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KOL HAMEVASER

The Jewish Thought Magazine of the Yeshiva University Student Body

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Kol Hamevaser, the Jewish Thought magazine of the Yeshiva University student body, is dedicated to sparking discussion of Jewish issues on the Yeshiva University campus and beyond. The magazine hopes to facilitate the religious and intellectual growth of its readership and serves as a forum for students to express their views on a variety of issues that face the Jewish community. It also provides opportunities for young thinkers to engage Judaism intellectually and creatively, and to mature into confident leaders.

Kol Hamevaser is published monthly and its primary contributors are undergraduates, although it includes input from RIETS Roshei Yeshivah, YU professors, and outside figures. In addition to its print magazine, Kol Hamevaser also sponsors special events, speakers, discussion groups, conferences, and shabbatonim.

We encourage anyone interested in writing about or discussing Jewish issues to get involved in our community, and to participate in the magazine, the conversation, and our club's events. Find us online at www.kolhamevaser.com, or on Facebook or Twitter.



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Hezyon Milhamah: War, Morality, and Redemption

BY: Adam Friedmann

My heartfelt thanks go out to R. Pesach Wolicki, *rosh yeshivah* at Yeshivat Yesodei Hatorah, whose *sihah ruhanit* (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, "suspends morality; it divests the eternal institutions and obligations of their eternity and rescinds *ad interim* the unconditional imperatives... War is not only one of the ordeals – the greatest – of which morality lives; it renders morality derisory."¹ 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."² 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 man's essential self. Levinas argues that "the trial by force is the test of the real."³ The actions of man on the battlefield, where his existence is threatened, are the measures of his true nature, or "pure being."⁴ 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 "ordeal" 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."⁵ 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, discern "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

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, subsumed 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."

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."⁶ 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."⁷ 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 *refu'ah* (healing), respectively, should be based on the verse in Psalms: "who forgives (*selihah*) all thy iniquities; who heals (*refu'ah*) all thy diseases; who redeems (*ge'ulah*) thy life from the pit."⁸ According to this verse, the *berakhah* for *ge'ulah* should have been eighth, following *refu'ah*. However, we find that *ge'ulah* is the seventh *berakhah*, after *selihah*, and before *refu'ah*. The Gemara wonders why the authors

of the *Amidah* deviated from the sequence found in Psalms.⁹ 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 *berakhah* of *ge'ulah* was specifically placed as the seventh *berakhah* 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?¹⁰ 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 *berakhah*, 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.¹¹ 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,¹² eat forbidden foods,¹³ and, according to some opinions, commit heinous sexual acts¹⁴ while out at war. However, in any analysis of the *halakhot*, these allowances are mitigated immediately by the resounding voice of Hazal claiming, "*lo dibberah Torah ela ke-neged yetser ha-ra*" (The Torah did not speak [in allowance] except to counter the Evil Inclination).¹⁵ Furthermore, the Torah itself demands that the Israelite war camp be holy, a requirement which entails a high degree of cleanliness and purity.¹⁶ One might conclude based on the above that Halakhah views the experience of war as a *she'at ha-dehak* (an extenuating circumstance).¹⁷ 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."¹⁸ Rambam cites this verse as the source of a negative commandment in his *Sefer ha-Mitsvot*.¹⁹ Rambam's codification of this *halakhah* in *Mishneh Torah* elucidates his views about the experience of war.

And once he does enter the entanglements of war he should rely on the One who purifies Israel and saves him in moments of distress; and he should know that he

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...²⁰

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, subsumed 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."²¹ A war against Israel is, by definition, a war against God. The soldier fights the war with his hands, but 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.²² Therefore, Rambam writes,

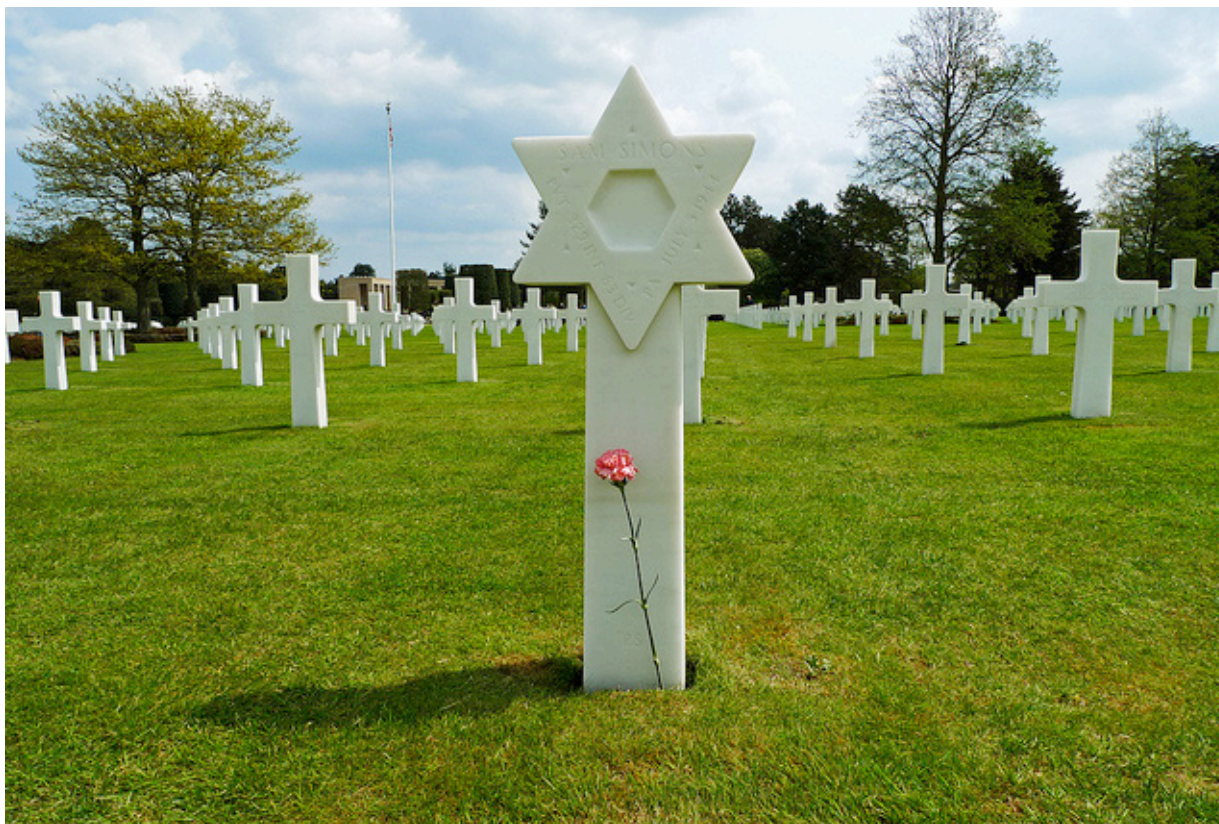
while a Jew must fight with all of his heart and soul, his intention must be the "unification of God's name."

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.²³ 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 blots out the original purpose of fighting. The Jew, however, is forbidden to feel this fear from the

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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1 Emanuel Levinas, *Totality and Infinity*, translated by Alphonso Lingis (The Hague, Boston, and London: Martinus Nijhoff Publishers, 1979), 21.



American cemetery, Normandie, France 2010

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 *avodat 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

2 Ibid.
3 Ibid.
4 Ibid.
5 Ibid. 22.
6 Ibid. 24.
7 Ibid.
8 Psalms 103:3-4, Koren translation.
9 See Rashi ad loc., s.v. *u-mah ra'u*.

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 *Sefat Emet* to *Megillah* 17b, s.v. *mahu*, 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*.

12 Rambam, *Mishneh Torah*, *Hilkhot Melakhim* 6:4.

13 Ibid. 8:1.

14 Ibid. 8:2. See also Ramban's commentary on the Torah to Deuteronomy 21:13.

15 *Kiddushin* 21b, translation mine. See also *Maharits Hayyot* to *Hullin* 17, in regards to forbidden foods.

16 Deuteronomy 23:15.

17 Lit. pressing time.

18 Deuteronomy 20:3, ArtScroll translation.

19 Negative Commandment 68. Others, such as Ramban and Ra'avad, hold that this verse is a promise that the Jews will not be afraid, rather than a commandment. See the commentary of Ramban to *Sefer Ha-Mitsvot*, and *Megillat Ester* ad loc.

20 Rambam, *Mishneh Torah*, *Hilkhot Melakhim* 7:15, translation mine.

21 Deuteronomy 20:4, ArtScroll translation.

22 Rambam unequivocally states that no harm will come to a soldier who fights with faith. However, this is not a simple task, and the level of refinement required by the soldier is significant. See further Judges 7, and specifically *Ralbag* to verse 5, ad loc. Further complicating matters is that Israel's success depends on God's relationship with the people as a whole, and this is contingent upon the behavior of each individual. See further Joshua 6-7. What is clear from these sources is that if the Jews place their faith in God, He will help them. This notion is a general theme in Chronicles. See Chronicles II 20 for an example. Rambam in our context is writing about ideal circumstances.

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 *mitsvah*. 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.

Eshet Yefat To'ar: A New Look

BY: Jacob Bernstein

Imagine the following story: After victory in battle, a group of soldiers passes some locals, 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 embrace an additional character: his 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 permission 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 assume to be way 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.^{1,2} In fact, according to a number of the famous compilers of the *mitsvot*, this soldier has actually fulfilled a *mitsvah*.^{3,4} 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.⁵ 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 had been

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, allowing her future to contain some degree of security. The intent is necessary for the soldier's perspective; it demands that he recognize the greater implications of his actions and accept a level of responsibility for this woman.

on the verge of death when slaughtered, rather than eat animals that died without slaughter."⁶

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,⁷ while others maintain that it must be delayed until the completion of the thirty-day process described in the verses, which includes conversion.⁸ In regard to the woman's transformation from non-Jew to Jew, Rashi claims that the conversion is coerced.⁹ 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.¹⁰ If she ultimately decides that she does not want to convert, she simply goes free and is considered a *ger toshav*.¹¹ 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 Tanhuma*¹² to Deuteronomy 21.¹³ 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 sorer u-moreh* – "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.¹⁴

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"¹⁵ 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.¹⁶ 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"¹⁷ 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.¹⁸ The verses later require the soldier to shave off all of the

captive's hair,¹⁹ and Rashi²⁰ 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.²¹ Ramban also explains that she is forcibly converted by a *beit din*, as

was done to young slaves. One explanation for this troubling phenomenon is offered by R. Joseph B. Soloveitchik.²² 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.²³ 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 *beit 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 Rambam's *Hilkhot Melakhim u-Milhamoteihem*.²⁴ In the first halakhah 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 halakhah, 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 ("*aval*") he must bring her into his home. The halakhah 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 relations with her 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 *da'at* (intent) that he will be converting and marrying her in the future.²⁵ However, both Rambam 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,

allowing her future to contain some degree of security. The intent is necessary for the soldier’s perspective; it demands that he recognize the greater implications of his actions and accept a level of responsibility for this woman. Though the *kohen* is an exception, this requirement does work and is encouraged, if not demanded, in all other cases, according to Rambam and Me’iri.

“In most times and places throughout the ages, rape has been the arrogated privilege of the soldiers of the victorious army to indulge in to their satisfaction upon the women of the conquered territory or fallen city.”²⁶ I think the Torah attempts to prevent such a situation, with the realization that in certain circumstances it will not be successful. The Torah strives to balance the inevitability of man’s desires and actions during wartime with the requirement for holiness. Accepting that the situation will occur in certain instances, the Torah makes demands, requiring that the soldier take care of his victim. If the Torah cannot prevent the soldier from overcoming his desires, then it must, and does, think about the woman involved.

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1 Many of the descriptions in the story are based in the *pesukim*. The fact that this war was won is explicit in Deuteronomy 21:10. *Seforno* uses the first words of this verse as a source that the war was fought outside of Israel, hence the travel back to the soldier’s native country. The following verse openly discusses the woman’s beauty, as well as the soldier’s purpose in taking her, namely, that she become his wife. Ibn Ezra points out that she is beautiful in his eyes, based on the first word of this verse “*ve-ra’ita*”- “and you will see.” In regard to the soldier’s “separation” from amongst other soldiers, and his taking her to a “private” location, see *Tosafot ha-Rosh* to *Kiddushin* 21b, s.v. *lo dibberah Torah*. See verses 12-13 for explicit mention about bringing her into his home, shaving her hair, taking off her clothing, leaving her there for thirty days, and then marrying her. See *Yevamot* 48a for a discussion about what he is supposed to do to her nails. See Rashi to *Kiddushin* 22a, s.v. *likkuhin*, *Tosafot* to *Kiddushin* 21b, s.v. *ba-bi’ah*, Ramban to Deuteronomy 21:12, *Rashba* to *Kiddushin* 22a, s.v. *va-havetah*, and *Ritva* to *Kiddushin* 21b, s.v. *Rashi z”l katav*, for sources on forcibly converting the woman.

2 Deuteronomy 21:10-13.
3 *Sefer ha-Mitsvot le-Rambam*, *Mitsvat Aseh* 221; *Semag*, *Aseh* 123; *Sefer ha-Hinnukh* 532.

4 The *mitsvah* is either to do the 30-day process discussed further on in this article (*Semag* and *Hinnukh*) or to convert her to Judaism (*Sefer ha-Mitsvot* of *Rav Sa’adia Gaon*).

5 *Kiddushin* 21b.
6 *Kiddushin* 21b-22a. The Gemara here assumes that eating an animal that had been on the verge of death when slaughtered is disgusting but not forbidden, while eating a non-slaughtered animal is forbidden. The Gemara prefers that a Jew commit a disgusting act rather than violate Halakhah. So too, the halakhah of *eshet yefat to’ar* allows sexual activity so that soldiers will at least be performing a permitted action regardless of its repulsive characteristics, rather than engage in forbidden sexual activity.

7 See for example Rambam, *Mishneh Torah*, *Hilkhot Melakhim* 8:2, Me’iri to *Kiddushin* 21b, s.v. *kevar*, *Tosafot* to *Kiddushin* 22a, s.v. *she-lo*.

8 This view is based on *Yerushalmi Makkot* 2:6. See Rashi to *Kiddushin* 22a, s.v. *she-lo*.

9 Rashi to *Kiddushin* 22a and *Sanhedrin* 21a.

10 Rambam, *Mishneh Torah*, *Hilkhot Melakhim* 8:7.

11 Ibid.

12 Tanhuma to Ki Tetse, 1.

13 Rashi to Deuteronomy 21:11.
14 See *Sanhedrin* 107a.
15 Deuteronomy 21:13.
16 See *Berakhot* 5a for a discussion about how one should overcome his *yetser ha-ra*, concluding with the recommendation that the potential sinner remember the day of death.

17 Deuteronomy 21:12.
18 Available at <http://www.vbm-torah.org/archive/salt-devarim/49-7kiteitzei.htm>.

19 Deuteronomy 21:12.
20 Rashi to Deuteronomy 21:12.
21 Ramban to Deuteronomy 21:12.
22 *Reshimot Shi’urim* on *Yevamot*, R. Tzvi Reichman, 516.

23 For an extensive discussion regarding the role of *kabbalat ha-mitsvot* in conversion see Michael J. Broyde and Shmuel Kadosh, “Review Essay: *Transforming Identity* by Avi Sagi and Zvi Zohar,” *Tradition* 42,1 (Spring 2009): 84-103.

24 Rambam, *Mishneh Torah*, *Hilkhot Melakhim*, 8:1-2.

25 Me’iri to *Kiddushin* 21a.

26 Cyril J. Smith, “History of Rape and Rape Laws,” *International Bar Journal* (May 1975): 33-40; 33.

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 positive end, despite certain harmful side effects.¹ When applied to wartime, the DDE allows for the death of civilians in the natural, violent course of war if it is in the process of targeting and “taking out” enemy forces. In modern warfare, however, these two moral guidelines and their interplay are challenging for the scholar to understand and agonizingly difficult for the soldier to apply.

