it passionately, that should be his main focus outside of *parnasah* and family life. In addition, in his spare time, he should be involved in a few communal projects on the side. If he does not enjoy the learning so much, though, he should still make sure to have *kevi'as ittim* every single day and then, if he is passionate about helping others and engaging communal projects, he should be involved in that.

*Is there a difference between men and women in these two spheres?*

We understand that a married woman's focus and strengths are in maintaining the home, raising the children, creating a Torah atmosphere, and tending to the culture and spirituality of the home. In addition, women should try to carve out time to attend a *shi'ur* – even though there is no requirement of *kevi'as ittim* for them – because learning Torah is a great source of both intellectual and spiritual growth, and if a person's Torah study is not as sophisticated as one's other pursuits, one's esteem and enjoyment of Torah has to suffer. Women are able to do so much for the community and many communities depend on them. However, it has become a great source of stress for the community that women nowadays have to earn a *parnasah* as well and cannot concentrate as much on the household or the broader community.

*What is your opinion regarding programs which educate women to be advisers in Halakah on topics such as Hilkhos Niddah?*

I think that introducing these programs in our community is unwise. In terms of our community, having *yo'atsot hilchatiyyot* will serve us poorly in the future because it will create an unnecessary distance between the rav and the women in the community. Having such *yo'atsot* will eventually communicate that *rabbanim* do not want to be involved in

the concerns of their female congregants and even that they ideally should not be involved in women's issues and in *piskei Halakhah* for women.

We have to communicate that *rabbanim* are and want to be very involved in the full needs of the community, including women's issues. Obviously, *rabbanim* have to create venues and formats where if a woman is uncomfortable discussing something directly with the rav, she can find a comfortable way of doing so. But we should not be setting up a system which would create any sense of distance between the rav and his female congregants.

In addition, much of the involvement that a rav has in his congregants' lives comes through the questions that people raise with him. If a rav will not have access to these women's *she'eilos*, he is not going to be aware of any *shalom bayis* issues in a family or of family pressures, ambitions, and aspirations. Having *yo'atsot*, then, will create a distance not only between the rav and individual woman, but between the rav and the entire family and its needs.

That is why I believe having *yo'atsot* is serving us poorly, and if they are successful, it will take us in an undesirable direction.

*Should there be a difference, in this regard, between yo'atsot here and in Israel?*

It could be that there is a difference between America and Israel, and it may be indicated by the fact that the roots for the program for *yo'atsot* lie in Israel. Currently, the rav-congregant relationship is so vastly different in *Eretz Yisrael* from that which exists here, and this may also create a difference in this area. I am not sure. But in America, it is just a poor model and a poor way of serving the community which will ultimately give us great grief.

**“It has become a great source of stress for the community that women nowadays have to earn a *parnasah* as well and cannot concentrate as much on the household or the broader community.”**

*Is there an additional halakhic problem with having yo'atsot?*

I believe that it is a halachic issue, because *paskning she'eilos* is, I think, a position of *serarah* and the Rambam says that women should not hold such positions. There are *posekim*, quoted in the *Sha'arei Teshuvah*, who say that. I know, however, that in this respect I am the odd man out and understand that many disagree with me.

*What should the Centrist Orthodox community's relationship with other denominations of Judaism be like? In what ways can/should they collaborate and in what ways can/should they not?*

I think it has to be brought back *le-shulchan melachim* (to the table of kings). On a communal level, we are still using the Rav, *zt"l*'s guidelines in this area today, but I think that it is time that the issue be brought back to *Rashei Yeshivah* and *rabbanim* so that they can re-evaluate whether the Orthodox community is in a different place today than it was when the Rav gave those guidelines. There are

many *rabbanim* who believe that certain details of our relationship with other denominations have changed and that situations differ from town to town. The observant community is much stronger than it was then, and in it there is much more focus on *talmud Torah*. In addition, our community as a whole is better versed in Torah now than it once was. Also, I think that the non-Orthodox community is much less aggressive than it was years ago in terms of its religious agendas. I am not sure what this means for us practically, or even that I perceive things correctly, but I do think it is time to revisit the issue.

*How should the Centrist Orthodox community view itself in relation to other parts of Orthodoxy, both on the right and the left?*

In that regard I am also an iconoclast. I believe that the Torah community is growing closer together. As a result, all the parameters that are used to define different parts of Orthodoxy are, often for reasons that are not necessarily good, losing their strength and defining worth. For instance, decades ago, there was a group of Jews which defined itself by its passion for Religious Zionism and another group which defined itself by a lack of concern for what goes on in the State of Israel. Now, in the broad Yeshivah World, everyone is concerned about what is going on in the State of Israel. By the same token, those who saw themselves as passionate Religious Zionists have, unfortunately, lost some of that zeal. So we have grown closer together, not altogether for good reasons.

Take the issue of a woman's place in the community, which used to be a source of separation. In the broad Yeshivah World today, women are very involved in earning a *parnasah* and are featured as public speakers on Torah topics. At the same time, those who were passionate advocates of women achieving stature outside the home have come to appreciate the importance of a cohesive family and the amount of time and effort women need to put in to building a family and nurturing the home. So we have again grown closer together.

Take the issue of a liberal arts education. The broad Yeshivah World has engaged in a wide range of college and higher education programs. There is also de facto recognition of the deep value of having Torah-observant professionals. By the same token, our world has become somewhat disillusioned with the value of a liberal arts education. Again, we have grown closer together.

The observant Jewish community is pulling together. I think that we can make this a positive development and that we should engage the confluence of values, recognizing that we have impacted on each other. Different segments of the Torah world have made contributions to other parts of it and have thereby influenced the religious outlooks of those other groups. Just as historically the Chasidim and Misnagedim, as well as the Ba'alei Musar and those against Musar, were at first passionate about maintaining differences but have, over time, grown closer and had a tremendous impact on each other, so, too, we should allow this natural process to take place in our own world as well.

*How have you seen the YU and Centrist Orthodox community in general change over*

*time?*

The primary difference that I have seen is that we have become very engaged in Torah study and that the appreciation of and passion for learning Torah seriously, as well as the numbers doing so, have increased tremendously. Torah learning today is probably the strongest force within the Torah-observant community, which was not so before. There has been a huge change in this regard and it has been accompanied by new concerns and focuses within our community.

*What, in your opinion, are some of the greatest challenges facing the Orthodox community today?*

In the past, great minds came to realize that even communities steeped in Torah study needed to be focused on some specific Torah value that was underrated at that time. Perhaps we need to focus on the challenges of comfort and affluence and be more cautious of their pitfalls. Furthermore, we need to study the opportunities and difficulties of living in a high-tech world and learn to be much more cautious of its dangers.

The greatest challenge we have today, then, is what R. Kook said: being *mekaddesh es he-chadash* and being *mechaddesh es ha-kodesh* (sanctifying the new and renewing the sacred). We are inundated, primarily because of the advances in technology, by a culture which is antithetical to our sense of *kedushah ve-taharah* (holiness and purity) and *yir'as shamayim*. Also, that so many Jews are distant from their Jewishness and love of our people, our land, and our Torah is a source of terrible aggravation and pain.

Nevertheless, we are living in great times: we are in possession of our land, we see miracles regularly, Torah study is flourishing on all levels, there is opportunity for greater cohesion in our community, people want to be inspired and grow in their *yir'as shamayim*, and many of our core values, such as family and integrity, are appreciated by the surrounding culture.

Seizing the opportunities of such great times may be our greatest challenge.

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## Be Not Overly Modest: *Tseni'ut* and the Inability to Speak About Sex

BY: Emmanuel Sanders

**T***seni'ut*, or modesty, is one of the central values of Orthodox Judaism, one that not only distinguishes Orthodox Jews within the larger Jewish spectrum, but also within much of the Western world. To the best of my knowledge, observance of *shemirat negi'ah*, the restriction on pre-marital physical contact between the genders, and of the halakhic requirement for married women to cover their hair, both practices traditionally associated with modesty, are prevalent only among Orthodox Jews. However, there are other expressions of modesty in the Orthodox world which are not of a strictly halakhic nature, such as the frowning upon of speaking about topics which are deemed "inappropriate," as well as the general manner in which a person, male or female, conducts him or herself on a day-to-day basis, shying away from venues and activities that are viewed as promiscuous. It is to this area of modesty, much more loosely defined halakhically, that I turn my attention in this article.

I would like to focus on two expressions of this emphasis on modesty and the negative effects this emphasis has. The first issue I will discuss is the inability to speak and teach openly about important sexual matters and the negative consequences this has on the lives of married couples. I will then focus on the troubling effects of Jewish education concerning modesty, specifically on how this affects women's views of themselves as well as men's views of them. It should be noted that this article neither regards the halakhot of modesty, nor the idea of modesty in general, as problematic. Rather, it is my contention that the overemphasis on modesty, or on concerns that purport to stem from modesty, has truly negative effects, and this article aims at bringing those effects to light.

Let us begin this discussion with an *aggadah* found towards the end of *Berachot* (62a): "R. Kahana once went in and hid under Rav's bed. He heard him chatting [with his wife] and joking and doing what he required. He [R. Kahana] said to him: 'One would think that Abba's mouth had never sipped the dish before!' He said to him: 'Kahana, are you here? Go out, because it is rude.' He replied: 'It is a matter of Torah, and I need to learn it.'"

While a number of lessons can be gleaned from the above *aggadah*, such as the importance of Torah and its pervasiveness throughout all aspects of an individual's life, the message which strikes me the most is the implicit criticism of the lack of communication between Rav and R. Kahana, between teacher and student, on this issue. The only reason R. Kahana was forced to go to such great lengths to learn about the laws concerning the sexual relationship of husbands and wives was that

there was no other context in which he could do so. The Talmud, written over fifteen hundred years ago, teaches us a lesson here about the perils of an overly modest society and the effect it has on the ability of teachers to inform students about matters concerning sexuality.

Despite the efforts of the Talmud to caution against this extreme modesty and the negative effects this orientation has on teachers' abilities to communicate with their students, similar problems plague Orthodox Judaism today. Recently, a study was conducted by a group of Orthodox medical professionals and religious counselors in an effort to explore the effects of the laws of *Taharat ha-Mishpahah* (family purity) and modesty in general on the sexual lives of Orthodox Jewish women.<sup>1</sup> This study was performed through the medium of voluntary questionnaires distributed to women across the Orthodox spectrum who observe the laws of *Taharat ha-Mishpahah*. In discussing the issue of preparation for sexual intercourse immediately prior to marriage, the study presents the following findings:

"...[M]ore than a third of the respondents were disappointed on their wedding night and only 15 percent stated that their wedding night was better than expected. Almost half the respondents, [*sic*] stated that they could have been better prepared for married sexual life. Despite the fact that almost 90 percent of the women in our sample studied with a *kallah* teacher prior to marriage, only 50 percent learned about sexual matters from this source..."<sup>ii</sup>

We see clearly that although there exist forums where these topics can be discussed in a modest setting, such as in the context of a *kallah* class, these opportunities are not taken advantage of by those teaching the classes or by the students.

Clearly, things have not changed very much since the times of the *aggadah* in *Berachot*. The matters described above regarding which the women in the study wished they had been better educated are crucial, as it is extremely important that both partners in a marriage feel fulfilled in all the various aspects of their relationship. This study clearly indicates the difficulties Orthodox Judaism's emphasis on modesty creates for educating women on sexual matters necessary for them to lead sexually fulfilling lives.

While this research focused on Orthodox women, it would certainly be a mistake to assume that men do no share similar sentiments. In speaking with a close friend of mine, whom we shall refer to as "Avi," the week prior to his marriage, he related a conversation he had recently had with a rabbi he feels close to and holds in high esteem. Avi was concerned about what to expect on his wedding night. Following this rabbi's response to the effect of, "You'll figure it out," Avi bluntly said the following:

"When my grandfather was a little boy in

Germany, his father wanted to teach him how to swim. One day, he took my grandfather to a lake, picked him up, threw him into the water, and thus ended my grandfather's swimming lesson. You're pretty much telling me that that is what my wedding night is going to be like?!"

To this objection, the rabbi responded in the affirmative, reiterating his earlier statement that Avi would "figure it out." While I never asked Avi how his wedding night panned out in the end, the inability for him to communicate with his rabbi is apparent.

I would like to make one last point about the difficulties modesty presents for sexual education. If we recall for a moment the *aggadah* in *Berakhot*, we will notice that R. Kahana did indeed act extremely immodestly himself. After all, listening to his teacher engage in marital relations with his wife is most certainly in-

**"It should be evident that *tzeni'ut*, while a beautiful idea, has its problems, at least insofar as it causes difficulties in the ability for couples to communicate about important marital issues."**

decent. What we see from this part of the *aggadah*, then, is that when a student cannot attain desired knowledge about sexual relationships in a modest setting, he or she will be forced to learn this information by a more immodest method. While I am certain that it is unlikely for young men and women to go to the ends that R. Kahana went, I am equally certain that many pursue other forums that are less "kosher" than guidance from an educated teacher in order to learn about sex.

I would like now to discuss the negative effects of the current methods used for education about modesty. That these effects burden young women primarily should not come as a surprise, as it is generally they, not young men, who are given any education whatsoever on these matters. In fact, while, to my knowledge, a large number, maybe even a majority, of post-high school seminaries have classes devoted specifically to modesty, I am unaware of a single educational institution for men which has a parallel educational opportunity. In her book *Feminism Encounters Traditional Judaism: Resistance and Accommodation*, Tova Hartman records the following incident concerning the experience of a young woman during her post-high school year in seminary:

"A young male teacher, before giving an evening lecture, placed a bowl of pastry in the center of the table. As the girls reached for the pastry, he stopped them, explaining that they had to wait until the end of the lecture. He left the pastry in the middle of the table and taught the class. At the end, as the girls finally began to eat, he said dramatically: 'Remember how distracted you were by those pastries? That is exactly how I feel when you don't dress modestly.'"<sup>iii</sup>

The above incident is highly disturbing for a number of reasons. Even if one were to assume that, in fact, girls are less sexually stimulated by the sight of boys than boys are by the sight of girls, this rabbi takes that as justification for placing his own responsibility to live modestly on the women he is teaching. He does not see a man's assumed tendency to be overly sexual

as an opportunity to increase his own moral and religious rigor; rather, he places the responsibility for controlling his own urges on his female students, which is incredibly selfish and troubling. Furthermore, he transforms a woman's own requirement to live modestly from a religious and personal experience between her and God and between her and herself into an obligation not to God but to men. Here, I believe, an overemphasis on modesty in the education of women belies a terrible selfishness and one-sidedness on the part of the men teaching them and contributes to a skewed view of the role of women's modesty in their religious lives.

Another equally important issue that is affected by the education of women concerning modesty is the view they develop of themselves. In the study discussed above, one woman reports: "Growing up religious, you are taught

to feel that girls should not be forward...it's OK to be more forward and guide my husband to please me."<sup>iv</sup> Here, we clearly see that the way women are educated

regarding modesty creates a self-image of non-sexuality, a view which is challenged upon entering into marriage and which stunts the ability of a couple to have a healthy sexual relationship.

It should be evident that *tzeni'ut*, while a beautiful idea, has its problems, at least insofar as it causes difficulties in the ability for couples to communicate about important marital issues. While the halakhot that surround modesty are to be embraced and reinforced, a more open attitude toward discussing sex is important in order to cultivate healthy and fulfilling relationships between husbands and wives. Furthermore, a more gender-balanced way of educating about *tzeni'ut* is necessary to foster a healthy view of women by men as well as a healthy self-image for women. While our ideals are very beautiful in theory, we must be vigilant to maintain that beauty in practice.

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<sup>i</sup> Michelle Friedman, Ellen Labinsky, Talli Y. Rosenbaum, James Schmeidler, and Rachel Yehuda, "Observant Married Jewish Women and Sexual Life: An Empirical Study," *Conversations* 5 (2009): 37-59. Available at: <http://www.jewishideas.org/articles/observant-married-jewish-women-and-sexual-life-emp>.

<sup>ii</sup> *Ibid.*, p. 43.

<sup>iii</sup> Tova Hartman, *Feminism Encounters Traditional Judaism: Resistance and Accommodation* (Waltham, MA: Brandeis University Press; Hanover, NH: University Press of New England, 2007), p. 55.

<sup>iv</sup> Michelle Friedman, *et al.*, "Observant Married Jewish Women," p. 46.

## An Interview with Mrs. Shani Taragin: Part One

BY: Staff

*Editor's Note: The following is the first part of an interview conducted by Kol Hamevaser with Mrs. Shani Taragin. The second part will appear in the coming issue of the paper.*

**H**ow should a woman balance her time between raising a family and having a profession?

This is an excellent question. Although the issue is subjective for each woman, there are certain general ideas that I think are appropriate to all women. The term "balance" implies that there is some perfect equilibrium between the two – fifty percent here and fifty percent there. I prefer to call it "juggling" because that term implies the need to handle multiple responsibilities simultaneously. In this regard, I believe that family should always come first. And as I say that, I honestly try my best to always put my family first. Though I may not always live up to that ideal, it is always the goal.

