



Volume IV, Issue 1 August 31, 2010 / 21 Elul 5770

# KOL HAMEVASER

The Jewish Thought Magazine of the Yeshiva University Student Body

## Judaism in America



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le-Ovdekha be-Emet:  
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# Kol Hamevaser

The Student Thought Magazine of the Yeshiva  
University Student body

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## About *Kol Hamevaser*

*Kol Hamevaser* is a magazine of Jewish thought dedicated to sparking the discussion of Jewish issues on the Yeshiva University campus. It will serve as a forum for the introduction and development of new ideas. The major contributors to *Kol Hamevaser* will be the undergraduate population, along with regular input from RIETS Rashei Yeshivah, YU Professors, educators from Yeshivot and Seminaries in Israel, and outside experts. In addition to the regular editions, *Kol Hamevaser* will be sponsoring in-depth special issues, speakers, discussion groups, *shabbatonim*, and regular web activity. We hope to facilitate the religious and intellectual growth of Yeshiva University and the larger Jewish community.

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This magazine contains words of Torah.

Please treat it with proper respect.



# EDITORIALS

## *Mah Nnavu al he-Harim Raglei Mevasser:* Reflections on Two Years with *Kol Hamevaser*

BY: Shaul Seidler-Feller

The start of a new school year represents many beginnings. Particularly here at Yeshiva, with Rosh ha-Shanah right around the corner, the sense of renewal is palpable as we embark on yet another journey of learning, intellectual exploration, and personal growth. New roommates, new friends, new classes, and new teachers are just some of the exciting elements that another school year brings.

For *Kol Hamevaser*, too, the start of the year ushers in a series of changes. In addition to forming a greatly expanded group of Staff

**“The more that different perspectives can be represented and argued for (left, right, and center), the greater and more enlightening the dialogue and the richer the results for everyone.”**

Writers, the paper has, under the guidance of its new Editorial Board, plans to widen its influence, both on campus and in the community at large. These and other improvements will, I hope, build on the paper’s past successes, making the new volume of *Kol Hamevaser* the best one yet.

It is with mixed feelings, then, that I step down this issue as the Wilf Campus’ Editor-in-Chief. Watching the paper grow and develop without being able to play a central role in it is somewhat disappointing. At the same time, I realize that, having spent two years as an editor and even longer on the paper’s general staff, I have had the privilege of preparing, editing, and publishing serious, well-written articles on topics of significance and meaning in the Modern Orthodox and broader Jewish communities, and for that I am profoundly grateful.

*Kol Hamevaser*, perhaps more than anything else, serves as an open forum for discussions of some of the most important questions confronting Orthodoxy today. Provoking considered thought and spurring conversations on these issues are two of the paper’s primary goals. Here, students can encounter different perspectives and begin a dialogue that helps them either refine and clarify their own positions or consider modifying them. In this way, the back and forth, the give and take, of the beit midrash or classroom is brought into the literary realm and concretized in writing. As a tradition that values debate and emphasizes the significance of *mahaloket le-shem Shamayim* (dispute for the sake of Heaven),<sup>i</sup> Judaism has never shied away from variance of thought and even, to a large extent, variance of practice. This openness allows it to embrace multiple perspectives at once as legitimate and helps

foster a culture of dialogue that finds expression in literary channels such as *Kol Hamevaser*.

Looking forward, it is my hope that even more members of the YU and broader Jewish community will take advantage the opportunity to participate in this publication than have done so until now. The more that different perspectives can be represented and argued for (left, right, and center), the greater and more enlightening the dialogue and the richer the results for everyone. I personally encourage anyone with an interest in the issues of the day to use *Kol Hamevaser* as a means of exploring

and discussing them together with other members of the community who share their concerns, if not their opinions. This will help to expand the number of voices heard and make the debate even more sophisticated and fulfilling.

I would like to take this opportunity to thank my fellow editors and the rest of the Staff of *Kol Hamevaser* for allowing and helping me to participate in this project for the past two years. It has been a bit of a rollercoaster ride, with its ups and downs, but, *barukh Hashem*, I feel I have gained much from it and hope never to forget the experience and perspective it has given me. I wish the new Editorial Board and Staff much success in the coming year as they attempt *le-hagdil Torah u-le-ha’adirah* (to expand and glorify the Torah), and hope we all merit soon to hear the call of the *mevasser* who is *mashmia shalom, mevasser tov, mashmia yeshu’ah* (announce peace, heralds good, and proclaims salvation).<sup>ii</sup>

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

<sup>i</sup> *Avot* 5:17.

<sup>ii</sup> *Yeshu’ahu* 52:7.

## *Ve-Taher Libbenu le-Ovdekha be-Emet:* Appreciating a True *Posheter Yid*

BY: Shlomo Zuckier

This tribute to R. Yehuda Amital, *zts”l* and his legacy will begin on a personal note. I studied in R. Amital’s yeshiva (Yeshivat Har Etzion) and heard dozens of *shi’urim* and *sihot* from him during my time there. Following his passing on July 9, I have felt compelled to further examine his writings and ideas. In this attempt to portray his most striking qualities and the character traits that made him unique, I hope to fairly present his hashkafic oeuvre and not shortchange or misconstrue his positions in any way.

R. Yehuda Amital (originally Yehuda Klein) was born in Transylvania in 1924. He studied in yeshiva for several years before being sent to a work camp during the Holocaust. After being liberated in 1944, he departed to Israel and continued learning in Yeshivat Hevron, by then located in Yerushalayim. After studying under the tutelage of R.

member hearing from R. Amital was delivered on Rosh ha-Shanah almost three years ago.<sup>ii</sup> He began by asking how we can reach the level of serving God in truth (*le-ovdekha be-emet*)<sup>iii</sup> and then went on to explicate the *sugya* (topic) of *tannur shel Akhnai* (the oven of Akhnai) in *Bava Metsi’a* 59b. That case is the *locus classicus* for the rule of the majority and the ignoring of any extra-human elements in deciding Halakhah. The Talmud concludes that we follow the majority opinion of the Sages and not R. Eliezer, because *lo ba-shamayim hi* – the Law is not in Heaven, but in human hands.<sup>iv</sup> But what was the source of the dispute? The two sides argued over whether an oven made out of pieces that were glued together with sand is susceptible to *tum’ah* (impurity) – R. Eliezer thought it was not, while the Sages thought it was. R. Amital explained the basis of the dispute as follows: only if this makeshift oven has the status of a vessel (a *shem keli*) is it susceptible to impurity, so the main question



Isser Zalman Meltzer and marrying his granddaughter, R. Amital taught for several years at Yeshivat ha-Darom. In 1969, he founded Yeshivat Har Etzion (known colloquially as “the Gush”), where he served as Rosh Yeshiva (following 1971, he was co-Rosh Yeshiva alongside R. Aharon Lichtenstein) until 2008.

It goes without saying that R. Amital was a first-rate *talmid hakham*, at home in both the worlds of *lomdut* (Talmudic analysis) and *pesak Halakhah* (legal decision making). He gave many *shi’urim* throughout his career as a teacher, and many of his *hiddushim* (novellae) have been published in the book *Resisei Tal*.<sup>i</sup> For the purposes of this article, however, I would like to focus on the *mahashavah* (thought) of R. Amital, which has been both unique within, and impactful upon, the *Dati Le’umi* community in Israel.

One very powerful *derashah* which I re-

at hand is whether it is considered a vessel or not. R. Eliezer claimed it did not count as a *keli* due to the fact that, on an objective level, it did not qualify as such; it consisted of shards glued together. The Hakhamim, however, responded that, despite this drawback, the oven still qualified as a vessel since it functioned like a vessel on a subjective level. When viewed through the prism of human existence as we know it, this *tannur shel Akhnai* is functional enough to qualify as a vessel and therefore is susceptible to contracting impurity. Furthermore, this idea is directly parallel to the very question of whom the Halakhah follows; despite the myriad heavenly signs supporting R. Eliezer’s position, we ultimately rule like the opinion of the majority, the Hakhamim. It may be that in the objective realm, the Halakhah should follow R. Eliezer’s view, but in the human realm it is sufficient to observe the Hakhamim’s ruling, since all we have to work

with is our own, human, subjective outlook. R. Amital then reverted to his original question and said that, while we may not be able to achieve the objective *Emet* (Truth), a prayer of true devotion and sincerity that would stand up to divine scrutiny, we can at least reach a level of subjective *emet*, where, within our human limitations, we do as best as we can to be truthful in our prayers. And just like our human weakness necessitates the definition of an oven on a subjective level, as we see from *Bava Metsi'a* 59b, God only requires from us a subjectively true *tefillah*, prayer at our best, and that qualifies as *emet*.

This *derashah* was one which had a profound impact on me, as well as on my fellow students. Such a powerful explanation of the Talmud, emphasizing the weakness of human endeavor, especially in the context of a *sugya* which specifically hands over the reins of Halakhah to man, reveals R. Amital's profound understanding of the human condition and his masterful ability to convey deep messages. His galvanizing and charismatic speaking skills enraptured the audience, this time as many times before, to hear his deep ideas about Torah and the world.

And "Torah and the world" was just what R. Amital stood for. On many occasions, he would retell a meaningful story in which the *Alter Rebbe* of Lubavitch rebuked his son-in-law for being too engrossed in learning to hear his own child's cry. A learning that ignores the condition of the broader world and that does not endeavor to support the *olam* outside of the beit midrash, said R. Amital, is a flawed endeavor indeed.

R. Amital took this message and put it into action as he interspersed throughout his learning and teaching career a sustained period of national service, at first in the Haganah and IDF and later in national politics. He founded the Meimad political party in 1988 and served as a minister in the Israeli government following the Rabin assassination. Learning Torah intensely and bringing those values to the broader world was not just a cliché, it was the

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very goal that R. Amital lived for. He did not want his yeshivah to only educate generations of *rashei yeshivah* (though it definitely did accomplish that); he also endeavored to raise a group of educated *ba'alei bayit* to serve the State of Israel in various capacities, and in that he was successful as well.

The years of service that R. Amital gave to the Jewish state in the army, in the government, and in his most prized contribution, his yeshivah, which he led for almost 40 years, reflected an attitude beyond a passive interest in the wellbeing of *Kelal Yisrael*. He spoke on

several occasions about the sense of obligation he felt to the Jewish people as a result of being saved from death in the Holocaust. His response to the Holocaust was not to create a new theology, nor to blame sinners as its cause, but rather to treat it as an inexplicable act of God – but an act He did while accompanying *Am Yisrael* in its pain. The Holocaust inspired him to take a personal charge, as a *nitsol Sho'ah* (someone saved from the Holocaust), to assist the Jewish people to as great a degree as possible.

R. Amital viewed the establishment of the State of Israel as a miraculous, proto-messianic occurrence and as a *kiddush Hashem* (sanctification of God's name) that counteracted the *hillul Hashem* (desecration of God's name) of the Holocaust. He originally allied himself with the Gush Emunim school, disciples of R. Tsevi Yehudah Kook who believed that every piece of land under Israeli sovereignty is important and is a direct step towards the full realization of the messianic era. Later in his career, though, following the 1973 Yom Kippur

**“He viewed himself as a simple Jew even as he attained the status of a *talmid hakham*, holding strong feelings of fealty and commitment to God while simultaneously thinking deeply and critically about important issues.”**

War and other drawbacks of Israeli expansion, R. Amital radically shifted his opinions and joined the peace camp, even supporting the Oslo Accords. This change of position is reflective of another one of his principles, that of critically evaluating his opinions at every stage and not blindly accepting the consensus or the status quo.

Being that he viewed the State of Israel as a *kiddush Hashem*, he felt it was his job to speak up any time something took place within it that constituted a *hillul Hashem*. And so, following the Lebanese massacres of Palestinians in the refugee camps of Sabra and Shatila, he

was the only Israeli rabbi (the Rav was the only American one<sup>v</sup>) to vocally speak out against Israeli negligence in this area in the public sphere, and he did so in order to try to counteract the *hillul Hashem*. He later published a halakhic piece explaining why the murder of non-Jews is a biblical prohibition.<sup>vi</sup>

In general, R. Amital spent many of his lectures and much of his mental energy grappling with issues of morality and Halakhah. How could it be, he wondered, that eating human flesh is, according to most opinions, on a lower level of prohibition than eating pig?

He could not imagine such a possibility and so would invoke the *Dor Revi*<sup>vii</sup> who claims that it is an unstated *issur de-Oraita* (a powerful but dangerous move) and that someone stranded on a desert island and confronted with such a choice (one of the only cases in which this question would come up) should eat the pig and not the human flesh. R. Amital was not predisposed in this direction due to secular influences that emphasized the importance of morality in itself,<sup>viii</sup> but rather arrived at it out of his deep internal conviction that Torah must always be moral, which he learned internally from the Torah.

He viewed himself as a simple Jew even as he attained the status of a *talmid hakham*, holding strong feelings of fealty and commitment to God while simultaneously thinking deeply and critically about important issues. His book, *Jewish Values in a Changing World* (Hebrew, *Ve-ha-Arets Natan li-Benei Adam*), deals with, among other things, these important questions of how one should build his spiritual life, *humrot* (stringencies), *yir'at Shamayim*,

and other similarly central and profound issues to a sincere religious Jew. These matters are discussed from a perspective firmly rooted in the sources, while at the same time sensitive to and insightful about human, emotional, and psychological considerations, and one that always considers coming close to God to be its sole and direct goal.

The combined effect of R. Amital's commitment to truth and his concurrent references to human weakness was that he took a modest approach regarding his own religious claims. As noted above, R. Amital's political positions changed radically, and he was open to the possibility that he was wrong in other contexts, as well. He would often say that he does not have all the answers, and that anyone who tells you he has all the answers is lying. With regard to his students, his goal was to establish them on their own footing and not to create "miniature Amitals," as he put it.

This approach also manifested itself in relating to the positions of others with whom he did not agree. During the 1990s, R. Yaaqov Medan, one of R. Amital's close students (and a current Rosh Yeshivah at Yeshivat Har Etzion) was virulently opposed to the peace process and staged a public hunger strike in front of the Prime Minister's residence. At that time, R. Amital came to visit his student and remarked that, though he disagreed with R. Medan's political views (he was pro-peace at that point in time), as well as with his methods (he was fundamentally opposed to hunger strikes), he still supported his *talmid*, because at the very least R. Medan's intentions were to do what he felt was best for *Am Yisrael*. He also welcomed into his yeshivah a certain de-

gree of openness and allowed some latitude in terms of people's exact religious positions, on the basis that people trying to do the right thing were welcome there.

R. Amital, *zts"l*, was one of the great Modern Orthodox thinkers of our time. His impact has been much greater in *Erets Yisrael* than it has been in the United States (and *Huts la-Arets* in general), due to all sorts of sociological factors, but this should not stop us from reading his works, both in Torah and Hashkafah,<sup>ix</sup> and from being strengthened and enlightened by his message. He was the *talmid hakham* and simple Jew, the moralist who had a deep understanding of the human soul and someone who truly wished and strived for *vetaher libbenu le-ovdekha be-emet*.

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<sup>i</sup> R. Yehuda Amital, *Resisei Tal: Hiddushim, Be'urim, u-Berurim be-Inyanim Shonim ba-Halakhah* (Alon Shvut, Israel: Yeshivat Har Etzion, 2005).

<sup>ii</sup> R. Amital presented this *derashah* multiple times in the past.

<sup>iii</sup> On a related note, R. Amital would periodically lead groups in chanting a song with the very same name. For a link to one student's fond recollections of this song, see <http://www.ynet.co.il/articles/0,7340,L-3931128,00.html>.

<sup>iv</sup> *Devarim* 30:12.

<sup>v</sup> Personal correspondence with R. Binyamin Tabory.

<sup>vi</sup> Letter to the Editor, *Alon Shevut* 100.

<sup>vii</sup> This appears in the *Dor Revi*'s introduction to *Hullin* and is quoted on p. 40 of R. Amital's *Jewish Values in a Changing World* (Alon Shevut: Yeshivat Har Etzion; Jersey City, NJ: Ktav Pub. House, 2005).

<sup>viii</sup> R. Amital's secular education consisted of four years of elementary school. He often remarked how ironic and powerful it was that a yeshivah could be co-led by someone with his education and someone with a Ph.D. in English Literature from Harvard.

<sup>ix</sup> For a bibliography of R. Amital's early writings, see *Alon Shevut Bogerim* 3,(1994): 103–110 or *Alei Etzion* 2 (1995): 65–74. Some of his more recent articles and lectures can be linked to at <http://www.haretzion.org/>. More recent and important books by him include *Jewish Values in a Changing World* (above, n. 7), *Resisei Tal* (above, n. 1), and *Commitment and Complexity: Jewish Wisdom in an Age of Upheaval* (Jersey City, NJ: Ktav Pub. House, 2008).



# JUDAISM IN AMERICA

## Submitting to Divine Religious Authority in a World of Personal Autonomy: The Challenge of Choice

BY: Jacob J. Schacter

After having lived in the United States of America for more than three hundred and fifty years, it is fair to assert that Jews have flourished in this country. Although the religious discrimination and intolerance that faced the initial group of Sefaradim who arrived here in 1654 persisted more or less for over a century, the situation of Jews significantly improved after the founding of our country in 1776 and has only gotten better with the passage of time. Jews in the United States have achieved great heights in all areas of endeavor – socially, culturally, economically, politically, and also religiously.

But the very reality of freedom, democracy, tolerance, and pluralism that made all these achievements possible also continues to pose a significant challenge to the future of Judaism in America. Will Jews be able to maintain a meaningful fealty to their Jewish identities and commitments, or will they assimilate in large numbers into the culture around them? America has been good for Jews; will America also be good for Judaism?

I want to focus specifically on the Orthodox community in America, particularly the segment within it that, in addition to being committed to religious observance, also values engagement with the culture around it. This community, in my view, faces a unique challenge in maintaining, in real, practical terms, its identity as a group that lives in two worlds.

In 1985, Robert Bellah co-authored a book entitled *Habits of the Heart: Individualism and Commitment in American Life* which highlighted the centrality and ubiquity of the principles of personal autonomy and individual choice in the United States. As an example of these widespread phenomena, he described a nurse, Sheila Larson, who “has actually named her religion (she calls it her ‘faith’) after herself.” In her words, “I believe in God. I’m not a religious fanatic. I can’t remember the last time I went to church. My faith has carried me a long way. It’s Sheilaism. Just my own little voice.” She defined “my own Sheilaism” in the following way: “It’s just try to love yourself and be gentle with yourself. You know, I guess, take care of each other. I think He would want us to take care of each other.”<sup>ii</sup>

While Bellah was not the first to draw attention to this phenomenon, his “Sheilaism” became a popular code word among American sociologists of religion (imagine what she would have called her religion had her name been Judy...), and articles have been published since then assessing its pervasiveness in con-

temporary American society. In one particularly well-known study published in 1992, two prominent practitioners of the field, Bruce A. Greer and Wade Clark Roof, noted that “‘Sheilaism’ in its many individualistic, privatistic, and voluntaristic forms, is widely prevalent in contemporary America.”<sup>iii</sup> In 1998, another respected sociologist of religion, Robert Wuthnow, observed that:

“At the start of the twentieth century, virtually all Americans [...] were cradle-to-grave members of their particular traditions, and their spirituality prompted them to attend services and to believe in the teachings of their churches and synagogues. Organized religion dominated their experience of spirituality, especially when it was reinforced by ethnic loyalties and when it was expressed in family rituals. [...] Now, at the end of the twentieth century, growing numbers of Americans piece together their faith like a patchwork quilt. Spirituality has become a vastly complex quest in which each person seeks in his or her own way.”<sup>iii</sup>

And “Sheilaism” continues to characterize American religious life into the 21<sup>st</sup> century as well.

This phenomenon of “Sheilaism” does not only reflect the feelings of individuals; religious houses of worship have also adopted “Sheilaistic” practices.<sup>iv</sup> “Ritual” has given way to “ceremony;” formal structured prayer has been replaced by individualized song and meditation.<sup>v</sup> *The New York Times* reported in August 2006 that “40 to 45 new religious groups are emerging a year,” no small number.<sup>vi</sup> Personal religious “meaning” has taken precedence over the long-time staples of organized religion and commitment to covenant and community.<sup>vii</sup>

Jews are not unaffected by this phenomenon; in fact, the opposite is the case. Research has shown that Jews are at the forefront of this trend in America, more than members of any other major religious group. Greer and Roof reported in their study that “Jews were considerably more privatized than either Protestants or Catholics.”<sup>viii</sup> In other words, a higher percentage of Jews determined what Judaism was to them than Catholics what Catholicism was to them or Protestants (Fundamentalists, Moderates, or Liberals) what Protestantism was to them. The data show that Jews are most likely among religious groups to exercise their freedom of choice in defining the substance of their religion.

This observation was sharply highlighted at the very beginning of an important book

published in 2000 by Steven M. Cohen and Arnold Eisen analyzing current religious trends in the American Jewish community:

“The principal authority for contemporary American Jews, in the absence of compelling religious norms and communal loyalties, has become the sovereign self. Each person now performs the labor of fashioning his or her own self, pulling together elements from the various Jewish and non-Jewish repertoires available, rather than stepping into an ‘inescapable framework’ of identity (familial, communal, traditional) given at birth. Decisions about ritual observance and involvement

“You [the reader of those books], having agency, had the right and responsibility to take control, choose from a broad range of options, and find personal meanings that satisfied you.” Turning to contemporary times, the author writes that, “less willing to be recruited by God’s conventional armies, we sign on as spiritual consumers on the alert for anything and everything that can make life more worth living. Choosing spirituality over religiosity, we demand to be touched by diverse experiences that offer us meaning, wisdom, and paths for inner growth and healing.”<sup>x</sup>

The following cartoon sums up my point quite succinctly:<sup>x</sup>



*“We’re thinking maybe it’s time you started getting some religious instruction. There’s Catholic, Protestant, and Jewish—any of those sound good to you?”*

in Jewish institutions are made and made again, considered and reconsidered, year by year and even week by week. American Jews speak of their lives, and of their Jewish beliefs and commitments, as a journey of ongoing questioning and development. They avoid the language of arrival. There are no final answers, no irrevocable commitments.”<sup>ix</sup>

There are no longer any norms that are “compelling,” no “loyalties,” no fundamental givens. “The sovereign self” reigns supreme, religious involvement is a “journey,” and each Jew decides for him or herself what “Judaism” means.

Examples of this phenomenon abound, but I will cite only one here. A recent book entitled *Inventing Jewish Ritual* describes the phenomenon of the various “Jewish Catalogues” published in the 1970s and 1980s:

Orthodox Jews are not untouched by this phenomenon. By virtue of their proactive involvement in American culture and their firsthand exposure to its values, many have been deeply affected by this value of choice and on occasion – or, I strongly suspect, more often than that – “pick and choose” those aspects of Judaism with which they want to seriously engage, albeit within a range of less acceptable legitimate options than other American Jews. We are all familiar with individuals who clearly and publicly identify as Orthodox but who compromise on a wide range of religious activities that they themselves acknowledge are obligatory upon them to perform. Although they would take issue with Sheila Larsen’s assertion that religion could potentially – and legitimately – be reduced to loving oneself and caring for others, they too reflect the ultimate reality of choice that is the core

characteristic of “Sheilaism.” At the end of the day, all their theoretical protestations notwithstanding, they too choose which mitsvot they will or will not perform.

