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The "Essentials" of Orthodox Judaism

Chaim Trachtman

In May 2012, Rabbi Benny Lau and Rabbi Aharon Lichtenstein participated in a fascinating debate. Rabbi Lau published an essay proposing that, because of changes in perceptions about physical disabilities, all priests, no matter their physical limitations, would be able to perform the service in the Third Temple. Rabbi Lichtenstein vigorously objected and claimed that the positions expressed in the Torah are timeless. They are not subject to modern views on egalitarianism and one cannot apply current ethical norms when judging its legal code. The Torah, in his view, is not concerned about advocating for equality in religious practice or opposing discrimination against disabled priests. Instead, the halakhic Jew is obliged to accept the authority of the Torah in limiting priestly service to those of normal body.

The rabbis' exchange about equality and discrimination is thought provoking. But instead of viewing this conflict through the lens of egalitarianism, the issue of disability suggests that we consider an alternative approach to the problem of the ethical basis of Torah law, namely essentialism.

Essentialism is the belief that things have immutable sets of characteristics that make them what they are. The task of science and philosophy, on this view, is the discovery and expression of these features. One might therefore reinterpret the dispute between Rabbi Lau and Rabbi Lichtenstein as centering on the essentialist nature of the disabled priest. According to Rabbi Lau, disability is not a fixed, intrinsic feature of the priest's persona. We are obliged, therefore, to look past it and treat such an individual like any other member of his priestly group. In contrast, Rabbi Lichtenstein considered disability to be a defining feature of the priest. On those grounds, he maintained the Torah's prohibition against allowing a disabled priest to work in the sacrificial realm.

From a religious perspective in which adherence to divine law is compulsory, egalitarianism or other overarching principles may not be useful tools to understand Torah law and potentially implement change. Instead, evaluating what is truly essentialist in nature and delineating the consequent legal ramifications may provide a better path to incorporate altered realities into the Halakhah.

Essentialist categorization is a central feature in Jewish religious thought, in which delineation of borders and groups is a recurrent theme. Sanctity is grounded in the delineation of boundaries and group identities that cannot be crossed. These definitions of holiness are essentialist and cannot be summarized by resorting to *a priori* philosophical premises. Instead, essentialism suggests a positivist approach that independently lays down permitted and forbidden behaviors and interactions. This can be applied to time, place, and person. For example, the Israelite camp in the desert and Temple were subdivided into zones with restricted access to designated areas based on personal status. Times of the day, days of the week, and months of the year are defined as holy, such that there are explicit limitations on permissible activity on those occasions.

The permanence of holiness rooted in essentialism has been the subject of philosophical debate. As summarized in Menachem Kellner's book *Maimonides' Confrontation with Mysticism*, Rambam asserted that as a general matter, holiness is conditional. Only when the Jewish nation exercised sovereignty over the land of Israel was the territory holy; exile canceled this status. And while Rambam, like others, did attribute eternal holiness to the Temple and land of Israel, the degree of holiness was susceptible to fluctuation based on historical circumstances. Similarly, only if the Sanhedrin sanctioned the testimony about the new month did the days on the calendar become holy. Witness the famous Yom Kippur confrontation between *Rabban Gamliel* and *Rabbi Yehoshua ben Levi* (*Rosh Hashanah* 25a). In contrast, R. Yehuda Halevi claimed that the holiness of these categories – the land of Israel, Jewish nation, and Shabbat — is hardwired into nature and can never be revoked. The intense debate that surrounded the disengagement from Gaza, a political decision that Rabbi Lichtenstein supported, might suggest that notions of essentialism are relevant today and that rabbis may adopt different stances depending on the circumstances. Drawing on the debate between Rambam and HaLevi, this essay focuses on essentialist categories of people — men versus women, Jew versus gentile, slave versus free person, and *kohen* versus non-*kohen* — and the implications these definitions exert on personal status and religious engagement.