The concern for the protection of civilian life can also be found in the Jewish tradition. The Bible describes how to treat civilians in wartime, and Maimonides codifies military laws of conduct.² Ranging from the *eshet yefat to’ar* (female captive taken in war)³ to the protection of fruit trees,⁴ the Halakhah records wartime legislation. Interestingly, though, a religious doctrine that is often hailed as moral

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seems to have no analogs to the principle of distinction and the DDE; this disconcerting quietude of biblical, rabbinic, and medieval sources must be considered, especially in view of biblical accounts of the slaughter of civilians.⁵ This textual reticence is difficult to understand philosophically, and creates a near-impossibility of determining how to act in a way that is based upon the Judaic tradition and yet also moral by a modern standard. There is a gap between the Judaic and Classical war ethics that deserves examination.

Generally, it is difficult to compare Classical and biblical views of war ethics because of the gap of literature: 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, because they are one of the few war strategies that were used both in antiquity, as in Jericho according to the Bible,⁶ the siege of Masada, and today, as in the Taliban’s sieges of US outposts in Afghanistan.⁷ Because of its history, there is a large amount of literature and thought on the topic, including questions concerning its morality.

Classical Ethics of Sieges

A siege is a very simple maneuver: When the enemy protects itself in a stronghold, the attacking army surrounds the enemy, thereby starving out the pent-up population. The siege will last until one side gives up or the fortifications are overcome. While modern weaponry, e.g., aerial bombing, has diminished the value of sieges as a military strategy from both the defensive and offensive perspectives, sieges are still used today.

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.”⁸ 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.”⁹ 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, as Walzer writes, 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 denunciation 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

condition, and, more often, the fourth condition. While he succeeds in proving this assumption in specific cases (the British blockade of Germany, for example¹²), 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.

Thus, despite the questionable morality of besieging a city, and the possibility of it being an aspect of the abhorred total war, sieges are not outlawed by classical *jus in bello* ethics, because sieges can, in fact, fulfill the DDE and the principles of just war. Nonetheless, such a justification for sieges is generally not used. Walzer observes that, far more often, leaders justify sieges by claiming that the noncombatants had consented to the defense of the city by combatants, and so brought the siege upon themselves. Walzer rejects this notion: "The siege itself is an act of coercion, a violation of the status quo, and I cannot see how the commanders of the besieging army can escape responsibility for its effects. [The commander] has no right to wage total war, even if civilians and soldiers

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the opposing army with their own forces. The death of combatants and noncombatants alike is an unintended, though welcome, byproduct. 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."¹⁰ 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 allowing the evil effect...¹¹

Walzer argues that besieging areas that contain large civilian populations is forbidden, as it fails, at a minimum, to satisfy the third

within the city are politically united in refusing surrender."¹³ As such, writes Walzer, the besieger has the moral obligation to allow noncombatants to escape the city.

Although Walzer is considered an expert on just war theory, his opinion on sieges is not universally accepted. Richard A. Gabriel thinks that sieges actually place the onus of noncombatant deaths upon the defenders of the city. While normal conditions of war protect civilians, sieges are abnormal, and the treatment of civilians therefore changes. He notes that sieges inevitably involve the citizens, from the perspectives of both the besieger and the besieged. He writes, "Civilians are involved not only in the tactics of the besieger but in the tactics of the defender, who, if he is to be successful, must marshal every available civilian to keep the city running and defensible."¹⁴ When combatants insert themselves into civilian areas, the defenders of the city "change such areas, which then become fair game; the civilian population with them also become subject to military action."¹⁵ Gabriel asserts that the protection of civilians is incumbent upon the defensive force, not the offensive.

In any event, it is clear that the Classical view of sieges is wholly dependent upon the principle of distinction, which requires a differentiation between combatants and noncombatants, and the DDE, which requires that the death of noncombatants be justified. It is the interpretation and application of these principles that cause the different conclusions. Yet the Judaic view of sieges is entirely different, not only because of the reticence in

Judaic texts on such philosophical principles, but also because the Judaic tradition has entirely different principles governing sieges.

Sieges in Judaic Sources

While the Classical just war ethic is rich in sources and nuance, the Judaic just war ethic has been stunted by virtue of the Diaspora and the army-less situation of the Jewish People. To construct a Jewish just war theory, many modern scholars attempt to extrapolate preconceived Classical just war ethics from the ethos of Halakhah and biblical stories.

While there is no direct mention of a principle similar to the distinction doctrine in biblical or talmudic sources, R. J. David Bleich indirectly derives it from the principle of *rodef* [pursuer with an intent to kill]. In a case where an individual is being pursued by a potential murderer, and the only way to halt the murderer is to indirectly kill an innocent bystander, no action may be taken, for, Bleich explains, "Since the law of pursuit is designed to preserve the life of the innocent victim, it is only logical that it is forbidden to cause the death of a bystander in the process since to do so would only entail the loss of another innocent life."¹⁶ As such, writes Bleich, the lives of civilians must be protected in wartime.¹⁷ Yet this theory is derived, so the

link between the biblical and halakhic sources and the principle of distinction remains weak.

Bleich also attempts to find a source for the DDE, though in less protracted form. According to *Ha'amek Davar* to Genesis 9:5, homicide is not punishable during wartime, regardless of the victim's status as a civilian or military actor. Though this would seem to allow for the intentional targeting of civilians, Bleich re-interprets and limits the *Ha'amek Davar*. It is "logical to assume that military action leading to civilian casualties may be regarded as legitimate... *only* [emphasis added] when the loss of civilian life is incidental to military purposes, but not when wantonly undertaken as an end in itself."¹⁸ Thus, there is the preexisting, though stretched, notion of the DDE in the Judaic tradition. While these inferred ethics are less nuanced than the Classical versions, that is to be expected, as they are only inferences. These modern ideas, such as the principle of distinction and the DDE, came into existence long after the Judaic war ethic stopped developing. Yet it is not these philosophical principles that truly govern the Judaic approach to sieges.

By virtue of their ancient use, sieges and their morality are mentioned explicitly in the Judaic tradition. Numbers 31:7 records, "And they warred against Midian, as the LORD commanded Moses; and they slew every male."¹⁹ *Sifrei* derives from this verse that the Israelite army "gave them a fourth side to enable them to flee." "And they went to war

on Midian, and surrounded [the city] from four sides. R. Natan says, 'he gave them a fourth side to enable them to flee.'"²⁰ In line with the biblical text that notes that the Israelites killed every male, *Sifrei* makes no distinction between combatant and noncombatant. *Sifrei's* qualification here, though, is odd, as the Bible records the Israelites' treatment of the Midianites; they killed all the males and leaders, took the women and children captive, claimed the property, and burnt the cities.²¹ Why, then, does *Sifrei* record the gesture of leaving an escape route, similar to Walzer's advice, when the treatment of the Midianites is more akin to total warfare?

Based on *Sifrei*, Maimonides establishes siege law. Maimonides records in *Mishneh Torah* that when besieging a city, one side must be left open to allow people to flee. He writes, "When a siege is placed around a city to conquer it, it should not be surrounded on all four sides, only on three. A place should be left for the inhabitants to flee and for all those who desire, to escape with their lives, as it is written (*Numbers* 31:7): 'And they besieged Midian as God commanded Moses.'"²² This law, however, applies only to a *milhemet reshut*, or sanctioned optional war, not to a *milhemet mitsvah*, or mandatory war. What is interesting is that Maimonides

does not differentiate between combatants and noncombatants; his law applies to both, with no principle of distinction determining who is permitted to flee.

When discussing *milhemet reshut*, Maimonides records that it is forbidden to kill women and children: "If they do not make peace, or if they make peace, but refuse to accept the seven *mitsvot*, war should be waged against them. All males [past majority] should be killed. Their money and their children should be taken as spoil, but neither women nor children should be killed, as is stated (*Deuteronomy* 20:14): 'But the women and the children...take as spoil.'"²³ Yet for a *milhemet mitsvah*, defined by Maimonides here as a defensive war or a war against the seven Canaanite nations or Amalek,²⁴ one is obligated to leave no one alive. Thus, *milhemet mitsvah* follows the rules of total war, for which all weapons, tactics, and objectives are fair game, including the intentional targeting of civilians, while *milhemet reshut* is similar to limited war, for which the weapons, tactics, and objectives are limited, including the intentional targeting of civilians. 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*.

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, *Meshekh 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 *Meshekh 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 *Meshekh 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.”²⁵ 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 for 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

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.²⁸ 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



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.

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 tradition.

Sifrei to Numbers 31:7, the source from which Maimonides derives his military tactic, is, however, explained in more than one manner. Nahmanides and *Sefer ha-Hinnukh* also contemplate the *Sifrei*, and arrive at different conclusions from Maimonides’. Nahmanides writes that, in every *milhemet reshut*, the besieging army must leave one side of the city open for all people within the city, fighter and civilian, to flee. The rationale is both to inculcate the Jewish army with the attribute of mercy and, as a war tactic, in order to prevent the enemy from fighting back.²⁶ *Sefer ha-Hinnukh* similarly limits the commandment explicitly to a context of *milhemet reshut*.²⁷

In contrast to Maimonides who applies *Sifrei* only to a case of *milhemet mitsvah*, these medieval halakhists believe that *Sifrei* is only speaking of a *milhemet reshut*, a sanctioned war. This alternate interpretation fits with Maimonides’ idea of equating *milhemet mitsvah* to total war and *milhemet reshut* to limited war. The proposed escape path is open to all individuals, not limited to noncombatants. The reason that individuals are allowed to flee in a sanctioned war is out of humanitarian concern for the people in the city; the Jewish besiegers are commanded to have compassion for their enemy. The tactical advantage that the Israelites may gain in this strategy is a

two major 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.”²⁹ 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’ 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 literature 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.³⁰

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.³¹ 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 ethics.³²

Conclusion

Although the Judaic war ethic has a gap of 2,000 years in its development, its growth has been healthy. The IDF and Israeli ethicists have an abundance of material and literature from which to derive a war ethic. The sources of 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.

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 of 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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1 Allison McIntyre, “Doing Away with the Double Effect,” *Ethics* 111.2 (2001): 219-255, at p. 219.

2 For example, *Mishneh Torah, Hilkhos Melakhim*, 6.

3 Deuteronomy 21:10.

4 Deuteronomy 20:19-20.

5 For examples, see Numbers 31:1-12 and I Sam 15:7.

6 Joshua 6:1-27.

7 For example, “Deputy Commander reflects on a year in Helmand,” *Defence News* (28 Feb 11), available at: www.mod.uk.

8 Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), 160.

9 “Total war.” *Encyclopædia Britannica Online Academic Edition* (2011), available at: www.britannica.com.

10 McIntyre 219.

11 Walzer 153.

12 Walzer 172- 175.

13 Walzer 168.

14 Richard A. Gabriel, *Operation Peace for Galilee: The Israeli-PLO War in Lebanon* (New York: Hill and Wang, 1984), 134.

15 Ibid. 135.

16 J. David Bleich, “Preemptive War in Jewish Law,” *Tradition* 21.1 (1983): 3-41, at p. 19.

17 Bleich limits this only to a defensive war. He chooses to include a defensive war among the *milhemot mitsvah*. In the majority of these types of wars, the killing of civilians is not only sanctioned, but required.

18 Bleich 28.

19 Mechon-Mamre’s translation.

20 Author’s translation.

21 Numbers 31: 9-11.

22 *Mishneh Torah, Hilkhos Melakhim* 6:7. Touger translation.

23 Ibid. 6:4. Translation adapted from Touger.

24 For an understanding of the differences between defensive and preemptive wars in the Judaic tradition, see Bleich.

25 Yitzchak

Blau, “Biblical Narratives and the Status of Enemy Civilians in Wartime,” *Tradition* 39.4 (2006): 8-28, at p. 17-18.

26 Ramban’s Emendations to *Sefer ha-Mitsvot, Shikhat ha-Asin* (“forgotten” positive commands).

27 *Mitsvah* # 527.

28 “FM 3-06, Appendix A, Siege of Beirut.” Available at: www.globalsecurity.org.

29 Gabriel 137.

30 Walzer 168.

31 This assumes, of course, that the 1982 Lebanon war is a *milhemet reshut*. For more information, see: Gil Student, “The Siege of Beirut,” *Hirhurim*. Available at: hirhurim.blogspot.com.

32 The Siege of Beirut prompted a slew of halakhic discussion on whether the siege was halakhically permissible. While the disagreement between Chief Rabbi of Israel R. Shlomo Goren and R. Shaul Yisraeli is interesting, their argument hinges primarily on whether the Lebanon War was a *milhemet mitsvah* or a *milhemet reshut*, which is irrelevant to this discussion. For more information, see Student.

Kol Hamevaser War and Peace Interview- R. Aharon Lichtenstein

By: Rabbi Dov Karoll

Kol Hamevaser asked R. Aharon Lichtenstein to present a Jewish perspective on the morality of war. The following is his discourse on the subject, transcribed by R. Dov Karoll of Alon Shevut.

If one is to deal with the issue of war, there are two primary axes which need to be taken into account. The first: Under which circumstances, and out of which motivation, which justification, does one enter the arena of war altogether? The second issue arises when one finds oneself in battle: What kind of conduct is desirable, and, at the other extreme, what kind is abhorrent, and, between those poles, how much latitude is given to the government and to the commanders in charge of the war?

If you ask about a unique Jewish approach to the morality of war, I have to ask, in response, if we are talking about the justification of entering war in the first place, i.e. what constitutes *jus ad bellum*. And assuming we have entered into a war which is justified, however that is defined, I have to ask: To what extent are we empowered to define the bounds and the limits of war, and to what extent is restraint – as in other areas of Halakhah – imposed upon us? There is some link, possibly, between these questions, as can be seen in variables that we may encounter: If one is dealing with a war which is more amply, obviously justified, that may reflect itself, not only in the decision to enter the war, but in the morality of what kind of conduct is defensible, advisable, or unacceptable.

Do we have a unique approach to warfare? I find myself asking how war would compare with other areas of halakhic life. I have talked on various occasions about how Halakhah breaks down into two distinct areas: issues that are the invention or initiative of halakhic life, and those that are simply the mode of halakhic behavior in broaching phenomena that are part and parcel of the socio-historical scene, which the world of Halakhah has not necessarily invented, but which it needs to confront. In this latter case, we presumably have to relate to that which we find in the Gemara in Sotah and elsewhere, as a category, or series of categories, which relate to the phenomenon of war.

In the Gemara, you have three categories: *milhemet hovah* (obligatory war), *milhemet reshut* (permissible war), and, in between, *milhemet mitsvah* (sanctioned war) – each of these requires some definition. One could define *milhemet reshut* as a totally optional war; the other, *milhemet hovah*, as one which has been thrust upon us, and the third, *milhemet mitsvah*, as one which has been left up to our judgment – meaning, whatever councils or authorities in the

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halakhic order that would determine this. 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, there can be such a thing as an optional war; it is the powers that be that decide whether entering into war over a certain issue is legitimate or not. Posited in these terms, the allowance of *milhemet reshut* does not even exclude the

possibility or prospect of having a war which is without moral justification, without ethical import. The Jewish state can enter a war simply in order to attain certain political or economic ends, and without necessarily going beyond that.

This is partly a misconception of the nature of the term *reshut* as it appears in various contexts in Halakhah. Apart from the implications and ramifications of how the term itself is to be interpreted, with regard to war it becomes very problematic. The term, as I have said, appears many times in the Gemara, and it can be viewed in two ways: either as a wholly, genuinely neutral, amoral phenomenon, or, on the other end, as a *devar reshut*, as regarding other phenomena which the Gemara talks about as *reshut*, that are not axiologically neutral. These require some degree of justification for performing or not performing the actions. Just as we have *tefillat arvit reshut* (the position that the *tefillah* of *ma'ariv* is optional), and this *tefillah* may, in the course of historical developments, become charged with an overlay of justification (namely, that it may now have more of an obligatory nature), the permissibility of a war of *reshut* may shift, as well. The prospect of having a war in which the leadership is concerned both with judging whether to risk the lives of its own people in a state of possible warfare and dealing with the moral problem of entering into a war that may entail the death of innocent people just in order to attain some kind of political or economic end, forces us to define how far the realm of this *reshut* extends. I repeat, the prospect of “optional war” is one that needs to be compared to other areas in which the government, by certain moral principles, is clearly subject to the circumstances. Obviously it's easier to define *reshut*, *mitsvah*, *hovah*, with regard to clothing, food, residence, even one's sexual life – it's much easier to cope with that than with the prospect of people being killed – so it is hard to imagine that somehow *milhemet reshut* could be neutral.

