War and Peace

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From the archives of the Yeshiva University Museum:

Scrap depicting Samson destroying the temple of Dagon
Poster for the Jewish Relief Campaign
Charity Benefit Poster
Destruction of Jerusalem by the Romans
Poster commemorating a pogrom in Poland
Jewish Volunteers in the British Forces Commemorative Medal

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Throughout the holiday of Hannukah, we celebrate the Maccabees’ victory over their enemies and praise God for enabling our ancestors’ meek and small army to triumph over the vast and mighty Syrian Greek legions. In the al ha-nissim prayer, we exalt God for delivering “the impure into the hands of the pure, the wicked into the hands of the righteous.” However, contemporary warfare rarely has the luxury of the clear moral fault lines that are expressed in this prayer.

The bleak and brutal nature of warfare creates an atmosphere of moral ambiguity. By definition, wartime is not an ideal state; how, then, do the rules of morality and Halakhah create a le-ka-tehillah infrastructure to govern a be-di-avad reality? When discussing both jus ad bellum (just cause for war) and jus in bello (just conduct in war), countless questions arise.

Except in the clearest cases of self-defense, entering into a war is fraught with moral and halakhic issues. Does the Halakhah allow for a war of preemptive self-defense? May the King of Israel wage war to acquire land, with no limit? Is the existence of war itself only due to the flawed nature of our current world, or will it persevere in the Messianic Age?

Beyond the dilemmas raised by entering into war, moral ambiguity increases upon engaging in war itself. What code of behavior is sanctioned for soldiers? The Halakhah seems to permit soldiers to engage in behaviors normally forbidden to them; what is the rationale and justification for this permission? Is the Halakhah expressing an ideal in those cases, or is it offering a concession to brute reality? If the Torah grants certain concessions, we must grapple with the philosophical ramifications of an ideal system occasionally capitulating to the demands of a non-ideal world. In addition, what tactics may an army use to defeat its opponents? May it utilize nuclear weapons, which may cause widespread devastation; if so, under what circumstances?

The moral and halakhic issues surrounding war that we face as American Jews living in the twenty-first century are not abstract; rather, they shape our views on current events in regard to the military activities of both the United States and Israel. As the last of the American troops seek to analyze the military role that the U.S. plays in conflicts throughout the globe. Furthermore, each of us keenly feels the danger posed by Iran’s attempts to develop nuclear capabilities and the devastation this could bring to the Holy Land. With hostile enemies surrounding her, Israel constantly grapples with the moral dilemmas that war brings. We hope that this issue of Kol Hamevaser contributes to your understanding of these modern day realities through a moral and halakhic lens.

In addition to the articles focusing on war and peace, this issue includes several responses to previously published articles. Kol Hamevaser attempts to generate meaningful and thoughtful conversations on matters of relevance to the Jewish community. By continuing these conversations, we hope to provoke further thought and promote an enhanced understanding of the issues at hand.

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1 Aristotle, Nicomachean Ethics 1177b (Book X, Chapter 7).
2 Translation from the Koren siddur.
By Adam Friedmann

My heartfelt thanks go out to R. Pesach Wolicki, rosh yeshivah at Yeshivat Yesodei Hatorah, whose sihah ruhamah (spiritually-focused talk) during Operation Cast Lead inspired this article.

In Emmanuel Levinas' preface to Totality and Infinity, his work on subjectivity and ethics, Levinas considers the experience of war. "The state of war," he writes, "suspending morality; it divests the eternal institutions and obligations of their eternity and resinds ad interim the unconditional imperatives... War is not only one of the ordeals—the greatest— of which morality lives; it renders morality derisory." Levinas argues that if humanity's essential nature is either a heartless Machiavellian politics or definitively moral, then the reality of war debases the argument for morality. The "harsh reality" of war envelops society in "an order from which no one can keep his distance." The individual is subsumed by the masses, and the singular goal of victory obliterates all other considerations and motivations. The suite of moral standards practiced during peace-time is discarded. War reveals morality to be a nicety observed by society during times of calm that does not extend beneath the surface toward the immediacy of human existence on the battlefield, where his existence is threatened, are the measures of his true nature, or "pure being." If this is the case, then humanity's abandonment of morality during wartime is not merely a temporary measure; it is the revelation of its true face. This face exposes humanity as fundamentally immoral.

In the next section of his preface, Levinas claims that there is a "defense for morality against the 'ordal' of war. 'Morality,' he posits, "will oppose politics in history and will have gone beyond the functions of prudence and the canons of the beautiful to proclaim itself unconditional and universal when the eschatology of messianic peace will have come to superpose itself upon the ontology of war." In Levinas' view, eschatology is morality's antidote to war. An eschatological view, whether religiously or philosophically based, is one that claims that the universe is currently imperfect, though it is tending towards perfection. We therefore cannot, from our vantage point, divine a "pure being" based on humanity's actions. Man reacts to an imperfect world imperfectly and uncharacteristically. He is forced to mask his true nature in order to survive. Therefore, essential man can only be viewed at the time of the universe's actualization, when the historic revolutions of war and peace have been settled. At such a time, argues Levinas, peace will reign definitively over war. The ultimate permanence of peace will indicate that the peace-war cycle that we currently experience is not primarily savage war, humanity's true form, punctuated by periods of rest, but rather the opposite is true. Peace, and the morality which it allows for, will be recognized as humanity's default mode of being.

Finally, Levinas warns that the value of the eschatology approach is not in being assimilated as "philosophical evidence." One cannot stand on the battlefield and claim that the beings before him, desperately trying to kill one another, are definitively moral based on the eschatological belief that their morality will be proven in the future. In attempting to make such an evidentiary claim, "eschatology would then already accept the ontology of totality issued from war." In other words, the immediate experience of war denies man's morality to such an extent that it obliterates any theoretical arguments to the contrary, even the eschatological claim. Nor, continues Levinas, can one use a belief in eschatology to "introduce a teleological system into the totality [of war]; [eschatology] does not consist in teaching the orientation of history." In Levinas' view, war does not explain the moment-to-moment occurrences within a war; nor does it explain a particular war in the context of world history. Eschatology exists as a fly on the wall, quietly and persistently insisting that humanity is moral and will be proven as such without providing the details whatsoever of the process of this vindication.

Levinas' analysis provides the background for explaining a cryptic question in the Gemara. The Gemara in Megillah 17b attempts to derive the basis for the order of the berakhot in the Amidah. The Gemara determines that the order of the sixth, seventh, and eighth berakhot, those of selihah (forgiveness), ge'ulah (redemption), and refuah (healing), respectively, should be based on the verse in Psalms: "who forgives (selihah) all thy iniquities; who heals (refuah) all thy diseases; who redeems (ge'ulah) thy life from the pit." According to this verse, the berakhot for ge'ulah should have been eighth, following refuah. However, we find that ge'ulah is the seventh berakhot, after selihah, and before refuah. The Gemara wonders why the authors of the Amidah deviated from the sequence found in Psalms. The answer provided is based on an aggadic statement in Sanhedrin 97a. The Gemara there explains that the last seven years before the coming of Mashiah will involve a specific sequence of world events. The seventh year will be marked by war, and at the end of that year “the son of David will arrive.” The Gemara in Megillah makes reference to this teaching and explains that the berakhot of ge'ulah was specifically placed as the seventh berakhot to refer to the fact that the Jews will ultimately be redeemed at the end of the seventh year.

However, the subsequent statement in the Gemara is, at first glance, unclear. The Gemara observes that though Mashiah will arrive at the end of the seventh year, the seventh year itself will be characterized by war. How then, asks the Gemara, can we associate the seventh year with ge'ulah at all? At first glance, this question is perplexing. The seventh year is associated with ge'ulah because it ends with ge'ulah! Why has the Gemara allowed itself to become distracted by the fact that most of this seventh year will involve war? Perhaps the Gemara is troubled precisely by Levinas' concern, namely that the experience of war does not allow itself to be interpreted in eschatological terms. One cannot, claims the Gemara, see even the glimmerings of ge'ulah from within the all-encompassing perspective of war. With this understanding in mind, it is altogether inappropriate to associate the seventh year of war with ge'ulah. Thus the Gemara finds itself facing a contradiction in terms. On the one hand, the ultimate redemption of the Jews is to come at the conclusion of the seventh year. On the other hand, this year will be characterized predominantly by war from within which one cannot possibly have any sense of ge'ulah.

If the preceding interpretation holds and the Gemara is indeed asking Levinas' question, then it follows that Gemara's answer is a response to Levinas' claims. The Gemara answers that even though the seventh year is predominantly associated with war, it is still fitting to establish ge'ulah as the seventh berakhot, because war is also “the beginning of redemption.” Presumably, Levinas cannot tolerate this sentiment. As outlined above, for Levinas, war’s totalitarian nature repels any notion of the eschatological. And yet, the Gemara is arguing that the experience of ge'ulah is so bound up with war that the flowerings of the final redemption are noticeable even from within reality of war. The Gemara is pointing toward a conception of war which is markedly different from Levinas'. This perspective requires further description.

A cursory perusal of the halakhot of warfare might lead one to believe that Halakhah denies Levinas' claims about the effects of war altogether. It is certainly the case that many of a Jew’s legal and moral constraints are loosened when he wages war. He is permitted not only to kill, but also to loot, eat forbidden foods, and, according to some opinions, commit heinous sexual acts while out at war. However, in any analysis of the halakhot, these allowances are mitigated immediately by the resounding voice of Hazal claiming, "lo dibreh Torah el ha-neged yehe ha-ra." The Torah did not speak in [an allowance] except to counter the Evil Inclination. Furthermore, the Torah itself demands that the Israelite war camp be holy, a requirement which entails a high degree of cleanliness and purity. One might conclude based on the above that Halakhah views the experience of war as a she'at ha-debah (an extenuating circumstance). War amplifies one's desires and tests one's moral fortitude to extreme levels. The Torah compensates by providing avenues for relief so that soldiers will not lose themselves entirely. Ultimately, though, man is not revealed to be a qualitatively different being in wartime, as Levinas claims. The overpowering drive for victory that hopelessly robs man of his morality, which Levinas associates with the experience of war, seems to be missing entirely from the Torah perspective. The discussion might even end at this point, if not for a striking formulation in the words of Rambam.

When describing the wars between the Jews and their enemies, the Torah writes, “let your heart not be faint; do not be afraid; do not panic, and do not break down before them.” Rambam cites this verse as the source of a negative commandment in his Sefer ha-Mitzvot. Rambam's codification of this halakhat in Mishneh Torah elucidates his views about the experience of war.

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makes war for the sake of the unity of God’s name; and he should place his soul in his hands and not be afraid and think neither about his wife or his children. Rather, he should erase their memory from his heart and turn his attention away from everything [focusing only on] the war... And not only this, rather [he must imagine that] the blood of all of Israel is hanging from his neck and if he is not victorious and he does not wage war with all his heart and with all his might it is as though he has spilled the blood of [them] all... and anyone who fights with all his heart without fear and his intent will be only to sanctify the name [of God], he is assured that he will not come to harm nor will any evils befall him, and he will build a correct house in Israel which will be a merit for him and his children forever, and he will merit life in the World to Come..."

In this description, Rambam reveals a new dimension of Halakhah’s perspective on war. According to Rambam, not only does the Torah embrace Levinas’ view of war as an institution rooted in a totality; it demands it. Every time the Jewish soldier steps onto the battlefield he is commanded to leave his personal life behind. The call to battle transforms him from an individual into a new being, subsuemed by the communal war machine. His intellectual and emotional faculties, normally used in pursuit of the love of God, are redirected towards fighting “with all his heart and with all his might.” His entire being is refocused upon victory. This sounds very much like Levinas’ description. If so, we must still explain how the soldier is saved from descending into total immorality. How does he maintain his moral standards, however loosened, during wartime? Most pressingly, how does he see divine redemption from within the seemingly monolithic experience of war?

Rambam responds to these questions as well. Many armies call out a war cry as they charge into battle, but the Jewish army has an inner ideological cry. The soldier is forbidden to fear the enemy because he must have total commitment to what the Torah writes in the verse following this prohibition of fearfulness. “For Hashem, your God, is the One Who goes with you, to fight for you with your enemies, to save you.” 19 A war against Israel is, by definition, a war against God. The soldier fights the war with God, and God is always with him. God is in the camp and on the battlefield, ensuring that critical moments turn out in the Israel’s favor. 20 Therefore, Rambam writes, while a Jew must fight with all of his heart and soul, his intention must be the “unification of God’s name.”

It is here that Rambam parts ways with Levinas. Halakhah admits and even requires that the Jewish soldier give himself over completely to war. But it also claims that one’s kavvanah (intention) in fighting is stratified into two levels, that of the act of fighting itself and that of the motivation to fight. 21 In non-Jewish societies, the initial cause for war becomes inconsequential during battle. Ultimately, the uncertainty of the war’s outcome causes an existential panic. This panic manifests as an urgent need to defeat the enemy and blot out the original purpose of fighting. The Jew, however, is forbidden to feel this fear from the start. He must fight knowing that God will bring victory. This equanimity allows the Jew to keep his motivation for fighting in clear view, and this fundamentally alters the experience of war. He is able to “fight with all his heart without fear,” and, at the same time, “his intent will be only to sanctify the name [of God],” as a result. The experience of war is changed. The Jew is able to descend into the abyss of war and become the kind of person that war requires. But he is never totally consumed by this reality. His eye is always toward his purpose in fighting, which is to reveal to the world its Master and Creator. The totality from which the Jew derives his identity in war is just as much oriented towards ra’u’a Hashem as it is towards destruction of the enemy.

From this vantage point, not only is the Jew able to maintain an essentially moral character, but his perspective on the events of war differs from those of the non-Jewish fighter. He knows with a firm certainty that he is not merely a fighter, rifle in hand, attempting to defeat the enemy. He is a member of kenesset Yisra’el, an active participant in God’s interaction with His creation. The soldier looks out over the battlefield and sees God appearing in a forlorn and violent world to save His children. What greater beginnings of ge’ulah can we hope for?