First is the prioritization of family and investment in it of time, by which I mean actual physical time and also focused attention that is given to family. After that, a profession is generally something people develop both for their own sake, for self-development, but also to pursue talents that we believe *Ha-Kadosh Barukh Hu* invested in us. I feel that it is important, especially today, that women have professions, both to be able to exercise the talents

**"A woman's investment in her family is truly the most long-lasting and essential, the one through which she will most develop her self identity and *avodat Hashem*."**

that Hashem has given them and because today they have more time to be able to pursue other interests, other forms of *avodat Hashem*. It is also important because in today's day and age there should always be something for a woman to fall back on in case of financial need, and it is important for her to have her own space as well. We often recite the cliché "family first," but a woman's investment in her family is truly the most long-lasting and essential, the one through which she will most develop her self-identity and *avodat Hashem*.

I find that because I work in *hinnukh* my juggling is a little different. In most professions, someone has a 9-to-5 job and can come home and not think about her job until she wakes up in the morning. However, *hinnukh*, which focuses on developing people, their *avodat Hashem*, and personality, is a 24/7 job (I would not even call *hinnukh* a profession but

rather a life goal), and I think it is inseparable from how I see my role within the family. That means that my children, and they know this very well, are really my prize students, those in whom I invest the most, and that is why most of my *kohot* (efforts) are invested primarily in them. On the one hand, there is not such a separation for me between family and profession, since I feel I am invested in *hinnukh* all day – in and out of the home. On the other hand, it does mean that sometimes the lines can be blurred. I have to be more careful to ensure that there is family time for *hinnukh* and that there is student time for *hinnukh*. But the responsibility of *hinnukh* really is 24/7 and you do not stop thinking about your own children and students. I tell my students that I have a hard time leaving my children in the morning and a hard time leaving my students in the afternoon, since I want to invest as much as I can in each of them. But it is really the investment in one's children and spouse, in the *avirah* (atmosphere) created in the home and one's disposition there, which is the most long-lasting and serves as my primary forum for constant growth *bein adam la-havero* and *bein adam la-Makom*.

*What is the place of women in communal life? To what extent should they be involved in communal activities, decision-making, and leadership?*

I led a symposium on this topic last Hanukkah in Midreshet Lindenbaum, where the theme was *Bayit, Ner, Ish u-Beito*. When the Gemara in *Shabbat* (21b) discusses one's obligation in lighting Hannukah candles, it states

"*ner ish u-beito*" – there should be a candle per person per home. The lighting is not only linked to the person but is meant to serve as an expression of the home as well. It is interesting that we incorporate this term of "*bayit*" in other areas such as "*beit midrash*" and "*beit keneseit*," the latter of which serves today not only as a *mekom tefillah* (place of prayer) but also as a center for community involvement. I think women should ideally be involved in all three *battim*. A woman's primary investment should be in her insular home, but if she has time beyond, she should certainly be involved in communal activities as well. If a woman teaches in a *beit midrash*, then she should certainly teach in her *beit keneseit* – in and out of the official structure, she should be teaching within her community. Since *hinnukh* is about educating and filling some gap or niche, *aniyyei irekha kodemin* (the needy ones in your

community come first).<sup>i</sup> If a woman feels that she wants to leave the confines of the home, not just for self-expression but because she feels that *Ha-Kadosh Barukh Hu* has given her the talent and time to pursue *hinnukh*, then communal teaching should be another expression of her *bayit*.

For every woman this will be very different. For a woman who sees her role in *hinnukh*, this means looking at her community, seeing where there are gaps in its *hinnukh* – whether it relates to *taharat ha-mishpahah* (familial purity laws) or bat mitzvah programs where a woman can certainly contribute in that realm of *hinnukh* – and pursuing them. If she has administrative talents, she might help the community in decision-making, leading them in programs. A woman with dancing or singing talents can offer various avenues of expression for the women in her community as well. If a woman is very involved in *hesed* and has the time and ability beyond the microcosm of her *bayit* and family to be able to share that *hesed* with her community, too, then she should.

*What do you think about the position of Maharat or similar positions without that title?*

I think that the title is completely inconsequential. I know that there are some women, and I have spoken to many about this, who believe that a title is necessary, both for the qualifying factor, because people are very confused with regard to the role a woman plays within the community, and because she needs a title to define her otherwise amorphous role. But I do not think a title creates a function, and that is why I think that calling a person a “Maharat” or “Rabbanit” or, as the Kolech conference decided, a “Rabbah” makes no difference at all, compared to what she is actually doing. Therefore, when people ask me personally, “Shani, what do you want to be called?” I feel that just by *doing* I define my function. And I think that is ideal, as opposed to having a position people have to fill, like what we have in the rabbinate now where rabbis are expected to be the social advisor, the *posek Halakhah* (halakhic decisor), and the *mesadder kiddushin* (wedding officiant).

We know that not every rav serves in all the aforementioned capacities – some are more involved in *pesikat Halakhah* (deciding the Halakhah), some are more involved in social-communal activities, and some may not *paskn* (decide) Halakhah at all but rather teach Tanakh –but by doing each, he is fulfilling a rabbinic role. I think that the best way of defining a person’s position is by looking at what they do and how they express themselves, instead of giving them a title which might unnecessarily limit them.

*Do you believe that women in the Modern Orthodox community have progress to make, or have they reached the point where they have equal opportunities in terms of women’s learning? Where do you see women’s learning in 20 years from now?*

In terms of where women go from here, I think that the primary avenue should be that women continue to pursue learning Torah on

the highest level possible. I think that with the conventions of modern society, women have more time and more opportunities to do so. There is an idea that there is a “glass ceiling” in the woman’s *beit midrash*, that there is a limit. That is something that I was brought up with, but it is something that I honestly do not see or feel at all today. *Barukh Hashem*, there are so many midrashot teaching Gemara, Halakhah, Tanakh, and Mahashevet Yisrael on a high level, allowing women to be exposed to all areas of learning.

I believe the level of learning is comparable to the level in yeshivot, and regarding Gemara learning, to a degree, women may even have a methodological advantage. In yeshivot, there has already been a certain stigmatization or compartmentalization: you either learn in a Brisker yeshiva or in a yeshiva like Otmiel, and you thereby decide on the methodology that you will focus on, ultimately creating a myopic exposure to Torah learning. In the midrashot, though, *talmidot* have not necessarily decided how to approach Gemara learning, so in one midrashah you may be exposed to numerous styles of learning Gemara, providing *talmidot* with an opportunity to discover and appreciate different approaches to *Torah she-be-Al Peh*.

I also think, and Rav Hershel Schachter has pointed this out as well, that because widespread Torah learning for women began with the establishment of the Bais Yaakov schools

**“I think that the best way of defining a person’s position is by looking at what they do and how they express themselves, instead of giving them a title which might unnecessarily limit them.”**

under the guidance of the Hafets Hayyim, the focus of learning was on *Torah she-bi-Ketav*, and that has, to a large degree, stayed at the forefront of women’s learning until today. As a result, more women learn more Tanakh than men and are thereby exposed to a broader picture of *talmud Torah*. I think that it should not be seen as *be-di-avad* (a *de facto* situation) but rather as *le-ka-tehillah* (a *de jure* situation) to learn *Torah she-bi-Ketav*, hand-in-hand with *Torah she-be-Al Peh*. Women can explore the realms of learning Mishnah, Gemara, and certainly Halakhah, and today, with many women who have been trained in those areas, they can also learn from knowledgeable women. I hope that midrashot help produce more women who will work together with *rabbanim* in teaching and promoting the quality of both men’s and women’s learning programs.

I would like to express a certain reservation of mine, namely that with all the optimism I have regarding women’s learning, I am somewhat disillusioned with what I have seen. About 20 years ago, when women’s learning really took off, with the opening of institutions such as Midreshet Lindenbaum, MaTaN, Nishmat, the Stern Talmud Program (GPATS), Migdal Oz, and Drisha, I thought that there would be a significant demographic growth in women’s learning. Yet, sadly, we have not seen the number of students in these institutions grow proportionally. If there were 15 women in MaTaN’s advanced learning program 20

years ago, then there are 15 women in that program today. The numbers have not significantly increased as I expected they would. If one were to take all the women who are exposed to advanced levels of Torah learning in their post-high school year(s) in Israel and present them with all the options that exist to continue their learning on graduate and post-graduate levels, one would expect that just as there are significantly more women studying medicine today, there should also be more women continuing their study of *Torah she-bi-Ketav* and *Torah she-be-Al Peh*. There are certainly more female teachers today who are educating on a more advanced level than in the past, but the numbers are still lacking. I have various explanations for this phenomenon but cannot pinpoint one reason. I am confident that in terms of the direction of women’s learning, the quality will increase, but I believe the challenge is to encourage more women to pursue this area and appreciate how this could very positively affect the home and change the face of Jewish education for the future.

*As a follow-up, in terms of quality, do you not see so many women giving shi’urim that men would want to go to or writing hiddushei Torah?*

That is correct, and I think that this goes back to the quantity issue. For every thousand men learning Torah, maybe the average person would be interested in hearing shi’urim by 10

of them, in terms of *shittah* (style) and level of learning. But if you take the approximately 50 women who are seriously involved in their learning, from how many do you think one would be interested in hearing? Additionally, even amongst the women who are learning and teaching, many are not yet learning on the level to give high-quality *shi’urei Torah*. Therefore, you will not find the same plethora of *maggidei shi’urim* (Torah lecturers), and certainly not *sefarim*, among women as you do among men.

In terms of *sefarim*, there are more women writing works of Torah today and involved in Torah scholarship than there were 20-30 years ago, both in terms of quantity and quality. About 12 years ago, when I was asked to write for *Jewish Legal Writings by Women*,<sup>ii</sup> I remember disliking the title, because it makes a distinction between legal writings by women and by men – if it is a legal writing, it is a legal writing! I recall suspecting that as soon as someone opens it they will think, “How does this compare to what a man is writing?” If you have legal writings and include within them writings by men and women and they are on par with one another, then there is something to say for it. I was in fact guilty of my own suspicion, for when I opened the *sefer* the first thing I thought was, “How does it compare to a previous article that I had read on the same issue, written by a man?” And in 9 out of 10 cases, it hurts me to say this, the article written by the man was on a higher level, because he

had more years of exposure to learning, more exposure to Rishonim and Aharonim, more experience articulating himself in legal writing, and did not necessarily have an agenda like a woman may have. I anticipate that this will improve over the next few years. Even now, if you look in the journal *Tehumin* (*Torah, Hevrah, u-Medinah*), once in a while you see writings by women that are published. On a personal level, I feel that I would not want to publish until I felt very confident that I was not writing to prove that I can publish a legal writing on the same level as others as a contest or competition. A woman who publishes should make sure that the scope, depth and organization is on par with other articles, which requires learning on a very high level for a certain number of years.

In terms of a women giving shi’urim which appeal to men, I think that there is both a stylistic and a psychological issue. Men and women think differently and speak differently. One may hear the same *parashah shi’ur* or *Gemara shi’ur* given by a man and woman and yet each will sound very different, as different mannerisms and expressions will be employed. It could also be that a man is naturally more focused on what a male teacher says and a woman will find a feminine style of teaching more appealing, and that also has to be taken into account for why men might not want to hear women’s shi’urim as much. I was recently delivering a shi’ur on the conceptual and halakhic nature of *tefillah* and whether its development is based on the *Avot* or on *korbanot*.<sup>iii</sup> A few women told me afterward that the textual sources were very difficult and the pace of the shi’ur was too fast. One has to remember as one is trying to educate, and not simply lecture, that especially regarding shi’urim given in communities, your average community laywoman may not have as much exposure to primary sources as your average layman, so a shi’ur given to women may be delivered at a slower pace than one given to men, which the latter may find frustrating. I see that changing, however, in *kehillot* with more women who have spent years learning.

*Recently, Nishmat’s Yoatzot Halacha Program celebrated the 10<sup>th</sup> anniversary of its first graduating class, of which you were a part. What do you feel are the advantages or possible disadvantages of institutions that educate women to be advisors on Hilkhos Niddah? What do you feel about women functioning as advisors in other areas of Halakhah, such as Hilkhos Shabbat or Kashrut?*

I think it is fairly obvious why *Hilkhos Niddah* was sought after as the first topic to be studied in this forum prior to other areas of Halakhah. It is a sensitive topic, and therefore many women were not approaching *rabbanim* with their questions. Additionally, as many *rabbanim* have attested and as we see in the end of the *Perishah*’s introduction to *Yoreh De’ah*, women understand the *metsei’ut* (realia) of these halakhic phenomena a little more clearly than men do, and they can explain them to other women more easily. I believe it is very clear across the board, both demographically –

in Erets Yisrael, North America, South America, South Africa, and Australia – and with regard to various religious affiliations, that this is a very positive initiative. I understand the reservations, and I have spoken to R. Mordechai Willig about this extensively, that there exists the danger that women will see the *yo'atsot* as their only rabbinic advisors and may possibly come to undermine rabbinic authority. Every *yo'etset Halakhah* ought to know (and I think does know) that her knowledge is limited and she should respectfully defer to rabbinic authorities who know more in any issue of *safek*.

I have witnessed only positive results: more women understanding the halakhot and more women approaching others with questions. The Yoatzot Program has made Halakhah more accessible to the masses and has appealed to the learned as well by

**“Many schools succeed at promoting the beauty of Torah she-bi-Ketav, but very often the focus on Torah she-be-Al Peh is lost”**

teaching them that in order to appreciate the nuances of Halakhah, they should study it from the development of the *mekorot* (sources). The past 10 years have served as a significant period of time to demonstrate that a woman can indeed understand these halakhot and she can both teach *Halakhah pesukah* (consensus Halakhah), and, knowing enough of the halakhic precedents, can *paskn* Halakhah in certain situations, always keeping in mind that she should consult with *rabbanim* in issues that are not clear.

With regard to other areas, I will say from personal experience that once you are engaged in sincere conversation with a woman about halakhic topics, very often other questions relating to different areas of Halakhah will be raised as well. Regarding such questions, if one knows what the *Halakhah pesukah* is, then there is no reason not to teach it. The terminology that the *Sefer ha-Hinnukh*<sup>v</sup> uses is “*ishah hakhamah ha-re'uyah le-horot*” (an intelligent woman who is qualified to decide Halakhah), with regard to the *issur shetuyei yayin* (prohibition against deciding Halakhah while drunk) that applies to women as well. If a woman is learned, then she is qualified to teach. *Barukh Hashem*, in numerous midrashot women are teaching Halakhah on the same level as men teaching Halakhah, whether it be *Hilkhos Shabbat* or *Kashrut*, *Hilkhos Ribbit* or *Shemitah*. Certainly women with the same knowledge, exposure, sensitivity, and depth of understanding can teach Halakhah as a *rav* does. I believe women can certainly serve as halakhic advisors in all areas of Halakhah (and many do without realizing it, e.g. on their college campuses) provided they know the halakhot, though I do not know if it is as necessary in areas beyond *Taharat ha-Mishpachah*, since women do not feel as reluctant asking a *rav* difficult questions in *Hilkhos Shabbat* or *Kashrut*.

However, in areas of *hiddush Halakhah* (creative halakhic decision-making), where you really need broad shoulders of Halakhah, I think that both men and women know to defer to those *talmidei hakhamim* who have had greater exposure. In 10 years, could it be

that you might have a woman who has really learned and has experience in all areas of Halakhah and broad enough shoulders to decide new issues of Halakhah? I am not getting into the issue of *serarah*, of having a position related to those broad shoulders, but am speaking theoretically, about the level of knowledge itself. We know that, in order for someone to be on the level of R. Shelomoh Zalman Auerbach, R. Yosef Shalom Elyashiv, or R. Hershel Schachter – those *posekei Halakhah* (halakhic decisors) whom we usually associate with *hiddush Halakhah*, the ability to take all the relevant *sugyot* (Talmudic discussions) into account, even *shiitot* (opinions) that are rejected in certain situations, and apply them to new situations – one needs not just years of

learning but an intense focus on learning. The question is: will women ever really have that focus on learning?

I am really not sure about this because ultimately it is very clear that a woman's first priority should be family. A woman may (and should) be learning during her years in high school, midrashah, college and post-college wherein she may even be able to focus on her Torah studies, but the subsequent years will provide her with a greater challenge. During that time, when most men can, if they so desire, stay in yeshivah for several more years, a woman, because she appreciates the value of establishing a family, cannot. Once she has children, her first priority is to invest in her family, shifting her focus (though not necessarily her passion) away from learning somewhat to this new part of her life. I still think that women should continue to learn, whether involved in *hinnukh* or not, during their child-rearing years, and there are advanced Talmud programs which I hope women take advantage of during those years and beyond. I know that I will not reach the level of *gedolim* like R. Aharon Lichtenstein. R. Aharon learned seriously from a young age and made *Torato umanuto* (his Torah into his profession). *Barukh Hashem*, he has a wonderful wife who invested in the raising of her children, and I think that is certainly the primary *raison d'être* of every Jewish woman.

Maybe someday a woman will be at such a level of *hiddush Halakhah*, but taking into account the priorities that women have and given the amount of time needed to be able to be *mehaddesh Torah* on such a level as *gedolim*, this is certainly a challenge, and I am not necessarily sure if there is a need in the Jewish community to have a woman in that position. There certainly should be women learning, writing, creating *hiddushei Torah*, teaching women on the highest level, and, *barukh Hashem*, we see that coming to fruition.

