Ki Tisa

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*Amidst the war unfolding in Israel, we have decided to go forward and continue publishing a variety of articles to provide meaningful opportunities for our readership to engage in Torah during these difficult times.*

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## CHARACTER AND COVENANT

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**Review of Geoffrey D. Claussen, Alexander Green, and Alan L. Mittleman (eds.), *Jewish Virtue Ethics* (New York: SUNY Press, 2023).**

*Jewish Virtue Ethics*, a new, ambitious volume edited by Geoffrey D. Claussen, Alexander Green, and Alan L. Mittleman, is a much-needed contribution to the history of Jewish thought. Virtue ethics, broadly defined, is any ethical system that emphasizes developing a moral character. What constitutes a Jewish virtue ethic is a more contested subject.

Why bring together 35 different thinkers and texts from across the Jewish tradition to analyze the virtue ethics of each? Green, Mittleman, and Claussen have two answers. The first goal of the volume is to provide resources for a contemporary philosophical account of Jewish virtue ethics. In the afterword, Mittleman speculates about the volume's relevance for committed communitarians and liberal cosmopolitans. The second goal of the volume is to make a claim about tradition. Specifically, the editors claim that the 35 thinkers and texts analyzed in *Jewish Virtue Ethics* comprise a tradition wherein disagreements and arguments constitute internal pluralism. (498)

The varied tone of the chapters reflects these two aims of the book. The first, penultimate, and last

chapters speak in a different voice than the intermediate chapters. These chapters, "Biblical Literature," "Jewish Feminism," and "Jewish Environmentalism," primarily discuss their subjects and virtues from the vantage point of the present--they are also the only chapters dedicated to particular inquiries rather than individual thinkers or texts. By contrast, the intermediary chapters, which focus on individual thinkers or texts, are primarily devoted to the exposition of the virtue ethics present in each work. Given this distinction, I will first focus on the intermediary chapters and then address *Jewish Virtue Ethics* where it attempts to speak normatively or critically.

Carlos Lévy and Clifford Orwin begin with essays on Philo and Josephus, who each provide a pre-Talmudic account of Jewish virtue ethics. While one might expect Philo to have a virtue ethic, Josephus *qua* virtue-ethicist may surprise some. Orwin contributes to a wave of scholarship that focuses on Josephus as a thinker rather than merely as a historian. His chapter is the gem of the compilation, well-researched and carefully argued. Readers will be shocked at the parallels between Josephus' central argument and later strands of Jewish Aristotelianism.

Deborah Barer's chapter, "Rabbinic Literature," explicates a normative tradition of text study against and through which later thinkers will develop their accounts of the virtues. In Barer's account, the virtues of the rabbinic tradition are essentially the virtues required by the hypercompetitive Babylonian academy, with the end goal of transmitting Torah--a feat that will be rewarded in the World to Come.

Diana Lobel's chapter on Bahya Ibn Paquda, Sarah Pessin's chapter on Solomon Ibn Gabirol (Avicebron), and Joseph Isaac Lifshitz's chapter on Elazar of Worms detail thinkers who argued for a virtue ethic influenced by a combination of mystical Neoplatonism, Sufi pietism, and traditional Jewish sources. The twin virtue ethics of pietism and Neoplatonism resurface throughout the collection. The pietistic thread runs through *mussar* thinkers like Isaac Arama (Baruch Frydman-Kohl), Moses Cordovero (Eugene D. Matanky), Israel Salanter (Sarah Zager), and Simhah Zissel Ziv (Geoffrey D. Claussen).

As for Neoplatonism, the kabbalistic tradition is well-represented in the collection. Eitan P. Fishbane's chapter on the Zohar emphasizes his subject's symbolically infused worldview while comparing its conception of virtuous friendship to those of Aristotle and Montaigne. Don Seeman contributes an excellent chapter on Abraham Isaac Kook. Seeman keeps an eye on the past and the present, engaging with Kook's continuance of kabbalistic virtue ethics while also analyzing those elements of his thought upon which Tamar Ross draws to shape her cumulativist philosophy of Halakhah. Matanky's chapter on Cordovero and Shaul Magid's chapter on Nahman of Bratslav are informative profiles of fideistic, mystically inclined thinkers who nevertheless articulated rich conceptions of the virtuous life. These thinkers tend to articulate a more pessimistic view of human reason, a greater reliance on tradition, and a theurgic grounding for the virtues

associated with performing *mitzvot*.

Kenneth Seeskin, Alexander Green, Roslyn Weiss, and Shira Weiss contribute chapters on prominent medieval rationalists, perhaps the most straightforward sources for a Jewish virtue ethic featured in this collection. Seeskin's chapter chronicles Maimonides' shift from a more orthodox Aristotelianism about ethics in the Eight Chapters towards embracing supererogation in the Mishneh Torah. Seeskin considers any notion of supererogation incompatible with Aristotelian virtue ethics, a criticism Hava Tirosh Samuelson will later repeat in her chapter on Jewish environmentalism. However, neither chapter engages with Rebecca Stangl's argument that supererogation is not contradictory to Aristotelian ethical thought.[1] Such an oversight indicates a lack of engagement with contemporary and 20th-century Aristotelian and virtue-ethical thinkers that spans the volume. While the chapters on the Zohar and Hannah Arendt (Ned Curthoys) engage with Martha Nussbaum and several chapters include a quote from Alasdair MacIntyre, most of the book displays only a surface-level engagement with the current philosophical conversation about embodied virtue.