My understanding is, and we encounter this in certain midrashim, that *milhemet reshut* cannot be “as you wish” – that understanding cannot be entertained. *Milhemet reshut* is *reshut* in the sense that it does not require a definitively conceived trigger for entry into warfare. You don't have a clear statement like you do in *milhemet mitsvah*, i.e. that if

one is attacked, one must, in defense, respond. One responds, in the case of *milhemet reshut*, in anticipation of what will occur if there is no first strike – cases of that nature, including in opposition to and in anticipation of the existence of a rival power, who may very well take the first-strike capability and would not hesitate in the slightest to make the first strike. I take it that this is how one should understand the *sugyot* – it's not purely arbitrary, as if deciding whether or not to wear a tie, or, if one wears a tie, what color it should be.

So, for instance, what could be considered a *milhemet reshut*? I would imagine that this would need to involve trying to weigh what is down the pike, and if a government or country senses that a danger of first-strike capability exists, that defines the prospective entry into war as being a *devar reshut*. This is not perfectly calculable, because it is a matter of speculation. The problem of first-strike capability theories is precisely that, no matter what you do, you are taking great risk with human life. A celebrated Midrash in *Lekh Lekhah* explains what the *Ribbono shel Olam* told Avraham, “do not worry, do not be concerned;” that kind of soothing formulation provided justification for the risk, and Avraham was concerned – he entered into a war that killed some people on both his side and the other side. The Midrash says that he was concerned that maybe innocent people had been killed. The Midrash there is very strong in stating that Avraham could not see the justification for casualties from his side and the other side, and therefore he was concerned that he may have taken innocent life, and for that, presumably, there was no justification. There you have a fairly sharp statement – not in normative but in narrative terms: The Midrash says that Avraham was concerned and did not regard himself as fully justified just because there was some reason, possibly, for a first strike. That could be viewed as the proper understanding of a *devar reshut*.

Now, even if confronted by a first-strike situation, the question of where you draw the line, how you balance between the risk of killing others and that of being killed yourself – that is the critical issue in the Midrash to which I alluded. If, however, you knew for certain that you will kill these people, then you have what we read about every so often: Someone fires off a missile, attacking a *yishuv*, and we must take a retaliatory step, or possibly, a preventive step. If you are certain that it is indeed preventive, then that would qualify as a reason – “*Ha-ba le-horgekha hashkem le-horgo*” – “One who comes to kill you; kill him first.”^{iv} Of course, however, the problem is obvious: How do you know, can you know, must you know – who is going to fire the first shot, and in whose interests is there a necessity for going to war? If a country goes to war in order to save the lives of its people, its citizens, the possibility that it is doing something which is immoral may still exist. Although the question you obviously



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 reshut. It could be that we have a fourth category, namely that of entering into war grounded upon nothing but of, for instance, national avarice - 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.^v 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 having to absorb a first-strike is clear - if you are dealing with a threat, a herev haddah (literally, "sharp sword"), you can pre-empt that. But that leaves the question of defining what the herev haddah is.

There are two questions here. One question is to what extent herev haddah qualifies as a category for a just war, and the other is 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.

What I have heretofore delineated 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 mahaloket tannaim there regarding the details^{vi} - 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 point, defined as Ezrat Yisrael mi-yad tsar (defending Israel against their enemies),^{vii} 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 some opinion about whether the citizenry, 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 tunnels into 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 Halakhah is that if there is no danger to the landowner,^{viii} if the landowner will attack the intruder in order to foil aggression (no matter how much money he takes, 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 several years back that dealt with this question: Is it permissible for one to take the life of another in order to prevent forced entry into one's home? In the case in France, someone had a mine that he put at the point where the suspected thief would enter the house, and the thief came, stepped on it, was maimed, and lost a limb. There was a lengthy article in Tradition about a half a year ago that dealt with similar cases and which went so far as to assume that protection of property is a sufficient rationale for endangering the life of one's attacker. Then, of course, you have to decide who the aggressor is. The Midrash that Rashi quotes at the beginning of Bereishitix sheds some light - an individual is justified in acting in the same manner that a state is justified in doing so. Many would subscribe to the belief that if another nation covets that which is ours, namely Erets Yisrael, then that is the equivalent of a thief breaking into my home and taking all of my property - that's the correlation between the personal and the public.

Postscript:

The discourse which precedes is a presentation of a subject which was sprung upon in an almost casual context, by a devoted talmid, Dov Karoll. Given the context and the consequences, I trust that the reader will, on the one hand, understand the spirit and the substance of the remarks that were made, while, on the other hand, recognizing and appreciating that this is far from what I would want or have to say on the topic had I sat down for a full presentation on a critical and important subject. Nevertheless, I pretty much left it as it was presented at the time, in light of the fact that I think that, on the whole, the remarks which were made, extemporaneous as they were, were, essentially, a reasonably accurate presentation of what I take to be the substance of our hashkafah on the issue. I feel, however, that a crucial element, namely the balance which the subject demands, may not have been sufficiently delineated at the time,

and I just want to add several points as they bear complement:

At the time of this writing, we are on the Thursday preceding Parashat Beshallah. The successive parshiyot, Beshallah and Yitro, and their respective codas, are critical for an understanding of our perspective on war, comprehensive and substantial, and, above all, balanced. Critics who have sought to attack torat Yisrael and kelal Yisrael have, at times, presented an historical and philosophic critique of our position, particularly insofar as their failure to perceive the full range of our hashkafah. A glance at the conclusion of Beshallah on the one hand, and of Yitro on the other, is essential for a clear perception of our position. Beshallah, apart from including the shirat ha-yam, concludes with a narrative of our response to the attack upon our community and our nation by Amalek, one which issued in the defeat of Amalek an awareness of the need to respond militarily, when necessary, to threats upon our very existence. Yitro, on the other hand, in which the highlight is the aseret ha-dibberot, concludes with an issur lo ta'aseh, commanding us to refrain from the use of military tools, the sword being singled out, and Hazal expanded the issur to include not only a sword, but metallic tools which are the source and the raw material for military hardware - 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 to terminate it. And while Halakhah 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 no less clear to our adversaries, that the two are both 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 Shem Havayah, which Hazal identify with middat ha-rahamim ve-ha-hesed. Properly read, the pasuk states that, indeed, under certain circumstances, Hashem is ish milhamah, but, nevertheless, in terms of His quintessential being, both transcendental and immanent, Hashem shemo - Shem 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 - "Ashrekha Yisrael mi khamokha, am nosha ba-Hashem, Magen Ezrekha, va-asher Herev Ga'avatekha, ve-yikhashu oyevekha lakh, ve-atta al bamoteimo tidrokh - 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 Shem Havayah, and not, as one might have expected, the Shem 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, as commanded, 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."¹ 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."² 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 takes 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 mitsvah* (obligatory war) or a *milhemet reshut* (permissible or voluntary war).³ A *milhemet mitsvah* 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 Benei Yisra'el. A *milhemet reshut* is a war that the king starts, with the approval of *beit din*, in order to widen the borders of *Erets 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.⁴ However, wars that are not "based on self-defense needs," and do not fall under the other permitted categories, are illegal in Jewish law, such that any killings that would take place during such wars would be considered murder.⁵ Perhaps the reason for this limitation on war is the great value that Halakhah places on human life. Judaism's understanding of the worth of each living human is evident from the fact that Jews are required to do everything they can to save a life, with the exception of breaking the three cardinal sins of idolatry, adultery, and murder. The emphasis that Judaism places on the value of life creates a tension when it comes to war, but perhaps this tension explains why the codified laws of war are so detailed and well thought out.

War involves not only manpower and strategy, but weaponry as well. While certain weapons, like guns or swords, are permitted for use in war by Jewish law, the utilization of nuclear weapons is not as clear-cut. Using nuclear weapons would be halakhically unacceptable if it were clear that such usage would cause "large scale destruction of human life on the earth as it currently exists."⁶ This notion is based on a Gemara⁷ that "explicitly prohibits the waging of war in a situation where the casualty rate exceeds a sixth of the

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population."⁸ As nuclear weapons have the potential to destroy vast expanses of land and kill millions of people, they may fall under this category in certain cases. Lord Jakobovits, former Chief Rabbi of England, notes that "it would appear that a defensive war likely to endanger the survival of the attacking and the defending nations alike, if not indeed the entire human race, can never be justified. On this assumption, then, that the choice posed by a threatened nuclear attack would be either complete destruction or surrender, only the second may be morally vindicated."⁹

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 the 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 be used for small-scale attacks in which the death toll would be less than one-sixth of your 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 promote life if this deterrence successfully discourages war?

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 "lying to save one's own life" is justifiable as well.¹⁰ Similarly, threatening to harm another party in order to save lives, even without ever intending to harm that party, would be permissible. Since nuclear armament as deterrence is a type of threat that is employed to save lives, possessing nuclear weapons as a deterrent should, by extension, be permitted by Jewish law.

During the Cold War, two Orthodox rabbis, Rabbi Maurice Lamm, a former YU professor and communal leader, and Lord Jakobovits debated whether Western powers should collect nuclear arms as a deterrent to forestall attacks from the Soviet Union, which was building up its own arms at the time. Rabbi Lamm felt it was permissible and even necessary, while Lord Jakobovits felt that it was improper to even begin to collect arms, since nuclear weapons can never be used. Elliot Dorff, rector at the American Jewish University, points out that the response of Lord Jakobovits hints to pacifism "as an undercurrent within Judaism," and that Jakobovits's feeling is an indicator of the way many Jews approach the

idea of war between nations.¹¹

Arthur Waskow, a leader of the Jewish Renewal movement and founder of the Shalom Center (an organization that discourages nuclear armament), offers further insight into the reasons behind the anti-armament approach. Waskow argues that armament for the purpose of intimidation alone is not enough of a justification for compiling nuclear arms, as such intimidation "is not a good means for self defense." Waskow's argument seems to be that stockpiling weapons merely for the purposes of intimidation may lead to a reality in which the arms are actually needed for self-defense, but the government will not want to use them. He further claims that possession of these weapons will inevitably lead to destruction when saber-rattling gives way to actual deployment of warheads, making it irresponsible to even begin to collect nuclear weapons.¹² 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 demonination 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 Wurzberger 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... winners lose."¹⁴ That these four rabbis, 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.

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 conduct the first nuclear chain reaction; he too later demanded the curbing of atomic weapons. Joseph Rotblat, a scientist who worked on the Manhattan Project (the secret government-sponsored research program which developed the first nuclear weapons), quit the project in 1944, and in 1955 joined Einstein in discouraging

armament. J. Robert Oppenheimer headed the Manhattan Project, but three months after his team detonated the first hydrogen bomb, he resigned and discouraged further development of nuclear weaponry. This tendency of scientists working on a nuclear project to turn their backs on it perhaps stemmed from a feeling that while nuclear weapons can be helpful as deterrents, the risks involved in possessing and maintaining them are too great. With their informed perspective, they fully understood the destructive capabilities of nuclear weapons if used inappropriately, and therefore warned against their development.

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 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.)¹⁶ However, the halakhic, as well as the moral, question as to whether Israel could ever use weapons created from their nuclear plant, or even maintain them as a deterrent, will 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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1. Guy B. Roberts, "Judaic Sources of Views on the laws of War," *The Naval Law Review* 37 (1998): 221-238, at p. 227.

2. J.D. Bleich, "Societal Issues," *Contemporary Halakhic Problems, Volume III* (New York: KTAV Publishing House, Inc., 1989), 5.

3. Rambam, *Mishneh Torah, Hilkhot Melakhim*, 5:1-2.

4. Michael Broyde, "Fighting the War and the Peace: Battlefield Ethics, Peace Talks, and Pacifism in the Jewish Tradition," in *War and its Discontents: Pacifism and Quietism in the Abrahamic Traditions*, ed. by J. Patout Burns (Washington, D.C.: Georgetown University Press, 1996), 1-30, at p.6

5. Broyde 6.

6. Broyde 12.

7. *Shev'uos* 35b, according to the interpretation of *Tosafot*, against Rashi and Rashba.

8. Broyde 12.

9. Immanuel Jakobovits, "Rejoinders," *Tradition: A Journal of Orthodox Jewish Thought* 4.2 (1962): 198-205, at p. 202.

10. Broyde 13.

11. Elliot Dorff, "Bombs, Bishops and Rabbis," in *Confronting Omnicide: Jewish Reflections on Weapons of Mass Destruction*, ed. by Daniel Landes (Jason Aronson, Inc., 1991), 180-182, at p.180.

12. Ibid.

13. Ibid.

14. Rav Moshe Lichtenstein, "The War of Gog U'Magog: The *Haftara* of *Shabbat Chol Ha-moed Sukkot*," available at: www.vbm-torah.org.

15. Academy BJE, "Jews & The Atom Bomb," available at: www.bje.org.au.

16. PressTV, "Israel's Dimona Risks Uncovered," December 13, 2011, available at: www.presstv.ir.

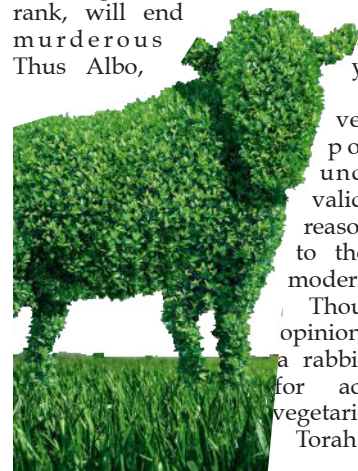
Vegetarianism and Judaism: The Rav's Radical View

BY: David Errico-Nagar

Articles about ideological vegetarianism¹ and Judaism are replete with citations from the Bible, Talmud, and Rabbis Kook and Albo. Yet, of the numerous books,² journal publications,³ and online articles⁴ that regurgitate these sources, one important thinker is conspicuously left out: R. Yosef Soloveitchik. R. Soloveitchik had much to say regarding ideological vegetarianism, but his views were not published until 2005. As a result, R. Soloveitchik's important voice on this topic has yet to become as well-known as that of Rabbis Kook and Albo, who maintain that vegetarianism is good as an ideal but not as a practice. R. Soloveitchik, however, holds that Judaism believes that man should practice ideological vegetarianism, but, in acknowledgement of the evil inclination, the Torah allows man to follow his desire for meat. Compared with other popular views of vegetarianism published by Rabbis Albo and Kook, R. Soloveitchik's views are avidly supportive of vegetarianism.

In order to comprehend the uniqueness of R. Soloveitchik's views, one must first fully understand the views of Rabbis Albo and Kook on vegetarianism. Joseph Albo (15th century, Spain), in his *Sefer ha-Ikkarim*,⁵ explains that the consumption and slaughter of animals lead to the development of many negative traits in man. As man consumes more and more meat, Albo claims, he becomes emotionless and is transformed into a merciless killer, with an increasingly weaker connection to his soul. Yet, Albo warns his readers against thinking that man and animal are equals. The concern for animal welfare, which he feels comes from an equalization of man and animal, is not the reason, he argues, to renounce the consumption of meat. Such thinking is not only morally erroneous, but repugnant.

In demonstrating its repugnancy, Albo turns to the Cain and Abel story. Albo interprets Cain killing Abel as an act motivated by belief in the equality of man and animal. Cain thought it would be immoral to kill an animal and bring it as an offering, so when he saw Abel slaughter and sacrifice an animal, he killed his brother for what he considered murder of a fellow living being; he simply took Abel's life for the life of the animal. Based on this, Albo concludes that anyone who follows the reasoning of Cain, believing that man and animal are of equal rank, will end up just as murderous as Cain. Thus Albo, years before



vegetarianism's popularity,⁶ unquestionably validates it, but for reasons dissimilar to those of many modern movements. Though Albo's opinion can be used as a rabbinic precedent for acceptance of vegetarianism in the Torah world, R.