*What do you think is the biggest challenge facing the Modern Orthodox community today?*

That is funny, because I often ask my students that question to sensitize them to broader Jewish concerns. I think many of the problems we are facing today are rooted in limited education, wherein students may be exposed to a wide scope of learning, but not necessarily in-depth. Students are not challenged to think about issues, to question and probe. Many schools succeed at promoting the beauty of *Torah she-bi-Ketav*, but very often the focus on *Torah she-be-Al Peh* is negligible, or sensitivity to Halakhah is lost. I think this foregoing of depth in learning and “watering down” of analysis is an attempt to appeal to a wider range of students and attract them to the excitement of information. This approach may have certain advantages but also can be counterproductive. I have thought about this a lot because the main problems people speak about – assimilation or *agunot* (chained women) – always deal with the crises in the Jewish community at large, but do not deal particularly with the Modern Orthodox community.

Another problem we are facing is disunity due to lack of united leadership in Am Yisrael in general, and specifically within our Modern Orthodox communities. There is a rampant lack of *Emunat Hakhamim*, a lack of respect for *rabbanim*, and consequently a division of various denominations within Orthodoxy, with confusion and distaste as the results. People do not know with which camp to associate themselves, how to properly observe Halakhah, in which restaurants to eat, in which *shuls* to *daven*, or to which schools they should send their children, all of which aggravates the disunity. I am not encouraging uniformity as much as unity on the halakhic front. If united leadership were manifest in our communities, then perhaps this would catalyze greater unity beyond. Our challenge today is to foster respect in *rabbanim*, encourage more thinking, creative individuals to learn and be trained for

**“Yahas la-beriyot, yahas la-Bore, and yahas li-zeman (relationship to time) are the primary values to instill while you can.”**

the Rabbinate, and inspire them to work with one another in unifying their respective communities.

*Which values are important to instill in one's children as they grow up? How can one best inculcate religious attitudes and keep those antithetical to Torah out?*

One important area is ethical development. I think that *yahas bein adam la-havero* (relationship between man and his fellow man) is something that starts in the home, whether it is something as simple as manners and the magic words “please” and “thank you” or respect to elders and parents, *kibbud av va-em*. These are the values that, as much as people try to teach them later in life in various educational institutions such as high schools and midrashot/yeshivot, definitely have to start in the home. When I teach 18-year-old students, I can immediately tell from what types of homes they come. Even if I meet five girls from the same high school, each will have very

different attitudes toward *bein adam la-havero*, dependent on their lessons from home. As much as one tries to change behavioral conduct at 18, it is very difficult. *Yahas la-beriyot* (relationship to other people), together with *yahas la-Bore* (relationship to the Creator), are essential values to instill in one's children as they grow up through parental role modeling.

Another important value which I also believe is most inculcated naturally through the home is how one spends one's time. An aunt of my husband's often says that *bal tashhit* (the prohibition not to waste) is applicable not just to physical objects but also to the mind. One may never know what one's teacher does after 5 o'clock, but you see what your parents do when they are at home – the hours that they set aside and the values that they prioritize. A child does not see her parents regularly during the day – they may be learning, teaching, or engaged in law or business from 9 to 5 or 7. A child sees how the parent spends her time at home. If a parent watches television throughout the evening, then that will be a value impressed upon the child. To summarize, *yahas la-beriyot*, *yahas la-Bore*, and *yahas li-zeman* (relationship to time) are the primary values to instill while you can.

In terms of inculcating religious values while keeping negative ones out, again I think that the best method is for parents to serve as role models of a Torah u-Madda lifestyle – incorporating the beauty of the world in a Torah home. Two weeks ago, I read a beautiful sermon delivered by R. Lamm in 1961, discussing the idea of “*la-petah hattat rovets*,” “sin crouches at the door,”<sup>vii</sup> and it definitely struck a chord, echoing what I try to do in the home with my children. R. Yehudah ha-Nasi quotes a statement taught to him by Antoninus, his friend the Caesar of Imperial Rome, that “*yetser ha-ra sholet ba-adam mi-she'at yetsi'ato la-olam*,” “the Evil Inclination rules over a person from the time of his exit into the world.” This is proven from our *pasuk*: “*la-petah hattat rovets*.”

Antoninus interpreted the word “*la-petah*” literally as referring to the womb, the doorway into the world, and “*hattat rovets*” to mean that sin reigns from that moment, making it virtually impossible for man to reign over evil influences.<sup>viii</sup> If the norm presents man with negative worldly values which naturally infiltrate into the home, then one is engaged in a constant struggle to keep them out.

It is interesting to note, though, that while R. Yehudah ha-Nasi learns this interpretation from Antoninus, he never actually accepts this teaching of his. Rather, he interprets “*la-petah hattat rovets*” (and there are multiple exegetical and homiletical interpretations of this verse as well<sup>ix</sup>) as meaning that at the gate, the *petah*, there are dangers of other values antithetical to Torah which remain dormant – crouching. The challenge of man is to keep these influences in a crouching position.

We believe that we are capable of sharing our values with the outside world and also taking the best of that world – call it the modern



# Shemirat Negi'ah and Reality

BY: Nathaniel Jaret

*Author's Note: The following essay is a theoretical halakhic argument and does not constitute a practical halakhic ruling. The ideas and suggestions contained herein should not be put into practice. Proper rabbinic authorities must be consulted.*

Last year, *Kol Hamevaser's* readership was treated to a thought-provoking, but, from the vantage point of Halakhah, *ad hominem* tirade to the effect of, "Shemirat negi'ah today is pretty dumb. Let's drop it like it's hot."<sup>i</sup> In this essay, I am setting out to address the issue from *within* the boundaries of normative Halakhah and offer a possible solution that lies within the pale of our tradition. There is no doubt that the issues raised in "The Word of Your Body" are pressing and relevant, but to address the matter from within our system and by means of our accepted *modus operandi* is Orthodoxy's first and foremost responsibility.

First, terms must be defined. *Shemirat negi'ah* is the contemporary colloquial term for the observance of halakhah prohibiting affectionate touching between a man and a woman who is an *ervah* to him, including a *niddah*. A woman is a biblical *niddah* during her week of menstruation, and a Rabbinic *niddah* for roughly the week after that. Most Rishonim, with the exception of Ramban,<sup>ii</sup> assert that it is biblically prohibited to approach a *niddah* in an affectionate manner (the parameters of "approaching affectionately" will be briefly discussed later). *Niddot* lose their *niddah* status only after a properly executed ritual immersion. The reason why unmarried women today are necessarily *niddot*, even outside of their two weeks of biblical and Rabbinic *niddah* status, is because of a 14<sup>th</sup> century rabbinic edict of Rivash, which serves as the basis for the prohibition against today's unmarried woman ritually immersing.<sup>iii</sup>

I suspect the need to provide a quick dismissal of some common misconceptions about the laws of *shemirat negi'ah*. No classic halakhic source exists which links *shemirat negi'ah* with avoiding "generating feelings of closeness and commitment that may have no basis in reality,"<sup>iv</sup> or posing the potential problem that "each previous involvement lingering in... memory stands in the way of feeling the total specialness with... husband or wife."<sup>v</sup> Nor is its purpose to prevent "marrying the wrong person based on a romantic illusion."<sup>vi</sup> The actual prohibition of touching has nothing to do with one's marital status, and to think so is to feel that we eat raisin-hallah on Rosh ha-

Shanah for its antioxidant benefits. There was certainly a point in Jewish history where all women, married or not, would immerse out of purity concerns (in order to deal with *tohorot*), and later, such immersions were prohibited out of concern for the promiscuity that they enabled. Regardless, those who turn to Mrs. Manolson for theological advice regarding biblical purity laws are probably not reading the right magazine, are certainly not reading the right article, and can move on with their day.

As a community of Modern Orthodox Jews, let us be honest with ourselves. Oft-occurring and rarely openly discussed is the breach of the laws of *negi'ah* between serious, observant couples that have been dating for a substantial amount of time. For some, it is, or starts as, a one-time slip-up, an awkward pause in conversation during an evening walk through the park, with an ensuing eye-contact that lasts just a bit too long and leads to inappropriate contact. For some of these, this is the primary and even single breach in their halakhic observance as they balance the precarious tightrope between "flipping out" in Israel

most progressive amongst us would concede, we as a community *could* survive without. What I am referring to is the very tangible, very poignant human desire, I daresay necessity, for touch as a facet of normal, healthy relationships between couples that are serious about each other and about their religious commitments as well. These laws *are* being violated by substantial numbers of the otherwise fully observant couples in the Modern Orthodox community – couples that keep Shabbat and *kashrut*, avoid nightclubs and other places unbecoming of *benei* and *benot Torah*, and *daven* three times daily (this list is not exhaustive, nor is it a framework for defining "*frumkayt*."). The violation of the laws of *negi'ah* is one of the most relevant internal matters that halakhic Jews should be attending to today, yet, with a few notable exceptions, including an exchange<sup>viii</sup> between Dr. Irving Greenberg and R. Aharon Lichtenstein over forty years ago, it is still one of the least discussed. We as a community have come to assume that the case is open-and-shut, that there is not much to talk about or debate, and that individuals will either follow the Halakhah or not, but they better not talk about it. I maintain that this is both incorrect and myopic.

As mentioned, it is the edict of Rivash, a 14<sup>th</sup> century rabbinical figure in Algeria, which generates our question. In responsum 425 of his *Responsa*, Rivash is asked to clarify the exact parameters of the laws concerning the prohibitions associated with approaching a woman who is a *niddah*, whether that woman is one's wife or a *penuyah*, an unmarried woman. He is also asked why the sages do not proclaim an edict *requiring* all unmarried women to immerse ritually, thereby eliminating the danger to men of engaging in illicit activities with *niddot*. Rivash replies with a lengthy explanation of the biblical nature of the prohibition of approaching any *niddah*, whether she is one's wife, one's friend's wife, or an unmarried woman. The Torah, Rivash stresses, makes no distinction between married and unmarried women in this connection; it only addresses the matter of purity. Rivash quotes the *Sifra's*<sup>ix</sup> exposition of the words "*Lo tikrav*," which preclude all affectionate touch, "*ke-gon hibbuk ve-nishuk*" (such as embracing and kissing), duly noting Ramban's exceptional stance, based on R. Pedat's view in the Gemara<sup>x</sup> that only intercourse itself with a *niddah* is prohibited on a biblical level, but mere "approaching" is Rabbinically prohibited.

Rivash goes on to outline the halakhic attitude towards unmarried women. He first addresses another relevant halakhah that relates to a woman's *niddah* status: *yihud*, seclusion, with a *niddah* is also biblically prohibited.<sup>xi</sup>

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and "staying normal." For others, it is a private but conscious realization and decision by a couple that the blanket prohibition on touch is often psychologically unhealthy and emotionally impossible, and for still others, it is a guilt-ridden cycle of transgression and repentance.<sup>vii</sup> What is important is that in the Modern Orthodox community, it happens, and happens all too often.

This reality is one that committed Orthodoxy as a movement and as a culture has largely chosen to ignore, and understandably so. *Negi'ah* constitutes the most private realm of our lives and a relatively taboo topic in Orthodoxy [and particularly Modern Orthodoxy, which has been (understandably) accused by the Right of laxity with regard to observance of laws governing male-female interactions]. Unfortunately, our "Don't ask, don't tell" policy, when push comes to shove, hides us from a devastating reality: the violation of the very serious prohibition, almost universally recognized by the Rishonim as biblically mandated, of approaching a menstruant woman in an affectionate manner.

I am obviously not referring to casual exchanges of hugs and cheek pecks between friends, high fives (which may not be such a problem, but that is not our topic), friendly spooning with emotional detachment, and innocent hand-holdings between old friends in the dimmed recesses of butter-stained National Amusements theatres. These bits, even the

world or Mada – and incorporating it within our homes and communities. We must be honest and careful, however, in informing our children of the dangers that lurk right outside our doors in our modern anthropocentric society. As much as we value the secular world and secular study, there are definitely ideas of arrogance, hedonism, and deceit – all of which are antithetical to Torah – that are rampant in secular culture. We have to train our children to be conscious of and sensitive to values antithetical to Torah and simultaneously inspire them with the depth and beauty of a Torah lifestyle through which they will be able to defend their own values and surmount these difficulties.

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<sup>i</sup> *Bava Metsi'a* 71a.

<sup>ii</sup> Micah D. Halpern and Chana Safrai (eds.), *Jewish Legal Writings by Women* (Jerusalem: Urim, 1998).

<sup>iii</sup> See *Berakhot* 26b.

<sup>iv</sup> R. Aharon ha-Levi of Barcelona, *Sefer ha-Hinnukh, mitsvah* 152.

<sup>v</sup> *Be-Reshit* 4:7.

<sup>vi</sup> *Sanhedrin* 91b.

<sup>vii</sup> See, for example, the commentary of Ramban to *Be-Reshit* 4:7.

Here, another Rabbinic (pre-Rabbinic, actually) edict is introduced. Tractates *Sanhedrin* (21b) and *Avodah Zarah* (36b) mention the edict of the court of King David which prohibited *yihud* with any *penuyah*. Rivash argues that the reason the previous halakhic literature of Rashba and Ra'avad only mentions the prohibition of approaching one's wife in her state of *niddut* is not because no such prohibition exists with a *penuyah*. Rivash dismisses this possibility, citing Rambam<sup>xiii</sup> who asserts that *intercourse* with any *penuyah*, *niddah* or not, is biblically prohibited, and that a woman who "prepares" herself for such intercourse outside of the context of *kiddushin* is considered a *kedeishah*, a woman who is overly lax in sexual matters, and is liable to lashes *min ha-*

**"It seems clear that any *beit din* retains the Talmudic right to abrogate the edict of another court, and certainly of a rabbinical authority, if that edict is no longer being followed anyways."**

*Torah*. There are others, Rivash admits, who argue with this point in Rambam and maintain that intercourse with a *penuyah* is not a prohibition and warrants no lashes<sup>xiiii</sup> and still others who maintain that the only biblically legitimate form of intercourse is within the context of marriage – as described in the passage, "When a man takes a wife and has intercourse with her"<sup>xiv</sup> – even if there is no violation of a negative precept or lashes if one acts otherwise.<sup>xv</sup> Having intercourse outside of marriage, according to this last positions, would be considered a *bittul aseih*.

(Rivash also cites the view of Raavad<sup>xvi</sup> which permits the use of a *pilegash*, an unmarried woman whom a man designates as a concubine for intercourse. This is a concept that is slightly offensive to our modern sentiments, and I can only hope that we never devolve to a state where we are forced to consider the popularization of such an idea.)

Finally, and most relevantly, Rivash addresses the initial suggestion that pre-marital immersion be mandated so as to prevent men from violating the prohibitions surrounding a *penuyah* in her *niddah* state. *Au contraire*, Rivash exclaims; such immersions would simply make men perceive women as more sexually available, endangering the Rabbinic violation of *yihud* surrounding her. Rivash does not proclaim it forbidden to immerse outright, but he cites Ramban who claims that the previous custom of women in earlier generations to regularly immerse was cancelled (by the "Aharonim") in order to protect the Rabbinic violation surrounding a *niddah penuyah*, namely, *yihud*.

The halakhic discourses of the Babylonian Talmud, and the Jerusalem Talmud in several places, employ an important Talmudic principle in the installment of and subsequent attitude towards innovative Rabbinic enactments. *Bava Kamma* 79b reads:

"Our Rabbis taught: It is not right to breed small cattle in Erets Yisrael but they may be bred in the woods of Erets Yisrael or in Syria even in inhabited settlements, and

needless to say also outside Erets Yisrael. Another [Beraita] taught: It is not right to breed small cattle in Erets Yisrael. They may, however, be bred in the deserts of Judah and in the desert at the border of Akko. And even though our Sages said: 'It is not right to breed small cattle,' it is nevertheless proper to breed large cattle, for '*ein gozerin gezeirah al ha-tsibbur ela im ken rov ha-tsibbur yekholin la-amod bah*' – 'we do not impose a restriction upon the community unless the majority of the community will be able to withstand it.'"

Here, the Sages recognize that in the process of enacting new laws, they must take into account the reception they will be granted by those people upon whom the laws are imposed and then proceed accordingly. Likewise, *Bava Batra* 60b, in discussing appropriate and excessive displays of mourning over the destruction of the Temple, again uses this Talmudic dictum, in this case to state that only Rabbinic restrictions of mourning that can reasonably be heeded by the community may be enacted.

In a slightly different vein, *Avodah Zarah* 36a discusses the prohibition of Gentile oil that Daniel enacted. R. Yehudah Nesi'ah apparently abrogates this prohibition, and the Talmud promptly attacks this possibility, noting that, "A court is unable to annul the decisions of another court unless it is superior to it in wisdom and numerical strength." This principle is firmly rooted in Rabbinic Halakhah and is codified in the *Mishneh Torah*.<sup>xvii</sup> In order to reconcile R. Yehudah Nesi'ah's *pesak* with this basic principle, the Talmud relies on the very same rule, "*Ein gozerin gezeirah al ha-tsibbur ela im ken rov ha-tsibbur yekholin la-amod bah*" (here attributed to Rabban Shimon b. Gamliel and R. Eliezer b. Tsadok), that was mentioned above in *Bava Kama* and *Bava Batra*. In this instance, however, it is essential to note that this Talmudic principle assumes *ex post facto* power: a halakhic decree is annulled *after the fact* because it is no longer being upheld.

