

DEGEL

תורה וחכמת ישראל מקהילת עלי ציון
TORAH AND JEWISH STUDIES FROM ALEI TZION

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Message from Rabbi Daniel Roselaar



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Why do we punctuate the Seder ceremonies by drinking four cups of wine? Symbols of slavery, redemption and freedom abound on this night, so when we drink each cup of wine are we simply raising our glasses in a celebratory toast, or is there a deeper meaning to the repeated use of wine at the Seder?

When HaKadosh Barukh Hu predicted yetziat mitsrayim He used the famous four expressions of geula and told Moshe: 'I am the Lord, and I shall deliver you from the oppression of Egypt and I shall save you from their slavery. I shall redeem you with an outstretched hand and I shall take you as my people' (Shemot 6:6-7). The Talmud Yerushalmi cities a tradition that Hazal instituted the four cups of wine to correspond to the four expressions of salvation that appear in these verses - I shall deliver, save, redeem and take you. Though on the face of it these expressions seem synonymous, the mefarshim dismiss the suggestion that these expressions are simply four different ways of saying the same thing. Rather, they refer to four distinct and different forms of redemption, and on Lel haSeder we celebrate four aspects of freedom - physical, psychological, national and religious.

But notwithstanding that we may now understand the significance of the number four, the reason why we use four cups of *wine* requires further explanation. The following remarks, based on the commentary of the Netsiv, provide clarification.

The choice of wine was profound and deliberate. It is impossible for a human being to undergo suddenly the transition from being a slave who is coerced every moment of his life, to being a free man and master of his own will, without suffering psychologically. Consequently, the redemption from Egypt, which began when Benei Yisrael were slaves and culminated in the Revelation at Sinai when they were able to accept the Torah of their own free will, had to be achieved as a gradual process.

Thus, according to Hazal, the redemption from Egypt was accomplished in four stages. Even before yetziat mitsrayim proper, the Israelites were freed from the physical bondage of slavery even though they remained subservient to their Egyptian masters. This is signified by the statement 'I shall deliver you.' In the second stage they ceased to be slaves even in name, yet remained bereft of national independence - this was God's promise 'I shall save you.' The third stage, termed redemption, arrived when they became an independent nation, free to leave Egypt. But nevertheless, they retained a slave-like mentality, remaining incapable of making reasoned and complex decisions and choices until the salvation was completed with 'I shall take you as my people.'

According to this approach, the redemption from Egypt was clearly progressive in nature. This can best be re-enacted (and the Haggada says that every person must act as if he personally had left Egypt) by drinking four cups of wine. Such a change couldn't be experienced by eating extra matsot or a selection of different meats. But with each cup of wine that we drink there is a further change to our metabolisms and we feel a little more ruddiness entering our complexions. Like our ancestors when they left Egypt, we too are experiencing a gradual transformation. As we drink each cup of wine, we are progressively more able to identify with the concept of four stages of redemption and the experiences of the Exodus gradually become more real for us.

Na'amah and I and all the family are looking forward to joining Alei Tzion. The Kehilla won't change dramatically overnight but, like the model of the four expressions of geula, we are looking forward to playing our part in helping the community to develop stage by stage until we are all able to participate in the ultimate redemption of v'heveti etkhem el ha'arets.

Rabbi Daniel Roselaar studied in Yeshivat Har Etzion, Israel, for eight years, and received semikha from the Chief Rabbinate of Israel. He is a regular contributor to Daf Hashavua and also acts as Rabbinic Advisor to the United Synagogue Burial Society. He and wife Na'amah have four children. He will shortly become Rav of Alei Tzion.

A message from Jeremy Jacobs, Chief Executive of the United Synagogue



The more that my understanding of the United Synagogue deepens the more it excites me.

All too often, when people think of the United Synagogue (or 'The US' as it is increasingly referred to) they are inclined to see it in one of two lights: either as a particular local shul community that one may belong to, or as the subject of (usually) unflattering headlines in the Jewish press. I firmly believe that this overlooks an extraordinary range of significant benefits that the US brings to its members and to the wider Jewish Community. Perhaps more importantly, it ignores the huge potential that the US has to develop itself and to become an even more effective force for good amongst today's generation of British Jews.

The new leadership at the helm of the US is bringing a fresh energy to the organisation. Whilst it is true that the US faces a number of major historic challenges as it seeks to re-invigorate itself, there is a strong team of motivated and effective people who are emphatically rising to meet these challenges in a considered and strategic way.

Education, welfare services, youth provision, community development, connections with Israel, support for poorer members ... all are being systematically and holistically developed to make a real, positive difference to people. Sadly the long time threat of apathy and assimilation is as big as ever. A strong United Synagogue, proudly embracing the very best values and traditions of Jewish life, has great plans to make a real difference.

We have already shown that this is no mere pipe dream with the success of the creation of our youth arm; Tribe. But this is just the beginning – there is so much still to do. Here are just a few initiatives which our members can look out for to see how the US is improving the service they receive.

Jewish Living & Learning: The Jewish people understand the value of learning, but if we cannot bring that learning to life we fall well short of our great potential.

Understanding this is the key to our strategy to develop a whole range of educational initiatives over the coming years which will bring learning to life across all our communities. There are a growing number of programmes; for newly weds, fledgling Hebrew readers, children (and parents!) wanting Summer Schemes and camps, US Website browsers, the list goes on... something for all our members.

US Chesed: The chesed (loving kindness) that we show one another is a core value of Judaism. Since becoming Chief Executive I have seen a wonderful growth in this side of the US' work. Not only outward facing initiatives under the Project Chesed banner (everything from blood drives to mobile phone recycling) but also inward looking work embodied in the countless thousands of acts of care that our many wonderful US Community Cares volunteers are able to perform to help those in need.

Burial: Our world-leading initiative over the use of MRI scans to avoid the trauma of autopsies is already making a big difference to many bereaved families. We are also about to launch the opportunity for members in our burial scheme to be buried in Israel. For many families making aliyah this is an incredibly valuable step forward.

P'eir: Our Rabbis are a wonderful (and often undervalued) part of the US. These inspirational and learned people can offer so much to their communities. The work of P'eir is supporting our Rabbis to develop further skills that will help them to help us. For example in providing training such as the recent Mental Health First Aid course and the hugely successful P'eir Induction Programme which has provided 10 Rabbis new to the US with invaluable skills support from which we will all ultimately benefit.

The US has enormous potential to show over 100,000 Jewish people how it can make a meaningful and positive contribution to their lives. I hope that we can continue to do this as we build our exciting vision of authentic Judaism alive and well in our contemporary lives.

Best wishes for a kosher and happy נספָה!



DEGEL

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Notes from the editor

Minhag Yisrael Torah hi (Tosafot, Menahot 20b) – the custom of Israel is Torah – is something we feel instinctively. So much of what we do, and which we would miss if we stopped, is based not on halakha but on custom, tradition, practice.

At no time of year is this truer than at Pesah. The Seder could be carried out in meticulous conformity with the din, but feel completely foreign. Without the familiar tunes, the father, or the children, hiding the afikoman and the eggs in salt water a family might fulfil all the mitsvot of the night but feel they have not had a Seder.

So much of what we do, and which we would miss if we stopped, is based not on halakha but on custom, tradition, practice.

Judaism, then, is a religion of tradition as much as rigid law. And even the law is not as rigid as it may at first appear. Our great religious thinkers, from R. Yosef Albo and the Rambam to R. Eliezer Berkovitz and R. Isidore Epstein have highlighted that precisely because the Torah is unchanging the halakha must change, to ensure that the Torah is applied appropriately to changing circumstances. As the Rambam writes in *Guide for the perplexed* (3:41)

God, may He be exalted, knew that the commandments of this law will need in every time and place – as far as some of them are concerned – to be added to or subtracted from according to the diversity of places, happenings, and conjunctures of circumstances.

There is a famous metaphor for the Torah's fluidity. Shir Hashirim Rabba(1:19) compares the Torah to water: Just as water is a source of life, so is the Torah, just as water comes from heaven, so does the Torah, just as water quenches one's thirst, so does Torah satisfy the soul, just as water cleanses the body from impurity, so Torah cleanses the soul, and so on.

If we may extend the simile we could add that as water flows it retains its substance but its form changes to suit its surrounding. If water is frozen it can easily break, if it is kept still, it will become stagnant. Torah always remains the same in its essence but it moulds itself to each new situation the Jewish people faces. Only by doing so has it remained relevant and lively.

The water of a mikveh must have flowed there naturally. The Torah is concerned that water used for a sacred, purifying purpose must go at its own pace. The Torah flows, the halakha develops, but it cannot be pushed or forced. We can create channels, to prepare a path, but we should not try to swim against the current of Torah, as it had flowed down to us. Our understanding of the Torah also develops within the spirit of what has come before, and every Bet Midrash will produce new insights, all of which reveal new aspects of the original Revelation.

The same should be true of a Torah journal. Simon Levy, Joseph Sueke and Meir Chaim Shelton each examine a specific issue, whether it is bal tosif, the prohibition of learning from wicked teachers or the language of prayer, and show how it has been understood and interpreted from the days of the Tannaim and Amoraim, through the Rishonim and Aharonim to our day.

In my article I attempt to show how halakhic innovations, such as the second day of yom tov in the Disapora, have been incorporated into the tradition, and how ancient practices have been given modern meanings. Rav Ilan Goldman has translated a teshuva by Chief Rabbi Shlomo Goren which grapples boldly with a new reality, the creation of the State of Israel, and its implications for the order of prayer. Jessica Sacks gives a fascinating insight into how Jews with disabilities are reading our sources and presenting interpretations that come from the meeting of the text and their own experience, and are finding halakhic solutions to the challenges they face.

Ben Tankel reveals how the New York Intellectuals took the values of their Jewish background and transformed them into social and political attitudes, which through a series of traumatic events contributed to the development of neoconservatism.

As always I want to thank the authors for their excellent articles and the hard work it took to create them, to the editorial team of Jemma Jacobs, Sandy Tapnack and Ed Zinkin and to everyone who contributed a greeting or an advertisement which has allowed Degel to appear once again. Finally, I am grateful to Rabbi Daniel Roselaar for his message to his new community. We are all looking forward to drinking deep of the waters of Torah with him over the coming years, finding refreshment and fresh insights together.

With best wishes for a hag kasher vesame'ah,

- BEN ELTON

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The prohibition of בְּתוֹסִיף

SIMON LEVY

In Devarim 13:1, in Re'eh, we are introduced to the prohibition of בְּתוֹסִיף - bal tosif: 'Do not add [tosef] or subtract [tigra] from anything I have commanded you to do.'

Rashi (ad loc) defines בְּתוֹסִיף as adding a fifth box to the tefillin shel rosh, or shaking five species on Succot, or kohanim saying four brakhot in Birkat Kohanim. For the purposes of our opening discussion, we will therefore define בְּתוֹסִיף as 'adding to the mitsvot'.

Essential questions

In attempting to understand בְּתוֹסִיף, we should take to heart the comment of the Minhat Hinukh, who warns us that the nature and definition of the prohibition are extremely difficult to determine.¹ To aid our journey I will set out eight basic questions.

1. Does a person need to have kavana (intention) to transgress בְּתוֹסִיף?
2. If a person decides to shake the lulav twenty times during the first day of Succot, has he transgressed בְּתוֹסִיף?
3. Does it make a difference if a person shakes three lulavim, thereby adding to one of the four minim, or does a person only transgress בְּתוֹסִיף if he adds a fifth min, e.g. He shakes a lulav, etrog, hadassim, aravot and an orange?
4. Is בְּתַגְרוּ – bal tigra, 'subtracting from the mitsvot' a mirror image of בְּתוֹסִיף, or does it contain additional aspects?
5. Why does the Torah mention the prohibition in both Parashat Vaet'hanan and Re'eh, when we know that the Torah does not repeat mitsvot without specific reason?
6. Is בְּתוֹסִיף transgressed when a person adds a totally new mitsva, or when a person adds elements to an existing mitsva?

7. How are we allowed to celebrate new hagim such as Hannukah and Purim (and even Yom Ha'atsmaut). Did the Hahamim transgress by establishing such days?
8. If a person does transgress בְּתוֹסִיף, and puts on tefillin with five boxes, does he need to repeat the mitsva, because the act he performed was meaningless, or has he committed a separate transgression, and therefore need not repeat the mitsva with kosher tefillin?

Is kavana required to transgress בְּתוֹסִיף?

We are first introduced to the Rabbinic understanding of בְּתוֹסִיף in Masekhet Rosh Hashana 28b when we encounter the famous argument between Rava and Abaya over whether mitsvot require kavana (the intention to fulfil a mitzvah) or not. According to Rava, mitsvot do not require kavana for a person to fulfil his obligation. In the course of the argument, Rava states that a person who sleeps in the sukkah on the eighth day of Succot, presumably without kavana, (remembering that ideally there are only 7 days) does not receive lashes for גְּזֻפָּה, which implies that he has not transgressed the prohibition, perhaps because mitsvot do require kavana.

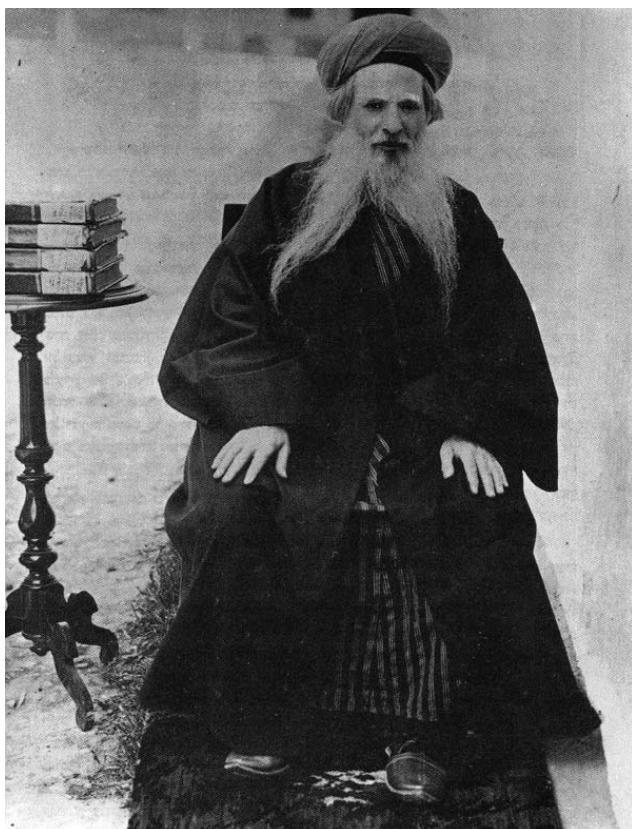
This contradiction is resolved because while a mitsva does not require a kavana at the time when it is supposed to be done, once that time has expired, kavana is required in order to transgress בְּתוֹסִיף. Rav JB Soloveitchik explains this distinction.² During the time that the mitsva is supposed to be fulfilled, for example the first seven days of Succot, a person would be altering an existing mitsva by adding to it, and a person does not require kavana to

The nature and definition of bal tosif are extremely difficult to determine.

transgress in such a way. Once the correct time has passed the mitsva no longer applies, in a sense it no longer exists. The person is in effect creating a new mitsva and this requires kavana.³ This distinction between a new mitsva and an addition to an existing mitsva runs through the whole question of **בְּלַתָּסִיף**.⁴

Repetition of a mitsva

We can find an answer to our second question in masekhet Rosh Hashana 16a, where the Gemara discusses the rationale behind blowing two sets of shofar blasts, one standing and one sitting. Rav Yitshak's famous explanation is **כדי לערבות השטן**, 'to confuse the Satan'. Without entering into the discussion about what this perplexing answer means, many Rishonim pose an interesting question. They ask that if the Torah mandates a certain number of shofar blasts, and that the ideal is 'tekiyot al seder haberakhot', namely blowing the shofar during the recitation of Malkhiyot, Zikhronot and Shofrot, surely adding a set of blasts before Mussaf is **בְּלַתָּסִיף**? Tosafot's hiddush (Rosh Hashana 16b) is that when a person performs a mitsva twice, this is not a transgression of **בְּלַתָּסִיף**. The Rashba while acknowledging that Tosafot is correct, states that there is no necessity to use this hiddush in our case.⁵ Instead, he gives the simple answer that once the Rabbanan have seen fit to add a takana or establish a minhag, there is no longer a transgression of **בְּלַתָּסִיף**. He finishes his answer by adding that:



Sdei Hemed

*The same is true with **בְּלַתָּגְרָע** [i.e. it does not apply when the Rabbanan make a takana]: for example when Rosh Hashana falls on Shabbat, even though the Torah tells us to blow the shofar, the Rabbanan established not to blow **when this ruling is necessary** [to prevent people carrying the shofar on Shabbat].⁶*

Why did Tosafot not give the Rashba's simple answer that when the Rabbanan institute a takana or minhag the prohibition of **בְּלַתָּסִיף** does not apply?

R. Hayim Brisker answers that while the Hahamim may indeed make takanot without fear of **בְּלַתָּסִיף**, the same may not apply to mere minhagim, such as blowing extra blasts of the shofar.⁷ While the Rashba holds that minhagim established by Hazal do not engage **בְּלַתָּסִיף**, Tosafot disagrees, and therefore resorts to a different solution. Nonetheless, we can conclude definitively that according to Tosafot, repetition of a mitsva does not constitute **בְּלַתָּסִיף**.

Adding to an existing mitsva

We have now reached our third question: does adding to an existing mitzvah constitute **בְּלַתָּסִיף**? Returning to the mitsva of the four minim; does **בְּלַתָּסִיף** only apply when we add a fifth min, or when we shake additional numbers of the four minim. That is, only when we shake the four minim plus a cucumber, or when we shake two lulavim and the three other correct minim? Tosafot says that this question is identical to the question of whether we infringe **בְּלַתָּסִיף** by carrying out a mitsva numerous times and in both cases he states that no such prohibition applies.⁸ The Rambam, who agrees with Tosafot that the repetition of a mitsva is not **בְּלַתָּסִיף**, disagrees regarding shaking two lulavim at the same time, which he does consider **בְּלַתָּסִיף**.

This helps us to answer an important question on the Rashba. If there is a mitsva to eat a **כְּיִתְה** of matsa at the seder, how is one able to eat any more than this amount? Surely this would infringe **בְּלַתָּסִיף**? The answer we can give is that when a mitsva is repeated numerous times, the Rishonim all agree that this does not infringe upon **בְּלַתָּסִיף**.

The Minhat Hinukh gives an additional and ingenious answer to this question.⁹ When the Torah refers to the mitsvot of shofar, the four minin and matsa, it defines the time for their fulfilment (as 'yom', 'yom' and 'erev' respectively).¹⁰ This means that the mitsva can be carried out numerous times within the time that the Torah allocates for the mitsva, whether day or night. Whichever answer is employed, we can see that there is no problem with eating more than a **כְּיִתְה** of matsa on Seder night.

בְּתַגְרוּעַ

Turning to our fourth question, the Rashba states that בְּתַגְרוּעַ does not apply when the Rabbis have given express instructions to refrain from carrying out a mitsva, for example when they made a takana not to blow the shofar on Shabbat. The Turei Even and others are astonished at this comment as it implies that when someone fails to carry out a positive mitsva without the permission of the Rabbis, they have transgressed בְּתַגְרוּעַ!¹¹ Whoever thought that if they omitted to shake the lulav, sit in the sukka or wear tefillin, they not only failed to fulfil a positive mitsva but they also transgressed a negative mitsva. Moreover, it would seem that according to Rav Yehudah who holds that “lav shein bo ma’aseh” (transgressing a negative commandment without doing an action) receives lashes, you would receive lashes should there be a Bet Din.¹² However, given that there is no mention of such consequences anywhere in Shas, we need to delve a little deeper into the inference of the Turei Even.

Whoever thought that if they omitted to shake the lulav, sit in the sukka or wear tefillin, they not only failed to fulfil a positive mitsva but they also transgressed a negative mitsva.

To understand the Rashba, we need to discuss the exact parameters of בְּתַגְרוּעַ. If we assume that it is an exact mirror image of בְּתוֹסִיף, then we would conclude that were we to wave three minim on Succot or include three parashiot in tefillin, this would be a violation of בְּתַגְרוּעַ. In fact the Sifri in Parashat Re’eh takes this position.¹³ However, we can argue with this definition, after all, while tefillin with five parashiot contain the requisite four paragraphs, tefillin with three have no status whatsoever. We could also argue that בְּתַגְרוּעַ is not the absence of a mitsva, but deliberately carrying out a mitsva in a deficient way. The Bet HaLevi takes this approach when discussing arba minim. He states that when you can take all four species but choose not to, you transgress בְּתַגְרוּעַ. Along similar lines, Rav Lamm and Rav Shachter state that were one to wear tsitsit without tekhelet, one would be transgressing בְּתַגְרוּעַ.¹⁴

Either view is difficult to reconcile with the Rashba, because they both view בְּתַגְרוּעַ as subtracting from a mitsva to leave it incomplete. They do not consider simply failing to carry out a mitsva to involve such a transgression. However, there are two ways to understand the Rashba.

The first is given by the Sdei Hemed.¹⁵ R Hayim Hizkiya HaLevi Medini states that the Rashba was right to say that a person who fails to fulfil a positive mitsva is also guilty of בְּתַגְרוּעַ. However, the reason that such a person does not receive lashes is because בְּתַגְרוּעַ is an example of a שְׁכָלּוֹת לֵאוֹ; where there are many prohibitions that emerge from one source. In such a case, there are no lashes for any of them.¹⁶ The example that the Gemara brings is the pasuk ‘do not eat upon the blood’ (Vayikra 19:26) from which it derives numerous including the prohibition of eating from a live animal and the rule that members of a Sanhedrin may not eat when passing a death sentence. In our case, the reason there are no lashes for not fulfilling a positive mitsva is that this rule applies to all 248 positive mitsvot!

The second answer is based upon a Ritva in Kiddushin.¹⁷ The Ritva says that the purpose of certain negative mitsvot is to strengthen the corresponding positive mitsva. For example, the mitsva of שילוח הַקָּנָן (Devarim 22:6-7) has both a positive and negative aspect, the negative serving to strengthen the positive. Here also, we could argue that בְּתַגְרוּעַ merely backs up the importance of the positive mitsva and that therefore there would be no malkot (lashes) for failing to fulfil a positive mitsva.

However, both of these answers assume that the Turei Even is correct in his interpretation of the Rashba, and seek to answer the lack of malkot. There is an alternative approach to be reached by looking carefully at the exact words of the Rashba. The Rashba says that when the hahamim do not have a good reason for abrogating a mitsva they violate בְּתַגְרוּעַ. Consequently, the Rashba is referring not to an individual but to the Bet Din. If the Bet Din cancels a mitsva without good reason they are guilty of בְּתַגְרוּעַ. In effect, the Rashba was saying that in addition to the personal prohibition of בְּתוֹסִיף and בְּתַגְרוּעַ, there is an extra prohibition on the Bet Din. According to this approach, the question regarding lashes disappears because the Rashba never meant that failing to do a positive mitsva is an infringement of בְּתַגְרוּעַ.¹⁸

The need for two pasukim

Our fifth question asks why there are two pasukim dealing with בְּתוֹסִיף, one in Vaet’hanan and the other in Re’eh. The pasuk quoted at the beginning of this article quoted from Re’eh follows this similar pasuk from Vaet’hanan:

Do not add [tosiful] anything to the thing which I have commanded you and do not exclude [tigre’u] anything from it, to keep the mitsvot of the Lord which I have commanded you.¹⁹

On close inspection, whilst there are many similarities between the two verses, the crucial difference is that the pasuk in Vaet’hanan is expressed in the plural whilst the pasuk in Re’eh is in the singular. The Aharonim argue over

which pasuk deals with the individual and which deals with Bet Din. Logically, one would expect the pasuk in the singular to be addressed towards individuals and the plural directed towards Bet Din, as the Vilna Gaon argues.²⁰ The Netsiv takes the opposite view, however.²¹ The plural language of Vaet'hanan is an appeal to each and every person to stay true to the words of the Torah, while the singular used in Re'eh warns the Bet Din to leave the Torah untouched in its perfection.