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*),⁷ 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*,⁸ *sha'atnez*,⁹ and *kisuy ha-dam*,¹⁰ are based on this ideology. Despite this belief, however, R. Kook has reservations whether vegetarianism should be practiced out of moral conviction, and instead feels that vegetarianism should be practiced only in the context of other reasons, such as dislike 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, war and malevolence are eradicated, and justice reigns.¹¹ 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.¹² After all, argues R. Kook, what would logically stop man from eating of his kind if he is no different from the animal 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.¹³ 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.¹⁴ 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.¹⁵ 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."¹⁶ R. Soloveitchik explains, "Thus the verse concludes 'and it was so': the ethical norm became a behavior pattern, an expression of the ontic order."¹⁷ 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 *dor ha-mabbul* (the generation of the flood), man begins to overreach himself, to take what is not his,¹⁸ 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."¹⁹ R. Soloveitchik explains, "At once the Torah began to regulate the 'murder' of other lives, to restrict its practice by complicating the procedure... '[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)."²⁰ 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 "*ta'avah*" (lust)²¹ and an "illicit demand."²² "The insistence upon flesh, his [man's] lusty carnal desire," R. Soloveitchik says, "arouses the divine wrath."²³ Those who choose to eat meat, the "animal hunters and flesh-eaters" are "people that lust."²⁴ 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.²⁵ 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."²⁶ 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,²⁷ 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.²⁸ Hence, God forbids human sacrificial suicide, and, as a replacement, commands that an animal should be placed on the altar.²⁹ In support of his idea, R. Soloveitchik brings a unique 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 moral 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 return, through sacrifices, 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.³⁰

There is another issue that, although not raised by R. Soloveitchik himself, proves challenging according to his view on

vegetarianism: the commandment to eat meat on *yom tov*. Rambam holds that one is obligated to eat meat on *yom tov* even after the Temple's destruction.³¹ Many other *Rishonim*, however, disagree with Rambam. *Ritva* to *Kiddushin* 3b and *Rashba* in his *Teshuvot*³² explain that since there is no festival-offering today, there is no requirement to eat meat in order to fulfill the mitzvah of *simhat yom tov* (rejoicing on *yom tov*). *Tosafot* to *Yoma* 3a and *Rabbeinu Nissim* to *Sukkah* 42b go even further and cite *Gemara* in *Pesachim* 71a and *Hagigah* 8a, which state that even when the Temple stood, there was no requirement to eat meat on *yom tov*; it was just a *mitsvah min hamukhar* (choicest mitzvah fulfillment). Hence according to the latter opinions, which are also cited in *Aharonim*,³³ there is no problem with a vegetarian not eating meat on *yom tov*.

This *mahaloket* is especially important regarding conversion: If eating meat on *yom tov* is a *hiyyuv* (obligation), then a vegetarian would not be allowed to convert,³⁴ since a convert is not accepted if he fails to accept any provision of Jewish law.³⁵ Yet, according to the above presentation, a convert who is a vegetarian does have sources upon which to rely with regard to the *hiyyuv* of *simhat yom tov*.

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.

2 See, for example, Roberta Kalechofsky (ed.), *Judaism and Animal Rights: Classical and Contemporary Responses* (Marblehead, MA: Micah Publications, 1992) and Dovid Sears, *The*

Vision of Eden: Animal Welfare and Vegetarianism in Jewish Law and Mysticism (Spring Valley, NY: Orot, 2003).

3 See, for example, David J. Bleich, "Vegetarianism and Judaism," *Tradition* 23.1 (Summer 1987) and Alfred Cohen, "Vegetarianism from a Jewish Perspective," *Journal of Halacha and Contemporary Society* 1.2 (Fall 1981).

4 See, for example, Richard Schwartz, "The Vegetarian Teachings of Rav Kook," ed. by David Sears, *Jewish Vegetarians of North America*, available at: www.jewishveg.com and Feige Twerski and Shraga Simmons, "Where's the Beef? Examining the Pros and Cons," *Aish.com*, available at: www.aish.com.

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

6 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).

7 Abraham Isaac Kook, *Hazon ha-Tsimhonut ve-ha-Shalom* (Jerusalem: Mekhon Binyan ha-Torah, 2009).

8 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 Helfgot (Jersey

City, NJ: Ktav Pub. House, 2005), 61-67). R. Kook also makes this point, but only in passing (Kook Ch. 8).

9 R. Kook explains that *sha'atnez* 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 and leaves it bare, while linen is taken from a plant and, therefore, does not harm or steal from any living being (Kook Ch. 12).

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://jewishveg.com/DSvision.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 Carib Territory*, available at: <http://www.da-academy.org/caribhist.html>.

14 Abraham Isaac Kook, *Mishnat ha-Rav*, eds. Abraham Reiger and Yochanan Fried (Jerusalem, 5721), 217.

Footnotes continue on page 21.

A Response to Ariel Caplan

BY: Ilana Gadish

Dear Editors,

I am writing in response to Ariel Caplan's article in the previous issue of *Kol Hamevasser*, titled "*Rav Lakhen Benot Yisrael: Humility and Rabba-nut*."¹ I was initially unsure whether or not to draft this response, for fear that it would be insufficient in addressing the many points in the article that distressed not only me, but many of my peers, both male and female. At the heart of my article lies the contention that the support for women in positions of communal leadership is primarily motivated by a desire to increase the quality and quantity of voices in the sphere of Torah leadership and a desire to further strengthen the Jewish community by creating more access points to spiritual guidance. It does not come from a wish to upend or denigrate Torah values. My motivation for responding to Mr. Caplan's article is powerfully expressed in the words of R. Yehuda Amital, the late *rosh yeshiva* of Yeshivat Har Etzion: "So long as I feel that I am able to say something that will be to the benefit of the Torah, to the benefit of *Am Yisra'el* or of *Erets Yisra'el*, I will not refrain from speaking out."² It is in the spirit of these words that I compose this response.

Mr. Caplan penned his article in response to Ilana Hostyk's article, "In Defense of Rabba Hurwitz," published in *The Observer* in April 2010.³ However, Mr. Caplan's article seems to focus on one point made by Ms. Hostyk about allowing women to be Jewish communal leaders and concludes that this one point accounts entirely for the popular support for leadership positions for women. Mr. Caplan contends with Ms. Hostyk's statement, which assesses and comments on the heights reached in women's learning.⁴ Ms. Hostyk writes:

...However, one could not have expected all

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.

of this learning to be for naught. Jewish women could not reasonably be expected to remain in the same position they previously had in Judaism now that they have attained all of this knowledge. A leadership position within the framework of halakha is the logical, and necessary, next step.⁵

Mr. Caplan is understandably troubled by the first sentence of this assessment. "For naught" may not have been the best formulation, as it might imply that learning which does not enable the learner to achieve a public leadership position somehow lacks value. However, both from the statement's context and from knowing Ms. Hostyk personally, I do not think she meant to discredit *Torah lishmah* (for its own sake), but rather was trying to stress a point about the inability to elevate such Torah to one of its highest levels. For one who is engrossed in the study of Torah, using that Torah knowledge to teach within the Jewish community and to provide guidance in pastoral and communal work is indeed elevating Torah to one of its highest levels. Without

the opportunity to do so, learned women are not using their talents and Torah knowledge to their highest potential in order to contribute to the community in the fullest way possible. Ms. Hostyk is taking issue with this lost potential.

Unfortunately, Mr. Caplan's article oversimplifies and reduces the general argument made for women's Jewish communal leadership to one of entitlement. He ignores entirely the compelling basis of Ms. Hostyk's article which is that "stronger women leaders will create a stronger connection in the next generation; children will be raised with a stronger connection to God and to Judaism and with a greater love for Am Yisrael."⁶

Putting aside the question of the appropriate title for women who serve as Jewish communal leaders, the crux of Ms. Hostyk's article is that the initiation of women into the body of communal leaders would only serve to benefit the Jewish community. Women who are currently serving as interns in synagogues and in communities have brought their own unique talents and Torah knowledge to those communi-

ties. Most importantly, the impetus for creating such positions for women is to allow women to give back to and improve the Jewish community. Mr. Caplan's article implies that those who want women to be allowed a greater position of leadership within the community also want to somehow disrespect or reduce the importance of the rabbinate. This is simply not true. I strongly believe that if one would assess the effect of women communal leaders in the Modern Orthodox shuls and communities that have given women such positions, the communities would not report that these women were diminishing the role of the rabbi or assistant rabbis, but rather adding to and enhancing their leadership teams. Additionally, such women have been known to energize the women of the community in strengthening their *limmud Torah* and commitment to the community (not, of course, to the exclusion of inspiring the men as well).

The implication stated above regarding Mr. Caplan's intentions was most evident in the article's title, "*Rav Lakhen Benot Yisrael*" -- a reference to the Korah rebellion in the book of *Bemidbar*.⁷ Besides for being horribly insulting, the title also implies a fallacious and unfair comparison between women who wish to act as communal leaders and Korah and his following. There are many interpretations of the motivation behind Korah's rebellion, none of which is comparable to the arguments posed in favor of giving Jewish women greater communal roles. Those in favor do not think women should replace male rabbis, nor do they wish to give *semikha* to all members of the Jewish community.⁸ Additionally, it is quite contemptuous

to so offhandedly compare a group of individuals who wish *le-hagdil Torah u-le-ha'adirah* (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 swallow them up, and inflicted a plague amongst the remaining people.⁹ Further, it should not go unnoticed that Mr. Caplan thought it necessary to cite Rambam, *Mishneh Torah Hilkhos Talmud Torah* 1:13, “which discourages women’s Torah education” as a reason to disqualify them from joining the ranks of ordained Jewish communal leaders.¹⁰ I refrain from responding to such a citation.¹¹

In addition, I find Mr. Caplan’s evaluation of *semikhah* 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 what Mr. Caplan believes to be true of the rabbinate. Entrance into the rabbinate, at least in RIETS, is focused mainly on amassing Torah knowledge. While *semikhah* 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 *semikhah*. A *semikhah* 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 *semikhah* has nothing to do with his character or motivations, but rather is based on passing a series of different tests on halakhic material. *Semikhah* 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 support a double standard.

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” *semikhah* is entirely erroneous. Humility does not come to exclude passion, drive, and commitment to studying Torah and to training to deal with the plethora of communal issues and personal challenges that face a rabbi. In fact, one’s humility should be an impetus to introspection, to recognizing one’s weaknesses, which should ultimately lead one to transform those weaknesses in order to be a more effective and sensitive leader. This type of ongoing personal change requires intense commitment and inner-drive. Without maintaining the vision of oneself as a leader as an impetus for this type of introspection, without wanting to be in such a position of leadership, one will lack the motivation and necessary energy, self-esteem, and charisma to be an effective leader. If a self-aware woman assesses her strengths and flaws and sees that she can work with them to benefit the community by assuming a public leadership role, she should not be held back from

seeking such a position.

Additionally, Mr. Caplan seems to connect feminism to a lack of humility, stating that he “focused on feminist considerations rather than misogynistic attitudes because [he] only see[s] the former as related to the humility issue.”¹³ I think it is most important to note that the need for humility in leadership is not limited to women! Mr. Caplan’s article equated women who want to be leaders with a lack of humility, based on the assumption that any person who wants to be a leader should not be a leader. However, there is no reason to limit this requirement to women. If Mr. Caplan is truly to adopt this line of thinking, he would have to evaluate (and possibly disqualify) many current and aspiring male rabbis. If our community upheld what the author of the article 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 Moshe Rabbeinu’s *anavah* (humility) have a certain quality of hyperbole in order to stress the importance of humility in a leader. But one must keep in mind the textual context of the *pasuk* on which this *midrash* is commenting.¹⁴ Moshe tries to tell God that he does not want the position of leadership due to his speech impediment. The *midrash* comments on the *pasuk* in which Moshe asks God to send anyone else besides him to lead. Immediately following this *pasuk*, God becomes angry: “*Va-yihar af Hashem be-Mosheh* -- and the anger of God was kindled against Moshe.”¹⁵ Moshe is deterred by his speech impediment, yet God encourages him and even demands that he, with the help of his brother, Aharon, lead the people.

The only salient point made about humility in the article is the comment following the excerpt from *Megillah* 31a: “Perhaps, however, this is the point: humility is synonymous not with self-abnegation but with selflessness. It is the ability to look beyond one’s own admirable qualities and focus on the needs of others.” This point is noteworthy in summing up the role of humility in leadership. Mr. Caplan’s following comments, however, are disconcerting.

This, it seems, is the reason humility is required for Torah leadership. Only a person who is humble in this sense – who would enter a leadership position for the sake of those who will be led, rather than for personal gain – is worthy of being granted the gift of knowledge of the divine Word. Only someone who is humble in this way will utilize the intellectual gifts granted to him for the public good.

...It is, then, a sorry situation indeed when a debate over the nature of the rabbinic establishment morphs into a vicious power struggle, rather than an honest assessment of the needs of the Jewish people.”¹⁶

In these two paragraphs, Mr. Caplan implies that women who wish to be Torah leaders are doing so for their own personal gain, and not for “the sake of those who will be led.” As previously discussed, this sweeping assumption is patently false. Unless Mr. Caplan has conducted a survey of women who aspire to be leaders in the Jewish community, it is impossible for him to know the motivation for any Jewish

woman’s aspiration to be a Jewish leader. To assume that the majority of these women are doing so for personal gain and *not* for the benefit of the community is both condescending and untrue. Although Mr. Caplan concedes that “some” who believe in women’s ordination have assessed the situation “correctly,” he inaccurately claims that these voices are drowned out in the “clamor that is the civil-rights argument for women’s ordination.”¹⁷ The strongest and most prevalent argument for women’s ordination is that the small, yet admirable group of women who have reached heights of Torah learning and leadership qualities are not able to give fully to the people of the community. To assume self-exalting motives to these women is unfair and inaccurate.

Mr. Caplan dubs the notion of women’s ordination as a “highly problematic view of the rabbinate [that] has infected the minds and hearts of *kelal Yisra’el*.”¹⁸ This villainous characterization of the discussion surrounding women’s leadership cuts short a legitimate and important discussion in the Modern Orthodox community. What should concern us and occupy the minds of *kelal Yisra’el* should be the cadre and quality of individuals we are choosing as our leaders. Such qualities and qualifications stand irrespective of gender.

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 their ability to serve as leaders. The fact that the number of learned, *semikhah*-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 *talmidei hakhamim*, 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 *shimmush talmidei hakhamim* is likely a result of the novelty of advanced women’s Torah learning. Thus the obvious solution to Mr. Caplan’s issue is to increase the access that such women have to *talmidei hakhamim*, rather than claiming that this lack of access should prevent them from acting as public leaders.

It should be noted that *yo’atsot halakhah* (women who advise on halakhic matters of family purity) are very much in contact with *gedolei ha-Torah* both in Israel and in America. This is *not* to imply that *yo’atsot halakhah* are or are not looking to be ordained as rabbis. It is simply important to recognize that there surely are cases of learned women who have very strong connections to esteemed Torah scholars, and the fact that others do not is not a reason to exclude them from assuming positions of communal leadership. Furthermore, regardless of whether Torah-learned women are looking to be a part of the rabbinate or not, women’s *battei midrash* can only benefit from an increase in contact with *talmidei hakhamim*.

Additionally, it should be acknowledged that many members of the Modern Orthodox community do not feel that Mr. Caplan’s statement, “*Rav Lakhen Benot Yisrael* – There is much [opportunity] for you, O daughters of Israel,” is an accurate one. There are some Jews who no longer wish to engage in this discus-

sion for they feel estranged from a community that chooses not to utilize the talents of (even) the small population of esteemed female Torah scholars. They do not feel represented in a community that does not acknowledge the importance of having Jewish female leaders who can truly enhance the community through their Torah and leadership. You will not hear the voices of these individuals in this conversation, for these women and men are choosing to leave the Modern Orthodox community and go elsewhere. Leaving the Modern Orthodox community is a choice that such individuals must contend with, but the Modern Orthodox community also must contend with its own choice – a choice that may result in losing many of its learned and Torah-committed members.