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[21] War and Peace

American cemetery, Normandie, France 2010

[10] Admittedly, there is another way to read the Gemara’s question. One might explain that the Gemara was concerned with the fact that the Mashiah is supposed to arrive at the conclusion of the seventh year, which is really the beginning of the eighth year. It is therefore inappropriate to associate the seventh year with ge’ulah since it is characterized only by war. The difficulty with this approach is that it assumes that the Gemara had previously made a simple mistake by incorrectly reading the statement in Sanhedrin as saying that the Jews will be redeemed in the seventh year. One might argue that this is too simple of a mistake for the Gemara to have made.

[11] This interpretation follows the opinion of the Sefer Emet to Megillah 17b, s.v. nahu, who argues that the ge’ulah in question is the ultimate one and not that of Rashi ad loc., s.v. athalta de-ge’ulah who argues that the Gemara refers to other, less significant, forms of ge’ulah.

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[15] Ibid. 8:1.

[16] Ibid. 8:2. See also Ramban’s commentary on the Torah to Deuteronomy 21:13.

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[23] Rambam’s use of the word kavvanah in this context may be especially relevant. R. Hayyim Soloveitchik, in his novellae on Mishneh Torah (Tefillah 4:1) claims that Rambam has two notions of kavvanah in tefillah. One is the knowledge that one is standing before God and performing a mitzvah. The other is the meaning of the words themselves. Similarly, in the case of war there may be a kavvanah relating to the actual fighting itself and an overarching kavvanah regarding the motivation to fight.
BY: Jacob Bernstein

Imagine the following story: After victory in battle, a group of soldiers passes some local, and one woman catches a certain sergeant's eye. He separates from his fellow troops to gaze at her outstanding beauty, and decides to approach her. Before she is able to react, he forces her into an alleyway and fulfills his war-driven sexual cravings. Subsequently, he travels back to his native country with her at his side, and proceeds to shave off her hair, grow her fingernails beyond their normal length, strip away her beautiful clothing, and dress her in sackcloth. He lives out his daily life, returning to his family and friends whom he left for war, while his normal surroundings embody nothing more than a characteristic captive. After thirty days, he forcibly converts her to his religion and marries her. The end.

I presume that your reaction to this story would match the common response of disgust in the face of such horror, followed by a demand that justice be done. The soldier should have never acted in this manner, for the act of war to fight is limited to the battlefield, and in no way is the soldier empowered to brutally rape the opponent’s wives and daughters! As if the rape was not awful enough, this woman was kidnapped, terrorized, and then taken as a wife by the enemy, actions which, individually, one would hope to be beyond the entitlement of soldiers at war. The poor woman’s life has been ruined, and, beyond the abuse and assault, she has now been transformed into a new person, implanted into new faith, family, and surroundings.

The most shocking part of this exercise may be that this slightly-embellished story is not far off from that which is allowed in the case of eshet yefat to’ar, a biblical institution most commonly understood as permission for a soldier at war to sleep with a captive woman.8 In fact, according to a number of the famous compilers of the mitsvot, this soldier has actually fulfilled a mitsvah.9 The Bible approves a series of actions that seem to run contrary to the broader meta-philosophy of the Torah! How can such abuse be permitted? Since when is a man allowed to act freely on his desires, ignoring the repercussions of his actions? To where has the merciful and caring Jewish conscience disappeared?

The most common explanation for eshet yefat to’ar originates in the Amoraic discussion about whether the allowance applies to kohanim as well. The application of this allowance to a kohen seems problematic from the outset, given the prohibition for a kohen to marry a convert.10 To explain why a kohen would nonetheless also be included in the permission of eshet yefat to’ar, Hazal interpret this passage in the Torah as a divinely sanctioned loophole to provide soldiers with an outlet for their sexual drives. Thus the Torah allows the kohen to make use of this outlet as well, even if he cannot ultimately marry the woman. In other words, the Talmud is claiming that this entire section of the Torah is meant to speak toward one’s yetser ha-ra, for it is better for a Jew to “eat animals that died without slaughter.”11

Commentators offer various explanations for the specific details involving the eshet yefat to’ar, each shedding new light on the situation for the soldier and the captive woman. Several rishonim permit the first sexual act before converting the woman,2 while others maintain that it must be delayed until the completion of the thirty-day process described in the verses, which includes conversion3 In regard to the woman’s transformation from non-Jew to Jew, Rashi claims that the conversion is coerced.4 In contrast, Rambam argues that if the woman does not want to convert, the minimal time period before they can marry is extended to twelve months, in order to allow her more time to decide whether or not she wants to convert.5 If she ultimately decides that she does not want to convert, she simply goes free and is considered a ger toshav.6 Given these varying nuances in the halakhot, the strength of the original question posed about eshet yefat to’ar differs depending on the opinion.

Though the Torah does seem to allow the soldier to engage in sexual activity with the captive woman, the Rabbis alter our view of this permission. After quoting the Talmud’s statement that the Torah was speaking to the yetser ha-ra, Rashi further qualifies the Torah’s approval of this act with the approach of the Midrash Yospeh Ha-Kadosh to Deuteronomy 21.7 Hazal there point out that, based on the context of the eshet yefat to’ar (i.e. the next two sections of chapter 21: the “hated wife” and ben soror u-marah – “the wayward and rebellious son”), the Torah not only has a negative outlook on this permission, but seems to indicate the disastrous repercussions of following it directly in the text. The Torah purposely organizes the topics in this way as a warning that indulging in the eshet yefat to’ar allowance will lead to calamitous consequences, namely the troubles described in the next two portions of the text.8

So although the Torah provides a method to realistically deal with one’s yetser ha-ra, the dissuasive passion of the Torah is evident through the text.

The commentators affirm the Talmud’s notion that the Torah maintains a negative view of the eshet yefat to’ar allowance, and develop this perspective further. The Keli Yakar explains that the requirement for the woman to “cry over her father and her mother”9 is intended to create a feeling of mourning within the soldier’s household. This purports to remind the soldier of his day of death, and with that in mind, he is expected to successfully combat his evil inclination.10 In addition, R. David Silverberg, a writer for Yeshivat Har Etzion’s Virtual Beit Medrash, argues that the requirement to bring the eshet yefat to’ar “into one’s home”11 exists in order to help the soldier realize how far his mind had gone while he was out at war, enabling him to regain his old state of mind and avoid sin.12 The verses later require the soldier to shave off all of the captive’s hair,13 and Rashi14 explains that the purpose of this is to make her appearance disgusting, to negate the beautiful impression given off at their first encounter and thereby prevent the soldier from sinning again.

The aforementioned sources offer an enhanced understanding of the discouragement for the soldier’s involvement in this activity; however, we still have little insight into the victim’s perspective of this whole affair. Ramban explains that Halakhah requires the woman to cry, shave her head, and change into sackcloth in order to provide her with the necessary atmosphere and time to mourn her losses.15 Ramban also explains that she is forcibly converted by a bet din, as was done to young slaves. One explanation for this troubling phenomenon is offered by R. Joseph B. Soloveitchik.16 The Rav discusses the problematic nature of forced conversions, which arises from the fact that the convert does not accept the Torah and mitsvot, and this acceptance is a significant part of the conversion process.17 He explains that a “conquered” person is one who is completely under the responsibility of another. Since the caretaker is completely responsible for the “conquered” person, he or she is entitled to convert this person. Thus, for example, a bet din is allowed to convert the young slave, because it has complete responsibility for the child. This logic works for the case of eshet yefat to’ar, as well; if the man decides to have sexual relations with a captive, he takes complete responsibility for her, which includes a responsibility to marry her, and so he is entitled to convert her.

Another explanation is provided in Ramah’s Hilkhot Melakhim.18 In the first halakkah in chapter 8, Rambam lists various actions that are normally prohibited but are permitted to those fighting in a war, including the consumption of non-kosher meat and wine. In the second halakkah, which seems to be topically distinct from the first, Rambam discusses the concept of eshet yefat to’ar, and rules that a soldier may have sexual relations with a non-Jewish captive woman if his desires overtake him. Rambam mentions that the man may not just have relations with her and then go on his merry way; rather (“avat”) he must bring her into his home. The halakkah ends by noting that a second act of intercourse is prohibited until after the soldier and captive are married.

The term “rather” that appears in the law is interesting in that Rambam does not similarly qualify the rest of the permitted wartime activities. Perhaps this qualifier shows that the permission for his sexual activity toward a captive woman depends on his intent to convert and marry her in the future. It seems from this qualification that the Rambam is looking beyond the permission of sexual activity, and is interested as well in the repercussions following the act. Me’iri expresses this idea more clearly, and rules that the soldier may not have a first sexual encounter without the d’at (intent) that he will be converting and marrying her in the future.19 However, both Ramban and Me’iri also rule that a kohen may have intercourse with her once, but he may take no further action, since he cannot marry a convert. Although the soldier’s intent seems to be crucial, at the end of the day, the Torah allows a man overwhelmed by his desires to act in accordance with those desires, and therefore even when the soldier could not possibly marry the woman, the initial sexual act is allowed.

If the Torah is truly speaking to the Evil Inclination, then why do Rambam and Me’iri include the requirement of intent for marriage? I would like to propose that the requirement to marry the captive woman after the sexual act is to provide her with a level of protection,
Sieges: Ancient Strategy, Modern Application

BY: Ariella Gottesman

Introduction
Ethicists have considered and written about the most ethical way in which to conduct war. Just war theory is the branch of philosophy that studies how to most ethically commit deeds that seem to be, at their core, unethical. The protection of civilian life is the guiding principle of just war theory. These ethical codes of acceptable wartime conduct require that all attempts be made by military personnel to protect civilians from damage and death in times of war. The two philosophical principles governing this requirement are the principle of distinction and the doctrine of double effect. The principle of distinction requires the users of force to distinguish between the combatant and the noncombatant. The doctrine of double effect (DDE) permits an action with a primary effect (DDE) permits an action with a primary effect (DDE) permits an action with a primary effect (DDE) permits an action with a primary effect (DDE) permits an action with a primary effect (DDE) permits an action with a primary effect (DDE) permits an action with a primary effect (DDE) permits an action with a primary effect (DDE) permits an action with a primary effect (DDE) permits an action with a primary effect (DDE) permits an action with a primary effect (DDE) permits an action with a primary effect

While the Classical view has a healthy, developed history, the Judaic tradition has been stunted by the 2,000-year exile. This gap requires modern halakhists and ethicists to infer a Judaic just war ethic, and this inference is often shaky and inadequate. However, sieges are an excellent point of comparison between the Classical and Judaic war ethics.

Despite the tactical simplicity of laying a siege, this strategy is fraught with considerable moral ambiguity. More often than not, civilians are entrapped in the besieged city or stronghold, and because sieges often result in shortages and assaults upon the city, civilians are usually inadvertently killed in the process of attacking combatants. This situation violates the principle of distinction, which mandates that civilians not be harmed alongside combatants. The question of the morality of sieges and the treatment of civilians, therefore, is troubling to many ethicists.

Michael Walzer, in his seminal book Just and Unjust Wars, describes sieges as “the oldest form of total war.” Total war is “military conflict in which the contenders are willing to make any sacrifice in lives and other resources to obtain a complete victory.” These sacrifices often include civilian lives and property which, in a non-total war situation, are considered to be innocent and illegitimate targets. Sieges are a form of total war, because the ultimate purpose of the siege is not to starve the enemy into submission, but rather to starve the civilians, who in turn force the hand of the enemy government. Sieges are a form of total war because they intentionally target civilians.

The notion of Total War is old, but its definition is rather modern. For much of human history, total war was the only mode of warfare. Yet as ethics developed, total war has shifted from being seen as a given, to a tool requiring justification, to an outlawed practice. Total warfare has been banned by international law to protect civilians from the ravages of war.
because, as noncombatants, they are deserving of protection. Basing his ideas off of the principle of distinction, Walzer equates sieges to total war, and denounces them. He argues that ethical conduct in war demands that the besieging army to open a path for civilian flight.

However, there are two flaws in Walzer’s analysis. First, a siege can be used not only as a means to put pressure on the army via civilian deaths, but also as a means of putting pressure directly upon the army. Although rare, if a besieged city has no civilian population, but is a fortress composed entirely of combatants, then a siege would not be a tool of total war. For instance, if the Taliban were to besiege an American outpost in the Helmand region, there would be no ethical violation on the Taliban’s part, as there are no American civilians in that area.

The second flaw in Walzer’s argument is his assumption that the death of civilians is the true intent of the besiegers. If, however, a fortress or city is strategically located, the intent of the attackers is not to destroy the opposing army, but rather to replace the opposing army with their own forces. Walzer’s depiction of a siege is reminiscent of those sieges that resulted in bloody massacres, such as Masada, Troy, etc. Walzer, however, fails to acknowledge the possibility of a besieging army being justified by the DDE.

The DDE states that “it is sometimes permissible to bring about a harm as a merely foreseen side effect of an action aimed at some good end, even though it may have been impermissible to bring about the same harms as a means to that end.” It is a philosophical principle that governs the ethics of medicine, business, and war. The DDE has its roots in medieval Christian theology, and is still used today. When applying the DDE to war ethics, four preconditions must be fulfilled in order to justify the death of noncombatants:

1) The act is good in itself or at least indifferent, which means, for our purposes, that it is a legitimate act of war.
2) The direct effect is morally acceptable - the destruction of military supplies, for example, or the killing of enemy soldiers.
3) The intention of the actor is good; that is, he aims only at the acceptable effect; the evil effect is not one of his ends, nor is it a means to his ends.
4) The good effect is sufficiently good to compensate for the evil effect... Walzer argues that besieging areas that contain large civilian populations is forbidden, as it fails, at a minimum, to satisfy the third condition, and, more often, the fourth condition. While he succeeds in proving this assumption in specific cases (the British blockade of Germany, for example), he fails to prove it in general. There can be an instance, though it may be rare, when besieging a city that contains both combatants and noncombatants can be ethical by virtue of the DDE.