But is this an appropriate mode of behavior? Is not classic traditional Judaism predicated on a notion that stands in diametric opposition to the idea of choice, namely, that, as a divine document, the Bible – and Oral Law as well<sup>xii</sup> – represent the will of God which Jews are bidden or obligated to obey? The word “mitsvah” does not mean a “good deed” that can be performed or avoided at will but “commandment;” it is a non-negotiable, uncompromising requirement or duty. There are no equally valid choices when it comes to whether or not to observe or accept Jewish practice and belief. Religious observance cannot be what I want it to be. “Commandment” means that there is a “Commander,” i.e., God, and there is a “commandee,” i.e., every Jew. One must accept the total system; “picking and choosing” or “mixing and matching,” accepting some aspects of the tradition and rejecting others, is not a viable option for an individual Orthodox Jew or for a community concerned with insuring a strong Jewish life in the future.

Yale Law School Professor Robert Cover understood this well when he wrote:

“Every legal culture has its fundamental words. [...] The word ‘rights’ is a highly evocative one for those of us who have grown up in the post-enlightenment secular society of the West. [...] Judaism is, itself, a legal culture of great antiquity. [...] When I am asked to reflect upon Judaism and human rights, therefore, the first thought that comes to mind is that the categories are wrong. I do not mean, of course, that basic ideas of human dignity and worth are not powerfully expressed in the Jewish legal and literary traditions. Rather, I mean that because it is a legal tradition, Judaism has its own categories for expressing through law the worth and dignity of each human being. [...] The principal word in Jewish law, which oc-

## “‘Picking and choosing’ or ‘mixing and matching,’ accepting some aspects of the tradition and rejecting others, is not a viable option for an individual Orthodox Jew or for a community concerned with insuring a strong Jewish life in the future.”

cupies a place equivalent in evocative force to the American legal system’s ‘rights,’ is the word ‘mitsvah’ which literally means commandment but has a general meaning closer to ‘incumbent obligation.’ [...] All law was given at Sinai, and therefore all law is related back to the ultimate heteronomous event.”<sup>xiii</sup>

The story is told about a Hasid who came to his *rebbe* for help. His wife was ill, his roof was leaking, his horse was *shlepping* its foot,

and his thirteen-year-old daughter was, sadly, as yet unmarried. The *rebbe* said to him, “We will observe Rosh Hodesh in two weeks and then a few weeks thereafter will be Yom Tov, then Rosh Hodesh again. Each time you recite *Hallel*, say ‘*Anna Hashem*’ with a lot of *kavvanah* (concentration) and the *Ribbono shel Olam* will help you.” The Hasid left, very happy with the advice and blessing of his *rebbe*. He prepared himself before Rosh Hodesh and did what the *rebbe* said. Then came Yom Tov and Rosh Hodesh and another Rosh Hodesh and he continued to follow the same practice. After six months passed, nothing had changed, so he returned to the *rebbe* with the complaint that he had done exactly what he had told him to do with no results. He wife was still ill, his roof still leaking, his horse still *shlepping* its foot, and his daughter was now thirteen-and-a-half and still not married. The *rebbe* asked him, “Which ‘*Anna Hashem*’ did you recite with *kavvanah*?,” and he responded, “*Anna Hashem, hoshi’ah nna, Anna Hashem, hatslihah na; Lord, please save me; Lord, please grant me success.*” The *rebbe*

## “Identifying as an observant Jew requires placing a premium on submission, on obligation, on commandedness; in other words, on the rejection of notions of personal autonomy, and a multiplicity of valid choices that are so much at the heart of contemporary religious life in general and contemporary expressions of Judaism in particular, even for segments of the Orthodox community.”

slammed his hand on the table and said, “No. That’s the wrong ‘*Anna Hashem*.’ There is another ‘*Anna Hashem*’ in *Hallel*, namely ‘*Anna Hashem, ki ani avdekha; Truly, Lord, I am your servant.*’ That is the one you need to recite with *kavvanah* in order for the *Ribbono shel Olam* to respond favorably to your prayers.”

The message of this story is that one needs to see oneself as an *eved* or a servant

who, by definition, has no choices. A servant is totally bound by the will and desire of his master. Do we not recite a few times a week in the *Berikh Shemeih Hu*, “*Ana avda de-Kudsha Berikh Hu; I am a servant of the Holy One, Blessed be He*”? To my mind, identifying as an observant Jew requires placing a premium on submission, on obligation, on commandedness; in other words, on the rejection of notions of personal autonomy, and a multiplicity of valid choices that are so much at the

heart of contemporary religious life in general and contemporary expressions of Judaism in particular, even for segments of the Orthodox community.

The centrality of the doctrine of commandedness – including which shoe to put on and tie first and which fingernail to cut first<sup>xiv</sup> – is reflected in a variety of Talmudic statements. “*Gadol ha-metsuvveh ve-oseh mi-mi she-eino metsuvveh ve-oseh; One who performs a mitzvah having been commanded to do so is greater than one who performs a mitzvah without having been commanded to do so,*”<sup>xv</sup> for example, conveys this idea especially well, because it is not only considered aggadic or homiletical, but also has normative halakhic implications (e.g. it is the basis for regarding the meal at a bar mitzvah – and, for some, at a bat mitzvah as well – as a *se’udat mitzvah*<sup>xvi</sup>). Similarly, the midrashic assertion that “*lo nittenu ha-mitsvot ella letsaref bahen et ha-beriyot; the mitsvot were given only to refine human beings,*” is central to this discussion as well,<sup>xvii</sup> as is “*she-oseh middotav shel ha-Kadosh Barukh Hu rahamim ve-einan ella*

*gezeirot; for he renders the mitsvot of the Holy One, Blessed be He, into acts of mercy while, in truth, they are nothing other than decrees.*”<sup>xviii</sup>

This idea, the indispensability of obedience in halakhic commitment, is stressed in a number of articles written by R. Joseph B. Soloveitchik. For example, after presenting a dramatic summary of the midrashic statement describing the separation between husband and wife central to *Hilkhot Niddah*, he writes:

“This kind of divine dialectical discipline is not limited to man’s sexual life, but extends to all areas of natural drive and temptation. The hungry person must forgo the pleasure of taking food, no matter how strong the temptation; men of property must forgo the pleasure of acquisition, if the latter is halachically and morally wrong. In a word, Halacha requires of man that he possess the capability of withdrawal.”<sup>xix</sup>

R. Soloveitchik used the language of “must” and “requires,” terms that are totally foreign in the contemporary cultural discourse.<sup>xx</sup>

And so the question is clear and obvious: Given the absolute premium placed upon personal autonomy and individual choice in contemporary American culture, and given the fact that many Jews in this country, including those who identify as observant, are deeply rooted in and influenced by that culture, how is it possible to construct a compelling argument for

Jews today to choose to submit to the obedience and discipline of Halakhah that is so central to the very essence of the Jewish religious consciousness and commitment and so important to insure the future of Judaism and Jewish life in the United States? How can one convince or, better, inspire Jews that they “must choose to be commanded again,”<sup>xxi</sup> with all the practical implications of such commandedness for their daily behavior as Jews? Is there a way to help even many who identify as Orthodox to move from inward sentiment to outward behavior, from feelings of “spirituality” to the practice of “religion,”<sup>xxii</sup> from stirrings of “piety” to expressions of “ritual,”<sup>xxiii</sup> from belief – even sincere and genuine – in the centrality of Halakhah to total submission to it as a system that is commanded, compulsory, and binding?

R. Aharon Lichtenstein once wrote, “On the one hand, he [the modern Orthodox Jew] recognizes – both as a matter of a priori inherent necessity and in light of relevant sources – that authority, and submission to it, is critical. [...] On the other hand, the typical modern Or-

thodox Jew bristles at the thought of constricting his autonomy. [...]”<sup>xxiv</sup> What can be done toward helping this individual resolve her or his dilemma? Nothing less than the future of a strong, viable Jewish community in America is at stake.

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<sup>i</sup> Robert Bellah, et al., *Habits of the Heart: Individualism and Commitment in American Life* (Berkeley: University of California Press, 1985), p. 221.

<sup>ii</sup> Bruce A. Greer and Wade Clark Roof, “‘Desperately Seeking Sheila’: Locating Religious Privatism in American Society,” *Journal for the Scientific Study of Religion* 31,3 (1992): 346-352, at p. 347.

<sup>iii</sup> Robert Wuthnow, *After Heaven: Spirituality in America Since the 1950s* (Berkeley: University of California Press, 1998), p. 2. See also idem, *Growing Up Religious: Christians and Jews and their Journeys of Faith* (Boston: Beacon Press, 1999), esp. pp. 162-193.

<sup>iv</sup> See, for example, Nancy Ann Jeffrey, “Religion Takes a Holiday,” *The Wall Street Journal* (March 15, 2002): W1, W12.

<sup>v</sup> See the observation by Mary Douglas, *Natural Symbols* (New York: Routledge, 1973), p.



41, cited by Charles S. Liebman, "Ritual, Ceremony and the Reconstruction of Judaism in the United States," in Roberta Rosenberg Farber and Chaim I. Waxman (eds.), *Jews in America: A Contemporary Reader* (Hanover, NH: Brandeis University Press, 1999), p. 308.

<sup>vi</sup> Michael Luo, "Seeking Entry-Level Prophet: Burning Bush, Tablets Not Required," *The New York Times* (August 28, 2006): B1. For different examples, see Christopher Partridge (ed.), *New Religions: A Guide: New Religious Movements, Sects, and Alternative Spiritualities* (New York: Oxford University Press, 2004); idem, *Encyclopedia of New Religions* (New York: Routledge, 2006).

<sup>vii</sup> See Wade Clark Roof, *A Generation of Seekers: The Spiritual Journeys of the Baby Boom Generation* (San Francisco: HarperCollins Publishers, Inc., 1993).

It is also interesting to note that the overabundance of choice in America has generated a backlash. See Barry Schwartz, *The Paradox of Choice: Why More is Less* (New York: HarperCollins Publishers, Inc., 2004). The subtitle of the book is: "How the Culture of Abundance Robs Us of Satisfaction." My thanks to Dan Cohn for bringing this book to my attention.

<sup>viii</sup> Greer and Roof, "Desperately Seeking Sheila," p. 350.

<sup>ix</sup> Steven M. Cohen and Arnold Eisen, *The Jew Within: Self, Family, and Community in America* (Bloomington: Indiana University Press, 2000), p. 2.

<sup>x</sup> Vanessa L. Ochs, *Inventing Jewish Ritual: New American Traditions* (Philadelphia: Jewish Publication Society of America, 2007), pp. 40-41.

<sup>xi</sup> This cartoon was published in *The New Yorker* (March 20, 2000). My thanks to Ms. Shari Shanin for bringing it to my attention a number of years ago.

<sup>xii</sup> *Shabbat* 31a.

<sup>xiii</sup> Robert Cover, "Obligation: A Jewish Jurisprudence of the Social Order," in Martha Minow, Michael Ryan, and Austin Sarat (eds.), *Narrative, Violence, and the Law: The Essays of Robert Cover* (Ann Arbor: University of Michigan Press, 1995), pp. 239-240.

<sup>xiv</sup> *Shulhan Arukh, Orah Hayyim* 2:4; Rema to *Orah Hayyim* 260:1.

<sup>xv</sup> *Bava Kamma* 38a; *Kiddushin* 31a, 87a.

<sup>xvi</sup> R. Shelomoh Luria (Maharshah), *Yam shel Shelomoh, Bava Kamma* #37; R. Ovadiah Yosef, *Responsa Yabbia Omer*, vol. 6, *Orah Hayyim, siman* 29; idem, *Responsa Yehavveh Da'at* 2:29.

<sup>xvii</sup> See *Be-Reshit Rabbah* 44:1; *Va-Yikra Rabbah* 13:3; and elsewhere in the *Tanhuma* and *Yalkut Shim'oni*. See also Rambam, *Guide* 3:26; Ramban to Deut. 22:6, s.v. "Ve-Katav harav;" *Sefer ha-Hinnukh* #545, s.v. "Ve-ha-Ramban z'l;" Abravanel to *Va-Yikra* 19.

<sup>xviii</sup> *Berakhot* 33b.

<sup>xix</sup> R. Joseph B. Soloveitchik, "Catharsis," *Tradition* 17,2 (1978): 38-54, at p. 46.

<sup>xx</sup> See also "Catharsis," p. 49; idem, *Halakhic Man*, trans. by Lawrence Kaplan (Philadelphia: Jewish Publication Society, 1983), pp. 139-143; idem, "The Absence of God and the Community of Prayer," in Shalom Carmy

(ed.), *Worship of the Heart: Essays on Jewish Prayer by Rabbi Joseph B. Soloveitchik* (Hoboken, NJ: Ktav, 2003), pp. 73-74.

<sup>xxi</sup> The phrase comes from Reform Rabbi Arnold Jacob Wolf, "Reclaiming Shabbat," *Reform Judaism* 12,1 (Fall 1983): 14, cited in Marc Lee Raphael, "The Emergence and Development of Tradition in Reform Jewish Worship, 1970-1999," *Jewish History* 15 (2001): 119-130, at p. 121. This article presents the Reform Movement's struggle with the very issue being presented here, the notion of mitsvah as commandment.

<sup>xxii</sup> One finds this distinction made very often in discussions of this issue. See, for example, Clifford Mayes, "Cultivating Spiritual Reflectivity in Teachers," *Teacher Education Quarterly* 28,2 (Spring 2001): 5-22, at p. 6; Patrick G. Love, "Spirituality and Student Development: Theoretical Connections," *New Directions for Student Services* 95 (Fall 2001): 7-16, at p. 8; Paul D. Houston, "Why Spirituality, and Why Now?," *School Administrator* 59,8 (2002): 6-8; Harro van Brummelen, Robert Koole and Kimberly Franklin, "Transcending the Commonplace: Spirituality in the Curriculum," *The Journal of Educational Thought* 38,3 (2004): 237-254, at p. 238. This distinction is most clearly articulated in the following title of an article by Elizabeth Debold, "Spiritual but not Religious," *What is Enlightenment Magazine* 31 (December 2005-February 2006): 105-110. Available at: [www.wie.org](http://www.wie.org). My thanks to David Landes for bringing these references to my attention. Most recently, see Amy Hollywood, "Spiritual but not Religious: The Vital Interplay between Submission and Freedom," *Harvard Divinity Bulletin* 38,1-2 (Winter/Spring 2010): 18-26. Available at: [http://www.hds.harvard.edu/news/bulletin\\_mag/articles/38-12/hollywood.html](http://www.hds.harvard.edu/news/bulletin_mag/articles/38-12/hollywood.html).

<sup>xxiii</sup> For this distinction, see Gregory Starrett, "The Hexis of Interpretation: Islam and the Body in the Egyptian Popular School," *American Ethnologist* 22,4 (1995): 953-969, at p. 958.

<sup>xxiv</sup> R. Aharon Lichtenstein, "Legitimization of Modernity: Classical and Contemporary," in Moshe Z. Sokol (ed.), *Engaging Modernity: Rabbinic Leaders and the Challenge of the Twentieth Century* (Northvale and Jerusalem: Jason Aronson Publishing, Inc., 1997), pp. 3-33, at p. 4.

## Enemies of the Synagogue?: Seeing Beyond the Symptom

BY: Ori Kanefsky

In this article, I would like to address two phenomena that take place in our synagogues: "Kiddush Clubs" and "talking during davening." I present these two phenomena not to evaluate them in and of themselves, but rather to examine some of the critical responses to each of them. Whether one agrees or disagrees with the conclusions of these reactions, I believe, they should be viewed as representative of a larger mode of critical response and of a wider trend, a trend that I find saddening and unfortunate.

The first phenomenon is that of "Kiddush Clubs." As summarized on Wikipedia, "Kiddush Club" is "a slang term applied wherever an informal group of people leave a synagogue's sanctuary during Jewish services on Shabbat (Saturday) morning to congregate, make kiddush (frequently over liquor) and socialize."<sup>1</sup> One can imagine that the rise of these groups has troubled many synagogue attendees and, especially, the leaders of those synagogues. After all, this practice seems to deliver a message of disinterest in the services and disregard for the sanctity of the synagogue.

**"If one were to exit a business meeting mid-way through to grab a beer, it would undoubtedly be taken as a gesture of utter disinterest and disrespect. If in the synagogue congregants are meant to be conversing with God, how could they walk out in the middle for something like this?"**

In fact, this is the message that Rabbi Dr. Tzvi Hersh Weinreb and the Orthodox Union perceived to be broadcasted by Kiddush Club participants. In December of 2004, R. Weinreb, then the Executive Vice President of the OU, published a letter entitled "Why Kiddush Clubs Must Go."<sup>2</sup> In this letter, he writes that "[t]he recent decision by the Board of Directors of the Orthodox Union to issue a statement calling for the elimination of so-called Kiddush Clubs for the Orthodox Jewish life in North America." For R. Weinreb, the existence of Kiddush Clubs poses two problems. The second of these areas is the problem of substance abuse in the Orthodox Jewish community, the argument being that Kiddush Clubs promote such abuse, especially among children who witness their parents engage in this kind of activity on a regular basis. This issue is a serious one and one with which I have no intention of contending in this article; if a straight line can be drawn from Kiddush Clubs to substance abuse, then by all means they must go. Instead, I am interested in studying the first of these "two problematic areas"

that Kiddush Clubs allegedly aggravate, namely, the nature of "the synagogue environment and the oft-bemoaned dearth of spirituality there."

R. Weinreb argues that "this phenomenon destroys kevod hatefillah (the dignity of the service)" and calls it a sign of "a callous disregard of the sanctity of the Shabbat service." Two issues are outlined: the lack of respect that leaving services demonstrates, as well as the fact that the departure of a group of people from the sanctuary disturbs the overall dignity of the service for everyone present. Presumably, the phenomenon of participants "often return[ing] to synagogue more than mildly intoxicated" also detracts from the dignity of the service.

R. Weinreb's argument is compelling. If one were to exit a business meeting mid-way through to grab a beer, it would undoubtedly be taken as a gesture of utter disinterest and disrespect. If in the synagogue congregants are meant to be conversing with God, how could they walk out in the middle for something like this? And so, R. Weinreb and many others conclude, Kiddush Clubs must go.

As I made clear at the outset, though, my

purpose here is not to evaluate the conclusion, but rather to study the nature of the reaction. In short, I am troubled by R. Weinreb's approach. To begin with, if one takes a closer look at the rhetoric of the letter, one notes that it seems to paint the Kiddush Club and its members as the enemy, lending it a tone of moderate anger. For example, the letter refers to the "exodus" of those who leave the synagogue and, as quoted above, laments the "callous disregard of the sanctity of the Shabbat service" (emphasis added). More pointedly, R. Weinreb employs strong language in characterizing his efforts. He writes, "We are fighting for kevod beit hakesset (the honor of our shuls). This is the first strike; there will be many more to come" (emphasis added). It is as though he imagines that those who attend Kiddush Clubs are the enemies of the synagogue.

To fight parts of your own constituency on a battlefield is to have failed as a leader. The shallowness of this kind of approach severely limits the value of the letter and the success of the campaign. There are some necessary steps missing from R. Weinreb's message. To begin with, there is no attempt at all to uncover the motivating factors behind the Kiddush Club in

the first place; no room is left for the possibility that there are real needs in the community that must be addressed, of which the Kiddush Club is just one manifestation. And there is certainly no suggestion of an alternative to the Kiddush Club that would constitute a more constructive expression of those underlying needs. Perhaps Kiddush Clubs should, in fact, be shut down, but I would have hoped for a more sensitive approach to the issue.

In fact, some other critics of the Kiddush Club have come to the very same conclusion, but at the same time have paid more attention to the root causes. R. Daniel Korobkin wrote such an article in the *Jewish Journal of Greater Los Angeles* shortly after the announcement of the OU campaign.<sup>iii</sup> On the one hand, he writes that “the whole purpose for congregating in the synagogue on Shabbat morning is to have

### “How long will it take for our leaders to learn the necessity of sensitive and sophisticated approaches to communal issues and to recognize the ineffectiveness of shoving rebuke down the community’s throat?”

some spiritual elevation on the holiest day of our week” and that Kiddush Clubs “detract from this spiritual elevation.” On the other hand, he recognizes that there must be some motivation for them other than a purely rebellious one: “But come now, what’s a congregation to do? Services are so long, and people are hungry because Orthodox Jews don’t eat before morning prayer [*sic*].” In his view, Kiddush Clubs are motivated by the challenges of hunger and a lengthy service. Therefore, he notes that if someone really must eat before services finish, there are halachic grounds allowing him to do so, and, he suggests, maybe American synagogues should borrow the model of synagogues in Israel that have a significantly shorter service.

Another writer, publishing his work on one of the blogs of *The Jewish Week*, takes a similar approach. In an article entitled “Cheers and Fears: The Debate Over Kiddush Clubs,” James Besser agrees with the position of the OU and concludes that “it’s hard to argue with critics of kiddush clubs.”<sup>iv</sup> At the same time, he recognizes “their attractive nature” and searches for an explanation of the phenomenon. He suggests that “any sociologist would see that their popularity is a result of the stress regularly endured by Orthodox men who, even with the increasing frequency of dual income homes, still bear primary responsibility for the costs associated with the religious life of large families.” He continues, “Most Orthodox Jews would not feel comfortable going to bars after hours to blow off steam. And so for many, the kiddush club becomes the place ‘where everyone knows your name.’” Besser offers another interesting analysis: Kiddush Clubs serve as a much-needed place for individuals to relax with friends.

Whether one agrees or disagrees with the particular analyses of R. Korobkin and Besser, I applaud their shared approach, one that rec-

ognizes the Kiddush Club as a symptom rather than a root cause and one that seeks to uncover the underlying issues. I particularly appreciate R. Korobkin’s article in that it not only seeks to discover the root cause, but actually proposes possible solutions that would confront the real issues here.

Allow me to turn now to the second phenomenon: talking during *davening*. In 1997, Dr. Irving Levitz wrote an article entitled “Talking During Tefillah: Understanding The Phenomenon.”<sup>v</sup> Levitz’s first premise is that talking during prayer is halachically problematic and prohibited. As he puts it, “Halachic literature is unequivocal in its universal condemnation of socializing during prayer.” He also notes that many sources not only prohibit socializing during prayer, but also are “exceptionally harsh and uncommonly criti-

cal” and suggest “grievous consequences.” For example, he cites the *Zohar* on *Parashat Terumah* 131a, which “compares the synagogue talker to a *kofer be-ikar* (infidel).”<sup>vi</sup>

Once again, I have no intention of challenging Levitz’s assumption, nor the halachic position on this issue. I simply would like to call attention to the way that Levitz addresses and analyzes the phenomenon and, in particular, to the conclusion that he reaches. Like R. Korobkin and Besser do when addressing Kiddush Clubs, Levitz searches for the underlying causes of this issue. He turns to several different areas of study for possible explanations. First, he looks for historical precedent as one potential cause. He notes that when the Talmud in *Sukkah* 51b describes the synagogue in Alexandria, it includes the detail that people would sit in groups according to their professions. He further points out that seating in many synagogues was also often organized by country of origin. He concludes that “these early synagogues were apparently formed not only for the purpose of prayer, but also to meet communal social needs as well.”<sup>vii</sup> He also cites the work of Jacob Minkin, who describes the Hasidic *shtibl* as an “informal physical arrangement, usually smaller, more spartan, spatially cramped, and furnished with tables and benches in place of formal pews, [which] tended to both encourage and enable easy social interaction.” In the *shtibl*, “intense prayer became interwoven with casual conversation, creating a combination of sacred fervor and social warmth.”<sup>viii</sup>

In addition to noting historical precedent, Levitz outlines a number of psychological motivating factors. First, he notes that talking during prayer may be particularly attractive to those who “harbor doubts about the efficacy of traditional prayer, or who are unable to connect with either its meaning or motifs.”<sup>ix</sup> Then, he notes that another powerful motivation is the

“social drive.” “In a time-pressured world, where opportunities for socializing with friends tend to be limited, the social component of synagogue life serves as a bulwark against alienation and isolation by providing communal affiliation, emotional support, and a social presence.”<sup>x</sup>

From here, he proceeds to describe two driving forces that he considers to be unconscious ones. The first is “a manifestation of unconscious anger. Coming to a sacred setting in order to socialize is for them [those people who talk during *davening*] an unconscious act of defiance connected to past hurtful experiences associated with religious life.”<sup>xi</sup> The second possible unconscious motivation, he suggests, is “a need to avoid the intense emotional investment required for authentic prayer.”<sup>xii</sup>

Some of these factors may be more relevant than others, depending on the individual. Each of them, though, deserves to be studied in depth and in its own right. Here, however, I am most concerned with the general fact that Levitz values the search for such factors in the first place and recognizes this to be the only way of treating a phenomenon like this one seriously.