Beyond this, it is important to stress Ilana Hostyk’s most potent point: “Stronger women leaders will create a stronger connection in the next generation” -- allowing learned and talented women to be Jewish leaders is not about being “insensitive to Torah values”¹⁹ or about breaking with tradition. Women who are qualified, who are coming from a place of wanting to contribute their unique talents to the community which needs those talents, should not be accused of sullied motives and self-serving incentives. Rather, they should be admired for how far their passion for Torah and for the Jewish community has taken them. The Modern Orthodox community can use all the talented leaders it can get in order to help the future generations be strengthened in Torah and *mitsvot*. 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.

Sincerely,

Ilana Gadish, SCW ’11

Former associate editor of *Kol Hamevasser*

1 Ariel Caplan, “*Rav Lakhen Benot Yisrael: Humility and Rabba-nut*,” *Kol Hamevasser* 5:1 (2011): 10-12.

2 Yehuda Amital, *Commitment and Complexity: Jewish Wisdom in an Age of Upheaval*, ed. Aviad Hacohen, trans. by Kaeren Fish (Jersey City, NJ: Ktav Pub. House, 2008), 124.

3 Ilana Hostyk, “In Defense of Rabba Hurwitz,” *The Observer* (YU), April 19, 2010, available at: <http://www.yuobserver.com/opinion/in-defense-of-rabba-hurwitz-1.2470661#Tri-4lYu7Ro>.

4 Cf. Caplan 12, n. 1.

5 Hostyk, *ibid*.

6 *Ibid*.

7 *Bemidbar* 16.

8 Korah’s initial protest begins as such: “[For] all the congregation are holy, all of them... Why then do you raise yourselves above the Lord’s congregation?” (*Bemidbar* 16:3, JPS translation).

9 *Bemidbar* 16:31-34; 17:11.

10 Caplan 12, n. 5.

11 I feel similarly regarding Mr. Caplan’s line of argument involving a comparison of the legitimacy of a woman earning *semikhah* to the legitimacy of a learned non-Jew earning *semikhah*, *ve-ein makom le-ha’arikh*-- there is no room to prolong this discussion.

12 Caplan 11.

13 *Ibid*.

14 The midrash comments on *Bemidbar* 4:13.

15 *Bemidbar* 4:14.

16 *Ibid*.

17 *Ibid*.

18 Caplan 10.

19 Caplan 11.

Motivations, Populations, and the Essence of Humility: Ariel Caplan Responds¹

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 criticisms against my article, “*Rav Lakhen Benot Yisrael: On Humility and Rabbanut*.”² 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 both 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 thesis of my last article, that the women who seek leadership roles are motivated by a desire for power rather than a sincere desire to serve the Jewish community. She is, of course, correct that it would be arrogant, as well as simply preposterous, to claim that I can, like God

Himself, enter the minds of aspiring female leaders and declare their thoughts *devious*. However, I never claimed to do so. Admittedly, certain points in my article might be read as ascribing insincere motives to female



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When a *mahaloket 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.

leaders. So I now hope to clarify in no uncertain terms that my concern was about the tone of the debate as it is carried out in the media, the blogosphere, and around the Shabbat table, by supporters of the 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 manages to surround herself with only the pure of heart, but in my personal exposure to media and social experience, the debate rarely focuses on the good of the community, but instead concentrates 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 particular issue of women’s ordination. This point will be more fully developed below; for now, I would like to focus on several examples of statements in support of the women’s ordination movement that I find troubling.

First is the composition by Ilana Hostyk, “In Defense of Rabba Hurwitz,”³ that initially inspired me to write my article. Ms. Gadish contends that Ms. Hostyk was “trying to stress a 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 Rabba, 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.”⁴ This entire piece, too, is a mixed bag of points, 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 *Mahara*’t 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 their grasp... Our message today is loud and clear: There is a place for women in the world of Torah leadership.⁵

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 Rabba⁶ 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.⁷

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 Rabba Hurwitz,” it is in statements like this.

Misunderstood Rhetoric

Ms. Gadish takes particular offense to the title of my article (“*Rav Lakhen Benot Yisrael: On Humility and Rabbanut*”), which – as she correctly asserts – references the rebellion of Korah. However, I never intended to claim that the women who seek leadership positions or their supporters constitute a modern-day version of Korah’s revolt.⁸ In fact, I attempted to clarify the title’s purpose toward the end of the article, where I stated that “*Rav Lakhen Benot Yisrael*” was not meant in the sense of “You are seeking too much honor,” but rather to express, “You cannot claim a lack of spiritual opportunities.” Indeed, I maintained, and continue to maintain, that with or without rabbinic titles and positions, women have many ways to engage in spiritual and communal pursuits, just as there are more than enough spiritual outlets for the 99% of males who are not practicing rabbis. The comparison to Korah was only made to imply that just as we do not worry about whether it is fair for the *kehunah* to be limited to a particular class of people determined by their parentage, so too we cannot be troubled by a rabbinate that is limited to the group of people with a specific array of chromosomes. If there is a communal need for female rabbis, and the halakhic system does not stand in the way, there is certainly room to discuss such an innovation. But the fairness element is, to my mind, simply irrelevant. In truth, no area of Halakhah should be altered based on considerations of fairness. However, I find the attempt to include judgments of fairness to be particularly troubling when applied to the issue of the rabbinate, where it is so important to concentrate on the spiritual needs of the people being led, not on the rights of the rabbis themselves.

Ms. Gadish also objects to much of the introductory section of my piece. In addressing the critiques of my introduction, I must emphasize that this section did not put forth an argument I necessarily agreed with; it was simply the deconstruction of an argument that exists. I first presented a three-stage argument which lays out the points made by Ms. Hostyk in orderly, analyzable fashion. I then proceeded to show why one might disagree with each point. Although I enthusiastically support women’s *talmud Torah* at the highest levels, I readily acknowledge that the talmudic and halakhic sources regarding women and Torah study indicate differences between the relationships that men and women are to develop toward the corpus of Torah; at the very least, women are less intrinsically connected to Torah study, not being obligated to engage in this pursuit. Ms. Gadish also objected to my “comparison of the legitimacy of a woman earning *semikhah* to the legitimacy of a learned non-Jew earning *semikhah*.” However, I did not make the comparison to indicate that the two are equally illegitimate; rather it was intended as a *reductio ad absurdum*, meant to show that

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 and personal challenges that face 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 or a biological researcher who detests pipettes will be ineffective and unproductive. And it is difficult not to sympathize with the celebrated metaphorical statement of R. Akiva, “More than the calf desires to suckle, the cow desires to nurse,”⁹ meaning that the teacher’s need to teach is stronger than the student’s desire to learn. Still, the teacher who teaches - or the leader who leads - when others could provide this service more effectively is engaging in false compassion rooted in a desire to satisfy the giving impulse, rather than a desire to maximize the community’s benefit. Apparently, then, there is more to the equation than a simple desire to give: A true leader is motivated to lead, but is even more dedicated to the welfare of the people, and is willing to abdicate his or her own position if the greater good would be served by doing so.

The stories of Moshe and Aharon which I cited were tales of leaders who believed that their leadership would be to the detriment of the people. Moshe felt that another messenger would better serve the Jewish people, and Aharon felt that he personally was unworthy of the office of High Priest. God became angry at Moshe for the extent of his refusal to lead when called upon, but the essential instinct is, in my opinion, nonetheless praiseworthy.

My initial formulation in my previous article - humility “perhaps to the point of not wanting

one’s position at all” - was a bit extreme, though a Novardokher might be inclined to agree with it. Even if we do not find this form of humility - self-abnegation - to be ideal (indeed, in a later portion of the article, the self-abnegation viewpoint was significantly mitigated), it is certainly clear that rabbinic aspirations must be driven by a desire to use one’s talents to serve the community. A humble person who perceives that others are more capable of fulfilling the community’s needs will readily accept this reality. Ultimately, I agree that passion and drive are excellent qualities that will serve any communal leader well. But the final decision to enter a communal leadership position must emerge from a cautious, logical assessment of the realities of one’s own abilities and the needs of the community, ignoring inclinations and desires except insofar as they enable effective leadership.

On Double Standards

Ms. Gadish astutely notes that in reality, unlike my idealistic portrayal of motivations that should draw people to the rabbinate,

A *semikhah* student spends several years learning in the yeshivah, and while he may spend many hours focusing on communal matters... his ability to receive *semikhah* has nothing to do with his character or motivations, but rather is based on passing a series of different tests on halakhic material. *Semikhah* 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 support a double standard.

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 issues: character analysis of individuals, and interpreting the psyche of the community.

It is true that *semikhah* programs include neither a gauntlet of *hesed* nor an interrogation to verify *yir’at shamayim*. This is unsurprising; such tests would be nearly impossible to implement. Were women’s ordination to become accepted by the mainstream, I assume 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 universal. I personally feel that it is unfair to prejudge women as having malicious intent solely based on their desire to serve

the community. Others are, however, more inclined to assume that women would only be motivated to become leaders by feministic inclinations. Ms. Gadish’s complaint would be quite appropriate in the face of objections coming from this standpoint.

Points of Agreement

Despite my contentions with Ms. Gadish’s response, I must acknowledge one excellent point she has made. I do, indeed, take issue with her question of “why the quantity of [learned] women should have bearing on their ability to serve as leaders.” Quantity is indeed irrelevant to ability, but it is relevant to the decision to ordain women, because one could argue that a small number of potential female leaders does not justify overthrowing a system or creating a rift in the community. However, I wholly agree with her call to “increase the access that [learned] women have to *talmidei hakhamim*.” In Yeshiva University, the sad reality is that women are often not given access to first-rate *talmidei hakhamim*, and are not even mildly exposed to some of our greatest Torah personalities. With a hefty supply of talmudic power-hitters, there should be ways to establish closer ties between the two campuses. There must be ways to open up the doors of communication and let motivated and sincere women plumb the depths of Torah, guided by great Torah personalities.

I will also agree that history has borne out the benefits of at least some elements of women’s Jewish leadership, particularly through the system of *yo’atsot halakhah*. Based on reading, hearing from others, and interacting on many occasions with a prominent *yo’etset*, I can attest to the good that *yo’atsot* have done, opening the frontiers of halakhic guidance where none was being given before. I am far from convinced that the title “Rabbi” or a synagogue position is necessary for these benefits, but this is a question of strategy rather than of principles. I will also add, beyond what Ms. Gadish has stated, that I feel there are not enough female Torah educators, and that the Jewish community would be much better off if young women were able to develop relationships with intelligent and Torah-educated adult women who could serve as spiritual guides. As a good friend of mine put it, “Women connect best with members of their own gender. They learn better together and from each other, because, like men and unlike subatomic particles, they need commonalities to bond.”¹⁰ The Biblical women in the desert had Miriam to lead them in song when Moshe could only lead the men, and today we sorely need women who can properly guide and educate women. This is presumably what underlies the success of *yo’atsot* as well - women were uncomfortable seeking guidance from male rabbis who were formerly the only approved sources of instruction. The opportunity to speak to knowledgeable *yo’atsot* has encouraged many women to be comfortable seeking guidance in crucial halakhic areas.

Concluding Thoughts

Ms. Gadish has pled the case of “women and men [who] are choosing to leave the Modern Orthodox community and go elsewhere” because “they feel estranged from a community that chooses not to utilize the talents of (even)

the small population of esteemed female Torah scholars.” If she means that these individuals are defecting from Orthodoxy entirely, it is clear that the answer is not to change Jewish practice, but to help people come to terms with Jewish norms. Hazal were well aware of the difficult circumstances that women often face; one of the most interesting formulations of this awareness I have seen is cited in *Eruvin* 100b.: “R. Dimi said, ‘[A woman is] wrapped like a mourner, excommunicated from every man, and trapped in jail.’” Despite this recognition, they did not change Halakhah based on their sensitivities, even while expressing sympathy for the female condition.

Should someone leave the fold of Orthodoxy over objections to the halakhic system, he or she has made a statement that fealty to Halakhah (or at least the Orthodox interpretation of Halakhah) is less important than living in a society that feels fair. If someone feels, based on an internal understanding of the halakhic system, that the Halakhah is being misunderstood and misapplied, the answer is to work within the system to change things, not to throw it off entirely. The trend described by Ms. Gadish cannot be described as *le-shem shamayim*; it is *le-shem* feeling comfortable at the expense of a life of *avodat Hashem* (serving God).

As a contrast to those who have garnered Ms. Gadish’s sympathies, I would like to cite a fascinating quote from *Mekor Barukh*, the autobiographical work of R. Barukh ha-Levi Epstein (author of *Torah Temimah*):

More than once, I heard the wife of the Netsi”v of Volozhin zt”l... worrying and upset that women were deprived of the enjoyment of Torah study. Once, she told me that if Hazal said Havah was cursed with ten curses after the sin of the Tree of Knowledge, the pain of not learning Torah is the curse that rises above all the others... When I explained to her at length and gave reasons why women are not included in the commandment of Torah study, she thought a lot, contemplated the matter, and said to me, “What can I do? Practically, this is how it is. ‘You are just, Hashem,’¹¹ and ‘Your justice is a great depth,’¹² and it is incumbent upon us women to bend our heads. Blessed is He Who made me according to His will.”¹³

We may well note that the woman speaking was the great-great-grandmother of the Rav, who established the Maimonides School, which teaches Torah to high school boys and girls together, and who also gave the first Gemara *shi’ur* in Stern College. Some would say that he strayed far from his origins, but I cannot see things that way. He disagreed with his forebears’ opinion on women’s *talmud Torah*, but for reasons which were internal to the tradition. Because the Netsi”v’s wife submitted to God’s will, she refused to study Talmud; because of the Rav’s submission to God’s will, he taught Talmud to women.

When a *mahaloket 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. In this way, we may hope

to succeed in correctly applying the dictates of the Torah to the issue of women's ordination.

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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.

3 Ilana Hostyk, "In Defense of Rabba Hurwitz," *The Yeshiva University Observer*, April 19, 2010, available at: www.yuobserver.com.

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 Rabba, Not Maharat, 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 Conferral Ceremony of Sara Hurwitz," Hebrew Institute of Riverdale, March 22, 2009, available at: <http://www.jofa.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).

7 Sara Hurwitz, "An Inaugural Moment," September 10, 2009, available at: www.morethodoxy.org.

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 *Pesachim* 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 *mehannekhot* would be a boon to many young women.

11 *Yirmiyahu* 12:1, translation mine.