Personal essentialism can be divided into two subcategories, intrinsic and extrinsic. Intrinsic essentialism denotes definitions based on characteristics that inhere in the person. These include gender, race, and physical and mental capacity. From this vantage point, women are viewed as fundamentally different from men because of the biological features that distinguish the two genders. Essentialist views of race and ethnicity would hold that a person's skin color or ethnic origins is indicative of differences that are ingrained in the person.

Extrinsic essentialism is based on features that individuals choose to take upon themselves, such as an occupation, place of residence, and lifestyle choices. Considered in this way, one could speak of doctors as essentially different from architects, people who adopt vegan diets as different from omnivores.

The underlying supposition of a legal code based on essentialism is the immutability of its defining characteristics. But new facts are calling this feature into question for nearly all forms of essentialism. Apparently immutable features like deafness can be reversed with cochlear implants, and physical disabilities can be surgically remedied. Mental capacity is amenable to remediation, and it is no longer tenable to consider cognitive impairment as a permanent diagnosis. Even gender is increasingly considered fluid. Thanks in large part to Judith Butler, gender identity is viewed by many as socially determined, amenable to medical modification. These changes are consistent with larger cultural shifts in today's world, in which people regularly change their occupations and revamp their lifestyles. These changes suggest that personal essentialist classification schemes, whether intrinsic or extrinsic, are fluid and subject to human manipulation. This should give pause to political arrangements and legal judgments based on essentialist criteria.

What of essentialism in Judaism? Should we view identity and other critical features of personal status from a traditional essentialist vantage point?

We might consider this question by looking at the rules governing one's entry into and exit from the Jewish people. On the one hand, Jewish identity is biologically determined: at the most fundamental level, a Jew is the child of a Jewish mother. This status is conferred automatically at birth. This is intrinsic essentialism in its most pure form. Alternatively, one can choose to become a Jew. Similarly, Jewish law incorporates guidelines for apostasy and criteria for banishment of Jews from the community based on violations of foundational practices, such as idolatrous behavior (*Hullin* 5a). On one hand, there is a broad acceptance of human failing by the Rabbis, and a person cannot simply discard one's Jewish status. Yet there are actions that are beyond the pale and for which a Jew forfeits membership in the community. Thus, seen from an essentialist perspective, Jewish identity can move in both directions, whether defined intrinsically or extrinsically, and can be bestowed upon or stripped from individuals.

More generally, there is discomfort when religious identity is defined essentially. Witness a recent article in *First Things* that provoked an uproar in the Jewish community. Romanus Cessario wrote in strong support of Pope Pius IX's ruling that Edgardo Mortara, a baptized Jew, could never be returned to his parents. The baptism by the family's maid had ineradicably altered the child. The water sprinkled on Edgardo intrinsically changed him, he was now essentially a Catholic, subject to the protection of the Papal state. The absence of volition is the same for a newborn infant of Jewish parents or Edgardo Mortara, who was unknowingly converted by his maid. Doubt about the validity of intrinsic essentialism, defined by a normal birth or baptismal waters, is present in both cases.

Similarly, the current debate about conversion may highlight the uncertainty and anxiety created by the declaration of the person who expresses a desire to extrinsically alter his or her essential religious identity by committing to join the Jewish people.

Considering our ability to alter human biology and the suspect status of racial categories based on population genetics studies, there is growing discomfort with accepting intrinsic physically based definitions of people and their halakhic implications. The dissolution of this essentialist category has clear-cut ramifications in Jewish law, namely that deafness can no longer serve as a justifiable criterion to deprive a person of religious agency, or to exclude this individual from legal proceedings and ownership rights. The extent of our contemporary ability to manipulate biology lends support to the view of Rabbi Lau. Exclusion from communal rituals based on an essentialist definition of disability, which may have been a reasonable criterion to maintain the dignity of the sacred realm in the past, might no longer pass muster.