As R. Asher Weiss points out, the Netsiv's view in fact follows the Gra's normal opinion that the plural refers to individuals and the singular is always to the Bet Din, from which the Gaon has deviated on this occasion.²² I would like to argue that the Gaon abandons his normal approach for an important reason derived from the words of the pasuk. I suggest that the Vilna Gaon understands from the word "la'asot" that the pasuk in Re'eh deals with the performance of a mitsva, *מעשה המצווה* and that "lishmor" in Vaet'hanan refers to the Bet Din's safekeeping of mitsvot and commands them to not add or subtract, and that causes him to disregard his normal rule about the singular and plural. Further proof comes from the Sifri, which used the verse in Re'eh (expressed in the singular) as a basis for listing the prohibitions referring to individuals such as not to put on tefillin with five compartments, and shake five minim on Succot. Whichever way round the pasukim work, we have seen the need for two pasukim, one to address individuals and the other the Bet Din.²³

Additions and new mitsvot

Our sixth question concerns the distinction between adding to existing mitsvot and creating new ones. In Hilhot Mamrim, the Rambam and the Ra'avad have a fundamental disagreement as to the boundaries of *תוסיף בָּל* in the context of Bet Din.²⁴ The Rambam writes that were the Rabbis to say that cooking chicken in milk was forbidden Biblically, they would be in violation of *Tosifat B'l* as they would be in effect adding a law to the Torah. As we know, the Biblical prohibition only applies to meat, and not to chicken. In order for the Rabbanan to avoid this, they need to make clear that their addition is not a Biblical law, but rather a safeguard. The Ra'avad takes issue with this Rambam and writes that whenever the Rabbanan make any form of addition, *בָּל Tosifat B'l* does not apply. This is true whether the addition is permanent or not, and whether formulated as a Torah law or not. This, the Ra'avad argues, is the exact point of an Asmakhta; to root a Rabbinic law in the text of the Torah.

Based upon the requirement of the Rambam to distinguish between Torah and Rabbinic laws, a minhag has emerged to delete the words 'mitsvat aseh shel Sefirat Ha'omer from the leshem yihud of Sefirat Ha'omer. Given that most authorities say that Sefirat Ha'omer today is only a Rabbinic commandment, we should not refer to it as a

Torah commandment, otherwise we may transgress *Tosifat B'l*. To address this problem, the Sanz-Klausenberger Rebbe changed the words of the leshem yihud from 'lekayem mitsvat aseh shel Sefirat Ha'omer **kemo shekatuv baTorah'** to read 'lekayem mitsvat Sefirat Ha'omer **vekatuv baTorah**'; not 'as written in the Torah' and therefore the reason we do it, but rather '**and** as written in the Torah' i.e. in addition to the Rabbinic command which is operative today.²⁵

A story of Rav Hayim Soloveitchik gives a further example of the lengths to which one must go to show the difference between Torah laws, Rabbinic laws and customs.²⁶ Rav Hayim holds that according to the Rambam, one who treats Rabbinic law on par with Torah law would be guilty of *בָּל Tosifat B'l*. Thus, Rav Hayim told an assembly of Rabbanim who were addressing the question of permitting kitniyot on Pesah during a year of famine that it is *forbidden* to rule strictly on this matter. (Avoiding kitniyot in such circumstances would impose a great hardship but would not constitute a danger to life.) He argued that if we were to be as strict with the Ashkenazic custom to refrain from consuming kitniyot on Pesah as we are with avoiding hamets, we would be guilty of violating *בָּל Tosifat B'l*.

This discussion touches on a major dispute between the Rambam and the Ramban. Rav JB Soloveitchik states that there is a question as to whether *בָּל Tosifat B'l* applies when we add new parts to an existing mitsva or when we establish an entirely new mitsva.²⁷ The Ramban writes in Vaet'hanan that:

When a person establishes a new mitsva, such as a festival, they have transgressed the prohibition.

In contrast to the Ramban, R Soloveitchik derives from the Rambam in Hilhot Mamrim that only when the Bet Din, as opposed to an individual, institutes a new mitsva is *Tosifat B'l* relevant.

We can conclude, therefore, that there are three approaches to understanding the prohibition of instituting new mitsvot. The Ra'avad says that Bet Din or an individual can never transgress *בָּל* when adding a new mitsva. The Rambam says that only Bet Din can transgress when adding a new mitsva and the Ramban says that both an individual and Bet Din transgress when adding new mitsvot.

New festivals

We now come to our seventh question: While the Rabbanan have the power to enact negative commandments as an extension to Torah mitsvot, they do not have the power to simply enact new festivals and the like. Indeed, the Ramban takes King Jeroboam to task for adding a new yom tov.²⁸ The Minhat Hinukh states categorically that the Rabbanan are allowed to add new mitsvot, including new hagim, but the Ramban should take issue with the addition of Purim and Hannuka to the calendar, but does not.²⁹

The Gemara states that the Hahamim were reluctant to institute Purim until they saw by Ru'ah Hakodesh that Megillat Ester was destined to be part of Tanakh.³⁰ In the time of Hanukah, however, there was no Ruah Hakodesh as the period of the Nevim had ended. The Ramban might therefore be content with the creation of Purim, but he should still object to the institution of Hanukah. One answer comes from the commentary of the Ramban himself in Bamidbar where he states that there is a hint to Hanukah in the Torah.³¹

Another answer comes when we look more closely at the language used in the Gemara. The Ramban says at the end of part eight of his comments to the Rambam's first shoresh in Sefer Hamitsvot that the problem of Purim was not the yom tov itself, but rather the addition to the Tanakh of Megilla Ester.³² Since such a problem did not exist with Hanukah as there was no additional book added to the canon, the Gemara never questions the institution of Hanukah. This leads us to the conclusion, without going into the exact parameters allowing a new yom tov, that the institution of hagim such as Yom Ha'atsmaut and Yom Yerushalaim need not be problematic.

Does בְּתוֹסִיף nullify an entire mitsva?

The last question is whether בְּתוֹסִיף nullifies the entire mitsva, or whether the action performed still counts. Rav Soloveitchik states that there is such a distinction and he derives it from Tosafot in Sukkah.³³ There is an argument regarding whether the four minim require tying together or whether they can be held loosely. While we hold that there is no requirement, we nonetheless tie the minim together as a form of hiddur mitsva. Rav Soloveitchik infers that according to the Rabbanan who say we do not need to tie the minim together, if we were to add something then we would transgress בְּתוֹסִיף but would still have fulfilled the mitsva. This is because according to the Rabbanan, קָאֵי דְחַי לְחוֹדִיה קָאֵי לְחוֹדִיה, each of the species stands in its own right. Therefore, if we were to add an extra item, the מצוה של חפץ (the mitsva item) is not affected, and one will still have completed the mitsva, albeit having simultaneously transgressed בְּתוֹסִיף. If however the lulav requires tying together, the מצוה של חפץ would be affected with the addition of an extra species and the act would be nullified.

Based upon this hakira (distinction) between the object of the mitsva (חפץ) and the person themselves (גברא), we can make an important statement regarding all cases of בְּתוֹסִיף. As Rav Soloveitchik derives from the Rambam, when a person adds something to the object, that object becomes pasul. For example, if tefillin were to have five batim, this would necessarily cause the tefillin to be pasul. If a person merely does an act incorrectly, they must repeat the act properly but the object of the act is still inherently

kosher for use. If a person was to shake a lulav, etrog, hadassim, aravot and an orange, he must repeat his act, but he has not caused the four correct species to be disqualified from future use.

Implications

No discussion of any of the mitsvot is complete without an understanding of their corresponding hashkafic principles. Ironically, given that this is one of the most difficult mitsvot to define and understand, the reasons for it are comparatively simple. Rabeinu Bahei says that the prohibition is there to prevent a person thinking that they will add to the Torah and thereby become holier.³⁴ The Torah is complete and perfect and any attempt to add something to it is inherently flawed act. Along similar lines, the Sefer Hahinukh says that should a person add or delete a mitsva, he shows a lack of faith in the completeness of the Torah.³⁵

For us as a Modern Orthodox community, this should have a familiar feel. Rabbi Lamm, in his seminal essay 'Some Comments on Centrist Orthodoxy', states that one of the unique distinguishing principles of Modern Orthodoxy is moderation.³⁶ This has clear links to the principles we have discussed, and certainly to the ban on adding mitsvot with the strength of a Torah prohibition. We hear many stories of people who have gone to extremes of religious practice. There are undoubtedly some circumstances when this is the responsible and right thing to do, but often, we need to be clear ourselves, as a community, what is Torah law, what is Rabbinic, what is minhag and what is merely convention. The Netsiv in his commentary to Shir HaShirim adds that while the prohibition of בְּתוֹסִיף makes logical sense, the prohibition of בְּתוֹסִיף is counter-intuitive; a person should be free to add personal restrictions.³⁷ His fascinating answer is that such a person will get so carried away in his service of God that he will forget the apparently more mundane mitsvot ben adam lehavero. Our ultimate goal is to fulfil both mitsvot ben adam lemakom and lehaveiro and in doing so to achieve the Rambam's middle way, neither adding nor subtracting.

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1. Minhat Hinukh, Mitsva 454, Comment 2
2. R. JB Soloveitchik, Reshimot Shiurim – Masekhet Sukka, 144
3. The commandment to live in the suCCA applies for only seven days. To sit in the suCCA on the eighth day with intent to fulfil the mitsva transgresses **בְּלִתְוָסִיף** (Orakh Hayim 666:1)
4. Indeed, the Rambam explains that the double appearance of this law in the Torah is required to cover these two different cases. See below.
5. Hidushei HaRashba, Rosh Hashana.
6. It is worth noting here that while the Bavli says the prohibition to blow on Shabbat Rosh Hashana is Rabbinic (Rosh Hashana 29b), the Yerushalmi says that it is a Biblical prohibition (Yerushalmi Rosh Hashana 4:1)
7. Hidushei HaGra, Siman 48. Devarim 17:11 is the source of the power of the Rabbanan to enact laws.
8. Tosafot, Rosh Hashana, 28b
9. Minhat Hinukh, Mitsva 454, Comment 4
10. Bamidbar 29.1 Vayikra 23:40; Shemot 12:18
11. Turei Even Rosh Hashana 16b
12. Makkot 4b
13. Sifri Re'eh 82
14. *Tekhelet: The Renaissance of a Mitzvah* A Cohen (ed), (New York 1996)
15. Sdei Hemed, 97:30
16. Sanhedrin 63a
17. Hidushei HaRitva Kiddushin 34a
18. In its discussion in Rosh Hashana 16a, the Gemara asks a fascinating question: If a person has no choice, is it better to transgress **בְּלִתְוָסִיף** or **בְּלִתְגָּרָע**? The case involves blood which requires four sprinklings on the mizbe'ah which has become mixed up with blood that required only one sprinkling. R. Eliezer holds that it should have four sprinklings, so as to avoid **בְּלִתְוָסִיף** whereas R. Yehoshua holds that it should have one sprinkling so as to avoid **בְּלִתְגָּרָע**. R. Yehoshua says that it is better to passively transgress **בְּלִתְגָּרָע** by not doing something, than to actively transgress **בְּלִתְוָסִיף** by doing something.
19. Devarim 4:2
20. Aderet Eliyahu, Parashat Re'eh
21. R. Naftali Tsevi Berlin, Ha'emek davar on Devarim 4:2
22. R. Asher Weiss Minhat Asher, Siman 6.
23. Ibid. R. Weiss states that the Rambam requires the 2 pasukim to teach in Vaet'hanan that you must not add to an existing mitsva and in Re'eh, to teach that you must not invent a new mitsva.
24. Rambam, Mishnehh Torah, Hilhot Mamrim, 2:9
25. Divrei Yatsiv, Orah Hayim, vol. 2, 214:4
26. Cited by Rav Yosef Dov Soloveitchik, quoted in R Hershel Schachter Nefesh HaRav 177-178
27. R. JB Soloveitchik, Reshimot Shiurim – Massekhet Sukkah, 144
28. Malakhim Alef, 12:32
29. Minhat Hinukh, Mitsva 454, Comment 2
30. Megilla 14a, T.Y. Megilla 1:7
31. Ramban to Bamidbar 8:2
32. Ramban' comments to Sefer HaMitsvot shel HaRambam, Shoresh Alef
33. R. JB Soloveitchik, Reshimot Shiurim – Massekhet Sukkah, 137
34. Rabenu Bahei, Devarim 4.2
35. Sefer Hahinukh, Mitsva 454
36. Rabbi Norman Lamm, 'Some Comments on Centrist Orthodoxy', Tradition 22:3, 1986
37. R. Naftali Tsevi Yehuda Berlin, "Rina Shel Torah al Shir HaShirim"

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Angels, Aramaic and the language of prayer

MEIR CHAIM SHELTON

Prayer is a personal communication between man and God, which must come from the heart. It therefore seems odd that prayer is said to be best expressed in Hebrew. What difference should it make what language one prays in? Maimonides explains that at the time Ezra instituted the order of prayer he foresaw a time when Jews would be scattered over wide areas and kingdoms. Ezra formulated the prayers in pure Hebrew so that all Israelites might pray in union.

It is clear, then, that Hebrew has a special status as the language of prayer, but what is the status of Aramaic? Has it the same standing as other non-Hebrew languages? Can one pray in Aramaic? Can one pray in other languages? Are there exceptions to this? If Hebrew was the preferred language, why were some prayers instituted in Aramaic?

Hebrew has a special status as the language of prayer, but what is the status of Aramaic? Has it the same standing as other non-Hebrew languages? Can one pray in Aramaic? Can one pray in other languages?

Aramaic as the Jewish vernacular

A good starting point for this discussion would be to indicate just how strong Aramaic was historically as a Jewish vernacular language, much more so than even Hebrew and Greek. Fitzmyer finds the evidence for this assumption in the Qumran material discovered in 1947. Many of these articles are written in Aramaic, including the Genesis Apocryphon, the Prayer of Nabonidus and Pseudo Daniel. One pertinent document discovered in 1961, in the so-called Cave of Letters of the Wadi Habra, is the receipt given by Babatha to a Jewish guardian of her orphan son. It is dated to 19 August 132 CE and

acknowledges the payment of six denarii for the boy's food and clothing. The ten lines of Greek are followed by a three-line summary in Aramaic. This seems to point to Aramaic as a spoken language of the period, although Greek was also spoken. Conversely, there is little evidence for colloquial Hebrew. The sole discovery in the Qumran caves is the inscription of the Bene Hezir tomb. We may be able to draw an analogy with early modern England where, following the Norman Conquest, Latin was the language of law and liturgy, French the language of literature and the court, and English the language of the common people.

Praying in Aramaic

With this in mind we can understand why certain liturgical pieces were composed in Aramaic rather than Hebrew in the period following the completion of the Talmud in approximately 500 CE. Yekum Purkan, a prayer recited on Shabbat is mentioned in Mahzor Vitri. This was in the vernacular of the time and it is a prayer intended for the congregation to understand. The underlying point of Yekum Purkan is to pray for the health and happiness of the heads of the Babylonian Yeshivot, the rabbis and students who devote their lives to Torah.

This leads us to the question whether one may use a non-Hebrew language in liturgy, and if so, to what extent. The Mishna in Sota 7:1-2 deals with two categories: the first concerns prayers that one can recite in any language, such as the Shema and Grace after meals. The second concerns passages such as the Priestly Blessing and the declaration on giving first fruits that can only be said in Hebrew. The Talmud at first suggests that prayer from the heart does not need any special form; it can be said in any language as it is a personal request for Divine Mercy.

Ministering angels

The Talmud, however, is unhappy with this view; as Rav Yehuda (a Tanna) states, 'A person should never request his needs from God in Aramaic as the ministering angels do

not pay attention to them as they do not understand the language.' Rav Yehuda therefore excludes Aramaic from those languages which may be used for prayer. How then can we account for prayers, such as Yekum Purkan, that are in Aramaic. Furthermore, why does prayer not reach God directly? Why it is mediated through the ministering angels?

The Talmud differentiates between the prayers of an individual and those of a congregation. Congregational prayers go direct to God without the assistance of ministering angels. God understands every language, including Aramaic. But when one prays in private one needs the assistance of the ministering angels and since they do not understand Aramaic one cannot pray with it. And sure enough we do not say Yekum Purkan when prayer alone.

The Talmud in Shabbat extrapolates from this conclusion and states that when one visits the sick one can pray in any language, even Aramaic, as the Divine Presence is present, and therefore does not require the ministering angels to relay the prayers to God.

The view of the Yerushalmi

The Talmud Yerushalmi disagrees with the Bavli on this point. The Bavli distinguishes between praying with a minyan and praying on ones own. The Yerushalmi, by contrast simply states that one can pray in any language, whether one is alone or with the congregation. Why does the Yerushalmi take this different view?

Greenfield has suggested that this leniency is due to the widespread use of Aramaic in Palestine. After the defeat of Bar Kohba, the focus of Jewish life shifted from Judea, where Hebrew was the vernacular, to the Galilee, where Aramaic was spoken. It is therefore possible that the Yerushalmi allowed one to pray in Aramaic, as it was such a well-used language.

This is a problematic suggestion, for at least two reasons. First, R. Yehudah haNasi was based in Palestine but was strong defender of Hebrew, so there seems to be little basis for asserting that the Palestinian Jewish community was more sympathetic to Aramaic than the Babylonian. Secondly, and perhaps more importantly, according to the Zohar on Lekh Lekha, angels do know Aramaic, but dislike it. This answers the point raised but not answered by Tosafot, who comment: 'why can they not understand Aramaic? surely they know the thoughts of every person?' According to the Zohar, it is not that angels do not know Aramaic, rather they do not like it. If the Yerushalmi held like the Bavli, that the angels either do not know or do not like Aramaic, then it too would ban prayer in that language.. It must be that the Yerushalmi did not hold like the Bavli and considers that angels understand Aramaic and do not disdain it.

Other languages

Do the restrictions on praying in Aramaic apply to other languages, because angels will not understand them either? Should private prayer therefore be in Hebrew alone? Rabbi Yonah Gerondi takes this view. He is therefore puzzled why women pray at home in their own language if the angels cannot understand them. This question is resolved by Tosafot who reason that when an individual recites prayers that are usually said by the congregation, it is considered a type of congregational prayer and it can be said in any language. When Rav Yehuda asserts that one should not pray for ones needs in Aramaic, he is speaking of spontaneous and personal prayer.

The Rosh, on the other hand holds that Rav Yehuda's restriction on the use of non-Hebrew refers only to Aramaic, and not any other language. In this he follows the view the angels understand Aramaic, and other languages for that matter, they simply dislike Aramaic. The Rosh suggests that the angels find Aramaic a repulsive language. Although it is the closest to Hebrew it is in fact a perversion of the language and they therefore reject it. The angles have no antipathy toward other languages, and therefore happily pass on prayers which are not expressed in Hebrew, as long as they are not in Aramaic.

The role of angels

The whole premise of our analysis is that angels play a crucial role in receiving and delivering prayer to God. Our explanations assume that angels cannot pass on prayers in a language they either do not like or do not understand. But why should this be the case? Does a postman need to understand or approve of the contents of a letter in order to deliver it to the correct address? Assigning a role to angels in deciding which prayers to pass on seems to come close to prayer to angels themselves, and we know that is forbidden, as Abraham Kon writes: 'We believe that there is no need for anyone to intercede, or mediate, between a suppliant and the Almighty.'

Kon has by no means invented such an idea; Nahmanides quoted by the Ein Yaakov on Shabbat 12b introduces the same idea. Maimonides states in the fifth of his Thirteen Principles of Faith that 'it is the Blessed One Whom it is proper to worship...But one must not worship anything of a lower level of existence, such as the angels, the stars... Only to Him shall one's thoughts be directed, and all besides Him should be ignored.' It is clear that Ramban believes that worshiping angels is a form of idolatry, but the Talmud appears to accept that on some occasions one prays to God with the assistance of angels.

Angles and the graves of tsaddikim

There is perhaps a link between praying to angels and the visiting the graves of the righteous to intercede on our behalf. When the spies went to survey the Land of Israel, as the verse states, ‘They went to the south, and he came to Hebron’. The Talmud in Sotah suggests that the verse should have read, ‘and they came to Hebron’ in the third person plural, not in third person singular. Rava explains that this teaches us that Caleb separated himself from the other spies, going to Hebron to supplicate at the graves of the Patriarchs. He asked that they should pray for him, to save him from the wicked counsel of the other spies.

The question that arises from this Gemara is how could Caleb pray to the dead? As Rambam rules, is this not a form of idolatry? Rabbi Yaakov Moellin explains that we pray that God should grant us mercy through the merit of the saints who lie in the dust.

This approach can help us to understand the basis for prayers that seem to ask angels for their help. For example, there is much controversy as to whether the prayer Malakei Rahamim should be recited in the Selihot, or not. The prayer states, ‘Angels of mercy, usher in (our petition for) mercy before the Lord of mercy. angels of prayer, cause our prayers to be heard before Him who hears prayer...’

The prayer asks the Angels to intercede on our behalf and therefore many authorities, including the Maharal, removed it from the Selihot service. Those who advocate its inclusion, such as the Hatam Sofer explain that we are not praying directly to the angels; rather we are asking them to help convey our prayers through to the ‘Throne of Glory’.

Angels as allegory

If we follow the consensus angels do have a role in prayer, however great or limited, there is still room to think about how this role is played out. Perhaps we can view the role of angels in prayer in an allegorical or metaphorical sense as a channel, or medium, by which prayer is communicated to God? For most people, the personification of an abstract idea in human or semi-human form facilitates the understanding of difficult notions; indeed, the habit of so doing is ingrained in human cultures. The notion of angels helps us to understand how our prayers reach God Himself, and that is its true purpose and benefit.

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An angel appears to Gideon

The Rambam's view of learning from wicked teachers

JOSEPH SUEKE

The transmission of knowledge from teacher to student is central to Judaism. It forms the backbone connecting us to our ancestors through the generations, all the way to the Divine revelation at Sinai.¹ Naturally, we would expect our teachers to have both a high standard of learning and moral conduct, but what happens where a teacher is a fine scholar, but happens to be wicked in behaviour and heretical in thought? Can we separate the teaching from the teacher and learn from such people, or do we insist on taking as teachers only those whose 'inside is like their outside' in purity?²

We would expect our teachers to have both a high standard of learning and moral conduct, but what happens where a teacher is a fine scholar, but happens to be wicked in behaviour and heretical in thought?

To investigate this issue we will look at a passage in Tractate Hagiga, the earliest source dealing explicitly with our subject, before moving to the Rambam and his ruling, which seems to contradict the passage in Hagiga. Finally, we will look at four interpretations of the Rambam, ranging from medieval to modern day Jewish thinkers, focusing on how the ruling of the Rambam aligns with his own actions in this area.

We will see that our question has implications for studying secular subjects as well as Torah, and is relevant to issues such as learning directly from a wicked scholar versus merely reading his books, and different people's abilities to resist negative influences.