While the volume features many influential figures within contemporary Jewish thought, *Jewish Virtue Ethics* would be enriched by bringing the primarily intellectual-historical nature of its chapters into conversation with the contemporary interaction between Jewish thought and virtue ethics. As such, Jonathan Sacks' absence from this volume is notable. Sacks cited MacIntyre as a chief philosophical influence and was a student of Philippa Foot, a leading protagonist of the 20th-century revival of Aristotelian virtue ethics within academic philosophy. As Sacks is one of the most influential voices within contemporary Orthodoxy, a chapter discussing his work would strengthen the editors' claim to a tradition of Jewish virtue ethics.

Seeskin's chapter is otherwise a highly recommendable introduction to Maimonides' moral and political thought. Another standout from this section of the book is Roslyn Weiss' chapter on Hasdai Crescas, which makes clear the differences between its subject matter and Maimonides. These differences become relevant in Shira Weiss' chapter on Joseph Albo and Alexander Green's chapter on Gersonides, as the virtues become a helpful instructor to explain the spectrum of disagreement that characterized medieval rationalist Jewish thought.

More modern forms of virtue ethics also leave an imprint on the volume. Elias Sacks gives a thorough summary of Moses Mendelssohn's perfectionist virtue ethics. Harris Bor demonstrates how Benjamin Franklin influenced the foundation of the *mussar* movement through Menachem Mendel Lefin's influence on Israel Salanter. (257) Shira Billet's chapter on Hermann Cohen illustrates how the latter's neo-Kantian conception of Judaism and Platonic reading of Maimonides shaped his virtues. Thinkers like Martin Buber (William Plevan), Mordecai Kaplan (Matthew LaGrone), Emmanuel Levinas (Richard

[1] Rebecca Stangl, "Neo-Aristotelian Supererogation," *Ethics* 126, no. 2 (January 2016): 339-365.

A. Cohen), and Hannah Arendt, who may not be traditionally thought of as virtue-ethical figures are all shown to incorporate some conception of the virtues into their thought. While we may observe aretaic parallels with thinkers like Arendt and Kaplan, they are ultimately tangential to the discussions throughout the rest of the book.

As the collection moves into modernity, its subjects advance traditional strains of virtue ethics. Through Plevan's chapter, we can observe Buber's Hasidic influence in his argument for the virtue of dialogical openness. In Einat Ramon's chapter, we can observe Abraham Joshua Heschel picking up the theurgic grounding for virtue from his Hasidic influences. Richard A. Cohen paints an exciting picture of Levinas, with strong parallels to Aristotle. Yonatan Y. Brafman's portrayal of Joseph Soloveitchik as incorporating elements of virtue into his thought is a compelling and welcome furtherance of Brafman's reading of Soloveitchik from previous work.[2] Given Soloveitchik's influence on contemporary Orthodoxy and virtue ethics-sympathetic thinkers like Walter Wurzburger, Brafman's chapter is particularly important for constructive discussions of Jewish virtue ethics.

The intermediary part of the collection implicitly makes an argument to those committed to Judaism: virtue ethics is present throughout the tradition. Thinkers as diverse as the rabbis of the Talmud, the medieval rationalists, mussarists, and Martin Buber all present some account of how certain character traits constitute human flourishing. It is this argument that undergirds the chapters which bookend the volume.

Amanda Beckenstein Mbuvi opens the volume with an argument about the virtue ethics yielded by a critical reading of the Bible. Notably, the virtues the Bible promotes in Beckenstein-Mbuvi's reading are communitarian, a conclusion that the author hopes will be a necessary corrective to overly individualistic virtue theories. Hava Tirosh Samuelson heralds Jewish virtue ethics as a theory that can address the environmentalist challenge to Biblical religion and provide a prescriptive account of how Jewish communities should incorporate environmentalism into their respective practices. Rebecca J. Epstein-Levi's chapter on Jewish feminism is far narrower than Tirosh Samuelson's. Continuing the same framework as her concurrent book,[3] Epstein-Levi focuses not on Jewish practices, but on the interpretive virtues necessary for reading Jewish texts through a feminist lens. For Epstein-Levi, feminist text study can be a character-forming practice.

At this point, we conclude our brief summary of the text and consider what the editors of *Jewish Virtue Ethics* mean when they define virtue ethics and when they define Jewish virtue ethics. As defined by Mittleman in the afterword, virtue ethics is the idea that "character matters and that virtue is constitutive of character." (498) Thus, a thinker like Hermann Cohen, who views virtue as

[2] Yonatan Y. Brafman "Beyond Values to Critical Praxis: The Future of Jewish Ethics," *The Journal of Religious Ethics* 49, no. 4 (2021): 622–637.