This principle of "*Ein gozerin gezeirah al ha-tsibbur ela im ken rov ha-tsibbur yekholin la-amod bah*," is, as mentioned, codified in the *Mishneh Torah*. In *Hilkhos Mamrim* 2:6-7, Rambam states:

(6) "If they [the members of a *beit din*] proclaimed an edict and assumed that the majority of the community would adhere to it, and then after they decreed, the nation hesitated and the edict did not disseminate amongst the majority of the community, this edict is annulled (*betelah*), and they cannot force the nation to adhere to it.

(7) "If they proclaimed an edict and assumed that it had spread in all of Israel, and the matter stood as such for many years, and after much time a different *beit din* stood and examined in all of Israel and

found that the edict was not disseminated in *all of Israel*, it has the right to annul (it), *even if they* [the members] *are lesser than the original beit din in wisdom and numerical strength*" [emphasis mine].

Thus, Rambam rules that, in normal cases, a court must be greater in wisdom and numerical strength to abrogate a previous court's edict, but in the case of "*Ein gozerin gezeirah al ha-tsibbur ela im ken rov ha-tsibbur yekholin la-amod bah*," even a *lesser court can do so*.

Here, *Kesef Mishneh* addresses a potential objection to halakhah 7. He states: "And if you were to say: how could R. Yehudah Nesi'ah [in *Avodah Zarah*] have trusted his observation [of the nation's practice of the edict]? Perhaps in earlier years the edict *did* disseminate among the people, and only *later* did they hesitate [and stop their observance of the edict]!" *Kesef Mishneh* responds that it is reasonable to say that this is exactly the nature of an after-the-fact "*Ein gozerin gezeirah al ha-tsibbur ela im ken rov ha-tsibbur yekholin la-amod bah*." He understands Rambam's words as clearly indicating that even if an edict is *initially accepted and practiced* by the nation, and only later does its universal practice terminate, a subsequent *beit din* can *nonetheless* annul it.

According to this understanding, it seems clear that any *beit din* retains the Talmudic right to abrogate the edict of another court, and certainly of a rabbinical authority, if that edict is no longer being followed anyways. An edict can be abrogated, according to the simple meaning of halakhah 7, merely by virtue of the fact that the *universal* observance of this halakhah by *all* of the Jewish nation is no longer a reality. In our case at hand, even if substantial portions of the nation (i.e. the Right, where dating is a much more immediate and impersonal process, for better and worse) *are* most likely still abiding by the laws of pre-marital immersions and *yihud*, it is still possible to annul such edicts. As for proper *batei din* to execute such an annulment, we have no shortage of courts that are *lesser* than the great sages of our tradition in wisdom and number. There would be no reason, if such an annulment were to materialize, to not adopt the stringent view of Rambam which biblically prohibits any *intercourse* with a *penuyah*. It is not a desperate need for sexual intercourse *per se* that has led to the reality of ubiquitous violation of *Hilkhos Niddah*. It seems much more plausible that it is simply the blanket prohibition of touch.

Therefore, a course of action would require, by means of "*Ein gozerin gezeirah al ha-tsibbur ela im ken rov ha-tsibbur yekholin la-amod bah*," the annulment of the Davidic prohibition of *yihud* with a *penuyah*, as well as the annulment of what has become Rivash's prohibition of pre-marital immersion. Intercourse would (and should) probably remain completely prohibited, in order to avoid running into issues of *kedeishah* (as well as pre-marital pregnancies), unless the possibility of a *pilegash*, prohibited by Rambam but permit-

ted by Ra'avad, were instituted.<sup>xviii</sup> Regardless, this final clause is a step that I think is unnecessary, as well as injurious to the sanctity of sexuality in Judaism, especially as viewed through the lens of modernity. We *can* do without pre-marital intercourse, and I suspect that if the severity of pre-marital intercourse were explained to them, couples who were to rely on pre-marital immersions would be able to respect that dangerous boundary, just as they probably respected it when they were violating the laws of *negi'ah* and *yihud*. Regardless, I doubt that there are many Modern Orthodox women who wish to relegate themselves to the status of a concubine. Even waiting, and possibly violating, seems better than that.

It seems to me that the most important element here, the sight of which cannot be lost, is what ignoring the issue entails. *Every game of footsie* that is played between a man and his *niddah* girlfriend probably violates what is almost universally recognized as a *biblical* prohibition. All subsequent literature, reasoning, explanations, justifications, moralizations, and ethical denunciations must keep this fact in mind. I suggest that it is *far* better to annul the relevant edicts, even if it is toeing the line of acceptable action, than to resign ourselves to a grievous status quo which is not going away. In the *worst-case scenario*, my above argument is half-baked, women immerse in violation of Rivash's edict, and it stays as that: an accidental violation of a rabbinic law. The alternative is incalculably worse.

It is also important to stress that the concept of "*Ein gozerin gezeirah al ha-tsibbur ela im ken rov ha-tsibbur yekholin la-amod bah*" is solely a function of a given communal status quo, and does not pass judgment on how that status quo came about. Once the cards are out on the table, we do not attack the dealer for our bad hand (if it is in fact that). While it is critical to assess and critique one's lifestyle constantly in his/her service of God, the counterargument that this status quo is a result

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of liberated sexual norms, a destruction of traditional male-female mores, and is therefore illegitimate cannot preclude the possibility of such a halakhic change *in and of itself*, even if it is undoubtedly this modernization that has created our present halakhic conundrum. It is not halakhically "ideal" for those of us in the Modern Orthodox community to concede that our dating processes is wayward, bow our heads in shame, and revert to the "dating" trends (if the span of arranged marriages from three dates to three months can be called that) of Talmudic, eastern European, and, contemporarily, *Yeshivish* and Haredi societies. The status quo is one to be reckoned with, not dismissively criticized. Furthermore, such an innovation would not, in my opinion, constitute a halakhic concession to the *yetser ha-ra* of the young people in our generation. The issue that

our community faces is not merely a function of sexual inclinations; the Halakhah became what it is in an era when such a reality was unthinkable simply because marriage was, for the most part, a practical device. As social patterns changed with time, the laws of *negi'ah* became something that they never were and generated a struggle that they were never intended to generate. As mentioned, this communal struggle is certainly a result of modernization, but we do not know that the germane halakhot would have been instituted under today's status quo. That in and of itself is obviously not enough to rewind the timeline of Halakhah and make the necessary corrections, but it is enough to remind detractors of my sociological argument to keep *negi'ah* in perspective. In the time when pre-marital immersions became effectively forbidden, marriage was an imposed pragmatic phenomenon, and not the voluntary, final expression of connectedness between a man and woman that it is today in the Modern Orthodox world.

Practically, though, what would such a reality look like? First, I think it is patently obvious why pre-marital immersion should not become a commonplace reality among every Orthodox high-schooler, college student, or anyone else with a libido. I am not suggesting that we give every person in the Orthodox world the halakhic thumbs-up to do as he or she pleases with his or her body. I think that such immersions should be fiercely discouraged, and perhaps through a new edict, even outright prohibited, to any woman who is not of marriageable age, or in a serious relationship, or some other criteria to be determined if such a formal annulment would ever become a reality. Such an annulment might also have to come hand-in-hand with a blanket prohibition on pre-marital *intercourse*, since there are some halakhic complications that lie therein (a woman might become a *zonah* if she engages in pre-marital intercourse). I recognize that I am neither qualified nor knowledgeable enough to offer a detailed halakhic proposal. I can only offer the theoretical halakhic preamble to facilitate it.

By no means does this essay constitute anything near an exhaustive analysis of the topic at hand. There are many issues to address – hashkafic, halakhic, psychological, logistical, and practical. In writing this essay, I hope to have demonstrated a possible manner of addressing an issue which plagues our community, but more importantly, to voice these concerns in a public forum. Admittedly, I can only relate anecdotal evidence to bolster my claims, but I challenge my readers to take some of their dating friends up on this matter. Several people around the age of marriage that I have spoken to have told me that they know *no* observant Modern Orthodox couple who did not violate the laws of *negi'ah* at some point in their relationship. The sooner the problem is fully exposed in a public arena, the sooner solutions can be searched for and implemented, because the problem is not going away. I can only hope that an overly reserved rabbinate will not be judged complicit in the ubiquitous violation of biblical writ for its in-

surmountable terror of innovating with respect to controversial topics. Modern halakhic creativity has been shown in every arena except those that quickly garner backlash. The halakhic status quo may have to bow to the private status quo of a large part of our Jewish community, and with a halakhic mechanism to do so, we can only await the courage of our *posekim* to enable such action. Inaction would be far worse.

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<sup>i</sup> Shira Schwartz, "The Word of Your Body," *Kol Hamevaser* 2,4 (February 2008): 9-10.

<sup>ii</sup> *Hassagot ha-Ramban* to Rambam's *Sefer ha-Mitsvot*, negative commandment 353; *Hid-dushei ha-Ramban* to *Shabbat* 13a.

<sup>iii</sup> *Responsa Rivash* 425.

<sup>iv</sup> Gila Manolson, *The Magic Touch* (Jerusalem: Har Nof Publications, 1992), p. 26.

<sup>v</sup> *Ibid.*, p. 52.

<sup>vi</sup> *Ibid.*, p. 73.

<sup>vii</sup> See Kobe Frances and Jennie Rosenfeld, "Excerpts from Interviews with Orthodox Singles," in Rivkah Blau (ed.), *Gender Relationships In Marriage and Out* (New York, NY: Yeshiva University Press, 2004), pp. 121-130.

<sup>viii</sup> "Dr. Greenberg Discusses Orthodoxy, YU, Vietnam, & Sex," "Greenberg Clarifies And Defends His Views," "Rav Lichtenstein Writes Letter To Dr. Greenberg." *The Commentator*, April 28<sup>th</sup>, May 12<sup>th</sup>, and June 2<sup>nd</sup>, 1966.

<sup>ix</sup> *Torat Kohanim* on *Parashat Aharei Mot* 13:2.

<sup>x</sup> *Shabbat* 13a.

<sup>xi</sup> *Avodah Zarah* 36b.

<sup>xii</sup> *Mishneh Torah, Hilkhos Ishut* 1:4.

<sup>xiii</sup> *Haggahot ha-Ramakh* and *Maggid Mishneh* to *Mishneh Torah*, *ibid.*

<sup>xiv</sup> *Devarim* 24:1.

<sup>xv</sup> *Maggid Mishneh* to *Mishneh Torah*, *ibid.*

<sup>xvi</sup> *Hassagot ha-Ra'avad* to *ibid.*

<sup>xvii</sup> *Mishneh Torah, Hilkhos Mamrim* 2:2.

<sup>xviii</sup> See Tsevi Zohar, "Zugiyut al-pi ha-Halakhah le-Lo Huppah ve-Kiddushin," and responses, *Akdamot* 7 (2006): 11-82.

## Reality Check: *Lo Tikrevu le-Gallot Ervah* and *Shemirat Negi'ah*

BY: Shaul Seidler-Feller

In his well-written and clearly sincere article "Shemirat Negi'ah and Reality," Nathaniel Jaret attempts to provide a halakhic argument and mechanism for the annulment of two rabbinic decrees that, he argues, have caused serious halakhic problems for many Modern Orthodox dating couples today. The first decree, originating in the times of David ha-Melekh and his *beit din*, prohibits a man from *yihud* (seclusion) with a *penuyah* (single woman), whether she is a *niddah* (menstruant woman) or not. The impetus for the decree, the Gemarot in *Sanhedrin* (21b) and *Avodah Zarah* (36b) tell us, is the story of Tamar and Amnon,<sup>i</sup> in which the lovesick Amnon secludes himself with Tamar, his half-sister, and rapes her. Rivash, in an attempt to safeguard this Rabbinic decree and prevent its violation, quotes in the name of his 13<sup>th</sup> century predecessor, Ramban, a prohibition against *penuyot* immersing themselves in a *mikveh* (ritual bath) to cleanse themselves of their *niddut* (menstrual status).<sup>ii</sup> By doing so, he effectively ensures that single women will always retain their *niddut*, which, he hopes, will prevent men from secluding themselves with such women, because seclusion with a *niddah* is an *issur de-Oraita* (a biblical prohibition), not simply a Rabbinic violation.

However, argues Mr. Jaret, Rivash, in doing so, unintentionally contributed to the contemporary violation of a serious *issur de-Oraita* (biblical prohibition), namely *negi'ah derekh hibbah* (affectionate touching) with a *niddah*. This *issur*, first mentioned in the *Sifra*<sup>iii</sup> and later codified by both Rambam<sup>iv</sup> and the *Shulhan Arukh*,<sup>v</sup> prohibits a man from "approaching an *ervah* [a woman with whom sexual relations are prohibited] by way of [his] limbs or hugging and kissing in an affectionate manner." Because so many young Modern Orthodox dating couples today violate this *din* during their courtship, Mr. Jaret contends, it is halakhically advisable, and possibly even imperative, for our community to annul Rivash's prohibition against pre-marital *tevilah* (immersion) and allow young dating women to cleanse themselves of their *niddut* so that any affectionate touching which takes place on a date does not constitute a violation of biblical law. He further makes the case that the Rabbinic prohibition against seclusion with a *penuyah* must be annulled, as it, too, is widely violated today by young Modern Orthodox men and women in the process of dating and is, as it were, causing more trouble than it is worth.<sup>vi</sup>

With this in mind, Mr. Jaret proposes an interesting, innovative halakhic solution which will, in his view, allow for the abrogation of

both of these decrees. Basing himself on the premise that most Modern Orthodox Jewish dating couples nowadays do not observe the decree against *yihud* properly, he argues that the Talmudic principle of "*Ein gozerin gezeirah al ha-tsibbur ela im ken rov ha-tsibbur yekholin la-amod bah*" (we do not decree an edict on the community unless its majority can withstand it) applies here. He further quotes a statement of Rambam's in *Hilkhos Mamrim* to the effect that this principle applies even if lack of acceptance of the decree develops over time.<sup>vii</sup> Thus, Mr. Jaret contends, there is no reason that a *beit din* today should not be able to annul these decrees:

"Therefore, a course of action would require, by means of '*Ein gozerin gezeirah al ha-tsibbur ela im ken rov ha-tsibbur yekholin la-amod bah*,' the annulment of the Davidic prohibition of *yihud* with a *penuyah*, as well as the annulment of what has become Rivash's prohibition of pre-marital immersion."

While I appreciate Mr. Jaret's obvious concern for the spiritual welfare of *Kelal Yisrael* and its observance of Hashem's mitzvot, which is rather refreshing in light of the attitude taken by other authors published by this magazine, I believe there are a number of important, sizeable gaps in his argumentation that undermine his conclusions significantly.

Leaving aside the issue of how many Modern Orthodox dating couples actually, statistically speaking, violate the laws of *negi'ah* or *yihud* during their courtship and taking Mr. Jaret's friends at their word that they "know *no* observant Modern Orthodox couple who did not violate the laws of *negi'ah* at some point in their relationship," there are a number of halakhic problems that Mr. Jaret does not address fully.

First, and most obviously, the decree of Rivash should not, on the face of it, fall under the category of a "*gezeirah she-ein rov ha-tsibbur yekholin la-amod bah*." After all, as far as I know, virtually no *mikveh* under Orthodox auspices intentionally allows *penuyot* to immerse. In other words, with the possible exception of those few *penuyot* who feign married status in order to use a *mikveh*, the Jewish nation is in universal compliance with this ruling. Even if the ramifications of a *gezeirah* create halakhic conundrums for its adherents, as in this case not going to *mikveh* apparently does, it does not take away from the fact that the *gezeirah* in itself is being upheld. If it were truly intolerable and "*einan yekholin la-amod bah*" for these women to not go to *mikveh* and be able to touch their boyfriends, they would find other creative solutions to accomplishing *tevilah*, like immersion in the ocean or in another (still) natural body of water. However, as far as I know, no women are so bothered by this inability to go to *mikveh* before marriage

that we can pronounce Rivash's decree a bone fide *gezeirah she-ein rov ha-tisbbur yekholin la-amod bah*. Even if the argument holds for annulling David ha-Melekh's decree, it seems not to in the case of Rivash's.

Second, I am not altogether convinced that Mr. Jaret's reading of Rambam as permitting the retroactive annulment of a decree which at one point was observed by *Kelal Yisrael* but is no longer observed is correct. He

**“From the Torah’s perspective, one cannot separate the *issur negi’ah* from the violation of *gillui arayot* – the two are inextricably connected and one leads into the other.”**

bases this interpretation largely on the words of the *Kesef Mishneh*, commenting on that halakhah in the *Mishneh Torah*: “It would have appeared to me to say [*hayah nir’eh li lomar*] that even if it [the decree] spread originally, since now the majority of Yisrael does not behave this way, we can permit it [the decree]...” From this, he concludes that “an edict can be abrogated, according to the simple meaning of halakhah 7, merely by virtue of the fact that the *universal* observance of this halakhah by *all* of the Jewish nation is no longer a reality.”