Although this investigation of underlying causes represents a sophisticated approach and seems promising, Levitz’s conclusion is disappointing. After carefully analyzing each of these potential motivations, rather than turning to them as the foundations for possible answers to the problem, Levitz seems to cast them aside in favor of a very simple solution, which relies on the psychological principle of cognitive dissonance. Levitz argues that if congregants were to simply learn that Halakhah prohibits socializing during prayer, they would suffer from cognitive dissonance and abstain from speaking. His conclusion, therefore, is that rabbis should simply “teach the relevant halachot pertaining to synagogue deportment, raise community consciousness, and create the psychic discomfort necessary for change.”<sup>xiii</sup>

### “Both Kiddush Clubs and the phenomenon of talking during *davening* point to a communal need for social interaction and, more specifically, for the synagogue in particular to serve as the home and place for that social interaction.”

What happened to addressing all of those underlying issues? Does this conclusion in any way acknowledge the various motivational factors that Levitz identifies? In my estimation, it does not. It seems that Levitz’s interest in those factors was merely to understand the origins of the phenomenon, but not to incorporate them into a solution.

If one were to keep these various motivations in mind, one might be able to offer a whole range of answers that actually address the underlying issues. If, for example, talking during *davening* stems from an inability to connect to traditional prayer, rabbis and congregants together should run programs and workshops on prayer that would help build peoples’ connection to this ritual. These work-

shops might isolate and focus on specific parts of the liturgy and resurrect their significance for and relevance to the modern worshipper. They might also discuss and explore approaches to prayer in a more abstract manner and highlight the power and the beauty of *tefillah*. Indeed, for each of the potential motivations for talking during services that Levitz had proposed, a solution that actually targets the problem could be similarly proposed.

The responses to these two issues, especially the approaches of R. Weinreb and Dr. Levitz, represent a larger mode of reaction in the Orthodox community and a troubling trend. These two authors have taken part in a pattern in which our community leaders simply criticize and denounce, rather than sympathize and understand, in which they aim to undermine, rather than constructively repair. I imagine that many of us who have attended a yeshivah day school are very familiar with this pattern. I doubt that many of us would have any trouble at all conjuring up examples of times when rabbis would stand before their students and rattle off criticism after criticism of the latter’s behavior without making any attempt to understand any of the underlying issues. How long will it take for our leaders to learn the necessity of sensitive and sophisticated approaches to communal issues and to recognize the ineffectiveness of shoving rebuke down the community’s throat?

To return to the two issues at hand, I think that they share an underlying motivation, one that has been alluded to in different forms in the responses cited above but has not been given the attention that it deserves. Both Kiddush Clubs and the phenomenon of talking during *davening* point to a communal need for social interaction and, more specifically, for the synagogue in particular to serve as the home and place for that social interaction. In other words, if individuals who participate in these activities were merely interested in socializing, they could choose a more comfortable and

convenient venue, like a living room or a park. The decision to socialize in the synagogue of all places, in the central location of any Jewish religious community, reflects a certain desire to place that socializing in a religious context. In America, especially, it is often the synagogue that binds a Jewish community together, and if people turn to it, specifically, as a social center, then that demonstrates an attitude whereby people place religion at the center of their lives.

At the same time, such a reflection need not also be the conclusion to the question of what to do about these issues. There seems to be a strong case to be made that Kiddush Clubs and talking during prayers are poor manifestations of this social need. But they are just that:



## In Search of Liberty: An Important Interaction of Hazal's Values and Mankind's Unalienable Rights

BY: Chesky Kopel

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness."<sup>i</sup>

"...for the only person who is truly free (*"ben horin"*) is one who occupies himself with Torah study..."<sup>ii</sup>

Ever since the great changes of the Enlightenment, the concept of personal liberty has been a hallmark of progressive values. Despite its widespread attention, though, the term seems to defy exact definition. The interpretation of its purpose has been long debated, and in its various forms it features prominently in many expressions of political ideology, including the works of John Locke, John Stuart Mill, Isaiah Berlin and, perhaps most famously, the leaders and supporters of the American and French Revolutions. In the United States in particular, the right of personal liberty retains an almost sacred character.

The nation's revered *Declaration of Independence* regards Liberty (the glorified, capitalized form of the word often found in historical American documents) as one of the "unalienable Rights" guaranteed every individual. Its maintenance is, therefore, one of the primary responsibilities of governments, as well as a prerequisite for the derivation of their "just powers."<sup>iii</sup> The preamble to the United States Constitution, the "supreme law of the land,"<sup>iv</sup> asserts that one of the central motivations for the document's ordination was to "secure the Blessings of Liberty to ourselves and our Posterity."<sup>v</sup> The Bill of Rights attached to the Constitution protects every American's right to "life, liberty, and property,"<sup>vi</sup> of which he or she may never be deprived "without due process of law."<sup>vii</sup> Citizens of the United States pledge allegiance to the nation that is "indivisible, with liberty and justice for all."<sup>viii</sup> The nation's most treasured monuments include the Statue of Liberty in New York and the Liberty Bell in Philadelphia. These are among the primary symbols which characterize the "nation, conceived in Liberty."<sup>ix</sup>

As Jews, we commit ourselves to the laws, ideals, and lifestyle of the Torah, and as citizens and residents of the United States, we

have tremendous respect and appreciation for the ideals which this nation espouses. Such circumstances may, therefore, lead us to wonder what relevance, if any, the American right of personal liberty has in the values of the Torah. It appears that although the Torah in general, and many statements of Hazal in particular, utilize terms that seem similar to "liberty" or "freedom," the two expressions of values are ultimately not identical, and may even be quite different. According to at least one school of thought within Hazal, the Torah's value of *herut* demands hefty responsibilities and commitments of those who are said to possess it, and it is most certainly alienable.

From the words of the Declaration presented above it seems that the American concept of individual rights is founded upon the social contract theory of John Locke and some of his contemporary thinkers. Locke, in his magnum opus, *Two Treatises of Government*, posited that "no one ought to harm another in his life, health, liberty, or possessions."<sup>x</sup> This assertion is often paraphrased as the natural right to life, liberty, and property, and its protection forms the basis for the powers of government: Societies gather together and appoint a neutral judge who will uphold the basic rights of every individual. When a leader ignores these responsibilities, he or she forfeits the right to exercise power over the people, and the people are thereupon entitled to depose him or her. The text of the Declaration upholds all of these stipulations, referring to a government, formed by "the consent of the governed,"<sup>xi</sup> that is subject to alteration or abolition when it "becomes destructive of these ends."<sup>xii</sup> The sole difference appears to be that the American version of this theory trades the right of property for that of "the pursuit of Happiness."<sup>xiii</sup> That said, the U.S. Bill of Rights summarily gives legal force to these rights, albeit without explicit permission to rebel in the event of their violation.<sup>xiv</sup>

It remains necessary now to define "liberty." It seems that "liberty" colloquially means the right to be free, outside the grip of coercion and officially welcome to pursue whatever one chooses. Legally speaking, however, this definition says very little about which rights are protected and which are not. The task of interpreting and applying the various terms of the law is up to the Congress in its legislative function, and to the Courts of the United States in their function of review on the basis of constitutional law.<sup>xv</sup>

It is commonly understood that the forms of liberty which are protected, and which may therefore not be revoked without due process of law, include anything that fits into the assurances enumerated in the Bill of Rights. These are the freedoms of speech, press, assembly, petition, religion, freedom from unreasonable searches and seizures, involuntary servitude,

unlawful detention, forced quartering of troops, double jeopardy, self incrimination, eminent domain, cruel and unusual punishment, the rights to keep and bear arms, to maintain militia, to counsel, to reasonable bail and to a speedy and public trial by impartial jury, to be confronted by all witnesses against him or her, as well as other rights not specifically identified above.<sup>xvi</sup> A particularly broad statement of the scope of the rights came from the 1897 Supreme Court decision in *Allgeyer v. Louisiana* (which actually just interpreted the right of freedom from unlawful detention): an American citizen is "to be free in the enjoyment of all his faculties; to be free to use them in all lawful ways; to live and work where he will; to earn his living by any lawful calling; and to pursue any livelihood or vocation."<sup>xvii</sup> Basically, just about everything.

However, as the concept of "due process" indicates, there are situations in which the government may restrict personal liberty. More specifically, the Court's rulings indicate that all of the rights discussed above are predicated upon a concept commonly known as the "harm principle." This principle was a central doctrine in the philosophy of John Locke, John Stuart Mill and many other political thinkers, and was explained by Mill as follows: "The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others."<sup>xviii</sup> In other words, a person is only free to act in ways that will not hinder the freedom of other people, or otherwise harm them, such as by challenging their safety and security. As Supreme Court Justice Oliver Wendell Holmes, Jr. famously said, "The right to swing my fist ends where the other man's nose begins."<sup>xix</sup>

It therefore seems that the societal understanding of liberty and its legal definition in the law of the United States of America are quite similar. Everyone is and must be free to act in absolutely any way that does not harm or restrict anyone else.

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Each year on the eve of the *seder*, we engage in a dignified commemoration of the birth of the Jewish people, meant to affirm its existential purpose. Jews around the world defiantly declare: "*Avadim hayinu le-Par'oh be-Mitsrayim, va-yotsi'enu Hashem E-loheinu mi-sham...*" "We were slaves unto Pharaoh in Egypt, and Hashem, our God, took us out of there..."<sup>xx</sup> Throughout the Haggadah, a crucial emphasis is placed upon this very theme: We were once slaves in Egypt, and then God released us, displaying His boundless kindness through His powerful miracles, and now we are free. As the Haggadah nears its end, it reaches the following conclusion:

"Therefore, it is our duty to thank, praise, laud, glorify, aggrandize, extol, bless,

poor manifestations, or symptoms. And if these issues are to be addressed in a thoughtful manner, then the distinction between symptoms and underlying causes must be carefully observed. If a Kiddush Club disrupts, and undermines the sanctity of, the synagogue service, then some other social/de-stressing opportunity must be created to fill the vacuum left behind by its removal. Similarly, if people are talking during prayer, then one of the things that they are indicating is that they have a need to form a social community in a religious context. This need must not be sidelined by simply creating cognitive dissonance to force people to refrain from speaking during prayer, but must be met with constructive criticism and viable alternatives. These alternatives might include social events in the synagogue at more appropriate times, or maybe even some form of modified Kiddush Club, which would ensure that all participants would be of legal drinking age and would drink responsibly and that no children would be within observing range.

But the specifics are not my concern here: the choice and implementation of alternatives obviously must be developed by, and cater to, specific communities, with the particular needs of each community in mind. Rather than needlessly criticizing and attacking one another, leaders and congregations must work together to communicate respective needs and expectations, and to arrive at shared respect, understanding, and resolution.

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<sup>i</sup> "Kiddush Club," *Wikipedia: The Free Encyclopedia*, available at: [http://en.wikipedia.org/wiki/Kiddush\\_club](http://en.wikipedia.org/wiki/Kiddush_club).

<sup>ii</sup> Rabbi Dr. Tzvi Hersh Weinreb, "Why Kiddush Clubs Must Go," available at: <http://www.ou.org/other/5765/kiddushclub-srw65.htm>.

<sup>iii</sup> Rabbi N. Daniel Korobkin, "Herring and Haftarah," *The Jewish Journal of Greater Los Angeles*, February 10, 2005, available at: [http://www.jewishjournal.com/articles/item/herring\\_and\\_haftarah\\_20050211/](http://www.jewishjournal.com/articles/item/herring_and_haftarah_20050211/).

<sup>iv</sup> James Besser, "Cheers And Fears: The Debate Over Kiddush Clubs," *The Jewish Week Blogs*, July 8, 2009, available at: [http://www.thejewishweek.com/blogs/cheers\\_and\\_fears\\_debate\\_over\\_kiddush\\_clubs](http://www.thejewishweek.com/blogs/cheers_and_fears_debate_over_kiddush_clubs).

<sup>v</sup> Irving Levitz, "Talking During Tefillah: Understanding The Phenomenon," *Journal of Halacha and Contemporary Society* 33 (Spring 1997): 95-119.

<sup>vi</sup> *Ibid.*, p. 96.

<sup>vii</sup> *Ibid.*, pp. 100-101.

<sup>viii</sup> *Ibid.*, p. 101.

<sup>ix</sup> *Ibid.*, p. 109.

<sup>x</sup> *Ibid.*, p. 110.

<sup>xi</sup> *Ibid.*, p. 111.

<sup>xii</sup> *Ibid.*

<sup>xiii</sup> *Ibid.*, p. 118.

exalt, and acclaim the One who performed all of these miracles for our ancestors and for us. He has brought us from slavery to freedom, from anguish to joy, from mourning to festivity, from darkness to great light, and from servitude to redemption. Let us say before Him a new song, Praise Hashem!<sup>xxxix</sup>

The phrase “from slavery to freedom” (*me-avdut le-herut*), which also forms a central theme in the prayers and praises of *Birkat ha-Hodesh* (The Blessing of the New Month), has a very memorable quality that speaks directly to our nation’s socio-political sensibilities. In reality, however, the exact definition of this term “*herut*” is quite unclear in any one instance. In Tanakh, the root appears just once, in the book of *Kohelet*:

“Alas for you, O land whose king is a lackey (*na’ar*) and whose ministers dine in the morning! Happy are you, O land whose king is a master (*ben horim*) and whose ministers dine at the proper time - with restraint, not with guzzling.”<sup>xxii</sup>

Here, the term “*ben horim*,” which means “those who possess *herut*,” is contrasted with the derogatory description of “*na’ar*,” and seems to describe a responsible, mature person, as opposed to a “guzzling,” reckless youth. Hazal, however, both in the instances referenced above, as well as in many other statements throughout Talmud, use *herut* as an

### “*Herut* is an ideal of commitment, and a man who has no liberty to choose has no means of commitment.”

antonym for *avdut*, slavery. For example, both one who is not an *eved Kena’ani* (Canaanite slave)<sup>xxiii</sup> as well as land which is not encumbered by a lien (the Hebrew term for which is “*shi’bud*,” from the same root as “*avdut*”)<sup>xxiv</sup> are described as “*benei horin*,”<sup>xxv</sup> which also translates to “those who possess *herut*.” This emphasis in the distinctive terminology of Hazal might be intended to teach an important lesson regarding the way that the saintly sages viewed the state of slavery: The restrictions of *avdut* are those that undermine a person’s dignity and self-control; freedom from such detention not only ensures basic human rights but also restores the stature of man.

The emphasis on freedom’s capacity to affect human character implies that it demands some commitment on the part of the free man himself. One who is “free in the enjoyment of all his faculties”<sup>xxvi</sup> is not necessarily dignified. The stature of *herut* is only achieved by one who properly utilizes his faculties and his rights to accomplish goals that are beyond the capabilities of one who is enslaved. He is said to embody his freedom only if he actively demonstrates the presence of its blessings. In the Jewish system of beliefs, we are bound to a manual of explicit directives whose study and involvement retain inherent sacred value. By occupying oneself with Torah study a Jew

achieves true *herut*, but without such occupation, as R. Yehoshua ben Levi famously declares in *Pirkei Avot*, he fails to actualize his potential for freedom in this world.<sup>xxvii</sup>

Given this background, it appears that the freedom that we celebrate each year on Pesah is not congruent with the political liberty guaranteed us as citizens of the United States. Rather, according to the Torah, we end up as slaves nonetheless to the Supreme Master of men, and this enslavement was actually the objective of our national redemption. As the Redeemer Himself declared, “For it is to Me that the Israelites are servants (*avadim*): they are My servants, whom I freed from the land of Egypt, I the Lord your God.”<sup>xxviii</sup> The Haggadah adds, “At first our ancestors were idolaters, but now *ha-Makom* has brought us close to His worship (*la-avodato*).”<sup>xxix</sup> The very same term, “*avadim*,” which we use in the Haggadah to describe our plight in Egypt, is applied to us in the context of our ideal redemption. We were freed from the *avdut* of Pharaoh only to commit ourselves faithfully to the *avdut* of Hashem, which is encapsulated in the guidelines of the Torah which we were to receive shortly thereafter. This goal forms the apex of our celebration of freedom from Egypt in particular, and of our experience as religious Jews in general. This is what we have in mind every *seder* as we lean like kings, drinking the four cups of wine meant partly to fulfill an obligation of expressing *herut*.<sup>xxx</sup> It is also for this reason that God assured Moses, as He entrusted him with the mission of leading the nation out of Egypt, that after the redemption would be completed, we would “worship (*ta’avdun*) God at this mountain.”<sup>xxxi</sup> The freed tribes of Israel did indeed later merit standing before that mountain, Mount Sinai, to receive the Torah and to enter into the glorious “covenant of destiny”<sup>xxxii</sup> with God Himself. At this point, God revealed Himself to the entire nation as the One “who brought you out of the land of Egypt, the house of bondage (*beit avadim*).”<sup>xxxiii</sup> It appears that the freedom from earthly *avdut* is expressed solely through voluntary dedication to a higher *avdut*.

I would therefore like to conclude that the protected “liberty” of the United States may be similar to the potential to attain *herut*, but certainly not to *herut* itself. *Herut* is an ideal of commitment, and a man who has no liberty to choose has no means of commitment.

Since we, as Jews, initially committed ourselves to the Torah and its obligations, (and Gentiles committed themselves to just the Seven Noahide Laws), our liberties are no longer all guaranteed and protected; instead, many are sacrificed for the sake of *herut*. Jews are obligated to forfeit liberty and property for the observance of many of the 613 commandments (365 of which are explicit restrictions on our rights to engage in particular activities), and even to forfeit life for the sake of the sanctification of God’s name, when the most central commandments are threatened. Gone from our world are the rights of speech, freedom from involuntary servitude, and, most clearly, freedom of religion.

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For the sake of precision, it is important to note that just because one major term in the Torah is not equivalent to liberty as we know it, there may be others that are, at least in some sense of the word. One of the most famous distinctions drawn between different forms of liberty is that which renowned philosopher and historian Sir Isaiah Berlin outlined in his essay, “Two Concepts of Liberty.”<sup>xxxiv</sup> There, he demonstrated that “liberty” can refer to one of two main constructs: “negative liberty” describes an existence free from coercion, whereas “positive liberty” represents a person’s capability to fulfill his or her will and potential.<sup>xxxv</sup> This distinction is quite significant, because while Berlin’s positive liberty may very well be a value and a sought-after goal in American culture, there is certainly no protection accorded to it in the Constitution.

In his commentary on R. Yehoshua ben Levi’s statement referenced above from *Pirkei Avot* 6:2, Chief Rabbi Lord Jonathan Sacks draws what appears to be a similar distinction: “Hebrew distinguishes between two kinds of freedom, *hofesh* and *herut*. *Hofesh* is negative liberty, the absence of coercion, while *herut* is positive liberty, the freedom that honors the freedom of others. Positive freedom requires habits of self-restraint; hence it belongs only to those who have internalized the teachings of Torah.”<sup>xxxvi</sup>

R. Sacks here seems to borrow the renowned terminology of Sir Berlin, but, perhaps quite intentionally, does not provide the exact understanding of the distinction. His “positive liberty” honors the ideals of communal and social responsibility, and not those of self-actualization. Hazal saw our commitment to the Torah and its values as a sort of crystallization of the freedoms with which we are blessed, into the more perfect state of an interpersonally-driven positive liberty. R. Sacks’ understanding of *herut* and its need for “self-restraint” closely parallel the view of the term as an achievement of dignity as presented above.

I would like to modestly raise two small objections to his words though. Firstly, I understand that the commitment being addressed constitutes more than just “honoring the freedom of others,” even though this lofty goal is absolutely a central value in the total scope of the Torah’s demands. In what sense do the obligations regarding the purification of a *met-sora* (individual affected by leprosy)<sup>xxxvii</sup> or the destruction of an *ir ha-niddahat* (apostate city)<sup>xxxviii</sup> honor the freedom of others? Additionally, the Bible translations of Onkelos, Yonatan, and *Metsudat Tsiyyon* consistently interpret the term “*hofshi*” as “*bar horin*,” seemingly equating the two words between which R. Sacks distinguished.<sup>xxxix</sup> Nonetheless, the force of his words remains the same, for we as Jews are not granted unlimited freedom but are rather bound to an imperative of *herut*. The existence of negative liberty as a value in Judaism and even as a focal point of the celebration of Pesah does not change the scope of commitment demanded from every Jew and, on a certain level, from every individual.

It should also be noted that multiple opin-

ions may have existed among Hazal regarding how exactly to define *herut*, and it may have also been used to refer to different meanings in different contexts. One notable example that points to at least one of these conclusions is the following statement in *Pirkei Avot*: “[R. Tarfon] used to say: It is not for you to complete the task, but neither are you free (*ben horin*) to stand aside from it.”<sup>xli</sup> Here the term seems to indicate complete freedom from responsibility, more similar to the Chief Rabbi’s understanding of *hofesh* and the above presentation of liberty.<sup>xlii</sup> This essay therefore relates only to the approach to *herut* presented by R. Yehoshua ben Levi in the later Mishnah in *Avot* and not to the view of R. Tarfon.<sup>xliii</sup>

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It seems that both liberty and *herut* are so integral to their respective value systems and so vast in the possible scope of their meanings that any attempt to fully describe either will ultimately fall short. The extent of the rights protected by liberty remains under constant debate in American politics and society, especially since September 11, 2001, when many Americans began to support the sacrifice of certain elements of liberty for the sake of security. Similarly, *herut* is just too important and crucial in the world of Hazal for it to settle into any one description. The last two thousand years have seen Jews from many generations who present extremely different minds and perspectives to their appreciation of the values of the Torah, and *herut* is no exception to this process. Still, the view presented above raises a powerful, existential contrast between these two differing conceptions of personal liberty. According to R. Yehoshua ben Levi, *herut* is and demands something higher than basic liberty. It is indeed alienable, but the threat of alienation stems mainly from within the *ben horin* himself.

“*Ha-Shatta avdei; le-shanah ha-ba’ah benei horin*.” “Now we are slaves; next year we will be freemen.”<sup>xliiii</sup>

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<sup>i</sup> Thomas Jefferson (primarily), “The Unanimous Declaration of the Thirteen United States of America” (Philadelphia, 1776). Available at: <http://www.ushistory.org>.

<sup>ii</sup> *Avot* 6:2, translated by Chief Rabbi Lord Jonathan Sacks in *The Koren Siddur* (Jerusalem: Koren Publishers, 2009), pp. 676-677.

<sup>iii</sup> Jefferson, *ibid*.

<sup>iv</sup> The Constitutional Congress, “The Constitution of the United States,” Article VI (Philadelphia, 1787). Available at: <http://www.usconstitution.net>.

<sup>v</sup> *Ibid.*, Preamble.

<sup>vi</sup> *Ibid.*, Amendments V and XIV. The former instance applies only to federal law, and the latter extends the clause to state law. The “Bill of Rights” consists of the first ten amendments to the Constitution.