12 *Tehillim* 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."¹ 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*.² I simply wish to offer additional relevant and necessary sources which were not presented in Ms. Hiller's analysis.³

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 Speyer⁴ and R. Yehudah ha-Kohen.⁵ 3) Permissibility of adding the word *Elokeinu*, 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 *Shulhan Arukh*, and the basis for his opinion. 5) The separation of three women to form their own *zimmun* when eating together with three men. 6) Other commentators who obligate 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 children⁶ are not included in a *zimmun*; rather, they should perform *zimmun* separately..."⁷ The language of Rambam here is decidedly ambiguous, for he does not mention the words *hiyyuv* (obligation) or *reshut* (optional act) at all. However, Rambam's position can be ascertained when considered in light of the entire fifth chapter. As one literary whole,

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.

this chapter indicates that Rambam holds that women are obligated in *zimmun*. As he writes in the first halakhah of the chapter, "women... are obligated in *birkat ha-mazon*."⁸ 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*."⁹ 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*.¹⁰ It is worth noting here that the dispute in *Berakhot* 20b over whether women's obligation in *birkat ha-mazon* is Rabbinic or Biblical¹¹ should have no bearing on the matter for Rambam or for the other *rishonim*, such as Rosh and *Rokeah*,¹² who maintain that *zimmun* is obligatory for women. Even if the Halakhah would dictate that women are obligated in *birkat ha-mazon* only Rabbinically, women would still be obligated to say *zimmun* because they are obligated to say *birkat ha-mazon*. *Birkat ha-mazon* and *zimmun* have a correlative relationship.¹³ 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.¹⁴ However, Rambam does not include this expression, implying further that he believes that women are obligated in *zimmun*.¹⁵ Further, Me'iri cites Rambam as holding that women are obligated in *zimmun*.¹⁶

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*]."¹⁷ The same Mishnah later continues, "women, children, and slaves may not be counted in the three."¹⁸ 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."¹⁹ This Tanaitic 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]?"²⁰ The Gemara responds *mi-shum peritsuta*, "because it might lead to promiscuity."²¹ Commentators point out that this concern is on account of the slaves.²² *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,²³ the conclusion of *Berakhot* 45b seems to indicate that a grouping of free-men and women would constitute a legitimate *zimmun*²⁴ 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.²⁵ Mordekhai writes that "R. Simhah used to include a woman with men [to meet the requisite number of people necessary] for *zimmun*."²⁶ To clarify, he²⁷ 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*,²⁸ [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*."²⁹ 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*.³⁰

R. Yehudah ha-Kohen also included women

in the requisite number necessary for *zimmun* (presumably both three and ten). R. Ya'akov ben Asher³¹ cites R. Yehudah ha-Kohen as follows: "R. Yehudah ha-Kohen instructed *halakhah le-ma'aseh* (practical Halakhah) to include a woman [in the requisite number necessary] for *zimmun*."³² R. Yehudah 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*.³³

R. Me'ir of Rothenburg rejects the view of R. Yehudah ha-Kohen and states that women cannot be counted with men for *zimmun*.³⁴ Normative halakhic practice has adopted the position of R. Me'ir of Rothenburg, prohibiting women from making up the requisite number of people required (either three or ten) for *zimmun*.³⁵ 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 grouping for *zimmun*.³⁶

3) 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*.³⁷ *Shiltei ha-Gibborim* also espouses such a position.³⁸ However, the normative practice is for women not to say *Elokeinu*, as codified in *Shulhan Arukh*.³⁹ The earliest mention of this seems to come from Rambam,⁴⁰ however, he does not explain why women cannot say *Elokeinu*. The *Beit Yosef* explains that the inclusion of *Elokeinu* is a *davar she-be-kedushah* (a declaration of sanctification, like the recitation of *Barekhu* or *Kaddish*), and Halakhah stipulates that only free adult men can be included in a quorum of ten for *davar she-be-kedushah*.⁴¹

4) Taking an intermediate approach, the *Shulhan Arukh* rules like *Tosafot* that *zimmun* is optional for women; however, he writes that "when women eat with [three] men, they become obligated in *zimmun* and their obligation is fulfilled through the *zimmun* of the men."⁴² The source for his ruling appears to come from the *Sefer Mitsvot Gadol* (*Semag*) of R. Moshe ben Ya'akov of Coucy.⁴³ The *Semag* offers a resolution between two conflicting Talmudic sources, and thereby provides a logical space in which *Tosafot* constructs its position: *Tosafot* is of the opinion that *zimmun* is optional for women based on *Berakhot* 45b. However, the Gemara in *Arakhin* 3a explicitly states that women are obligated in *zimmun*.⁴⁴ Therefore, the *Semag* limits the application of *Arakhin* to situations in which women are eating with men, and, in such a case, women fulfill their obligation with the men's *zimmun*. The *Shulhan Arukh* quotes the end of this statement of the *Semag* almost verbatim.⁴⁵

5) If three men and three women dine at the same table, is it permissible for the women to perform their own *zimmun* independent of the men's *zimmun*? Despite *Shulhan Arukh*'s contention that women fulfill their obligation with the men's *zimmun*, the *Shulhan Arukh ha-*

Rav maintains that it is permissible for women in such a circumstance to separate and form their own *zimmun*.⁴⁶ However, the *Shulhan Arukh ha-Rav* proceeds to explain that this is only true when there are fewer than ten men. If ten men are present, the women are not permitted to separate and form an independent *zimmun*; rather, they must remain and answer to the men's *zimmun*. This is because the *Shulhan Arukh ha-Rav* agrees with Rambam that women can never constitute a quorum of ten to say *Elokeinu*, and therefore they cannot separate to form a *zimmun* without *Elokeinu* when the present men's *zimmun* will recite *Elokeinu*.⁴⁷

6) Ms. Hiller points out that the position of Rosh and Gra is that women are obligated in *zimmun*. This view is, in fact, even more prevalent in the *rishonim* than her discussion indicates. It is also the view of the *Rokeah*,⁴⁸ R. Yonah,⁴⁹ *Or Zaru'a*,⁵⁰ Ritva,⁵¹ Me'iri,⁵² Rif,⁵³ *Kol Bo*⁵⁴ and, as established above, Rambam; all of these *rishonim* maintain that women have an obligation in *zimmun*. Nonetheless, the established halakhic practice of today is that *zimmun* is optional for women.⁵⁵

What remains clear from all of these sources is that, at very least, women can form a *zimmun*; according to many, they are in fact obligated in *zimmun*. Despite the simple understanding of *Berakhot* 45b, Halakhah 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 Halakhah has not adopted this view; rather, it is optional. Nonetheless, *zimmun* provides an easy opportunity to perform a *mitsvah* and find greater meaning in Jewish practice.

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1 Gabrielle Hiller, "Women's Zimmun: It's Just Not that Radical," *Kol Hamevasser* 5:1 (2011): 8-9.

2 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* 7:4), while *Tosafot* is of the opinion that *zimmun* is only a *reshut*, 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*.

3 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.

4 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 El'azar b. Yehudah (*Rokeah*) and under Eli'ezer b. Shmu'el of Metz (*Yere'im*). See Shlomoh Zalman Havlin, "Simhah 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.

5 The 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 Leontin, who lived at the end of the Geonic period, during the tenth and eleventh centuries, and was one of R. Gershom Me'or ha-Golah's teachers. The second possibility is that this is the Tosafist R. Yehudah b. Moshe ha-Kohen, who lived during the thirteenth century and was a contemporary of R. Me'ir of Rothenburg. From the juxtaposition of R. Yehudah ha-Kohen and R. Me'ir 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 4, 227, the second possibility is also a reasonable conclusion. See Shlomo Eidelberg and David Deroan, "Gershom ben Judah Me'or Ha-Gola," in *Encyclopaedia Judaica*, ed. by Michael Berenbaum and Fred Skolnik, Second Edition, Vol. 7 (Detroit: Macmillan Reference USA, 2007), 551-552. See also Irving 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.

6 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 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]."

7 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 his position regarding women's obligation in *zimmun*. Therefore, for the sake of clarity, it is left out of the above quotation. All translations are my own unless otherwise indicated.

8 Ibid. 5:1.

9 Ibid. 5:6.

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

11 As for the nature of *zimmun* itself, irrespective of the particular issue of women's *zimmun*, the *rishonim* dispute whether it is a Rabbinic or Biblical obligation. According to R. Shlomo Zevin, the majority of *poskim* agree that *zimmun* is Rabbinic in nature. See "Zimmun," in *Encyclopedia Talmudit*, ed. by Shlomo Zevin (Jerusalem: Talmudic Encyclopedia Publ. Ltd., 1967): 237-238. See also notes 18 and 19, ad loc.

12 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*.

13 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. Therefore, [because of this doubt], women should not fulfill others' [i.e. adult males] obligation in *birkat ha-mazon*." See also Ms. Hiller's review of *Tosafot* in *Arakhin* 3a s.v. *mezammenot le-atsman*. *Tosafot* implies that women's obligation in *birkat ha-mazon* is Rabbinic, for *Tosafot* holds that women cannot join with men in *zimmun* because they do not say the *berit* (i.e. the line of "al beritekha she-hatamta bi-vessareinu, a reference to the covenant of male circumcision) while men do. However, *Tosafot* in *Berakhot* 20b s.v. *nashim* concludes, like Rambam, that it is in doubt whether women's obligation in *birkat ha-mazon* is Rabbinic or Biblical.

14 *Tosafot* to *Berakhot* 45b, s.v. *shani hatam de-ika de'ot*.

15 Shmuel Dickman, the author of the notes to *Makhon ha-Talmud ha-Yisraeli ha-Shalem*'s edition of Me'iri to *Berakhot*, interprets Rambam's opinion very similarly. He writes that Rambam's expression of "*aval mezammenin 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 "*im ratsu le-zammen, mezammenin le-atsman*," ("if 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 he feels *zimmun* is obligatory for women. See Me'iri to *Berakhot* 47a in the *Makhon ha-Talmud ha-Yisraeli ha-Shalem* edition and note 153, ad loc.

16 Me'iri to *Berakhot* 47a.

17 *Berakhot* 45a (Soncino translation).

18 Ibid.

19 *Berakhot* 45b (Soncino translation).

20 Ibid.

21 Ibid.

22 See Rashi to *Berakhot* 45b, s.v. *im ratsu ein mezannim*, and *Shulhan Arukh* OH 199:6.

23 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 havrutan na'eh*", "a grouping of men and women is unseemly." Some authorities indicate that *ein havrutan 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 199:3). Additionally, *Beit Yosef* to *Tur* OH 199:8-9 cites the same conclusion in the name of R. Yonah in the name of Rashi: a woman cannot join in men's *zimmun*, even with her husband,

for such a grouping is “unseemly.” This is a very difficult view for some to accept. Further, the *ein havrutan na’eh* explanation becomes very strange in light of the halakhah, as codified in *Shulhan Arukh* OH 199:7, that if women dine with at least three men, then they must remain and answer the men’s *zimmun*; clearly, women ate together with men. If this is so, then the basic conception of *ein havrutan na’eh* should not really be applicable. 2) A second possibility is the application of the concept of *lo pelug*. That is, once the Rabbis prohibited women from joining with male slaves, they categorically prohibited women from joining with any man, including free men. For other tangible resolutions as to why free men and women cannot be counted together, see Me’iri to *Berakhot* 47b and *Tosafot* to *Arakhin* 3a s.v. *mezammenot le-atsman*. See also notes 11 and 13 in Hiller.

24 Up to this point, my formulation is the same as that of *Derishah* to *Tur* OH 199, commenting on the view of R. Yehudah ha-Kohen.

25 Mordekhai to *Berakhot* 45b.

26 Ibid.

27 I am not sure whether this statement is of Mordekhai himself or is a continuation of R. Simhah.

28 The Gemara in *Berakhot* 20b discusses whether women are obligated in *birkat ha-mazon* Biblically or only Rabbinically. The Gemara does not present a conclusion. However, *Yerushalmi Berakhot* 3:3 is of the opinion that *birkat ha-mazon* is Biblically incumbent upon women. As I indicated in note xiii, Rambam and *Tosafot* in *Berakhot* hold that the halakhah is in doubt and not decided upon, like in the *Bavli*. However, other *rishonim* maintain that women are obligated in *birkat ha-mazon* Biblically, like in the *Yerushalmi*. Ra’avad, as cited by *Tur* in OH 186, and Rashba, as cited in *Beit Yosef* to *Tur* ad loc. hold women are obligated Biblically. Rif

maintains this opinion as well (*Berakhot* 11b). However, the Halakhah, as codified in *Shulhan Arukh* OH 186:1, is in agreement with the *Bavli* and Rambam, that women’s obligation in *birkat ha-mazon* is undecided.

29 Mordekhai, *ibid*. Accordingly, the discussion in the previous note regarding the nature of women’s obligation in *birkat ha-mazon*, Rabbinic or Biblical, is inconsequential for R. Simhah’s position on this matter. However, if we were to hold that women are obligated in *birkat ha-mazon* under Biblical command, then one could seriously entertain the possibility of counting two women and one man in forming a *zimmun*, for women’s obligation in *birkat ha-mazon* would be entirely synonymous with that of men. Additionally, as indicated in my analysis of Rambam’s position, for the *rishonim* who maintain women have an obligation in *zimmun*, it should make no difference whether women are obligated in *birkat ha-mazon* Rabbinically or Biblically.

30 R. Simhah, as cited by Mordekhai, is generally interpreted to include both the cases of one woman with two men and one woman with nine men. However, some want to limit his application to only the case of one woman with nine men. See *Bah* to *Tur* OH 199.

31 R. Ya’akov ben Asher, often referred to as the *Tur*, is the son of R. Asher ben Yehiyel, often referred to as Rosh.

32 *Tur* OH 199.

33 *Ibid*. See notes xiii and xxix. Also, the language of R. Yehudah ha-Kohen in *Tur* is somewhat ambiguous. He would seemingly allow multiple women to join, and not just one. However, *Bah* to *Tur* OH 199 interprets R. Yehudah ha-Kohen like R. Simhah in reference to including only one woman and not multiple women. Additionally, *Bah* quotes an opinion that R. Yehudah ha-Kohen only instructed that one woman can join with nine men. However, *Shiltei ha-Gibborim* to Rif *Berakhot* 7:1 writes that

R. Yehudah ha-Kohen’s view refers to even one woman with two men, whereas R. Simhah’s view refers to one woman with nine men. *Shiltei ha-Gibborim* further equates the view of R. Tam and Rosh to that R. Simhah, that one woman can join with nine men.

34 R. Meir of Rothenburg as quoted by *Tur* OH 199. R. Meir does not offer a reason for rejecting R. Yehudah ha-Kohen’s position.

35 See note xxiii.

36 In a more moderate way, this is codified in *Shulhan Arukh* OH 199:7, for once there are three men present in which *zimmun* becomes obligatory, women become full members of the *zimmun* and must remain and answer with the men. According to *Ba’al Halakhot Gedolot* as cited in *Bah* to *Tur* OH 689, s.v. *u-ba’al*, a woman is even permitted to lead the *zimmun* in such circumstances. That being said, normative halakha does not accord with this position of *Ba’al Halakhot Gedolot*.

37 Me’iri to *Berakhot* 47b.

38 *Shiltei ha-Gibborim* to Rif *Berakhot* 7:1. Additionally, R. Simhah and R. Yehudah ha-Kohen would likely logically hold that a group of ten women should say *Elokeinu* if a woman can already be counted with nine men to say *Elokeinu*.

39 *Shulhan Arukh* OH 199:6.

40 Rambam, *Mishneh Torah*, *Hilkhot Berakhot* 5:7.

41 *Beit Yosef* to *Tur* OH 199. R. Yosef Karo rules like Rambam in this matter in *Shulhan Arukh*, and explains why women cannot say *Elokeinu* in *Beit Yosef*. See also note 12 in Hiller. She quotes the *Mishnah Berurah* OH 199:15, who offers the same *davar she-be-kedushah* answer. *Shulhan Arukh ha-Rav* OH 199:6 also cites the same answer.

42 *Shulhan Arukh* OH 199:7.

43 *Sefer Mitsvot Gadol*, Positive Commandments, 27.

44 See Ms. Hiller’s discussion of the

gemara in *Arakhin* and her review of the *Shulhan Arukh*’s position.

45 *Semag* therefore understands *Arakhin* 3a as describing a *hiyyuv*, albeit severely limited, while at the same time interpreting *Berakhot* 45a as describing a *reshut*. In this way, *Semag* alleviates the seeming contradiction between the Talmudic sources. In his opinion, they describe two different scenarios.

46 *Shulhan Arukh ha-Rav* OH 199:6.

47 *Ibid*. As for the question of whether it is appropriate for women to perform *zimmun* in the presence of men, R. Shlomo Zalman Auerbach, as cited by his nephew R. David Auerbach in *Halikhot Beitah*, 94, holds that one or two men not only may be present, but may also answer to the women’s *zimmun*. This is also the view of R. Aharon Lichtenstein, who is quoted as saying that R. Joseph B. Soloveitchik also held that it is permissible for men to remain and answer to the women’s *zimmun*. See Ari Zivotofsky, “Tzarich Iyun: Women’s Zimmun,” *Jewish Action*, Fall 1999. See also note 14 in Hiller.

48 *Rokeah*, *Hilkhot Se’udah*, 333.

49 R. Yonah to Rif *Berakhot* 45a (7:1 or 33a on Rif). In s.v. *nashim* he says that women’s *zimmun* is optional. However, in s.v. *ve-nir’eh* he refutes this and promotes the position that women are obligated in *zimmun*. R. Yonah is also quoted by *Kol Bo* as obligating women in *zimmun*. See *Kol Bo*, 25.

50 *Or Zaru’a*, Part 1, *Hilkhot Se’udah*, 184 and Part 2, *Hilkhot Megillah*, 368.

51 Ritva, *Hilkhot Berakhot* 7:2.

52 Me’iri to *Berakhot* 47a.

53 Rif as cited in *Or Zaru’a*, Part 1, *Hilkhot Se’udah*, 184.

54 *Kol Bo*, 25.