However, he fails to quote the remainder of the *Kesef Mishneh*'s comment, in which he cites Rashi's view<sup>viii</sup> that only if the *gezeirah* never caught on can a subsequent generation's *beit din* annul it:

“...Except that I saw [*ela she-ra’iti*] that Rashi (s.v. “*lo pashat*”) wrote: ‘The majority of them [*Kelal Yisrael*] had not accepted that decree to treat it as a prohibition.’ It sounds from his words that R. Yehudah Nesi’ah<sup>ix</sup> checked whether from the day the decree was enacted until his times the prohibition had spread, even at one point, and he found that at no point had the decree spread to all of Yisrael.”

Indeed, it would appear, based on the phraseology of the *Kesef Mishneh*, that not only is he sympathetic to Rashi's view, but he may even have adopted it himself. After all, he starts off by saying, “It would have appeared to me...” and ends with, “Except that...” If so, we have no basis for interpreting within Rambam's words that he would allow a subsequent *beit din* to annul the decree of a preceding *beit din* simply because circumstances had changed since the times of the original *gezeirah*. Only if the *gezeirah* never caught on would he permit this. And since neither I, nor, presumably, Mr. Jaret, can prove either way whether there has *never* been a time when most Jews observed these two *gezeirot* properly,<sup>x</sup> the status quo would have to remain, perforce, in place.

Third, even if one were to assume that this mechanism has some validity within the *Kesef Mishneh*'s formulation, the comparison of our case to that of R. Yehudah Nesi'ah is difficult. In the latter, R. Yehudah Nesi'ah looked at *all* of *Kelal Yisrael* and, when he saw that the *gezeirah* was not being upheld as it should, decided to annul it. In our case, however, a significant portion of the Torah-observant population within *Kelal Yisrael* (which is the

population who cares about these halakhot anyway, at least in principle), I would argue, does observe the laws of *negi'ah* and *yihud* properly while dating. This is because about one third of the observant Jewish population today is Haredi<sup>xi</sup> and so has different societal norms and mores than does the Modern Orthodox community. Thus, even if the majority of *Kelal Yisrael* were not observing these *dinim* (according to Mr. Jaret), a sizeable minority certainly is. Therefore, even if a *beit din* could theoretically retroactively annul a decree based on lack of acceptance or observance of it by later generations, the *metsti'ut* (reality) today does not fit those criteria when one looks at worldwide adherence to these laws by Orthodox Jews.

Fourth, and as a corollary to my first point that ours is not a situation of *ein rov ha-tisbbur yekholin la-amod bah*, it is important to point out that the struggle here in the Modern Orthodox community is one of willpower, not resources. In other words, in R. Yehudah Nesi'ah's times (and, according to Rashi, going back all the way to the period in which the *gezeirah* was instituted), Jews found it so difficult to observe the prohibition on non-Jewish oil that they *could not* fulfill the *gezeirah* (oil was a staple of ancient agricultural societies' diets). In the issue at hand, though, the “pressing need” which leads people to violate the biblical prohibition of “*Lo tikrevu*” and the *gezeirah* of David ha-Melekh is the desire to follow one's *ta'avot* (desires) and *yetsar ha-ra* for intimacy with one's boyfriend/girlfriend. This is obviously not a question of survival, but of personal willpower and religious fortitude. The fact that most Modern Orthodox dating couples (again, according to Mr. Jaret) do not stand the test may reflect their inner struggle, but it does not mean that we, as a community, should validate their decisions and allow them to submit to the *yetsar ha-ra* by annulling two important, traditionally accepted and codified, rabbinic edicts. Where, outside of the mitsvot of *eshet yefat to'ar*<sup>xii</sup> and *neta revai*,<sup>xiii</sup> do we apply the concept of “*lo dibberah Torah ela ke-neged yetsar ha-ra*” (the Torah only spoke to a man's Evil Inclination)? I see no reason that Halakhah should have to bend in the face of personal weakness,<sup>xiv</sup> even if, as Mr. Jaret says, “the status quo is one to be reckoned with, not dismissively criticized.”<sup>xv</sup>

If we stopped here, I think there would be sufficient evidence to argue that Mr. Jaret's halakhic mechanism for undoing *gezeirot* is, at best, disputed, and at worst, completely invalid. Not only that, but I know of no post-Talmudic, historical precedent in which this ruling of Rambam's was carried out to annul *gezeirot* that are no longer observed by the majority of the Jewish population. The claim that we are somehow living today in a *she'at ha-dehak* (an

emergency situation) or that we should apply the *pasuk* of “*Et la-asot la-Hashem, heferu Toratekha* (At a time [when they needed] to do God's will, they annulled Your Torah)”<sup>xvi</sup> in order to rule in accordance with the *Kesef Mishneh*'s opinion (if it is, indeed, his opinion in the end), does not, in my view, hold water, as demonstrated above.

But beyond these arguments, Mr. Jaret's proposal cannot, I believe, practically work. The very concept behind “*Lo tikrevu le-gallot ervah*,” as understood by Rambam, is that certain affectionate acts lead almost directly to sexual intercourse. Indeed, as *Avot de-Rabbi Natan* points out,<sup>xvii</sup> this mitsvah is one of a select group of *Torah-legislated seyyagim* (fences) around a different mitsvah, namely the mitsvah of not engaging in *gillui arayot* (forbidden sexual relationships). As a result, from the Torah's perspective, one cannot separate the *issur negi'ah* from the violation of *gillui arayot* – the two are inextricably connected and one leads into the other. The idea, then, proposed by Mr. Jaret, that “such an annulment [of the decree against pre-marital *tevilah*] might also have to come hand-in-hand with a blanket prohibition on pre-marital *intercourse*, since there are some halakhic complications that lie therein (a woman might become a *zonah* if she engages in pre-marital intercourse<sup>xviii</sup>),” is both halakhically impossible and realistically naïve – the first, because Halakhah clearly associates affectionate touch directly with intercourse, and the second, because once a couple is allowed to engage in affectionate acts like hugging and kissing, how can we expect them to draw the line there? Is that even fair to them? As Rashi<sup>xix</sup> famously quotes from the *Yalkut Shim'oni*,<sup>xx</sup> if one spoils a child, dresses him up nicely, and places him in front of a brothel with a bag of money, how can he not sin (“*mah ya'aseh ha-ben ve-lo yeheta*”)? Fundamentally, if a couple is already unboth-

cause he wants to have a more “hands-on” relationship with her. In other words, allowing women to immerse in a *mikveh* will solve one set of problems but open up an entire new set at the same time – one that could have deleterious effects on the community as a whole and its women in particular.

Finally, we have to consider meta-halakhic issues in the final analysis. What does abrogating these edicts for the purpose of allowing men and women to engage in *negi'ah* and *yihud* say about Jewish values of “*kedoshim tihyu*”<sup>xxi</sup> (you shall be holy) and “*kol makom she-attah motse geder ervah attah motse kedushah*” (any place you find a fence against forbidden relationships, you find holiness)<sup>xxii</sup>? Is this the new ideal we want to teach the children of the Modern Orthodox community – that it is perfectly alright to submit to the *yetsar ha-ra* when it becomes strong and widespread enough in its influence? How will they learn the importance of “*le-olam yargiz adam yetsar ha-tov al yetsar ha-ra*” (a person should always arouse his Good Inclination over his Evil Inclination)<sup>xxiii</sup> if not through trial and confrontation with their desires?

In conclusion, I am neither a *posek*, nor the son of a *posek* (though a rabbi), but I will say that, based on my limited knowledge of and familiarity with the sources, I cannot imagine that the rabbinic world would approve of this motion. The argument, while articulately formulated and halakhically sensitive, is not well enough grounded in the texts, lacks historical precedent, does not accord with reality, and skips over important social and meta-halakhic concerns that need to be raised and properly dealt with. The issues are real and the author's concerns are valid, but the solution, I believe, does not lie in abrogation of basic Jewish legislation.

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**“The issues are real and the author’s concerns are valid, but the solution, I believe, does not lie in abrogation of basic Jewish legislation.”**

ered by the biblical prohibition of *negi'ah*, how is a rabbinic decree allowing them to touch but prohibiting them from engaging in intercourse going to prevent them from taking their relationship in that direction?

All of this is true from a halakhic and/or practical perspective. But there is also a major public policy concern here. If we allow women to go to *mikveh* before marriage, we will create two classes: those who are “*frum*” and do not use the *mikveh*, and those who are “not” because they rely on this potential *hetter* (halakhic dispensation). Not only will this further divide an already divided Modern Orthodox community but it will mean that a young man will have to decide which type of young woman he wants to date – one who will satisfy his need for pre-marital *negi'ah* by going to *mikveh* for him or one who will not. I can even imagine a situation in which a girl belonging to the “*frum*” camp is pressured by her boyfriend to go to *mikveh* against her will be-

<sup>i</sup> II *Shemuel* 13:1-22.

<sup>ii</sup> *Responsa Rivash* 425.

<sup>iii</sup> *Sifra* on *Parashat Aharei Mot* 9:13. The prohibition is derived from the *pasuk* (*Va-Yikra* 18:6) of “*Lo tikrevu le-gallot ervah*,” which, according to Rambam (see below, n. 4), means: “Do not [even] come close to matters which lead to sexual intercourse.”

<sup>iv</sup> Rambam, *Mishneh Torah, Hilkhhot Issurei Bi'ah* 21:1.

<sup>v</sup> *Shulhan Arukh, Even ha-Ezer* 20:1.

<sup>vi</sup> Though Mr. Jaret does not make this argument himself, it is conceivable that were the Davidic decree annulled, there would ostensibly be no need to annul Rivash's decree as well, since the latter was meant only to enforce the former. In other words, *nafal ha-yesod, nafal ha-binyan* (once the foundation falls, so does the building).

<sup>vii</sup> Rambam, *Mishneh Torah, Hilkhhot Mamrim* 2:7.

# General Jewish Thought

## Musar's Incomplete Victory

BY: Rabbi Yosef Blau

The Musar Movement, started by a single individual, has become an integral part of the world of yeshivot. The daily schedule in many yeshivot includes a set time devoted to the study of Musar, and the Mashgiach Ruhani plays a major role in establishing the atmosphere of the *beit midrash*. Some have claimed that the movement has defeated its antagonists. The disputes over Musar in the major yeshivot of Eastern Europe in the latter part of the nineteenth century are largely remembered only by the historians.

Rabbi Yisrael Salanter, *zts"l*, the founder of the Musar Movement, intended to transform all of Jewish society, not only the yeshivot. With the narrowing in focus from the broader community to the yeshivot, however, a critical part of his program lost its significance. Associated with Musar today are fiery talks

about increased commitment to diligent Torah study and slower praying. The study of classic Musar works is stressed, coupled with a denigration of secular influences. R. Salanter's ethical sensitivity and concern for character development, though, are rarely mentioned. In *Or Yisrael*, R. Salanter contrasts the extensive study by Orthodox Jews of the laws of *kashrut* with the neglect of *Hoshen Mishpat*, which focuses on business dealings.<sup>i</sup> This was a strong indication of the Orthodox community's concern with proper ritual behavior and not interpersonal relations. When the movement became centered in yeshivot, where the students are not involved in commerce, this aspect of his thought became ignored. Even today, all *semikhah* programs teach *Yoreh De'ah* but only those training for *dayyanut* (rabbinic adjudication) study *Hoshen Mishpat*.

Part of this is a natural change of emphasis when focusing on yeshivah students who have limited interaction with broader society. The key relationships, in these contexts, are with the Rosh Yeshivah and the *havruta* (study partner). Going home to parents is a time of reduced devotion to Torah study and of greater influence by values that differ from those of the *beit midrash*. Exhortations to remain strong and not be enticed by the external world dominate the pre-vacation talks. The growing isolation of yeshivah students, coupled with their being encouraged to stay permanently in

this environment, inevitably leads to a diminished concern about the effect of actions on outsiders.

Another factor in reducing emphasis on ethical concerns is the difficulty in determining the appropriate response to complex human interaction in strictly halakhic terms. Many areas of interpersonal relations are barely mentioned in Rambam's *Mishneh Torah* or in *Shulhan Arukh*. Looking in formal halakhic codes for guidance becomes less effective, particularly when dealing with shifting societal norms.<sup>ii</sup> The idea of adopting the more stringent view, which is relevant to the laws of Shabbat or *kashrut*, is not applicable when balancing not speaking *lashon ha-ra* and protecting someone from potential harm (*lo ta'amod al dam re'ekha*).<sup>iii</sup> The decision whether it is appropriate to speak negatively about a person to prevent his hurting another requires judg-

**"Our obligations as the Chosen People and the representatives of Torah demand of us the kind of behavior that will truly cause others to admire a Torah way of life."**

ment and cannot be reduced to a formula. Invariably, in such cases, there will be consequences affecting other individuals. In monetary disputes, a similar dilemma arises: what is favorable to one side is damaging to the other.

Complicating this issue is the fact that two major twentieth-century Orthodox Jewish thinkers promoted seeing all questions in halakhic terms. The Hazon Ish, in his essay "*Musar ve-Halakhah*," criticizes those who rely on ethical sensitivity without knowing what the Halakhah prescribes.<sup>iv</sup> One might draw the conclusion that there is always a specific halakhic answer in every circumstance. Similarly, the Rav's *Ish ha-Halakhah (Halakhic Man)* can be read as arguing for a system of Halakhah that can respond to all occurrences.<sup>v</sup>

The stress on total acceptance of authority figures also reduces the development of ethical sensitivity. Yeshivah students are not trained to trust their own judgment. The rebbe (an apt adaptation of a Hasidic term) is asked all kinds of questions, including those outside the realm of Halakhah, and his responses are often seen not as advice but as *da'as Torah* that must be followed.

In order to have the judgment necessary to interact with the endless variety of human beings and be sensitive to their feelings and needs, one has to be oriented toward an acceptance of their differences and an apprecia-

tion for the other. One can learn a great deal from mentors in a classroom setting, but education in ethics comes primarily from observing such individuals' behavior. Even there, copying does not work. First we have to properly understand our own nature; only then can we adapt what we have observed so that it will be true to who we are.

At a time when Orthodox Judaism is perceived to be essentially ritualistic and formal, the need to rededicate ourselves to greater ethical concerns is critical. R. Salanter is quoted as acknowledging that changing a single character trait is extremely hard.<sup>vi</sup> Yet there can be no ethical personality without a refined character. Furthermore, ethical development is a religious obligation. Both Rambam<sup>vii</sup> and Ramban<sup>viii</sup> stress that proper adherence to Torah must lead both to improved character and the development of an ethical personality.

Whether or not we view ourselves as disciples of the Musar movement, it is imperative that we return to this aspect of R. Salanter's

thought. There are many questions about how best to educate to affect character. However, the present situation where the ethical dimension is ignored cannot continue. Our obligations as the Chosen People and the representatives of Torah demand of us the kind of behavior that will truly cause others to admire a Torah way of life. This will lead to Hashem and His Torah becoming beloved.<sup>ix</sup>

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<sup>i</sup> R. Yisrael Salanter, *Or Yisrael* (Jerusalem: Beit ha-Musar, 1992), *Iggeret ha-Musar*.

<sup>ii</sup> See the *Maggid Mishneh* to *Mishneh Torah*, *Hilkhot Shekhenim* 14:5.

<sup>iii</sup> *Va-Yikra* 19:16.

<sup>iv</sup> R. Avraham Yeshayahu Karelitz, *Emunah u-Bittahon*, ed. R. Shemuel Greineman (Tel Aviv: Sifriyati, 1997), chapter 3.

<sup>v</sup> See Rabbi Joseph B. Soloveitchik, *Halakhic Man*, trans. Lawrence Kaplan (Philadelphia: Jewish Publication Society of America, 1983).

<sup>vi</sup> *Or Yisrael*, section 30.

<sup>vii</sup> *Mishneh Torah*, *Hilkhot Temurah* 4:13.

<sup>viii</sup> Ramban to *Devarim* 6:18 and 22:6.

<sup>ix</sup> See *Yoma* 96a.

<sup>viii</sup> Rashi to *Avodah Zarah* 36a, s.v. "*lo pashat*."

<sup>ix</sup> The Mishnah in *Avodah Zarah* (35b) reports that R. Yehudah ha-Nasi was responsible for annulling the earlier *gezeirah* against *shemen Akku"m* (non-Jewish oil) after, the Gemara explains, having surveyed the Jewish people to find out whether or not the *gezeirah* had been accepted.

<sup>x</sup> I would like to believe that it is highly unlikely that there was *never* a period of Jewish history in which the two *gezeirot* were properly observed by most of the Jewish population.

<sup>xi</sup> Matthew Wagner and Talya Halkin, "Haredi Population to Double by 2020," *The Jerusalem Post*, November 9, 2005. Available at: <http://www.jpost.com/servlet/Satellite?cid=1131367051001&pagename=JPost/JPArticle/Sho wFull>. The article states that about 550,000 Haredi Jews live in Israel, a little more than one third of the total number of observant Jews in that country. I assume, here, that a similar proportion exists in other parts of the world.