<sup>vii</sup> *Ibid.*, Amendment V.

<sup>viii</sup> Francis Bellamy, “The Pledge of Allegiance.” Originally published in *The Youth’s*



*Companion* (Boston, MA: Perry Mason & Co., 1892), then altered by the U.S. Congress in 1923 and in 1954. Available at: <http://old-timeislands.org/pledge/pledge.htm>.

<sup>ix</sup> Abraham Lincoln, “The Gettysburg Address,” delivered in Gettysburg, Pennsylvania, on November 19, 1863. Available at: <http://showcase.netins.net/web/creative/lincoln.html>.

<sup>x</sup> John Locke, “Of the State of Nature,” *Two Treatises of Government*, ed. Thomas Hollis (London: A Millar et al., 1764), p. §6. Available at: <http://oll.libertyfund.org>.

<sup>xi</sup> Jefferson, *ibid.*

<sup>xii</sup> *Ibid.*

<sup>xiii</sup> Founding Fathers Benjamin Franklin and Thomas Jefferson decided to downplay the protection of personal property in American law. See Benjamin Franklin, *Completed Autobiography*, ed. Harry Johnson (Washington D.C.: Regnery Publishing, 2006), p. 413. [Citation provided by Wikipedia entry: “Life, liberty, and the pursuit of happiness.”]

<sup>xiv</sup> The Bill’s closest parallel to this concept is Amendment II, which guarantees the following: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.”

<sup>xv</sup> See “Constitution,” Articles I and III.

<sup>xvi</sup> See *ibid.*, Amendments I through IX.

<sup>xvii</sup> U.S. Supreme Court Associate Justice Rufus Peckham, *Allgeyer v. Louisiana*, 165 U.S. 578, 17 S. Ct. 427, 41 L. Ed. 832 [1897]. See “Liberty,” *West’s Encyclopedia of American Law*, 2<sup>nd</sup> ed. (Farmington Hills, MI: The Gale Group, Inc., 2008).

<sup>xviii</sup> John Stuart Mill, *On Liberty* (Oxford: Oxford University Press, 1998 [originally published 1859]), pp. 21-22.

<sup>xix</sup> Found at: <http://thinkexist.com>.

<sup>xx</sup> *Haggadah shel Pesah*, translated by Yisrael Isser Zvi Herczeg in the *Abarbanel Haggadah* (Brooklyn: Mesorah Publications, Ltd., 1990), *Maggid* Section, pp. 32-33.

<sup>xxi</sup> *Ibid.*, pp. 100-101. See also Ma’ariv prayer, the blessing entitled, “*Ve-Emunah*”: “...and [God] brought out His people Israel from [Egypt’s] midst into everlasting freedom (*herut olam*)...” Translated by Chief Rabbi Sacks for *The Koren Siddur* (above, n. 2).

<sup>xxii</sup> *Kohelet* 10:16-17; translation from the JPS 1999 Tanakh.

<sup>xxiii</sup> For instance, see Mishnah, *Pesahim* 8:1; Mishnah, *Gittin* 4:4; *Mekhilta de-Rabbi Shimon Bar Yohai* 28:28.

<sup>xxiv</sup> For instance, see Mishnah, *Ketubbot* 12:2; Mishnah, *Gittin* 5:2; Talmud Bavli, *Bava Batra* 176a.

<sup>xxv</sup> One important exception to this trend is the statement of R. Akiva in Mishnah, *Bava Kamma* 8:6: “Even the poor in Israel have to be considered as if they are freemen (*benei horin*) reduced in circumstances, for in fact they all are the descendants of Abraham, Isaac, and Jacob” [translated by Rabbi Dr. E. W. Kirzner for the *Soncino Hebrew-English Edition of the Babylonian Talmud* (London: The Soncino Press, 1990)]. In this case, the term is contrasted with “poor” and therefore seems to maintain its biblical definition, meaning “dignity” or “royalty.”

<sup>xxvi</sup> Justice Rufus Peckham, *ibid.*

<sup>xxvii</sup> See n. 2. The Mishnah there derives this concept from exegesis of a phrase used in Exodus 32:16, “*harut al ha-luhot*” – “incised upon the tablets” (JPS translation). The word “*harut*” here is meant to represent the similar-sounding word “*herut*.” Hazal thus conclude that the ultimate *herut* is attained within the Tablets of Torah law themselves and is expressed through personal dedication to the Torah. For more analysis of this mishnaic imagery, and a different approach to the significance of *herut* in Hazal’s values in general, see R. Moshe Taragin, “*Zeman Cherutenu*: Reflections of a *Metzaveh Ve-oseh*,” The Israel Koschitzky Virtual Beit Midrash of Yeshivat Har Etzion, 1997. Available at: <http://www.vbm-torah.org>.

<sup>xxviii</sup> *Va-Yikra* 25:55.

<sup>xxix</sup> *Haggadah shel Pesah*, pp. 50-51.

<sup>xxx</sup> See *Pesahim* 108b.

<sup>xxxi</sup> *Shemot* 3:12.

<sup>xxxii</sup> See R. Joseph B. Soleveitchik, “*Kol Dodi Dofek*,” in *idem, Ish ha-Emunah* (Jerusalem: Mossad Harav Kook, 2006), pp. 92-94.

<sup>xxxiii</sup> *Shemot* 20:2; *Devarim* 5:6. The connection between the departure from slavery in Egypt and the reception of the Torah at Mount Sinai is a central theme in countless works of Jewish thought, from many different generations. For example, see R. Soloveitchik, pp. 86-99; R. Samson Raphael Hirsch, *Horev*, translated from the German by R. Yitzhak Friedman (Nanuet, NY: Feldheim Publishers, 2007); *Zohar* 83:1, s.v. “*Lekh*.”

<sup>xxxiv</sup> The essay was delivered on October 31, 1958 as Berlin’s inaugural lecture as Chichele Professor of Social and Political Theory at the University of Oxford. Isaiah Berlin, *Four Essays on Liberty* (Oxford: Oxford University Press, 1969).

<sup>xxxv</sup> See *ibid.*

<sup>xxxvi</sup> Chief Rabbi Sacks in *The Koren Siddur*, pp. 676, 679.

<sup>xxxvii</sup> See *Va-Yikra* 13-14; Mishnah, *Nega'im* 14; Talmud Bavli, *Yoma* 41b. The ailment which afflicts the *metsora* is not necessarily the same as leprosy, but this issue is beyond the scope of this essay.

<sup>xxxviii</sup> See, for instance, *Devarim* 13:13-18; Mishnah, *Sanhedrin* 10:4-6; Talmud Bavli, *Sanhedrin* 111b.

<sup>xxxix</sup> See, for instance, the commentaries of Onkelos and Yonatan to *Shemot* 21 and *Devarim* 15; *Metsudat Tsiyyon* to *Shemu'el* 1:17 and *Iyyov* 3:19. Onkelos and Yonatan are traditionally attributed to people who lived in the time of the Tanna'im.

<sup>xl</sup> *Avot* 2:16 (2:21 in some editions); translation by Chief Rabbi Sacks for *The Koren Siddur*.

<sup>xli</sup> See the commentaries of Bartenura and Rabbeinu Yonah on this statement.

<sup>xlii</sup> It should be noted that R. Tarfon was a Tanna and R. Yehoshua ben Levi an Amora (although statements of his appear in our compilation of the Mishnah, both here and in *Uktsin* 3:12), and it is therefore possible that the generational gap between the two sages was relevant to their difference in opinion about the concept.

<sup>xliii</sup> *Haggadah shel Pesah*, pp. 26-27.

## Confidentiality in American Law and Halakhah

BY: Chaya Citrin

The issue of confidentiality in American law and in Halakhah brings to the forefront a seeming clash between the freedom of religious expression and the simultaneous obligation to follow all American laws. This clash is largely reconcilable, however, since in most instances, an observer of Halakhah can adhere to this country’s laws governing confidentiality. This article surveys the basic concept of confidentiality as defined by both the American legal system and Halakhah. The survey takes into account issues such as freedom of speech, defamation, and professional confidentiality. This article then focuses on the application of these concepts to professional relationships that are subject to confidentiality, such as the physician-patient and clergy-penitent. This analysis illuminates similarities that the legal systems share regarding the divulging of confidences. At the same time, it brings to light fundamental differences that exist between the two systems in regard to spreading true, negative information and in regard to professional confidentiality.

The issue of confidentiality in Halakhah is founded upon a number of Torah laws. The *Sefer Mitsvot Gadol (Semag)*, in its count of prohibitions, lists *lashon ha-ra* (gossip), *rekhilut* (tale-bearing), and *motsi shem ra* (defamation) together as one prohibition.<sup>i</sup> Rambam,<sup>ii</sup> however, distinguishes between the three and lists them as individual prohibitions.<sup>iii</sup> He asserts that *lashon ha-ra* consists of sharing true negative information about a person for no purpose, and *rekhilut* constitutes reporting back to a person the gossip that has been spoken about him or her. *Motsi shem ra*, on the other hand, is the relating of false, negative information about a person. The Hafets Hayyim develops the idea that the prohibition against *lashon ha-ra*, of divulging true negative information, is suspended in circumstances in which a constructive purpose (*to'elet*) may be served and in which the requirements of *to'elet*<sup>iv</sup> are met.<sup>v</sup>

In addition to the above three Torah prohibitions against derogatory speech, there exist two more prohibitions that are relevant to the issue of confidentiality in Halakhah. First, the Talmud<sup>vi</sup> discusses the prohibition against repeating information to others unless one has been expressly given permission to do so. The Talmud cites the verse, “God spoke to him from the tent of meeting, saying (*lemor*)”<sup>vii</sup> as a source for this principle. Rashi explains the Talmud’s statement to mean that the verse’s final word “*lemor*” is a contraction of the words “*lo emor*,” which mean “do not tell.” The contraction of the two words implies that one should not repeat information

unless one is given permission to do so.<sup>viii</sup>

The practical application of this Talmudic passage is a matter of disagreement amongst post-Talmudic authorities. *Magen Avraham*<sup>ix</sup> quotes this Talmudic passage as *halakhah le-ma'aseh* (practical law) in the list of ethical laws that it adds on to *Shulhan Arukh*’s limited discussion of *Hilkhot Massa u-Mattan* (business laws). However, other opinions hold that this Talmudic passage refers to a preferred behavior – not to a halakhic requirement. Still others believe that this ruling is a halakhic mandate, in accordance with *Magen Avraham*, but that it only refers to information that is related quietly or in a private place, i.e., in circumstances that imply an expectation of confidentiality; this condition is inferred from the fact that the proof text refers to God speaking privately to Moshe in the *Mishkan* (tabernacle). Therefore, if one is told information in circumstances that do not entail confidentiality, one may share the information even without express permission, unless the information is of the sort that an ordinary person would want kept private.<sup>x</sup>

The final prohibition to play a role in determining the halakhot of confidentiality is the mitsvah of “*lo ta'amod al dam re'ekha*,” “do not stand by while your brother’s blood is being shed.”<sup>xi</sup> According to Rambam,<sup>xii</sup> this verse obligates one to save others not only from physical injury, but from monetary harm as well. Due to this mitsvah, one is obligated to relate information that may protect another person from possible harm.<sup>xiii</sup>

After considering the relevant halakhic sources concerning confidentiality, a survey of confidentiality in American law begins with the First Amendment’s protection of freedom of speech. The First Amendment does not protect defamatory speech, however. To constitute defamation, a statement “must be communicated to someone other than the plaintiff, it must be false, and it must tend to harm the plaintiff’s reputation and to lower him in the estimation of the community.” True statements, no matter how disparaging, are not grounds for a defamation suit.<sup>xiv</sup> When deciding the outcome of a defamation suit, courts must make sure “that the judgment does not constitute a forbidden intrusion on the field of free expression” that is protected by the First Amendment.<sup>xv</sup> Some statements, such as accusations of dishonesty, are “slandorous per se” and therefore are justification for a lawsuit even if the statements did not cause the plaintiff any damage.<sup>xvi</sup> For example, in *Anderson v. Kammeier*,<sup>xvii</sup> Anderson was awarded \$1,000 in punitive damages despite the fact that Kammeier’s slander did not cause him any financial harm. The court ruled in favor of Anderson since Kammeier’s state-

ments that Anderson “should not be trusted” and that he would “stab anyone in the back” were considered slanderous per se.

A fundamental difference exists between American law and Halakhah regarding publicizing true, negative information. By definition, *lashon ha-ra* and *rekhilus* consist of true, negative information. The First Amendment, in its protection of free expression, effectively defends one’s right to speak *lashon ha-ra* and *rekhilus*. Both legal systems, however, do not allow for the spreading of false, negative information about others, i.e., defamation, or *motsi shem ra*. According to the Hafets Hayyim, the Talmud’s prohibition against sharing information when one has not received express permission to do so applies only in circumstances that give rise to an expectation of confidentiality. Similarly, American law protects information that is divulged in the context of confidential relationships, as will be seen regarding professional-client and clergy-penitent relationships.

Both American law and Halakhah recognize exceptional situations in which the protections against certain forms of derogatory speech do not pertain. Under American law, some individuals, such as well-known criminals, are considered libel-proof; their character has already been tarnished so severely that defamatory statements cannot further damage their reputations.<sup>xviii</sup> Similarly, Halakhah permits one to speak *lashon ha-ra* about an *appikoros* (heretic) and a “known transgressor.”<sup>xix</sup>

Although both legal systems allow some laxity regarding speaking about persons of ill repute, the respective dispensations are quite dissimilar. American law does not recognize defamation – the spreading of *false*, negative information – as injurious to persons who are libel-proof. Jewish law, however, only permits the spreading of *true*, negative information about an established *appikoros* or transgressor, and does not allow for defamation, *motsi shem ra*, even against such individuals. Additionally, the two legal systems have very different reasons for being less stringent in this regard. American law recognizes certain individuals as libel-proof due to the difficulty in causing further damage to their already tainted reputations. Jewish law, however, permits one to speak negatively about a known transgressor for the purpose of dissuading others from following his or her example. The concern motivating the Halakhah in this case is basically that of *to’elet*.<sup>xx</sup>

## “The First Amendment, in its protection of free expression, effectively defends one’s right to speak *lashon ha-ra* and *rekhilus*.”

American law is especially concerned with the protection of information shared within the professional-client relationship. In the article “Rabbinic Confidentiality: Ameri-

can Law and Jewish Law,” professor of law R. Alan Sokobin explains that “[t]he question of confidentiality between a professional and a client is one that has bedeviled the legal system and is not one that has absolute boundaries.”<sup>xxi</sup> Most breach of confidentiality lawsuits have taken place between physicians and patients, but the principles that are relevant to physician-patient confidentiality are “equivalent” regarding all professional confidential relationships.<sup>xxii</sup> Breach of confidentiality is relevant in regard to professional relationships, because such relationships give rise to expectations of confidentiality. Similarly, in Jewish law, confidentiality is binding in circumstances in which the expectation of confidentiality exists. However, in Jewish law, the expectation of confidentiality is not limited to professional relationships; any private circumstances, even between laypersons, can create an obligation of confidentiality.<sup>xxiii</sup>

## “Although differences exist between the American and Jewish legal systems regarding confidentiality, for the most part, these differences do not create irreconcilable challenges for American Jews intent on adhering to both American and Jewish law.”

When, however, does American law allow a professional to breach his or her client’s trust and disclose confidential information? The lawsuit of *Tarasoff v. Regents of the University of California*<sup>xxiv</sup> dealt with this issue. The case involved a wrongful death complaint filed against a psychologist who did not divulge a patient’s revelation that he planned to kill a woman who had turned down his romantic advances. The patient killed the woman, and her parents filed a complaint against the patient’s psychologist. The trial court rejected the wrongful death complaint due to a California statute.<sup>xxv</sup> The California Supreme Court, however, held in favor of the victim’s parents, stating: “We recognize [...] the consequent public importance of safeguarding the confidential character of psychotherapeutic communication. Against this interest, however, we must weigh the public interest in safety from violent assault.”<sup>xxvi</sup> The California Supreme Court ruled that the upholding of public safety is reasonable grounds for breach of professional confidentiality.<sup>xxvii</sup>

The *Tarasoff* ruling became precedent for later breach of confidentiality lawsuits. In *Bellah v. Greenson*,<sup>xxviii</sup> parents filed a wrong-

ful death claim against their daughter’s psychiatrist. Although the psychiatrist had been aware of the patient’s suicidal disposition, he did not inform her parents of it nor did he pre-

vent the patient from taking a deadly overdose of pills. The court of appeals ruled in favor of the psychiatrist, employing a “narrow” interpretation of *Tarasoff* that disclosure of confidential information is only required in the case of potential harm to a third party. It did not establish the obligation of such disclosure in the case of potential personal harm or suicide.<sup>xxix</sup> Similarly, the California Supreme Court ruled in *Nally v. Grace Community Church of the Valley*<sup>xxx</sup> that church counselors were not liable for failing to prevent the plaintiffs’ son’s suicide since an obligation to divulge confidential information only exists when a third-party may be harmed.<sup>xxxi</sup> In contrast, Jewish law would likely obligate one to disclose confidential information in order to prevent suicide or self-harm since suicide is prohibited by a Torah verse.<sup>xxxii</sup> Preventing suicide or self-harm is a fulfillment of the mitzvah of “*lo ta’amod*.”

American law and Halakhah especially come into interaction in regard to rabbinic confidentiality. Information that is shared with one’s rabbi is considered confidential under the clergy-penitent privilege. The purpose of the privilege is “to prevent a clergyman from being compelled to testify in a legal proceeding about the matters confided in him by the penitent.”<sup>xxxiii</sup> The privilege was introduced in New York State in the early 19<sup>th</sup> century. All fifty states plus the District of Columbia have similar statutes on the books that protect information that is disclosed within the context of a clergy-penitent relationship.<sup>xxxiv</sup>

Originally, the privilege was introduced to protect the confidentiality of confessions made by penitents to Catholic priests; now, the privilege applies to clergy of all faiths. This law assumes that members of the clergy are required by their respective religions not to reveal information told to them in confidence by “penitents.” This assumption is true of Halakhah in general, but it is not necessarily compatible with situations in which Halakhah obligates rabbis to divulge confidential information due to the duty of “*lo ta’amod*.” The First Amendment safeguards one’s right to the “free exercise of religion,” but this protection may not extend to protect clergy who divulge confidential information due to a religious obligation to do so.<sup>xxxv</sup>

Although differences exist between the American and Jewish legal systems regarding confidentiality, for the most part, these differences do not create irreconcilable challenges for American Jews intent on adhering to both American and Jewish law. Jewish law views

all negative, true information as confidential, unless revealing it can cause benefit. American law, however, regards negative, true information as non-confidential and permits the sharing of such information. In this sense, Jewish law is stricter regarding the divulging of information. In a different way, American law is stricter regarding the divulging of confidences in that it places protections on professional relationships, while Jewish law does not do so. Furthermore, American law allows for fewer exemptions for breaching confidentiality than Jewish law does. A study of confidentiality in American and Jewish law reveals both similarities and differences between the two as well as the possibility of generally adhering to both systems’ requirements.<sup>xxxvi</sup>

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<sup>i</sup> *Sefer Mitsvot Gadol, Mitsvot Lo Ta’aseh* 9.

<sup>ii</sup> Rambam, *Mishneh Torah, Hilkhhot De’ot* 7:1-7.

<sup>iii</sup> Michael Broyde, Nathan Diament, and Yona Reiss, “Confidentiality and Rabbinic Counseling – An Overview of Halakhic and Legal Issues,” April 21, 2009. Available at: <http://www.jlaw.com/Articles/RabbinicCounseling1.html>, p. 2.

<sup>iv</sup> The following are the seven criteria of *to’elet* as presented by the *Hafets Hayyim* 1) one must know the information first hand; 2) one must be absolutely certain that the information is true; 3) the action in question must first reprove the offender; only if he or she does not reform his or her actions after being rebuked is one permitted to tell others; 4) one may not exaggerate at all; 5) one’s intentions must be to benefit (i.e. to prevent harm from) another person by relating the derogatory information; it is forbidden to gain satisfaction from speaking against another person or to speak against someone if one is motivated by personal animosity; 6) one may only divulge information if other means are unavailable; before resorting to derogatory information, one should try to employ a different method to bring about the positive results that one intends to cause; 7) one may not divulge the information if doing so will cause the offender to suffer greater harm than Halakhah permits. See R. Zelig Pliskin, *Guard Your Tongue: Adapted from Chofetz Chaim* (New York: Moriah Offset, 1975), pp. 116-118.

<sup>v</sup> Broyde, et al., p. 2.

<sup>vi</sup> *Yoma* 4b, with Rashi’s commentary.

<sup>vii</sup> Leviticus 1:1.

<sup>viii</sup> This is assuming that the prohibition of *lashon ha-ra* is distinct from the dictum presented in this passage. Several commentaries, such as *She’iltot* 28, challenge this assertion.

<sup>ix</sup> *Magen Avraham to Shulhan Arukh, Orach Hayyim, siman* 156.

<sup>x</sup> *Hafets Hayyim, Hilkhhot Lashon ha-Ra,*



Be'er Mayyim Hayyim 2:27.

<sup>xi</sup> Leviticus 19:16.

<sup>xii</sup> *Sefer ha-Mitsvot, Mitsvot Lo Ta'aseh* 297.

<sup>xiii</sup> Broyde, et al., p. 2.

<sup>xiv</sup> *Stuempges v. Parke, Davis & Co.*, 297 N.W.2d 252, 255 (Minn. 1980), citing the Restatement (Second) of Torts §§ 558-559 (1977); William L. Prosser, *Handbook of the Law of Torts*, 4<sup>th</sup> ed. (St. Paul: West Publishing Co., 1971), § 111 at 739.

<sup>xv</sup> *Stuempges*, *ibid.*

<sup>xvi</sup> *Buckley v. Little*, 394 F. Supp. 918 (S.D.N.Y.1975).

<sup>xvii</sup> *Church of Scientology of Minnesota v. Minnesota State Medical Association Foundation*, 264 NW2d 152, 156 (Minn. 1978).

<sup>xviii</sup> *Anderson v. Kammeier*, 262 N.W.2d 366, 372 (Minn. 1977).

<sup>xix</sup> *Cardillo v. Doubleday & Co., Inc.*, 518 F.2d 638, 639 (2d Cir. 1975).

<sup>xx</sup> Pliskin, pp. 100-01.

<sup>xxi</sup> This is how it is presented in *Hafets Hayyim, Hilkhos Shemirat ha-Lashon*, ch. 10, although other commentaries accept this ruling without ascribing to the principle of *to'elet*.

<sup>xxii</sup> Alan M. Sokobin, "Rabbinic Confidentiality: American Law and Jewish Law," *University of Toledo Law Review* 38 (2007): 1179-1197, at p. 1181.

<sup>xxiii</sup> *Ibid.*

<sup>xxiv</sup> Although the Talmud does not state this explicitly, as there is no indication that the Talmud's obligation to maintain confidentiality is limited to professional contexts, it can be assumed that the obligation is universal.

<sup>xxv</sup> *Tarasoff v. Regents of the University of California*, 17 Cal. 3d 425, 551, P.2d 334, 131 Cal. Rptr. 14 (Cal. 1976).

<sup>xxvi</sup> Cal. Gov't Code § 820.2 (West 1995) that gives doctors "tort immunity."

<sup>xxvii</sup> *Tarasoff*, 551 P.2d at 346.

<sup>xxviii</sup> Sokobin, p. 1181.

<sup>xxix</sup> *Bellah v. Greenson*, Cal. Rptr. 535 (Ct. App. 1978).