Even granting the argument that essentialist categories are increasingly subject to change in today's world, we might wonder about categories that were created specifically by the Torah and that are unique to the fabric of Halakhah. Here, at the very least, we might assume that immutable essentialism should be determinative. Still, even here, one example among many ought to give us pause. The law of *ben sorer u-moreh*, the "rebellious son," outlines the commandment to execute a minor based on bad behavior as a juvenile because of the inevitable progression to a more destructive life of crime in adulthood (*Sanhedrin* 71b). This is preventive justice taken to the extreme. There is no question that there are children whose youthful behavior is a virtual guarantee of worse things to come in adulthood. They appear to be essentially bad, and the Torah appears to be endorsing this position. However, the sages

were troubled by the implication that the punishment is based on a bad prognosis and not actual crimes committed. The Talmud *(Sanhedrin* 71a) thus cites a position that there are no actual children who exemplify this category. The law, on this view, is theoretical in nature and the sages drastically curtail the application of an essentialist definition of primordial evil.

Similarly, there are national groups that are defined in the Torah, including Amalek, the seven tribes residing in Canaan at the time of the conquest of the land, Moav, Ammon, and the Gibeonites. There are legal restrictions placed on including these people in Jewish community, even a commandment to annihilate some of these nations. Nonetheless, the application of these laws was abandoned over time. In part, this reflects mass migration and the assimilation of ancient tribes, which rendered these laws impractical. Alternatively, others have contended that the rabbis were motivated to minimize the applicability of these laws because they violate our moral intuitions. Viewed against the backdrop of the question of essentialism, however, perhaps a more productive perspective is to suggest that these national groups were seen as invested with different essentialist characteristics, immutable flaws in their national character. Our moral unease stems from an unwillingness to apply legal codes of engagement towards non-Jewish groups, even idolatrous ones, based on essentialist group qualities. This recapitulates the conflict outlined at the beginning of this essay between Rabbi Lau, who looked at the service of the disabled as a problem of equality, and Rav Lichtenstein who saw it as a religious requirement to adhere to an essentialist category of "disabled priest."

Where does that leave us today as Orthodox Jews?

Intrinsic essentialist views are dismissed in most modern circles because they violate the sense that people are what they make of themselves rather than what they were endowed with by inheritance or acquisition. They are seen as relics of an outdated mode of thought. Many women consider essentialism as a primary tool in maintaining the patriarchal status quo and in restricting their full participation in religious life. Extrinsic essentialism is seen as suspect because achieving a title or adopting a lifestyle is not seen as a source of privilege but as an opportunity to leverage one's accomplishments or choices in order to to achieve a better life.

In conclusion, the debate between Rabbis Lau and Lichtenstein, coupled with scientific and cultural shifts, suggests that a more flexible essentialism might be the best lens through which to consider the possibility of halakhic change. [Furthermore, if it is true that the rabbis were nominalists, they would agree that there are no ideal categories of people and that how we think about women, converts, the disabled, firstborns, priests, and nations is subject to ongoing evaluation and change in response to lived experience.] To properly apply Halakhah nowadays, then, we must be willing to reassess the application of essentialist categories in the face of new data, be they scientific, demographic, social, behavioral, or moral. This, as opposed to simply pitting the law against contemporary egalitarian assumptions, might prove the most fruitful way to think about problems of applying halakhic principles in today's increasingly complex world.

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The Opaque Ceiling Hovering Over Women's Torah Study: A Reply to Judah Goldberg

Chaim Saiman

My good friend Rav Dr. Judah Goldberg, a *maggid shiur* at Migdal Oz and an accomplished physician to boot, recently published an article in these virtual pages regarding women's advanced Torah study. R. Judah's argument is brilliant in its simplicity. In communities that maintain halakhic reservations about female Torah study, the lack of advanced *Talmud Torah* for women is understandable, perhaps even mandated. But in Centrist Orthodox communities that follow the path charted by Rav Soloveitchik and Rav Aharon Lichtenstein who encouraged women's *Talmud Torah*, there is no reason for women not to achieve standards of excellence. Drawing on the traditions of both classical *yeshivot* and elite research universities, R. Judah issues a characteristically balanced "Programmatic Agenda" for our community: we should move beyond simply granting women access to Torah, and design institutions that enable women to develop true expertise in Talmud and Halakhah. Like his *rebbe*, Rav Lichtenstein, R. Judah trucks no patience for mediocrity, certainly not in the holy endeavor of Torah study. Having found no halakhic rationale for the "glaringly opaque ceiling" hovering over women seeking excellence in learning, R. Judah calls on us to dismantle it.