Therefore, according to Maimonides, the principle of distinction depends upon the type of war: While the law is merciless for a milhemet mitsvah, it is merciful above and beyond the Classical tradition’s formulation in a time of milhemet reshut.
The IDF did not follow Maimonides’ (or Nahmanides’) demand that combatants be permitted to flee the besieged city; they did not allow PLO combatants to flee. The general thinks that allowing combatants to flee will undermine military objectives, there is then no need to allow for flight. Women and children, the medieval equivalent of noncombatants, are still protected, but on an equal level to the principle of distinction. Overall, then, the Maimonidean perspective on sieges during milhemet reshut is similar to the Classical War Ethic Versus Judaic War Ethic

In the 1982 Lebanon War, the IDF besieged Beirut in order to capture PLO terrorists. For thirty-three days, the IDF closed the city and controlled access to food, water, and fuel. Between 4,000 and 5,000 civilians died from military action during the siege. Yet the IDF did not wholly surround the city. Similar to Walzer’s formulation that the besiegers must allow for civilian flight, “[t]hroughout the siege, the IDF kept open escape routes from the city to Syrian positions. Of the 500,000 people trapped in West Beirut, about 100,000 took advantage of the Israeli escape routes and did leave.” Only civilians were allowed to flee. This method adheres to the jus in bello principles propounded by Walzer and goes far beyond Gabriel’s more lax formulation, but disregards Maimonides’ and Nahmanides’ explicit requirement to allow combatants to flee as well.

Interestingly, Walzer labels Maimonides’ formulation of the war strategy as “hopelessly naive. How is it possible to “surround” a city on three sides? Such a sentence, it might be said, could only appear in the imagination of a people who had neither a state nor an army of their own. It is an argument offered not from any military perspective, but from a refugee perspective.” Walzer views Maimonides’ war law as antiquated and irrelevant. The IDF did not follow Maimonides’ (or Nahmanides’) demand that combatants be permitted to flee the besieged city; they did not allow PLO combatants to flee. Only noncombatants were permitted to use the two escape routes. Despite the prompting of many religious figures to act in a more halakhic manner, the IDF continued to act in accordance with jus in bello rules. The IDF’s actions were more akin to Classical than Judaic ethic.

Conclusion

Although the Judaic ethic developed prior to the Classical tradition, and the early interpretation of these sources occurred simultaneously with the development of the Classical tradition, both perspectives are based on the same humanitarian principles propounded by Maimonides. In the case of sieges, the Classical interpretation states that the besiegers must allow for civilian flight. The Judaic interpretation, on the other hand, does not adhere to the principle of distinction in the case of sieges, and instead holds that both combatants and noncombatants have the right to flee. It is interesting that the verses following Numbers 31:7 and the war with Midian record the slaughter and enslavement of noncombatants, as well as the pillaging and burning of cities, which would be considered war crimes in modern times; still, the Maimonidean interpretation of the verse shows more concern for human life than any Classical ethic. The Maimonidean formulation, at least the standard interpretation of it, is a war strategy, not a systematic, logical ethic like the just war ethic. Meanwhile, the Nahmanidean ethic is based upon the law’s desire to keep the soldiers merciful. Both perspectives are not based upon a strict, rational ethic in the way that jus in bello’s rationales are based on the philosophical principles of distinction and the DDE. This is not to say that one tradition is less valuable or ethical than the other, but merely that one is more emotional and the other more rational. Yet the IDF and military ethicists have shown an unambiguous preference for the Classical war ethic. There are many possible explanations for this choice, but the tradition the IDF has chosen is clearly the secular one. Such a choice is only possible to discover via examining a war strategy that was employed both in ancient and modern times, such as sieges.

Ariella Gottesman is a senior at SCW majoring in Political Science.

2 For example, Mishneh Torah, Hilkhot Melakhim, 6.
3 Deuteronomy 21:10.
4 Deuteronomy 20:19-20.
5 For examples, see Numbers 31:1-12 and I Sam 15:7.
7 For example, “Deputy Commander reflects on a year in Helmard.” Defense News (28 Feb 11), available at: www.mod.uk.

This reading of Maimonides and the presumed mercy of Halakhah falls apart when other texts and the interpretation of Maimonides are examined. While Maimonides codifies in Mishneh Torah that one must leave open a side when sieging a city, he does not include this precept in his Sefer ha-Mitsvot. Based on this, Mesekh Hokhmah explains that the assertion of Maimonides is only advice, a military tactic that can be discarded by a military leader at will. The rationale for this advice, writes Mesekh Hokhmah, is that the swiftest way to conquer a city is to let the combatants flee, allowing the besiegers to take the city. R. Yitzchak Blau explains the rationale of the Mesekh Hokhmah: “If the enemy feels that it has no escape route, it will redouble its fighting efforts. If it has an escape route, soldiers will run and the rest will lose fighting spirit. As this merely reflects a wartime strategy rather than a religious ideal, it does not merit being counted as a separate mitsva.” Thus, this interpretation of Maimonides transforms a moral, humanitarian halakhah into tactical military advice. If a welcome byproduct, but not the goal of the exercise. Even if the tactical advantage would cease to exist, writes Nahmanides, the Jews are still required to leave open a side to allow combatants and noncombatants to flee. The Nahmanidean perspective is far more humane than the Classical one. The ambiguity of the Halakhah’s and the Bible’s views of morality is also discussed in modern times. The 1982 Israeli siege of Beirut prompted a slew of writings and debates upon the halakhic propriety of this military action.

Two Traditions in Action: Classical War Ethic Versus Judaic War Ethic

Yet no matter the interpretation of Sifrei (the original source for the Judaic ethic of sieges), the Judaic tradition is in direct contrast to the Classical. Neither Walzer nor Gabriel is bothered by the death of combatants in a besieged city; it is the death of noncombatants that bothers them, though they lay the responsibility for these deaths at the feet of different actors. The Judaic tradition, on the other hand, does not adhere to the principle of distinction in the case of sieges, and instead holds that both combatants and noncombatants have the right to flee. It is interesting that the verses following Numbers 31:7 and the war with Midian record the slaughter and enslavement of noncombatants, as well as the pillaging and burning of cities, which would be considered war crimes in modern times; still, the Nahmanidean interpretation of the verse shows more concern for human life than any Classical ethic. The Maimonidean formulation, at least the standard interpretation of it, is a war strategy, not a systematic, logical ethic like the just war ethic. Meanwhile, the Nahmanidean ethic is based upon the law’s desire to keep the soldiers merciful. Both perspectives are not based upon a strict, rational ethic in the way that jus in bello’s rationales are based on the philosophical principles of distinction and the DDE. This is not to say that one tradition is less valuable or ethical than the other, but merely that one is more emotional and the other more rational. Yet the IDF and military ethicists have shown an unambiguous preference for the Classical war ethic. There are many possible explanations for this choice, but the tradition the IDF has chosen is clearly the secular one. Such a choice is only possible to discover via examining a war strategy that was employed both in ancient and modern times, such as sieges.

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Do we have a unique approach to warfare? I find myself asking how war would compare with other areas of halakhic life.

The above questions concerning the morality of war arise regarding reshut and mitsvah.

While hovah and mitsvah are almost synonymous as terms, they are distinguished in many areas of Halakhah, including in their degree or source of authority, and the degree of flexibility provided – more rigorous or more accommodating. In this particular case of war, this distinction is more familiarly known as different levels of normative authority – license or prohibition. We need to bear in mind, however, the position of milhemet reshut.

To me, it would certainly seem that the concept of milhemet reshut is almost an oxymoron. It suggests that if beit din, or whoever determines these matters, wants to, license or prohibition. We need to bear in mind, however, the position of milhemet reshut.

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have to ask yourself - Is it possible that you have a reason to defend yourself? - is primary, is that, in and of itself, a justification? That is the problem that we have with Iran now. If the Iranians had fired off a missile or an atomic bomb, and you knew with certainty that they did that, and that there is no way to stop them short of launching an arsenal onto Iran, then that would make life, morally speaking, much easier for us.

Now, as I said before, there are three categories in the Gemara: hovah, mitsvah and reshit. It could be that we have a fourth category, namely that of entering into war grounded upon nothing but of, for instance, national avrance - that type might very well get rejected as something that has no justification. Yet, in the Gemara in Sotah, the impression that one gets is that there is indeed an array of national interests, as opposed to just national threats or dangers, and, in certain circumstances, that too could be justified.

In the modern world, these issues, of course, are quite common, as political ambient interests - to maintain trade, to preserve the global economy, to improve quality of life - all those exist, and, as such, provide a rationale for those who recommend going to war. The theory of entering into war based on avoiding to absorb a first strike, is very existent, and, as such, provide a rationale for those who recommend going to war, that there is a risk that we neither can, nor want to, take. The situation of rodef (pursuer with an intent of, for instance, to capture Erets Yisrael, and these nations), to capture Erets Yisrael against their enemies),vii is a risk that we neither can, nor want to, take. The first, then we'll be nirdafim (pursued), and that, in the case of rodef, is a very serious, very serious situation, that too could be justified. vi

There are two questions here. One question is to what extent herve haddah qualifies as a category - is the sword to terminate it to what extent a nation, community, or individual must find the rationale for tending to such a war - how certain do you need to be? Can you generate such a conflict when you think that there's a 10% chance that a danger would have developed? Or do we say no, but if there's a 70% chance, then you're talking a different language? These issues come up all the time, and a particular nation, like an individual in the situation of rodef (pursuer with an intent to kill), could assume that if we don't hit them first, then we'll be nirdafim (pursued), and that is a risk that we neither can, nor want to, take. 

Whether a defense is basically the defensive posture - for example, if we've already been attacked, as in the case of the US on December 8, 1941. The US had every rationale and every right to declare war on the Germans and Japanese because the US absorbed the initial blows. The Gemara does, however, recognize - although there is a mahalakot tannaim there regarding the details - that, to some degree, there can be some instances of having a rationale for going to war that is not necessarily purely grounded upon the defensive character of that war. The defensive post, defined as Ezrat Yisrael mi-yad tsar (defending Israel against their enemies),viii is likewise applicable to milhemet shiv'at amemin (the war against the seven Canaanite nations), to capture Erets Yisrael, and these terms [Ezrat Yisrael mi-yad tsar and milhemet shiv' at amemin] need to be explained, as well.

Then you have situations in which an element of the defensive is not there in the first place. Milhemet shiv' at amemin or milhemet hovah, if one builds on certain premises, may be regarded as preventive or defensive, a response to aggression. Now, this already generates a whole story about the citizenship, in a case where the rival country has taken over its land, is justified in responding aggressively. I suppose that most people would agree that if that would have occurred, then the theory which underlies rodef or ba ba-mahteret (a thief who steals a house), while there are certain different schools of thought, and some think that under those circumstances it is not permissible to take someone's life - property and life are qualitatively different categories - the principle of ba ba-mahteret justifies attacking the intruder even to the point of mortal danger because he threatens to take your property.

In order to survey that, we need to work through the sugyot in Sotah and ask about ba ba-mahteret: Is it a question of property versus life? Or, since the Halakah is that if there is no danger to the landowner,viii if the landowner will attack the intruder in order to recover the money he has stolen (no matter how extensive the theft), the landowner is guilty of murder - might we conclude that you have no right to take one's life to defend your property? These issues have developed as legal areas in various countries. For instance, there was a case in France, someone - I don't think in France, this is a pesak halakhah in the Rambam.x As a reason for this prohibition, Hazal explain that the sword and the mizbeah, symbolically and substantively, represent two diverse, and, beyond a certain point, conflicting entities. The mizbeah is meant to prolong human life, and the sword represents the raw material for military hardware - this is a pesak halakhah in the Rambam.1 As a reason for this prohibition, Hazal explain that the sword and the mizbeah, symbolically and substantively, represent two diverse, and, beyond a certain point, conflicting entities.

The mizbeah is meant to prolong human life, and the sword represents the raw material for military hardware - this is a pesak halakhah in the Rambam.1 As a reason for this prohibition, Hazal explain that the sword and the mizbeah, symbolically and substantively, represent two diverse, and, beyond a certain point, conflicting entities.

Hazal recognizes that, at times, tragically, a full national and personal life needs to include both components, the question of balance and timing is critical. It should be clear to us, and less clear to our adversaries, that the two are not always part of our agenda, and in a practical sense, in terms of values, attitudes, and perspective, we are commanded to strive for peace and harmony within and beyond the bounds of our national community. “Hashem ish milhamah, Hashem shemo.” - “God is a man of war; God is His name.” xi The shem which is employed in that pasuk is the Sham Havayah, which Hazal identify with midat ha-rahatim ve-ha-hesed. Properly read, the pasuk states that, indeed, under certain circumstances, Hashem ish milhamah, but, nevertheless, in terms of His quintessential being, both transcendental and immanent, Hashem shemo - Sham Havayah - this is His name, this is the nature of His revelation, and this is the direction which we are commanded and desire to pursue. So even as one of the last pesukim in the Torah relates to the equivalent of Beshallah - “Ashreka Yisrael mi khamokha, am nosha ba-Hashem, Magen Ezrekha, va-asher Herev Ga’avatekha, ve-yikahashu oyevekha lakhi, ve-atta al bamoteimo tidrok” - “Happy are you, Israel, who is like you, a people delivered by God, your Protecting Shield, the Sword of your pride; your enemies shall cringe before you, and you shall tread on their backs.” xii here, again, even in the midst of strife, tragic warfare, am nosha ba-Hashem - the Sham Havayah, and not as one might have expected, the Sham Elokim.

I felt I have not addressed myself in my prior remarks, having presented a rough outline of some of the details of our policy and attitudes, to commander, normatively, to ourselves and, likewise, as directive for the world as a whole. This complementary postscript should contribute a proper spiritual perspective.