The corrupt teacher and his loyal disciple

Our first source is from Tractate Hagiga, which charts the tragic downfall of the great sage Elisha ben Abuya, and the continued loyalty of his student Rabbi Meir.³

Elisha ben Abuya was one of the four sages of the Talmud who entered a spiritual state known as the 'Pardes'.⁴ Each of the sages met a different fate: Ben Azzai glanced at the Divine Presence and died; Ben Zoma looked and became mentally unstable; Rabbi Akiva fared better than his colleagues and emerged unscathed; and finally, based on remarks made in the Pardes, Elisha ben Abuya was accused of heresy.⁵ As a result, his merits were wiped out and a Heavenly voice decreed that even the gates of repentance, normally always open, were closed before him.

Elisha ben Abuya felt that all was lost and so turned to a life of sin. One example of his behaviour is when he solicited an immoral woman on Shabbat itself. Somewhat shocked the woman asked, 'Are you not [the great] Elisha ben Abuya?' Brushing away the question he plucked a radish from the ground, a forbidden activity on Shabbat, to which the woman responded: 'Aher hu', 'you must be someone else'. The unfortunate name 'Aher' stuck, and this was how Elisha ben Abuya was referred to ever after.

Despite all this, Elisha ben Abuya's student Rabbi Meir remained loyal. Even as his teacher violated Shabbat, by riding an animal on the holy day, Rabbi Meir followed him, eager to learn some words of Torah:

*The Rabbis taught: An incident occurred with Aher who was riding on a horse on Shabbat, and Rabbi Meir was following to learn Torah from his mouth. [Aher] said to [Rabbi Meir]: 'Meir, turn back, for I have already calculated through the footsteps of my horse that the Shabbat boundary ends here'. [Rabbi Meir] said to [Aher]: 'You too, go back [to your previous ways]!'*⁶

Rabbi Meir questioned

As far as Rabbi Meir was concerned, the fact that his teacher had turned to wicked ways was no reason to stop learning from him. He still had much wisdom to impart and his bad actions would not stand in the way of that. However, Rabbi Meir's broad-mindedness is challenged by a teaching of Rabbi Yohanan:

How could Rabbi Meir learn from the mouth of Aher?

*Surely Rabbi Yohanan said: 'what is [the meaning of that which is] written: "The lips of the Kohen [i.e. a teacher] shall guard knowledge and they shall seek learning from his mouth, for he is an angel of the Lord of Hosts"?'*⁷

*[From here we derive:] if the teacher is like an angel of the Lord of Hosts, seek learning from his mouth; if not, do not seek learning from his mouth.*⁸

In other words, this verse from Malakhi teaches that we can only learn from people of angelic quality. This would certainly rule out Elisha ben Abuya and so we are left with the question: how could Rabbi Meir learn from him? Rabbi Meir answers with his own verse:

*Reish Lakish said: Rabbi Meir found a verse which he expounded. Incline your ear and listen to the words of the wise, but set your heart to My mind.⁹ [The verse] does not say 'to their mind' but 'to My mind'.*¹⁰

Mishlei instructs us to focus on the teaching, not on the teacher. We can learn even from the wicked scholar.

According to Rabbi Meir this verse from Mishlei instructs us to focus on the teaching, not on the teacher. We can learn even from the wicked scholar, if he teaches 'the words of the wise' as long as the student focuses on 'My mind' - the mind of God – and ignores the heresy of the teacher.

Contradiction and resolution

We are now faced with a contradiction between Malakhi, which instructs us to choose only pure teachers, and Mishlei, which advises us to 'listen to the words of the wise', whatever their personal qualities may be. The Gemara Hagiga answers:

*[The verse in Mishlei is speaking about] a gadol, [the verse in Malakhi is speaking about] a katan.*¹¹

While the terms 'gadol' and 'katan' are open to interpretation, the most common explanation is that

they refer to an adult and a child. As Rabbeinu Hananel explains, an adult has intellectual independence; he is not easily influenced by the minds of others. The verse in Mishlei permits him to seek knowledge from all sources, even from the wicked. A child, on the other hand, is more easily influenced, and as a precaution the verse in Malakhi warns him to learn only from teachers with pure characters.¹²

Further credibility is given to Rabbi Meir's position by statements from other Sages:

In the West [Israel] they said: 'Rabbi Meir [found a date]. He ate the outside and threw away the stone.'

Rabba bar Bar Shila, an Amora, adds:

*Rabbi Meir found a pomegranate. He ate the inside and threw away the peel.*¹³

Both analogies, of the date and the pomegranate, highlight the process which Rabbi Meir used as he successfully extracted authentic Torah lessons from the words of Elisha ben Abuya while remaining free from any of his negative influences.¹⁴ Rabbi Meir's philosophy is also highlighted in the Mishna in Avot, taught by Rabbi Meir himself:

*Rabbi Meir used to say: 'Do not look at the jug, but at what it is inside it.'*¹⁵

This view explains Rabbi Meir's relationship with his teacher. It is precisely because Rabbi Meir could look past the corrupt surface of Elisha ben Abuya, and focus on the inner goodness of the lessons, that he continued to remain loyal.

To summarise: we have two contradictory verses. One in Mishlei prohibits learning from a wicked scholar; another in Malakhi permits it, providing the student is careful not to be negatively influenced. The contradiction is resolved by distinguishing between an adult, a gadol, and a child, a katan. Adults are permitted to learn from wicked scholars, children are not as they are more easily influenced.

Halakhic implications of Rabbi Meir's view

While the passage in Hagiga seems to come to a lenient conclusion, this is not reflected in the rulings of the Rishonim. For example, the Meiri explains that Rabbi Meir only learnt from his wicked teacher because of a lack of other teachers of the same calibre.¹⁶ Obviously, claims the Meiri, given the choice between a righteous and a wicked scholar, one should turn to the former.

The Rambam is even more extreme in his position as he entirely overlooks Rabbi Meir and the gadol-katan

distinction reached by the passage in *Hagiga*. In his *Mishneh Torah*, the Rambam rules:

And similarly a teacher who does not behave properly, even though a great scholar, we do not learn from until he returns to good ways, as the verse says: 'For he is an angel of the Lord of Hosts.' (*Malakhi* 2:7)¹⁷

Four approaches to understanding the Rambam

The Rambam's view is surprising and difficult to understand. Why does the Rambam ignore an explicit source in *Hagiga* which allows learning from the wicked in certain circumstances? This has puzzled many commentators, and we will look at four possible solutions. These broadly divide into two categories. The first insists that the Rambam's ruling should be accepted without modification, and the other three limit its scope in one way or another.

Why does the Rambam ignore an explicit source in *Hagiga* which allows learning from the wicked in certain circumstances?

First approach: An alternative reading of *Hagiga*

So far we have assumed that the gadol-katan distinction is universally held. However, according to both the *Shakh*, and the *Lehem Mishneh*, this is only a minority opinion.¹⁸ They hold that the mainstream view of Hazal follows Rabbi Yohanan who brought the verse from *Malakhi* requiring the teacher to be of impeccable conduct, and this is why the Rambam rules as he does.

This must be the case, argues the *Lehem Mishneh*, as Rabbi Yohanan's teaching is brought in other places in the *Talmud* without qualification.¹⁹ Furthermore, when the passage in *Hagiga* defends Rabbi Meir it says: 'Rabbi Meir found a verse which he expounded...' The emphasis here is on Rabbi Meir, as an individual, finding the verse, not the consensus of the *Bet Hamidrash*. If it were a broadly held view the answer would have been introduced with: 'there is another verse which can be expounded...' without attaching any particular Sage's name to it.

Problems with the first approach

The problem with the *Shakh* and the *Lehem Mishneh*'s approach is that it simply does not fit with our knowledge of the Rambam's own conduct. In the words of the *Hida*:

*Oh the pain that should be felt [at the explanation of the *Shakh*]! If the Rambam held [like this]... how could he himself [go against it]?²⁰*

The *Hida* provides examples of the Rambam contradicting what the *Shakh* and the *Lehem Mishneh* take to be his own ruling:

He learnt all non-Jewish scholarship and he writes in his letters that he learnt all idolatrous books.

A final proof against the *Lehem Mishneh* can be found in the Rambam's philosophical work, the *Moreh Nevukhim*. In the introduction, he writes a message to his disciple Yosef ben Yehuda and concludes with the following verse:

'Incline your ear and listen to the words of the wise, but set your heart to My mind' (*Mishlei* 22:17)²¹

This is exactly the same verse as that brought in *Hagiga*, in defence of Rabbi Meir learning from Elisha ben Abuya. This then proves beyond doubt, according to the *Hida*, that the Rambam relied on the gadol-katan distinction.²² The verse from *Mishlei* is the Rambam's justification for what he includes in the *Moreh Nevukhim*; namely, the many teachings of philosophers, such as Aristotle, who can hardly be described as being like 'an angel of the Lord'.²³

We will now turn our attention to the other three approaches; all of which seek to resolve the contradiction between the Rambam's ruling and his own personal behaviour. These are the views of the *Hida*, the *Divrei Yirmiyahu* and Rabbi Benjamin Blech.

Second approach: Strategic halakhic ruling

Just because something is halakhically permissible does not mean it should be publicised. This, claims the *Hida*, is the key to understanding why the Rambam could not write in his *Mishneh Torah* the leniency of a gadol learning from a wicked scholar. If he did, everybody would wrongly apply this leniency to themselves. Being a gadol, according to the *Hida*, is not merely reaching the age of adulthood, but a state of spiritual greatness. Only someone of this stature has the ability to learn from a wicked scholar and not be negatively influenced. In words which paint a picture of his generation, the *Hida* writes:

If (the Rambam) wrote in his work that for a gadol it is permitted, everybody would think of themselves as a gadol and permit [learning from a wicked scholar] for himself. He therefore missed it out. And the spirit of God spoke in him, and specifically in an orphaned generation like this where everyone thinks of themselves as a Rabbi and they are naked and not embarrassed. God have mercy!²⁴

This was therefore strategic halakhic decision-making at play. The Rambam showed an awareness of his followers and preferred to be overly stringent rather than potentially leading some people to sin.

In practice, it is only permitted for people on the level of Rabbi Meir, or the Rambam himself to learn from the wicked. As the Rivash writes:

One cannot bring a proof from the Rambam of blessed memory, [that learning from the wicked is permitted,] for he learnt beforehand the whole Torah in its entirety: Laws, Aggada, Tosefta, Sifra, Sifri and the entire Babylonian and Jerusalem Talmuds, as we see from the Mishneh Torah which he wrote.²⁵

And even the Rambam, continues the Rivash, was not immune from the negative influence of the non-Jewish works he read:

And yet, despite all of this, the Rabbi [the Rambam] did not escape from being lead slightly astray with some of the [philosophers'] arguments... For example when he explains the episode of the angels who appeared to Abraham our father, peace be on him, he says that this was in a prophetic vision [but did not take place in the literal sense]. The Ramban explicitly rejects this.²⁶

This second approach, that the Rambam really accepted the gadol-katan distinction but purposely left it out from the Mishneh Torah, was also considered by the Lehem Mishneh. He argues that the generation which the Rambam was addressing directly may not have been on the required spiritual level, but one day, perhaps in the Messianic era, they will be. The Lehem Mishneh argues that the Rambam would have taken this future generation into account and included the leniency that a gadol can learn from the wicked if that is what he really thought. It is clear that the Mishneh Torah is meant for all generations, even those in the Messianic era, as it includes many laws dealing with the Temple and the sacrifices that will one day be brought there.²⁷

Third approach: The influence of personality

Another approach is suggested by the Divrei Yirmiyahu, a commentary on the Rambam.²⁸ He claims that there is a distinction between learning directly from a person and reading his books. When learning directly, the building of a relationship and the close student-teacher connection is potentially dangerous. If the teacher is wicked, the student is in a vulnerable position to be influenced. That is why the Rambam rules in the Mishneh Torah that such teachers must be avoided. However, if we consider reading books, the danger is much less serious; the relationship, and thus the possibility of negative influence, is severely limited.

It was only indirectly, through their writings, that the Rambam allowed himself to learn from the wicked.

When learning directly, the building of a relationship and the close student-teacher connection is potentially dangerous. If the teacher is wicked, the student is in a vulnerable position to be influenced.

A couple of subtleties in the text of Hagiga support this view. The original question was: 'How could Rabbi Meir learn from the mouth of Aher?', with the emphasis on the word 'mouth'. In other words, how could he continue his direct, personal contact with his now wicked teacher? Furthermore, argues the Divrei Yirmiyahu, Rabbi Yohanan's verse from Malakhi, which the Rambam quotes in the Mishneh Torah is: 'and they shall seek Torah from his lips.' Again, the emphasis is on learning directly 'from the lips' of the teacher, and it is in this case that the restriction on learning only from the righteous is in place.

Fourth approach: Torah versus secular wisdom

The final answer we will look at draws a distinction between Torah studies and secular wisdom. That there is a form of wisdom outside Torah is clear from the following Midrash:

If someone tells you: 'there is wisdom amongst the nations', believe him... [if he tells you] 'there is Torah amongst the nations', do not believe him.²⁹

As well as secular studies, we also recognise secular scholars, as we know from the requirement to make a blessing on seeing one:

One who sees a non-Jewish scholar says 'Blessed is he who gave from His wisdom to His creatures.'³⁰

Rabbi Benjamin Blech in an article in *Tradition* uses this distinction to explain the Rambam.³¹ In the Mishneh Torah the Rambam writes his halakha in the chapter dealing with learning Torah. It is reasonable to assume, therefore, that it is specifically regarding Torah that the law of learning only from a righteous teacher applies. It is significant that the source of the restriction, the verse from Malakhi, speaks of 'and they shall seek Torah from his lips', refers specifically to Torah study.

The Rambam himself only learned secular matters from wicked scholars. For example, he draws upon Aristotle's scientific knowledge to describe the physical structure of the universe. Even in the area of theology when the Rambam uses Aristotle's proofs of God, for example, we can argue that these are based on secular wisdom – human logic – and not Torah.³² Here, the Rambam relies on the verse in Mishlei which says 'incline your ear and hear the words of the wise' which refers to secular wisdom, not Torah.

One difficulty with Rabbi Blech's approach is that nowhere in the passage in Hagiga do we see any distinction made between Torah and secular wisdom. In answer to this, Rabbi Blech explains that this may actually be implicit within the view of Rabbi Yohanan. Rabbi Yohanan, who quotes the verse in Malakhi requiring a teacher to be righteous, was surely aware of the verse in Mishlei – 'listen to the words of the wise' - which implies the opposite. How would he explain this verse?

The answer, suggests Rabbi Blech, is that the verse from Mishlei does not pose a difficulty to Rabbi Yohanan. That verse is speaking about secular wisdom, whereas his verse was specifically speaking about learning Torah.

Rabbi Blech's approach, that the Rambam held that learning Torah must be exclusively from the righteous,

is difficult to reconcile with another statement by the Rambam, famously quoted by Chief Rabbi, Dr J H Hertz, in his introduction to the Pentateuch and Haftorahs:

Jewish and non-Jewish commentators – ancient, medieval, and modern – have been freely drawn upon. 'Accept the true from whatever source it comes', is sound Rabbinic doctrine – even if it be from the pages of a devout Christian expositor or of an iconoclastic Bible scholar, Jewish or non-Jewish.³³

'Accept the true from whatever source it comes' is a quotation from the Rambam's Shemonah Perakim,³⁴ and refers to the Rambam's sources for his commentary on the Mishna, certainly Torah and not secular studies. Although Rabbi Blech must be aware of this source, it is unclear how he would deal with it.

The distinction between Torah and secular studies

Although Rabbi Blech himself does not provide much in the way of explanation, I would suggest two reasons why learning Torah must be from the righteous, yet when it comes to secular wisdom we are indifferent to the spiritual level of the teacher.



First, Torah represents the very essence of Divine wisdom. How can such holiness be sought from a corrupt teacher? The Bayit Hadash (Bah) highlights this distinction when he explains the difference between blessing a Torah scholar and a secular scholar. Over a Jewish scholar, the blessing is ‘He who bestowed (halak) to them from His wisdom’. For a secular scholar the blessing is ‘He who gave (natan) to them from His wisdom’. In the Bah’s own words:

Torah represents the very essence of Divine wisdom. How can such holiness be sought from a corrupt teacher?

He only gave the secular scholars human wisdom..., but He did not bestow on them the wisdom of Himself; that is the wisdom of Torah which is nothing but the Names of God.³⁵

Torah is more than just the wisdom of maths, logic and science which describe the way the world works. Undoubtedly, secular wisdom is effective at describing the outer shell of the universe, but it is limited. In the words of the Scottish philosopher David Hume

These ultimate springs and principles [of events in nature] are totally shut up from human curiosity and enquiry.³⁶

The Torah, however, looks at the inner mechanics of reality, the ‘ultimate springs and principles’. It comprises, on a mystical level, the Names of God Himself. It is therefore entirely inappropriate to turn to a wicked scholar, whose very being is a contradiction to the message of Torah, for guidance on these matters.

A second point to consider is the special student-teacher relationship that Torah generates. While secular studies, too, can bring about a closeness between student and teacher, it is particularly true in the case of Torah. According to tradition, the relationship is as intimate and integral as that between a father and son. In the Rambam’s words:

And not [only must a person teach Torah] to his son and grandson, but it is a commandment on every Sage in Israel to teach all students even though not his sons. As [the verse] says ‘and you shall teach your sons’. We have a tradition that ‘your sons’ refers to your students, because students are called sons.³⁷

In light of this particularly close relationship that Torah creates between teacher and student, it makes sense that specifically in the case of Torah the teacher must be like ‘an angel of the Lord’.

Summary

We have seen that in the Mishneh Torah the Rambam seems to ignore the apparent leniency found in Hagiga that allowed learning from a wicked teacher in certain circumstances, as Rabbi Meir learnt from his teacher Elisha ben Abuya. The Lehem Mishneh claims that the Rambam read the passage in Hagiga differently. The Hida rejects this interpretation as the Rambam himself learnt from any source available, as we see from his Moreh Nevukhim. The Hida therefore argues that although the Rambam allowed a gadol, in the sense of a great person, to learn from wicked teachers, he left this out of the Mishneh Torah as he was afraid that people who were not in this category would apply this leniency to themselves. The Divrei Yirmiyahu drew a distinction between learning directly from a wicked scholar, which is forbidden, and reading their books, which is permitted. Finally, Rabbi Blech’s reading of the Rambam is that when it comes to secular studies, one can learn from all sources; when it comes to Torah one must choose teachers carefully and ensure that they are as righteous as an ‘angel of the Lord’.

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1. See Avot 1:1.
2. See Berakhot 28a.
3. Hagiga 14b-15a.
4. Tosafot points out that although it seemed to the Sages that they had entered heaven, they did not do so in the literal sense. See Tosafot Hagiga 14b, S.V. ‘Nikhnesu Lepardes’. Interestingly, the English word paradise is derived from a Greek word meaning both paradise and orchard which, according to the Artscroll Talmud, in turn derives from the Hebrew ‘pardeš’ (Artscroll Talmud Bavli Tractate Chagigah 14b, note 18). Other scholars argue that both the Hebrew and Greek words are derived from the Avestan (Old Persian) word ‘pairidaeza’.
5. For an excellent explanation of this episode see Rabbi Aryeh Kaplan, *Inner Space: Introduction to Kabbalah, Meditation and Prophecy*, New York 1990), 125-127.
6. Hagiga 15a.
7. Malakhi 2:7. The Kohanim were specifically responsible for teaching Torah to the people. See Devarim 33:10 and Seforno there.
8. Hagiga 15b.
9. Mishlei 22:17.

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10. Hagiga 15b.
11. Ibid.
12. Rabbeinu Hananel ben Hushiel (990-1053), Commentary to Talmud, Hagiga 15b.
13. Hagiga 15b.
14. The Maharsha points out a difficulty in that the analogies are mutually exclusive. With the date, Rabbi Meir takes the outer part and discards the inner, yet with the pomegranate it is the other way round. The Maharsha explains that both analogies are in fact necessary. Elisha ben Abuya was dangerous both in his internal beliefs, as we see from the accusation of heresy against him in Pardes, and also his wayward conduct, as we see from his demands made to the immoral woman. Against this double danger, Rabbi Meir applies two separate filters. When it comes to systems of belief, Rabbi Meir, as with the date, takes the outer Torah lessons of Elisha ben Abuya and discards his inner heresy. When it comes to moral conduct Rabbi Meir, as with the pomegranate, discards his teacher's public rebellious front and takes only the Torah-true inner lessons. Source: Rabbi Samuel Eliezer ben Yehuda Edels, *Hidushei Halakhot Veagadot Maharsha*, Hagiga 15b.
15. Avot 4:20.
16. Rabbi Menahem ben Solomon Meiri (1249 – c. 1310), *Beit Habehira*, Hagiga 15b.
17. Maimonides (1134-1205), *Mishneh Torah*, *Hilkhot Talmud Torah* 4:2. The Tur and Shulhan Arukh rule similarly; see *Yore Dea* 246:6.
18. Rabbi Shabbatai ben Meir Hakohen (1621–1662), *Siftei Hakohen*, *Yoreh Deah* 246:8 and Abraham Hiya de Boton (c.1560 - c.1605), *Lehem Mishneh*, *Hilkhot Talmud Torah* 4:2.
19. For example *Moed Katan* 17a.
20. Rabbi Haim Joseph David ben Isaac Zerahia Azulai (1724 – 1807), *Petah Einayim*, Hagiga 15b.
21. Rabbi Moses ben Maimon, *Moreh Nevukhim*, Mossad Harav Kook (1977), pp 4-5.
22. A similar conclusion is reached by the *Or Hahayim* in his commentary to *Devarim* 12:28.
23. For example, Aristotle believed the universe is eternal, a heretical view in Jewish terms (see *Moreh Nevukhim*, Book Two). The Ramban (commentary to Leviticus 16:8) strongly criticises Aristotle and his followers: 'We must silence the voice of the scientists who follow that Greek [Aristotle], who rejects anything that does not make sense to him, and who, together with his wicked students, arrogantly thinks that anything he cannot grasp through his own logic must not be true.' In contrast to this is the Rambam, who is much more positive. In a letter to the translator Rabbi Samuel ibn Tibbon he writes: 'He, Aristotle, indeed arrived at the highest summit of knowledge to which man can ascend, unless the emanation of the Divine Spirit be vouchsafed to him, so that he attains the stage of prophecy, above which there is no higher stage.' (Source: <http://www.sacred-texts.com/jud/mhl/mhl19.htm>, accessed 31-Jan-10)
24. See Footnote 18.
25. Rabbi Isaac ben Sheshet Perfet (1326 – 1408), *Sheilot Utshuvot Rivash*, Section 45. The Rivash also adds another mitigating factor. The Rambam only engaged with the works of Aristotle to reject his views and to save the large number of Jews who had become confused with the Torah after having read the works of Aristotle.
26. Rabbi Moses ben Nahman, *Commentary on the Torah*, *Bereshit* 18:1.
27. Rabbi Blech raises the following argument against the *Lehem Mishneh*. In the Messianic era, even though there will be people in the category of gadol, we can assume that there will be no wicked scholars around to learn from anyway; the Rambam is therefore justified in leaving out the gadol-katan distinction. Supporting Rabbi Blech's assumption is the Rambam's own description of the Messianic era: 'Israel will live securely with the wicked rulers of the nations... and they will all return to the true religion.' (*Mishneh Torah*, *Hilkhot Melakhim* 12:1)
28. Rabbi Yirmiyahu Lev ben Benjamin Zev (1811-1874), *Divrei Yirmiyahu*, *Hilkhot Talmud Torah* 4:1.
29. *Eikha Rabba* 2:13.
30. *Berakhot* 58a.
31. Benjamin Blech, Learning from Heretics, *TRADITION*, 25(2), Winter 1990.
32. *Moreh Nevukhim*, Book Two.
33. J H Hertz, *Pentateuch and Haftorahs*, Soncino, vii.
34. Rambam, *Shemona Perakim*, Introduction.
35. Rabbi Joel Sirkis (1561-1640), *Bayit Hadash*, *Orakh Hayim* 224:4.
36. David Hume, *Enquiry Concerning Human Understanding* (Oxford 1972), 30. In quoting this source I have relied on the leniency of the *Divrei Yirmiyahu*.
37. Rambam, *Mishneh Torah*, *Hilkhot Talmud Torah*, 1:2.