My reservation is that one cannot initiate change in the community without a clear understanding of its motivations and unstated assumptions. Thus, to the extent R. Judah wants to change the facts on the ground, we must start with a clear understanding of why the topography assumes its present shape.

The Goals of Women's Torah Study

We begin with how women's *Talmud Torah* has evolved to date. One of R. Judah's sharpest insights is articulating the curricular goals prevailing in most *shana aleph/bet* programs. The primary rationale for Talmud study in these settings is exposure and engagement rather than developing expertise in halakhic analysis per se. As the article perspicaciously notes, the objective is to "cultivate deep religious commitment and vibrant spirituality that will sustain students in the coming years and across a lifetime." In this endeavor, "*Talmud Torah* is the principal means towards that end," but not the primary motivation itself. This accords with Yoel Finkelman's analysis of the many boys' *yeshiva* programs that do not cater to the small cadre of elite learners.

It is no accident that women's learning landed at this equilibrium point. Since there is broad agreement regarding the goals and methods of such learning programs, this form of women's learning has achieved broad success across many Centrist Orthodox institutions.

While this may be a worthy end-point for most, R. Judah challenges us go further and create intuitions in which the goals are not simply "exposure to new texts or ideas, or an exploration of … religious identity," but which cater to a limited set of women "looking to develop *expertise*" (emphasis in original). Notably, however, from this point forward, the article is silent on the ends of such study. At one level, the reticence is understandable. R. Judah wants to stay away from the political hot potato of the "women's leadership" debate.

Further, he implicitly claims that within Rav Lichtenstein's framework, one should pursue excellence and expertise in women's *Talmud Torah* without taking a stand on these contested matters.

But here is where I part ways with R. Judah. From my vantage point, the current structure of women's *Talmud Torah* is neither accidental, nor merely the result of a failure of imagination or a lazy acceptance of mediocrity. Rather, it is a reflection of the community's value judgments as to why we educate women in Torah. Centrist Orthodoxy has not moved to foster female expertise, because it is uncertain whether it should. And without a shift in the underlying culture, I am not sure how another institution will help.

The Family Structure of Female Torah Leadership

Developing a cadre of female halakhists is not simply a question for the early years of life, but applies with equal force to young families, middle age and beyond. We should therefore consider what this leadership and expertise looks like and how it becomes embodied within actual families and communities.

The standard male-centric "Torah leadership family" often features several recurring characteristics. The husband spends several years in full-time intensive learning, has a job in some quarter of *avodat ha-kodesh*, invests considerable time learning, giving *shiurim* and attending to other communal needs, and a minimum of 1.5 hours a day in *tefilah be-tzibur*. The community feels most comfortable when such a family has more children than the surrounding norm, when the wife is engaged in various teaching and *hesed* projects, and plays hostess to those seeking physical and spiritual nourishment. Our community wants to ensure its role models embody the complete package; raw Torah learning must be supplemented by *avodah* (in the form of prayer and child-rearing) and *gemilut hasadim*.

What then, does the female-led Torah leadership family look like? Following R. Judah's suggestion, we might look for analogies to female-led career households which, though a minority, exist within our communities. But in these cases, the number of kids is typically at or below the communal norm, and due to the timing conflicts between work, *minyan*, and child-care duties, the husband is less likely to be regular participant in the (weekday) *beit midrash* and *beit kneset*.

We expect Torah leadership families to serve as communal role models. Listening between the lines of Shabbat table conversation, however, and examining who is asked to assume positions of influence, makes clear that many are uncomfortable drawing on the leadership of a woman whose family structure does not reflect our aspirational and idealized norms, even if these criteria are never stated explicitly. Further, technical halakhic issues are also at play: the male's *tefilah be-tzibur* and *Talmud Torah* take precedence over that of the female, and we become uneasy when these baselines are inverted. Thus, even in communities that appreciate families in which females take the lead in secular endeavors, *halakhah* and sociology fuse in ways that make it difficult to accept the woman as a Torah/halakhic leader and role model.