<sup>xii</sup> *Kiddushin* 21b.

<sup>xiii</sup> *Yalkut Shim'oni* on *Parashat Kedoshim*.

<sup>xiv</sup> Indeed, Rambam in *Mishneh Torah*, *Hilkhot Yesodei ha-Torah* 5:9 writes that if a person becomes lovesick for a woman and the doctors say that his only cure will come through intercourse with her, he should rather die than have intercourse, even if she is only a *penuyah*.

<sup>xv</sup> In talking with Mr. Jaret about his article, I suggested that perhaps this discussion of Modern Orthodox dating patterns provides an opportunity for our community to do some introspection and reconsider the ways in which our young people interact with one another. Maybe it is time to take a leaf out of the moderate Haredi community's book and impose stricter standards of modesty and limit social interaction somewhat between the genders in an effort both to observe Halakhah better and to avoid sticky situations like these. While he clearly thought otherwise, I maintain that if we have come to the point where we are violating *issurim de-Oraita* regularly due in large part to relaxed social mores, that signals that it is time to reconsider our direction and change our course. See Rambam, *Mishneh Torah*, *Hilkhot De'ot* 6:1 for how to behave when residing in a corrupt society.

<sup>xvi</sup> *Tehillim* 119:126.

<sup>xvii</sup> *Avot de-Rabbi Natan* 2:3. It is interesting to note that *Avot de-Rabbi Natan* does not associate this *pasuk* with the *issur negi'ah* mentioned by Rambam, but instead with the *issur yihud* between two people who are *arayot* to one another. Still, *Avot de-Rabbi Natan*'s view that this *pasuk* serves as a *seyag de-Oraita*, as it were, against *arayot* is valuable for my point.

<sup>xviii</sup> Rambam, *Mishneh Torah*, *Hilkhot Ishut* 1:4.

<sup>xix</sup> Rashi to *Shemot* 32:31, s.v. "*Elohei zahav*."

<sup>xx</sup> *Yalkut Shim'oni* on *Parashat Devarim*.

<sup>xxi</sup> *Va-Yikra* 19:2.

<sup>xxii</sup> *Va-Yikra Rabbah* on *Parashat Kedoshim* 24:6.

<sup>xxiii</sup> *Berakhot* 5a.

# Rav Soloveitchik's "A Yid iz Geglaychn tzu a Seyfer Toyre"

BY: Rabbi Joseph B. Soloveitchik

*Editor's Note: The following is a translation from the Yiddish of the second section of R. Soloveitchik's vortzayt shiur entitled "A Yid iz Geglaychn tzu a Seyfer Toyre" – "A Jew is Compared to a Torah Scroll." [The first section appeared in the previous issue of this paper.] Dr. Hillel Zeidman transcribed and published the shiur, with an introduction, in R. Elchanan Asher Adler (ed.), Beit Yosef Shaul, vol. 4 (New York: Rabbi Isaac Elchanan Theological Seminary, 1994), pp. 17-67. A Hebrew translation by R. Shalom Carmy appeared in the same volume (pp. 68-103).*

*The present translation – the first rendition of this shiur into English – was prepared by Shaul Seidler-Feller, utilizing Dr. Zeidman's original Yiddish transcription and R. Carmy's helpful Hebrew equivalent.*

## Section II

That [potential] sanctity in the externalities, which waits to be imbued into the objective-concrete forms of place, time, parchment, and letters, is born in the subjective internalities of human existence: everything that exists on the outside exists on the inside. Without a holy "inside," the "outside" would remain mundane and gray.

### Inner and Outer Mikdash (Sanctum)

If Halakhah recognizes the holiness of *Mikdash* – Jerusalem, the Temple Mount, the *Azarot* (Courtyards), the Temple, and the Holy of Holies – in the outer world, it is an indication that the Halakhah is also familiar with the sanctity of *Mikdash* in the inner world. For in what is the idea of the sanctity of *Mikdash* – [the concepts of] "being before God,"<sup>i</sup> the Revelation of the *Shekhinah* (Immanent Presence of God), and the appearance of God, Blessed be He – expressed? In place – "They shall make for me a *Mikdash* and I shall dwell among them."<sup>ii</sup> And where does the *Shekhinah* rest even more – in which corner of Creation is the Master of the Universe more interested in finding a place of rest, as it were – than in the human soul?

"He dreamt...and behold – God was standing above him."<sup>iii</sup> Hazal say: "The righteous – their God is sustained above them."<sup>iv</sup> The Master of the Universe adorns Himself in the personality of Israel. Jewish consciousness is the *Mishkan* (Tabernacle) of the *Ein Sof* (the Infinite One). A human being, as a subjective *Mikdash* of God, is capable of reflecting something of his inner world in the world of action and of building an Outer *Mikdash* to give expression to the original Inner *Mikdash*.

### The Eternal God's Dwelling Place...

Moshe Rabbeinu, in the last hours of his life, called out: "The Eternal God's dwelling place, and underneath are the arms of the world."<sup>v</sup>

The Master of the Universe's dwelling place was created on that mysterious Friday when Man first appeared in the world. "You have created me, back and front."<sup>vi</sup> The *Beit ha-Mikdash* is old, as old as Man himself.

"The Eternal God's dwelling place:"

What Halakhah desires from a human being is a duplicate construction, a copy of the Eternal God's dwelling place. In order to manifest the ancient *Mikdash*, a concrete *Beit ha-Mikdash* must be built externally, below [on Earth], out of stones and wood, on a sandy mountain smitten by desert winds and caressed by breezes from the Sharon Valley.

"And underneath are the arms of the world:" On the pillars of the physical world an external *Mikdash* should be built to represent the true dwelling place of the Eternal God.

### Who Sanctified – Shelomoh or David?

The Gemara in *Zevahim* (24a) ponders the following question:

"[R. Ami asked:] If a stone [from the floor of the *Beit ha-Mikdash*] is uprooted from its place, what is the halakhah [may a Kohen serve in that spot]? What is his question? [R. Ami is unsure –] when David sanctified, did he only sanctify the upper floor or did he sanctify all the way down to the depths?"

Tosafot comment on that very passage:

"David sanctified it [the *Beit ha-Mikdash*], as Rashi explained, and even though Shelomoh built the *Beit ha-Mikdash*, David sanctified it."<sup>vii</sup>

Tosafot's observation is a bit difficult to understand. The Gemara in *Shevu'ot* (15b) states that "we require sanctification at the time of construction." In other words, after the construction one may not delay the sanctification. If the sanctification is so bound up in the construction that one may not push off the sanctification to the next day, one certainly should not be able to sanctify before the construction [begins]. Perforce, the question arises: How was David able to sanctify an empty, desolate mountain?

When we examine Tanakh closely, we find an explicit verse [which states] that Shelomoh conducted the sanctification. We read in *Divrei ha-Yamim*: "On that day, the king [Shelomoh] sanctified the inside of the Courtyard which is before the House of God..."<sup>viii</sup> The Gemara in *Zevahim* (60a) states that R. Yosei understood the simple explanation of the verse as follows: he sanctified it in order to place the Altar there. In other words, Shelomoh sanctified the *Azarah* so that it should be ready for the Altar.<sup>ix</sup>

Hence, the verse contradicts the passage in *Zevahim* cited earlier which says that David conducted the sanctification of the *Beit ha-Mikdash*, not Shelomoh.

### The Design of the Mikdash and the Sanctification of the Mikdash

In truth, however, these passages deal with two different halakhic ideas: 1) the sanctification of the *Azarah* and 2) the design of the *Mikdash*. The sanctification of the *Azarah* through [the eating of] the remnants from the *Minhah* offerings and through song was certainly conducted by Shelomoh. Rambam in *Hilkhot Beit ha-Behirah* says explicitly that Shelomoh sanctified the *Azarah*, as the verse asserts, but the architectural plans [for the building] of the *Beit ha-Mikdash* were prepared by David through *ruah ha-kodesh* (divine inspiration).<sup>x</sup> As it says in I *Divrei ha-Yamim* 28:11-12:

"David gave Shelomoh his son the plans of the Temple Hall (*Ulam*), its houses, its treasuries, its upper chambers, its inner chambers, and the room of the Ark-cover (*Kapporet*), as well as the design for all that he perceived through [divine] spirit with regard to the Courtyards of the House of God and for all the chambers around the treasuries of the House of God and the treasuries of the hallowed things." It would appear that Shelomoh only actualized the plans of David. By himself, he would not have had permission to change even one iota of the design of the *Mikdash*. In truth, [then,] Shelomoh did sanctify the *Beit ha-Mikdash*, but he did not have the ability to sanctify that which David [himself] had not foreseen.

Therefore, the Gemara asks whether David sanctified [only] the upper floor or [all the way] to the depths of the ground – even as Shelomoh actually conducted the sanctification – since Shelomoh could not sanctify that which was not prepared in David's original plan.

This halakhah, however, has a philosophical-aggadic ramification. Shelomoh created holiness for the external *Mikdash*, for the outward House – for the stones of the floor, for the chambers, for the various places in the *Beit ha-Behirah*. He busied himself with sanctifying that which is "underneath the arms of the world." David, in contrast, sanctified the holiness of "the Eternal God's dwelling place," of the inner *Mikdash*, of the *Mishkan* of God in the human personality. Therefore, he was entitled by the Master of the Universe to finish the building design.

And who could better understand with divine spirit how the *Mikdash* "under the arms of the world" should look if not the architect who helped complete the "Eternal God's resting place?" How beautifully the verse in *Divrei ha-Yamim* expresses this: "...And the design for all that he perceived through [divine] spirit." The external form of the *Beit ha-Mikdash* is a reflection of the *Beit ha-Mikdash* which "he perceived through [divine] spirit," of the "Eternal God's dwelling place."

### David, the Architect of the Inner Mikdash

And who has better depicted human longing for the Creator of the World than David? "As a gazelle pants after the water brooks!"<sup>xi</sup> Who has nestled up to the *Ein Sof* like David in "Bless God, O my soul?"<sup>xii</sup> Who has widened his personality to create a place of rest for the Creator of Everything like David, who enthusiastically cried out, "If I should give my eyes rest or my eyelids sleep before I find a place for God, a dwelling for the Mighty One of Ya'akov?"<sup>xiii</sup> Who has brought the Jew together with the *Shekhinah* if not the creator of pleasant songs in Israel with his, "Come, let us sing to God, let us shout with joy to the Rock of our salvation?"<sup>xiv</sup>

If the Congregation of Israel became the *Mishkan* of the Creator of the World, David manifested this in his Book of *Tehillim*, where the Jewish soul cries out in pain and loneliness, rejoices in her friendship (*havruta*) with Hashem, may He be Blessed, prays to Him, walks before Him...

Yes, David finished the "Eternal God's dwelling place" which the Creator of the World prepared during the Six Days of Creation.

Therefore, he drew up the plans of the *Beit ha-Mikdash*. Shelomoh had to execute his [David's] instructions and, because of that, the *Beit ha-Mikdash* is considered David's work, not Shelomoh's: "A psalm; a song of Dedication of the House of David..."<sup>xv</sup>

If the Destruction of the *Beit ha-Mikdash* did not annihilate the Jewish people, it is only because the Jew, watching the burning of the *Beit ha-Mikdash* "under the arms of the world" and the disappearance of Shelomoh's building, knew that Nevukhadnetsar and Titus and their armies had no power over David's *Mikdash*, over "the Eternal God's dwelling place."

That is why Asaf sang a psalm over the Destruction of the *Beit ha-Mikdash* – "A Psalm of Asaf"<sup>xvi</sup> – since "He poured out His wrath on wood and stones."<sup>xvii</sup> The "Eternal God's dwelling place," the *Beit ha-Mikdash* which is in the eternity of Israel, remained forever.

The idea of an internal *Mikdash* in the Jewish personality is a foundation of the Kabbalah and of Jewish Thought. Rema (R. Moshe Isserles, *zts"l*) wrote an entire book, *Torat ha-Olah*, about the structural parallels between the internal *Mikdash* and the external *Mikdash*. The same idea also runs through the book *Nefesh ha-Hayyim*, by the Gaon R. Hayyim Volozhiner, *zts"l*.

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<sup>i</sup> *Shemot* 27:21.

<sup>ii</sup> *Ibid.* 25:8.

<sup>iii</sup> *Be-Reshit* 28:12-13.

<sup>iv</sup> *Be-Reshit Rabbah* 69:3.

<sup>v</sup> *Devarim* 33:27.

<sup>vi</sup> *Tehillim* 139:5.

<sup>vii</sup> Tosafot to *Zevahim* 24a, s.v. "ho'il veritspah mekuddeshet."

<sup>viii</sup> II *Divrei ha-Yamim* 7:7.

<sup>ix</sup> See Rashi with regard to the opinion of R. Yehudah.

<sup>x</sup> *Mishneh Torah, Hilkhot Beit ha-Behirah* 6:14.

<sup>xi</sup> *Tehillim* 42:2.

<sup>xii</sup> *Ibid.* 104:1.

<sup>xiii</sup> *Ibid.* 132:4-5.

<sup>xiv</sup> *Ibid.* 95:1.

<sup>xv</sup> *Ibid.* 30:1.

<sup>xvi</sup> *Ibid.* 79:1.

<sup>xvii</sup> *Midrash Tehillim* 79.

# DON'T READ THIS ESSAY

BY: Reuven Rand

In January 2003, Rabbi Daniel Mechanic arrived at Ner Israel Yeshiva College of Toronto. He was a one-man Aish Ha-Torah, traveling from school to school to talk to Jewish teenagers about the God of Abraham. From among descriptions of the wonders of the Bible Codes and the incontrovertible proof offered by *Ma'amad Har Sinai*, one moment stood out for me. During a discussion of omnipotence and free will, a 15-year-old raised his hand and posed a question that had been greatly troubling him. "If one had a computer," he began, "that could model every particle in the universe from its inception, couldn't he plot all their future interactions?"

## "Can we forbid the honest, thought-out discussion of a real theological dilemma?"

And if so, wouldn't he know that I'd be raising my hand now and asking this question?" "No," Mechanic responded, with the confidence of a missionary. Almost seven years later, mention of the Bible Codes elicits laughter and the *Ma'amad Har Sinai* "proof" seems far less convincing than it once was, but I still have that question, quantum physics notwithstanding.<sup>i</sup>

This sort of problem did not go unrecognized by Ner Israel's administration. They realized that any arguments that Mechanic might bring would not constitute proof and decided that the dangers of raising these questions were far greater than any benefit gained from his lectures. Though its official name is Ner Israel Yeshiva College, Ner is not a university and it pays no lip service to the principle of free inquiry. Hence, the yeshivah declined to invite R. Mechanic to return the following year. Ner was not far removed from the Orthodox Judaism that had recently banned the works of Rabbi Natan Slifkin, so from its rabbis' perspective this sort of censorship was not unreasonable. But they are not the only ones to claim that some shelter from the dangerous ideas "out there" may be necessary.

On occasion, *Kol Hamevaser* appears to publish an article solely for its questionable content. Case in point: Last year's article by Jesse Lempel, written in the name of one Rabbi Arthur Balanson.<sup>ii</sup> In effect, Lempel makes two claims in his article: Firstly, he asserts that there are rabbis who are terrified of the Documentary Hypothesis. The second claim – his answer, based on a limited knowl-

edge of Tractate *Gittin* – is that as Orthodox Jews we have no right to question the Torah's validity. This argument is straightforwardly circular: our Orthodoxy is predicated upon the assumption of *Torah mi-Sinai* and without this assumption we have no reason to accord any validity to the Torah. We are left, then, only with the vast difficulty of the Documentary Hypothesis, a problem that the article deliberately refused to confront head-on. It is ever portrayed as a terrifying specter; we cannot question its presence as it rears its head before us. What can the confessions of a rabbi about his fear of the Redactor do to the reader's faith but convince him of the strength of a hypothesis that goes beyond even the evidence behind it?

Lempel's article is only one example of an article that poses a question far stronger

than its answer. In the last edition of *Kol Hamevaser*, Eli Putterman discussed the theological implications of *Mitsvat Mehiyyat Amalek* (the requirement to wipe out Amalek).<sup>iii</sup> In part due to the limited number of sources he consults, Putterman concludes that he cannot reconcile the commandment with basic morality. Even had he explored the issue more thoroughly and entertained the possibility of a Torah which is generally compatible with morality but abrogates it when necessary, his article would have had the same effect. We still would have been left with the feeling that the Torah is deeply immoral at times and wondered if the Torah and morality were ever made to coexist.<sup>iv</sup>

Have we, then, adopted a strident opposition to censorship and a commitment to exploring theological conflicts as central to our belief system and our university community? Clearly, we have not. A recent commentator article entitled "Kol Hamevaser Pulls Issue On Relationships & Sexuality" noted that "[a]s a result of a confrontation with Rabbi [Yosef] Blau...some of [*Kol Hamevaser*'s] editors decided to remove the 60 copies remaining on the shelves."<sup>v</sup> Shortly before that, Dr. Moshe Bernstein wrote an article for *The Commentator* arguing that Dr. James Kugel should not have been invited to speak at Stern last year.<sup>vi</sup> So why this selective censorship, and is it sufficient?