'Traditioning' and 'contemporisation' in defences of Yom Tov Sheni shel galuyot

BEN ELTON

One of the starker contrasts between religious life in Israel and the Diaspora is the number of days of yom tov observed for each of the shalosh regalim of Pesah, Shavuot and Succot.¹ In Israel, as the Torah explicitly instructs, there is one day of Shavuot in total, Pesah lasts for seven days and Succot for eight. Only the first day and the last are kept as yom tov.² Jews outside Israel keep two days of Shavuot, eight days of Pesah and nine days of Succot, and observe full yom tov for two days at the start and two. This is the institution of yom tov sheni shel galuyot. On these second days we behave almost identically to the first days. Melakha is not permitted, we say the tefillot for yom tov, even down to 'sheheheyau' (if it is said on the day before) and on Pesah we eat the matsa and the marror in the required quantities on the second night as well as the first.

One of the starker contrasts between religious life in Israel and the Diaspora is the number of days of yom tov observed for each of the shalosh regalim of Pesah, Shavuot and Succot.

This practice has attracted significant opposition, first from the Karaites, then from former crypto-Jews (sometimes called Marranos) and finally from the Reform movement. These attacks and the rabbinic and orthodox responses to them have been the subject of important studies.³ This article will cover only two atypical examples of the conflict between those in favour and those against yom tov sheni, the debate between the Karaites and Rav Saadia Gaon in tenth century Babylonia and between the West London Synagogue and Chief Rabbi Nathan Adler in the nineteenth century. Although separated by 900 years these two cases exhibit remarkable similarities, and both can be better understood if we apply ideas used in sociology of religion, namely 'traditioning' and 'contemporisation'. First,

in order to understand just how unusual the interventions by Rav Saadia and Chief Rabbi Adler were, we should briefly review the evolution of yom tov sheni and the way it has been understood by leading Rishonim and Aharonim.

Historical background to second day yom tov

The first mitsva given to the Jews as a nation was kiddush hahodesh; for the Bet Din to declare the new month on the basis of sightings of the new moon and inform the people, so that everyone would know when yom tov would take place. As the pasuk says in Vayikra: 'These are the festivals of the Lord, holy convocations which you are to declare in their times'.⁴

The Mishna in Rosh Hashana tells us that once a new month had been declared the Bet Din informed the people in Israel and beyond through a system of beacons from Jerusalem to the border of the land, and then out into the Diaspora.⁵ This was a speedy method, and everyone knew in time for the first yom tov of the month. However, as the Mishna explains, this system fell victim to sabotage and broke down:

*Initially, they would light beacons, but the Kutim [Samaritans] became corrupted [and lit beacons at the wrong time], so they decreed that messengers would go out.*⁶

Those communities sufficiently close to the Bet Din for a messenger to reach them before yom tov were unaffected by this change. However, communities beyond that point were in difficulty.⁷ They did not know when yom tov fell. There was a sefeka deyoma; a doubt about the true day. As a month can be either 29 or 30 days, they could be sure that Rosh Hodesh, and therefore the following yom tov, would be on one of two days. Therefore, if the message did not get through, either from beacons or messengers, they would keep two days yom tov, just as a shipwrecked traveller who loses precise track of the days, but knows that it is either Tuesday or Wednesday would keep two

days of Shabbat to be sure one was kept correctly.⁸ As the Rambam writes:

*'Wherever the messengers reached, people would celebrate the holiday for one day, as it says in the Torah. Places that were too far for the messengers to reach observed two days because of the doubt, since they did not know which day the Bet Din sanctified as the beginning of the month.'*⁹

Thus, from the time the Bet Din began to send messengers it became the practice in distant communities to keep two days of yom tov, as they were in doubt about when the Bet Din had declared a new month. This problem does not apply to Shavuot, of course, because as soon as the date of Pesah is known, the date of Shavuot can be calculated. I will discuss the case of Shavuot in greater detail below. In the middle of the fourth century of the present era, however, the Bet Din stopped declaring new months on the basis of sightings of the moon and the Jewish people adopted the fixed calendar devised by Hillel II. From that time onwards there was no doubt about the true date of yom tov, the sefeka deyoma had disappeared.

The Jews in communities which had become accustomed to keeping two days of yom tov were in a quandary. Should they revert to one day or continue to keep two days? They therefore sent the question to the religious authorities in Erets Yisrael and received the following recorded in the Gemara in Beitsa 4b.¹⁰

'Now we keep two days only because a message was sent to us from the West [Erets Yisrael]: "hold fast to the practice [minhag] of your forefathers".'

The Bet Din feared that the time might come when the authorities would prohibit kedushat hahodesh and there would be confusion and mistakes. To avoid that, the people should continue to keep two days yom tov. Of course, the forefathers the Bet Din referred to did not keep two days yom tov as a minhag, they were in genuine doubt. Diaspora Jews after the time the calendar was fixed were instructed by the rabbis to continue to keep the two days as a minhag. This subtle combination of rabbinic instruction and minhag led to a great deal of discussion amongst the Rishonim and the Aharonim who sought to explain the precise nature of the obligation to keep two days yom tov.

The reasons for two days yom tov today according to the Rishonim

There are two major opinions amongst the Rishonim, that of Rabbeinu Tam, and that of the Rambam.

Rabbeinu Tam

Rabbeinu Tam, together with the Rosh, the Or Zarua and others holds that Yom Tov sheni is a minhag, as the Bet Din called it when they instructed the Jews outside Israel



David Wolf Marks at the Jubilee Service of the West London Synagogue, 1892

to observe two days. That raises the question as to how we can make brakhot on the second days, when we normally do not make brakhot on a minhag. The solution presented by Tosafot in the Gemara in Sukkah 44b is that we do not make brakhot on yom tov sheni, we simply sanctify the day in kiddush. But, as the Hatam Sofer (1762-1839) points out, we do make brakhot on second day yom tov, like ‘al akhilat matsa’ on the second seder night, which, for us at least, undermines Tosafot’s answer.

The solution of the Hatam Sofer is that yom tov sheni is at root a minhag. It was then reinforced with a rabbinic instruction (takkana) to uphold the custom. However its force today derives from the fact that the whole Jewish people have accepted the minhag as binding, and therefore made a form of national neder, an oath, to keep it. This gives yom tov sheni an even higher status than a Rabbinic takkana, indeed it has the status of a mitsva d’oraita, a Torah mitsva, and brakhot are appropriate.¹¹

The Hatam Sofer’s view that yom tov sheni has the force of a neder and is therefore effectively a Torah and not a Rabbinic commandment is startlingly novel, and we should note the likely polemical intent behind it. The Hatam Sofer was one of the major opponents of the early Reform movement, and one of its primary targets was the second day of yom tov.¹² In 1804 and 1809 the Hatam Sofer expressed the view that yom tov sheni was rabbinic.¹³ By 1826 his view was as we have seen, that the second day has the authority of a Torah mitsva. In the teshuva in which he announced his new view he did not attempt to disguise his concern at the threat posed to yom tov sheni by the forces of Reform:

The Hatam Sofer was one of the major opponents of the early Reform movement, and one of its primary targets was the second day of yom tov.

I have dealt with this at some length because, on account of our many sins, there are many wanton people in our nation who are making false and mocking claims regarding yom tov sheni and who claim that it is just an insignificant custom. They do not wish to follow in the footsteps of the Sages of Israel. They lose their souls (Melakhim I 2:23); they neither know nor understand; they walk in darkness (Tehillim 82:5)

It seems likely that the Hatam Sofer felt the need to bolster the status of yom tov sheni in the face of this threat by investing it with Biblical authority, not because this would persuade ardent advocates of Reform, but in order to restrain essentially traditional Jews who might be tempted to abandon the second day if they felt it was ‘only Rabbinic’.

Rambam

The Rambam took a different view of the status of yom tov sheni. He wrote: ‘There are twenty-four offences for which a person, male or female, is excommunicated. Number eleven is: ‘Someone who desecrates yom tov sheni, even though it is a custom’.¹⁴ He therefore seems to agree with Rabbeinu Tam that the second day is a minhag. However, elsewhere he writes: ‘The two-day celebration of yom tov which takes place in the Diaspora is a minhag. yom tov sheni is Rabbinic, and is among the things which were innovated in the exile’.¹⁵ This is perplexing because he begins by stating that Yom Tov sheni is a custom but ends by saying that it is a Rabbinic requirement.

The Rivash, the Lehem Mishneh and the Brisker Rav all argue that the Rambam means that the Jews took on yom tov sheni as a custom, and through the principle of minhag avoteinu beyadeinu the rabbis enforced that custom. That is, Rabbis decreed that our forefather’s customs are binding upon us, although the content of those practices themselves evolved and were never formally instituted by the Rabbis. This explanation fits neatly with a third Rambam:

‘Nowadays when there is no Sanhedrin or Bet Din in the Land of Israel, we determine the months based on mathematical calculations. It would then make sense that everyone, even those living in the farthest reaches of the Diaspora, would celebrate only one day of yom tov as those living in Israel do, since everyone relies upon the same calculations. However, there is a rabbinic enactment demanding that we be ‘careful with the customs of your forefathers’.¹⁶

Here the Rambam understands the second day to be a minhag which we are commanded by the rabbis to observe. This answers the question as to why we say brakhot on the second day. As the authority for yom tov sheni comes from the rabbis, (even though it started as a custom) it is like other mitsvot derabbanan, such as Hannukah, and we say brakhot. God did not command us to light Hannuka candles, but we make a brakha when we do so. Similarly, it was the rabbis, not God who told us to hold a second seder, but we can still say the brakha ‘al akhilat matsa’, because the Torah commands us to obey the rabbis.¹⁷

Shavuot

The approaches of both Rabbeinu Tam and the Rambam happily explain Pesah and Succot, but are more problematic as explanations of Shavuot. Although there might have been a doubt about the dates of Succot and Pesach, there could never be a doubt about the date of Shavuot. We know Shavuot is 50 days after Pesach, and by that time, the correct date of Pesach would have been known throughout the Diaspora. So there was no original doubt to keep as a minhag once it disappeared and became halakha through ‘minhag avoteinu beyadeinu’.

The Rambam addressed this point:

In order not to make a distinction between the Festivals, the Hahamim instituted that in any place that the messengers for Tishrei would not reach, two days of yom tov would be observed, even for Shavuot.¹⁸

In other words, there should be a second day of Shavuot in the Diaspora, even though there never was a doubt.

The Hatam Sofer restated this point in an even stronger form. He argued that while the second days of Pesah and Succot are minhagim we were later required to maintain by the rabbis, the second day of Shavuot was a tikkunei haRabim pure and simple. They were not merely perpetuating an existing practice, rather they took the deliberate decision to innovate a new practice, and yom tov sheni of Shavuot is therefore more stringent than the second days of the other yomim tovim.¹⁹ This view of the Hatam Sofer, like his statement that Yom Ton sheni rests on a national neder, can also be well understood historically. The case against Reformers' attacks on the second day was weakest regarding Shavuot, because of the absence of an original doubt. The Hatam Sofer therefore emphasised, perhaps even exaggerated, the importance of the second day of Shavuot.²⁰

The consensus

The Hatam Sofer's views notwithstanding, there is a basic consensus amongst the Rishonim that yom tov sheni began as a practice based on a real doubt and after that doubt was resolved it was maintained as a minhag, because the rabbis instructed Diaspora Jews to do so. There is disagreement as to whether, and to what extent this transformed yom tov sheni into a rabbinic mitsva. Now we understand that view, and have seen how it is rooted in the Mishna and Gemara, the two explanations of yom tov sheni I will now discuss will appear extraordinary. They are those of Rav Saadia Gaon in tenth century Babylonia and Chief Rabbi Nathan Marcus Adler in nineteenth century London.

There is a basic consensus amongst the Rishonim that yom tov sheni began as a practice based on a real doubt and after that doubt was resolved it was maintained as a minhag, because the rabbis instructed Diaspora Jews to do so.

The unusual views of Rav Saadia Gaon and Chief Rabbi Nathan Marcus Adler

Rav Saadia Gaon

Whatever the basis on which yom tov sheni (as a Rabbinically endorsed minhag) stood, it was accepted and observed without objection for four hundred years after the fixing of the calendar resolved the original safek.²¹ In about 760 the Nasi (Exilarch) died in Babylonia and a dispute arose between two brothers, Yoshia and Anan, as to who should succeed. Yoshia was chosen but Anan refused to accept the decision. In the dispute that followed Anan withdrew from the mainstream Jewish community and founded his own branch, the Karaite; based on a rejection of Rabbinic Judaism and an insistence on a literal understanding of the Biblical text. For example, Anan argued that not only must lights not be kindled on Shabbat, they must not even be allowed to burn, and must be extinguished beforehand, on the basis of a reading of Shemot 35:3, which Rabbinic Jews understand as 'you will light no fire throughout your settlements on Shabbat' while the Karaites held meant 'you shall burn no fire'.

As Anan rejected Rabbinic readings of the Torah, he naturally rejected all subsequent Rabbinic injunctions. Yom tov sheni was an obvious target, as it has no Biblical basis. Furthermore, it could be understood as a violation of 'you shall not add anything to what I command you...' (lo tosifu).²² Rav Saadia Gaon (d. 942) attempted to counter the Karaite attack, and his argument is preserved in teshuva by his successor, Rav Hai Gaon:

*'Rabbenu Saadia Gaon of blessed memory said in his commentary that there is no doubt that God originally commanded His servant Moshe (who then told Israel) that in the Land they would have one day of yom tov and outside of the Land they would have two days, and thus it has always been.'*²³

This is a surprising suggestion, which does not seem to find support in the Written Torah or Talmud. It might, however, be possible to understand Rav Saadia's statement on the basis of a more general approach to halakha and its development.

Hazal say in a number of places that the whole corpus of Torah, including later takkanot and gezerot of the Rabbis was, in a sense, revealed to Moshe on Sinai. Berakhot 5a states that Moshe received the entire Torah on Sinai in a compacted form.

Rav Yitzshak says in the Midrash Tanhuma on Yitro that all the Nevi'im drew their prophecies from Sinai. In Sefer Malakhi it does not say that prophecy came 'el Malakhi' (to Malakhi) but 'el Yisrael beyad Malakhi' (to Israel by the

hand of Malakhi) because Malakhi was not the original recipient; Moshe received the prophecy first on Sinai.²⁴

The Tanhuma on Ki Tissa states that God gave Moshe the whole Tanakh and Talmud; aggadata and halakha. God even told Moshe the answers teachers would give their students in the future. There is a famous story in Menakhot 29b told by Rav Yehuda in the name of Rav that Moshe visited the Bet Midrash of Rabbi Akiva but did not understand what he was saying, but when Rabbi Akiva said he was repeating ‘Torah le Moshe MiSinai’ (Torah given to Moshe on Sinai) Moshe was comforted. The idea therefore clearly exists in Hazal that, in a sense, the entire Torah, including later rabbinic enactments, was given to Moshe, and this may be the root of Rav Saadia’s statement.

But, if Moshe told the people about yom tov sheni why was it never referred to subsequently? Perhaps we can answer by citing the Gemara in Temurah 17b, which states that when Moshe died the Israelites forgot three thousand halakhot. Yom tov sheni may have been one of them. We can therefore offer a possible reason how Rav Saadia could say that the second day of yom tov was told to Moshe and instituted by the early prophets while knowing the discussions in the Mishna and Gemara. Yet his explanation is by no means a natural one, which led Rav Hai Gaon himself to write in his teshuva that Rav Saadia’s explanation was intended merely to silence heretics (that is the Karaites).

Rav Saadia was combating a group that objected to yom tov sheni because it was Rabbinic and, in their view, anti-Biblical. Rav Saadia therefore answered them by arguing that it had the status of a Biblical command.

Rav Saadia was combating a group that objected to yom tov sheni because it was Rabbinic and, in their view, anti-Biblical. Rav Saadia therefore answered them by arguing that it had the status of a Biblical command, because although it only came into practice in a later period, it was given to Moshe himself on Sinai. This could not satisfy fully committed Karaites, because they rejected not only rabbinic legislation, but even rabbinic interpretations of Biblical verses, and all the more so rabbinic views of what was told to Moshe but never written down. However, as in the case of the Hatam Sofer centuries later, Rav Saadia’s argument could serve to dissuade uncertain Rabbinic Jews who were tempted by Karaite arguments from abandoning yom tov sheni.

Although the Karaites never disappeared entirely, they shrank in numbers and influence. However, their theology made a strange return in nineteenth century London, and with it the attacks on the second day, an attack that was met by R. Nathan Adler, Chief Rabbi from 1845 to 1890.

Chief Rabbi Nathan Adler and the West London secession

As we have seen, the Reform movement, which spread from Germany from the late eighteenth century onwards, sought to abrogate yom tov sheni. However, it did so within the framework of Rabbinic Judaism.²⁵ Arguments were made that as the second day was a custom it could be set aside, or that a takkana could be repealed under exceptional circumstances by a synod of rabbis.²⁶ London too saw attacks on the second day, but these were not from ‘Rabbinic-Reform’ perspective, but were rather neo-Karaite.

From the 1820s onwards there had been an increasing desire on the part of the wealthier members of the London community, particularly among the Sefardim, to introduce mild reforms to make the service more decorous, and to set up a branch of the synagogue in West London closer to their homes. The Elders of the congregation allowed the chazzan to wear robes and permitted a sermon in English rather than Portuguese, but refused to budge on other points, particularly the ban on the erection of any synagogue within six miles of Bevis Marks. The result of this frustration of the wishes of much of the membership by the lay leadership was the secession by 18 members of Bevis Marks, and six Ashkenazim, led by the Goldsmid family, in 1840 and their consecration of the West London Synagogue of British Jews in 1842.²⁷

It is interesting to examine the reasons given in April 1840 by the founders of the West London Synagogue for their action. It shows that they were not revolutionaries, but merely wanted moderate reforms. They identified five reasons: ‘the distance of the existing synagogues from our places of residence...the length and imperfections of the order of service...the inconvenient hour at which it is appointed...the unimpressive manner in which it is performed...the absence of religious instruction [sermons] in our synagogues.’ Not a single one of those complaints touched on theology. They could have been accommodated within halakha and been permitted had the religious and lay authorities of the community so decided. The depth of the founders’ traditionalism becomes clear when we examine other aspects of the synagogue. The sexes sat separately, prayers were in Hebrew, and references to the Messiah were retained. The founders did not seek to alter the fundamentals of the service, merely to make it more seemly, more ‘English’. Indeed Isaac Lyon Goldsmid had been contemplating founding a new synagogue for that very purpose since 1831.

Importantly, for our purposes, in 1840 there was no mention of the second day of festivals as an aspect of religious life they wished to reform. It is quite true that in 1836 a group of Sefardim had presented a petition to the Elders of Bevis Marks, and one of their objections was to yom tov sheni. However, this point did not resurface either in 1838, when other objections were repeated, nor in 1840.²⁸ By August 1841, however, the abolition of the second days was again a feature of the secessionists' programme, but this time not as part of a set of requests to Bevis Marks, but as the fixed policy of the new synagogue. What had happened between April 1840 and August 1841?

The decisive event was the engagement of the Rev. David Woolf Marks as the Minister of the new congregation. Marks was the 29 year old Assistant Reader of the Liverpool Hebrew Congregation, and a neo-Karaite. He zealously upheld the doctrine of Torah min hashamayim as far as the Pentateuch was concerned, but denied the authenticity of the Oral Law and the authority of Rabbinic enactments. While he was in Liverpool he refused to read from the Torah on yom tov sheni, and he carried his convictions with him to West London.²⁹ Marks prepared a set of prayers books, Forms of prayer used in the West London Synagogue of British Jews, which removed as much as possible of Rabbinic origin, such as the brakhot over Hannukah candles and almost the entire Haggadah. In response to this publication and its implicit rejection of the Oral Law the then Chief Rabbi, Solomon Hirschell and the Sefardi dayyanim issued a herem against the new congregation in January 1842. R. Hirschell wrote, 'certain persons calling themselves British Jews...reject the Oral Law...any person or persons publicly declaring that he or she rejects and do not believe in the authority of the Oral Law, cannot be permitted to have any communion with us Israelites in any religious rite or sacred act.'

It is apparent that the new congregation fell into its heretical stance largely through accident and circumstance.

Despite this religious condemnation of the West London Synagogue by the established rabbinical leadership, it is apparent that the new congregation fell into its heretical stance largely through accident and circumstance. As we have seen, their fundamental concerns were essentially cosmetic, and all were subsequently accommodated in Anglo-Jewish Orthodoxy. It was only the appointment of David Woolf Marks that led to the introduction of fundamental religious differences into the dispute, relating to issues that most members of both communities neither knew nor cared much about, and that came only after the establishment of a new synagogue was already decided

upon. How, then, did such slender issues lead to so fundamental a schism?

I suspect it had more to do with convenience and chance. While the petition of 1836 shows that some of the West London's founders would have preferred to keep only one day, it was not one of their first priorities, because it had been forgotten by 1838. The new synagogue was a fait accompli by 1840, before Marks was appointed, and it was by no means clear that it would only observe one day of yom tov. Only his arrival determined that the new congregation would not keep yom tov sheni. When they found a potential minister who was an enthusiastic opponent of the second day, they saw that his appointment would bring the added bonus of an end to a practice they neither liked nor understood.³⁰

A novel defence of yom tov sheni

Whatever the precise motivation of the West London's attitude to the second day, the result was the strongest attack on the Oral Law and on yom tov sheni since the Karaites. A Minister in Birmingham, the Rev. M.H. Simonson, took up the challenge in a pamphlet published in 1844 entitled *Holy convocations regulated by our rabbis*.³¹ He pointed out that the pasukim dealing with the Festivals states that they should be days of rest in all your habitations, wherever they may be.³²

He also observed that the text ties the Festivals to the Land: 'When you have gathered in the fruits of the land, you shall celebrate a Festival for the Lord.'³³ Simonson argued that the instruction to the Jews to observe the Festivals wherever they were, and the connection made between the Festivals and the Land, implied that Jews throughout the world should celebrate yom tov at the same time as it was celebrated in the Land of Israel. The rabbis realised that this would only be possible if a second day was instituted outside the Land, and established yom tov sheni accordingly.³⁴ This explanation has no support in the Talmud or the Rishonim, indeed Simonson seemed to reject their explanations as inadequate, writing of the reasons for the second day 'I myself have often been asked "why?" and have enquired myself of others, but was left without any satisfactory answer'.³⁵ He therefore took the radical step of going back to the Biblical text and asserting how Hazal must have understood it. It is true that some rabbis have done this, even as late as the nineteenth century, for example R. Meir Simha HaKohen of Dvinsk in Meshekh Hokhma, but they were undoubtedly greater figures than the Rev. M.H. Simonson.³⁶ Simonson's motivation, like R. Saadia' and the Hatam Sofer's before him, seems clear. He needed an explanation to satisfy those who accepted the Bible but rejected the Oral Law, and this was his attempt.