<sup>xxx</sup> Sokobin, p. 1182.

<sup>xxxi</sup> *Nally v. Grace Community Church of the Valley*, 763 P.2d 948 (Cal. 1988).

<sup>xxxii</sup> Sokobin, p. 1189.

<sup>xxxiii</sup> Genesis 9:5.

<sup>xxxiv</sup> Broyde, et al., p. 1.

<sup>xxxv</sup> *Ibid.*

<sup>xxxvi</sup> *Ibid.*

<sup>xxxvii</sup> I would like to thank R. Kenneth Auman and Professor Adina Levine for helping me with this article.

## An Interview with Rabbi Dr. Moshe D. Tendler

BY: Shaul Seidler-Feller

*What was Orthodox Judaism like in the early part of the 20<sup>th</sup> century in America? What were the difficulties and/or opportunities presented to Jews coming over to the U.S. from Europe?*

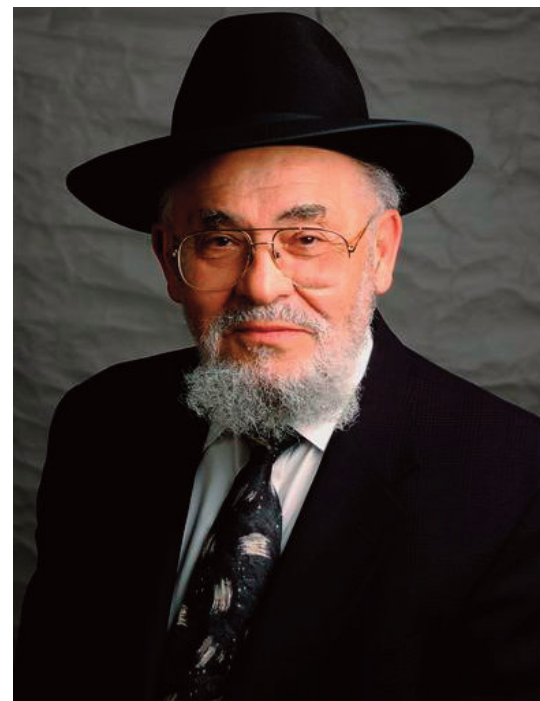
I grew up in a small, isolated, ghettoized European town called the Lower East Side of Manhattan. All the adults were first-generation immigrants. They dressed as they had in Europe, they spoke as they had in Europe, but all lost their children to assimilation. America was a *treifer land* (a country unsuited to Jewish religious life), and they knew that going in. They were dying in Europe and did not have any hope of continuing there so they came to the U.S. with the understanding that there would not be Judaism here. On Yom Kippur, people bought *kibbudim* (honors during the service) and came up wearing leather shoes. On Shabbos, the president of my father's *shul*, Mr. Rosen, would get upset if the *chazzan* for *Musaf* was *kvetching* around a little bit because he had to get out of *shul* and go open up his store on 33<sup>rd</sup> St. They just gave up on observance. It was a complete defeat.

Furthermore, they did not expect their children to be Jewish. I attended the Rabbi Jacob Joseph School (RJJ), which was the first yeshivah in New York; before that, there was nothing. Rare families, like that of my grandparents, hired a *melammed* (teacher) to teach their children enough so that when they grew up, they could be sent off to a European yeshivah to get a real education. But these were *yechidei segullah* (a chosen, self-selecting few). Public school education was available for free, and so most people chose to send their children to public schools. There were some *Machazikei Talmud Torah* schools that opened up and started classes at 4:00, 5:00, or even 6:00 at night, after public school, but even these did not always save the children from assimilation. For instance, Rav Elya Keller, *z"l*, the first person to bring *shemurah matsah* to America, lived in my building. He was a *talmid chacham* and a *tsaddik* and he had a big family, but none of his children ended up being *shomer Shabbos*.

The difficulties of Jewish life in that period are perhaps best appreciated by examining what followed the initial "settling in." Once upon a time, I gave a lecture in my *shul* in which I said that we fell victim to the three A's – "affluence," "acceptance," and "assimilation" – but, unlike the AAA, these A's did not protect us. Nowadays, after being in Yeshiva all these years and watching what is happening, I have added an I for "irreverence." There is nothing that is *kadosh* (sacred), nothing that is out of bounds for discussion.

In order to appreciate the losses on the

Lower East Side, you have to understand the cultural milieu at the time. My mother, *a"h*, would ask me every Friday to go get vegetables for Shabbos. On Clinton St., which was close by, there were many pushcarts that sold vegetables. Far away was the Essex St. Market, which also sold vegetables. In the beginning, I would naturally walk to Clinton St., because it was closer. After a while, though, I switched to Essex St., because on Clinton St. there was a fellow who would always grab me by the ear and ask me, "*Nu, vos hostu haynt gelernt?*" (What did you learn today?) He was a *talmid*



*chacham* but he made a living by selling vegetables. (We all knew to avoid Clinton St. after that and go to Essex St. instead.) Similarly, my father, *z"l*, who was the rav in the Kaminetzer Shul and a rosh yeshivah at RJJ for 43 years, gave a *Chummash* class in the *shul* every Friday night, and so many people would come that there were police assigned to direct the crowds. Many of these people were truly learned and interested in Torah. Over time, though, all of this petered out. Affluence took over, people moved to the suburbs, the Jewish community changed and really was no more.

*What was the denominational scene like back then? Were there major problems between Orthodox, Conservative, and Reform Jews? Were the communities able to come together on any issues?*

As a *talmid* here in Yeshiva, there were five other people at my table. My *chavrusa*, Rav Chaim Bodek, and I were the only ones to stay here, though; the other four left for Schechter's Seminary [JTS]. We were bleeding, hemorrhaging, because we had no functional community service division at RIETS.

These people did not leave for ideological reasons, i.e. because they wanted to be Conservative/Traditional rather than Orthodox, but rather because they were well advanced in their studies and they realized that RIETS could not offer them the same job opportunities that the Seminary could. As a result, they remained the so-called "traditional rabbis" in liberal/Conservative *shuls*. *Baruch Hashem*, the flow today has reversed. I think that you probably have more instances of people coming in with *semichah* from them to study privately and get a real *semichah* here than the opposite. For this

change I must credit two forces – the Young Israel movement and our yeshivah.

When I was growing up, a term of opprobrium and disdain was that a person was "a Young Israel boy," meaning that he carried his keys in his pants pocket and wore a handkerchief in his lapel pocket on Shabbos. But then, the movement as a whole moved to the right and became more serious religiously. I give much credit to the Lower East Side Young Israel, which was a flagship Young Israel, and its rabbi, Rabbi Stern, who was a very effective *keiruv* worker.

I think time-wise, that also coincided with our yeshivah moving out of its own four walls and into the community. When Dr. Revel, *z"l*, was in charge, he was innovative in one way – he allowed an English teacher to come to the yeshivah and teach here – but he was basically inward-focused. Dr. Belkin, in his greatness, saw that, for YU to survive, it needed to be reaching out to the community at large. Under him, the YU Community Service Division (CSD) opened up and went out doing "*Kuzari* work" – arguing our point of view against that of the Conservative movement. In every new community in New Jersey and Long Island, we

competed with them and we did well. I personally was involved in this work with Victor Geller, who wrote a book about Dr. Belkin's years at Yeshiva,<sup>1</sup> and Abe Stern, who prepared Shabbaton booklets that people use to this day. This effort, I think, has been the major force in changing the face of American Orthodoxy.

In terms of cooperation, the Synagogue Council of America was an example of one such effort, but it was held in disdain by most of the rashei yeshivah here and by my father-in-law [R. Moshe Feinstein], *zts"l*, as well. This was the one area in which he disagreed with the Rav, *zts"l*, who was supportive of the organization, and as a result my *shver* (father-in-law) expelled his own cousin [the Rav] from the Agudath Harabonim, a now-defunct institution which used to be very popular and pow-

**“Frumkayt – whatever that means – has displaced Halachah. People are trying to recreate something that never was. But that is not the proper way. Halachah has to be dominant; if it is not, everything will go.”**

erful because it controlled *kashrus* until organizational *kashrus*, headed by the OU and OK, took over. (*Baruch Hashem*, today we only have three kinds of *hashgachos*: *frum*, *frumer*, and *frumest*. When I came to Monsey, we also had only three types of Jews: *frum*, *frumer*, and *frumest*. The *frum* and *frumer* have disappeared, though – now all we have is the *frumest*.) The Synagogue Council died because the denominations could not cooperate at that level; the Rav's instructions to talk about everything but religion were not followed, so the institution fell apart. Overall, I would say, there was much animosity in both directions. The non-Orthodox looked upon us as dinosaurs and we looked upon them as *goyim*.

*How would you say the major Orthodox leaders of that period helped European immigrants transition into their new homes here?*

I think that most of the Orthodox leaders at the time did not have any hope for the masses; they were also despondent about the future and did not focus at all on outreach. They concerned themselves with getting a small group of the *muvcharim* (best ones) as a kind of a holding-action for Torah. The idea that Torah would blossom in America – I do not think they had such a hope.

*Ha-Kadosh Baruch Hu* had other plans, though. When my father-in-law and Rav Aharon Kotler, *zts"l*, came over and after the yeshivos of Telz and Torah Vodaath were founded, things began to change. *Rabbanim* started reaching out to the small number of families that wanted to send their children to yeshivah and gathered a group of *talmidim* around themselves. And then, after the horrors of the Holocaust, America was flooded with people who had strong traditional backgrounds from Hungary and Romania, for instance. They came and they fructified Judaism in America. We became large enough to hate each other also; we could not afford that luxury before-

hand.

*As a son-in-law of the great R. Moshe Feinstein, zts"l, can you reflect on his role in 20<sup>th</sup>-century America? How did he become the almost universally-recognized halakhic decisor of traditional American Jewry? What about his teshuvot (responso) showed him to be uniquely sensitive to the challenges of Jewish life in America?*

My *shver*, *zts"l*, is often called “the Rosh Yeshivah.” Rav Soloveitchik, *zts"l*, on the other hand, is known as “the Rav.” Nothing could be further from the truth, though. Rav Yosher Ber [the Rav] did not know what kind of a *berachah* you make on *rabbanus*, but he was a great rosh yeshivah. My *shver* did not

know what it means to be a rosh yeshivah, but he was the great rav. Of course, crazy America switched the titles for them.

In any event, my *shver* never had a yeshivah of much consequence. He gave his so-called “big shi'ur” on Friday, which I attended since I lived on the East Side. (That is how I managed to get into the family.) That was a summation shi'ur from the whole week. Oftentimes, MTJ [Mesivtha Tifereth Jerusalem, R. Feinstein's yeshivah] would be learning the same *massechta* as we were learning here in Yeshiva.

My *shver* was uniquely sensitive to society. Despite what they write in all the books about him, my *shver* never failed to read the Yiddish newspaper – either the *Tog* in the early years or the *Morgn-Zhurnal* later on – cover-to-cover every single day. People publish that he would walk down the street and avert his eyes when he passed by newspaper stands. There are a thousand *talmidim* of his who will testify, “I bought the paper and handed it to him in the lunchroom in the yeshivah,” but it does not make a difference for some people – they do not want to hear that. Even when he was not well and the doctor insisted that he must lie down to sleep for an hour, he would go home, put on a bathrobe, and smuggle a newspaper into the bedroom so that his wife would not see it. He sat there reading the whole time, rather than sleeping. I used to ask him, “Why do you read this *chazeray* (junk)?” He would respond to me, “*Dos iz mayn vinde*” – this is my window [to the world]. He understood society and his *piskei Halachah* show that. He used to say, “People think that because I'm aware of society, I became a *meikel* (lenient decisor). What do they want me to do – *paskn* incorrectly? I'm not a *meikel* – I *paskn* the way it has to be. The Halachah takes into account societal factors.” This willingness to be exposed to society made his *teshuvos* more meaningful and more acceptable.

His success as a *posek*, I think, also stems

from how hard he worked on every *teshuvah*. He first wrote a given *teshuvah* on a piece of stationery, then recorded it in a composition notebook, then copied it into a big ledger, and finally reviewed it and sent it in for publication with notes and additions in the margins. His hard work paid off. During the last months of his life, he said to me, “*Baruch Hashem*, I've never had to retract a *teshuvah*.” He did a better job than most in that respect.

Also, he was a very nice man. There was a lady upstairs where he lived who would often receive letters from Russia, but she did not read Russian. So she would come down and knock on the door while Rav Moshe was writing a *teshuvah* and asked that he please translate the letter, and he did so. Similarly, one Erev Shabbos, a neighbor criticized him because she saw him being picked up by car and taken to the yeshivah for *davening* after she had already *bentshed licht* (lit Shabbat candles). So he wrote in a *teshuvah* subsequently that even though it was *muttar*, he promised, *beli neder*, not to do it again.<sup>2</sup> He was just a very nice person with virtually no hang-ups, no *shtik*, and was extremely accessible.

*What do you feel about the nature of pesak in the U.S. since R. Moshe's passing in 1986?*

If he were alive, it could not happen. *Pesak* today is unrelated to Halachah and is instead completely dominated by societal factors. There is an agenda that has to be maintained. For instance, my grandchildren go to Bais Yaakov schools. The *rabbanim* in Bais Yaakov ruled this year that no father could attend graduation. A few years ago, they ruled that only fathers and brothers could attend – no strangers. Already for several years, the girls' valedictorian has been reading her speech behind a screen. That kind of *shtik* would never go if my *shver* were around.

What has happened? Chasidic communities, in which, if I may put it bluntly, *lomdus* (learning) is not looked upon as an asset, began exerting significant influence on schools and institutions. As a result, *frumkayt* – whatever that means – has displaced Halachah. People are trying to recreate something that never was. But that is not the proper way. Halachah has to be dominant; if it is not, everything will go.

At my *shver's* children's weddings, families sat together, husbands sat with wives. Have you every heard of such a thing – that a husband and wife come to a wedding and the husband sits in one place and the wife in another? Was it that way in Europe? My *shver* had only one hang-up that I know about: *she-lo lehotsi la'az al ha-rishonim* (not to give earlier generations a bad name). You think you are *frumer* but the last generation? They were the *shkot-sim* (non-Jews) and you are the *frum* people? That attitude bothered him to no end. Respect for tradition includes an awareness that earlier generations of Jews knew what they were doing and how to practice properly. My *shver* upheld societal tradition in that way as much as possible.

Of course, he had his detractors. There

was a *sefer* that was published by Satmar entitled *Ma'aneh la-Iggeros* which tried to take apart over 160 of my *shver's* *teshuvos*.<sup>3</sup> But he was so immune to personal attacks. His perspective was: I publish, they publish, you read and decide who is right. Attacks did not bother him. In addition, Satmar's *Ha-Ma'or* attacked him regularly, but he would never respond. Only if you wrote to him or called him up with a *shayle* would he respond. The one time I ever saw him reply to something someone published about his stance on an issue was when *Ha-Ma'or* criticized his take on the question of artificial insemination and whether the child was considered a *mamzer* (illegitimate child) or not. He felt that he needed to defend his position publicly and in print, so he responded in the back of the *Dibberos Moshe on Kesubbos*, which was being printed at the time, with three *teshuvos* devastating them and showing their *amaratus* (ignorance).

*How did Yeshiva University fit into the landscape of Orthodox yeshivot in early 20<sup>th</sup>-century America? How has that relationship changed since?*

The relationship has changed for the worse. In the early years, before RIETS had a college attached to it, Yeshiva was considered a rightist institution and respected as much as any other yeshivah. Once we got a college, it was still acceptable to the older *rabbanim*. Even when Dr. Revel, *z"l*, passed away and the Agudath Harabonim wanted to take control of the yeshivah and get rid of the college, they were still fine with the yeshivah itself. Not today. Today, we are really the outcasts of the Yeshivah World, despite our obvious success financially. Those in Torah Vodaath, Chaim Berlin, and Ner Yisrael are considered the *frum* people and we are the *shkotsim*. The truth, of course, is that our *talmidim* are better than theirs, our rashei yeshivah are more learned than theirs, our success in communities is greater than theirs – but still, that is the reality of our relationship. I speak from experience because there is no major American yeshivah in which I do not have at least one grandson or nephew.

MTJ is a slightly different story because it is a much smaller yeshivah. In fact, my *shver* had a shi'ur of only twenty people or so, four or five of whom were his students and the rest of whom were just waiting there to ask him for money. They were on pretty good terms with YU. My *shver* said a shi'ur here once or twice.

Rav Ya'akov Kamenetzky, *zts"l*, was also an interesting case. He was a neighbor of mine and, you will pardon the expression, a liberal Jew. He just loved everyone. My *shver* would come to us in Monsey on Motsa'ei Yom ha-Kippurim and stay until two weeks after Simchas Torah. That was his time to himself, when no phone calls or visitors were allowed in. Only one person was allowed into the house on Chol ha-Mo'ed Sukkos and that was Rav Ya'akov. He would come in and sit with my *shver* for two hours chatting and laughing the whole time like two little boys – not talking about Torah or politics, but rather reminiscing



about the Old Country together. Then, twenty minutes after Rav Ya'akov left, my *shver* would come to me and say, “*M'darf geyn bazuchn Reb Yankev*” (We have to visit Rav Ya'akov). We drove over and my *shver* would come in and wish him a *gut yontef* and then leave. Why? It was part of rabbinic protocol: you came to me, so I have to go to you in turn. Hitler did not kill all the Jews, but he destroyed our culture. There is no remnant of that old-time European ethos in this generation.

*What was Yeshiva's relationship like with the Jewish Theological Seminary back then, and how did that relationship change over time? At what point was it possible to see a clear theological/denominational distinction between RIETS and JTS?*

That distinction was present from the very outset. It took time, however, for people to realize that there were major theological differences between RIETS and JTS. As I mentioned earlier, many of our *bachurim* left Yeshiva for the Seminary because they were largely similar institutions on the outside, and the Seminary offered better rabbinic training. But eventually everyone came to understand that they really were different and so there is not much crossover today. In fact, Conservatism and Orthodoxy as a whole came into sharper focus with time, and now everyone recognizes them as separate movements.

I first started in the *rabbanus* when Herman Wouk decided to open up an Orthodox *shul* in Great Neck. In the beginning, we only had five *balabatim*; I had to bring four boys from my high school class to complete the *miny-an*. A year later, we had a hundred people in *shul*. But when it first opened, Rabbi Waxman, the local Conservative rabbi, wrote an article in a newspaper entitled, “Bargain-Basement Judaism Begins in Great Neck.” Rabbi Rudin, the local Reform rabbi, was much more of a *mentsh* and wrote, “The Rebirth of the Jewish Spirit in Great Neck.” Why the difference? I was Waxman's competition, not Rudin's. That is just a personal example of the conflict that existed at the time between the movements.

There was really competition on every front, in fact. They knew they were in trouble when Conservative Judaism spun off a “traditional” element with no *mechitzah* but a more traditional *davening*. As soon as Conservative Judaism began to ordain women as rabbis and approved of things like the “Shabbos Bus” in Cedarhurst to pick up old worshippers, they had broken with Torah Judaism and they knew it.

**“Today, we have relegated religion to ritual activity without allowing it to really become part of our lives. A type of compartmentalization has developed that never used to be. We have not lost the 20<sup>th</sup>-century American ghetto psychology: we are still afraid to identify ourselves as Jews in all our activities.”**

And yet, no one wants to recognize what I have been saying all along: we had a second Holocaust here in America. The first was phys-

ical, the second spiritual. We are in the process of losing six million Jews again, but no one wants to do anything about it. To really make a difference, you cannot just do outreach with a Shabbaton or a lecture; you have to compete. That is the only way to win back all the lost Jews out there. We have to go out on campus and vie for the Reform and Conservative kids. We cannot afford this kind of hemorrhage in our people. I am not prepared to give up on the Conservative and Reform Jews: *Yisrael, af al pi she-chata, Yisrael hu* (A Jew, though he sins, is still a Jew).<sup>iv</sup> They are our people but they are not going to be our people if we do not move to bring them back to observance. I am enough of a biologist to know that we have a lot of trouble determining scientifically what is alive and what is dead. Is a virus alive or dead? I do not know. All I know is that if something can reproduce, it is alive; if not, it is dead. The other movements cannot reproduce, but we can go ahead and save their families.

We had a neighbor in Monsey who was not religious. I knew when it was time for *Kedushah* on Yom Kippur at *Musaf* when he turned on his lawn mower. We often invited him for *kiddush* on Shabbos and he came over for Suktos, but he never became observant. Years later, he came over to me in tears because his daughter wanted to marry a *goy*. That bothered him. Yom Kippur did not bother him, *kashrus* did not bother him. But he wanted to be a Jew; he did not want to die out. Being Jewish gives you a claim to eternity, but only if your children are Jewish, too.

*You have been learning and teaching at YU since the tenure of Yeshiva's first president, Dr. Bernard Revel. How would you say you have seen Yeshiva change over the years? Is there room, in your opinion, for improvement, on either the General or Jewish Studies sides? How so?*

We have mentioned that the Conservative movement and JTS no longer have any appeal to us. But there is something else as well. Over the years, the behavior, dress, and general outward appearance of our *talmidim* has changed – in many cases, I think, for the worse. I see how some of the boys talk, the types of haircuts they have, and the kinds of clothes they wear and it is simply unacceptable, by any standard. To belong to any society, and especially the society known as *Am Yisrael*, outward signs are critical. Our yeshivah should insist that they modify their behavior. We just need a little more attention from the administration to make it happen. There is no reason

for a fellow to show up to shi'ur or class with filthy jeans with holes cut out in them. At no high-level college would that happen – not be-

cause of orders coming from above, but because the society would not allow for it; that is simply not the dress you wear in college.

I once met with the Lubavitcher Rebbe, *zts"l*, from 12:00-7:00 AM because he was interested in having me write a textbook in *Biological taharas ha-kodesh* (with sacred purity), and I was interested in talking about other things with him. During the course of the conversation, I asked him, “Why is it that your *sheluchim* (emissaries) take a fellow and make a Chasid out of him by putting a *kapote* (long black coat) and hat on him – even though he knows nothing at all about Judaism?” The Rebbe answered me, “But it works this way. If we tried it any other way, it would not work.” A person has to know that he belongs to the rest of his community before he can actually become part of it, and these outward signs allow him to do so.

*The rate of Jewish assimilation in America is estimated at over 50%. Do you see any way that our community can counter this phenomenon?*

I think the assimilation rate is closer to 80% in some places in America. Unfortunately, there is really only one way to bring Jews back, and that is to reach out to them on campus and sell them on what it means to be a Jew. We are simply not competing with what the rest of society has to offer, and that is a problem. I think we in *keiruv* sometimes have a bit of a sense of triumphalism: we think we are more successful than we really are. But the movement between observance and lack thereof is usually only measured in one direction – we have statistics on the number of *chozerim bi-teshuvah* (newly religious Jews) but not on those who are *chozerim bi-she'eilah* (newly irreligious Jews), and that should give us pause.

There is a Midrash, I think, which demonstrates this point well. On the *pasuk*, “*Ve-Osi azavu ve-es Torasi lo shamaru*” (They abandoned Me and did not observe My Torah),<sup>v</sup> the Midrash says, “*Halevai osi azavu ve-Sorasi shamaru! Mi-Toch she-hayu mis'assekin bah, ha-ma'or she-bah hayah machaziran le-muttav*” (Would that they would abandon Me but observe My Torah! Through their involvement in it, the light within it would return them to the proper path).<sup>vi</sup> What does that mean? Look further in the Midrash. It says that there were 365 cults in Damascus, each with a day of the year assigned to it for worship, and the Jews adopted all 365 foreign gods but could not find a single day on which to worship *Ha-Kadosh Baruch Hu*.<sup>vii</sup> The two parts of the Midrash tie together. Hashem is saying, “Give up on believing in Me, but at least let My lifestyle compete. Put My Torah down, and put down next to it Buddhism, Islam, Christianity, etc., and see which one provides the most spiritual fulfillment. If you do that, you will undoubtedly see the beauty of Judaism, and then ‘*ha-ma'or she-bah machaziran le-muttav*’ – you will realize that nobody but God could have written the Torah.”