55 See both *Arukh ha-Shulhan* OH 199:2 and *Mishnah Berurah* OH 199:13, who hold that women’s *zimmun* is optional.

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.”¹ 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, “*Dayeinu*,” “It

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.

is sufficient for us”; in *Kiddushin*, “*Somekhin*,” “We rely”; and in *Sanhedrin*, “*Poterin atzmeinu*,” “We exempt ourselves.”... The three terms all indicate resignation, and suggest that something makes Rabbeinu Tam uncomfortable with his own *hetter* (permission).²

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 *hetterim* are phrased in plural first person – it is sufficient for us; we rely; we exempt ourselves – he is happy to present the *hetter* not only as a

theoretical leniency but as a *hanhagah* (practice) of his *tsibbur* (community). This reading makes it very difficult to read Rabbeinu Tam as merely providing a *de facto limmud zekhut* (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.³

Mr. Barach 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 eighteenth- and nineteenth-century Europe over the *Haskalah* (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, “*min’u beneikhem min ha-higgayon* - distance your children from *higgayon*,”⁴ which Rashi

interprets as Bible study.⁵ The Noda bi-Yehudah expounds upon this Rashi in his commentary, the *Tselah*. He writes:

It appears to me that [regarding] studying the Bible, the *apikorsim* (apostates) also learn it for the language, the way they learn other languages, and if you are not responsible for your son in his youth and he only studies Bible, you might take a teacher from one of them because they also know how to teach it, and through that your son will also be dragged after them to unsavory beliefs. And particularly in our time, when the German translation [Mendelssohn's *Bei'ur*] has propagated, and it draws people in to

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.¹¹ 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.¹² His opinion had a broad influence on the American Jewish community and its educational

important to supply a fair defense, a *limmud zekhut* and maybe even more than that, for our non-Nakh-studying compatriots.

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1 Kol Hamevaser 5:2, 18-19.

2 Ibid. 18.

3 It is interesting to consider Rabbeinu Tam's personal opinion in regard to Tanakh study in context of the fact that he wrote a grammar book and a commentary on



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.⁶

This commentary takes a clear shot at Moses Mendelssohn (1729-1786), as well as the other *Haskalah* leaders of the time.⁷ 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 warily notes, many *maskilim* were *melammedim*, personal tutors for rich children, and he saw this movement as a major threat for eighteenth-century traditional Europe.⁸ Mendelssohn also wrote a German translation of the Torah, known as the *Bei'ur* (published in the 1770s), which the Noda bi-Yehudah explicitly labels as a danger.⁹

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."¹⁰ He is able to support the learning of Tanakh for a traditional community by making it clear

systems, and it is probably the best response to Mr. Barach's question, "So why does no one care?"¹³ R. Kotler discusses the category of *bittul Torah be-eikhut*, 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."^{14,15} 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 Talmud 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."¹⁶ It follows that Tanakh study should be minimized in favor of Talmud study whenever possible.¹⁷

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

lyyyov. Still, this is irrelevant to the issue of understanding his attitude towards those who do not study Tanakh.

4 *Berakhot* 28b. This translation, as well as all others in this article, are the author's.

5 Ad. loc.

6 *Tselah* to *Berakhot* 28b.

7 It is interesting to note that an alternate explanation in the *Tselah*, which understands *higgayon* as philosophy, attacks other *Haskalah* groups of the time who were pushing for the study of secular philosophers. In that way, the *Tselah* makes double use of the Gemara to attack what he saw as problems in society.

8 For the question of the extent to which the Enlightenment was seen as a threat to Central European traditional Judaism of this time, see Moshe Samet's "Moshe Mendelssohn, NH Wesseley Ve-Rabbanei Doram, in *Mehkarim Be-Toledot Am Yisrael Ve-Erets Yisrael*, Haifa, University of Haifa, 1975.

9 It is very possible that this movement within *Haskalah* was related to a similar movement among Protestants at that time, which focused on the biblical text, translating it into the vernacular in order to democratize religious study.

10 *Nineteen Letters*, Letter 18.

11 *Nineteen Letters*, Letter 18.

12 It is important to distinguish between Central European rabbis' responses to the *Haskalah*, formulated in the eighteenth-century, and those of the Lithuanian school to a later version of the *Haskalah*, which ran from the nineteenth into the twentieth-century. Thus, there is no clear line connecting R. Kotler (a Lithuanian) and the Noda bi-Yehudah, though they seem to agree in opposing widespread Tanakh study.

13 Kol Hamevaser 5:2,19.

14 *Mishnat Rabbi Aharon*, Helek I, 56.

15 It is possible that an objection like this would allow more leeway for the education of

children, as they may have a more difficult time studying more complicated areas of Torah.

16 *Bava Metsi'a* 33b. It is important to note that this argument applies equally to Torah and to Nakh, as do several other positions in this article. However, this is a moot point since, between the weekly Torah reading and the *mitsvah* of *shenayim mikra* (reading the weekly portion twice, along with a commentary/translation; see *Shulhan Aruch*, *Orah Hayyim* 285), any serious Torah scholar has at least a working knowledge of the Torah.

17 Interestingly, Rashbam, in his introduction to his commentary on the Torah (found in *Beresheet* 37:2), quotes this Gemara as well, in context of arguing that the *derashot* (i.e. Hazal's halakhic and midrashic interpretations) are primary, though study of Tanakh without Talmudic intervention is vitally important, as well.

Footnotes Continued from Vegetarianism and Judaism: The Rav'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. 1:30, translation found in Soloveitchik 32.

17 Soloveitchik 32.

18 R. Y.D. Soloveitchik interprets the word *hamas* 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. 1:9.

28 Soloveitchik 42-43. He formulates this differently in *Worship of the Heart* (Hoboken, N.J.: Ktav 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 *Worship of the Heart* and *Lonely Man of Faith* (New York: Doubleday, c2006), Ch. 4. In the former, he bases the 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. 17:2 say that the only meat that *Benei 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 happily sanction consumption of any meat besides for sacrificial meat.

31 Rambam, *Sefer ha-Mitsvot*, *Mitsvot Aseh*, no. 54 and *Mishneh Torah*, *Hilkhot Yom Tov* 6:18.

32 1:176.

33 *Magen Avraham*, *Orah Hayyim* 696:15 sides against Rambam, although he contradicts himself in *Orah Hayyim* 249:6 when he disproves the opinion of the *Levush*, who says that eating meat on *yom tov* is not obligatory. *Bet Yosef*, *Orah Hayyim* 529 questions Rambam and Tur, who claim that one is obligated to eat meat.

34 For a discussion of the matter, see R. Moshe ha-Levi Steinberg's *Hukkat ha-Ger*, *Kuntres ha-Teshuvot*, no. 1.

35 This halakhah is derived from *Bekhorot* 30b and *Mekhila*, *Parashat Kedoshim* 19:34.

Creative Arts



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A Jerusalem of Bizarre Thrills

BY: Chesky Kopel

Reviewed Film: *Footnote* (Hebrew: *He'arat Shulayim*), Dir. Joseph Cedar, Perf. Shlomo Bar Aba, Lior Ashkenazi, Alisa Rosen (United King Films, 2011).

"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 our parents' friends."¹

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 all too clear to me, a child of American *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, let alone its potential to captivate international audiences. But apparently it was just strange enough to become a smashing success.

Father opposes son in the bitter rivalry of this film; both are eccentric Jerusalemite scholars, but their profound

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.

disagreements and barely veiled contempt for each other's work consume their relationship. Eliezer Shkolnik (played by Shlomo Bar Aba), the father who hails from the old guard of Talmudists, scours manuscripts and syntax with scientific, or perhaps more accurately, compulsive attention to detail. Eliezer's field is scientific Talmudics, the goal of which is to clarify issues of language, authorship, and redaction in Talmudic texts. His work is patently uninteresting to the common population, and is constantly passed over for recognition, especially after a colleague's discovery of an important manuscript renders his decades of manual research unnecessary. His son Uriel (Lior Ashkenazi) is a voguish scholar and lecturer, who pieces together creative and attractive theories from the body of the Talmud, and whose many books and classes have achieved him great success in financial and social capital. Uriel's field is better characterized as philosophical or existential Talmud, generally a sub-discipline of religious Torah study, which teases out the Talmud's worldview from its texts, and preaches contemporary versions of its essential messages. In contrast to his father, his accomplishments are recognized with the highest of honors, and this contrast is set starkly in the film's opening scene - Uriel's induction ceremony at the Israel Academy of Sciences and Humanities (*ha-Akademie ha-Le'umit ha-Yisra'elit 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 *Kol Hamevaser* 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 Talmud 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."² The footnotes on this film served much of the same purpose, providing momentary excursions into unchained eccentricity in a way that the primary stage of the film simply could not do.

Beyond the shtick, 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 fuller picture is somehow skewed or lost. Uriel-centric scenes, by contrast, feel adrenalized 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.

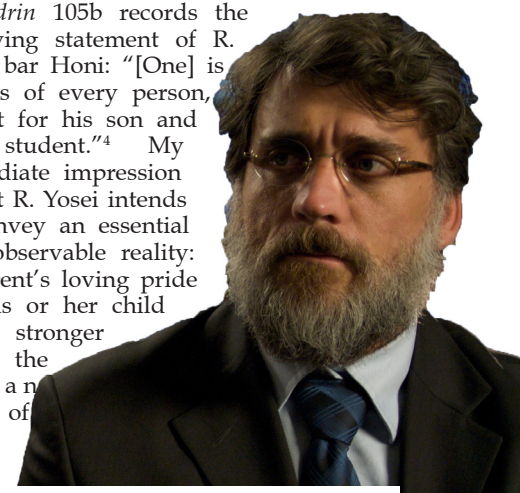
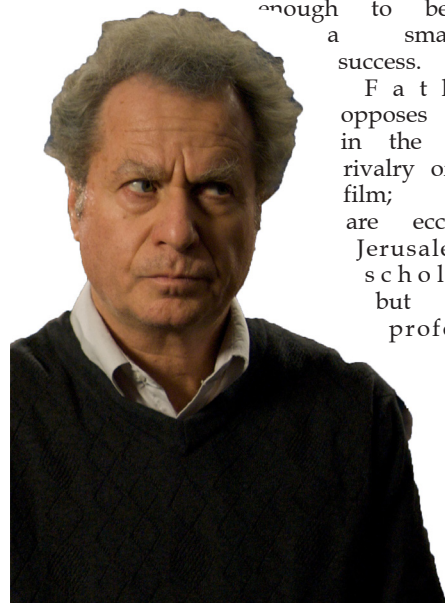
Overall, *Footnote* is a profound human-interest drama, with an additional edge of familiarity for committed Jewish communities, as it happens to be Israeli and happens to be about Talmud study, an activity we consider to be of inherent religious value. It therefore remains the duty of a Jewish Thought 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 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!"³ 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 strike viewers as religious-minded, although the men do wear *kipot*, 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."⁴ 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 human flaw of



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.⁵ 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.⁶

Chesky Kopel is a junior at YC majoring in English and History, and is 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.

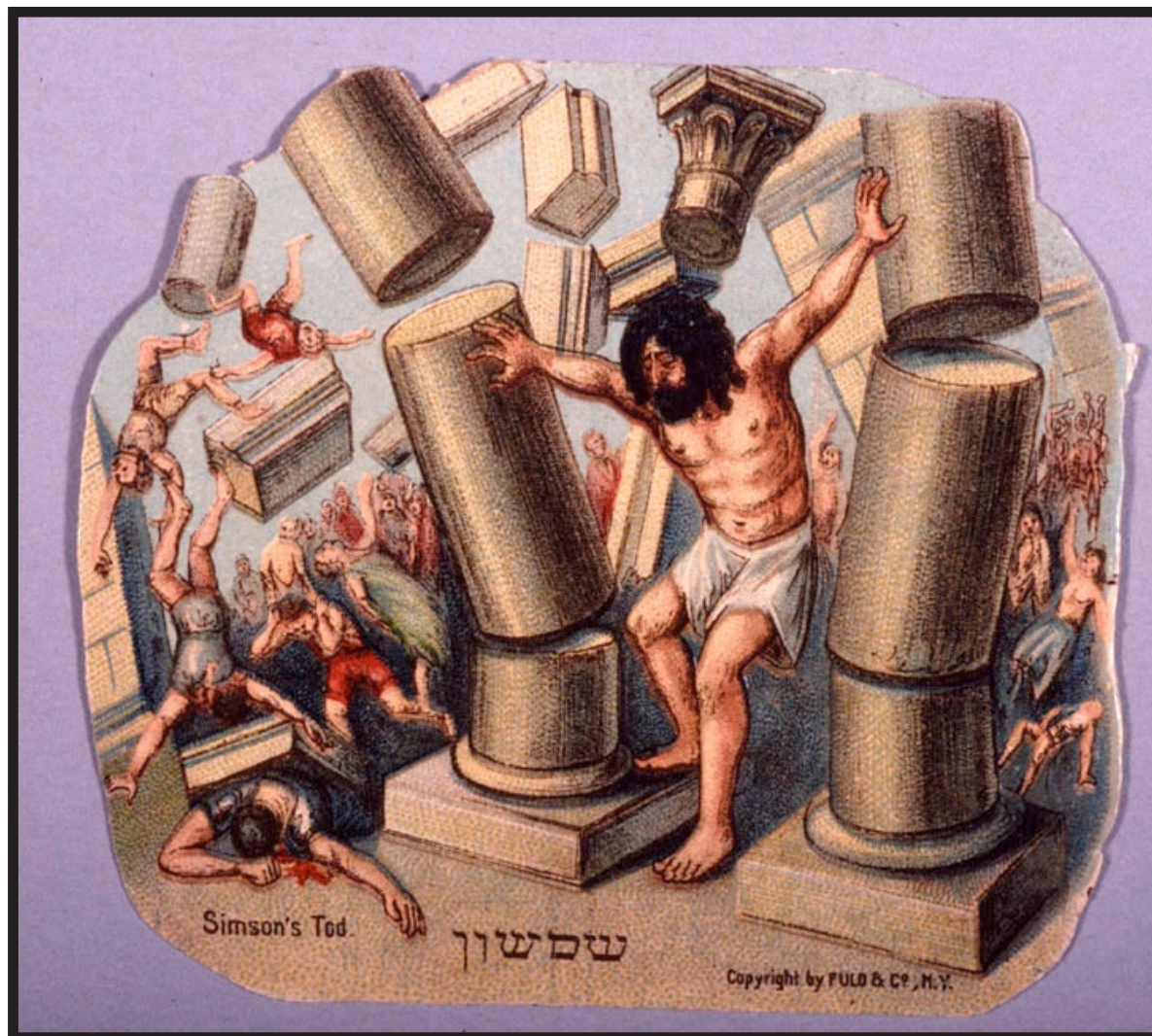
2 Ibid.

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 Shim'oni*, *Pinhas* 247:776, s.v. *ve-natatah me-hodekha* 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.



Scrap depicting Samson destroying the temple of Dagon
U.S.A., early 20th century
Paper: printed, embossed
Collection of Yeshiva University Museum

Scraps are the Victorian equivalent of today's stickers. A product of the Industrial Revolution, scraps became popular when inexpensive color printing became a reality around 1820. They were used to decorate albums and journals, boxes, and furniture. The earliest extant Jewish scraps date to ca. 1903-1912. They were published by Hebrew Publishing Co. of New York, founded by Joseph L. Werbelowsky in 1883. Most of the images were painted by J. Keller and Louis Terr. Biblical themes such as this one helped children visualize the stories at a time when there were few children's books, and those that did exist rarely had color illustrations.