Chief Rabbi Adler both knew and accepted the reasons for yom tov sheni given in the Talmud and subsequently.

When in 1848 he delivered a sermon defending the second day, he cited the reason given in the Talmud and the Rishonim, that yom tov sheni was a binding custom, and added that when the Temple and Sanhedrin was restored the fixed calendar would be abolished and those outside Erets Yisrael would return to a state of doubt. This is similar to the reason given in the Talmud that Jews outside the Land should maintain two days in case a doubt did return because of a government decree, in a more positive. He then introduced Simonson's argument, presumably for the same reasons; he needed to persuade the neo-Karaite of the West London, to whom he referred in his sermon, as well as Rabbinites.³⁷ There followed a brutal critique from an anonymous letter writer under the pen name 'Maccabee', who attacked the Chief Rabbi's arguments, and declared the third had 'no solid basis whatever', not because it was inappropriate to discover new meanings in pasukim, but because the Chief Rabbi had misunderstood the way time zones worked, or had miscalculated they way they operated in practice.³⁸

This did not deter R. Adler from returning to a subtly amended version of Simonson's argument twenty years later. In 1868 he gave another sermon, in which he said:

*'The second day of the festival has been instituted on the basis of our Nationality. [In the Torah] the words are repeatedly stated "the observance of the several festivals shall be a statute for ever throughout your generations in all your dwellings."...By allowing full forty-eight hours for the observance of the festival, all Israel in all their dwelling-places are enabled to observe one complete day of twenty-four hours simultaneously. In the days of old, when the nation was assembled at Jerusalem on the three great festivals, one day of twenty-four hours naturally sufficed. The object hereof is not only to keep alive amongst us the remembrance of the miracles that God wrought in our midst, but also to preserve our devotion and allegiance to the Land of Promise, and to impress the fact upon us, that when the Temple shall be restored it will again be our duty to make a pilgrimage thither three times in the year, and to bow down before the Lord in His sanctuary. All these lessons are taught us by the observance of the second days.'*³⁹

Twenty years on it was apparent that there was little real enthusiasm among the members of the West London for David Wolf Marks' idiosyncratic religious views. The argument is therefore no longer primarily that keeping two days of yom tov fulfils the verses in Vayikra, rather the observance of yom tov sheni fulfils a current need, to bind the scattered Jewish people together into a single nation, to maintain their connection to the Land of Israel and to prepare them for the restoration of the Temple. The argument is now less concerned with neo-Karaite, and more with the Jew who is Rabbinical but sceptical.

Traditioning and contemporisation

Having reviewed the unusual approaches to second day yom tov of Rav Saadia Gaon and R. Nathan Adler, and seen how they both arose from a concern to answer Karaite attacks, by placing them in their immediate historical contexts. I want now to try to explain them using a more theoretical approach. I suggest that Rav Saadia and R. Adler were using two connected techniques sociologists of religion call 'traditioning' and 'contemporisation'.

Rav Saadia and R. Adler were using two connected techniques sociologists of religion call 'traditioning' and 'contemporisation'.

Some movements portray themselves as innovative, radical, and revolutionary. They disclaim all connection with the past and tradition, which they claim to supersede. For example, the radical Reform leader Samuel Holdheim wrote in 1847, 'the Talmud speaks with the ideology of its own time, and for that time it was right. I speak from the higher ideology of my time, and for this age I am right.'⁴⁰ Orthodox Judaism is not such a movement. It values tradition, and seeks to uphold it, but it also innovates. An address to the hatan and kalla under the hupa, the Bat Mitsva/Hayil and the highly musical and participatory style of synagogue service are all creations of the last two or three centuries but are now a standard feature of many Orthodox communities. In order to reconcile these changes with the overarching commitment to tradition they must be dressed in traditional garb. That is traditioning. Conversely, some traditions are unattractive to contemporary society, yet Orthodox Judaism wishes to perpetuate them, it therefore provides contemporary justifications for ancient practices. That is contemporisation.

As the leading sociologist of Orthodox Judaism, Samuel Heilman, has written: 'the interpretative reconstruction of the past in terms of the present and vice versa may be generally said to have two components: contemporization and traditioning...they are constituted by an interpretative fusion of traditional and contemporary cultural elements.' In the case of traditioning 'a new practice is invested with all the authority and character of an age old ritual' so that an innovation is sanctified 'through a perceived nexus with previous holiness' and a sense of continuity is maintained by the way 'the present is reconceived in terms of the past'.⁴¹

Contemporisation, on the other hand establishes 'rationally what faith postulates a priori, so that in place of what Durkheim referred to as "passive resignation" to tradition there is instead an "enlightened allegiance".' As Heilman

writes, ‘against the backdrop of the contemporary world the old Torah is seen as revealing new truths’. This is all part of ‘the effort to make Torah a part of and relevant to the modern world’.⁴²

Rav Saadia Gaon’s and Chief Rabbi Adler’s use of traditioning and contemporisation

The defences of yom tov sheni deployed by Rav Saadia Gaon and Chief Rabbi Adler are excellent examples of the use of these techniques. Rav Saadia Gaon was attempting to justify a relatively new practice, i.e. one with Rabbinic rather than Biblical origins, but was confronted by the Karaites, for whom only Biblical sanction was sufficient. He therefore ‘traditioned’ second day yom tov by emphasising its primordial origins on Sinai with Moshe. Although we can find justification for this approach in Hazal, his is not the simple explanation of the origin of the second day. That is why Rav Hai Gaon explained that it was to combat heretics. It was in response to the Karaites that Rav Saadia Gaon felt the need to establish a ‘nexus with previous holiness’ for yom tov sheni which would satisfy its opponents, or more likely, those who might sympathise with them. The Hatam Sofer did something similar, when he asserted that yom tov sheni of Shavuot was more than a minhag, but a deliberate tikkuna, and that the second days of the other festivals were upheld by the Biblical authority of a neder.

In the 1840s, Orthodoxy in England faced a similar challenge, in response to which the Rev. M.H. Simonson and then Chief Rabbi Adler attempted to find support for yom tov sheni in the text of the Torah itself. By the 1860s, however, it was clear that the neo-Karaites were no real threat. More significant was the need of the Jew in the West London and United Synagogue pew alike for justifications for Jewish practices that possessed contemporary resonance. The need to maintain Jewish nationhood at a time of dispersal met that need. In putting forward that argument Chief Rabbi Adler made ‘Torah a part of and relevant to the modern world’.

These techniques are neither dishonest or illegitimate. They are essential tools for the rabbi in the modern era attempting to maintain allegiance to traditional Judaism, and rabbis became expert in their use. Since

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the Enlightenment in the eighteenth century and Emancipation in the nineteenth, Jews found new intellectual resources to challenge the basic tenets of Judaism and did so in large numbers. Rabbis could no longer expect automatic obedience. These challenges were compounded by socio-economic developments, which might be grouped together under the term modernisation. As Jonathan Frankel has written, ‘urbanization, industrialization, migration, market forces and the opportunities (educational, occupational, cultural) available all combined to undermine the traditional life of the Jewish people in nineteenth-century Europe’.⁴³ To cope with these new circumstances, rabbis were forced to move from being legal experts to being spiritual leaders who had to persuade their communities to adhere to classical Jewish belief and practice.

Other uses of traditioning and contemporisation

One aspect of this effort took the form of traditioning and contemporisation. Chief Rabbi Nathan Adler used both these techniques with great success to meet the challenge of Reform presented by the West London. As we have seen, the founders of the West London really only wanted a more decorous, Westernised, convenient service. They wanted the ritual made more attractive in modern terms, in other words, some contemporisation. Chief Rabbi Adler supplied this.

In 1847 he issued his Laws and regulations, which altered the synagogue service to increase its appeal to the Anglicised members of his flock. By permitting moderate changes, within a strict theological and legal framework, Adler hoped to avoid radical reform and heresy. As Chief Rabbi Adler wrote, acknowledging, and attempting to replicate, the flexibility of pre-modern rabbis, ‘the major cause of lack of religiosity is the absence of theological leaders who, by implementing leniencies which fit the needs of the time and the demands of religion, following the example of the rabbis of by-gone times, will prevent the nation from breaching the fences of the law’.⁴⁴

Thus, for example the Chief Rabbi banned the custom of ‘knocking’ during the megilla on Purim and the circling of the bridegroom by his bride because they were deemed indecorous. He insisted that clerical costume should be worn and that a ‘solemn and reverential silence shall pervade the Synagogues’.⁴⁵ Chief Rabbi Nathan Adler, and his son and successor Chief Rabbi Hermann Adler also effectively used traditioning, so that when they did introduce changes to secure continued adherence they did not appear discordant with the surrounding traditional elements. For example, members of the Chief Rabbi’s community wanted to mark events such as the recovery of a woman from childbirth, moving into a new home, the annual collection for hospitals. The Chief Rabbis

supplied prayers and services for these occasions, to couch the celebrations in appropriate religious terms and incorporated them into the Authorised Daily Prayer Book. These prayers are innovations, but they have a traditional presentation.

This strategy was by no means unique to England. Rabbi S.R. Hirsch installed a choir and donned clerical robes, to make the synagogue service more acceptable to his contemporaries.⁴⁶ R. Esriel Hildesheimer argued against the authority of a Reformist assembly in Magdeberg, at which he and other traditionalists were heavily outnumbered, on the basis that the delegates were not truly representative of their communities, in other words because the assembly was not democratic.⁴⁷ R. Hildesheimer would have opposed radical decisions by the Magdeberg assembly however it was constituted, but under the circumstances he contemporised the nature of his opposition so that it could more easily find support in his nineteenth century audience.

The present Chief Rabbi has continued this approach. A ceremony to mark the birth of a daughter has not been a feature of Ashkenazi practice, but the demand for an appropriate religious marking of the arrival of a baby girl as a parallel to the brit mila has grown as society in general has moved towards gender equality. The Chief Rabbi has incorporated into his edition of the siddur the *Zeved Habat*, borrowed from the sefardim, to answer this need. Its presence in an Ashkenazi siddur is an innovation, but it appears in its ancient sefardi attire, and has thereby been traditioned. More widely, it is often claimed that Shabbat enables the Jew to ‘recharge his batteries’ or the harried parent ‘to reconnect with her children’, true though that well may be, it is not the halakhic reason for Shabbat. A pamphlet produced recently asserts that the mikva fosters a love ‘based on helping, moulding, forming and building in companionship and with affection’⁴⁸. That too might be the case, but it is not the reason Hazal give for taharat hamishpaha. Rather these are arguments in favour of Shabbat and mikva deployed because they are thought likely to appeal to the modern Jew; they are contemporisations of those mitsvot.

Contemporisation and traditioning therefore continue, part of the continual process of the revitalisation and renewal of Jewish life and thought.

Contemporisation and traditioning therefore continue, part of the continual process of the revitalisation and renewal of Jewish life and thought. The techniques used by Rav Saadia Gaon almost a millennium ago are still

being deployed today. Moreover, the effectiveness with which he diffused the Karaite threat, and the achievement of the Chief Rabbis in preserving the hegemony of institutional Orthodoxy in Anglo-Jewry demonstrates that they continue to be used because they are so effective. They were used to bolster support for yom tov sheni at a time when it was under serious threat and to sustain its observance until the atmosphere became sympathetic, which it has, and remarkably so. Today, the West London Synagogue not only observes two days of Rosh Hashana, but two days of Pesah as well. David Woolf Marks would not approve.

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1. Rosh Hashana is kept for two days, and Yom Kippur for one day only, in both Israel and the Diaspora. The reasons why Rosh Hashana was extended for all Jews, and Yom Kippur for none, are subjects for another article.
2. See for example the instructions regarding Succot, Vayikra 23: 33-36
3. See HJ Zimmels, ‘The controversy about the second day of the festival’ in The Abraham Weiss Jubilee Volume (New York 1964) 139-168; M. Benayahu The second day of the festivals (Hebrew) (Jerusalem 1987); J Katz, ‘The orthodox defense of the second day of the festivals’ in Divine law in human hands (Jerusalem 1998).
4. Vayikra, 23:4
5. Mishna Rosh Hashana 2:3-4
6. Mishna Rosh Hashana 2:2
7. Some communities in what is now Israel could not be reached by messengers in time, while some communities outside the land could be reached. Yet today only one day is kept by the first category and two days is kept by the second. I will not discuss this point in detail, but this problem may be why R. Shneur Zalman of Liadi, the Alter Rebbe, explained the second day of yom tov in the Diaspora is a result of the lower level of holiness outside the Land of Israel, which requires two days to achieve that which only takes one day in the Land.
8. This is the explanation of Rav Hai Gaon in Teshuvot HaGeonim 1
9. Mishneh Torah, Kiddush HaHodesh 3:11

10. It is not entirely clear who sent this reply. The Gemara merely says ‘they sent from there [Israel], see Katz, 256. For our purposes we will identify the responder with the religious authorities in the Land of Israel, and call them the ‘Bet Din’ for short.
11. Responsa Hatam Sofer, Orah Hayim 145. One might also answer that there are some minhagim over which we do make a brakha. For example, Half Hallel on Rosh Hodesh is a minhag, but Ashkenazim make a brakha. Why we say a brakha over some minhagim and not over others, even very ancient minhagim like beating aravot on Hoshana Rabba, and how Sephardim, who do not make brachot on minhagim like Half Hallel on Rosh Hodesh understand the issue, is beyond the scope of this article.
12. Zimmels, 148ff
13. Katz, 262
14. Mishneh Torah, Hilkhot Talmud Torah, 6:14
15. Mishneh Torah, Hilkhot Yom Tov 1:21
16. Mishneh Torah, Hilkhot Kiddush HaHodesh 5:5
17. Devarim, 17: 11 as understood by the Gemara (Shabbat 23a)
18. Mishneh Torah, Hilkhot Kiddush HaHodesh 3:12
19. Responsa Hatam Sofer, Orah Hayim 145
20. If nothing else, the Hatam Sofer’s remarkable teshuva about Yom Tov sheni demonstrates that he was far from a straightforward adherent of his own slogan of ‘hadash assur min haTorah’ – that anything new is forbidden by the Torah (a phrase taken out of context from the Mishna, Orla 3:9). In fact, in thought at least, he was a radical, albeit one with conservative intentions.
21. Zimmels, 143
22. Devarim 4:2
23. Teshuvot HaGeonim 1
24. Malakhi 1:1; Midrash Tanhuma 124a-b
25. There were differences between the Reformers. Abraham Geiger sought to reform Rabbinic Judaism, whereas Samuel Holdheim wished to set the Talmud largely to one side and reform Biblical Judaism.
26. Katz, 260 ff
27. A full account of the foundation of the West London Synagogue and subsequent friction with the rest of the community can be found in M. Persoff, *Faith against reason: Religious reform and the British Chief Rabbinate 1840-1990* (Edgware, Middlesex 2008)
28. J. Picciotto, *Sketches of Anglo-Jewish history* (ed. I. Finestein) (London 1956), 363ff
29. Jewish Encyclopedia VIII 233-234
30. Persoff, 32. At least some of the founders of the West London Synagogue, including Goldsmid, did not actually observe either day of yom tov, or Shabbat, according to the halakha.
31. M.H. Simonson, *Holy convocations regulated by our rabbis* (London 1844)
32. Vayikra 23:3
33. Vayikra 23:39
34. Katz, 285-286
35. Katz, 286
36. I am grateful to M.D. Spitzer for pointing out that the Meshekh Hokhma interpreted pasukim in new ways to explain known halakhot, or even to support new halakhic positions. See, for example, his reading of Vayikra 13:3 to explain the halakha in Moed Katan 7b that a hatan is not declared to have tsora'at until after his week of sheva brakhot.
37. Jewish Chronicle 28 April 1848, 517
38. Jewish Chronicle 16 June 1848, 549
39. N.M. Adler, *The second day of Festivals* (London 1868), 9ff
40. W.G. Plaut, *The rise of Reform Judaism* (New York 1963), 123
41. S.C. Heilman, ‘Constructing orthodoxy’ in Robbins and Anthony (ed) *In gods we trust* (New Brunswick, 1981), 144
42. Ibid., 145
43. J. Frankel, ‘Assimilation and the Jews in nineteenth-century Europe’ in J. Frankel and S.J. Zipperstein, (ed) *Assimilation and community* (Cambridge 1992), 18
44. Katz, 331
45. N.M. Adler, *Laws and Regulations for all the Synagogues in the British Empire* (London 1847), iii-iv
46. M. Breuer, *Modernity within tradition* (New York 1992), 44
47. Ellenson, D., *Rabbi Esriel Hildesheimer and the creation of a modern Jewish orthodoxy* (Tuscaloosa, Alabama 1990), 34
48. Spa for the soul: Personal experiences (Edgware, undated), 2, taken from *A woman of valour* published by the Lubavitch Foundation of Great Britain under the title *The third dimension*.

'Along an open road': Torah perspectives on dis/abled relations in the Jewish community

JESSICA SACKS

Watch Me bring them from a northern land, I have gathered them in from the ends of the earth. Blind and limping men, pregnant women, all together, birthing mothers, a great flock of people will come back here; in tears they will come, and in mercy will I lead them, to rivers of water, along an open road, on which they will not stumble.

(Yirmiya 31:7-8)



Rabbi Shaul
Anvari

The question I would like to discuss in this article is how we are to move forward, as a community, in the relations between two groups within ourselves. This time not men and women, not religious and secular, not Orthodox and Progressive, but two extremely fluid and arbitrary groupings: 'people with disabilities' (physical, cognitive, sensory, intellectual or psychological), and everybody else. This way of grouping people is ridiculously naïve, even offensively so. There is no reason, for instance, for a young partially sighted woman to identify herself with an elderly man with severe learning difficulties, more than she identifies with the fully sighted, same-aged friend sitting next to her in shul. The categorisation 'people with disabilities', then, comes from the perspective of a self-defined person 'without disabilities', itself a very arbitrary category. There are plenty of things which I am less-able to do than others. While I do not consider myself disabled, I will almost certainly become so later in life, unless I have the misfortune to die before reaching old age. At 28, running for the bus in the morning, I have not yet fully integrated this fact into my image of myself.

Despite its fluidity and downright deceptiveness, the invisible fault line between 'disabled' and 'fully able' becomes deeply significant at many moments in our life as a community.

Yet despite its fluidity and downright deceptiveness, the invisible fault line between 'disabled' and 'fully able' becomes deeply significant at many moments in our life as a community. People with disabilities (at different moments, different people, different disabilities) are excluded from many aspects of communal worship, whether by physical barriers (inaccessible buildings, lack of provision for people with sense impairments), or by halakhic, social or psychological ones (being excluded from obligations, feeling patronised, ostracised, or embarrassed, or feeling alienated by the dominant worldview expressed by the able-bodied majority). 'The community', on the other hand, by enacting this border between itself and the 'others' born into it, effectively disowns and silences (again, to different extents at different moments) many of its own members, narrowing its consciousness to that of the Darwinistically selected mainstream. I misuse Darwin's name to suggest the 'survival of the fittest' while avoiding the word 'natural'; 'disability' is a societally defined category, and 'nature' could have had it any number of other ways.

My question, then, is not how to improve the lives of people with disabilities, but how to improve the internal health of the community as a whole. A community alienated from itself cannot possibly engage with the world as effectively as one which acknowledges and deals sensitively with its own shifting internal boundaries. There is no question that the two issues are bound up with one another: 'enabling' the community mainstream to hear the silenced voices of the people on its margins must certainly help these people to improve their lot in life and in society. But even without reference to this possibility, the mainstream itself needs these voices; it needs every voice available to it.

The question of disability in society is a subset of the question of how we deal with difference in general. 'When a person is taken to judgment', says Rava, of the post-mortem proceedings of the Heavenly court, 'they ask him, "Did you do your dealings in faithfulness? Did you fix times for the Torah? Did you have children? Did you watch for salvation? Did you seek after wisdom? Did you

understand one thing from another?’¹ This evaluation sketches out a full, good life in a Rabbinic outlook: at the end of one’s days, one may be satisfied with this. The questions would have to be modified for a person who was not able to engage in business dealings ('with faithfulness'); for someone unable to study Torah; for someone unable to have children. Until recently this model would have utterly excluded women; this has changed. But never, never, will we find ourselves in a situation in which everyone will be able to answer 'yes' to all these questions. What are 'we' to do with people who are not engaged in the central projects the community lays out for its members?

I would like to discuss three different approaches to this question, which may be arranged along three different fault lines dividing those 'with disabilities' from those 'without'. The first fault line is that of access; some of us are able to access the services and opportunities the community has to offer, while others are not, or only in a limited way. The predominant response to this boundary, in our community, is charity. Another fault line, a significant one in the Orthodox world, is that of obligation. The community is more or less defined by its collective project of living out the Torah, as we understand it under the guidance of those we respect. People with a range of different impairments and disabilities are excluded, at different times, from this shared project by the halakhic categories into which their disabilities place them. This has always been a source of shame and suffering for many of the people excluded, and the community's response to the problem has taken the form, more and less successfully, of halakhic investigation and psak. The third fault line is possibly the least considered: the boundary of experience and knowledge. A person whose body or mind functions differently from mine will experience her life, the world and society vastly differently from me; her concerns, thoughts and perceptions will overlap with mine but will not be the same. The predominant approach to this border, as to so many others, has almost always been to ignore it. I would like to suggest that a new approach is needed, and that this may be developed, perhaps counter-intuitively, using the principles of dialogue.

The boundary of access: charity

The Jewish community excels when it comes to charity. Jews with disabilities benefit from enviable services, homes, independent living facilities, special education and sheltered employment. We are even trained in the correct responses – to smile, to be friendly, to offer to help, not to stare. But charity has its dark side, and that is a side we never see until we shift from being 'givers' to being 'receivers'.

It is Rabbi Yehoshua who points out, commenting on the book of Ruth, that 'more than the man of the house does for the poor person, the poor person does for the

man of the house'.² In the case of Ruth this is eventually recognised: 'Your last kindness is greater than the first', says Boaz, the man of the house, referring to Ruth's act of throwing herself at his feet in the middle of the night.³ But most of us, not being in love with all the recipients of our kindness, do not make the shift of consciousness Rabbi Yehoshua suggests. The image he overturns is perhaps the most basic Rabbinic image of charity and, as it happens, of boundaries: 'The boundary-crossings of the Sabbath are two that are four: the man of the house inside and the poor person outside...'⁴ Our halakhic world is mapped out in terms of inside ('master of the house') and outside ('beggar'); giver and receiver.

Note, then, that Rabbi Yehoshua's imagery is spatial. The spotlight, at any given moment, is pointed at the house, which is fixed; the poor person enters stage left and leaves stage right, nobody knows to where. The drama on the stage: What will the man of the house decide to do? Will he extend a hand with bread or money in it, or will he send the beggar packing? To the beggar, in the great scheme of things, it does not make much difference. His livelihood depends upon a certain proportion of the houses he petitions coming up with the goods – it makes little difference which. To the man of the house it makes all the difference in the world: he is the star of this play, with freedom of choice, and must choose whether to be cast as hero or villain. His casting in the world to come depends entirely on the repertoire of parts he builds up in this one. The man of the house effectively climbs up to heaven on the shoulders of the beggar; Rabbi Akiva says as much explicitly, if with irresistible charm.⁵ Talmudic beggars had enough ironic perspective on their own dramas to be aware of Rabbi Yehoshua's principle: 'Merit through me', they would say, when marketing their destitution on the streets.⁶

A new approach is needed, and that this may be developed, perhaps counter-intuitively, using the principles of dialogue.