I feel that we are too gentlemanly in our inter-denominational relationships. That is not

the way to attract Jews to Orthodoxy, because the other Jewish movements have the voice of society on their side, and we are simply not competing well enough with that.

*What do you think is the biggest challenge facing American Jewry today?*

I think we have to see God in other places than we see Him now. We are not teaching our children, *Mah rabbu ma'asecha Hashem!* (How great are Your deeds, O God!). In the old days, a mother would make a *berachah* with her child over thunder, lightning, or a rainbow, so that *shem Hashem yishama al picha* (the name of God should be heard on your lips).<sup>viii</sup> Today, we have relegated religion to ritual activity without allowing it to really become part of our lives. A type of compartmentalization has developed that never used to be. We have not lost the 20<sup>th</sup>-century American ghetto psychology: we are still afraid to identify ourselves as Jews in all our activities. But that cannot continue – there is no way that we can impact on society unless we are identified as Jews. We should not be embarrassed to mention Hashem in conversation and speak about religious matters with others. Only then can people ask us questions about religion and God. That is the lesson Chazal tried to convey in the *Mah Nishtannah* on Pesach – ask me a question and I have caught you already, because you have made contact with me and I know what to do with that contact. So I think that we have to reach out more in that way in order to bring religion into public discourse. We have to do more than just sermonizing to the church choir and talking to ourselves; we have to learn to talk to other people as well.

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<sup>i</sup> Victor B. Geller, *Orthodoxy Awakens: The Belkin Era and Yeshiva University* (Jerusalem; New York: Urim, 2003).

<sup>ii</sup> *Iggerot Moshe, Orah Hayyim* 1:96.

<sup>iii</sup> Yom Tov ha-Levi Schwartz, *Sefer Ma'aneh la-Iggerot* (New York: Yom Tov ha-Levi Schwartz, 1973).

<sup>iv</sup> See *Sanhedrin* 44a.

<sup>v</sup> *Yirmeyahu* 9:11.

<sup>vi</sup> *Midrash Eikhah Rabbah, Petihta* 2. See a similar version in *Yalkut Shim'oni* to *Yirmeyahu* 9:282.

<sup>vii</sup> *Midrash Eikhah Rabbah, Petihta* 10. See a similar version in *Midrash Shir ha-Shirim Rabbah* 1:6.

<sup>viii</sup> A play on *Shemot* 23:13.

# The Limits of Learning Without Any: Reflections on Limmud 2010 by Two Orthodox YU Students

BY: David Marks and Nathaniel Jaret

Several years ago, one of the authors of this essay was interning for a lobbying firm in Washington, D.C. His boss, a recent convert to Orthodox Judaism, was known to wear his *kippah* in public. An elderly congressman with the home zip-code and distinct accent of a Bible-belt state once approached the two in the Capitol building and engaged them in small talk. When introduced to the congressman as a young Jewish intern, the congressman responded with levity, “I was just at the JCC in Savannah, and boy, those bagels and lox were authentically Jewish.” The lox was Jewish?

This past winter break, we were members of the YU Center for the Jewish Future’s delegation to the annual Limmud NY conference. The conference, set in rural Kerhonkson, NY, urged its participants to “explore all the ways [they] connect to Judaism, meet new friends, reconnect with familiar ones, and savor every moment of the temporary community [they created] together.” *It is the first of these aims of Limmud NY 2010, aptly subtitled “Jewish Learning Without Limits,” that we wish to explore.*

The Limmud organization, first founded in 1980 to serve Great Britain’s Jewish community, has since expanded to its current significance as an international phenomenon that assembles swarms of Jews from South Africa to Croatia, New Zealand to Israel for Jewish learning initiatives. The Limmud organization, in all of its international variegations, is non-denominational on principle, marketing itself as open to anyone interested in all forms of Jewish learning.

The first thing that struck us at Limmud 2010 was the gross underrepresentation, both in terms of numbers and gamut, of members of the Orthodox community. The basic range of Orthodox presenters at the conference included Rabba Sara Hurwitz on one end of the spectrum, and a pair of fully costumed Karliner Hasidim on the other end, with very little in between. Even the presentations of YU’s very own Professor Aaron Koller, YU’s delegated scholar of choice and one of the few Modern Orthodox presenters at the conference, would probably have irked the more yeshivish in our ranks, to say the very least. Mainstream Orthodoxy secured a rather small voice and presence at Limmud NY 2010, giving off the impression that a) she is minimally interested in engaging the greater Jewish world, and b) is unable to do so, even if she so desired, due to the constraints of deed and dogma. While most of the students in the YU delegation were not made substantially uncomfortable by their

implicit categorization at the conference, the chasm between the Orthodox and everyone else remained silently obvious.

The Limmud conference truly lived up to its subtitle. Many fascinating and informative lectures, including “How to Make Israel Relevant to the Next Generation,” “Grappling With Difficult Texts,” “From Memory to History – and Back Again: On Making Meaning of the Jewish Past,” and “It’s All Greek to Me – Praying in Languages Other than Hebrew,” were, at least in our eyes, both relevant and consistent with the textual thrust of historic Jewish culture. Many other lectures, such as “Mechitza Musings,” “Torah: Torn Between Truth and Tradition,” and “I Will Be What I Will Be – Gender and Judaism,” reflected the gamut of contemporary Jewish sentiments, including ones that are un-Orthodox or non-halakhic.

**“The centrality of searching and sifting for Jewish identity which thoroughly permeated the air at Limmud 2010, irrespective of the particulars of that quest, is something that both authors view as uplifting and reassuring – revealing, if only tangentially, a wisp of hope for the Jewish future.”**

This second grouping, at the very least, addressed questions of Jewish belonging, ritual, and creed in a direct manner. If not working from Orthodox presuppositions, the lectures in this second group at least engaged those presuppositions in dialogue. But all of the above presentations seem exceedingly humdrum when compared to some of the other, more exotic offerings. Presentations with titles ranging from “Can Aliens Be Jews?” to “Anti-Fascist Sing Along! Stickin’ it to the Man, Set to Music” to “Davenu La Vida Loca” to “Kabbalah Yoga” (this last one was offered four times, with a “Shabbat Yoga” variation) truly befuddled the textually-trained sentiments of certainly the Orthodox, and probably the Conservative, “post-denominational,” and egalitarian-inclined participants of Limmud 2010 as well. But should they have?

This begs another question. Has any Jew in history, much less the classic figures of Kabbalah, even *heard* the word “yoga,” much less embraced its principles, before yoga’s establishment as a widespread cultural fad in Western society? Can any of these aforementioned presentations be considered viable and legitimate expressions of Jewish identity, or are they

rather, as both authors suspect, viable and legitimate expressions of *identity*, which only happen to have been *made* “Jewish?”

Jews, like all other humans, do many things. Jews are accountants and poets (usually in this order). Jews travel to New Zealand and Peru. Jews enjoy mojitos and cabana chairs, hot cocoa and skiing trips. Jews suffer from cysts and hemorrhoids, Vitamin D deficiencies and malignant tumors, and rejoice at a weddings and football games. Can one’s malignant tumor be Jewish? Most would agree not. Was the congressman’s lox authentically Jewish? The answer becomes more nebulous. Is a riveting Carlebach *niggun* truly Jewish, or must we, after recognizing its musical roots as probably influenced by contemporary musical directions and not Levitical melodies, relegate it to the Goy-bin?

Limmud 2010, at least for us, represented a concentrated dose, a microcosmic representation, of what might be called – and this phrase is no doubt hackneyed – a “Jewish identity crisis.” In specifically the American tossed salad of cultures where one’s own cultural heritage is put on equal standing with all others, it is perfectly understandable that any given culture should undergo a process of dilution. In the case of Judaism however, where in the past century, all of its creeds and most of its deeds have been called into question and were often abandoned, this process of dilution has in effect been an attempt to caulk the gaping holes left by the absence of traditional Halakhic Judaism. The *Haskalah* (Jewish Enlightenment) left Jewish society groping for answers, and those answers have been found, it seems, in anything at all. Anti-Fascist chants included.

American Jewry today is precariously caught between the demands of a society that emphatically embraces pure individualism (“What does this *mean* to me?”) and (varying levels of) adherence to a religion that historically enjoins religious and ritual cohesion, leaving the spectrum of contemporary Judaism struggling for a concretized expression of iden-

tity.

Is the former approach to Judaism, seemingly a-historical in its divorce from texts and estrangement from the primary thrust of covenantal Judaism, *entirely* devoid of real meaning? Both authors of this article would argue not. The centrality of searching and sifting for Jewish identity which thoroughly permeated the air at Limmud 2010, irrespective of the particulars of that quest, is something that both authors view as uplifting and reassuring – revealing, if only tangentially, a wisp of hope for the Jewish future.

Admittedly, from our Orthodox perspective, the contemporary Jewish reality that Limmud brought into relief for us cannot be viewed as any sort of final end goal. True, a marginal Jew participating in Shabbat Yoga is better than that Jew never having heard of Shabbat, but we cannot wish in good faith that a downward-dog *Lekha Dodi* represent the final stage in expanding Jewish practice. Rather, it must be seen as keeping Judaism alive (if on dialysis) enough today to create the possibility of a more traditionally observant tomorrow. The very fact that anything and everything can be posed as an expression of one’s Judaism should serve as a vivid reminder that Judaism, though fundamentally altered from its historic form, is still a concept and a sentiment that Jews worldwide are attempting to hang onto, *despite* the jagged tear that the Enlightenment has ripped in the fabric of Jewish practice. That in and of itself is something we can appreciate.

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# Was Herzl the Messiah?

## Thoughts on American Zionism Today

BY: Ayelet Mael

Are we living during messianic times, the first inklings of *Aharit ha-Yamim* (the End of Days)? The Jewish people have returned to Israel and have worked to build it up, yet, at the same time, there are still countless imperfections to the modern Jewish state they established. Can Israel really be the Holy Land of which Jews have dreamed for centuries – a country that is currently rife with political corruption and is engaged in constant war? This question, which very much probes the minds of contemporary Jews, especially those who are considering making *aliyyah*, has a conceptual precedent in another debate that ensued a century ago: was Theodor Herzl, the father of modern political Zionism and the one who paved the way for the establishment of the Jewish state, the Messiah?

At first glance, the very notion that Herzl could be the Messiah seems preposterous. How can one suggest that an assimilated, non-observant Jew like him could possibly fill the role

Jerusalem and the cities of Judah, as the prophets promised.<sup>xiv</sup> When Herzl traveled to the Israeli city of Rehovot, two leaders of Se-faradi groups fell on their knees before him, blessed him, and bowed while reciting: “This is what you should do to the *Mashiah ben Yosef*.”<sup>xv</sup> Lastly, when Herzl stood before the Jewish community in Sofia, Bulgaria, he was trying to figure out how to face the congregation without turning his back on the *Aron Kodesh* (Holy Ark). One community member called out: “It’s all right for you to turn your back on the Ark; you are holier than the Torah.”<sup>xvi</sup>

Specifically after the First Zionist Congress, many Jews who had previously negated Herzl’s messianic qualities began to recognize his significance. For others who had believed in him all along, the First Zionist Congress was a crucial turning point that strongly solidified their faith in Herzl as the Messiah. The sentiment was verbalized by David Ben-Gurion, who later reminisced that when he was 10 years old, around the time of the First Zionist

he was twelve years old, he would dream about the Messiah at night. In one of his dreams, he recalled that the Messiah carried him on his shoulders and when they passed a cloud of Moses, the Messiah said: “This is the child that you prayed for.” The Messiah and Moses then turned to Herzl and commanded him to tell the Jews: “Soon I will come and show my greatness and wonders to the whole nation and the entire world.” This dream suggests that Herzl possibly viewed himself as the messenger of the Messiah.

After Herzl’s death in 1904, different segments of the Jewish community adopted three basic attitudes towards him: 1) they further aggrandized him as the Messiah, 2) they totally rejected him as the Messiah, or 3) they assumed him to be a precursor to the true Messiah. These three attitudes are still extant among Zionists today.

### Attitude #1: Further Aggrandizement of Herzl as the Messiah

This approach was adopted by secular Zionism, which reinterpreted the classic, rabbinic figure of the Messiah and transformed him into a more temporal, political leader, devoid of religious significance, in order to apply the title more readily to Herzl. Secular Zionists fantasized about Herzl’s heroism, especially after his early death. However, today, secular Zionism is almost non-existent. The reason for this, as Ruth Bevan explains, is that “its objective of securing the state has been fulfilled.”<sup>xviii</sup> According to secular Zionists, there is no further significance to Herzl and to his messianic dream beyond the establishment of a Jewish state, and therefore his messianic role has been completed.

### Attitude #2: Total Rejection of Herzl

Many rabbinic figures condemned Herzl’s supposed messianic significance dur-

ing his lifetime and hoped that his death would prove to the masses that he was certainly not the Messiah. R. Elhanan Wasserman, a prominent rabbi in pre-World War II Europe, lamented that, unlike most false Messiahs whose fictitious identity surfaced after a few years, people continued to believe that Herzl was the Messiah long after his death.<sup>xiv</sup> R. Joseph Breuer stated that Herzl was a false Messiah and therefore could not bring even the first inklings of redemption, but could only postpone the coming of the real Messiah.<sup>xv</sup> Similarly, R. Yisrael from Kharkov, Ukraine, who was a leader of the Agudat Yisrael, continuously reiterated that there were many points throughout history that had the potential for redemption, but each time someone came and ruined everything – such as during the Second Temple period, Shabbetai Tsevi in the 17<sup>th</sup> century, and Theodor Herzl in the 19<sup>th</sup>-20<sup>th</sup> centuries.<sup>xvi</sup>

### Attitude #3: Herzl as the Precursor to the True Messiah

R. Avraham Yitshak ha-Kohen Kook portrayed Herzl as the *Mashiah ben Yosef*, the precursor to the *Mashiah ben David* who is the true Messiah that Jews have dreamed of for millennia. In his view, the role of the initial *Mashiah* is to bring about a nationalist revival among the Jews. Having accomplished this, he would then die and the Davidic Messiah would complete the messianic vision. R. Kook believed that sometimes negativity must precede the good, so that *Mashiah ben Yosef* is the political Messiah who must pave the way for the religious *Mashiah ben David*.<sup>xvii</sup> In a similar vein, R. Yissakhar Teichthal in *Em ha-Banim Semehah*, explains that if a religious Messiah would rise up initially, there would be great opposition from the *yetser ha-ra* (evil inclination) and the celestial forces, convincing God that the Jewish people are not worthy of such a Messiah. However, if the beginnings of the messianic age are bleak and the eschatological era creeps up slowly, building itself up step by step, it will not be faced by that same opposi-

## “Can Israel really be the Holy Land of which Jews have dreamed for centuries – a country that is currently rife with political corruption and is engaged in constant war?”

of the Jewish Messiah, a character who usually elicits images of an old *rebbe*, a great *talmid hakham*, or a prophet? In contrast to such images, research shows that Herzl probably decorated a Christmas tree every year in his home, never circumcised his only son, urged his children to recite Christian prayers at night, and even offered the Roman ruler to convert all Jews to Christianity in exchange for an end to anti-Semitism.<sup>i</sup> Could this really have been the Messiah that Jews have dreamed of for centuries?

At the same time, if we take a look at the time period in which Herzl lived, it is clear that a great number of Jews worldwide, having long suffered under the terrible conditions of the ghetto, viewed him as the Messiah, especially after the 1903 pogrom in Kishinev, Moldova, which claimed the lives of many Jews.<sup>ii</sup> For instance, when Herzl visited Vienna in 1903, people called out to him in the streets as “the King of the Jews,” and the police had to intervene in order to prevent public disorder caused by the excited crowds.<sup>iii</sup> Similarly, in America, Rabbi N. Benjamin, on behalf of a group of cantors, wrote in a letter to Herzl: “You are the divine emissary to whom was given the mission of once again raising up

Congress, “a rumor spread that the Messiah had arrived – a tall, handsome man – a ‘doctor,’ no less – Dr. Herzl.”<sup>vii</sup> Similarly, Mordechai Ben-Ami, a Zionist journalist, reported from the Congress: “It seemed as if the great dream cherished by our people for two thousand years had come true at last, and Messiah, the son of David, was standing before us.”<sup>viii</sup>

Although Herzl never stood on a platform and declared himself to be the Messiah, he was well aware that some, including the Chief Rabbi in Sofia, thought of him as such,<sup>ix</sup> that many people had positively compared him to other messianic figures like Shabbetai Tsevi, and that many Jewish communities believed that he would bring about the final redemption. In an effort to avoid as much as possible being labeled as the Messiah, Herzl took precautions not to ride on a donkey or a white horse while he was in Israel.<sup>x</sup> Yet, over time, Herzl began to wonder if the rumors about him were in fact true and he grappled with his possible messianic identity. In one cryptic line, he writes: “Our people believe that I am the Messiah,” but “I myself do not know this, for I am no theologian.”<sup>xi</sup> Moreover, a few months before his death, Herzl reported in his diary<sup>xiii</sup> that when

## “The view that was developed by R. Kook understands Zionism as part of the process of redemption, a process in which God guides the course of history, empowering important figures like Balfour and Herzl and influencing the world community to allow for the establishment of a Jewish state.”

ing his lifetime and hoped that his death would prove to the masses that he was certainly not the Messiah. R. Elhanan Wasserman, a promi-

tion.<sup>xviii</sup>  
The view that was developed by R. Kook understands Zionism as part of the process of

redemption, a process in which God guides the course of history, empowering important figures like Balfour and Herzl and influencing the world community to allow for the establishment of a Jewish state. There is no doubt that it was God who precipitated this messianic era, working behind the scenes in a “natural” way to return us to our homeland; however, that is only the initial stage of redemption. The process also requires our involvement: we must cultivate and build the Jewish state physically, spiritually, and religiously. This version of Zionism glorified Herzl for infusing disinterested Jews with a sense of nationhood, by inspiring them to display commitment to the Jewish people and helping to further the redemptive process.

If we use the model of R. Kook, then we will realize that it is up to Jewry today to build upon Herzl’s work by cultivating the secular foundations of Israel and then infuse them with religious significance. It is we who can become active partners in the process of redemption, raising ourselves from the current stage of *Mashiah ben Yosef* to the ultimate stage of the Davidic Messiah.

And if we conceive of the history of Zionism and the State in this way, we can better understand the role of American Jewry within the redemptive process. In many yeshivah day schools, students are imparted with the message that Israel is important, and so they attend the annual Salute to Israel Day Parade, say *Tehillim* for IDF soldiers after *Shaharit*, and participate in occasional rallies at the United Nations. However, having personally attended such institutions, I know that teachers in America cannot truly impose on students the duty to live in Israel, as that would be inherently hypocritical. When confronted, many American educators will reasonably explain that their current *tafkid* (mission) is in America. While one may agree or disagree with such statements, the reality remains that it is almost impossible for American teachers to infuse within their students a desire to make *aliyyah* because they have not made *aliyyah* themselves. Some schools have therefore opted to include *shelihim* (emissaries) from Israel and *benot sheirut* (women in Israeli national service) on their faculty or to encourage their students to participate in Bnei Akiva programs that promote *aliyyah*. However, American students sometimes cannot fully relate to the Israeli figures. Therefore, while a love of Israel is usually within the purview of American students, for many, it is only while studying in yeshivot and seminaries there that they begin to feel passionate about making *aliyyah*.

While the question of *aliyyah* is certainly an independent decision that each individual must struggle with, it is incumbent upon all to think about our current state as a nation. Are we living during messianic times? Do we have a duty to contribute to bringing about the next stage of the ultimate redemption? There is no doubt that *aliyyah* comes with many challenges – leaving one’s family and friends, settling for a lower paycheck, and living in a place where one may not understand the radio because the news reporter speaks Hebrew too

quickly. And so, *aliyyah* may not be right for everyone. But there is something that we all can and should do – intensify our prayers, give philanthropically, attend rallies, lobby in Washington, or even just show that we care. Apathy is simply not an option.

It is hard to deny that we are living during a critical period in Jewish history. Even if the situation in Israel is not perfect, it is certainly a start in the right direction. And with that, one must ask, “What is my role within the larger scheme of this eschatological era?”

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<sup>i</sup> Iosef Nedavà, “Herzl and Messianism,” *Herzl Yearbook 7* (1971): 9-26, at p. 9.

<sup>ii</sup> Shlomo Eidelberg, “Theodor Herzl: From Vision to Reality,” in *Theodor Herzl: If You Will It, It is Not a Dream* (New York: Yeshiva University Museum, 1997), pp. 11-25, at p. 20.

<sup>iii</sup> Nedavà, p. 11.

<sup>iv</sup> Quoted in *ibid.*, pp. 18-19.

<sup>v</sup> Benjamin Salomon Hamburger, *Meshihei ha-Sheker u-Mitnaggedeihem* (Benei Berak: Mekhon Moreshet Ashkenaz, 1989), pp. 331-332.

<sup>vi</sup> Nedavà, p. 19.

<sup>vii</sup> Quoted in *ibid.*, pp. 10-11.

<sup>viii</sup> Quoted in *ibid.*, pp. 17-18.

<sup>ix</sup> *Ibid.*, p. 17.

<sup>x</sup> Hamburger, p. 327.

<sup>xi</sup> Nedavà, p. 26.

<sup>xii</sup> *Ibid.*, pp. 10-12; Hamburger, p. 327. Original source: *The Complete Diaries of Theodore Herzl*, ed. by Raphael Patai, trans. by Harry Zohn (New York: Herzl Press, 1960), entry from Dec. 25, 1903.

<sup>xiii</sup> Ruth Bevan, “Theodor Herzl: A Zionist Leader,” in *Theodor Herzl: If You Will It, It is Not a Dream* (New York: Yeshiva University Museum, 1997), pp. 27-35, at p. 34.

<sup>xiv</sup> Hamburger, p. 341.

<sup>xv</sup> *Ibid.*

<sup>xvi</sup> *Ibid.*

<sup>xvii</sup> Lionel Kochan, *Jews, Idols, and Messiahs: The Challenge from History* (Oxford: Basil Blackwell, 1990), pp. 186-189.

<sup>xviii</sup> Yissakhar Teichthal, *Em ha-Banim Seme-hah* (Mevaseret Tsiyyon, Israel: Kol Mevaser Publications, 1998), pp. 132-140.

# GENERAL JEWISH THOUGHT

## “A Yid iz Geglichn tzu a Seyfer Toyre”

BY: Rabbi Joseph B. Soloveitchik

*Translator’s Note: The following is a translation from the Yiddish of the seventh and final section of R. Soloveitchik’s yortzayt shi’ur entitled, “A Yid iz Geglichn tzu a Seyfer Toyre” – “A Jew is Compared to a Torah Scroll.” (Previous sections appeared in prior issues of this paper.) Dr. Hillel Zeidman transcribed and published the shi’ur, 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 shi’ur into English – was prepared by Shaul Seidler-Feller, utilizing Dr. Zeidman’s original Yiddish transcription and R. Carmy’s helpful Hebrew version. Thanks go to R. Elchanan Adler and R. Jacob J. Schacter for their assistance in refining and editing this work.*

### Section VII

The hair side (*tsad ha-se’ar*) [of a person’s internal Torah parchment] must also be processed. One must remove the hair and sensitize the skin on the *tsad ha-se’ar* so that it can absorb the letters of the Torah – of “You shall surely open up your hand,”<sup>vi</sup> of “Do not oppress any widow or orphan,”<sup>vii</sup> of “Be careful lest there be a thought in your base heart... and your eye be miserly towards your impoverished brother [and you not give to him],”<sup>viii</sup> of “Righteousness, righteousness shall you seek,”<sup>ix</sup> of “You shall love the stranger,”<sup>x</sup> etc.