In truth, there is no paradox in this approach to what is and is not acceptable at Yeshiva University because the censor will only protest when he feels comfortable doing

so. In general, this means framing the subject as a stumbling block *for the blind* and not a real theological difficulty, creating a distinction between the discerning censor and the one being sheltered. To the educated reader, Shira Schwartz's confident declaration that "[*shemirat negi'ah*] is a Halakhah about a relationship, it is meant to guide that relationship," will seem no less egregious than the argument that pork is prohibited to avoid Salmonella poisoning. Hence, he will not hesitate to ban her article, to save the ignorant from the difficulty of confronting *ta'amei ha-mitsvot* (the commandments' rationales) – or the lack thereof. However, when Eli Putterman portrays a Torah that conflicts with our basic values, the censor can neither deride nor ban it because Putterman raises a serious difficulty which he himself cannot resolve. And can we forbid the honest, thought-out discussion of a real theological dilemma?

We saw a similar reluctance to object, at least in a straightforward manner, to the introduction of "heresies" around the time of last year's lecture by James Kugel. When Dr. Bernstein protested against Kugel's invitation, he never argued that Kugel's presence was a danger for his students, the best and brightest of Har Etzion and Kerem B'Yavneh and among those most open to unorthodox worldviews. Rather, he argued on behalf of the outsider, the ignoramus who might learn that James Kugel spoke at YU and take it as R. Hershel Schachter's *haskamah* (approbation) on *How to Read the Bible*. We may shake our heads in disbelief at his words and wonder how he can worry about this one-in-a-million, half-connected Orthodox

Jew when an Orthodox Bible scholar has walked into his Yeshiva University and effectively declared – by his presence and by the book he wrote – that the bedrock of Judaism has become its bane.

Bernstein's solution to this difficulty is simple. As an academic, he cannot candidly object to free inquiry so instead he writes about the side effects of Kugel's visit on those outside academia. He therefore takes the approach that we should protect the ignorant from information because they are unlikely to seek real understanding of it. Ironically, Kugel adopted this same conceit when he told a teacher at a Jewish high school not to instruct from his book, as he recounted in the Q and A session after his lecture at Stern. As Natan Slifkin prefaces his *The Challenge of Creation*, those people who have achieved a level of ignorance that would shame a starfish (as-

suming the existence of starfish poses no theological problems) should maintain their ignorance. They "are not the intended audience of this book and they are advised not to read it."<sup>vii</sup>

Assuming we are not among Bernstein's *balabatim* or Slifkin's starfish, we may wish to address the problems Kugel poses as they may shed light on this issue. Why is there Kugel? There are two deeply unsettling questions contained in this simple query, which comes part and parcel with this deeply unsettling Jew. The first question is simple: What is so compelling about the Documentary Hypothesis that would force an Orthodox Jew to... well, to write an entire book on it?<sup>viii</sup> Kugel poses the same problem as Balanson but more powerfully: James Kugel is not some unknown rabbi – he is a renowned Bible scholar! And yet... the J and E sources, a Priestly source, a Deuteronomist and a Redactor... Last year, during a Friday night *tish*, R. Jeremy Wieder briefly touched upon the real difficulty Kugel posed, responding that, "*How to Read the Bible* isn't good source criticism," for James Kugel is a foremost authority on Midrash, not biblical criticism. While this does take some weight off our hearts, we may yet reply that surely James Kugel of Harvard is no ignoramus. And in light of his witness, the Documentary Hypothesis does seem that much more compelling.<sup>ix</sup>

But there is another question raised by, "Why is there Kugel?" and I cannot even begin to answer it. "Why," we may ask, "why do good people become *koferim*?" The "Question of Evil" does not pose so great a problem, because suffering does not necessarily have

## "Why do good people become *koferim*?"

real theological import.<sup>x</sup> But Torah is the foundation of our universe, *hayyeinu ve-orekh yameinu* (our life and the length of our days). A man stands before us who is a paragon of Torah u-Madda, having brought academic methods to the Torah, our most fundamental text, and where did that get him? He taught Bible to the largest class in the world's greatest university, and from that position concluded that one of the *Ikkarei ha-Emunah* (essentials of faith) was untrue. The very angels must have ascended to Heaven at that moment and cried in anguish before their Lord, "*Zo Torah, ve-zo sekharah?* (This is Torah and this is its reward?)" Surely the *Asarah Harugei Malkhut* (the Ten Martyrs) ascended directly to Heaven, but where go the *Asarah Harugei Da'as* (the Ten Victims of Knowledge)?

The Talmud addresses both of these ques-

tions in *Hagigah* 14b-15a. It tells the story of Elisha ben Avuyah, the leading light of his generation, and his ascent to paradise. At this religious pinnacle, he is struck by theological difficulties and becomes a heretic. A voice rings out from heaven and declares that all may repent and return to God – except for Aher (“the Other”), as Elisha will hereafter be called. A page later (*Hagigah* 15b), the scene shifts to R. Yehudah crying against a door. He weeps for Do’eg ha-Edomi and Ahitofel, biblical figures and great sages by tradition who, nevertheless, have no place in heaven.<sup>xi</sup> “How could these righteous men lose everything,” R. Yehudah sobs, “and what does it mean for me?” Shemuel consoles him in the only way he can. Deep inside, Do’eg and Ahitofel were bad people, he responds, not like you and me. “What, then, of Elisha?” the Talmud asks. Elisha was influenced by the outside; he listened to classical Greek music, it answers. Moreover, he read heretical works, and that did him in.

The very Mishnah in *Sanhedrin* that declares the fate allotted to Do’eg and Ahitofel lists the three transgressions that cause a person to forfeit the Afterlife: denying the Resurrection, claiming the Torah is not from Heaven and heresy (*appikorsut*). R. Akiva adds reading “outside works” to the list.<sup>xiii</sup> Rambam takes this even further, arguing that one may

**“The Torah says stop, Halakhah says stop, experience says stop; why, then, do we go on absorbing the most troubling of questions?”**

not read “any work that may cause one to reject a tenet of the Torah.” Reading such works, he writes, will cause a person “to destroy the world according to the limits of his knowledge... at times [he will examine] the Torah, [thinking to himself:] maybe it is from Heaven and maybe not.”<sup>xiii</sup> Hence, Rambam contends that studying heresies is not only dangerous, but halakhically proscribed.

So maybe Rambam is right, and Ner Israel is right. Maybe we should not search out knowledge and we should not read *Kol Hamevaser*. Perhaps we should not take courses in Bible even, and, if forced to, take only those offered by Rabbis Shalom Carmy and Hayyim Angel. In his response to Dr. Bernstein, Kugel argues that such an approach is doomed to fail.<sup>xiv</sup> He is wrong. We only need to look at the attrition rates of Reform Judaism and liberal Christianity worldwide to realize that enlightenment attitudes lead to an abandonment of religion altogether. On the other hand, America’s Evangelical Christians have created alternative sciences to replace real science wherever it conflicts with doctrine, and they have thrived doing so. Muslim Creationists and, indeed, Haredi Jews have been no less successful.

And yet, despite our knowledge of the consequences, we read on. We read this very article, which clearly fails to meet Alex Ozar’s

criteria for “a net gain, both qualitative and quantitative, in the *yir’at shamayim* of its readership,”<sup>xv</sup> and raises many questions it cannot hope to answer. So why do we delve further? The Torah says stop, Halakhah says stop, experience says stop; why, then, do we go on absorbing the most troubling of questions?

“So,” my friend asked me as he reached the conclusion of a draft of this essay, “what do you suggest?” “Well,” I can only reply, “what do I suggest for Torah, or what do I suggest for intellectual honesty?” because it has become terribly clear to me that the two are not aligned. Should we sacrifice intellectual honesty on the Altar of God? This calls to mind the famous question posed in *The Brothers Karamazov*: If you could found Utopia upon the tears of a small child, would you do so?<sup>xvi</sup> If you could build *Olam ha-Ba* upon one base lie, upon Bible codes or Hillel’s supposed knowledge of molecular physics, could you pronounce that lie? Perhaps it is the rational and wise man among us who says, “Give me the child and I will enshroud him in falsehood until he can know no truth,” and thereby perpetuates our faith. But I, for one, do not know that I would be building *Olam ha-Ba* on those lies, nor that I would not come to rue what I had built. I cannot claim to know truth and only seek “how to respond to the heretic;”<sup>xvii</sup> I

cannot bifurcate the world into two groups, one with the divine imperative to study comparative religion and come to Orthodox Judaism (or Noahidism<sup>xviii</sup>) and the other with the obligation to scrupulously avoid enlightenment. Furthermore, I simply cannot believe that any religion could fail to recognize truth as the primary value and one worth pursuing. If, then, it is my duty to grapple with these difficulties, I would not dream of usurping that prerogative from any Jew, no matter how ignorant.

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Please note that the author cites many articles in making his point but means no offense to the distinguished scholars and fellow students who have written them.

<sup>i</sup> That is to say, neither the arguments against the possibility of Laplace’s Demon (as the omnipotent computer is known) existing, nor Heisenberg’s Uncertainty Principle, invalidate the basic observation that humans, like cars and apples, are governed by mechanistic processes. Hence, free will is very difficult to

explain.

<sup>ii</sup> Jesse Lempel, “My Documentary Hypothesis,” *Kol Hamevaser* 2,6 (April 2009): 4-5.

<sup>iii</sup> Eli Putterman, “*Mehiyat Amalek* and Modern Orthodoxy,” *Kol Hamevaser* 3,1 (September 2009): 9-10.

<sup>iv</sup> II Samuel 21 may illustrate this point even better. In that chapter, the Gibeonites request that the sons of King Saul be given over to them to be executed in retribution for their father’s crime against them. David acquiesces to their demands, and God, now appeased, stops the famine that had ravaged the land. The traditional commentators deal with this gross violation of traditional morality, as well as the law against vicarious punishment in Deut. 24:16, by arguing that David acted in response to a direct command by God. This reflects the classical approach that God can override Torah and morality, but the episode will tend to leave a bad taste in the mouth of the modern reader, nonetheless.

<sup>v</sup> Ezra Alter and Noach Lerman, “Kol Hamevaser Pulls Issue On Relationships & Sexuality,” *The Commentator*, April 21, 2009. Available at: <http://www.yucommentator.com/2.2830/kol-hamevaser-pulls-issue-on-relationships-sexuality-1.297048>.

<sup>vi</sup> Dr. Moshe Bernstein, “Why Lines Need to be Drawn (and Where),” *The Commentator*, February 11, 2009. Available at: <http://www.yucommentator.com/2.2826/why-lines-need-to-be-drawn-and-where-1.297090>.

<sup>vii</sup> Rabbi Natan Slifkin, *The Challenge of Creation* (New York: Yashar Books, 2006).

<sup>viii</sup> Here, we arrive at another difficult question: What does Dr. James Kugel actually believe? On his website (<http://www.jameskugel.com/critic.php>), he states that “‘Torah min ha-shamayim.’ There’s nothing in my book (or in me) that denies that belief.” He may intend for us to mistake “*Torah min ha-Shamayim*” for Rambam’s eighth Principle of Faith. If so, perhaps he should not have followed that statement with a frank discussion of the J source’s knowledge of hunter-gatherers or preceded it with a discourse on the authors of J and E. When Kugel responds to the claim that “modern Bible scholars like yourself would say that even if Moshe did write a Torah, the modern Pentateuch we have raised before us is not it” with a discussion about an evolving tradition – one initiated “as if by revelation” – we may take him at his word that he believes in a divinely influenced law, but not “that the entire Torah that is now in our possession is the same one that was given to Moses our teacher,” as Rambam would require us to believe. Hence, Bernstein and I depict Dr. Kugel as a heretic by traditional Orthodox standards.

<sup>ix</sup> Does this conclusion appear unworthy of the “best and brightest” referred to above? I can only respond that in an ideal world we would all possess the time and ability to master everything from philosophy to biology. Since we do not live in such a world, though, we

must often use others’ conclusions to make our own decisions, while recognizing that writers also have preconceptions and limited intelligence. In that case, the evidence of a scholar fighting against his biases may be valuable indeed.

<sup>x</sup> The Book of Job may either support or contest this view. Both seem equally likely; it is Job after all.

<sup>xi</sup> Mishnah, *Sanhedrin* 10:1.

<sup>xii</sup> Ibid.

<sup>xiii</sup> Rambam, *Mishneh Torah, Hilkhot Avodat Kokhavim* 2:2,3. It may be worth noting that any conceit I have ascribed to Bernstein, Kugel and Slifkin could also be attributed to Rambam, who famously refused to restrict himself to the four cubits of Halakhah.

<sup>xiv</sup> Dr. James Kugel, “An Open Letter to Professor Moshe Bernstein,” *The Commentator*, April 3, 2009. Available at: <http://www.yucommentator.com/2.2826/an-open-letter-to-professor-moshe-bernstein-1.297016>.

<sup>xv</sup> Alex Ozar, “Editor’s Response,” *Kol Hamevaser* 3,1 (September 2009): 5.

<sup>xvi</sup> Fyodor Dostoyevsky, *The Brothers Karamazov*, part 2, book 5, chapter 4, p. 291 (1945).

<sup>xvii</sup> Mishnah, *Avot* 2:14.

<sup>xviii</sup> In response to the suggestion that it is sufficient to simply keep the Seven Noahide Laws out of moral or other considerations, Rambam (*Mishneh Torah, Hilkhot Melakhim* 8:11) states that a non-Jew may only enter the World to Come if “he fulfills them because God commanded [him] about them in the Torah” – the vast majority of which he is, incidentally, forbidden to read (ibid. 10:9).



# Book Review

## Beginning the Conversation:

### A Review of Rabbi Jonathan Sacks' Weekly Readings of *Be-Reshit*

BY: Shlomo Zuckier

Reviewed Book: Rabbi Sir Jonathan Sacks, *Covenant & Conversation: Genesis – The Book of Beginnings* (New Milford, CT: Maggid Books and Orthodox Union Press, 2009).

#### Introduction

**G**enesis – *The Book of Beginnings*, by UK Chief Rabbi Sir Jonathan Sacks, represents yet another publication by the newly invigorated OU Press under the stewardship of Rabbi Gil Student. This commentary is the OU's second publication of the work of the Chief Rabbi, following the successful release of his *siddur* earlier this year.<sup>i</sup> The book is essentially a compilation of several years' worth of his weekly "Covenant & Conversation" insights, organized by *parashah* within *Sefer Be-Reshit*. OU Press plans to publish another volume for each of the four remaining books of the Torah, and "Covenant & Conversation" continues to be published weekly online.<sup>ii</sup>

In his introduction to the series, R. Sacks presents an interesting if tenuous theory connecting the different books of the Torah with the seasons of the year in which they are read (p. 2; *Be-Reshit* is read during the autumn), relating this to the sixth Lubavitcher Rebbe's directive to "live with the times." But the timeliness of the weekly portion does not end there: "Time and again, in the midst of troubled times or facing difficult decisions, I've found the words of the weekly parasha giving me guidance – or, conversely, the events themselves granting me deeper insight into the Torah text" (2). Indeed, the book comprises both insights into the *parashah* that can be applied to a person's life, as well as intuitions about the broader world used to explicate the biblical text. In addition, R. Sacks describes his approach in this book as "look[ing] at it [Torah] through a telescope: the larger picture and its place in the constellation of concepts that make Judaism so compelling a picture of the universe and our place within it."

#### Peshat vs. Derash

The cover refers to the book as "A Weekly Reading of the Jewish Bible." In a certain sense, this is accurate, as the author reads the biblical material and builds off of it. However, while the book occasionally employs literary methods in its treatment of the material, and while it often deals with broad themes of the narrative, a more accurate name might be "Weekly Homilies on the Jewish Bible." I will demonstrate this point with a broad sketch of the types of articles presented in the book.

There are a few pieces in the book which

present novel and interesting interpretations of the biblical story on a literary-*peshat* level. The essay "Does My Father Love Me?" (315-322) deals with the perplexing question of why Yosef did not contact his father to inform him that he was alive while in a position of power. R. Sacks claims that Yosef thought that his father had purposely arranged for him to be brought as a slave to Egypt as a punishment for his arrogant dreams, and felt that he was not wanted back home. The article acknowledges that this is only one of many possible answers, but it does offer a new angle from which to read the story. In addition, "A Tale of Two Women" (265-269) presents a strong literary comparison of the related characters Ruth and Tamar, whom R. Sacks considers to be role models who earned their way into the Bible.

On the other side of the *peshat-derash* divide, the piece "When the 'I' is Silent" (191-193) represents an extreme manifestation of a homiletically oriented approach. The thrust of the essay is the idea that Ya'akov negated himself in his prayers, based on the *derashah* that reads "Ve-Anokhi lo yada'ir"<sup>iii</sup> not as "And I did not know (that God was in this place)," but rather as "And I did not know *anokhi* (myself)." The book quotes this interpretation in the name of R. Pinhas Horowitz's *Panim Yafot*, and R. Sacks takes it to mean that one comes closer to God when he forgets about his own ego. While spiritually invigorating and meaningful for some, this reading blatantly ignores basic rules of Hebrew grammar and syntax – a standard operating procedure for *derash*. Overall, most articles follow the *derash* mode more than that of *peshat*, though not as obviously as in this example.