This not overly kind description of 'hessed' is all very well, but what about 'tsedaka'? We are all proud bearers of the rhetoric of caring for the disadvantaged as an act of 'tsedek' justice, as contrasted with the patronising 'Christian charity' practiced by everyone else who cares.⁷ Certainly we have done well at integrating the principle of giving as a form of holy income tax, which is in itself a wonderful thing; something which helps us to give willingly, without begrudging the recipient the gift which was never really fully our own. Yet our understanding of the content of that justice has not kept up with our willingness to work towards it. When we see a person who has been afflicted

from above, we have sufficient religious ‘hutspa’ to rebel against that heavenly judgment and work to make the suffering person all the recompense we can. But we have not yet learnt to make fine distinctions between afflictions from above and the decisions society makes about how to define and deal with them.

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I will take the extreme example of the disabilities brought about by aging. The opportunity to age is one of the back-handed miracles of our generation: by maintaining life longer we have bought ourselves years of gradual physical decline and loss of independence. This is a fact of all of our lives. For anyone, aging is a stressful process. Community care for the elderly, at its best, can be respectful, creative, sensitively offered and efficiently provided. At its worst, it can be a trauma all of its own. But almost always, residential care and sheltered accommodation distance those who require them from the life of the community, leaving only a limited number of bridges marked ‘hessed’. People who in younger days hosted family, friends and passing strangers, now wait for visits from ‘volunteers’; their place within the main body of the community has been devolved to others.

Housing issues, however, are secondary to the fact that the Jewish community we live in is strikingly age-segregated. This again is linked to the fact that our lives run along a certain expected path; the shifts in our social careers correspond to the rites of passage – study, work, youth movements, dating, marriage, children – that build up that Rava-esque c.v. for the Heavenly Court together we work, we study, we take our parts in the great Jewish mission of perpetuating the people. We find it hard to recognise continuity with others at different life-stages, or whose lives will progress along different stages from ours. And so when we invest in elder-care it is out of a sense of responsibility and kindness towards our elders, and not because we are investing in homes for our own retirement years; not because the fragility of a disabled older person’s life is the fragility of our own lives also.

As a tradition-centred community we have it better than some. At least we have an accessible mode of positive relation to the elderly. We have the vague concept of ‘wisdom’ – some other kind of knowledge available only to the old and to their confidants – to counter our host society’s general trend of age discrimination. This is not to say that we necessarily have more time to listen to an older

person’s ‘endless complaints’ about her health (though we may have endless time to hear our peers’ troubles, with which we have greater ability and inclination to identify), or that we will not construe her attempts to defend her rights as overly pushy, cantankerous, or pathetic. But our ears may be more attuned to ‘wisdom’, and we may be prepared to push our patience and generosity further in the hope of discovering it. Again, the older person must be packaged in a certain way to be palatable, and the connection between us both stands and falls on her being other than I am.⁸ This is true of our relations with people further down our own lives’ paths than us; people going not just where ‘but for the grace of God go I’, but where, with the grace of God, I fully intend to go. How much more so with people for whom the unfathomable grace of God has had other plans?

A person’s congenital differences, then, are a matter of her fate/fortune/destiny; but isolation, alienation, discrimination, lack of access, marginalisation, boredom and humiliation are social constructions. For the community to delegate responsibility for those on the other side of the access line to ‘hessed’, however genuinely heroic, necessary and sensitive that hessed may often be, is like a local authority demolishing a family’s house and then offering them a holiday in Jamaica; the short-term solution, however costly and colourful, is not enough, bears little correspondence to the family’s underlying need and no responsibility for their loss, and – even if inadvertently, unconsciously – it spares the community any soul-searching by distancing the sufferer from it.

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The boundary of halakhic participation: creative psak

For a religious Jew, one of the most painful forms of social exclusion is exclusion from communal religious practice. Halakhic literature bears out the fact that this is not a new sentiment. Questions of whether a disabled kohen can perform the priestly blessing, whether a blind person can be called up to the Torah and whether a deaf person can be a valid witness have been discussed from the Talmud onwards and are still debated today.

Halakha stands in tension between stability and change. The job of the ‘posek’ is to negotiate between the immovable, utterly authoritative Law and the constantly changing pressures of social reality. This is generally done either by showing that the text does not apply in this case as we would first have thought, or by asserting the authority to redefine the law in accordance with the spirit in which it was intended, which we assume was for the good of mankind as the particular rabbi understands it. This is rare and in any case only represents a position a little further along the same spectrum as the first approach. In every event, the new ruling (suited to current needs or wishes) is expected to make its peace with the original Law and with the broader system, by reference either to another equally valid source, to the precise wording or intention of the specific law, or to the perceived spirit (perhaps hiding) behind it. A qualified mediator must carry the title Rabbi.

This is not to say that other people do not influence the halakha. We influence it all the time; we are the social reality that forces the change. Rabbi Benny Lau, in his article *Disability and Judaism: Society's Influence on Halakha*, describes two ways in which this has taken place in relation to disability rights.⁹ Halakhic authorities, hesitantly, integrated changes in the social realities of deafness over the nineteenth century, accepting that since medical and pedagogic advances were changing the place occupied by deaf people in society, the assumptions the Sages held about them no longer matched the circumstances. Halakha could then change without actually changing: when deaf people were deemed, millennia ago, unable to marry in a halakhically valid way, the regulation was never intended to include a person whose intellectual capacities had been fully developed in a specialist school for the deaf.

In other cases, however, it is not science that advances, but society: any given society. Societies advance all the time in many directions; often they even advance backwards. The case R. Lau highlights is that of the rights of priests with visible physical differences to bless the congregation with the others. He cites the parallel Talmudic cases of Rav Huna and Rabbi Yohanan who, while making no blanket change to the prohibition against this, allowed specific priests suffering from potentially problematic discharges to bless their own congregations.¹⁰ The Rabbis explain that this was acceptable because the communities in question ‘were used to’ those particular priests, and so were not perturbed by their conditions. In other words, abnormality is something the community defines for itself. Unlike the case of deafness, the question here rests not on the priest’s physical ability to perform the obligation, but on the effect of his disability on the community’s experience of the blessing. In this case the halakha describes, but does not prescribe, where we place the boundary between ‘normal’ and disabled.

Despite the somewhat inhibitive fact that Reform are also concerned with the issue, Orthodox rabbis, here and there, have been beginning to address the remaining lacunae in halakhic literature when it comes to the rights of people with disabilities. The Bet Midrash for Social Justice, for instance, which Rabbi Lau directs at Beit Morasha, Jerusalem, has produced a small amount of research on questions such as access in the synagogue, the place of people with physical disabilities in communal worship, and the rights of people with epilepsy in divorce proceedings. This and other such work is published patchily, on a small scale. The most comprehensive book on the subject, Tzvi Marx’s *Disability in Jewish Law*, is broad and fascinating, applying social and psychological insight to a broad range of Rabbinic sources. This underpublicised book is difficult and expensive to come by, and Marx’s aim is to deepen our understanding, rather than (although as a necessary prerequisite to) make changes in the halakha we practice.¹¹

Halakha, then, meanders along its way, influenced by and sometimes putting up its necessary resistance to the pressures of ethics and expectations from the outside. People with disabilities remain on that outside. As in the charity model, there are ‘men of the house’, mostly rabbis, working with the best will in the world, to bring in outsiders as much as they feel they can. The tug-of-war mode of halakhic change-in-stability requires a fixed hierarchy of influence, a hierarchy one can climb only in so far as it is made accessible to one.

Exceptions are worth noting. Rabbi Shaul Anvari, a graduate of Yeshivat HaKibbutz HaDati at Ein Tzurim, is perhaps the first ordained Orthodox rabbi with cerebral palsy.¹² With the help of a team of other rabbis, and typing painstakingly with his feet on a computer specially adapted for him by members of Kibbutz Sde Eliyahu, Rabbi Anvari is compiling a book of halakhic responsa for people with disabilities. The issues he deals with belong to the everyday: how should one lay tefillin if one does not have enough motor control to bind them? When should a person who uses a catheter say the blessing after going to the toilet? Can a person with disabilities fulfil his obligation using electric Hanuka candles? This concern with the personal religious life of a Jew with disabilities carries the scent of something new: until now the focus of halakhic discourse has been on the public face of disability; on the synagogue and on the interpersonal laws of contracts and damages. Finally we may be becoming able to accept people with disabilities as full halakhic beings in their own rights.

The boundary of experience: dialogue

The border-line which is perhaps most difficult to acknowledge, that divides between people with disabilities and those without, is the abyss dividing our experiences of the world. How are we to navigate our interactions

truthfully and lovingly, when we cannot articulate or even really gauge the difference it makes that my concept of body-image is unlike yours, that I am struggling with different challenges and ambitions in my present day-to-day, that I may have grown up in a different education system, that you may have grown up forever ‘different’ in the same education system? It may be literally impossible for me to empathise with the everyday experience of somebody else. It may be emotionally impossible, except perhaps in moments of agonising grace, for me to contemplate what that experience means to him, or what it implies about me, my life, my experience.

One who sees... an albino, or a giant, or a dwarf, or a person with dropsy, says ‘Blessed is He who made his creations different from one another’. One who sees a person with missing limbs, or a blind person, or one with a flattened head, or a lame person, or one who suffers from boils or a person with a whitening skin complaint says, ‘Blessed is the true Judge.’¹³

Liturgy is one of the most powerful ways of creating ideological norms.

Liturgy is one of the most powerful ways of creating ideological norms; when a person preaches a sermon he tries to persuade his audience to agree – when he tells them to say a particular blessing, he literally puts his words into their mouths. To the extent that I am aware of what I am saying and do not consciously rebel against it, I integrate the blessing’s assumptions seamlessly into my own worldview. Berakhot, then, align our reactions to particular situations and stimuli, either drawing our attention to an everyday event which could have slipped by unnoticed, or offering us an appropriate, scripted mode of reaction to something out of the ordinary.

The Talmudic discussion of these Tanaitic sources on the appropriate blessings for people with various visual ‘abnormalities’ makes a distinction between people born with the ‘whitening skin complaint’ in question, and those who contracted it later in life. Illness, accident and violence are personal calamities; the Jew who responds to the scars with the ‘justification of the judgment’ formula, ‘Blessed is... the true Judge’, is assumed to identify so powerfully with the stranger’s suffering that he needs a blessing to keep his faith intact, perhaps to console himself for his vicarious suffering, and to maintain his sense of a somehow-coherent universe. If the disability (the commentators take the distinction of ‘skin complaint’ diagnoses to apply to the other conditions as well) is congenital, then no ‘justification of the judgment’ is required; at least, not the conventional one. Being created ‘different’ is no disaster; it is the spice of life.

The dynamic of this blessing is played out in a Talmudic narrative, Taanit 19b-20a:

‘Once, when Rabbi Elazar the son of Rabbi Shimon [bar Yohai] left Migdal Gadur, his teacher’s house, he rode on his donkey, moving along the bank of the river, extremely happy, and in a strutting frame of mind, because he had learnt so much Torah.

He happened across an extremely ugly man. The man said, “Shalom, my teacher.” Rabbi Elazar did not answer him; instead he said, “Idiot! How ugly that man [i.e. you] is! Could it be that everyone in your city is as ugly as you?!” The man said, “I do not know; why don’t you go to the artisan who made me and say, ‘How ugly that vessel You made is..!’”

Rabbi Elazar immediately accepts the man’s point (‘na’aneti’ – literally: ‘I am answered’ – a moment before he would not deign to ‘answer’ the respectful stranger greeting him). The power dynamic between them reverses; the rabbi apologises profusely for his rudeness, and when the offended man, understandably enough, does not accept, he follows behind him in a gesture of contrition, refusing to leave him alone until he is forgiven. This leads him as far as the very city mentioned in the rabbi’s flippant outburst:

‘The people of [the man’s] city came out to greet the rabbi and said, “Shalom my teacher, my master, my master!” The man said, “Who do you think you are calling ‘my teacher’?” They said, “That man who is coming after you!” He said, “If that is a teacher, I hope Israel does not have many like that”. They said, “Why?” and he told them what he had done to him. They said – “All the same, forgive him; he is a very learned man when it comes to Torah”. He said, “Well, for your sake I will forgive him; but only if he does not make a habit of it”.

The image of one man walking after another is that of a student following his teacher to learn from him.¹⁴ Both Rabbi Elazar and the ‘ugly man’ are fully aware of this reversal in their statuses, and it is only the bystanders who still recognise the well known rabbi for what he is supposed to be. It is these ‘people of the city’, carrying the pressure of convention, who restore order in the end. When they were invoked in their absence, it was in the mind of Rabbi Elazar, who wondered, at least in somewhat contemptuous rhetoric, whether the explanation for the man’s ugliness could be the ugly city he came from. The man ‘does not know’ whether or not he is ugly in relation to his neighbours; they, unlike the wise-man, do not draw attention to his looks. Among them, ‘for their sakes’, he can afford to be forgiving. They teach him to make allowances for teachers. More to the point, they listen to his story with enough respect for him to relax his militancy, knowing that his point has gone across. He is now the ‘teacher’, though of a different kind. And indeed:

'Rabbi Elazar went straight into the Bet Midrash and taught, "Let a man ever be soft like a reed, and never hard like a cedar". This is why the reed had the honour of providing pens for the writing of Torah scrolls, tefillin and mezuzot.'

How Rabbi Elazar learnt this lesson from the man, who for all his insight and presence of mind is not exactly 'soft', is open to interpretation. He may have learnt it in the negative from the man's obstinacy, in the positive from his eventual capitulation under the pressure of his neighbours, or from the insight he gave him at the outset, into the diversity of beauty in God's creation. The point may be driven home by the condition for his forgiveness, 'only if he does not make a habit of it'; only if he learns to replace his closed-minded, arrogant habitual response with something more sensitive to the individuals he encounters. In any case – a transformation has taken place. If the Torah the rabbi learnt a moment before the story began made him vain and narrow-minded, the Torah he has learnt from this encounter requires him to accept difference and vulnerability. From now on, all scrolls must be written that way: from a soft and humble material, responsive and delicate.

For all the rabbi's learning, the 'ugly man' (in his eyes) knows something he does not know. He knows his own city and his own place in it. He knows something about creation which does not correspond to the model understood in the Bet Midrash. He knows that God's aesthetic is broader than any human's. He knows things born of the pain of his rejection, and things born simply of his different angle on the world. He knows that God is God because He 'makes His creations different from one another'; he knows that the hierarchy of knowledge in which the men of the Bet Midrash self-define as the 'teachers' bears a very precarious correspondence to reality. The transformative knowledge Rabbi Elazar gains here comes less from the words exchanged between him and the man, than from the hardness and softening of the encounter itself. The meeting of clashing worldviews opened up to one another is perhaps what we would now call dialogue.

There are various models of dialogue. Cobb's theory of interreligious dialogue is that the places of encounter should be the points of shared crisis; that two communities must identify their common weak points – traumas, internal divisions, crises of faith – and meet to learn from one another's ways of coping.¹⁵ This shared problem-solving should transform each community separately (first of all), and then the two together. To bring up such a theory of dialogue here seems highly inappropriate; here we are not discussing 'us' and 'them' but only us: us the Jews, of all abilities. But to say that it is as simple as that would be a denial of the fences, the moveable, semi-transparent fences that divide people with disabilities and the community at large along the three fault-lines we have discussed and probably along others as well.

'The community' encounters its members with disabilities only at moments of strength – or across the 'mehitsa' of charity. Only at the times and in the places which have become accessible, or when representatives of the 'community' go out to meet those on its outskirts, expressing their position of strength and wholeness in compassion for others. At the points of weakness, of our shared weakness, we do not meet; people are denied access, are spared the trouble of obligations (which may trouble others to help them), are alienated from the dominant worldview, or interact in partial or complete denial of their disabilities so that they can 'fit in' more easily. Encounter at the crisis moments – as when Rabbi Elazar finds the 'ugly man's' pain and humiliation and meets it with a corresponding crisis of his own understanding of the world – are rare. Fortunately. Rare also are the quieter moments of encounter with the divide; moments when we realize our shared vulnerability, allow ourselves really to see the vulnerability, isolation, suffering and frustration of others, and acknowledge the weaknesses and gaps in our own experience of the world, which require the silenced knowledge of others to help fill them.

What we need may be dialogue, not in the sense of a staged showdown, but in the sense of constant, everyday presence together, listening, speaking, learning together, working together on our shared limitations.

What we need may be dialogue, not in the sense of a staged showdown, but in the sense of constant, everyday presence together, listening, speaking, learning together, working together on our shared limitations. Presence needs to be worked on, it must be enabled and invited. But it is not the end in itself; it is what we all need to reach a shared end, a fuller self-awareness, a healthier shared process, moving wherever we need to be going together, and cannot yet predict.

Redemption

Yirmiya, quoted at the top of this article, draws an image of redemption where all of the scattered nation is brought back together to its land and its ritual life; 'blind and limping men, pregnant women, all together, birthing mothers'. The phrasing suggests a gentle homecoming; a redemption accessible to all 'together' – so Radak: '...I shall bring them easily, along an open road, such that even the blind and limping and pregnant and birthing will be able to walk with them and will not stumble as they walk.' Yet Rashi brings a different nuance to bear: 'Blind and limping: Even the stumbling people among them

I shall not reject (lo em'as)? Where does Rashi find the ‘hava amina’ that these people might be rejected? Does he include the pregnant and birthing in this expectation? Yet the assumption is not absurd in the slightest. The eventual Zionist resettlement of the land was fuelled by an ideology which had little space at all for people unable fully to participate in the physical labour of the enterprise.¹⁶

This vision of redemption is helpful in drawing our attention to what we are lacking in the present state of things, and to the way things work, ‘really’. Without a little divine mercy, none of us will be getting anywhere. And divine mercy is a thing to be shared, not to be swallowed up first by the ‘fittest’. But we do not need to wait for Redemption to work towards shifting the balance. We have always known, at least in the basics, how it is done:

*A person who witnesses the new moon and is unable to walk, [others] must bring him [to Jerusalem, to testify] on a donkey – even carry him on a bed. If the witnesses are anxious, they bring sticks; if the way is long, they take food in their hands, for with a walk of a night and a day one breaks Shabbat and goes out to testify to the new moon, as is said, These are the gatherings of the Lord... which you must call at their times.*¹⁷

I have translated the opening of this mishneh with awkward wording that reflects the Hebrew grammar; ‘a person who witnesses... [others] must bring him...’ Both the disabled witness and the undefined others who may be any able-bodied Jews, are the subjects of this law; the object is the moon itself. We are all responsible for this man’s testimony being heard, not out of responsibility towards him, but because his own declaration, spoken by his own mouth, is needed in order to fix the community’s calendar. We will break Shabbat to make sure that this happens. We will carry his bed a night and a day’s distance. No second-hand telling will do; we will not rely on the probability that somebody else will have seen the same thing. He must make sure that he is heard, and we must all make sure to enable him. This is how holy gatherings are made.

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Jewish Dis/Ability Unite is a new forum on issues surrounding equality and access in the Jewish Community. It aims to provide information and halakhic, Jewish-thought and personal writing on all aspects of life with disability in the community, as well as an open forum and an ‘Ask the Rabbi’ service. Everyone’s participation is welcome. Jewishdisabilityunite.wordpress.com. For more information: jduinfo@gmail.com.

1. Shabbat 31a.
2. Midrash Rabba Ruth 5:9.
3. Ruth 3:10.
4. Shabbat 1:1.
5. Bava Batra 10a: ‘Turnusrufus asked Rabbi Yehoshua, “If your God loves poor people, why does he not sustain them?” Rabbi Akiva replied, “So that we may be saved by them from the judgment of Hell.”’ (The story carries on to define Israel as ‘Sons of the Lord’ only in so far as we obey the moral imperative of caring for the needy.)
6. E.g. Yerushalmi Ta'anit 1:4.
7. Islam has a concept of charity ‘tax’ very similar to ours, and uses the same Semitic root in the term ‘sadaqat’ used for spontaneous giving (understood in the sense of ‘sincerity, truth’). And of course, we should hesitate before criticizing Christian philanthropy and activism; we owe countless breakthroughs in human rights and social justice, as well as almsgiving, to religiously motivated Christians.
8. This subject is developed by Barbara MacDonald and Cynthia Rich in *Look Me in the Eye: Old Women, Aging and Ageism*, (Midway, 2001).
9. First published in Hebrew, BeMa'aglei Tsedek 11, (Jerusalem, 2005); available in English jewishdisabilityunite.wordpress.com.
10. Megilla 24b.
11. London, 2002.
12. Some of R. Anvari’s work is available in Hebrew at shaul-anvari.info; translations may be found at jewishdisabilityunite.wordpress.com, where Rabbi Anvari also provides an ‘ask the Rabbi’ service.
13. Berakhot 58b.
14. Cf, for instance, Hagiga 15a, ‘Once, “Aher” was riding his horse on Shabbat, and Rabbi Meir walked after him to hear Torah from his mouth.’
15. J. B. Cobb, *Beyond Dialogue: Towards a Mutual Transformation of Buddhism and Christianity*, (Minneapolis, 1982).
16. The negative impact of Zionist ideology on the rights of disabled groups in Israel is discussed by Dr. Dina Feldman in ‘The Equal Rights for Persons with Disabilities Law, 5758-1998, at the Crossroads between Charity and Right’, available in Hebrew *Bema'aglei Tsedek* 11 (Jerusalem, 2005); an English translation will soon be published on jewishdisabilityunite.wordpress.com.
17. Vayikra 23:4; Rosh Hashana 1:9.

The ending of the berakha of Hashkivenu on Yom Ha'atsmaut and Yom Yerushalayim

RABBI SHLOMO GOREN, TRANSLATED BY RABBI ILAN GOLDMAN

Rabbi Shlomo Goren was born in 1917 and from 1925 he was raised in Kfar Hasidim, a religious community near Haifa that his father co-founded. He began studying at the Hebron yeshiva at the age of 12 and published his first sefer at 17. He was a great gaon, a brilliant halakhist and an authority on the Talmud Yerushalmi.

R. Goren volunteered for the Haganah in 1936. He served as a chaplain during the War of Independence, and qualified as an IDF paratrooper. After independence, R. Goren was appointed Chief Rabbi of the Military Rabbinate of the IDF, a position he held until 1968.

R. Goren was present during the capture of East Jerusalem on June 7, 1967, where he gave a prayer of thanksgiving broadcast live to the entire country. Shortly afterwards,

R. Goren, blowing a shofar and carrying a Sefer Torah, led the first tefilla at the Kotel since 1948. This scene was captured in a number of famous photographs.

In 1973 R. Goren became Chief Rabbi of Israel and strove to apply halakha to the realities of a modern state. He retired in 1983 and died in 1994.

We are familiar with the discussion as to whether a berakha should be recited before Hallel on Yom Ha'atsmaut and Yom Yerushalayim. This teshuva deals with the less well known question of the appropriate conclusion of Haskivenu on those days. It was composed in 1976 and addressed to R. Yoel Velvelski of the Flatbush Yeshiva, Brooklyn. It was printed in Tehumin (9) in 1988.



R. Shlomo Goren at the liberation of the Old City

Our established custom is to end the berakha of Hashkivenu on the eve of Yom Ha'atsmaut and Yom Yerushalayim as we do on Shabbat, even when it falls on a weekday [with the words 'hapores sukkat shalom alenu ve'al kol Yisrael ve'al Yerushalayim' – 'who spreads the sukkah of peace over all Israel and over Jerusalem' as opposed to 'shomer amo Yisrael la'ad' – 'who guards His people Israel forever']. This follows the halakhic authorities who explain that the Shabbat ending is the berakha of geula - redemption.