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To Possess or to Not Possess: The Question of Nuclear Weapons

BY: Penina Wein

“The purpose of war within Judaism is to restore peace.” While this statement is one potential description of the stance Judaism takes on war, it is by no means the only approach. Within Judaism, the laws of war are very complicated, with authorities disagreeing on what types of war are justified, and what is permitted during war. Rabbi J.D. Bleich points out that in Halakhah, “War is sanctioned only when commanded by God, i.e. when divine wisdom dictates that such a course of action is necessary for fulfillment of human destiny.” This limitation, that a war must be permitted by God, results in a complex treatment of war within Halakhah, causing disagreement about what exactly this instruction implies. This article will examine some of the halakhic restrictions on war and take the perspective that Halakhah sees war as a necessary tool for achieving peace but wants to minimize warfare as much as possible.

According to Rambam, war is classified as either a milhemet mitzvah (obligatory war) or a milhemet reshit (permissible or voluntary war). A milhemet mitzvah is a war that the king is allowed to wage because God has commanded him to do so, such as war against Amalek or the seven Canaanite nations, or a war in which other nations attacked Eretz Yisra’el. A milhemet reshit is a war that the king starts, with the approval of beit din, in order to widen the borders of Eretz Yisra’el or to increase his own honor. Not included in either of these two categories, however, is a war of pre-emptive self-defense, a war that Israel may start in order to prevent a forthcoming attack by an opposing nation. According to Jewish tradition, states R. Michael Broyde, this type of war “is not considered to be war,” but is simply an extension of the law allowing self-defense against a rodef (pursuer), and therefore does not need to be explicitly mentioned. 11 

While some authorities prohibit the use of nuclear weapons that have the power to cause large-scale destruction, questions still arise about whether countries are allowed to possess such weapons even if they do not ever plan on using them. Are countries permitted to possess nuclear weapons as a deterrent from attacks, or would ownership itself be prohibited by dint of the fact that such weapons can never be used? If such ownership is, in fact, forbidden, would ownership of nuclear weapons that could possibly be used by a hostile nation in which the death toll would be less than one-sixth of the population be permitted, even if the owner never plans on using the weapons? Does deterrence through the possession of nuclear weapons, which have the potential to cause mass destruction, actually have the ability to strengthen a country? If this deterrence successfully discourages war? 12

Rabbi Michael Broyde analyzes the halakhic aspect of this issue by comparing nuclear armament to lying in order to save a person’s life. Rabbi Broyde explains that just as “lying to save an innocent person’s life is permissible,” so too “it is permissible to possess nuclear weapons that have the potential to cause mass destruction, if this potential is used as a deterrent to actual deployment of warheads, making it impossible to ever begin to collect nuclear weapons.” Thus, according to Waskow, the justification for possessing nuclear arms based on self-defense fails.

The issue of nuclear weapons is not only a halakhic issue, but a moral one. As such, every major denomination within Judaism is represented strongly by different leaders who have expressed moral concerns with nuclear armament. For example, Reform Rabbi David Saperstein, Reconstructionist spokesperson Arthur Waskow, Conservative Rabbi Samuel Dresner, and Orthodox Rabbi Walter Wurzburger all came out strongly against armament because of the threat that nuclear arms hold to the human race. 13

As Moshe Lichtenstein points out when discussing nuclear wars in reference to the war of Gog U’Magog, that in a nuclear war, “even the most orthodox rabbis, and other religious leaders, who though they do not have the same views on Halakhah, still had similar opinions on using nuclear weapons points to the moral element of the question. It is a question about the chances people should take with technologies that could potentially do major damage to the world.” 14

Many scientists who played a role in developing nuclear bombs, including numerous prominent Jews, advocated for disarmament later in their lives. 15 Albert Einstein, who developed the theory of relativity that paved the way for the invention of the atom bomb, strongly urged President Roosevelt to build a bomb before Nazi Germany would. Later, however, he discouraged the use of nuclear weapons. Leo Szilard helped construct the first nuclear chain reaction; he too later demanded a total ban on nuclear weapons.

This question has particular relevance to the State of Israel and its quest to defend itself against the very real threats posed by hostile countries who are in the process of developing nuclear weapons, such as Iran. In the late 1950s, Shimon Peres launched the Israeli nuclear program in Dimona, and it is well-known that Israel has never been developing its nuclear program ever since. (This is evident from the case in 1992 where forty-four employees sued the plant for radiation poisoning.) However, the halakhic, as well as the moral, question is as to whether Israel could ever use weapons created from their nuclear plant, or even maintain them as a deterrent, and be continually debated. Nuclear armament raises difficult questions with no clear answers, and we hope that future leaders deal with these issues sensitively and responsibly.

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3  Rambam, Mishneh Torah, Hilkhot Melakhim 1:12.
5  Broyde 6.
6  Broyde 12.
7  Shemot 35b, according to the interpretation of Tosafot, against Rashbi and Rashi.
8  Broyde 12.
10  Broyde 13.
12  Ibid.
13  Ibid.
Unlike Rabbis Kook and Albo, R. Soloveitchik has no reservations concerning vegetarianism, and affirms it both as an ideal and a practice.

Kook, in his treatise entitled Hazon ha-Tsimhonut ve-ha-Shalom (The Vision of Vegetarianism and Peace), advocates for vegetarianism with powerful arguments affirming even the conventional vegetarian contentions. R. Kook claims that vegetarianism is a Torah ideal and that many mitsvot, such as shehitah, shat’atnez, and kisuy ha-dam, are based on this ideology. Despite this belief, however, R. Kook has reservations whether vegetarianism should be practiced only in the context of other reasons, such as for the taste of meat. He provides three reasons for why vegetarianism as a moral credo is best solely as an idea, but not as a practice or norm.

First, R. Kook argues that while vegetarianism is important, it is of greater importance that the ills of society are healed, and war and malevolence are eradicated, and justice reigns. There should be prioritization and, in R. Kook’s opinion, vegetarianism is of a lower priority. Since R. Kook’s higher-priority have not yet been fully addressed, it would be safe to say that, even today, R. Kook would feel that vegetarianism should not be practiced.

R. Kook then goes further and claims that vegetarianism as a norm may not even be possible. When animal and man are made equal, man may be led to think that there is no difference between the two, and will turn cannibalistic. After all, argues R. Kook, what would logically stop man from eating of his kin and the swatting of a fly, ‘the beast of the field’, before he once ate? This argument of R. Kook is somewhat tenuous since the Carib people, the prime historical example of cannibalism in the world, did not eat human flesh to feed their hunger, but as a part of their war ritual in which they would eat the flesh of the enemy to gain the defeated warrior’s bravery. R. Kook, though, still maintains this as his second reason to doubt whether man is capable of being a vegetarian.

Finally, R. Kook argues that when man and animal are equated, man may reason that he is on the same moral plane as animals, leading man to actually act like an animal. This barbarism, R. Kook predicts, would lead to man acting callous with regard to human welfare and life, but cautious of animal welfare and life. The reasoning of the barbarians would be that if animal and man are equal, then there is no difference between the killing of a man and the swatting of a fly. Both can be justified as acts that rid the world of a nuisance and abomination. This logic is not immediately obvious, though, since one would be more inclined to say that equalization of man and animal will cause equal treatment of the two. As a result, it would seem more plausible that if ideological vegetarianism is accepted, both man and animal will be treated well.

For these three reasons, R. Kook feels that vegetarianism is an ideal that man cannot achieve. As explained, his last two reasons are somewhat tenuous, while the first reason that R. Kook gives seems to be the most convincing. Unlike Rabbis Kook and Albo, R. Soloveitchik has no reservations concerning vegetarianism, and affirms it both as an ideal and a practice. He believes that all life, even animal life, is sanctified. In explaining his point, R. Soloveitchik cites Sanhedrin 59b, which says that Adam did not eat meat, and it was only when Noah entered the biblical narrative that meat was permitted. Commenting on this, R. Soloveitchik states that the natural reality of Adam’s distaste for meat became the ethical norm with the phrase, “and it was so.” R. Soloveitchik explains, “Thus the verse concludes ‘and it was so’, the ethical norm became a behavior pattern, an expression of the ontic order.” The ethical imperative against eating meat becomes the physical and biological reality of man’s world—no one would eat meat. Yet, as the history of man continues through der ha-nabbul (the generation of the flood), man begins to overlook himself, to take what is not his, including the life of another living being. Thus, God eventually gives in and allows Noah to eat meat: “Every moving thing that lives shall be food for you; even as the green herb have I given you all things.” R. Soloveitchik explains, “At once the Torah began to regulate the ‘murder’ of other lives, to restrict its blood.” The Torah succumbed to the Evil Inclination by allowing for certain things, hence the Torah provided for human passions: [reasoning that] it is better for Israel to eat the flesh of animals that are ritually slaughtered than the flesh of animals which have perished [i.e. nevelot (the dead unslaughtered carcass of an animal)] (Kiddushin 21b-22a).” R. Soloveitchik explains that the Torah allows man to fulfill his desire for meat, but out of a care for animal life, it complicated the process of acquiring meat.

R. Soloveitchik, unlike Rabbis Albo and Kook, takes a very strong position regarding carnivorous practices. He calls it “To’erah (lust) and an ‘illicit demand.” “The insistence upon flesh, his [man’s] lusty carnal desire,” R. Soloveitchik says, “arouses the divine wrath.” Those who choose to eat meat, the “animal hunters and flesh-eaters” are “people that lust.” This strong language is not found in the writings of Rabbis Kook and Albo; they are only harsh towards those who ideologically refuse to eat meat.

R. Soloveitchik’s severe stance is based on the story of Kivrot ha-Ta’avah (the graves of those who craved [meat]), the tragic account of Benei Yisrael’s lust for animal flesh. In the story of Kivrot ha-Ta’avah, Benei Yisrael protest to God and Moshe, demanding meat instead of the manna that God had been supplying. Moshe prays to God and, although God is angry with the people, He gives them the meat. Once satiated, the people die as a result of a plague that God sends. In his explanation of this story, R. Soloveitchik says that God admonished Israel for their dissatisfaction with their vegetarian diet of manna and their need to have meat. Deuteronomy 12:20, in discussing God’s commandments for when Benei Yisrael will live in the land of Israel, supports this point: “And you shall say: ‘I will eat flesh’, because your soul desires to eat flesh; you may eat flesh, after all the desire of your soul.” The Torah uses the word “desire” to characterize man’s hunger for meat; it is the dominating physical desire. Hence, according to R. Soloveitchik, vegetarianism should be practiced, yet man, too desirous for meat, refuses to stop eating animal flesh.

Moving from the theoretical level to a practical level, R. Soloveitchik defends his strong opinion against potential halakhic challenges. First, the Torah’s sanction and, according to most commentators, desire for sacrifices is problematic in the face of the aforementioned opinions. Is it possible that the Torah really cares about animal welfare and yet still commands Benei Yisrael to slaughter animals wantonly to God? In response, R. Soloveitchik posits that sacrifice is the returning of one’s body—God’s property—to its Owner out of a debt to Him for His priceless gift of life, yet the ethos of sacrifice is the value for life. Man, in reciprocation for the life given to him, must offer up his life, but paradoxically cannot since by expressing thanks to God, man is stating his value for his own life. Hence, God forbids human sacrificial suicide, and, as a replacement, commands that an animal should be slaughtered in its stead. In support of his idea, R. Soloveitchik brings an extended interpretation of the story of the Binding of Isaac: Abraham sacrifices Isaac to pay the debt that he owes his Creator, Who finally granted him the life of his child. But the angel stops Abraham from slaughtering his son, since God values life, and Abraham sacrifices a ram in place of Isaac. A life needed to be taken in order to reciprocate for the precious gift that God gave Abraham, but the life of Isaac—of every man—has more value than that of an animal because, R. Soloveitchik suggests, men are the messengers of God to the world. Similarly, Abarbanel, in his introduction to Leviticus, explains that different sacrifices symbolize man’s redemption of his life. For example, an olah (burnt offering) is meant to symbolize man giving over his whole body, and the blood splashed onto the altar is meant to symbolize man’s life force. However, outside of this clear requirement to sacrifice, the infinite debt that man owes to his Creator for giving him life, sustaining him, and helping him, the Torah may still frown upon the consumption of meat outside of the context of sacrifice.

There is another issue that, although not raised by R. Soloveitchik himself, proves challenging according to his view on
The need for women to be incorporated into the Jewish communal leadership is about ensuring the continuity of tradition, about adding to and enhancing the number and quality individuals who are involved in the transmission of the Mesorah in a way that ensures that many members will not fall through the cracks.

R. Soloveitchik’s view on vegetarianism is radically different from that of his predecessors. R. Soloveitchik accepts vegetarianism without any reservations, and sees it as the ideal modus vivendi of every Jew. There are, of course, some halakhic issues that may arise when considering the issue, but they are mitigated by the existence of opinions that avoid necessitating the consumption of meat. With R. Soloveitchik’s view, the issue of vegetarianism and Judaism takes new light: Not only can one say, based on Rabbis Kook and Albo that vegetarianism is a Torah ideal, but also one can use R. Soloveitchik’s opinion to claim that vegetarianism should be an actualized way of life.

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1 For the purpose of this paper, the stipulative definition of “ideological vegetarianism”, will be the abstinence from consumption of meat out of concern for animal welfare.


3 Sefer ha-Ikkarim 3:15; Abbaranel to Gen. 9:3 and Isa. 11:7 make the same arguments as Albo.

4 Vegetarianism was popularized in the twentieth century by two vegan activists; Henry Stephens Salt and George Bernard Shaw (Jon Gregerson, Vegetarianism: A History (Fremont, CA: Jain Pub Co., 1994), 78-79).

5 Abraham Isaac Kook, Hazan ha-Shimonut ve-ha-Shalom (Jerusalem: Mekhon Binyan ha-Torah, 2009). R. Soloveitchik explains that shehitah is a humane way to slaughter animals, implying that the laws of shehitah are designed for the humane treatment of animals (Joseph Dov Soloveitchik, Community, Covenant, and Commitment, ed. by Nathaniel Helgig (Jersey City, NJ: Ktav Pub. House, 2005), 61-67). R. Kook also makes this point, but only in passing (Kook Ch. 5).