The Making of a *Rosh Yeshivah* Biography

BY: Shlomo Zuckier

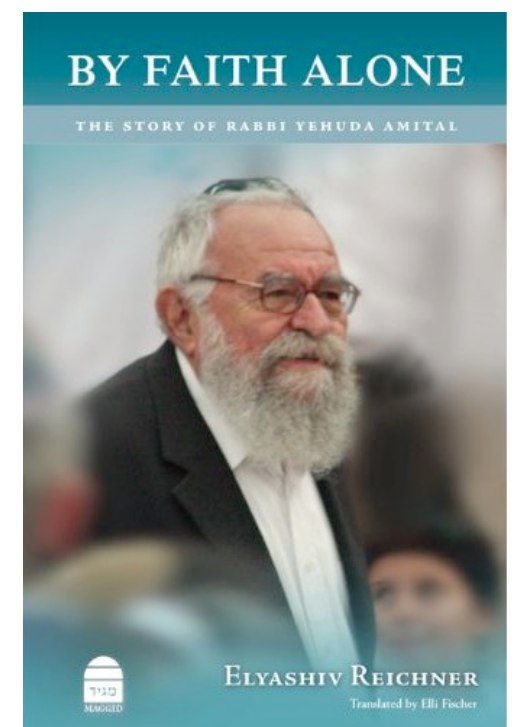
Reviewed Book: Elyashiv Reichner, *By Faith Alone: The Story of Rabbi Yehuda Amital* (New Milford, CT: Maggid Books, 2011).

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

Of all *rashei yeshivah* to choose from as the subject of a biography, R. Amital might be the most obvious.

the most obvious. He was the self-proclaimed *yehudi pashut* (simple Jew), never promoting stringencies, 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



in a mere book.

By *Faith Alone*, a translated and slightly expanded edition of the Hebrew *Be-Emunato*,¹ succeeds in relating R. Amital's younger years, both in Europe (Grosswardein, 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 plotoles 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,² where he lacked a full-time job and had to work several jobs to make ends meet? And, possibly more significantly, why did he 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), the first years of the yeshivah (4), R. Aharon 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 manifestly charismatic man that he was. One particularly strong passage reads:

Although he refused to be a Hasidic rebbe, it did not take long for the students to discover that Rav Amital possessed rebbe-like qualities. His overflowing charisma, rhetorical skill, Hasidic soul and inspiring leadership won him the adoration of his pupils, even if he refused to admit it. Other characteristics that turned him into a reluctant rebbe were the Hasidic tunes that he taught, the stories with which he peppered lectures and communal meals, and of course his penchant for singing and dancing. When he stood at the center of a circle of dancing students, eyes closed, singing solo, he looked, to an observer, exactly like a Hasidic master surrounded by his devotees.³

His magnetism carried over from his *tishn* to his speeches, as well. The first time I heard R. Amital speak on Rosh ha-Shanah

in yeshivah, he referred to his experiences in a concentration camp and meditated upon "*karov Hashem le-khol kore'av le-khol asher yikra'uhu be-emet*" – "The Lord is near to all who call Him, to all who call Him in truth."⁴ At the time, I recall feeling especially drawn in by **this particular** speech, feeling that it relayed a message of especial immediacy and projected vast and imminent significance. After hearing R. Amital speak several more times, I realized that this magnetic pull was a function not only of the circumstance but of his charisma, and that many talks conveyed that same sense of urgency.⁵

Reichner also discusses how R. Amital used his charm in support of his students serving during the Yom Kippur War:

When Rav Amital would meet with his students, there was more warmth than when a father meets his sons. He would embrace the students, speak with them, pull one of them aside and speak with him privately, and then do the same for another.

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.

He would gather them together, teach them a shiur, and speak about the importance of military service. I witnessed a special bond between him and his students; it was quite exceptional...⁶

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.⁷ Despite mentioning R. Amital's similarity to a Hasidic rebbe,⁸ Reichner fails to fully underscore this paradoxical identity for a Lithuanian *rosh yeshivah*. R. Amital's *tishn*, opened with his witty comments over *schnapps*, and followed by powerful singing, punctuated by his leading of a responsive "*ve-taher libbenu le-ovdekha be-emet*" – "and purify our hearts to serve you in truth," were a true Hasidic experience for the otherwise *mitnaggedic* Gush students. R. Amital had his own *niggunim*, and it was he, in fact, who introduced more Hasidic dancing and singing into Israeli, Lithuanian-influenced, *yeshivot hesder*. This admixture could only be borne by a Hungarian Jew with a Lithuanian yeshiva education such as R. Amital, whose background is discussed by Reichner in chapter two, but without conveying the full ramifications of this unique combination.

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

and Melchior, the critical reader will have his doubts as to whether each of these figures really is as one-dimensional as he is presented in the book.

A significant portion of the book's narrative (chapters 16 to 20) is devoted to R. Amital's relatively short political career with the Meimad movement. From a certain perspective this is understandable, as political goings-on are readily available to a journalist, and because one's impact on broader society can be more easily felt in governmental involvement than in a yeshivah on a hilltop. Still, it is fair to ask whether such a focus on the more public domain is warranted, especially for someone who spent so much of his life dedicated to Yeshivat Har Etzion, and for whom political pursuits were a diversion, albeit a significant one, from the primary goal of teaching Torah.

Reichner does not critically evaluate R. Amital's career to any significant degree,¹⁵ with the exception of his political career. The book contains no speculation as to whether R. Amital was correct in leaving the *Haredi* world or not, or whether the project of *yeshivot hesder* was altogether proper. The controversies over what a yeshivah should look like, such as the question of Tanakh study in a yeshivah, especially *be-govah ha-einayim* (openness to criticism of Biblical characters) are not given significant treatment. Reichner notes in his introduction his connections to R. Amital – his "father was a member of Yeshivat Har Etzion's first class," and his "uncle, Rav Yehuda Gilad, is married to Rav Amital's daughter Dina."¹⁶ This reader wonders whether these associations limited the book's scope by leading the author to simply describe R. Amital's life and achievements rather than present a more critical view. It is likely that R. Amital would be the first to welcome critical perspectives on his legacy; he was always harsh on himself and did not believe in privileging one's own biases over the truth.

The book, with its flaws and successes, focuses squarely on the life and times of R. Amital, largely leaving aside both his philosophy of life and his contributions to Jewish thought. A partial attempt to fill this gap appears at the tail end of the English version of the book, in two distinct ways. First, the second-to-last chapter of the book deals with both the end of R. Amital's life and some of his *hashkafic* observations (*Ve-Ha-Arets Natan Livnei Adam*¹⁷ and *Kol Yehudah*¹⁸) and *hiddushei Torah* (*Resisei Tal*¹⁹) that were published in the last decade of his life. Additionally, it includes an afterword on R. Amital's thought, written by Aviad Hachohen, which provides an entrée to his belief system. Each of these additions, while presenting some of R. Amital's contributions to contemporary religious discourse in Israel, fails to channel the full thrust of his religious worldview.²⁰

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 *rashei 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.

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 *rashei 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.

4 Psalms 145:18, modified JPS translation.

5 For another example of a gripping *derashah* of R. Amital, see this reviewer's "Ve-Taher Libbenu le-Ovdekha be-Emet: Appreciating a True Posheter Yid" in Kol Hamevaser 4:1 (2010), accessible at: <http://www.kolhamevaser.com/2010/08/ve-taher-libbenu-le-ovdekha-be-emet-appreciating-a-true-posheter-yid/>.

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.

17 Ed. Amnon Bazak (Alon Shevut: Tevunot, 2004). Published in English as *Jewish Values in a Changing World*, ed. Amnon Bazak, transl. David Strauss (Jersey City: Ktav, 2005).

18 Ed. Aviad Hachohen (Jerusalem: Yeshivat Har Etzion, 2005). Published in English as *Commitment and Complexity: Jewish Wisdom in an Age of Upheaval*, ed. Reuben Ziegler (Jersey City: Ktav, 2008).

19 R. Yehuda Amital. *Resisei Tal: Hiddushim, Be'urim, u-Berurim be-Inyanim Shonim ba-Halakhah* (Alon Shevut: Yeshivat Har Etzion, 2005).

20 For secondary sources that analyze R. Amital's thought, see Moshe Maya's *A World Built, Destroyed, and Rebuilt: Rabbi Yehuda Amital's Confrontation with the Memory of the Holocaust*, Ktav, 2005, Alan Brill's "Worlds Destroyed, Worlds Rebuilt: The Religious Thought of Rabbi Yehuda Amital," *Edah Journal* 5:2, and the recent (Hebrew) collection of articles on R. Amital's personality and approach, *Le-Ovdekha Be-Emet*, eds. Reuven Ziegler and Reuven Gafni, Maggid Press, 2011.

Poster for the Jewish Relief Campaign

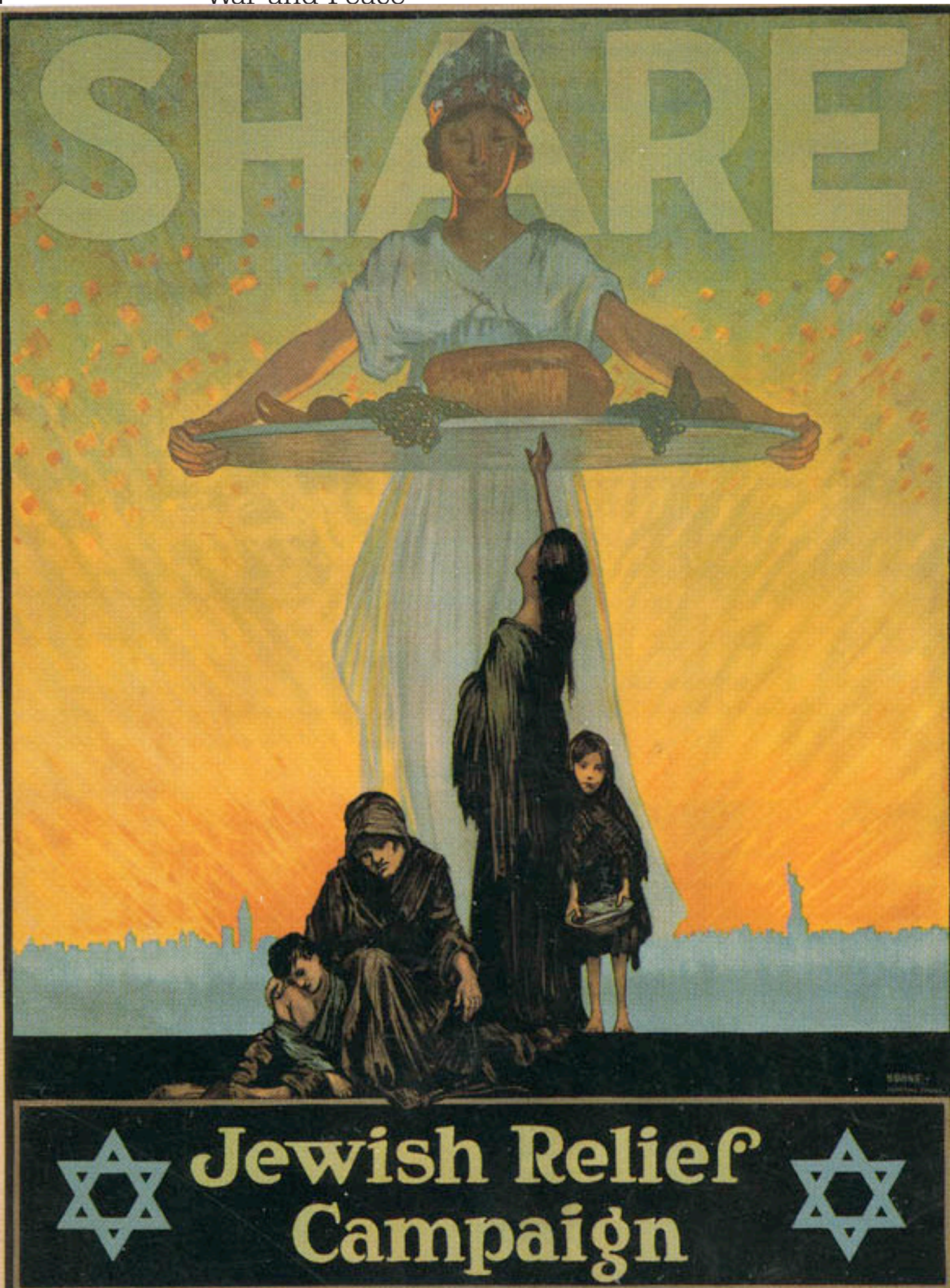
Artist: Burke

Brooklyn, New York, ca. 1917

Lithograph

Collection of Yeshiva University Museum (2008.046)

Gift of Sima Ingberman



AMSTERDAM HELP ONS



CONCERTGEBOUW. AMSTERDAM GROOTE ZAAL
 ZONDAGMIDDAG 26 OCTOBER 1919 TWEE UUR
ANITTA MÜLLER GEMEENTERAADSLED TE WEENEN.
HET UITGEHONGERDE JOODSCHE KIND IN HET BUITENLAND.
 VOORDRACHT MET LICHTBEELDEN.
 TOEGANGSPRIJZEN f. 2.50 - f. 1. - f. 0.25

(Left)
 Charity Benefit Poster
 Amsterdam, The Netherlands, 1919
 Lithograph
 Collection of Yeshiva University Museum
 (1998.603)
 Gift of Mr. and Mrs. Ludwig Jesselson

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.

YESHIVA UNIVERSITY MUSEUM
**From
 The
 Archives**

(Bottom-Right)
 Poster commemorating a pogrom in Poland

Artist: L. Pinkhof
 Amsterdam, late 19th/early 20th century
 Lithograph
 Collection of Yeshiva University Museum
 (1998.614)
 Gift of Mr. and Mrs. Ludwig Jesselson

(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.



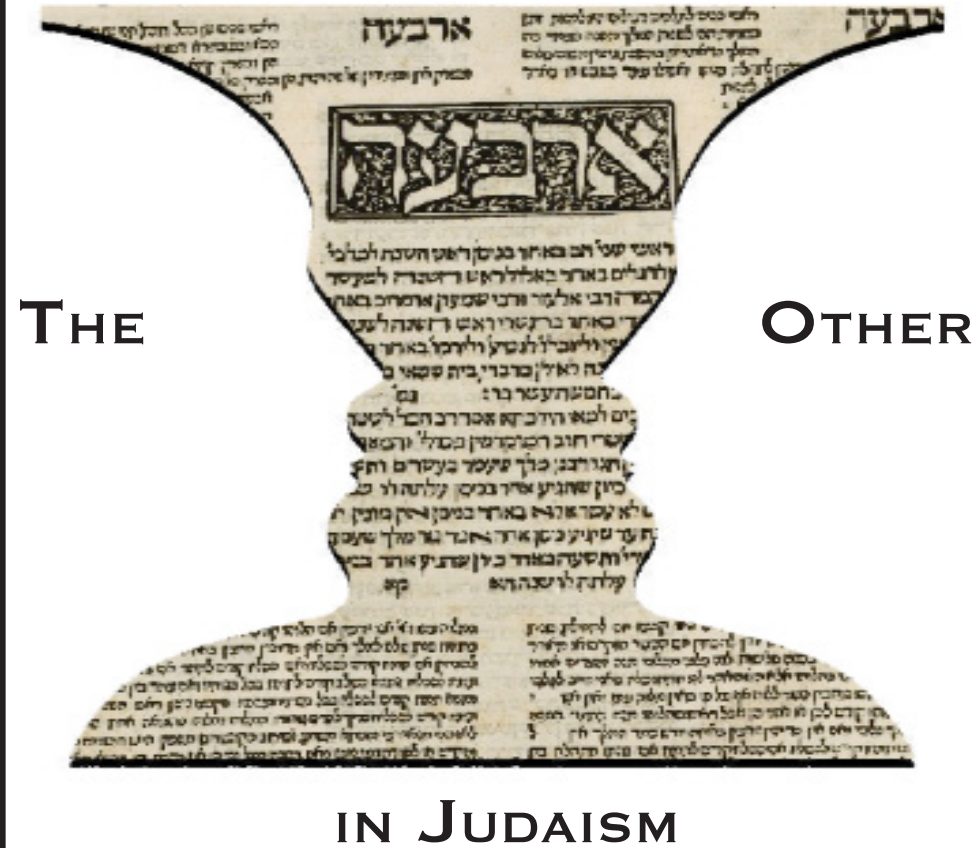
(Right)
Jewish Volunteers in the British Forces Commemorative Medal

Designer: Rothschild and Lippman
Engraver: Samuel Kretschmer
Issued by: Israeli Government Mint
Bronze: cast
Jerusalem, 1975
Collection of Yeshiva University Museum (2009.063)
Gift of Charles Feingersh



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