The berakha of 'hapores sukkat shalom' as the berakha of geula.

The Tur (Orakh Hayim 367) explains the change in the words of the berakha from weekdays to Shabbat. On Shabbat we do not need protection (and therefore need not end the berakha with the words 'shomer amo Yisrael la'ad'), because Shabbat protects the entire world. Instead we end the berakha 'hapores sukkat shalom alenu ve'al kol Yisrael ve'al Yerushalayim', which refers to the redemption of Israel. That is also why we can say Veshomru ['The children of Israel shall keep the Shabbat', etc.] because the pasukim suggest that if the Shabbat is kept then the people will not need protection (as the Tur Zahav wrote on the Shulhan Arukh, Orakh Hayim at the beginning of 367).

The Peri Megadim adds in the name of the Levush (Siman 582) that the reason we can create a break between Hashkivenu and the Amida [which should be preceded immediately by the mention of geula] to say pasukim relevant to yom tov, Rosh Hashana and Yom Kippur, is because in all these cases the pasukim are relevant to geula, as all the Festivals commemorate the Exodus, and the Exodus relates to the future geula. As the verse says: 'As in the days of your coming out of the land of Egypt will I show him marvellous things.' (Mikha 7:15). Another verse says: 'And she shall follow, as she did in the days of her youth, and as in the day when she came up out of the land of Egypt. (Hoshea 2:17). Regarding the verse 'blow the horn on the new moon' [said on the night of Rosh Hashana] – another verse says: 'And it shall come to pass in that day, that a great horn shall be blown' (Yishayahu 27:13). On Yom Kippur we say: 'Through this day he [the High Priest, although homiletically it can be read 'He' i.e. God] will atone for you, to cleanse you from all your sins; you will be cleansed before the Lord' which refers to the geula of the soul, the greatest form of redemption.

We can therefore conclude that the berakha 'hapores' is indeed a berakha of geula. As the verse says: 'On that day will I raise up the fallen tabernacle of David, and close up its breaches, and I will raise up his ruins, and I will build it as in the days of old' (Amos 9:11).

Yom Ha'atsmaut and Yom Yerushalayim – Festivals of geula

It is therefore reasonable to conclude the berakha with 'hapores' on the eve of Yom Ha'atsmaut, for it is the night of the beginning of our third redemption. And even more so on the eve of Yom Yerushalayim, for the redemption of Jerusalem is mentioned in the berakha, and on this day we merited the geula of Jerusalem.

The Magen Avraham teaches in the name of the Bet Yosef and the Bayit Hadash (Orakh Hayim 561) that when one sees the cities of the Judea and Jerusalem when they are destroyed must tear ones clothes. This is true even if Jews live there; as long as Jews do not rule, the cities are considered destroyed. But when Jews do rule, even if the cities are inhabited by gentiles, they are considered restored. Therefore, it is clear that the liberation of the Jerusalem by Israel's army was the restoration and redemption of Jerusalem.

This was also the case on Yom Ha'atsmaut. On this day the liberation of Erets Yisrael began. The Gemara states that the wars of Israel in the future will mark the beginning of the redemption (Megilla 17b) [a time of universal peace]. It is therefore correct to recite [on Yom Ha'atsmaut]. 'Lord who spreads a canopy of peace over us and over all his people Israel, and over Jerusalem', [because the events of Yom Ha'atsmaut will] abolish war forever. This will fulfil the blessing of the Torah: 'I will establish peace on the earth, and you will dwell without fear. We recite 'hapores' on Shabbat and Yom Tov, because of this same pasuk, which links the peace in the world to the concept of dwelling without fear.

The berakha of 'hapores' because Shabbat protects the world

If we say 'hapores' because of its link between peace and redemption, we should surely say it on Yom Ha'atsmaut and Yom Yerushalayim, as we have discussed above. However, if the reason for saying is as explained by the Tur and in the Tur Zahav, that 'hapores' expresses the protection Shabbat gives the entire world, it would not be appropriate on Yom Ha'atsmaut and Yom Yerushalayim. More suitable would be the weekday berakha 'shomer amo yisrael la'ad' [that asks God to protect the Jewish people specifically, because Yom Ha'atsmaut and Yom Yerushalayim are relevant only to God's protection of the Jewish people].

However, the explanation of 'hapores' given by the Tur and Tur Zahav only works for Shabbat, and not for the Hagim. We can say that the whole world, both Jews and gentiles, is protected by Shabbat, but the Hagim are only relevant to Jews. The Hagim are sanctified by Am Yisrael and have no

meaning for gentiles. This is why conclude the berakha [of Kiddush and elsewhere] on the Hagim ‘He who sanctifies Israel and the Festive seasons’. As Hazal taught in Pesahim 117b ‘Israel determine when yom tov falls as they fix the months, [and say] ‘He who sanctifies Israel and the Festive seasons’.

If we say ‘hapores’ because of its link between peace and redemption, we should surely say it on Yom Ha’atsmaut and Yom Yerushalayim.

This is not true of Shabbat, when we end the berakha ‘He who sanctifies Shabbat’ because its sanctity was set at Creation. This leads to the question asked in Beitsa 17a: ‘why do we not make the berakha ‘shomer amo Yisrael la’ad’ on these days [yom tov, which are not relevant to the whole world, but only to the Jewish people]? ’ Indeed the verse specifically says of Pesah ‘this night is a night of watching of the Lord for all the children of Israel throughout their generations’. (Shemot 12:42), meaning that it is a night of watching only for Israel, and not for non-Jews. If Pesah night only protects the Jews, why do we not conclude the berakha on Pesah ‘shomer amo Yisrael la’ad’?

It must be that the reason for ‘hapores’ must be that it connects peace and geula, rather than expresses the protection Shabbat gives the whole world. On the Hagim we must link the berakha of shalom to the berakha of geula regardless of whether the night protects the whole world or just Am Yisrael.

That being the case, this should apply on the eve of Yom Ha’atsmaut and on the eve of the day of the redemption of Yerushalayim. Surely we should link the berakha of peace to the berakha of redemption on these evenings, and should not end the berakha ‘shomer amo Yisrael la’ad’, but rather ‘hapores sukkat shalom alenu v’al kol amo Yisrael v’al Yerushalaim’.

The source for changing the berakha on Shabbat

The Tur (and the Vilna Gaon in his commentary to Shulhan Arukh [Orakh Hayim 267]), mentions that the source for changing the text from ‘shomer amo Yisrael la’ad’ to ‘hapores’ on Shabbat is found in the Talmud Yerushalmi. The Abudraham, like the Tur, quotes this Yerushalmi in his siddur, and teaches that the Geonim ruled accordingly. However, this source cannot be found in the text of the Yerushalmi that we have today. Neither can it be found in the minor tractates of Yerushalmi such as Sofrim.

Another possible proof comes from the Kol Bo, which records that in Rabbi Sar Shalom Gaon’s yeshiva in Babylon the ending of the berakha was not changed on Shabbat. We can deduce from this that although in his yeshiva they did not change the berakha, elsewhere they did.. However, it seems from the Shevilei Halekhet (Shabbat 65) that there is a mistake in our text of the Kol Bo. The Shevilei Halekhet uses this Kol Bo as proof that one should change the end of the berakha on Shabbat and end with ‘hapores’. It therefore seems that the word ‘not’ should be erased from the Kol Bo’s report of Rabbi Sar Shalom’s custom in Babylon.

On Shabbat and on yom tov there is no need for protection on a journey

The Kol Bo mentions another reason for saying ‘hapores’ on Shabbat, which is not mentioned by other Rishonim and Aharonim and is not found in the Shulhan Arukh and its commentators. The Kol Bo states in Hilkhot Shabbat 35, in the laws of the evening prayers of Shabbat, that the ending ‘shomer amo Yisrael la’ad’ was established for weekdays alone, when people are travelling for work and are in need of protection on route. But on Shabbat and Hagim as it is forbidden to travel, we therefore end the berakha ‘hapores’, because we are simply commanded to observe the day, and we pray we will be able to do so in perfect peace.

Although in Israel people do not go to work on Yom Ha’atsmaut, they do travel, while Yom Yerushalaiym is a regular working day although we the Hallel and give thanks to God. So, according to this reason for the change in berakha given, it seems that we should not alter the ending of the berakha on Yom Ha’atsmaut and Yom Yerushalim.

However, we can rely on the other opinions we have cited, including the ruling of the Peri Megadim that we should mention the redemption of Israel on Shabbat and on Hagim, and should link it to the berakha of ga’al Yisrael in Ma’ariv. These sources and reasons are sufficient [to rule that we should change the berakha from ‘shomer amo Yisrael la’ad’ to ‘hapores’ on] Yom Ha’atsmaut and Yom Yerushalim, which, as we have mentioned, herald of the beginning of the redemption.

May we have the merit to hear the bat kol of Melekh HaMoshiah, who will come and stand on the roof of the Bet Hamikdash and will announce to Israel ‘the time of your redemption has come’. If we lack faith, let us see the light that has shone upon the Jewish people as it says: Arise, shine, for your light is come and the glory of the Lord is risen upon you (Yalkut Shimoni, Yeshayahu 60:499).

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Neoconservatism's Jewish forebears: How McCarthyism transformed the New York Intellectuals

BEN TANKEL

The New York Intellectuals were a loose-knit group of mostly Jewish, mostly second generation, immigrants from arch-socialist neighbourhoods in Brooklyn and the Lower East Side. Excluded by ethnic quotas from the Ivy League, and raised on nightmarish tales of the fates of their German cousins, they could not help but feel a strong Jewish pull. Yet those same stories also instilled in them a fear of the totalitarian potential of American society. Reflected in mass advertising, prim rows of identikit suburban homes, and the hoards of men in grey-flannel suits on the 17.01 train out of Grand Central, they recognised the mechanical impulse that had driven hundreds of thousands of ordinary men to march unthinking at Nuremberg. In response, they advocated the virtues of individualism and dissent, traits which they believed both Jewish and American traditions held dear. They were wrong. In a little over a decade, the New York

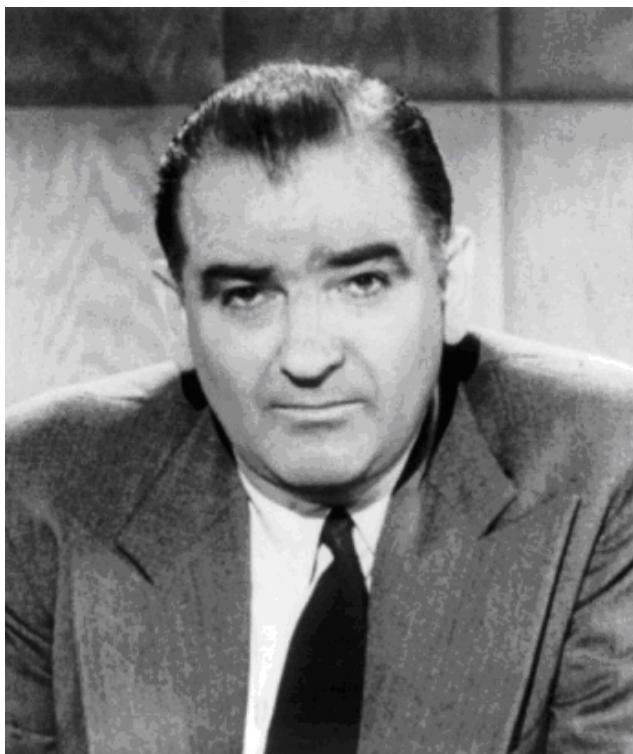
Intellectuals were forced into an about-face by opposition voices both in their own ranks and in those of McCarthy's House Un-American Affairs Committee. Their most famous luminaries – Norman Podhoretz, the Irvings Howe and Kristol, and Daniel Bell – are now remembered as the grandfathers of Bushite neoconservatism rather than as radical liberals. Why such a reversal?

Jewish individualism in postwar America

The age of affluence, the Cold War, and Senator Joseph R. McCarthy all offered Jews new possibilities for developing their identities as Americans. To varying degrees, each furnished Jews with the vocabulary, ideology, and means to fashion a robust American-Jewish identity. However, they also provoked a crisis of identity by effacing the distinction between the characteristics on either side of the hyphen. ‘This is the Jewish dilemma’, argued Philip M. Klutznick, a former president of the B’nai B’rith Youth Organisation. ‘Shall we risk the open society and perhaps lose our identity, or shall we isolate ourselves and lose some of our freedoms and the full flowering of our personalities?’¹

The age of affluence, the Cold War, and Senator Joseph R. McCarthy all offered Jews new possibilities for developing their identities as Americans.

The New York Intellectuals’ answer was to construct a distinct American-Jewish identity with plenty of room for both traditions. They set about identifying those aspects of their twin American and Jewish heritages that they believed were compatible.



Joseph McCarthy

Daniel G. Ross, addressing a meeting of the National Planning Committee of the Jewish Theological Seminary in May 1954, described democracy as 'founded in the tradition of the Prophets and nourished by the words of Scripture'. In a set of notes for possible themes on which to lecture the tercentenary annual meeting for the AJC, Morton Wishengrad listed 'social justice, social welfare, industry, medicine, intellectual and scientific achievement, freedom and civil liberties, entertainment' as 'Jewish contributions' to America.²

Above all, however, Jews identified the individualist, Willy Loman spirit of the American Dream with their own ethno-religious tradition. Jewish history was mined for examples of dissidence and social criticism in an attempt to justify the emphasis on individualism from an ethnic perspective. Rabbi Leon Jick of Westchester County told his congregation in a High Holidays sermon in the mid-1960s that Jews lived 'for centuries as a minority in the midst of societies dominated by authoritarian ideologies, they became...the group which challenged absolutism, disrupted uniformity, and proclaimed to mankind in the darkest and most dismal ages that there was more than one way of thinking and acting'. Philip M. Klutznick, who was later to become the Secretary of Commerce under Carter, stated that 'I think I know American history well enough to know that there's nothing between the history of America and the real history of Jewish life and Judaism that's a contradiction. Quite the contrary, I think they complement each other'.³

Jewish intellectuals argued that Judaism, like Americanism, put a premium on individual autonomy.

Jewish intellectuals argued that Judaism, like Americanism, put a premium on individual autonomy, and so they carved out an identity that manifested itself in disputativeness and dissent.⁴ Irving Howe, the founder and co-editor of *Dissent* magazine, revealed the attitude from which his journal received its title when he commented: 'We had been raised, it seemed, with our mother's milk with the idea that the function of the intellectual was to stand apart from the governed institutions of society. To be a critic, even if it meant being marginal in the world.' Writers such as Philip Rahv and Eliot Cohen, editors respectively of *Partisan Review* and *Commentary*, argued that their publications were outlets for the expression of an unmistakeably Jewish consciousness, which, ironically, could stake a stronger claim to the American credo of individual creativity than that of her native sons. 'It is in the pages of the influential magazine *Commentary* that liberalism is most skilfully and systematically advanced as a strategy for adapting to the American *status quo*', wrote Irving Howe, a regular contributor to both periodicals.⁵

The New York Intellectuals' emphasis on individualism stemmed from their own marginalisation. Having been forced into an education at Manhattan's City College by ethnic quotas at Columbia University, most of the New York Intellectuals assumed incorrectly that they would always be excluded from institutional academic life. 'They never knew that they had a professional career... And I think that affects your relationship to ideas and culture and so on', commented Nathan Glazer, who later became a Professor Emeritus of Sociology and Education at Harvard.⁶ They were instinctive outsiders who remained suspicious of the established, Washington-oriented liberal camp, who in journals such as *Nation* and *New Republic* betrayed outmoded beliefs in isms and a lack of sensitivity to the ironies of postwar culture.⁷ Jewish intellectuals thus appropriated the American credo of individualism, which for them manifested itself in the imperative of dissent rather than in the consensus politics and culture of the established liberal organs. Norman Podhoretz, who edited *Commentary* for 35 years, noted that: 'Many in the group had a sense of being a community unto themselves, living by their own rules and standards, by their own passions. So we were cut off, in that sense, from the ruling passions of most Americans, or what some of us imagined to be the ruling passions of most Americans'.⁸

The antithesis of individualism was uniformity, which to the New York Intellectuals portended totalitarianism. As early as 1941, Rabbi Louis Finkelstein wrote:

'There are those who predict that the aftermath of war will be economic collapse; and that, under the influence of totalitarian propaganda, economic collapse will produce Mr Nock's Frankenstein, an "Occidental mass-man," who in his hungry rage will rend his fellow citizen in pieces. If such a future be in store for America, the victims of persecution will be the fortunate ones; for it is infinitely better to suffer persecution than to inflict it.'

In fact, the affluence of the postwar period raised the same concerns about society that Finkelstein feared would result from economic collapse. According to Gordon: 'Uniformity and standardization are the natural consequences of mass production', and offered 'sufficient reason for grave concern'. Recording his tour of Jewish communities around America, one commentator in a February 1948 issue of *Commentary* reported 'the pervading restlessness of people at this decade's whirling events. In the midst of dollars, there is the fear of economic collapse; in the midst of safety, a foreboding of disaster'. Over a decade later, Nathan Glazer remained concerned that the high degree of integration now could not guarantee security later. 'It is in the modern society that Jews have flourished...and it is when society reverts to a more primitive state, where force and those who wield it receive the greatest rewards, that the Jews are again thrust back to a low social position'.⁹

Jews were similarly concerned about the assault on individualism that appeared to result from the Cold War. Gordon devoted an entire chapter of his *Jews in Suburbia* to a vituperative jeremiad reminding Jews of the way that affluence and the Cold War channelled the American population into material avarice and social conformity. ‘How desirable it appears to be like everyone else, especially when our security seems to be directly involved! We are reminded frequently how important it is to join with others against those forces that threaten ultimately to destroy us – against atom and hydrogen bombs, satellites and missiles, and against war generally.’ To what does one conform?’ asked Irving Howe in *Partisan Review*. ‘To institutions, obviously’ came the resounding response. ‘What one conforms to most of all... is the Zeitgeist, that vast insidious sum of pressures and fashions.’

The destruction at Hiroshima and Nagasaki furnished liberal intellectuals with the ammunition to launch a moral critique of American society as a whole. Both the atom bomb and the concentration camp were seen as the inevitable consequence of the moral failings of modern society. The ‘Bomb is the natural product of the kind of society we have created’, argued Dwight Macdonald, regular contributor to *Politics*, in which ‘vast numbers of citizens can be organised’ to create weapons of mass destruction ‘without even knowing they are doing it’. The world had achieved ‘perfect automatism’ with an ‘absolute lack of human consciousness... *Gotterdamerung* without the Gods’.¹⁰

Jewish solidarity

Yet all were not content with the emphasis on liberalism and individuality. Concerned observers drew parallels between the ‘alienation’ that liberal critics saw as inherent in mass society and the fate of their German coreligionists, and argued that only a sense of group Jewishness would ensure the survival of American Jewish identity. Those that stressed individualism were seen, in the words of French philosopher Jean-Paul Sartre, as ‘inauthentic Jews’, apostates who tried to escape their Jewish identity. Certain Zionist leaders criticised the New York Intellectuals as ‘*literati* who enjoy bleeding in public, in dramatic and ostentatious displays of the wounds joyfully sustained in their well-advertised flight from Jews and Judaism’; as responsible for Jewish ‘moral suicide’; and as harbingers of ‘ethnic liquidation’. An early *Commentary* article suggests that ‘of all the insecure people in America (except for Negroes), Jews are the most unhappily insecure’, and a sociological study by Judith Kramer and Seymour Leventman focuses on the ‘new wandering Jew plagued by a twentieth century anxiety about the nature of his identity’.¹¹

For others, the example of German Jews provided ample justification for Jewish group identification. Hannah Arendt, a German Jewish émigré coined the term ‘parvenu

Jew’ in 1944 to describe the ‘extreme solitude’ of German Jews who ‘aped the gentiles’ and sought above all to ‘escape from Jewishness’. She contrasted the parvenu with her ideal of the ‘pariah Jew’ who fought for the right of Jews ‘as Jews’ to ‘enter the ranks of humanity’. Kurt Lewin, another German Jewish émigré, similarly transposed understandings gained from his European experience to the American scene. He used the personal ‘shame’ embodied in ‘the lives of whole generations of Jews’ in Germany as a cautionary tale for American Jews. By 1948, one contributor to *Commentary* already complained about American Jews who made ‘the Jewish failure in Germany’ the new measure for the dangers of Jewish life in postwar America. ‘In the minds of most American Jews’, he argued, ‘assimilation’ had come to represent ‘a hypocritical flight from Jewishness... And the Jews of Germany are recalled as the most shameful example of this kind of “assimilation” with the ironic recollection of what happened to them when Hitler achieved power’.¹²

Joseph McCarthy

Into this fray waded the junior Senator from Wisconsin, Senator Joseph R. McCarthy. The rise of America’s most famous demagogue vindicated the deepest concerns of critical observers about the mass society. In the twentieth edition of *Generation of Vipers*, his influential polemic on American society, Philip J. Wylie (not a Jew) appended his comment ‘Our society... has not yet been compelled by circumstance into a paranoid form of united action, but it may be’, with a footnote suggesting that the rise of McCarthyism had been the fulfilment of his prediction. Worse, many Jews inferred from both recent European history and contemporary American evidence that the anticommunist movement had ‘the smell of anti-Semitism on its edges’. Jews therefore redoubled their emphasis on their preference for individuation and their propensity for dissent in order to promote their version of liberalism to a society they perceived to have forsaken its Americanism and to defend against McCarthyite ‘smear’ tactics which seemed to impugn Jews under the old antisemitic canard that all Jews were Communists.¹³

Much of the American Jewish unease about McCarthyism was derived from the recent fate of German Jews.

Much of the American Jewish unease about McCarthyism was derived from the recent fate of German Jews, and was largely informed by an influential group of German Jewish émigrés who transposed sociological and psychological insights into 1930s German society to McCarthyite and Cold War-stricken America. They anxiously compared the

way that mass behaviour had led the modern nation-states of Central Europe from Nuremberg to Auschwitz with the march of the man in the grey-flannel suit from suburbia towards loyalty oaths and blacklists. All the émigrés were influenced by a Marxian strain that linked totalitarianism with the adverse effects of economics, and each relied heavily upon Freudian psychoanalysis, both of which seemed to be able to locate subversive potentialities in the postwar American context of affluence and the Cold War.

Erich Fromm, in his best-selling 1942 volume *The Fear of Freedom*, argued that the prevailing feature of modern capitalism was the creation of feelings of disempowerment, alienation, and insecurity. The desire for people to escape 'the insignificance and the powerlessness of the individual' meant they could no longer distinguish between their own thoughts and those imposed upon them from outside, thereby surrendering their individuality to the pressures of conformism. Theodor Adorno, a member of the 'Frankfurt school' of German sociologists who studied rightist families in Weimar Germany, located 'politico-economic conservatism', 'prejudice in general', 'antidemocratic attitudes' and 'anti-Semitism' within a 'specific syndrome' known as 'authoritarianism' in *The Authoritarian Personality*, part of a five-volume *Studies on Prejudice* commissioned by the AJC.