6 R. Kook explains that shatnus was enacted so that man will not mix two different textiles—one which is moral and another which is immoral. Wool is immoral since it is painfully taken from an animal, as well. (R. David Sears’s translation, available at: http://www.jewishveg.org/Divsion.html) A domestic animal’s blood, however, is not covered, since it is slaughtered in a common area and people will be visibly reminded of the similarity of slaughter to murder (Kook Ch. 17).


10 R. Kook explains that kisuy ha-dam was enacted in order to “teach us to see the shedding of a [non-domestic] animal’s blood as an act akin to murder; thus we should be ashamed to shed the blood of a [domestic] animal, as well.” (R. David Sears’s translation, available at: http://www.jewishveg.com/Divsion.html) A domestic animal’s blood, however, is not covered, since it is slaughtered in a common area and people will be visibly reminded of the similarity of slaughter to murder (Kook Ch. 17).

11 Kook Ch. 4.

12 Ibid.

13 William (Para) Riviere, Historical Notes on Women’s Torah (Jerusalem, 5721), 217.

14 Abraham Isaac Kook, Mishnat ha-Rav, eds. Abraham Keiger and Yochanan Fried (Jerusalem, 5721).

Footnotes continue on page 21.
to so offhandedly compare a group of individuals who wish le-hagdil Torah u-le-ha’adinah (to heighten the Torah and to glorify it) to a group of individuals who were so rebellious against God and Moshe Rabbeinu that God Himself caused the ground to open its mouth and swallowed them, and inflicted a plague amongst the remaining people. Further, it should not go unnoticed that Mr. Caplan thought it necessary to cite Rambam, Mishneh Torah Hilkhot Talmaid Torah 1:13, “which discourages women’s Torah education” as a reason to disqualify them from joining the ranks of ordained Jewish communal leaders. 11 He refrain from responding to such a citation. 11

In addition, I find Mr. Caplan’s evaluation of semiklah and Jewish communal leadership to be mistaken, particularly in this excerpt: My distaste arises from the notion that entrance into the rabbinate is a privilege, even a right, which may be fought for and won. On the contrary, it is clear to me that among the most essential elements of spiritual leadership is humility, perhaps to the point of not wanting one’s position at all. 12

There appear to be at least two problematic points in this assessment. The first is that reality contradicts Mr. Caplan’s position that humility be true of the rabbinate. Entrance into the rabbinate, at least in RIETS, is focused mainly on amassing Torah knowledge. While semiklah is not a “right” that any given person is entitled to, it surely is a privilege that “may be fought for and won.” There are few limits on any male in YU who wishes to get semiklah: a semiklah student spends several years learning in the yeshivah, and while he may spend many hours focusing on communal matters both in the classroom and in the community through rabbinic internships, his ability to receive semiklah has nothing to do with his character or motivations, but rather is based on passing a series of different tests on halachic material. Semiklah is treated as something any learned man is entitled to, provided that he passes his exams. To claim that ordination should be treated as a limited privilege regarding women, when there is no such attitude regarding men, is to suggest that women are fundamentally second-class citizens.

Secondly, Mr. Caplan’s assessment of one of the “most essential elements of spiritual leadership” is misguided. Certainly there are traits one should have when aspiring to a position in the rabbinate, and humility is surely one of them. To say that humility is “contrary” to “earning” semiklah is entirely erroneous. Humility does not come to exclude passion, drive, or self-actualization, but rather is a key component of the ability to serve as leaders. Mr. Caplan’s issue is to increase the access that many current and aspiring male rabbis. If our community claims is true, that “among the most essential elements of spiritual leadership is humility, perhaps to the point of not wanting one’s position at all,” then the state of our rabbinate and communal leadership might be abysmal. Encouraging humility to the point of discrediting one’s own desire or drive to be a leader is not going to result in better leadership.

Furthermore, the midrashim quoted regarding this requireing Moshe to appoint a woman is a certain quality of hyperbole in order to stress the importance of humility in a leader. But one must keep in the mind the contextual of the pasuk on which this midrash is commenting. Moshe tries to tell God that he does not want the position of leadership due to his speech is impeded and speech is impeded: The fact was that number of learned, semiklah-qualified men may greatly exceed the small number of such women is not a reason to disqualify these women. Furthermore, the author points out that such women, due to the fact that they perhaps learn in their own, smaller, battei midrash, have less access to ta’nidei hakhemim, the great learned scholars of the generation. Thus, they lack a certain familiarity with great Torah scholars. However, this factor is also not a reason to exclude women from communal leadership; lack of shinnunash talmidei hakhanim is likely a result of the novelty of advanced women’s learning and leadership qualities are not able to the quantity of such women should have bearing on the choice of leaders. They do not feel represented in the small population of esteemed female Torah scholars. They do not feel represented in the small population of esteemed female Torah scholars. They do not feel represented in the small population of esteemed female Torah scholars.

Mr. Caplan notes that women who may possess these qualities of Torah leadership are not as easy to find as their male counterparts, but does not give a compelling reason as to why the quantity of such women should have bearing on the decision to be led. The fact was that the number of learned, semiklah-qualified men may greatly exceed the small number of such women is not a reason to disqualify these women. Furthermore, the author points out that such women, due to the fact that they perhaps learn in their own, smaller, battei midrash, have less access to ta’nidei hakhemim, the great learned scholars of the generation. Thus, they lack a certain familiarity with great Torah scholars. However, this factor is also not a reason to exclude women from communal leadership; lack of shinnunash talmidei hakhanim is likely a result of the novelty of advanced women’s learning and leadership qualities are not able to the quantity of such women should have bearing on the choice of leaders. They do not feel represented in the small population of esteemed female Torah scholars. They do not feel represented in the small population of esteemed female Torah scholars. They do not feel represented in the small population of esteemed female Torah scholars.
When a mahalotet le-shem shamayim exists, it will reach the correct conclusion, and the Halakhah will emerge with clarity. Va-ani tefillah that the issue of women’s ordination will be debated in a manner that is le-shem shamayim, with proper respect for the integrity of the halakhic system, and with attention to the needs of the community rather than the rights of individuals.

I would like to first thank Ms. Gadish for her well-thought-out and carefully composed response to my article. As an enthusiastic participant in milhamtah shel Torah (the war of Torah study), I eagerly welcome the most passionate critics against my article, “Rav Lakhen Benot Yisraei: On Humility and Rabbanut.” I also appreciate the opportunity this gives me to explain several points in my article that I did not originally express with sufficient clarity. Ms. Gadish expressed objections to several points; her challenges include both rejections of particular claims and complaints about the manner in which certain ideas were expressed. For the sake of brevity and clarity, I have separated my counter-counter-arguments into distinct sections, so that the reader may more easily follow the exchange of ideas.

On Leaders and Supporters
Ms. Gadish seems to principally focus on the contention which she perceived to be the issue of women’s ordination movement, rather than the leaders themselves. The issue of supporters’ thoughts is no small matter, considering that for every woman interested in a communal leadership position, there are hundreds or thousands of well-wishers whose motivations are likely not in line with her own. Perhaps Ms. Gadish concentrates on the good of the community, but instead focuses on whether it is fair to deny women the privilege of entering the rabbinate. Even if the “rights” consideration is only one of many factors discussed, it seems wrong to me to let issues of fairness or civil rights even enter the picture when debating the parsha…

First is the composition by Ilana Hostyk, “In Defense of Rabbi Hurwitz,” that initially inspired me to write my article. Ms. Gadish contends that Ms. Hostyk was “trying to stress the point about the inability to elevate…Torah to one of its highest levels.” I personally find this reading unconvincing. At any rate, it is undeniable that the article contains material emphasizing the right of learned women to hold leadership positions granted to similarly learned men. It is hard to see this advocacy for women’s ordination as purely le-shem Shamayim (for the sake of Heaven) when the author writes, “In all other ways, we have... allowed a complex conjunction of Torah u-maddah in our learning. However, when it comes to women’s issues, we are stagnant in a cesspool of discrimination.” Ilana Hostyk is not the only one who has written in defense of the women’s ordination movement by invoking the principle of fairness. In an article entitled, “Why We Need Rabbi, Not Maharat, Sara Hurwitz,” Dr. Haviva Ner-David writes, “I... know that there is no point in preserving the old if it has no inherent value. And I have yet to hear anyone articulate a convincing argument for keeping half of the world’s population down.” This entire piece, too, is a mix of bagels, with some discussion of the communal benefit that female rabbis would provide, but the very presence of the fairness argument demonstrates that supporters are thinking along the wrong lines.

A third case comes from an address delivered by Rabbi Joshua Maroof (of Congregation Magen David of Rockville, MD) during the ceremony bestowing the title of Maharat” on Sara Hurwitz. He said:

I firmly believe that our struggle cannot be deemed truly successful until the little girl attending a Gan in New York, and the young woman studying in a seminary in Yerushalayim, and the housewife living in Bene Brak, all know that the potential for Torah leadership is within them…..Our message today is loud and clear: There is a place for women in the world of Torah leadership.

My interpretation of these words is that the struggle is on behalf of the potential Torah leaders, not on behalf of those who will be led.

Interestingly, one of the most beautiful formulations of support for the women’s ordination movement, in the way I would like to hear it, comes from none other than Rabbi Hurwitz herself:

The time has come, the day has come, for women to transform their knowledge into service, to be able to stand together, with our male counterparts, as spiritual leaders of our community. And not because women should have the same opportunities as men — although they should — and not because women can learn and achieve on par with men — although they can. But because women, as Jewish leaders, have so many singular and unique gifts to offer, so much to contribute to the larger Jewish community.

Were this to be the only type of sentiment expressed in support of female leadership opportunities, I never would have written my article. At any rate, if there is to be a “Defense of Rabbi Hurwitz,” it is in statements like this.

Sara Hurwitz is a Modern Orthodox Jewish spiritual leader who received ordination from Rabbi Avi Weiss. She is the “Rabba” at the Hebrew Institute of Riverdale in Riverdale, New York and the dean of Yeshivat Maharat in Riverdale, New York.
war and Peace

the principle that any learned person deserves the opportunity to earn semikhah must be given some serious thought. Obviously, there is no room for a non-Jew to be a bearer of the masorah, while learned Jewish women may, in the end, have a place in this process. But we cannot jump to revise our practices without properly analyzing the arguments in favor of doing so.

Ms. Gadish further states that my piece “cuts short a legitimate and important discussion in the Modern Orthodox community” by casting “the notion of women’s ordination” as a “highly problematic view of the rabbinate” that has infected the minds and hearts of kelal Yisrael.” However, toward the end of the article, I stated that “The debate about women’s roles in today’s Orthodox community is an important one, and the question deserves serious and careful analysis.” The sentence cited by Ms. Gadish was pointing out that the tone of the debate exposed the extent of the civil-rights perspective of the rabbinate; the “highly problematic view” is the thought that fairness should determine who may be a rabbi.

On Humility

Although I never intended to address the motivations of would-be female rabbis in my original piece, I did present a view of the ideal rabbi, which Ms. Gadish disputes. Ms. Gadish objects strongly to the idea that humility is something that would make a person reluctant to accept a leadership position. In her words, “Humility does not come to exclude passion, drive, and commitment to studying Torah and to training to deal with the plethora of communal issues that will challenge a rabbi.” Furthermore, she claims that “without wanting to be in...a position of leadership, one will lack the motivation and necessary energy, self-esteem, and charisma to be an effective leader.” In saying so, she is not without basis. Indeed, a psychologist who hates dealing with people, a biological researcher who detests training to deal with the plethora of communal issues that will challenge a rabbi will lack the motivation and necessary energy, self-esteem, and charisma to be an effective leader.

In short, Ms. Gadish complains that we only scrutinize women’s motivations to leadership, while granting semikhah to men without taking their motivations into account. I believe, however, that she has conflated two different issues: 1) Personal belief in the Torah and interpreting the psyche of the community. It is true that semikhah programs include neither a gauntlet of hesed nor an interrogation to verify yer’at shamyim. This is unsurprising; such tests would be nearly impossible to implement. Were women’s ordination to become a more mainstream, I assume that their programs would also be focused on halakhic knowledge.

However, our discussion is not about the structure of women’s semikhah programs, nor is it even about potential leaders’ motivations, which I have no reason to interpret negatively. Rather, we are considering the move by a section of our community toward ordaining women. And in this context, I think it is entirely fair to ask: What is behind popular support for women’s ordination? Perhaps the answer to this question should not affect the decision whether or not to institute women’s ordination. But it can reveal to us some elements of communal psychology, and show us that the community has come to view the rabbinate as a position of privilege, rather than a position of service.

I will accede that my openness to the idea of non-egomaniacal female leaders is not new. Our<section omitted for brevity>War and Peace</section>
to succeed in correctly applying the dictates of the Torah to the issue of women’s ordination.

Ariel Caplan is a senior at YC majoring in Biology, and is an associate editor for Kol Hamevaser.

1 I would like to acknowledge the many individuals – male and female, from high schoolers to established Roshei Yeshivah, from within and without the Yeshiva University community – whose conversations with me have greatly enhanced my perspective on the issues raised in my article. While I do not think I have substantially altered my opinions, my understanding of the issues has been deepened by exposure to others’ perspectives, and for this I am eternally grateful. I do not mention these individuals by name simply because there have been too many.

2 Kol Hamevaser 5:1, 10-12.


4 Haviva Ner-David received rabbinic ordination in 2009 from YU-ordained Rabbi Dr. Aryeh Strikovsky of Tel Aviv. She has since been involved in the formation of Shira Hadasha, and, more recently, became the leader of a fully egalitarian synagogue in Kibbutz Hannaton (Haviva Ner-David, “Why We Need Rabbas, Not Maharats, Sara Hurwitz,” Zeek: A Jewish Journal of Thought and Culture, April 7, 2010, available at: zeek.forward.com.). I have left out her title of Rabbi to avoid confusion, as many readers are presumably only familiar with the recent, well-publicized ordination of Sara Hurwitz, while being unaware of other, less famous attempts in the last few decades to ordain women.