The OU and Appropriate Roles for Women's Leadership

While R. Judah consciously avoids entering the women's leadership thicket, I am not sure the matter can be entirely ignored. As is well known, the 2017 OU documents, which largely formalized pre-existing norms, indicate both broad acceptance of some forms of female

religious leadership, paired with a firm line women are not permitted to cross. And while the OU may be a bit more aggressive in policing this line than favored by some, few institutions are willing to openly defy the letter of the OU's ruling. In fact, staying within the OU's guidelines is arguably what distinguishes "mainstream" or "centrist" Orthodoxy, from iterations to its left.

Following publication of the aforementioned documents, much of the ensuing discussion sought to understand how the OU drew its lines. To my mind the distinction is best explained in terms of how social scientists distinguish between primary elites, second-tier elites, and third-tier elites. Though using different terms, the OU gave its imprimatur to women functioning as third-tier religious elites whose expertise is premised on Tanakh, philosophy, academia, and "women's Halakhah." It equivocated as to whether women can function as second-tier halakhic elites (as evident in internal disagreement about *Yoatzot Halakhah*), and marshalled arguments predicated on *mesorah* and *serarah* to declare that women cannot serve as primary elites. (This is the most cogent explanation of the OU's reading of *serarah*: unlike most halakhic rules, it is not grounded in a set of prohibited or required acts, but speaks to the social reality of a woman serving as a primary elite).

Whatever R. Judah thinks about these matters, his educational proposal entails training women as primary **halakhic** elites and cannot but raise the question of whether women may take on these roles. The OU documents emphatically answer in the negative, but despite some arguments about precise lines and formulations, they largely channel communal self-understanding.

These social facts exert downward pressure on how aspiring Torah scholars formulate their life goals. While the 23-year-old *shteiger* may not be very sophisticated about his potential career path, he recognizes the well-trodden avenues of *melekhet ha-kodesh* that lie before him that justify the many years of unremunerated learning. In addition, he confronts a dating pool of young women who aspire to marry a rising *lamdan* and who themselves can draw on a plethora of role models to emulate. Finally, if at age 28 the young male decides against pursuing Torah as a profession, he can go to law school and lead a life of Torah leadership as a secondary elite. The time spent in learning is an affirmative *mitzvah* and an independent good the community respects, regardless of ultimate career path.

Consider the parallel situation facing an equally bright and devoted young woman. Her path is far more uncertain and undefined, and filled with pitfalls. To pursue a life of halakhic expertise, she must be a trailblazer, yet a very unblazing one at that—as she cannot press too hard against communal norms. A step too far to the left, and the Centrist community will no longer accept her; too far to the right, and she will cease to be of interest to those craving female halakhic expertise. (I've seen both.) Further, she must find a mate who is, in many instances, her spiritual and religious equal, yet is willing to embark with her on an uncertain path which may significantly impact his own religious aspirations and standing. Finally, such a woman has fewer exit options. If at age 28 she decides to enter law school, she will be seen as disappointment to those who invested dearly in her education. Without the *hiyuv* of *Talmud Torah* standing behind her, the years spent learning are less appreciated by the surrounding community.

Scalability

Finally, we must address the question of scale. While careful selection process can improve on Hazal's ratio that for every 1,000 students who begin to study, only one will obtain halakhic expertise, experience in both men's *yeshivot* and research universities shows that to produce a first-rate scholar the community must invest in training a much larger group. Further, the more established the track, the more the available off-ramps become clearly defined. Students can find jobs that draw on some of their advanced training, even if they did not excel in or complete the entire course (consider the wide range of quasi-rabbinic jobs that lie between *Rosh Yeshiva* and front-line *mashgiah*). But it is harder to see what opportunities are offered to the parallel group of learned women.