Hannah Arendt tried to articulate a history of modern civilisation that seemed to account for the growing unease in American society as she attempted to make sense of her own dislocation and chaotic past. Brought up in Königsberg, the hometown of Immanuel Kant, and completing her dissertation on the concept of love in the thought of St. Augustine, she understood the rise of totalitarianism as the collapse of the Kantian, Augustinian, and Platonic universe under the philosophers of modernity: Freud, Nietzsche, Marx, and Kafka. Using their arguments, she described the assault on the individual that began with mass movements and ended in the concentration camp. Echoing Fromm, Arendt suggested that totalitarianism appealed to 'isolated individuals in an atomized society' who spurned the promise of individualisation in a booming economy for the comradeship afforded by 'sheer numbers'.¹⁴

Adorno's concern about authoritarianism, Fromm's with the external imposition of ideologies upon an alienated population, and Arendt's with mass psychology, the centralisation of power, and the use of force and coercion in solidifying a regime's authority all became highly resonant themes during the development of the mass society and the rise of McCarthyism. In the vivid language of Lucy Dawidowicz and Leon Goldstein, writing for an AJC study in the early 1960s: 'The images McCarthy conjured up among Jews were frightening: visions of storm troopers goose-stepping down Broadway, of an America taken over by a red, white, and blue reincarnation of Hitler's Brown and Black Shirts.' In a sermon entitled

'Red and Black Fascism' delivered in 1954, Rabbi Max Routtenberg queried 'what will it profit us to rid our land of the danger of communism and be left in bondage to demagogues and dictators who may well vote in a dread reign of black fascism'?¹⁵

Anticommunism and antisemitism

Although McCarthy himself steered clear of ethnic red-baiting, there was much to suggest that anticommunism was indeed widely used as a guise for antisemitism. Since World War II had delegitimised scientific racism, one regular Commentary contributor argued, 'new look' antisemites 'realized that if their anti-Semitism was to gain converts, it had to be tied up in a larger, more respectable package of public opinion and labelled "anti-Communism". In South Florida, ADL chapter head Burnett Roth reported that State Attorney Brautigan

started hauling in person after person in a witch hunt, including, for the most part, Jews... The whole Jewish community was very exercised over this, because it was obviously antisemitic – the whole thing, because everybody who was being accused of being a communist in this area in the McCarthy era was a Jew.

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Roth's experience led him to lament 'the adherents of McCarthyism, those who were... for all the principles that are represented by the word itself – McCarthyism – those persons were in large measure anti-Semites'. Similarly, of 340 teachers dismissed in New York after the state legislature banned alleged members of the Communist Party (CP) from teaching in public schools, all were Jewish and most were women. A protest against the performance of a concert by (black) Communist sympathiser Paul Robeson in Peekskill, New York, although it was attended and partly organised by the local chapter of the Jewish War Veterans (JWV), quickly turned antisemitic. Jewish leaders noted sardonically that some of the most extreme anticommunists 'wore... the same faces that during the 1930s bore a remarkable resemblance to Bundists, Fascists, and Falangists'. In 1953 the director of the ADL, Henry Schultz, discussed the question of antisemitism with Joseph McCarthy in a private meeting 'and came away with the feeling that although the Senator was not an antisemite in the sense of a Gerald K. Smith, his methods injured many of our democratic institutions on which the strength and security of the minority groups were largely dependent'.¹⁶

To some, it was the method of smear, which seemed to abrogate the principle firmly held among Jews that ‘it is the right of a man to be judged on the merits of his own behavior’ that contained the harshest sting. Jewish leaders feared that ‘proscribing all members of any party or group... might prove to be the beginning of the end of our liberties’. One AJC official feared that this may create ‘serious doubt in the minds of Americans generally as to the loyalty of all American Jews. In today’s atmosphere of fear and tension, this may be the beginning of a period of unprecedented scape-goating and hostility toward American Jews.’ Rabbi Israel Levinthal, the spiritual head of the Brooklyn Jewish Center, again made the comparison between Nazi Germany and America when he argued that it was McCarthyism’s

‘methods that involve a moral issue for Americans. It is ‘methods’ that can be a greater danger to true Americanism. What aroused Americans against Father Coughlin was not so much what he said, but the methods he used in saying what he did. The danger of Goebbels for Germany lay just in the methods he used for his propaganda. It is the method of smear, of half-truth, of innuendo, of twisting the meaning of words – all of which points the mind of the listener and prepares it to absorb almost anything.’

Whereas the New York Intellectuals had articulated an expansive notion of American identity that valorised difference, anticommunism singled out dissent as un-American.¹⁷

Jewish progressive politics

Jews felt doubly vulnerable about the rise of radical anticommunism as they correctly interpreted it as an attack upon the liberal coalition, of which they were firmly a part. Daniel Bell described McCarthyism as ‘a destruction of the simple, naïve faith in progress,’ which ‘gave rise, you see, to a fear of mass emotion and mass behavior’. The Jewish contribution to liberalism had a long pedigree, with its tenets of social democracy, free political expression, and minority rights traceable to the strong socialist currents among the early Jewish immigrants. Moreover, they could all be found within a Jewish history selectively interpreted to accommodate the imperative of dissent. Leftist politics seemed all pervasive to those coming of age in the prewar immigrant neighbourhoods. The *Jewish Daily Forward*, a socialist newspaper printed in Yiddish, was the largest foreign language daily in the country at a circulation of almost 150,000. Daniel Bell called it ‘the most powerful newspaper at the time’, with a more ‘crucial influence’ on the ‘broader sense of being Jewish’ than ‘religion’. One man growing up in the heavily Jewish neighbourhood of Brownsville, Brooklyn, recalled that ‘By ten a.m. the sidewalks were jammed with people having political discussions. A liberal democrat was about

as right as you got.’ Although a combination of legal measures virtually outlawed organised socialism by the 1930s, strong intellectual ties linked postwar Jews with their radical predecessors.¹⁸

By the 1930s, strong intellectual ties linked postwar Jews with their radical predecessors.

For Jews, the policies of the New Deal were the political expression of their ethnically sanctioned ideological liberalism. The policy prescriptions of the *Studies in Prejudice* closely resemble Truman’s ‘Fair Deal’ manifesto, prioritising the moderation of social inequality and encouraging a modest expansion of the welfare state. In the 1944 presidential election FDR could boast an average of 87 percent of the popular vote in the heavily Jewish districts of New York City; the figure was as high as 96 percent in Borough Park, Brooklyn. Heavily influenced by Schlesinger’s dictum that a strong welfare state was the best defence against Communism, and by the Marxian arguments of the Frankfurt school of German sociologists, Jews believed that American society must be underwritten by liberal social reforms in order to prevent it being overturned by totalitarianism. Nathan Perlmutter argued that ‘if one wanted to protect Jewish interests, one had to protect the well-being of the democratic system’.¹⁹

The development of a postwar group Jewishness together with an accent on dissent combined to place a liberal political idiom at the heart of American Jewish identity. Moreover, the development was sanctioned by the chief proponents of group Jewishness of the time. Spiritual heads laid special emphasis on the prophetic tradition of social justice, communal leaders advocated positive intergroup relations through the dismantling of minority prejudice and discrimination, and nationalists were inculcated in the leftist ideologies of labour Zionism. Thus McCarthyism was doubly antipathetic for American Jews: it formed the political opposition to a set of institutions upon which Jews predicated their fragile security, and it represented a powerful challenge to the dissenting fundamentals of postwar Jewish identity.

Jewish liberal anticommunism

In response, Jewish leaders attempted to sharpen the distinction between their brand of liberalism, which they had developed as a manifestation of American individualism, and Communism, which they constructed as wholly at odds with Americanism. ‘The Jewish community has no responsibility whatsoever in reference to persons’ accused of communism, proclaimed AJC head

S. Andhil Fineberg in 1950. The AJC's Domestic Affairs Committee adopted a policy statement in 1950 that argued 'Communist and Communist-affiliated organisations are saturated with an ideology...inimical to the welfare of the American community and to Jewish needs'. Moreover, 'Totalitarianism...is utterly destructive of the spiritual, cultural, and social values on which depend the security and free development of Jewish life no less than the survival of democratic civilization'. The Jewish Labor Committee opined that 'The international Communist movement casts a long shadow across the hopes of Jews for a secure and democratic future'.²⁰

Communal heads thus devised numerous schemes to distance themselves from renegade Jewish Communists, all of which implicitly denied their claim to an increasingly politically circumscribed Jewish identity. The AJC instigated a 'Quarantine Treatment', which attempted to avoid giving any publicity to Communists even where this meant covering up actual antisemitic incidents. The AJC's initial reaction to Peekskill, for example, was to avoid any public pronouncements on the matter despite Fineberg's conviction that it should concern "Jews as Jews".²¹

The 'quarantine' also insulated Jewishness from rogue individuals. Consequently, the 'continual display of Judaism and Jewishness' in the letters written by atom spies Ethel and Julius Rosenberg from prison, as well as their observance of the Jewish New Year while they awaited execution, were interpreted as Communist tactics to gain sympathy from Jews rather than genuine displays of religious faith. Indeed, one *ADL Bulletin* article opined 'Julius Rosenberg ground out every possible shred of advantage from the faith that he had repudiated'. As the execution approached, press coverage of the subject seemed incomplete without sound bites from Jewish leaders rejecting calls for clemency as well as the notion that there was anything specifically Jewish about the case. In a letter to Judge Irving R. Kaufman, the presiding justice in the Rosenberg case, Jewish War Veterans (JWV) national commander Jesse Moss wrote 'I especially resent the effort to make an issue of the religious identification of the defendants'. Dr Maurice M. Perlzweig of the World Jewish Congress noted that American Jewish groups 'have repeatedly and strongly protested against the communist attempt to exploit the Rosenberg case in order to win sympathy among Jews'. Julius Klein, former national commander of the JWV, claimed that 'a vast majority of the nation's Jews have recognised the [Rosenbergs'] deception and spurned it'. By denying the privileges of Jewish identity to the Rosenbergs, the organised Jewish community officially absolved itself of any connection with the case.²²

On the other hand, their deep mistrust of mass movements led Jews to distance themselves from the most outspoken anticommunists in the Jewish community. Rabbi Benjamin Schultz, the founder of the American Jewish League Against Communism, provoked this impassioned

statement from the cross-communal National Community Relations Advisory Council in response to his McCarthy-style campaigning:

*"we deplore the activity of any organization employing the name "Jewish" in its title, which resorts to smear tactics and character assassination... We consider it regrettable that any group of Jews should set themselves apart from the well-established bodies of organized Jewry and give the impression that its members have a special interest in combating Communism."*²³

Appearing regularly in the *New York Times* as an outspoken supporter of McCarthy and close personal friend of Roy Cohn, Schultz lost his pulpit on the Upper West Side of Manhattan as his sensitive community turned against him. The disproportionately large number of Jews represented on the masthead of the fledgling conservative journal *National Review* evoked a similar response. The Jewish contributors to *National Review* openly challenged the political expression of liberalism upon which postwar Jewishness was predicated, arguing that it forwent the primacy placed on the individual in favour of the coercive power of a large welfare state. The aspiring libertarian Frank Meyer, for example, argued that the 'Bolshevik Revolution' and the 'Roosevelt Revolution' had 'parallel aims', and that the 'primacy of the state over the individual' was 'the essence of Collectivism'. Later, in his *In Defense of Freedom* (1962), Meyer went on to argue that he aimed 'to vindicate the freedom of the person as the central and primary end of political society'. Six months after the *National Review*'s inception, the AJC published an acerbic assault on it by Dwight MacDonald under Podhoretz's heading "Scrambled Eggheads of the Right." As a result of efforts such as these, the informed Jewish community was shielded from the right leaning influences of some of its most prominent members. Thus in 1960 *National Review* editor William Buckley confessed to a friend that less than one percent of his readership were Jewish.²⁴

Resistance to Jewish conformism

The circumscription of politically authentic Jewish identity to a narrow strain of liberal anticommunism seemed to some Jews to reduce Jewishness to the same degree of conformity that they criticised in wider society. Challenges arose from intellectuals who claimed the authority to define themselves as Jews rather than having to subscribe to an externally defined notion of Jewishness. Harold

The authors of postwar Jewishness were accused of creating an inflexible and monochromatic definition of who could be a Jew.

Rosenberg, who later became an important spokesman for the abstract expressionist art movement, complained that to judge the Jewish individual 'by the temperature of his allegiance' was to fall prey to the 'prevailing ideology of total choice with its exclusion of the possibility of being anything else'. Just as the tenets of McCarthyism demanded absolute loyalty to Americanism, the authors of postwar Jewishness were accused of creating an inflexible and monochromatic definition of who could be a Jew. By monopolising the authority to decide 'who is a proper Jew and who isn't', they had spared 'no rights for the non-committed individual'. He compared the 'herd conformity' of Jewish nationalism with the 'herd' mentality of the mass society. Linking totalitarianism with the impulse to group Jewishness, he challenged his readers: 'Isn't it the presence of the same modern impulse to be one who is one-hundred-percent something that makes Jews so uncomfortable when they debate whether one can be both an American and a Jew?'²⁵

Mimicking Adorno's F-Scale against which he measured the authoritarianism of American families, psychologist Joseph Adelson invented the 'J-A' or 'Jewish authoritarian scale' to criticise those Jews who demonstrated an 'intolerance of ambiguity', hated 'nonconformists and intellectuals' and threatened to 'flatten Jewish diversity' into a 'featureless Babble'. Irwin Rinder and Donald Campbell analysed the politics of Jewish authenticity by comparing what they called the Jewish 'authoritarian syndrome' with the political culture of radical anticommunism, in which the autocrat does not see 'Jewishness as a variable which is manifested differently by individuals who have been exposed to different home, community, and social milieus. Instead, he sees Jewishness as an all-or-none condition.' This amounted to 'a form of cultural determinism' as dangerous as racism. And in a letter to *Commentary*, Jack Goldstein defended the novelist Philip Roth against charges of antisemitism by comparing his detractors to Communist-style conformists: 'They judge a work of art by an irrelevant criterion: does it present a good picture of us to them? How like Stalinist criticism which evaluates art in terms of the current task!'²⁶

The death of Jewish dissent and the birth of neoconservatism

However, the voice of opposition to group Jewishness dissolved as a significant force after anticommunism triumphed as the predominant Cold War ideology in postwar America, signalling the end for groups such as the erstwhile New York Intellectuals. For example, the American Committee for Cultural Freedom, an anticommunist organisation to which many of the New Yorker writers belonged, was exposed as sponsored by the CIA. As a result, Irving Howe criticised the 'good many' of his cadres that 'knuckle[d] under to the anticommunist hysteria of the 1950s'. Philip Rahv, in a 1952 symposium

entitled "Our Country and Our Culture" in *Partisan Review*, singled out for particular opprobrium 'ex-Marxists and ex-radicals', a proxy for Jewish intellectuals

who have gone so far in smoothly re-adapting themselves, in unlearning the old and learning the new lessons, as to be scarcely distinguishable from the common run of philistines... they are trying to turn anti-Stalinism into something which it can never be: a total outlook on life, no less, or even a philosophy of history. Apparently some of them find it altogether easy to put up with the vicious antics of a political bum like Senator McCarthy.²⁷

The *raison d'être* of the Jewish dissident was negated once he had come to accept the society around him, particularly for those Jewish liberals who had prized the notion of marginality as their intellectual calling card. Rahv continued 'American artists and intellectuals have largely come to terms with the realities of the national life; they are not 'attached any more to the attitudes of dissidence and revolt that prevailed among them for some decades... one can indeed speak of a "reconciliation" of the intellectuals.'²⁸ The adoption of 'liberal' anticommunism thus meant more than a programmatic and ideological response to the red scare; rather it hastened the collapse of dissidence and individualism as central planks in the postwar American Jewish identity.

By 1960, the Jewish writers at the *New Republic* were both the most individualist and the least representative of the Jewish intellectuals. Hedged by affluence and the Cold War into emphasising the importance of group belonging, most Jewish intellectuals and writers had tacitly abandoned the premium that they initially placed on individualism. Ironically, however, the intellectual victory for the dissident social and intellectual stance of the Jewish writers at the *New Republic* led ultimately to the effacing of individualism as even a rhetorical component of Jewish identity. By the late 1970s, the substantial majority of Jewish intellectuals and community leaders had migrated to a position largely reminiscent of the *New Republic* where, having come to terms with the relatively more conservative orientation of their society, they could leave behind their dissident strain of individualism. Irving Kristol, later considered by many to be the godfather of neoconservatism, displayed obvious ambivalence towards the irreverent, dissenting, and left-wing position of his youth when he wrote:

Socialists have always liked the prophets more than the rabbis. The prophetic tradition is often vague but more grandiloquent and more ambitious of what should be done. Of course, you can talk about brave new world without getting very specific. The political version of the prophets gives you something like a lot of Great Society programs. A political version of the rabbinic tradition gives you a much more decent society where people understand where their obligations are, rich and poor alike, and where the question of individual rights is secondary.²⁹

As the liberal coalition unravelled between the 1950s and 1970s under the pressure of protests against the war in Vietnam, the failure of President Johnson's Great Society, and the backlash against civil rights, these Jews found they had an increasing amount in common with conformists and conservatives. Nathan Glazer, for example, notes that he was 'a critic of liberal social policy, but I've been a critic more in regret than in triumph'.³⁰

Looking back across our period with the benefit of thirty years of hindsight, Alfred Kazin recognised that it was the period of McCarthyism which ultimately 'marked the end of this Left period' of 'Social Idealism'. As for the New York Intellectuals,

They've all played it safe... I have come to see a total reversal of values, and I think that it's been very sad for them and for the country. This suburban conservatism, of course part of it can be explained by the fact that many of them are Jews, were driven crazy by the Holocaust... and of course the birth of Israel and all that had a great effect on them... This group, as a whole, has become part of the consensus in American life.³¹

Affluence and the Cold War caused Jewish intellectuals and communal leaders to make identification as part of the larger nationalist, religious, or ethnic imagined community the touchstone of a Jewish identity. Paradoxically, it was the conformity which they so criticised in wider society as the harbinger of totalitarianism that was the antidote to their own insecurities. All the suggestions of Fromm's consort were reversed by prescribing Jewish identity from above, imposing a rigid set of ideologies and institutions, and stipulating that Jewish identity must be acquired through positive acts of affiliation to a predefined group. Although it meant adopting some of the aspects they professed to dislike in wider society, the reborn Intellectuals eventually came to terms with their position in postwar America.

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Letter to the Editor

Sir,

I write in response to Simcha Handley's letter in your last issue, to which I took such exception that any point of agreement is itself exceptional.

In places I thought I was about to agree with Mr. Handley. I too disagreed with Daniel Elton's analysis of Islamic Fundamentalism. There is nothing unique to Islam about its brand of Fundamentalism. All Fundamentalisms by definition leave nothing to negotiate with or about. What makes Islamic Fundamentalism different, is that the broader Islamic community has been, at the least, unable or unwilling to quash it.

However, Mr. Handley's utopian response ('We will make progress only if we stop considering ourselves under threat... Make it generally known and understood that the man on the other side of the fence is basically the same as you, and hatred will dry up very quickly') was disconnected from the realities of human behaviour. In general, while there are leaders seeking followers, they will peddle the easy to sell concept of the other, the different, the lesser, to establish their own value. I absolutely agree however, that if we stop trivialising the 'other', and find a way to disagree respectfully - recognising that the 'other' really believes in the existence of a different truth - the long-term chances of a rapprochement would substantially increase.

Ironically, I thought this sentiment applied to Mr. Handley's remarkable comments on Zionism and Israel. I class myself a Zionist, albeit one somewhat embarrassed to say so as I am yet to make aliyah. To selectively misquote Mr Handley, I 'consider that our Scriptures from Bereshit to Divrei Hayamim teach us that' aliyah is Divinely decreed. But I would not 'challenge' Mr. Handley 'to present me with his evidence to the contrary.'

Truly great Jewish thinkers and halakhists of the past century have disagreed on this topic. There is no point attempting to win this argument with an informed individual who disagrees from a position of knowledge.

Personally, I believe the argument best presented in the *Vayoel Moshe* is more than adequately dealt with in the *Drishat Tsion*. I further believe that there are an enormous number of very credible leaders from across the Jewish spectrum who were or are Zionist by one definition or another. But I am not going to try and persuade Mr. Handley his position has no basis. I'm going to accept that he believes he has found a truth (one that I think is wrong, but that he genuinely thinks is a truth), and move on with my life. Without demonising him, and in fact, rather liking him. If Mr. Handley wants the debate, he will have to have it with Rav Kook before he has it with me.

I won't engage in a point by point rebuttal of the letter - that would require several separate articles. However, for the record: I do think there is a divine mandate for aliyah, and therefore Zionism by at least some definitions; I do think there is a divine mandate for self-determination and nationhood, and therefore Zionism by at least some other definitions; and I further think we are not required to accept exile passively. I believe all of these have strong roots in Tenakh and halakha. But I would like to make a couple of more general observations, for what they are worth.

There is a divine mandate for aliyah, and therefore Zionism.

Jews in huts la'rets experience a Jewish life that is largely a response to the outside world. In the UK, the last year has been dominated by the debate in the courts surrounding Jewish school admission policies, and in previous years by the non-Jewish community's attitude to Israel. The worst aspect of the 'Fisk at Limmud' fiasco was that Limmud's highest profile event was no longer shaped by the Jewish learning agenda, but by our community's response to the external. The same point is applicable to our fellow communities across Europe, and most of the United States. I recognise Diaspora Jewry's many significant contributions to Jewish life, such as the children's service or community Rabbi, and make specific exception here

for the relatively small number of extremely admirable projects focused to the contrary - but in general, across the Diaspora Jewish population, I believe this argument holds true.

This is not true in Israel. In a few years, and for the first time in 2000 years, the majority of the Jewish people will live together with the power of self-determination. In Israel, debate is shaped by the Jewish community. Existential topics dominate all too frequently, but when they do not, the debate is about applying Jewish values in an army or a Supreme Court; working out how to apply hilkhot shemita in a modern society; or society's response to a provocative artist making a point about their Judaism. It's wonderful. This point is so evident that we in huts la'arets frequently criticise Israel for not being sufficiently responsive to the opinion and perspective of those outside Israel. There is a challenge for Israel and its various communities to listen to the voices of the other both inside and outside the country – but right now, Israel is the place where the Jewish people is determining its future.

To my mind, aliyah is not only a religious mandate. It's by far the best way to be relevant and contribute to our people. As one of my former bosses used to say, when in 1000 years they write the history of the Jewish world, 1950-2000 will be about Israel, and the US 2000-2050 will be about the declining relative importance of the US Jewish community, and the pre-eminence of Israel in shaping the future of the Jewish people.

If we want to contribute to the future of the Jewish people – if we want our children to leave their mark and have an impact on the great Jewish story – we need to be in Israel.

If we want to contribute to the future of the Jewish people – if we want our children to leave their mark and have an impact on the great Jewish story – we need to be in Israel. Leaving aside all politics and ideology (and I accept that there is a huge range of opinions), it is a fact that numbers and the sweeping hand of history dictate that it is in Israel where our future lies. aliyah and Zionism today is, at the least, recognition that the Jewish people's future is in Israel.

There are Jewish roles to be played in huts la'arets. History books will record great service given to extending the life of communities outside Israel, the tremendous work done within communities to involve and serve as many Jews as possible, and the creativity in community service provision

born from the challenge of necessity. But history books will also discuss the simultaneous flourishing of Torah learning and Jewish art, politics, theology, philosophy, academic studies, and so on – all in Israel.

Mr Handley proposes an overhaul of the State of Israel's constitution. I disagree with every word of his vision, but am comfortable with his making proposals. I just think they are pointless when expressed outside Israel. I urge him to become a Zionist forthwith, make aliyah tomorrow, and shape the future of the Jewish world in his vision. I can't support him in the latter aim – for the first two, I can recommend a good Israeli mortgage broker.

With best wishes for the continued success of your wonderful journal,

- ASHLEY HIRST

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