This mending and this processing are also realized through “Avraham bound (himself) on the altar.”<sup>xi</sup> This time, [however,] a person must bind, not the “Man of Flesh” (*Ben Basar*) but rather the “Wicked Man of the World” (*Resha Arets*) within him, namely, his egoism and depravity, his cynicism and cruelty. The Halakhah maintains that just as a person can process the skin on the flesh side (*tsad ha-basar*) and restrain his corporeal desires – his appetite and sexual instinct – so is he capable of processing the skin on the *tsad ha-se’ar* and binding his wickedness (*rish’ut*). The hero who conquers his instincts<sup>vii</sup> overcomes both the cravings of the flesh and the desires of *rish’ut*. My father [R. Moshe Soloveitchik], *z”l*, told me that when he became the rabbi of Raseyn<sup>viii</sup> and came to bid farewell to my grandfather [R.

Hayyim Soloveitchik], *z”l*, he [R. Hayyim] said, “A rabbi must, like all Jews, give charity and do acts of kindness (*hesed*), not just when he is naturally a benevolent person but even when he is ill-natured. I myself, Moshe, was born with a hard, unsympathetic nature, but I broke it!...”

The “Avraham bound” relates to both aspects of the human personality, both on the *tsad ha-basar* and on the *tsad ha-se’ar*.

*Tefillin*, which remind us of the Exodus from Egypt, symbolize the antidote to the sin of the Generation of the Dispersion, [namely,] the merging of the individual with the community, of the “me” with the “you,” the idea of a nation, of hanging together, of “I am with him in [his time of] tribulation,”<sup>ix</sup> of suffering [together] with the community, of being someone who shares the burden of his friend,<sup>x</sup> of “Moshe went out to his brothers and saw their agony,”<sup>xi</sup> of defending the weak and standing up for the helpless. The paragraphs of the *tefillin* are written on *kelaf*, the uppermost part of the skin, on which the hair grows, since the straps of the *tefillin* bind the *rish’ut* in people, their hard and unopening hands. The paragraphs all fuse together into one great “I am with him in [his time of] tribulation.” Solidarity [with], and participation in the pain of, one’s friend – that is the motto of *tefillin*.

For this very remedy does a Jew again pray on Rosh ha-Shanah in “*Malkhuyyot*” (the Coronation passage) when, in addition to the plea, “Let all the *Benei Basar* call out in Your Name,” he also petitions regarding the *Rish’ei Arets*, “Cause all the *Rish’ei Arets* to turn to You.”<sup>xii</sup> [In other words,] may the feeling soul (*nefesh ha-margishah*) find its remedy both on the *tsad ha-basar* and on the *tsad ha-se’ar*.

### Moshe’s Great Sacrifice

With respect to the processing of the skin on the *tsad ha-se’ar*, too, the rule of “according to the pain is the reward” (*le-pum tsa’ara agra*)<sup>xiii</sup> applies. The greater the sacrifice a person brings on the altar of *hesed*; the more difficult the “Avraham bound” is for him; the greater his sense of narcissism, which does not want to acknowledge [the suffering of] the other; the more developed his sense of “I have loved [you]”<sup>xiv</sup> – all the more elevated is the mending, all the more uplifted the processing.

Here, too, the Master of the Universe demanded from Moshe the greatest “binding.”<sup>xv</sup> He desired that the Master of All Prophets achieve spiritual wholeness (*shelemut*) for his *nefesh ha-margishah* with the greatest suffer-



ing, so that the skin facing the hair would be processed and prepared to absorb the Word of God on the highest level.

The Midrash says:

“For three things was Moshe prepared to give up his life, and they were [therefore] referred to by his name: the Torah, Israel, and justice [...] For Israel – they were referred to by his name, as it says: ‘Your nation has acted corruptly [in creating the Golden Calf].’”<sup>xvi,xvii</sup>

The Midrash is a bit difficult. Where do we find an episode before [that of] the Calf which highlights the fact that Moshe gave his life for the community? [We do not;] we first encounter his faithfulness to sacrifice himself for the people upon his second ascent atop Mt. Sinai, when he said to the Master of the Universe: “And now, if You forgive their sin – and if not, erase me, please, from Your book which You have written.”<sup>xviii</sup> Before that very occasion, Moshe did not have any opportunity to display his dedication to *Kelal Yisrael*. The Midrash has no proof off-hand that Moshe offered himself up for the Assembly of Israel before the Story of the Calf.

In truth, [however,] Moshe did sacrifice for Israel the best and most precious thing for which a person pines right at the beginning of his mission as a prophet. That sacrifice sanctified him and elevated him to the level of the Master of All Prophets.

#### Moshe’s Hidden Face

When the Master of the Universe appeared to Moshe in the bush, Moshe concealed his countenance: “Moshe hid his face because he was afraid to look at God.”<sup>xix</sup> Hazal were divided in their opinion about Moshe’s desire not to see the Immanent Presence of God (*Shekhinah*). R. Yehoshua ben Korhah held that Moshe acted improperly, while R. Yonatan said the opposite – that Moshe’s modesty and fear to look at the *Shekhinah* were later rewarded by the Master of the Universe.<sup>xx</sup>

At first glance, one does not understand R. Yonatan’s opinion. Why does he consider the [fact that] “Moshe hid his face” an elevated deed, for which the Master of the Universe later selected Moshe to be the Master of All Prophets? Moshe had the choice to either see the Master of the Universe or to conceal his countenance and not cast his glance at the Creator of the Universe; why should he receive reward for hiding his face? The Master of the Universe was at that moment prepared to reveal Himself to Moshe in His full, absolute Truth. Moshe had the opportunity to penetrate the concealed parts of the world,<sup>xxi</sup> to access all the hidden things, to understand clearly the ways of God, His justice, and His governance of the Creation. Moshe could have strolled through all fifty Gates of Understanding;<sup>xxii</sup> not a single secret would remain in the entire Creation, all questions would be answered, and all unsolvables (*teikus*) would be explained.

[However,] Moshe concealed his countenance, [because] he did not want all riddles to be solved, all halakhic questions to be ruled upon, and the entire mystery [of life] to disappear. He protracted his [state of] not-under-

standing over [the opportunity for] unlimited knowledge. He chose to live in the night of human ignorance and innocence. He did not want to penetrate all the Gates of Understanding. One Gate, Moshe prayed, must remain closed and locked. “Master of the Universe,” he begged with a heavy heart, “do not reveal everything to me, do not explain to me all the secrets; I want to live out my years in wondering and in [a state of] not-understanding.” The fire of the bush burned, the interminable flame stretched and howled, the Master of the Universe waited, but Moshe’s countenance remained hidden.

Why? Because he was frightened to learn the great secret of knowledge of God (*da’at Elohim*). He trembled at the danger of becoming omniscient. “Moshe hid his face because he was afraid to look at God.” Why, [though,] was he terrified?

#### Da’at and Hesed

Because were he to know everything, he would have lost the trait of kindness (*middat ha-hesed*), the feeling of compassion and love for others, for the helpless, impoverished, and suffering. “Because he was afraid to look at God.” He was frightened to delve too deeply into [God’s] Trait of Strict Justice (*Middat ha-Din*). For were he to properly understand that trait, he would have discovered the truth – that there is no evil whatsoever in the world. He would then have realized that the agonies that a person undergoes are entirely for his own good. He would at that point have seen that, in reality, “The Rock – His work is perfect, for all His ways are justice,”<sup>xxiii</sup> and that undeserved suffering does not exist. Then, the name *Elohim* (denoting Justice) would have transformed into the name Hashem (denoting Mercy). Then, Moshe would have looked at the world from the same vantage point as the Creator of the Universe had seen it from [on that original] Friday before [the time of] *Kiddush*: “God saw all that He had done and it was very good;”<sup>xxiv</sup> Hazal say, “This [the words ‘very good’] refers to death.”<sup>xxv</sup> Then, seeing the world in its entirety, everything – death, sickness, poverty, suffering, and loneliness – would have appeared to be good, and everything would have had a purpose and meaning.

At that point, Moshe would not have been able to do any *hesed* with a poor person, because in his unending wisdom he would have understood that poverty is [really] a kindness for that person. In such a situation, he would not have been able to have compassion on a sick man or save him from death, because he would have had full knowledge of why the Master of the Universe punished him with illness and what the purpose of his suffering was. Under such conditions, he would not have made any allowance for, or had any understanding of, a sinner, and would not have been able to pray [anything like the petition beginning,] “And he [Moshe] besought.”<sup>xxvi</sup> He would have recognized with clarity the correctness of God’s justice. [In fact,] Moshe would not have been able to pray at all, because he would have understood how foolish it is to beg for something which is absurd and

laughable.<sup>xxvii</sup>

Mercy, *hesed*, and love depend upon the ignorance of man, on his intellectual limitations, on his childlike innocence, on his great mistake [in thinking] that there is evil in this world and that people suffer undeservedly. The Torah, for instance, notifies us that “he shall surely heal”<sup>xxviii</sup> – that one may, and one must, heal the sick and may not delve deeply into “that which is before and that which is after [God’s calculations].”<sup>xxix</sup> Do not ask [the following question], the Torah instructs man: “The sick person suffers, presumably, with the oversight of God, Who is righteous in all His ways and pious in all His acts;”<sup>xxx</sup> why, [then,] should I heal he whom the Master of the Universe has made sick?” One may not ask such a question. “You, man, understand nothing, you have no knowledge – for you, illness is an evil against which one must fight. All the calculations belong in the lap of the *Shekhinah*; [meanwhile,] man must have mercy on, and empathy for, the helpless and miserable, because he does not know the reason for [their] suffering.” [However,] this overflow of *hesed* is gifted to man at a high price – ignorance.

Moshe had the choice of either acquiring knowledge and abandoning *hesed* or remaining ignorant and achieving it. He chose the second alternative. He loved Jews so much that he sacrificed the highest and most precious of human desires for them: knowledge of God (*da’at Elohim*) and understanding of Him (*binat Shaddai*). “Moshe hid his face because he was afraid to look at God” – he did not want to know everything.

Therefore, the Master of the Universe told him at the time the Jews made the Calf, “Your nation has acted corruptly.” “Moshe, they are your people, to whom you acquired rights through the greatest sacrifice – knowledge. Thus, you can now also pray for them.”

When Moshe later begged God, “Show me, please, Your glory,” the Master of the Universe answered him, “You may not see My face, for no man can see Me and live,”<sup>xxxi</sup> [but] He showed him [the] knot of [His] *tefillin*.<sup>xxxii</sup> Why *tefillin*, of all things? Because *tefillin* symbolize the “Avraham bound” – the binding of the *nefesh ha-margishah* on the *tsad ha-se’ar*, the great sacrifice a person offers for the realization of the *hesed*-ideal. That is why a person may not see the face of the *Shekhinah*. Omniscience and *hesed*, symbolized by *tefillin*, are a contradiction.

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When the “internal” skin is processed both on the *tsad ha-basar* and on the *tsad ha-se’ar*, when a person binds both his flesh, his desires, and his hair, his callousness, and brings [these] two sacrifices, the human personality transforms into parchment – processed on both sides, sanctified, and purified – on which is written the great “internal” scroll, whose holiness shines forth and sanctifies all that a Jew touches.

Rabbi Joseph B. Soloveitchik (1903-1993), z”l, was *Rosh HaYeshiva* at YU/RIETS, was active in the Boston Jewish community,

and is widely recognized as one of the leading Jewish thinkers of the 20<sup>th</sup> century.

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<sup>i</sup> *Devarim* 15:8,11.

<sup>ii</sup> *Shemot* 22:21.

<sup>iii</sup> *Devarim* 15:9.

<sup>iv</sup> *Ibid.* 16:20.

<sup>v</sup> *Ibid.* 10:19.

<sup>vi</sup> A play on *Be-Reshit* 22:9. See the fifth installment of this *derashah* in *Kol Hamevaser* 3,6 (March 2010), p. 21, where the Rav explains that the sin of the Men of Flesh (*Benei Basar*) is their inability to restrain and “bind” themselves from seeking physical pleasures.

<sup>vii</sup> See *Avot* 4:1.

<sup>viii</sup> Raseyn (Raseiniai) is a small town near Kovno (Kaunas), Lithuania. R. Moshe Soloveitchik served as rabbi there from 1910-1913 before becoming the rav of Khaslavichy in White Russia [R. Aaron Rakeffet-Rothkoff, *The Rav: The World of Rabbi Joseph B. Soloveitchik*, vol. 1 (Hoboken, N.J.: Ktav Pub. House, 1999), p. 9].

<sup>ix</sup> *Tehillim* 91:15.

<sup>x</sup> See *Avot* 6:6.

<sup>xi</sup> *Shemot* 2:11.

<sup>xii</sup> See the Rav’s previous discussion of this passage in *Kol Hamevaser* 3,6 (March 2010): 21.

<sup>xiii</sup> *Avot* 5:23.

<sup>xiv</sup> Presumably based on *Mal’akhi* 1:2.

<sup>xv</sup> See *Kol Hamevaser* 3,7 (May 2010), pp. 28-29, where the Rav describes Moshe’s inability to have a well-developed family life as his first “binding.”

<sup>xvi</sup> *Shemot* 32:7 and *Devarim* 9:12; emphasis mine.

<sup>xvii</sup> See *Midrash Tanna’im* to *Devarim* 16:18, *Yalkut Shim’oni* to *Parashat Shemot* 167, and *Midrash Pitron Torah* to *Parashat Va-Ethannan* for similar versions of the Midrash quoted here.

<sup>xviii</sup> *Shemot* 32:32.

<sup>xix</sup> *Ibid.* 3:6.

<sup>xx</sup> *Berakhot* 7a.

<sup>xxi</sup> See *Hagigah* 13a.

<sup>xxii</sup> See *Rosh ha-Shanah* 21b and *Nedarim* 38a. As it is, Moshe only reached forty-nine of those Gates; see below.

<sup>xxiii</sup> *Devarim* 32:4.

<sup>xxiv</sup> *Be-Reshit* 1:31.

<sup>xxv</sup> See *Yalkut Shim’oni* to *Tehillim* 643 and *Otsar ha-Midrashim*, *Massekhet Heikhalot*.

This Midrash intimates that even death, which human beings normally fear and mourn, is, in fact, ultimately a good thing.

<sup>xxvi</sup> *Shemot* 32:11.

<sup>xxvii</sup> In other words, Moshe would have understood that everything God does has a purpose, and so to pray for Him to change what He has done is folly.

<sup>xxviii</sup> *Ibid.* 21:19.

<sup>xxix</sup> See *Hagigah* 11b, *Megillah* 25b, and *Tamid* 32a.

<sup>xxx</sup> *Tehillim* 145:17.

<sup>xxxi</sup> *Shemot* 33:18,20.

<sup>xxxii</sup> *Berakhot* *ibid.*

# BOOK REVIEWS

## Jewish Thought, Philosophy, and the Efficient Slaying of Multiple Birds

BY: Alex Ozar

*Reviewed Book: David Shatz, Jewish Thought in Dialogue: Essays on Thinkers, Theologies, and Moral Theories (Brighton, MA: Academic Studies Press, 2009). Price: \$65.00*

I am not aware of any discipline which exhibits more anxiety about whether or not it exists than does Jewish Philosophy.<sup>1</sup> I have it on good word, in fact, that before embarking on their careers, all professors of Jewish Philosophy take a solemn oath (with their right hand resting on a copy of *The Guide*, of course) that they will never begin teaching a course without first discussing the question of

those who do not “show a proper level of familiarity with certain vocabularies and methods...;”<sup>vi</sup> I believe that even well trained, duly appointed academic philosophers can sometimes be Jewish Thinkers. Of course, if being a Jewish Thinker just means being a poor philosopher – and the term is certainly used that way – my claim seems rather dubious. So, to avoid any dispute or confusion, I will simply stipulate a definition: to be a Jewish Thinker is to engage in intelligent discourse of meaning to, and resonance with a Jewish soul.

Analytic philosophy is characterized by its rigorous use of formal logic in its argumentation, its painstaking attention to detail, and its commitment to clarity of expression and

who are not academically inclined or intellectually sophisticated. I take it that the primary explanation for this phenomenon is that the average Jew finds Jewish Thought meaningful and spiritually edifying; Jewish Thought speaks to the Jew’s heart and resonates in harmony with the strings of the Jew’s soul. To be sure, being religiously meaningful is not a necessary condition for being Jewish Thought; there is no shortage of low-quality Jewish Thought. Stated precisely, then, my claim is this: Jewish Thought is the sort of thing that is usually spiritually edifying.

Dr. Shatz’s work represents a special marriage of analytic philosophy and Jewish Thought. What he does is analytic philosophy, because his reasoning is sophisticated, rigorous, and clear; his argumentation is explicit and logically sound; he critically evaluates his assumptions; and, least importantly, because his language, tone, and overall style are recognizably that of modern analytic philosophy. But what he does is also Jewish Thought, because it bears significant religious Jewish import, is spiritually meaningful and edifying, engages and works with uniquely Jewish premises, and because his language, tone, and style bear the mark of a distinctly Jewish idiom and *modus operandi*. And, more than just killing two birds with one stone, this union of analytic philosophy and Jewish Thought allows Shatz to murder each bird in a qualitatively superior manner than were he to slay each independently, precisely because the virtues of each address and correct the vices of the other. Analytic rigor and clarity are brought to bear on Jewish Thought, and a healthy dose of Jewish meaning is injected into analytic philosophy.

These benefits do not come cost-free. For the gain of analytic clarity and rigor, there is a price to be paid in difficulty and, alas, tediousness. Thorough, careful reasoning takes time

interest for this material, and as someone who on the whole thoroughly enjoyed reading this book, I admit to occasionally finding the going rough, getting bored, and losing interest. More importantly, I often had to read and reread paragraphs, making sure I had followed the argumentation. In short, this book is not a light, easy read, and I am unsure of how much a philosophical non-initiate would get out of it. However, the other side of that coin, of course, is that anyone willing to devote the requisite time and effort will likely be richly rewarded for it.

One limitation attending analytic philosophy is that the claims it produces often have to be cautiously formulated, modified, and tightly qualified in the face of objections, real and potential, which results in the claims being considerably less exciting. Analytic philosophers must always be on guard, and so it is rare to find them making grand, sweeping assertions. In his essay “Is Matter all that Matters?,” Shatz explores various ways in which traditional Judaism could make peace with Materialism, which, in his usage, refers to the thesis that Man is a material thing and is often taken to have as a consequent that Man does not possess free will. One of the approaches he takes involves combing Jewish sources for views that either devalue free will or deny it altogether. One such source he finds in the writings of certain Hasidic thinkers, who deny any agency to Man, instead asserting that all actions are caused by God; Man has but the freedom to acknowledge this truth.<sup>xiii</sup> Shatz argues that holding such a view carries positive religious values, like humility and subordination to God, and so concludes that “for followers of the approach under discussion, there is religious value in denying free will.”<sup>xiv</sup> This is interesting, but it is not clear whom it is intended to help. Most of Shatz’s readership, and those who are concerned with the problem of Mate-

**“To be a Jewish Thinker is to engage in intelligent discourse of meaning to, and resonance with a Jewish soul.”**

just what Jewish Philosophy is and whether there is any such thing at all. Like Dr. Shatz in *Jewish Thought in Dialogue: Essays on Thinkers, Theologies, and Moral Theories*,<sup>ii</sup> I will avoid addressing this issue per se; but, also like Dr. Shatz in this book, I would like to explore some closely related matters. According to Aristotle, the “good – the doing well – of a flute-player, a sculptor, or any practitioner of a skill, or generally whatever has a characteristic activity or action, is thought to lie in its characteristic activity.”<sup>iii</sup> If so, called upon as I am to evaluate Dr. Shatz’s work in this book, or whether that work is “good” or “done well,” it would be helpful to determine just what sort of practitioner Dr. Shatz is in regard to this book, and what is his characteristic activity. And so I ask: is Dr. Shatz a Jewish philosopher? A Jewish thinker? An analytic philosopher?

In the book’s introduction, Shatz discusses the “putative dichotomy”<sup>iv</sup> between thinkers and philosophers, attempting to narrow the gap between the camps, at least in regard to how we relate to their usefulness. I propose that Dr. Shatz is both a philosopher and a thinker, and therein lie his uniqueness and his characteristic activity. Shatz claims that “philosophy is not the exclusive province of those who meet the alleged criteria for ‘philosophers.’”<sup>v</sup> In parallel, I am claiming that Thought is not the exclusive province of

precise definition.<sup>vii</sup> These constitute the virtues of analytic philosophy. Precisely as a consequence of these virtues, though, analytic philosophy is often difficult, tedious, and just plain boring, much like mathematics, or brick-laying.<sup>viii</sup> Shatz describes the “characteristic idiom” of analytic philosophy as “technical, dry discourse, inaccessible to all but the philosophically trained.”<sup>ix</sup> Compounding the difficulties arising from its style, much of analytic philosophy is devoted to topics which most people simply do not find intriguing, or even find outright repelling; the thesis that there are no chairs,<sup>xi</sup> the question of whether water’s identification with H<sub>2</sub>O holds in all possible worlds,<sup>xii</sup> and the question of “trans-world identity” are some of the less confounding, more accessible discussions to be found in recent analytic philosophy. In sum, analytic philosophy has the virtues of rigor, clarity, meticulousness, and precision, but also the vice of bearing little relevance to actual human living.

Jewish Thought, on the other hand, is often written in a flowing, accessible, and engaging style. Its argumentation, however, is at times shoddy, its interpretations of sources somewhat liberal, and its expression less than fully transparent. Works of Jewish Thought often achieve significant popularity among a broad spectrum of readers, including many

and effort, and the reader must be willing and able to devote himself accordingly. As someone with training in the relevant disciplines and a strangely inordinate level of excitement and

rialism, are not followers of the Hasidic, anti-free will approach. Those who are followers are likely unconcerned with Materialism and anyway do not need any encouragement to

**“And, more than just killing two birds with one stone, this union of analytic philosophy and Jewish Thought allows Shatz to murder each bird in a qualitatively superior manner than were he to slay each independently, precisely because the virtues of each address and correct the vices of the other.”**



maintain their view. It is certainly intriguing to know that such a view exists within the broader field of Jewish thinking, and also that, were it to turn out that we had no free will, there would be some positive religious value in things being so, but this really does not say very much. To be clear, it is not as if Shatz claims to do any more than he actually does; on the contrary, he is painstakingly precise in that regard. It simply reflects the price to be paid for doing things well.