5 Joshua Maroof, “Speech at the Conferment Ceremony of Sara Hurwitz,” Hebrew Institute of Riverdale, March 22, 2009, available at: http://www.ijfa.org/pdf/uploaded/1620-WLDK1997.pdf. Despite my selection of this quotation, I find it much more problematic that in the remainder of the speech, he seems to equate being barred from the rabbinate with “being systematically denied equal access to the Torah.” I see no reason that being unable to deliver a sermon in the context of a synagogue or to officiate at a wedding or funeral defines women as having a lesser right to equivalent halls of study.

6 Writing her title is not meant to express support for her ordination; I am happy to call people by the titles they select for themselves, provided that there are no universally accepted standards for these titles (as there are for Mrs. or Dr. - i.e., being a married woman and having written a doctoral thesis, respectively).


8 The explicit comparison of Korah’s revolt to “the more recent attempts of leaders within our community, spearheaded by individuals or groups, to unilaterally alter the practices of our community and transform the power structure of American Orthodoxy” referred to events such as the formation of the International Rabbinic Fellowship to compete with the Rabbinical Council of America. The establishment of this new rabbinic body was also the intended subject of the reference to a “vicious power struggle” later in the article, the assumption being that the women’s ordination debate was one of the primary factors that led to the split.

9 Pesahim 112a, translation mine.

10 Jason Strauss, Jewish Leadership for Women, by Women, personal communication, October 30, 2011. A small, informal survey conducted by this author revealed that this may not be true of all girls - some may feel equally or more inclined to connect with male role models - but it is clear to me that a greater presence of well-educated mehanekhot would be a boon to many young women.

11 Yirmiyahu 12:1, translation mine.

12 Tzillim 36:7, translation mine.

13 Cited in Tsevi Yavrov, Hanokh la-Na’ar (“Teach the Young Man”) (Benei Berak: Tsevi Yavrov, 2002), 28-9, translation mine.

Women’s Zimmun: An Addendum

BY: Yoni Zisook

This article is intended not as a response, but rather as an addendum to Gabrielle Hiller’s well-written article, “Women’s Zimmun: It’s Just Not That Radical.” In no way do I wish to be overly critical or challenge her general thesis, which shows a basis in Halakhah for women’s zimmun. It is not a question of whether women’s zimmun is permitted, but rather a question of whether women are required to perform zimmun. I simply wish to offer additional relevant and necessary sources which were not presented in Ms. Hiller’s analysis.1

This article will clarify and address six additional factors: 1) Rambam’s view in light of Ms. Hiller’s discussion of whether zimmun is obligatory or optional for women. Any halakhic discussion should mention the position of Rambam when applicable. 2) Implications stemming from Berakhot 45b, with emphasis on the positions of R. Simhah of Speyer and R. Yehudah ha-Kohen.2 3) Permissibility of adding the word Elokeina, a name of God, to the liturgy of the zimmun when there is a group of ten women present at a meal. 4) A clarification on the view of R. Yosef Karo in Hilkhot Berakhot (Rosh and Gra). 5) The separation of three women to form their own zimmun when eating together with three men. 6) Other commentators who oblige women in zimmun besides the authorities mentioned by Ms. Hiller (Rosh and Gra).

1 Rambam writes in the fifth chapter of Hilkhot Berakhot that “women, slaves and children are not included in a zimmun; rather, they should perform zimmun separately…”2 The language of Rambam here is decidedly ambiguous, for he does not mention the words haggar (obligation) or reshit (optional act) at all. However, Rambam’s position can be ascertained when considered in light of the entire fifth chapter. As one literary whole, this chapter indicates that Rambam holds that women are obligated in zimmun. As he writes in the first halakha of the chapter, “women…are obligated in birkat ha-mazon.”3 Rambam continues and states in the sixth halakhah that “all are obligated in the blessing of zimmun in the same way that they are obligated to say the birkat ha-mazon.”4 Thus, for Rambam, a person obligated in birkat ha-mazon is also obligated in zimmun. This indicates that women, too, have an obligation in zimmun.5 It is worth noting here that the dispute in Berakhot 20b over whether women’s obligation in birkat ha-mazon is Rabbinic or Biblical6 should have no bearing on the matter for Rambam or for the other rishonim, such as Rosh and Rokeah,7 who maintain that zimmun is obligatory for women. Even if the Halakha would dictate that women are obligated in birkat ha-mazon only Rabbinically, women would still be obligated to say birkat ha-mazon because they are obligated to say birkat ha-mazon. Birkat ha-mazon and zimmun have a correlative relationship.8 Additionally, Rambam’s omission of a particular Talmudic phrase from this chapter supports the position that he holds women are obligated in zimmun. Berakhot 45b states that if “they [women and slaves] want to join together, we do not allow them…” Tosafot comments that the language of “if they want to” further implies that women’s zimmun is voluntary.9 However, Rambam does not include this expression, implying further that he believes that women are obligated in zimmun.10 Further, Me’iri cites Rambam as holding that women are obligated in zimmun.11

2 Establishing the obligation for zimmun, the Mishnah in Berakhot 45a states: “If three persons have eaten together, it is their duty to invite [one another to say birkat ha-mazon]”12 The same Mishnah later continues, “women, children, and slaves may not be counted in the three.”13 Despite the fact that this subsequent clause can be interpreted to refer back to the “three persons” who “have eaten together” – indicating that the Mishnah prohibits women from joining a men’s zimmun – the Beraita in Berakhot 45b and its subsequent Talmudic discussion seems to imply otherwise. The Beraita states: “Women by themselves invite one another, and slaves by themselves invite one another, but women, slaves, and children together, even if they desire to invite one another, may not do so.”14 This fanatical statement does not indicate that women cannot join men, but rather it indicates that women cannot join a zimmun of slaves or children! The Gemara asks on the Beraita: “Why not [join women with slaves or children]?”15 The Gemara responds mi-shum peritisa, “because it might lead to promiscuity.”16 Commentators point out that this concern is on account of the slaves.17 Berakhot 45b, therefore, is specifically concerned with groupings of slaves and women in order to guard against immoral behavior. The simple reading of the Gemara says nothing about women and free men; it only references women and slaves.

Despite normative halakhic practice,18 the conclusion of Berakhot 45b seems to indicate that a grouping of free-men and women would constitute a legitimate zimmun19 because the fear of “promiscuity” refers only to a grouping of women and slaves. This seems to be the view of R. Simhah of Speyer, as quoted by Mordekhai.20 Mordekhai writes that “R. Simhah states that he is willing to include women [to meet the requisite number of people necessary] for zimmun.”21 To clarify, he22 continues, “and even if you say that women are only obligated [in birkat ha-mazon] Rabbinically, as is proposed in the chapter Mi she-Meito,23 [the Gemara’s discussion] was only in regard to fulfilling others’ obligations; but, for simply joining in zimmun, it is certainly appropriate to include a woman so the group can recite the name of God in the zimmun.”24 According to this explanation, in addition to joining a woman with two men, it is even permitted to include a woman with nine men, creating an obligation to recite Elokeinu in the zimmun.25

R. Yehudah ha-Kohen also included women
in the requisite number necessary for zimmun (presumably both three and ten). R. Ya'akov ben Asher cites R. Yehezkel ha-Kohen as follows: “R. Yehezkel ha-Kohen instructed halakhat le-ma'aseh (practical Halakhat) to include a woman [in the requisite number necessary] for zimmun.25 R. Yehezkel ha-Kohen explains that if a woman’s status for inclusion in zimmun were under question, then the Gemara in Berakhot 20b, which discusses whether women have a Rabbinic or Biblical obligation to recite birkat ha-mazon, should have also asked “can women join for zimmun” and not only questioned, “can women fulfill the obligation of men in birkat ha-mazon?” Since the Gemara is only concerned with the question of fulfillment, it must hold that women can join with men for zimmun.30

R. Meir of Rothenburg rejects the view of R. Yehezkel ha-Kohen and states that women cannot be counted with men for zimmun.31 Normative halakhic practice has adopted the position of R. Meir of Rothenburg, prohibiting women from making up the requisite number of people required (either three or ten) for zimmun.32 Despite this, it is important to acknowledge that the simple understanding of Berakhot 45b implies that a grouping of men and women does, in some way, constitute a group for zimmun.

The next topic of address is whether or not a group of ten women who recite zimmun should add the word Elokeinu, as ten men must. Me’iri cites an opinion which states that a group of ten women should include Elokeinu in their zimmun.33 Nevertheless, the established halakhic practice of today is that zimmun is optional for women.34

What remains clear from all of these sources is that, according to most, women do not form a zimmun; according to many, they are in fact obligated in zimmun. Despite the simple understanding of Berakhot 45b, Halakhat does not permit women to be counted with men to make up the requisite number of people necessary for a zimmun of three or ten. A woman who eats with three men must remain and share in the zimmun obligation by answering with the men’s zimmun. Women may, however, separate from presence of a men’s zimmun and perform their own, provided that there are less than ten men present. Although there are many rishonim who maintain that women have an obligation in zimmun, normative Halakhat has not adopted this view; rather, it is optional. Nonetheless, zimmun provides an easy opportunity to perform a mitzvah and find greater meaning in Jewish practice.

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See Ms. Hiller’s article, especially her discussion of Rosh and Tosafot. Rosh holds that when three women dine together, they have an obligation to perform zimmun (Berakhot 7a), while Tosafot is of the opinion that zimmun is only a reshit, an optional act (Berakhot 45b, s.v. shani hatam de-ika de’ot). Tosafot maintains this position despite the fact that the Gemara in Arakhin 3a indicates an obligation for women to perform zimmun.

In addition to the Talmudic and halakhic sources presented, the manifestation of women’s zimmun today is likely related to the sociology of Jewish life. However, addressing this point any further would go beyond the scope of this article.

R. Simhah was a German Tosafist who lived during the second half of the twelfth and first half of the thirteenth century. He studied with Elazar b. Yehudah (Rokeah) and under Eli’ezer b. Shmu’el of Metz (Yere’im). He published Shmuel ben Samuel of Speyer, in Encyclopaedia Judaica, ed. by Michael Berenbaum and Fred Skolnik, Second Edition, Vol. 18 (Detroit: Macmillan Reference USA, 2007), 603-604.

R. Yehudah ha-Kohen cited in this article is likely one of two medieval German scholars; it is, however, unclear which. R. Yehudah ha-Kohen is referred to here. He may be Yehudah b. Me’ir ha-Kohen Leonit, who lived at the end of the Geonic period, during the tenth and eleventh centuries, and was one of R. Gershom Me’ir ha-Gal’ot’s teachers. The second possibility is that this is a reference to R. Yehudah b. Moshe ha-Kohen, who lived during the thirteenth century and was a contemporary of R. Meir of Rothenburg. From the juxtaposition of R. Yehudah ha-Kohen and R. Meir of Rothenburg in Tur OH 199, and from the citation of the former’s position in She’elot u-Teshuvot Maharam me-Rotenberg (Prague ed.), part 6, 427, the second possibility is also a reasonable conclusion. See Shlomo Eidelberg and David Dorovran, “Gershem ben Judah Me’ir ha-Ga’ola,” in Encyclopaedia Judaica, ed. by Michael Berenbaum and Fred Skolnik, Second Edition, Vol. 7 (Detroit: Macmillan Reference USA, 2007), 581-582. See also A. Agus, “Meir ben Baruch of Rothenberg,” in Encyclopaedia Judaica, ed. by Michael Berenbaum and Fred Skolnik, Second Edition, Vol. 13 (Detroit: Macmillan Reference USA, 2007), 780-783.

Rambam’s second clause does not ordinarily apply to children forming a zimmun in their own right. However, there is at least one opinion that holds that a group of three children can constitute a valid zimmun. See Perishah to Tur OH 199. Berakhot 48a indicates that one child can be counted towards a zimmun of adult males if the child “knows whom we are blessing.” This is codified in Shulhan Arukh OH 199:10. See, however, the gloss of Rama, ad loc, who writes, “some do not ever count [a child].”

Rambam, Mishneh Torah, Hilkhot Berakhot 5:7. Rambam continues to state that “…to prevent promiscuity, women, slaves, and children should not form a zimmun together; rather, women, slaves, and children should form independent groups for zimmun, so long as they do not mention the name of God.” Though this part of Rambam’s ruling is important, it is not relevant for ascertaining a woman’s position in respect of her zimmun. Therefore, for the sake of clarity, it is left out of the above quotation. All translations are my own unless otherwise indicated.

Ibid. 5:1.

Rabbi Dr. Eliyzer Berkovits understood Rambam’s opinion in the same manner. See Eliyzer Berkovits, Jewish Women in Time and Torah (Hoboken, New Jersey: Ktav Pub. House,1990), 87-88.

As for the nature of zimmun itself, irrespective of the particular issue of women’s zimmun, one must dispute whether it is Rabbinic or Biblical obligation. According to R. Shlomo Zevin, the majority of poskim agree that zimmun is Rabbinic in nature. “Zimmun,” in Encyclopedia Talmudith, ed. by Shlomo Zevin (Jerusalem: Talmudic Encyclopedia Pub. Ltd., 1967): 237-238. See also nos 18 and 19, ad loc. Ms. Hiller has already demonstrated that Rosh maintains that zimmun is obligatory for women. I will demonstrate later that this is also the opinion of at least eight other rishonim.

According to Rambam himself, the question of whether women are obligated in birkat ha-mazon Rabbinically or Biblically is not resolved. He writes in Hilkhot Berakhot 5:1 that “women…are obligated in birkat ha-mazon, but it is a doubt whether they are obligated Biblically, for it is not time bound, or Rabbinically. The reason [for this doubt] is that women should not fulfill this obligation since they do not say the berit (i.e. the line of al beritika she-hatamantia bi-vesaereinev, a reference to the covenant of male circumcision) while men do. However, Tosafot in Berakhot 20b s.v. nasham concludes, like Rambam, that it is in doubt whether women’s obligation in birkat ha-mazon is Rabbinic or Biblical.