In practice, to fulfill R. Judah's goal we must be willing to direct communal energies towards educating women at elite levels who will inevitably drop out for educational, financial, or familial reasons, and/or owing to the difficulty of staying on the ideological tightrope. It also means supporting not only those who will score a perfect 10 in the decathlon of challenges that face female halakhic experts, but nurturing those who can navigate only 4 or 5 of the hurdles. And because these programs are new and rub up against established boundaries, they will face increased scrutiny. The institution and its base of supporters must be willing to absorb these "failures," and withstand the hue and cry that its "less than perfect" students will bring on the institution and its mission.

In sum, my response is that the absence of excellence in women's *Talmud Torah* is not rooted in a simple lack of will or imagination, or even a failure to fully realize the vision of Orthodoxy's revered *rabbanim*. Rather, it is correlated to the Centrist community's normative stance on family structure, the comparative priority of male versus female *mitzvah* observance, the role of women as primary halakhic elites, and our willingness to carry the financial and ideological burden of a group large enough to consistently produce the desired result. Until these issues are addressed more directly, it will be difficult for advanced women's halakhic study to become a stable reality and follow the pattern of men's *yeshivot* and research universities.

At the same time, R. Judah's engagement in this effort pushes my predictions in the opposite direction. Experience shows that the Centrist community will not be swayed by novel halakhic arguments or boundary-pushing efforts. If the norms of this community subtly shift, it will be due to positive encounters with trusted exemplars of the approach R. Judah advocates. To that end, there are no finer ambassadors than Judah and Shayna Goldberg: a Torah leadership family of unparalleled *yirat shamayim* comprised of *talmidei hakhamim* whose ongoing commitment to Torah, *avodah*, and *gemilut hasadim* reflects the very best our community has produced.

Postscript: Ha Lan Ve-ha Le-hu

Notwithstanding my differences with R. Judah's analysis, we may be tilting in different directions because we are looking at different communities. In fact, there are several reasons to think R. Judah's vision is more likely to take hold in Israel than in America.

First, the set of seriously learned women who are respected within their communities is considerably larger in Israel than in the US. This provides a ready base of talent and support from which more advanced programs can develop. Second, as others have written, Israeli society is considerably more open to creative and fluid career paths, which offers the

necessary flexibility for select women to navigate forward. Third, because the Israeli conversation is not held against the backdrop of rampant assimilation or the experiences of Reform and Conservative Judaism, there is less anxiety over the slippery slope. Fourth, the greater separation between the *haredi* and *dati leumi* communities in Israel makes the latter more self-confident and less likely to peer over its right shoulder. Finally, the OU and its formulations are of less consequence in Israel. This is both because the OU reflects the distinctly American sensibilities described above, and because its guidelines focus primarily on the social-religious and physical structure of the shul. Since, in Israel, religious leadership is less connected to synagogue life, advances in women's leadership tend to occur more organically than parallel trends in America.

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The Problem of Mosaic Authorship You Never Heard of: What is Parashat Bilam?

Shlomo Zuckier

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The Problem: What is Parashat Bilam?

The Talmud offers what may be its most explicit discussion of the biblical canon for two *dappim* in *Bava Batra*, 14b-16b. Among the many fascinating matters discussed in that passage – the order of the Biblical canon (different from that of our Bible) and various questions of authorships – is a somewhat perplexing comment enumerating the various texts that Moshe authored:

משה כתב ספרו ופרשת בלעם ואיוב

Moses wrote his book; and the passage of Balaam; and the book of Job.

For the Talmud to say that Moshe wrote "his book," i.e. Torah, known as the Five Books of Moses, is unsurprising (although the Talmud discusses in further detail how Moshe might not have written about his death). The attribution of the book of Job to Mosaic authorship is intriguing, and itself subject to a multifaceted dispute later in the *sugya*. But most fascinating is the mysterious work of Parashat Bilam that is attributed to Mosaic authorship. In endeavoring to explain this, we are faced with a dilemma: either Parashat Bilam is a section of the Torah that we already possess, in which case this is redundant to Moshe writing his own book, i.e. the Torah; or it's talking about some other work, in which case the obvious question is – what composition is that?