R. Sacks betrays his affinity to the *derash* approach in a comment he makes on p. 169: "In Torah, form follows function. Nothing is accidental. If there is a marked stylistic feature to a given section, it is there for a reason." This statement is a close approximation of the understanding, seen throughout the literature of Hazal, of omnisignificance, the idea that every word of holy texts has maximal meaning.<sup>iv</sup> At the same time, he does utilize certain methods that can be construed as academic, using literary analysis on several occasions and referring to Near Eastern culture as the backdrop against which the Torah should be read.<sup>v</sup>

#### Recurrent Themes

Like any good *darshan*, R. Sacks has a message or theme in each section which exists independently of its value as a reading of the Bible per se. He returns to several themes throughout the book, which serve both to connect the otherwise mostly discrete essays and to reflect messages he is trying to impress upon his readership.

One theme that appears several times is that of morality. As R. Sacks mentions in his introduction to *Sefer Be-Reshit* (6), *Be-Reshit* (at least as it is presented in *Covenant & Conversation*) deals with philosophical issues through the medium of stories, and most prominent among the philosophical issues is that of morality. Several articles discuss the acceptance of moral responsibility or the failure thereof in the biblical stories, while other pieces deal with more contemporary ethical issues. Back-to-back essays contrast four stories in *Sefer Be-Reshit* that present the failure of different biblical characters to undertake personal, moral, collective, and ontological responsibility to Avraham's successful acceptance of them all.<sup>vi</sup> In a different vein, "Physical Fear, Moral Distress" (213-218) discusses the moral dilemma facing Ya'akov: "Should he kill Esav or be killed by him?" against the backdrop of other moral dilemmas in which the correct path is unclear. In addition, there are several examples of moral issues relevant to our time where the Torah's insight is invoked, including in the articles "On Clones and Identity" (147-151) and "The White Lie" (331-336).

R. Sacks also focuses on several historical themes, and prominent among these is the historical and religious impact of the Holocaust. In discussing how breaking boundaries between earth and heaven can lead to violence, R. Sacks mentions the fact that there was less than a century between Nietzsche and the Holocaust.<sup>vii</sup> An article on "Parental Authority and the Choice of a Marriage Partner" (135-140) invokes Janusz Korczak as a defender of a "child's right to respect," a reference that concomitantly refers to the Holocaust. In a discussion of resilience against anti-Semitism, several examples relate to the Holocaust (159-165). Additionally, passing references to the Holo-

caust are made on pages 47 and 231.

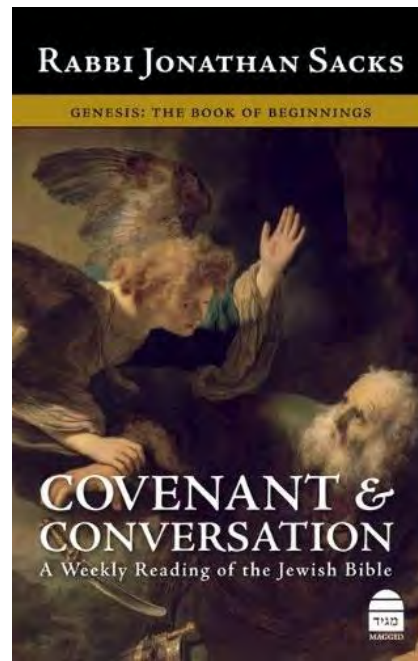
Many of the articles in the book foster a feeling of hope and inspiration. These include not only issues of a political nature – "On Judaism and Islam" (141-144) provides hope that religious fundamentalist terrorism can be overcome – but also issues relating to a person's personal struggles. The success of the figures in *Be-Reshit* at overcoming their internal demons is used as a source of inspiration for those living in the real world to draw upon. Examples of this can be found in "The Courage of Persistence" (159-165) and "In Search of Repentance" (303-310).

The book dedicates some time to the topic of prayer, as well. (This should not be surprising for someone who recently published a *siddur*.) Three of the five articles on *Parashat Va-Yetse* deal with prayer, each focusing on a different aspect of it. "Encountering God" (179-183) contrasts a few theories on how the *Avot* each correspond to one daily prayer and explains why *Ma'ariv* is non-obligatory. "The Ladder of Prayer" (185-189) discusses the three parts of prayer – ascending to God, standing in His presence, and descending back to normal life. Finally, "When the 'I' is Silent" (191-193) presents an argument for self-negation in order for a person to best succeed at accepting the Divine Presence.

#### Issues of Modernity

R. Sacks develops a combination of themes, and though some do not take particular positions in religious ideology, many provide a clear Modern Orthodox perspective. One article in particular, "Beyond Obedience" (43-47), presents Noah as one who always obeyed, who did everything God commanded and no further, and discusses the drawbacks to such an approach. Based on the Midrash's<sup>viii</sup> criticism of Noah for his inability to take initiative and leave the Ark prior to the divine command as well as another Midrash<sup>ix</sup> stating that Noah only walked *with* God but not *before* God, R. Sacks determines that Noah lacked ambition in his religious life. As partners with God in the world (a thoroughly Modern Orthodox concept<sup>x</sup>), he inveighs, we must not only adhere to divine commands but must ambitiously strive to improve the world ourselves by taking initiatives that were not commanded.

One Modern Orthodox ideal that seems to be underemphasized in the book is that of Israel and *aliyyah*. While Israel is referred to in passing as the Jewish land and a cause worthy of support,<sup>xi</sup> it does not receive as full a treatment as one would have expected, relegated always to short notes and never appearing as the topic of an entire essay. Furthermore, the prospect of *aliyyah* is never discussed in the book. This is especially underscored by the fact that *Parashat Lekh Lekha* presents an obvious op-



portunity for *darshanim* to discuss *aliyyah* as an ideal and to encourage people to follow Avraham's footsteps to Israel. Instead, the following messages are related to Avraham's travel at the beginning of *Lekh Lekha*: accepting personal responsibility,<sup>xii</sup> Avraham as a Jewish hero,<sup>xiii</sup> four meanings of the words *lekh lekha*,<sup>xiv</sup> and balancing *kibbud av va-em* with religious ideals.<sup>xv</sup> It is possible that, being that this book is aimed at a broad public, R. Sacks preferred not to risk alienating those entrenched on American or British soil with a call to *aliyyah*. In any case, the themes of *aliyyah* in particular and Israel in general are sorely missing in the book.

There are several essays included in *Covenant & Conversation* that clearly mark it as a 21<sup>st</sup>-century composition. The essays on "Violence in the name of God" (29-32) and "On Judaism and Islam" (141-144) reflect the prominence of the issue of Islamic terrorism, which achieved its current level of urgency only in 2001. Additionally, the article "On Clones and Identity" considers the moral implications of technology that have only been on the table since the cloning of the first mammal (a sheep) in 1997.

#### Sources

R. Sacks' sources often come from classic Jewish tradition. This starts with, but is not limited to, discussions of relevant *parshanim* for the topics discussed, as well as Talmudic and/or midrashic explications of the biblical material. He will often try to find a message behind the textual explication supplied by the midrash, while staying true to the midrash at hand. At times, R. Sacks also makes reference to relevant halakhic material. For example, in "Parental Authority and the Choice of a Marriage Partner" (135-140), he quotes responsa from Rashba<sup>xvi</sup> and Maharik<sup>xvii</sup> which allow a person to choose his marriage partner himself, under normal circumstances. Additionally, on several occasions other biblical verses are invoked for reasons of comparison or contrast with the material under discussion, as above in the comparison between Ruth and Tamar.

R. Sacks also routinely cites classical ideas in Western thought for purposes of either contrast or convergence with Torah ideas. One can view this as the "conversation" between the world and Torah that he refers to in the introduction (2). The piece "A New Kind of Hero"<sup>xviii</sup> contrasts the Greek idea of a hero with the Jewish one, and "Violence in the Name of God" (29-32) presents three theories (those of Sigmund Freud, Rene Girard, and postmodernists) explaining the existence of religious violence before developing his view of the Torah's position (that religious violence is reflective of insincere religious devotion). On the other hand, "The Essence of Man" (29-22) approvingly uses Pico della Mirandola's *Oration on the Dignity of Man* as a source underlining the idea that Adam, and Man in general, has freedom to use his free will.

As this book includes not only R. Sacks' ideas but also his tapping of Western culture to support the points he makes, a quick survey of the type of thinkers he uses is in order. R. Sacks includes points made by several academic Bible scholars, making reference to Nahum Sarna's *Understanding Genesis*,<sup>xix</sup> an allusion to Michael Fishbane on Midrash (155),

and mention of Robert Alter (295). The book reveals the broad base of philosophy, history, literature, and other areas of knowledge in which its author is proficient. Philosophers quoted include both early modern [e.g. Friedrich Nietzsche (54)] and contemporary [Hilary Putnam (151) and Emmanuel Levinas (168)] thinkers for the different issues that come up. References to such authors as Shakespeare (109, 228, 277) and historians like Martin Gilbert (218) pepper the book as well.

The use of famous thinkers ranges from the more rigorous intellectuals to the more populist writers. There are a few references to writings in the areas of populist psychology and history, for example the works of Viktor Frankl and Nikolai Berdiaev. "Surviving Crisis" (229-233) presents Ya'akov's ability to deal with challenge in his struggle with the angel, and it invokes Frankl's biography and his theory of logotherapy as a way of demonstrating man's resilience. "Jacob's Destiny, Israel's Name" (235-241) deals with the Jewish people's ability to prevail in all sorts of unfavorable situations, quoting from Berdiaev's *The Meaning of History* to the effect that the Jewish nation somehow manages to override any historical rule.<sup>xx</sup>

### **"While the book occasionally employs literary methods in its treatment of the material, and while it often deals with broad themes of the narrative, a more accurate name might be 'Weekly Homilies on the Jewish Bible.'"**

#### Criticisms

Despite many of the bright and positive aspects of *Covenant & Conversation*, no publication is perfect, and this book is no exception.<sup>xxi</sup> One point that was somewhat odd in the book is the translation of biblical verses, which are never quoted in the original Hebrew. R. Sacks often chooses not to use a preexisting translation but rather to fashion his own. This can sometimes prove helpful, as original translations can be used to expedite or underscore messages of the book. However, the approach also holds the danger of being taken too far, which I believe to be the case in *Be-Reshit* 26:34-35, which is translated on p. 136. After a discussion of Esav's marriage to two wives, the *pasuk* reads: "*Va-Tihyena morat ruah le-Yitshak u-le-Rivkah*," lit. "And they (the wives) were a source of bitterness to Isaac and Rebecca."<sup>xxii</sup> R. Sacks, however, translates it: "This was a source or bitter grief to Isaac and Rebecca." The translation could be seen as close enough to the biblical text if not for the fact that Esav is here contrasted to Ya'akov who "obeyed his father and mother" in finding a wife, implying that Isaac and Rebecca were upset at Esav because they were not consulted about his choice of wives, which is clearly not the meaning of the words. If R. Sacks wants to provide his own midrashic understanding of the *pasuk*, then he is entitled to do so, but it is unfair to translate a verse in a way that fits his reading without clearly stating that this is not an exact translation.

In addition, possibly due to the fact that the book functions as a collection of several years' worth of weekly insights, there are certain gaps in the handling of the material. While all the *parashiyot* are more or less equally represented, some parts of the *parashiyot* get

much attention while others receive short shrift. For example, the first Rashi in the Torah is cited in each of the first three articles on *Be-Reshit* (15, 21, 23; though, quite amazingly, each receives a distinct treatment!). Similarly, all five pieces on *Parashat Lekh Lekha* quote and deal with its first *pasuk* (*Be-Reshit* 12:1; see pp. 71, 73, 77, 81, 87), but no attention is paid to the other themes which appear in the *parashah*. The four pieces on *Parashat Va-Yishlah* all discuss Ya'akov's fight with the *mal'akh* or with Esav, again limiting the book's treatment to the first third of this *parashah* alone. As a result, the reader feels that he is receiving a collection of essays on the *parashiyot* and not a comprehensive picture of the biblical narrative.

In "The Objectivity of Morality" (57-60), R. Sacks attempts to invoke game theory and evolutionary biology to indicate that morality has an objective basis, demonstrated by the fact that ethical behavior is advantageous to the process of natural selection. There are several problems with this approach: First of all, it ignores details within game theory, such as the fact that "cheating" works in many systems. In more direct terms, if a society is generally moral but there are certain people who are self-

ish (and do not manage to be "caught" and thus lose the benefits of the moral society), those people will fare better than the moral members of their society.<sup>xxiii</sup> Second, evolution is usually used to indicate that there are no ethical norms – humans are moral because it is evolutionarily convenient, not because it is the right thing to be a moral person. Just because morality "works" does not mean that it is "right" in any sense. Finally, and most importantly, it is demeaning to the actual basis of ethics (whether that be Divine Command Ethics or some internally moral source for ethics) to attribute its reason to some cocktail of game theory and evolutionary biology. This "scientific" study, which points to morality as having positive side effects, may be inspirational to the general public, but it does not add any theological or philosophical substance to the literature on ethics.

#### Conclusion

*Covenant & Conversation* represents a compilation of masterful *derashot* by Rabbi Sir Jonathan Sacks on the *parashiyot* in *Be-Reshit*, both relating them to life and relating life to the Torah. At times analytic and at others inspirational, it weaves together insights from medieval and modern Bible scholars, philosophers, and historians, and R. Sacks himself, as it applies the *parashiyot* to daily life in a homiletical fashion. An interesting and refreshing read, it represents the conversation between Torah and life, and it is this author's hope that this genesis is followed by a quartet of similar value.

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<sup>i</sup> Rabbi Sir Jonathan Sacks, *The Koren Sacks Siddur: A Hebrew/English Prayer Book* (Jerusalem: Koren and OU Press, 2009). See the insightful and positive review of the *siddur* by R. Jonathan Rosenblatt at: [http://www.the-jewishweek.com/viewArticle/c39\\_a15840/News/International.html](http://www.the-jewishweek.com/viewArticle/c39_a15840/News/International.html).

<sup>ii</sup> See the Chief Rabbi's website: [http://www.chief Rabbi.org/CR\\_Covenant\\_Conversation.asp](http://www.chief Rabbi.org/CR_Covenant_Conversation.asp).

<sup>iii</sup> *Be-Reshit* 28:16.

<sup>iv</sup> For usage of this term and discussions of its significance, see James Kugel's *The Idea of Biblical Poetry: Parallelism and Its History* (New Haven and London: Yale University Press, 1981), pp. 103-4; Yaakov Elman's "It Is No Empty Thing: Nahmanides and the Search for Omnisignificance," *The Torah U-Madda Journal* 4 (1993): 1-83; and Elman's "The Rebirth of Omnisignificant Biblical Exegesis in the Nineteenth and Twentieth Centuries," *Jewish Studies, an Internet Journal* 2 (2003): 199-249.

<sup>v</sup> One place where he does this is on p. 31, which refers to the common Near Eastern pagan practice of placating gods as the basis for Kayin's activities.

<sup>vi</sup> "Drama in Four Acts," pp. 61-64, and "The Long Walk to Freedom," pp. 67-71.

<sup>vii</sup> "Babel: A Story of Heaven and Earth," p. 54.

<sup>viii</sup> *Midrash Tanhuma, Parashat Noah* 13-14.

<sup>ix</sup> *Be-Reshit Rabbah* 30:10.

<sup>x</sup> See R. Soloveitchik's Adam the First in *The Lonely Man of Faith* (New York: Doubleday, 1992) and R. Lichtenstein's essay on the concept of "*le-ovdah u-le-shomerah*" in *By His Light: Character and Values in the Service of God* (Jersey City, NJ: Ktav; Alon Shevut, Israel: Yeshivat Har Etzion, 2003), pp. 1-26.

<sup>xi</sup> See, for example, p. 126.

<sup>xii</sup> "The Long Walk to Freedom," pp. 67-71.

<sup>xiii</sup> "A New Kind of Hero," pp. 73-75.

<sup>xiv</sup> "Four Dimensions of the Journey," pp. 77-80.

<sup>xv</sup> "Fathers and Sons," pp. 81-85.

<sup>xvi</sup> *Responsa Rashba* 272.

<sup>xvii</sup> *Responsa Maharik* 164:3.

<sup>xviii</sup> Pp. 73-75. See also p. 299.

<sup>xix</sup> See pp. 50 and 90, for example.

<sup>xx</sup> I have heard this point – that a historian's theory is completely undermined by the continued existence of the Jewish people – said in the name of Hegel, underscoring the populist nature of this idea and the concomitant lack of rigor of those employing it (other than R. Sacks).

<sup>xxi</sup> I am not now referring to editorial oddities such as the fact that the article starting on p. 153 and the piece beginning on p. 341 bear the same title, "The Future of the Past," or the fact that the "About the Authors" section is on p. 349 and not p. 355. Nor am I here criticizing the sometimes-repetitive nature of the book (to be expected of a serial publication transformed into a book), as manifest in the repetition on p. 79 of the point made on pp. 73-76.

<sup>xxii</sup> This follows the JPS translation (parentheses mine).

<sup>xxiii</sup> Steven Pinker, *How the Mind Works* (New York: Norton, 1997), "Hotheads," pp. 363-424.

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