Tosafot to Berakhot 45b, s.v. shani hatam de-’ika de’ot.

Shmuel Dickman, the author of the notes to Mahzor ha-Talmud ha-Yisraeli ha-Shalani’s edition of Me’iri to Berakhot, interprets Rambam’s second clause as if he were to lay such a position down on women. He writes that Rambam’s expression of zimmun me-zamanim le-atsman (”but they make a zimmun of their own”) implies that women are obligated in zimmun. Dickman does not elaborate as to why. His rationale, however, is likely that if Rambam wanted to declare zimmun optional for women, he would have written “zimmun me-zamanim me-nashim me-le-atsman,” (“they want to make a zimmun…”). Additionally, Rambam should write explicitly that zimmun is optional, were he to think so. One may infer from the fact that Rambam does no such thing that zimmun is obligatory for women. See Me’iri to Berakhot 47a in the Mahzor ha-Talmud ha-Yisraeli ha-Shalami edition and note 153, ad loc.

Me’iri to Berakhot 47a.

Berakhot 45a (Soncino translation). See also ibid.

Berakhot 45b (Soncino translation).

Ibid.

See Rashi to Berakhot 45b, s.v. in ratzu ein mezanim, and Shulhan Arukh OH 199:6.

Normative halakhic practice does not join women with men to make up the requisite number for zimmun of three or ten. It appears that, historically, traditional communities have not embraced full inclusion of women into zimmun for two major reasons: 1) Rashi and, later, many aharonim indicate that ein ha’ar uterus na’eh, “a grouping of men and women is unseemly.” Some authorities indicate that ein ha’ar uterus na’eh is synonymous with the concern for peritsuta, promiscuity. However, if that is the case, then any grouping of men and women which would not lead to promiscuity should constitute a legitimate grouping for zimmun. (See the above discussion of Mordekhai et al.) For example, a father, son and mother should thus be a legitimate grouping for zimmun, for, in such a case, no one is worried about promiscuous behavior. Nonetheless, R. Hayyim Margoliot in his Sha’arei Teshuva, citing the Levush, writes that even such a case is unseemly (OH 199:4). Additionally, Beit Yosef to Tur OH 199:8-9 cites the same conclusion in the name of R. Yehezkel ha-Kohen: a woman cannot join in men’s zimmun, even with her husband,
I agree with Mr. Barach that Tanakh study is important for all the reasons that he mentioned in his article. However, it is important to realize that Jewish tradition has a justified position that shies away from study of Nakh whether for fear of its corrupting influence or out of a surfeit of interest in Talmud study.

Theological leniency but as a hankahagat (practice) of his isibbur (community). This reading makes it very difficult to read Rabbeinu Tam as merely providing a de facto limmud zekhot (justification), as Mr. Barach claims. Mr. Barach may disagree with Rabbeinu Tam if he wishes, and he has support within our mesorah to do so, but Rabbeinu Tam is a proud supporter of Tanakh non-scholarship.

Mr. Auerbach also cites R. Samson Raphael Hirsch as a proud supporter of Tanakh study. That he certainly was, but it is important to look at parallel Jewish intellectual leaders of R. Hirsch’s time in order to find alternate positions and see the backdrop against which he was writing – the major clash in eighteen- and nineteenth-century Europe over the Hasidah (Jewish Enlightenment). A relevant piece of the Noda bi-Yehudah’s (1713-1793) Talmudic commentary should suffice to provide some of that background. A cryptic Gemara advises, “minu beneikhem minu ha-higgayon – distance your children from higgayon,” which Rashi

Defending the Opponents of Nakh: A Reluctant Devil’s Advocate

BY: Shlomo Zuckier

I would like to start this article by offering the following disclaimer: I am personally a major advocate of studying Nakh. While Gemara study has been the primary pursuit of my years at Yeshivat Har Etzion and Yeshiva University, the study of Nakh has played a significant secondary role in my learning. It is my intention in this response to ignore personal predilection and present several arguments against the sustained study of Nakh that were understated or unstated in Gilad Barach’s article, “Nakh: The Neglected Nineteen.” My goal is to provide a corrective to his presentation, both in the interest of intellectual honesty and as a justification for those who follow a different path from Mr. Barach’s in studying Nakh.

My first point of contention relates to the interpretation of Rabbeinu Tam offered by Mr. Barach. He writes that Tosafot’s presentation of the opinion reflects to a certain extent, a be-di avad (less than ideal) approach. Tosafot in Avodah Zarah quote Rabbeinu Tam as saying, “Dazeinu,” “It is sufficient for us”; in Kiddushin, “Somekin,” “We rely”; and in Sanhedrin, “Poterin atzeineinu,” “We exempt ourselves.”... The three terms all indicate resignation, and suggest that something makes Rabbeinu Tam uncomfortable with his own letter (permission). I believe that the simpler reading of Rabbeinu Tam is not that of resignation to a non-ideal practice but of a contented justification of it; For one’s Tanakh study, nothing beyond the verses picked up during Talmud study is necessary for a serious student, Rabbeinu Tam argues. This is underscored by the fact that these letterim are phrased in plural first person – it is sufficient for us; we rely; we exempt ourselves – he is happy to present the letter not only as a theoretical leniency but as a hankahagat (practice) of his isibbur (community). This reading makes it very difficult to read Rabbeinu Tam as merely providing a de facto limmud zekhot (justification), as Mr. Barach claims. Mr. Barach may disagree with Rabbeinu Tam if he wishes, and he has support within our mesorah to do so, but Rabbeinu Tam is a proud supporter of Tanakh non-scholarship.

Mr. Auerbach also cites R. Samson Raphael Hirsch as a proud supporter of Tanakh study. That he certainly was, but it is important to look at parallel Jewish intellectual leaders of R. Hirsch’s time in order to find alternate positions and see the backdrop against which he was writing – the major clash in eighteen- and nineteenth-century Europe over the Hasidah (Jewish Enlightenment). A relevant piece of the Noda bi-Yehudah’s (1713-1793) Talmudic commentary should suffice to provide some of that background. A cryptic Gemara advises, “minu beneikhem minu ha-higgayon – distance your children from higgayon,” which Rashi
read the books of the gentiles in order to be knowledgeable in their language... And there is much to admonish about this in our generation where this blemish has spread much, and from Heaven they will have mercy. This commentary takes a clear shot at Moses Mendelssohn (1729-1786), as well as the other Haskalah leaders of the time. Among the goals of the Haskalah were to promote the study of Tanakh at the expense of Talmud, as well as to take a more peshat-style approach to Tanakh study that favored proper understanding of grammar over study of Midrash. As the Noda bi-Yehudah sarcastically notes, many maskilim were melammedim, personal tutors for rich children, and he saw this movement as a major threat for eighteenth-century traditional Europe. Mendelssohn also wrote a German translation of the Torah, known as the Betur (published in the 1770s), which the Noda bi-Yehudah explicitly labels as a danger. Against this backdrop, R. Hirsch (1808-1888) emerges as a middle position between the Noda bi-Yehudah and the Haskalah of Mendelssohn. R. Hirsch argues for changes to education, including a focus on Tanakh, while simultaneously combating the newest generation of maskilim, who were now demanding changes to Halakhah. R. Hirsch focuses on educating Jews with a pure, unadulterated Jewish approach to their Torah, studying a text "from the inside." He is able to support the learning of Tanakh for a traditional community by making it clear that maskilim do not belong, and by allowing for only traditional and internal approaches to Tanakh study. In fact, Hirsch notes that grammar is to be studied, just as the maskilim had advocated, but that the grammar was for the purpose of understanding Tanakh, and not vice versa. In this manner, he responds to the Noda Bi-Yehudah's critique while advocating a middle position. Thus, Hirsch was a supporter of Tanakh study, but he was opposed by some of the leading Torah scholars of his era.

The final approach that I would like to present is that of R. Aharon Kotler. His opinion had a broad influence on the American Jewish community and its educational systems, and it is probably the best response to Mr. Barach's question, "So why does no one care?" R. Kotler discusses the category of bittel Torah be-ekhut, qualitative waste of Torah study time, and defines this category as follows: "Though he studies, if it is possible for him to study in greater depth, to understand and grasp more, behold - for this missing part, it is considered a waste of Torah." In other words, it is important not only to maximize the amount of time spent studying Torah, but also to optimize the level of study. This argument was the justification for focusing primarily, even exclusively, on Tanakh study, to the exclusion of Nakh. This is not a twentieth-century argument; there are Talmudic sources that unequivocally support this understanding. The Gemara writes that, for those who study Mikra, their study is "middah ve-einah middah," valued as something but not much, while for those who study Talmud, "there is no greater value than this." It follows that Tanakh study should be minimized in favor of Talmud study whenever possible.

I agree with Mr. Barach that Tanakh study is important for all the reasons that he mentioned in his article. However, it is important to realize that Jewish tradition has a justified position that shies away from study of Nakh, whether for fear of its corrupting influence or out of a surfeit of interest in Talmud study. Providing tenuous re-readings of traditional sources is not the proper way of resolving these issues. While it is definitely fair to critique the Nakh-deficient, it is also igyon. Still, this is irrelevant to the issue of understanding his attitude towards those who do not study Tanakh.

Footnotes Continued from Vegetarianism and Judaism: The Rau’s Radical View:

15 R. Joseph Dov Soloveitchik, The Emergence of Ethical Man (Jersey City, NJ: Ktav Pub. House, 2005), 45. Interestingly, he even feels that vegetable life is sanctified.
16 Gen. 1:34. Translation found in Soloveitchik 32.
17 Soloveitchik 32.
18 R. Y.D. Soloveitchik interprets the word hamsas as overreaching oneself—not just as stealing but as violating personal rights (Soloveitchik 33).
19 Gen. 9:3, translation found in Soloveitchik 34.
20 Soloveitchik 34.
21 All of the quotations are from Soloveitchik 36.
22 Ibid.
23 Ibid.
24 Ibid.
25 See Numbers 11.
26 JPS translation.
27 See, for example, Abarbanel in his introduction to Leviticus and Ramban to Lev. 15.
28 Soloveitchik 42-43. He formulates this differently in Writings of the Heart (Holbrook, N.J.: Clark Publishing House, 2003), 161-162, by explaining the requirement as the demand of God for man to return His "deposit"—his life.
29 Soloveitchik 43. He also deals with such issues in Writings of the Heart and Lonely Man of Faith (New York: Doubleday, 2005). Indeed, he leverages this connection between surrendering one’s life to God and korbanot (sacrifices) on Rashi to Lev. 26:42, which states that Isaac’s ashes are forever visible to God. In other words, although Isaac was not sacrificed literally, he was sacrificed in the figurative sense; Isaac was embodied in the ram that was offered in his stead.
30 Rashi to Deut. 12:20 and Ramban to Lev. 17:27 that the only meat that Bnei Yisrael were allowed to eat was the meat of sacrifices. This may indicate that the Torah does maintain that one should sacrifice animals, but still does not happen sanctification consumption of any meat besides for sacrificial meat.
31 Rambam, Sefer ha-Mitsvot, Mitsvat Aseh, no. 54 and Mishneh Torah, Hilkhot Yom Tov 6:18.
32 1:76.
33 Magen Avraham, Orah Hayyim 596:15 sides against Rambam, although he contradicts himself in Orah Hayyim 249:6 where he disproves the opinion of the Lezrus, who says that eating meat on yom tei is not obligatory.
34 Bet Yosef, Orah Hayyim 525 questions Rambam and Tur, who claim that one is obligated to eat meat.
35 For a discussion of the matter, see R. Moshe ha-Levi Steinberg’s Hakkat ha-Cer, Kuntres ha-Teshuvot, no. 1.
36 This halakhah is derived from Bekhorot 30b and Mekhilta, Parashat Kodoshim 19:34.
A Jerusalem of Bizarre Thrills

BY: Chesky Kopel


Father opposes son in the bitter rivalry of this film; both are eccentric Jerusalemite scholars, but their profound disagreements and barely veiled contempt for each other’s work consume their relationship.

“The reception of my film here in [New York City] is especially crucial for me, second only to its reception in Jerusalem. Not because there are many Talmudic philologists in New York, but because this city is home to the second-highest concentration of my parents’ friends.”

I was sitting in a glitzy Upper West Side theater, participating in the 2011 New York Film Festival, when I heard this statement. And it could hardly have sounded more familiar. The Jerusalem-New York linkage is distinct to our small Orthodox circles, and the amusing sentiment of this announcement was so mercilessly Jewish. The man speaking was Joseph Cedar, director of the award-winning film for Best Screenplay at Cannes Film Festival 2011. He revealed himself to be, as was already too clear to me, a child of America olim. Now this young man faced the bizarre and daunting task of presenting to a cinematic New York crowd his drama film about a rivalry between philologists in the Talmud Department of the Hebrew University.

The concept of such a film sounded ridiculous, but not at all as cometical as I expected. The film is as mercilessly funny as it is mercilessly Jewish. The man speaking was as amused as I was. Disdain for spoilers actually has footnotes on it. Perhaps to the unique pleasure of the Halmeveser readership, the story is organized into a primary narrative with periodic interruptions of footnoted background information. Cedar explained to the New York crowd that in academic Talmudic literature, the writing is typically terse and frugal, with few words on each page. “But the footnotes,” he added, “that’s where they really go wild.”

The footnotes on this film served much of the same purpose, providing momentary excursions into uncharted eccentricity in a way that the primary stage of the film simply could not do.

Beyond the stick, however, Footnote’s most unique feature is intensive display of different characters’ perspectives. Scenes representing the personal experiences of Eliezer typically zoom in on details, sometimes to a disorienting, and even nauseating, extent. These scenes engender a tangible sense that the full picture is somehow skewed or lost. Eliezer-centric scenes, by contrast, feel adrenalinized and impulse-driven, as Uriel himself is drawn to hasty conclusions in his personal and familial turmoil, at times with skimpy evidence. When the Israel Prize drama commences, it occurs more and more to the viewer that each protagonist’s overbearing flaws destroy not only himself, but the other as well.