At times, in place of highly qualified assertions, we find claims that are highly general and inclusive. The essay “The Bible as a Source for Philosophical Reflection,” co-authored with Rabbi Shalom Carmy, attempts to “mine the Bible for philosophical ore,” in apparent hope of determining the Bible’s view on classical philosophical issues.<sup>xv</sup> In regard to the question of providence and free will, a topic on which many a thinker has not been afraid to assert that the Bible’s view is precisely his own, Shatz and Carmy write, “Our approach recognizes that the biblical metaphysic is as complex as it is enigmatic. Such concepts as providence, history, and responsibility are grasped by human beings in a variety of contexts. Sometimes, God is depicted as in total control of events; sometimes, He appears to relinquish the initiative.”<sup>xvi</sup> Again, this is not a very strong or ambitious claim. However, again it has that most wonderful of philosophical virtues, accuracy. Moreover, it is not philosophically insignificant that the Bible’s view on these matters is a complex, variegated thing; at the very least, it constitutes an impetus

and fellow Jews. Many Modern Orthodox Jews take for granted that Rav Kook serves as a paradigmatic champion of openness in general, and specifically of the ideal of integrating Torah and culture. Shatz, in a pair of essays on Rav Kook, carefully analyzes this position, with the result of a considerably more complex and nuanced view of the matter. Shatz provides a precisely formulated account of Rav Kook’s concept of *ihud kodesh ve-hol*, according to which “*kodesh*” is “a controlling vision” which serves as the “form” (*tsurah*) which shapes and structures the “matter” of “*hol*,” where *hol* is understood as referring to the facts of certain historical developments.<sup>xix</sup> The divine, revelatory *kodesh* perception can and should shape an understanding of the development of evolutionary theory, for instance. Importantly, though, *hol* here does not refer to “*limmudei hol*, the *teachings*, or *contents*, of particular disciplines.”<sup>xx</sup> Now, just what Rav Kook’s position was on the study and acceptance of secular and heretical teachings is not a simple matter. Rav Kook at times seems radically open to evaluating the truth claims of Torah, as when he states that biblical accounts do not need to be factually correct, but at other times seems radically conservative, as when he refuses to admit the possibility that *metsitah* carries a health risk, per the counsel of modern physicians but against Hazal.<sup>xxi</sup> Shatz states that this and other points diminish Rav Kook’s “contribution to and impact on contemporary discussions of Orthodox Jewish confrontation with modernity,”<sup>xxii</sup> notwithstanding the regnant perceptions.

the actual contents of current theories. This mini-exkursus on Rav Kook was meant to exhibit Shatz’s talent for asking important questions on matters others just take for granted and also the fruit of employing analytic rigor in Jewish Thought. He clarifies a number of concepts and presents his argumentation in a clear and organized manner, which is especially important given the nature of the subject matter, for which knockdown proofs of anything are all but non-existent and thus the risks of shoddy argumentation are raised. Shatz, then, will not pretend he is proving anything, but rather makes explicit what considerations are involved, how they work, and how they interact. The result is that one is left to choose for himself to which considerations he will give the most weight, but this choice will be a well educated and guided one; he will know just what he is gaining and what he is giving up.

Perhaps, the aspect of Shatz’s argumentation that people will find most intriguing is the way in which he employs religious and moral considerations; a position’s consonance with moral religious values counts as an argument for that position, and dissonance as an argument against. So, whereas most modern people would object to Occasionalism, the thesis that every natural event is caused directly by God, on rational and scientific grounds, Shatz frames the issue in terms of “religious sensibilities.”<sup>xxiii</sup> For example, the merit of Occasionalism is argued for on the grounds of its providing for a good account of the Jewish value of *bittahon*;<sup>xxiv</sup> if everything is caused directly by God, and none of our actions have

exciting way.

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## “A particularly interesting and unique outgrowth of his analytic approach is that Shatz often asks the sorts of questions that no one ever asks but which everyone wonders why he did not upon hearing them.”

for further philosophical reflection on why it is so. In fact, though they do not develop it, Shatz and Carmy seem to be hinting at a philosophical approach to this problem when they say, “Such concepts as providence, history, and responsibility are *grasped by human beings in a variety of contexts*.”<sup>xvii</sup> Rather than reflecting a confused, jumbled philosophy on the part of the Author, or a simple lack of philosophical thinking altogether, the Bible’s varied stance on these issues is intended as a sensitive response to the real ways in which human beings experience them. That God would choose to so author His Bible is surely grounds for some fascinating philosophical reflection. And so, sometimes what would seem a non-answer turns out to be the answer which is the most profound.

A particularly interesting and unique outgrowth of his analytic approach is that Shatz often asks the sorts of questions that no one ever asks but which everyone wonders why he did not upon hearing them.<sup>xviii</sup> Often Shatz interrogates the reflexive assumptions and entrenched, regnant positions of his colleagues

Similarly, in regard to Rav Kook’s purported “openness” to culture, Shatz shows that a careful reading reveals that it may not be what Modern Orthodoxy is looking for, and this in two ways. If we take a “bottom-line” approach in evaluating openness, then many of Rav Kook’s positions, such as his rejection of women’s suffrage, many of his halakhic rulings, and his numerous disparaging remarks about then-current science and culture, seriously call into question his openness. And even if we reject the bottom-line approach, looking rather to the broader theory and principles which produce the bottom line, here, too, Modern Orthodoxy may not get what it is looking for. For one, Rav Kook’s thought is rooted heavily in Kabbalah and 19<sup>th</sup>-century Progressivism, neither of which Modern Orthodox Jews are comfortable with. Further, what intellectual and cultural openness he has is predicated on a conception of the dialectical, progressive development of truth, which does not accord well with the Modern Orthodox desire for harmonious integration and synthesis and also results in a dismissive attitude toward

any causal efficacy, it is quite clear why we should place our trust in Him. This, however, is countered by the problem of *hishtaddelut*, which becomes especially acute when in regard to helping others; if Occasionalism is true, none of my actions are causally efficacious, and so there is no reason for me to devote myself to other’s welfare. However, helping others represents a religious value; therefore, there is something wrong with Occasionalism. This sort of philosophical argument is far from unique to Shatz, but I think it will be new and exciting to many of his readers. Anyhow, it again indicates the seriousness and sensitivity with which Shatz relates to his religion.

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I started by asking what it is that Dr. Shatz is doing in this book so that I could evaluate how well he does it. The answer is that he is doing Analytic Jewish Thought, and that he does it quite well. He engages meaningful Jewish issues in a meaningful Jewish way, which turns out to be coextensive with a rigorously analytic, intellectually productive, and

<sup>i</sup> Whether or not Descartes’ *cogito* could be employed here to reassure Jewish Philosophy that it does, after all, exist – surely its very doubting of its own existence is proof that it is around to doubt – I think it depends on whether “Jewish Philosophy” is understood as a Russellian definite description or as a Kripkean rigid designator.

<sup>ii</sup> See David Shatz, *Jewish Thought in Dialogue: Essays on Thinkers, Theologies, and Moral Theories* (Brighton, MA: Academic Studies Press, 2009), p. xxvi.

<sup>iii</sup> Aristotle, *The Nicomachean Ethics*.

<sup>iv</sup> Shatz, p. xiv.

<sup>v</sup> Ibid.

<sup>vi</sup> Ibid.

<sup>vii</sup> This is not to say, of course, that these criteria represent an ideal always achieved.

<sup>viii</sup> I should note that analytic philosophical writing is often witty, clever, and at times outright hilarious. Peter van Inwagen, or David Johnson for that matter, could have been standup comedians.

<sup>ix</sup> Ibid., p. 393.

<sup>x</sup> See Peter van Inwagen, *Material Beings* (Ithaca, NY: Cornell University Press, 1990).

<sup>xi</sup> See Saul Kripke, *Naming and Necessity* (Cambridge, MA: Harvard University Press, 1980), p. 128.

<sup>xii</sup> See Alvin Plantinga, *The Nature of Necessity* (New York, NY: Oxford University Press; 1974).

<sup>xiii</sup> Shatz, p. 229.

<sup>xiv</sup> Ibid.

<sup>xv</sup> Ibid., p. 39.

<sup>xvi</sup> Ibid., p. 18.

<sup>xvii</sup> Emphasis mine.

<sup>xviii</sup> In the introduction to his book on the deeply entrenched institution of peer review, Shatz writes, “Surprisingly, this is the first book-length study of peer review that utilizes methods and resources of contemporary philosophy” [David Shatz, *Peer Review: A Critical Inquiry* (Lanham, MD: Rowman and Littlefield, 2004), p. 4]. I would just add that it is not surprising that Shatz was the first to publish such a book.

<sup>xix</sup> Shatz, p. 95.

<sup>xx</sup> Ibid.

<sup>xxi</sup> See *ibid.*, p. 104.

<sup>xxii</sup> *Ibid.*, p. 106.

<sup>xxiii</sup> *Ibid.*, p. 179.

<sup>xxiv</sup> *Ibid.*, p. 186.

# The Limits of Orthodox Sociology

BY: Yitzchak Ratner

*Reviewed Book: Jeffrey S. Gurock, Orthodox Jews in America (Bloomington: Indiana University Press, 2009). Price: \$24.95.*

A primary goal of a historian is to place a subject – be it a person, event, or idea – within a chronological context. We would do well, then, to analyze Jeffrey Gurock's *Orthodox Jews in America* by attempting to place his work on a historiographical spectrum.

An exacting reader could take issue with the book's overly expansive title, as one might infer that Gurock's tome purports to present the definitive history of American Orthodoxy, something it clearly does not do. Gurock stays far away from any form of analysis of thoughts and ideas within Orthodox Judaism (with an important exception to be discussed below) and only describes American Orthodox social, political, and religious institutions insofar as they help explain the people that created and made use of them. But the author (or perhaps his overly ambitious publisher) can be forgiven for this possible lapse in judgment, as from the book's start its purpose is made abundantly clear. Beginning with the book's prologue, in which he nostalgically remembers the "wide tent" of the Orthodoxy with which he grew up,<sup>i</sup> Gurock attempts to chronicle the fluctuating levels of halakhic observance within Orthodox Judaism as well as to illuminate the recurrent struggle encountered by generations of American Jews: in the face of modernity, how should one relate to tradition? With few exceptions, Gurock achieves his stated goals. In a word, *Orthodox Jews in America* is a social history of traditionally religious Jews in the United States.

While making numerous disclaimers, Gurock defends his right to compose this work despite his inherent biases as an Orthodox Jew who grew up in a world in which Jews with different levels of halakhic observance were treated as equals.<sup>ii</sup> Modern historians have moved away from German historian Leopold von Ranke's claim that empirical study can reveal history "*wie es eigentlich gewesen*" – as it really was. We realize now that no one can be totally objective, but, nevertheless, historians still seek to limit and contain as much as possible any inherent inclinations and predispositions.

Gurock's ostensible weakness, however, soon reveals itself as a strength. His proximity to the subject often enables him to get to the crux of the matter, producing a nuanced view of how ordinary Orthodox Jews dealt with traditional religion and American culture. At least when it comes to the Orthodox Jews with whom I am most familiar, including the black-hatted Haredim of my Brooklyn hometown and the Modern Orthodox youth of Yeshiva University, Gurock's descriptions of how they feel and think ring particularly true.

*Orthodox Jews in America* starts off by describing the travails of the first Jews to arrive on these shores in the 17<sup>th</sup> century. These pioneers came to a land that was, in theory, tolerant of other religions, yet was inhospitable to the traditionally religious Jew who required much that was unavailable here, from Torah scrolls to *etrogim* to spiritual leaders. Still, Gurock informs us, they made do, paving the way for the first organized Jewish communities in New York, Charleston, and Philadelphia. From the very beginning, the temptation to abandon traditional religious structures presented itself: the depiction of Michael Hart throttling his pork-guzzling son to the point of regurgitation is humorously grotesque.<sup>iii</sup> Concomitantly, many strictly observant Jews built the institutions necessary for religious life, including *mikva'ot* and synagogues, making it abundantly clear that while some Jews arriving in the New World immigrated in order to escape the shackles of tradition, many who came kept Halakhah to the best of their abilities.

It is striking that that level of religious discrepancy between different parts of the Jewish community, or at least a rapid change of viewpoint within the community, was present even in those early times. For example, Moses Nathans was on a committee from Congregation Mikveh Israel "that ruled against granting

neighbors, not out of an inner conviction that modern times demanded that Judaism change. Indeed, even when services might have been altered somewhat, many Jews still desired to keep kosher. Reform Judaism, recognizing a widespread desire among American Jews to acculturate, used the opportunity to make deep inroads into American Jewish life. This deference to practicality dominated how traditional Jews practiced their religion in America. Tens of thousands of Jews worked on the Sabbath due to the widespread conviction that otherwise they would not be able to support their families. Yet, many of these Jews self-identified with Orthodoxy. When they held early (*hashkama*) *minyanim* on Saturday mornings before heading out to work, they usually did so in an Orthodox synagogue. There was no "compartmentalization" of their actions; the Sabbath desecrators did not say to themselves, "I believe in certain aspects of Judaism, just not this particular one." They held themselves to be traditional Jews who needed to survive and thus made concessions in their observance of Halakhah.

Ironically, though, as it became easier to be openly religious in America, with kosher hot dogs sold in ballparks and popular music by Jewish singers widely available, many Jews strayed further from Orthodoxy. When these

what is colloquially known as Orthodox Judaism.

It seems, however, that some of Gurock's own proclivities contributed to the inclusion of a chapter that simply does not belong with the rest of this excellent work. Admitting that he is a long-time congregant of Rabbi Avi Weiss' *shul*, Gurock devotes the last chapter to feminism and Orthodoxy, viewing this topic as the next frontier on which the borders of Orthodoxy can be pushed.

The social ramifications of Orthodox female rabbis and women's prayer groups for Orthodox Jewry might be obvious, but the issues involved are overwhelmingly intellectual. Attempting to wade through the complex legacy of Rabbi Soloveitchik on these topics, Gurock gets involved in issues over his head. He is patently unqualified to evaluate the different arguments put forth by Rabbis Hershel Schachter, Mayer Twersky, and Avi Weiss on this topic, and that becomes clear in his writing. Gurock glosses over the nuanced halakhic problems involved, instead focusing on the "cruel irony" that the RIETS Rashei Yeshivah came to the same conclusions arrived at by the Agudah camp.<sup>vi</sup> Halakhic issues should be debated on their own merits, since an honest *posek* does not consider which sociological faction will agree with the conclusions he reaches.

There is an even simpler reason why Gurock should not have concerned himself with Orthodox feminism: it is a story that has not yet ended. *Orthodox Jews in America*, though it treats the subject seriously, was published before the recent controversy involving the Orthodox ordination of women, possibly one of the most salient episodes in the movement's thirty-year history. It is easy to miss the one passing reference to Sara Hurwitz, the focal point of the recent brouhaha, indicating that her first, limited, appointment had not been fully appreciated at the time of publication. We should restrain ourselves from trying to place Orthodox feminism within the larger context of Orthodoxy in America until the full picture can be seen. Twenty/twenty hindsight is the historian's best weapon, and it should be put to use felicitously.

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## **“Gurock attempts to chronicle the fluctuating levels of halakhic observance within Orthodox Judaism as well as to illuminate the recurrent struggle encountered by generations of American Jews: in the face of modernity, how should one relate to tradition?”**

full religious burial rights in a special case involving an intermarried Jew. [...] However, in later years, Nathans's hard-line attitude changed dramatically when he himself consorted with a Christian woman who bore him a son!<sup>iv</sup> One thing was certain: the absence of an established Jewish community made it easier to give in to the call of the surrounding American culture.

A noticeable feature of American Judaism in the 1800s was the lack of traditional religious leadership. There were few rabbis competent enough to keep the thousands of Jewish immigrants in line with the traditional Judaism prominent in Europe. Changes in traditional lifestyle, therefore, were not as much a function of ideology as they were a practical response to the ever-present pressure to acculturate. When certain congregations revised parts of the liturgy, it was often out of a desire to appear similar to their Christian

Jews removed themselves from traditional modes of Jewish living, whether consciously or unconsciously, they fell out of the tent of Orthodoxy, even one as big as that which Gurock describes.

Although Gurock never explicitly defines "Orthodoxy," I understood him to mean that anyone who self-identifies with the Orthodox Jewish community can be considered religious. It may come as a surprise to some that the term "religious," in this book, is not defined by a certain level of observance – even though Halakhah itself, despite an awareness that "*ki adam ein tsaddik ba-arets asher ya'aseh ttov ve-lo yeheta* (for there is no man upon the earth who does good and does not sin),"<sup>v</sup> would certainly not consider some of Gurock's Sabbath-breaking, pork-eating Orthodox Jews to be within the boundaries of observant Judaism. But that is of no concern to the historian, and rightly so, as he is occupied with portraying

<sup>i</sup> Jeffrey S. Gurock, *Orthodox Jews in America* (Bloomington: Indiana University Press, 2009), p. 1.

<sup>ii</sup> See especially *ibid.*, p. 20.

<sup>iii</sup> *Ibid.*, p. 29.

<sup>iv</sup> *Ibid.*, p. 36.

<sup>v</sup> *Kohelet* 7:20.

<sup>vi</sup> Gurock, p. 286.



# The ArtScroll Revolution Examined: Religious Print Culture in the Information Age

BY: Shlomo Zuckier

*Reviewed Book: Jeremy Stolow, Orthodox by Design: Judaism, Print Politics, and the ArtScroll Revolution (Berkeley and Los Angeles, CA: University of California Press, 2010). Price: \$24.95.*

Known as “the people of the book,” Jews, one might say, are perhaps the religious community most connected to print culture. From the Bible to the Talmud to the writings of the medieval philosophers, Jewish texts have historically had significant contemporaneous impact on the cultures in which they were situated, and those very same texts still have lasting influence today. Which Jewishly-connected individual is unaware of the stories of the Patriarchs, the laws of the Sabbath, and notion of the unity of God? Traditional writings have had an effect both upon their immediate audiences and upon Jewish tradition in the broader sense, as well.

And yet, when one scrutinizes the last 500 years of Jewish history, one finds that few if any texts have achieved the canonical status reached by the earlier works. Jewish writings today have some contemporary degree of impact, but it seems that their lasting effect is much diminished and their impression more local to their periods of circulation. In our age of mass publishing and an overflow of books – one is reminded of the aphorism “*asot sefarim harbeh ein kets*” (there is no end to the oversupply of books)<sup>i</sup> – not to mention the more recent advent of the internet and blogs, can any one text enjoy the dominance once available to the great works of classical and medieval literature? What is the impact of print culture in the modern (or postmodern) world?

Jeremy Stolow’s recent book, *Orthodoxy by Design*, deals with this question, focusing on the print culture of the ArtScroll book series over the last couple of decades. He splits his critique into several parts, first looking at the basic appeal of ArtScroll, its combination of being both “authoritative and accessible,” then moving to analyze the way the publisher has “sold” itself to the public world, examining its different constituencies. Later parts of the book focus on some specific subgenres of ArtScroll publications that are popularly marketed and purchased, and the book concludes with a perspective on what ArtScroll represents, its combination of gravity (the inertial nature of text culture) and gravitas (the religious connection it provides).

The first point that must be noted is that the book’s objective – to “study the case of ArtScroll, [which] invites reflection upon the ways in which the medium of the *printed text* has assumed a new status within Jewish public culture,”<sup>ii</sup> and to relate this to a broader study

of print culture – was manifestly carried out. In terms of fundamentally understanding the ArtScroll project, Stolow showed himself to be fully capable. And with regard to properly executing a sociological analysis of the topic at hand, by abstracting the information gathered from interviews, sociological research, and data regarding the publications themselves, he definitely comes off as impressive. The book’s observations are sharp, its analyses incisive, and its formulations astute in its observations and conclusions.

Furthermore, the book manages to deal closely and critically with the important questions regarding ArtScroll – what are its publication and marketing techniques? who are its targets? who actually buys the books? are ArtScroll’s expectations being realized? – while maintaining an unbiased and professional position. This book is not an excuse for an anti-Haredi polemic, nor is it used to un-

## “What common ground can a true Haredi, simple if not self-abnegating, viewpoint have with an individualistic, 21<sup>st</sup>-century American philosophy of convenience?”

abashedly sing ArtScroll’s praises; it gives praise where it is deserved (for instance, ArtScroll’s masterful Talmudic elucidation) and critiques when relevant, as well.

One such critique, which was, in my opinion, very much to the point, was a sharp insight that undermined ArtScroll’s claim that it could simultaneously maintain complete fealty to traditional ideas while reaching out to a broader audience with an aesthetically-pleasing and up-to-date product. After presenting ArtScroll’s leaders as explaining how they adhere to tradition even as they print for a broader public, as well as the response of end users who found the works user-friendly, Stolow comments:

“What, then, is at stake in this desire to make Haredi-defined standards of knowledge and conduct ‘easier to understand’ or ‘more convenient to execute’? Does the production of ‘helpful’ (or even ‘enjoyable’) points of entry into the prescribed life path of ever-greater stringency undermine the very idea of stringency?”<sup>iii</sup>

What common ground can a true Haredi, simple if not self-abnegating, viewpoint have with an individualistic, 21<sup>st</sup>-century American philosophy of convenience? This case of cognitive dissonance is most radically noticed when reading some of the promotional material for ArtScroll’s “higher-end” products. Certain ArtScroll leather-bound books, ironically named “Yerushalayim leather” products,<sup>iv</sup> sell for highly inflated prices and fairly clearly function more as accessories to be displayed

and not simply as religious items to be used. In this case, Stolow’s fair-handed approach reveals some material for critique, as the chasm between tradition and contemporary American culture, so carefully navigated by ArtScroll, here proves too wide a gap to bridge.

The timing of the research and publication of this book presents both a strength and a weakness in that almost all the work was carried out before the advent of Koren publications and the OU Press in America. [For example, despite the book’s publication date of 2010, a (fairly representative) chart on the percentage of synagogues in different cities with ArtScroll *siddurim* and other books runs from 2001 to 2004.] On the one hand, this means that the material is not fully up-to-date, as the competition from Koren and OU publishers is not taken into account in this work. But, at the same time, presenting on the monopolistic control that the ArtScroll brand had on the pre-

esty, and its community of users is all the poorer for it. It may be that a study on sociology will normally ignore issues of an intellectual nature, but something is lacking when a book dealing with the status of ArtScroll in the Jewish community leaves out the major question of which scholars are included in the corpus of these works.

*Orthodox by Design*, then, is successful in spelling out ArtScroll’s contribution and *modus operandi* (while leaving out certain subsidiary, if important, issues). ArtScroll preserves a feeling of authenticity, projecting a Haredi belief system, while at the same time simplifying and beautifying the reading experience, which attracts consumers. The traditional idea of the Jewish text, modified significantly from the great works of old, is nonetheless retained (as much as possible) as the medium through which to reach the Jewish populace. It is in this sense that text culture can succeed in affecting the community – by reaching out to consumers and providing something user-friendly and with a genuine feel.

While this form of textual output is popular and has been very successful, it does not appear to have the same staying power as that of the classic texts. (It remains to be seen how far into the future ArtScroll will continue as the dominant publishing house in this area.) In the meanwhile, though, it may be that the democratization of available knowledge brought about by the information age has led to a scenario where the most influential religious books are the ArtScrolls of the world, while the more classical areas of religious scholarship, Talmudic novellae and pieces of philosophical speculation, are to be reserved for a mere slice of the overall Jewish readership.

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<sup>i</sup> See Ecclesiastes 12:12. This is a generation in which myriad long-term kollel students specialize and publish a book on some minute halakhic topic, which has brought about many times over the fulfillment of the joke of finding an entire book published on the practice of *tahanun* (supplication prayers) and the like.

<sup>ii</sup> Jeremy Stolow, *Orthodox by Design: Judaism, Print Politics, and the ArtScroll Revolution* (Berkeley and Los Angeles, CA: University of California Press, 2010), p. 4 (emphasis his).

<sup>iii</sup> Ibid., pp. 107-8.

<sup>iv</sup> See *ibid.*, p. 167ff.

<sup>v</sup> Ibid., p. 73.

<sup>vi</sup> Ibid., p. 180.

<sup>vii</sup> Ibid., p. 111.

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students and wishes you a new year  
filled with personal growth,  
academic exploration, and all the best  
that we have to offer.

Shana Tova,

The Office of Student Affairs