Approach 1: Principle of Proliferation of Para-Biblical Texts

Due to the need to disentangle Parashat Bilam from the Torah, we find the suggestion that what is referred to here is not the Parasha about Bilam that we know and love from Sefer Bamidbar but another book entirely. As *Ritva* (*Bava Batra* 14b) writes:

> והא דאמרינן (לעיל) במשה שכתב ספרו ופרשת בלעם, נראין דברי האומרים שאין זו פרשת בלעם שכתובה בתורה... אלא פרשה בפני עצמה היא שכתב והאריך בה יותר והיתה מצויה להם.

Regarding what is written about Moses, that "he wrote his book and the passage of Balaam," it appears that this is not the passage of Balaam written in the Torah… but is an independent passage that he wrote and expounded upon in further detail, which the [rabbis of the Talmud] had available [but has since been lost].

The Shelah, basing himself on the Ritva and others (including the Ri Ibn Shu'eib's *derashot* on Balak), asserts similarly, pointing to other works noted in the Talmud that we lack, such as the original 400 chapters of Hilkhot Avodah Zarah and the story of the battle of Midian portrayed by the Midrash that has been lost. On this basis he argues that Parashat Bilam must be a short book written by Moshe, one lost due to the travails of exile.

Some attempt to assert precisely what this document is. The *Megalleh Amukot* (Va'ethannan, 118) cites a tradition this passage relating to Bilam is a set of 18 verses in a passage in Joshua about the war against Bilam, likely a reference to Joshua 13. Although the Talmud will tell us

that Joshua authored (most of) the Book of Joshua, this paragraph was originally written by Moshe and later preserved there.

There is a fascinating passage in *Sanhedrin* (106a-b) where, in the course of a Midrashic discussion on Bilam's age, where Rabbi Hanina suggested he died at either age 33 or 34, a certain apostate (*min*) agreed on the basis of a "note of Bilam":

> שפיר קאמרת, לדידי חזי לי פנקסיה דבלעם, והוה כתיב ביה: בר תלתין ותלת שנין בלעם חגירא כד קטיל יתיה פנחס ליסטאה.

> You are saying well. I myself saw the note of Balaam, and the following was written in it: 'Balaam the Lame was 33 years old when Phineas the Robber killed him.'

No direct reference is made to our Gemara about Parashat Bilam, but some have suggested that Ockham's razor might favor the identification of these two mysterious documents – the "passage of Bilam" and the "note of Bilam" – with one another.

The discovery of an ancient text in Deir 'Alla, Jordan, in 1967 set off a flurry of publications on the matter. The text explicitly refers to one "Bilam bar Be'or" and also contains significant thematic parallels to the Biblical Bilam story, albeit with some differences. On this basis, some have suggested that this document, or something very much like it, may be what is referred to by the these Talmudic discussions of extra-biblical Bilam compositions.

Approach 2: Theological Differentiation

All the suggestions to this point set out from the assumption that Parashat Bilam as mentioned in *Bava Batra* 14b could not possibly refer to what we call Parashat Balak, on account of the fact that it is subsumed within the Torah, written by God and dictated to Moshe, and thus already appears on the list. However, several commentators point to some fundamental difference in nature between the passage in the Torah about Bilam and the rest of the Torah that might account for this apparent redundancy.

The Bilam Passage is Lacking in Some Aspect

There are several versions to this approach. A first angle is that this material, while it appears in the Torah, is in some sense inferior or tangential to the rest of the Torah. As Rashi writes (*B.B.* 14b):

> ופרשת בלעם - נבואתו ומשליו אף על פי שאינן צורכי משה ותורתו וסדר מעשיו

> The passage of Balaam – his prophecy and parables [were written by Moses] although they are not needed by Moses or his Torah, and the order of its stories.

The matters are not particularly central or relevant to the Torah's main thrust, although they do appear there. The *Nahalat Ya'akov* (to Balak, 22:5) takes a slightly different tack in a similar direction, arguing that what appears in the Torah is not Bilam's precise words, because Bilam should not be speaking in Hebrew, and Balak should not be able to read Bilam's mind as he does in the story. Rather, what we have in the Torah is an account rewritten by Moshe on the basis of what happened, as a reconstruction and translation of what Bilam said. On this perspective, one might argue that a rewritten story lacks something in comparison to an originally written story.