Overall, Footnote is a profound human-interest drama, with an additional edge of familiarity for committed Jewish communities, as it happens to be Israeli and happens to be about Talmud study, an activity we consider to be of inherent religious value. It therefore remains the duty of a Jewish Thought magazine’s film reviewer to determine whether Footnote’s Israel and Talmud characteristics can figure as more than peripheral in the film’s message, whether the film will, on their account, have more meaning for our communities than for others.

In Israel, this film represented something more and more to the viewer that each protagonist’s overbearing flaws destroy not only himself, but the other as well.

Footnote is set starkly in the film’s opening scene – Uriel’s induction ceremony at the Israel Academy of Sciences and Humanities (ha-Akademiah ha-Le’amit ha-Vitsri’it le-Mada’im).

The story unfolds as a deeply personal drama of father-son conflict. Its climax arrives in a bizarre entanglement concerning the Israel Prize (the state’s highest award) for Talmud Research, an entanglement so categorically Israeli that I wondered if the rest of the audience was as amused as I was. Disdain for spoilers prevents me from revealing more of the plot here. The real marvelous effect of the film, however, lies in the brilliance of its storytelling and its absurdist theatrical construction.

In an ultimate statement of meta-thematic style, Footnote actually has footnotes on it. Perhaps to the unique pleasure of the Halmeveser readership, the story is organized into a primary narrative with periodic interruptions of footnoted background information. Cedar explained to the New York crowd that in academic Talmudic literature, the writing is typically terse and frugal, with few words on each page. “But the footnotes,” he added, “that’s where they really go wild.”

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In Israel, this film represented something truly special for the nation. Aside from their general beaming pride for a homemade Israeli production achieving international recognition, many Israelis saw Footnote as a significant cultural accomplishment, overcoming the stagnant national preoccupations of the past. Limor Livnat, the current Israeli Minister of Culture and Sport, is rumored to have remarked excitedly upon emerging from the theater: “Finally - an Israeli movie that does not take place in a tank!”

Israelis are eager to celebrate aspects of their culture beyond conflict and war, ethnic/religious identity and persecution, and to present these facets of their society to the international community. And this is not to mention that the film is especially entertaining for Israelis. As I mentioned above, an important premise of Footnote’s drama is an entanglement that gets at the heart of popular frustration with Israeli bureaucratic inefficiency.

In terms of Jewish religious meaning, however, the film is not particularly forthcoming. Despite dealing directly with the world of sacred Jewish texts in the holy city of Jerusalem, the academic environment of the story is decidedly detached from religion. The characters do not strive to portray themselves as religious-minded, although the men do wear kippot, and it is feasible that their spiritual lives are simply not depicted. This omission is likely intended either to reflect a perceived reality of Talmud academics in Jerusalem, or to trim away from the story any complexities that diminish from the power and universal relevance of the deep narcissistic drama.

I can, however, try on the hat of Torah u-Madda-oriented culture critics, and hazard an answer to the question: What would the Torah say about the plot of this film? Sanhedrin 105b records the following statement of R. Yosei bar Honi: “[One] is jealous of every person, except for his son and his student.” My immediate impression is that R. Yosei intends to convey an essential and observable reality: A parent’s loving pride for his or her child is stronger than the hollow frailty...
jealousy. Thus, even when a child outshines his or her parent with any accomplishment, the result is happiness (the colloquial naches), not resentment. The Gemara quickly identifies the source of R Yosei’s sentiment in David’s pride for his son Shlomo. Still, the statement is posed as an observation and not as an imperative, and an example from one father-son pair, no matter how exceptional the father and son were, can only be a source for R. Yosei’s general observation as something symptomatic of a human reality, not as a stand-alone proof for this reality.

That said, Cedar’s plot ostensibly draws upon observation and life experience as well, and yet zeros in on a phenomenon that is at striking odds with R. Yosei’s sentiment: a father and son in bitter rivalry over their respective accomplishments in the same field. This father is, quite clearly, jealous of his son. Still, I can hardly say that the film is in conflict with Hazal, for several reasons: First, stemming from familial instincts, both Uriel and Eliezer do exhibit a grudging respect for each other at times throughout the film. Their rivalry seems to arise from an unconscious force of academic haughtiness that undermines these instincts. The son cannot help but see his father’s work as uncreative; the father sees his son’s work as imprecise. The instinct being undermined is in line with R. Yosei’s observation, and the force that undermines it is an anomaly of humanity, a tragedy of the culture of cut-throat academics. That this tragedy is anomalous is perhaps the very reason that Footnote has proven so intriguing to a wide audience. The context is familiar to all, the course of events off-kilter and downright unsettling.

And even if I were to present R. Yosei and Cedar as opposing views on family relationships, the difference in their societal contexts and upbringings should be more than enough to account for this. Perhaps the Talmudic era father had sensitivities much more adverse to family rivalries than does the modern Israeli father. Or perhaps Cedar himself witnessed an unusual dynamic in certain families. But, of course, this is all conjecture, the sort of unrestrained literary analysis, which, as Talmud scholars will confirm, belongs only in footnotes.

Chesky Kopel is a junior at YC majoring in English and History, and an editor-in-chief for Kol Hamevaser.

1 Joseph Cedar, director of Footnote. I heard this from him myself, and the context will soon become clear.

2 Ibid.

3 Avner Shavit, “How is it possible that Footnote is the first Israeli film about academic intrigue?” Transl. from Hebrew mine.” Walla!, May 31, 2011, available at: http://e.walla.co.il/?w=/266/1828253.

4 Translation mine. An additional appearance of this statement in Yalkut Shni’oni, Pthlas 247.776, s.v. v’et-natsalt me-hakedha identifies R. Yosei bar Honi as R. Yosei bar Hanina, a well-known second-generation Jerusalemite Amora.

5 See Rashi ad loc., s.v. mi-shelomoh; I Kings 1:47.

6 This is meant in contrast to the main body of my review, namely my analysis of Footnote’s plot, theatrical presentation, and cinematography.

The Making of a Rosh Yeshivah Biography

BY: Shlomo Zuckier


Biographies have the power to humanize even the most herculean warriors, the most charismatic statesman, the holiest saints. Relating an accomplished person’s youthful mistakes and challenges, private anxieties, and great existential crises and failures alongside their successes can give insight that penetrates the veneer of greatness. What remains is a portrait of a human being, albeit an exceptional one, at his most basic level. For that reason, when I first saw the biography of R. Yehuda Amital, I was intrigued. How would a biography capture the essence of R. Amital, who was a soldier, politician, and deeply spiritual man, but whose primary vocation was that of rosh yeshivah? That there is a dearth of objective biographies of the great rabbis is a much-lamented truism, and the lacuna persists in the Modern Orthodox world as well as in the Haredi world. Would this book provide a revelatory account of R. Amital’s life, showing new facets of a great man while holding together his legacy?

Of all rashei yeshivah to choose from as the subject of a biography, R. Amital might be the most obvious. He was the self-proclaimed yehudi pashut (simple Jew), never promoting stridency, always relying on a very basic faith in his life. On multiple occasions, he stood up to religious disingenuousness, and always tried to be “normal,” deliberately declining to strive for any elitist ideal. Of all the teachers I have ever studied with, he was the one who most provided a focus on the human element, man’s existential weaknesses and spiritual abilities, especially in religious contexts. For a biographer, this fact simultaneously diminishes and deepens the challenge. Relating to a self-identified human rosh yeshivah is infinitely easier than trying to bring one who strives to be an angel down to earthly existence. At the same time, the essence of anyone with such a nuanced personality would be hard to capture...
a mere book. By Faith Alone, a translated and slightly expanded edition of the Hebrew Be-Emunato,1 supersedes Ve-Ha-Arets Natan, a book that was also published both in Europe (Grosswadein, Transylvania) and Israel, periods of his life not discussed in published material elsewhere, to my knowledge. It provides a short biographical sketch of R. Amital’s first rebbe, R. Hayyim Yehuda Levi, who had a significant impact on R. Amital’s Talmudic methodology. It also offers a fairly sustained discussion of R. Amital’s involvement in the founding and leadership of Yeshivat Har Etzion and the Meimad political party, though these accounts are accessible elsewhere. However, despite its attention to many important issues in R. Amital’s life, the book also leaves behind several plotholes in his biography. For example, why did the book’s protagonist leave Yeshivat Hadarom, where he taught alongside R. Eliezer Shach, and move to Giv’at Mordekhai, where he lacked a full-time job and had to work several jobs to make ends meet? Why did he possibly sign the agreement to not leave Yeshivat Chevron and the Haredi world in the first place? Was this a dissonance stemming from his studies with R. Abraham Isaac Kook while in a Haredi yeshivah, or did other factors contribute to this shift? The book leaves such lacunae unfilled.

These gaps might be blamed on the structure of the book. Instead of striding forward through a historical progression of R. Amital’s life, the book flits back and forth between different parts of his life, with no particular order or pattern. It may seem reasonable that a book based on interviews could fall prey to the stream-of-consciousness approach rather than the presentation of a cogent, historical narrative, but this form of presentation does little to help the reader understand the trajectory of the protagonist’s life. Flashing back and forth between the planning for Yeshivat Har Etzion (chapter 1), R. Amital’s childhood (2), the opening of the yeshivah (3), Lichtenstein’s joining the yeshivah (5), R. Amital’s early years in Israel (6), and the Yom Kippur War (7), the book confuses the reader and does not provide a flowing narrative.

Moving from form to content, Reichner successfully presents R. Amital as the charismatic man that he was. One particularly strong passage reads:

> He would gather them together, teach them a shuir, and speak about the importance of military service. I witnessed a special bond between him and his students; it was quite exceptional.

Despite effectively describing R. Amital’s charming personality and deep concern for his students, the book fails to capture the full ramifications of his personal appeal. Tefillot of the Yamim Nora’im at Gush were electrically charged due to his powerful hazzanut, his ability to bring together the entire yeshivah community with a call of “Keter,” and his powerful speeches that rallied the spiritual troops.

While the book, for the most part, offers a richly descriptive presentation of R. Amital’s personality, it is rather flat in discussing his foils in yeshivah and political life, R. Aharon Lichtenstein and R. Michael Melchior, respectively. (If R. Lichtenstein is R. Amital’s foil in Yeshivat Har Etzion, R. Michael Melchior is R. Amital’s alter ego within the Meimad party. R. Amital established the Meimad party in 1988 as one of its central leaders, and his involvement in the party waxed and waned over time. The primary figure to take over the party following R. Amital’s departure was Melchior.) For each of them, Reichner seizes upon a certain theme that singularly defines his character, while ignoring any other traits, leading to the presentation of an unhelpful caricature in place of a robust personality. Whereas R. Amital is depicted as a warm and insightful personality, an innovative pragmatist, and a student of R. Kook with minimal formal education, R. Lichtenstein is portrayed as a cold and stable person who

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By Faith Alone

For the reader with no prior exposure to R. Amital, By Faith Alone offers a window into his life and times that is so often blocked for religious leaders, and particularly for rashiye yeshivah. For those who spent time in Yeshivat Har Etzion while he was active, the book touches upon the important themes but fails to transcend a first stage impression and provide a broader analysis. For example, this reviewer had already heard a majority of the snippets of stories told about R. Amital, many from R.

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Amital’s own mouth, prior to reading them in the book.) Still, the state of affairs in the world of rosh yeshivah biography (and not hagiography) has certainly been enhanced by this stellar book. By Faith Alone, with its limitations, sets the standard for biographies of rosh yeshivah—respectful but not uncritical, thorough yet providing the broader picture, and capturing the essence of the protagonist rather than providing platitudinous blandishments.

Shlomo Zuckier is a student at RIETS, and is a former editor-in-chief of Kol Hamevaser. His visage, partially obscured, appears on p. 326 of By Faith Alone.

1. Published Elyashiv Reichner, Yediot: 2010.
2. Ibid., 84-6.
3. Ibid., 40.
6. Reichner, 158.
7. A partial account of this area of R. Amital’s virtuosity appears at Reichner, 53.
8. Ibid. 40.
9. Ibid. 325.
10. Ibid. 294.
11. Ibid.
12. Ibid. 295.
13. Ibid. 298.
14. Ibid. 299.
15. This point is merely descriptive, and does not take a stance as to whether critical evaluation of a rosh yeshivah’s activities is warranted.
16. Reichner, xiii.
This evocative poster from Amsterdam, dating to World War I, poignantly portrays the plight of starving Jewish children. During the war, rations were severely reduced. In 1918 Germans, for example, had a daily ration of four ounces of flour, half an ounce of meat, and a quarter of an ounce of fat. This poster invites the community to attend a slide show, and requests that people and provide aid. The simple lines and massive forms of figures in this poster remind us of the work of Honoré Daumier.
(Right, from the Cover)
Destruction of Jerusalem by the Romans

David Roberts (1796-1864) and Louis Haghe (1806-1885)
Color lithograph
London, 1850
Collection of Yeshiva University Museum (2003.3)
Gift of Michael Jesselson

Painter David Roberts visited Egypt and the Holy Land in 1838 after his election to the Royal Academy. His visit inspired a painting showing the destruction of Jerusalem by the Romans which caused such a sensation that Roberts decided to produce a print based on it. Because of its unusual size, few copies survive. Roberts anachronistically dates the scene to September of the year 71 CE. The Romans, under the command of Titus, have just destroyed the outer city, broken down the second wall, and are about to attack Mount Zion and the Temple. This view from the north side of the Mount of Olives shows the Temple with its various courts. Adjacent to the Temple, Roberts shows the Palace of Herod, site of the ancient Temple of Solomon and its numerous public buildings. In the foreground Roberts depicts the Roman soldiers and their captives.
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Write for Kol Hamevaser’s Issue on Halakhah and Psychology.

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