Finally, one might point out that the material on Bilam is different from the rest of the Torah, in the sense that the true protagonist of the story is Bilam (with Balak as a close second). The Jewish People are not at the center of this story but essentially bystanders, in contrast to the rest of the Torah once Avraham arrives on the scene. For that reason as well, one might note that something is different about this story, which would necessitate it being given independent billing on the list of Moshe's publications.

The Bilam Passage is Superior in Some Aspect

If the approaches above emphasized how the Bilam passage is somehow different by lacking some aspect the rest of the Torah possesses, we also find approaches that emphasize how Parashat Bilam might be superior in some sense to the rest of the Torah.

The *Sifrei* to *Ve-Zot ha-Berakha* 357 notes that while "no prophet arose in Israel like Moses (Deut. 34)," such a prophet did arise among the nations, namely Bilam. Rav Tzadok of Lublin (in *Peri Tzaddik* to Balak) explains this to mean that Bilam's prophecy was of a unique nature, a type that only Moshe possessed. While most prophets open their oracles with כה אמר ה', "so says God (more or less)," a mere interpretation of the divine word, Moshe and Bilam prophesied by having God, as it were, speak through their mouth. Thus, while most of the story of Balak and Bilam is not unique within the Torah, the prophecies of Bilam themselves are exceptional, as they represent the unmediated word of God spurting forth from his mouth. Most of the Torah, Rav Tzadok argues, justifies its sanctity on the basis of its Mosaic imprimatur; descriptions of events are rendered fit for inclusion in the Bible based on their re-rendering by Moshe (על ידי כתיבתו אותם בהתורה נעשה הכל תורה). However, the prophecies of Bilam are different:

> אך פרשת בלעם שבזה לא היה צריך לחדש דבר שהרי באמת היו דבר ה' רק שהיה בלעם עוקם שפתיו ועושה מעשה מוצאות הפה על זה אמרו ביחוד ופרשת בלעם שאינו בכלל כתב ספרו.

> For the passage of Balaam, [Moses] did not need to add anything [to have it qualify as scripture], because in truth it already was the word of God, and Balaam was merely moving his lips and doing the action of expressing it through his mouth. About this, and this in particular [Balaam's prophecies but not the surrounding story] they said that "the passage of Balaam" is not included in "his book" [among the things Moses wrote].

These prophecies are the unmediated word of God, which happen to be physically channeled, unmodified, through the mouth of Bilam. (As Rav Tzadok notes, it is thus very fitting that this story is marked by a donkey miraculously expressing human speech!) If so, Bilam's prophecies are exceptional because their inclusion within the Torah is not on account of their Mosaic authorship, but of their divine construction. Thus, they belong in a category all to their own, and *Bava Batra* appropriately separates them from the rest of the Torah.

The *Shelah* (Balak, Torah Or, 6) offers an alternative understanding to the unique nature of this passage. He asks why it was necessary for Bilam to offer these prophecies – surely Moshe could have presented those same prophecies at least as well! Rather, he argues, the story of Bilam is one of transformation, as Israel is ultimately blessed by the most evil and impure individual (Bilam), through a divine transformation of the most hateful curses into the greatest blessings. This indicates a fundamental unity between good and evil, which all

ultimately stem from God in some sense. If that is so, Parashat Bilam and its special message of integration of all perspectives for the good of Israel offers a unique message that must itself be distinct from the rest of the Torah that Moshe wrote, as is indicated by the Gemara's separation between them.

Conclusion

Whichever approach one takes among this survey of interpretations, the miniscule passage in *Bava Batra* 14b does a lot of work, sparking analyses that expand our view of Bilam and the nature of Torah. We either learn about Mosaic extra-Pentateuchal compositions on Bilam, or else about theological perspectives on the nature of his prophecy, and indeed prophecy in general. This is a testament to the power of interpretive tradition, where every word is expanded into heaps and heaps of wisdom. Moshe may be buried, but our interpretations still pour forth from the Torah of his lips.

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