[3] Rebecca J. Epstein-Levi, *When We Collide : Sex, Social Risk, and Jewish Ethics* (Bloomington, Indiana: Indiana University Press, 2023).

a motor of the Kantian rational will, can be classified as virtue-ethical alongside Aristotelians like Joseph Albo, who see virtue as a character trait necessary to flourish according to one's *telos qua* rational animal.

There is nothing inherently problematic with Mittleman's expansive view of virtue ethics. However, more tenuous is Mittleman's and the other editors' claim that Jewish virtue ethics constitutes a tradition, defined by Mittleman as being something that is handed down from the past. More precisely, the editors believe that despite internal pluralism, the volume's thinkers are conversing with one another, drawing on similar texts, motifs, and emphases on character. What are the features that are characteristic of this tradition?

> They agree on the basic claim that character matters and that virtue is constitutive of character. The participants in the tradition argue with one another within a framework that structures moral reasoning. They share a basic, orienting text—the Bible—but they differ, unsurprisingly, over how to interpret it…The use of philosophical and other cultural materials from the environing society creates strong differences of emphasis in the ethical visions of the various authors. If common reference to the biblical legacy provides centripetal force, philosophy and culture provide a centrifugal one. (498)

I fear the editors have cast too wide a net in their attempt to trace a tradition. On Mittleman's grounds, we must ask why the book lacked chapters about Saul of Tarsus or Thomas Aquinas, who emphasized character and held the Bible as a basic, orienting text. While one could protest that the latter's use of the New Testament excludes him from offering a Jewish virtue ethic, one might say the same for Hannah Arendt's use of Adam Smith, Maimonides' use of Aristotle, or Moses Cordovero's belief in the Zohar as divine revelation. Furthermore, the myriad ways the thinkers discussed within the volume interpret the Bible leave one questioning just how centripetal it is.

Similarly, there is a tension within *Jewish Virtue Ethics* between those thinkers who write from a context characterized by communal norms of halakhic observance and those who seek to draw upon Jewish texts and ideas to inform a way of life in which Jewish law is not the norm. A tradition that encapsulates every thinker in this volume may be too expansive to be meaningfully described as such.

The nature of virtue ethics inflames these tensions. Nearly every chapter in this volume assents to the importance of practice for developing moral character. As Alasdair MacIntyre puts it, every sociology presumes a

morality.[4] As such, a volume on Jewish virtue ethics would do well to ground itself not in a textual standard such as the Bible but in a sociological standard such as some degree of observance of Jewish law.

Whether one views Jewish law as a source of Aristotelian political justice like Josephus, Maimonides, or Albo, as part of a web of unseen reward and punishment like Nahman of Bratslav, Dessler, or Heschel, or as an institution to be dissented from, such as Arendt or Buber, these thinkers discuss one largely continuous system of laws and practices as shaping one's character in a morally significant way.

A sociological standard centered around Halakhah would exclude several chapters that are excellent works in their own right. Still, it would provide the editors with a more straightforward argument about the contours of a Jewish virtue-ethical tradition. Moreover, it would allow readers to better appreciate those thinkers who fall outside the bounds of halakhic virtue ethics. For example, such a conception would support Ned Curthoys' argument that Hannah Arendt attempts to outline a virtue ethic for the "Jewish pariah tradition," defined in explicit opposition to both communitarian concerns and assimilationist pressures. (435) To appreciate Arendt's virtue ethics in relation to Jewish virtue ethics, we must appreciate her as an opponent of the tradition, an appreciation which itself may warrant inclusion in a volume like *Jewish Virtue Ethics*.

In his afterword, Mittleman acknowledges that Jewish virtue ethics is anchored in the communitarian life. He allows the communitarians the last word, hoping that liberal cosmopolitans can take from the volume an appreciation for particularity and tradition in shaping virtuous republican citizens. (501)

Overall, *Jewish Virtue Ethics* is an excellent collection that will give readers a deep appreciation for the thinkers discussed within. The volume will enrich the disagreements it seeks to navigate between communitarian and cosmopolitan. It will provide an invaluable touchstone for future debates regarding Jewish conceptions of a life well-lived.

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### *Modern Orthodoxy at the Crossroads: Past, Present, and Future*

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## Review of Joseph Kaplan, *A Passionate Writing Life* ( Teaneck, NJ: The Judaica House, 2023)

Reviewing a volume some years back on Modern Orthodoxy and sexual ethics, I concluded the review by noting that the authors—as do other Modern Orthodox rabbis and intellectuals—fall into the trap of leading readers up to the edge of the water but then decline to get their feet wet. Arguable or not, the allegation clearly does not

[4] Alasdair C. MacIntyre, *After Virtue : A Study in Moral Theory,* 3rd ed, (Notre Dame, Indiana: University of Notre Dame Press, 2007), 23.

apply to Joseph Kaplan, a retired attorney and Modern Orthodox intellectual and lay leader, who boldly dives into the thicket of current Modern Orthodox debates and dilemmas, controversial though they may be.

This book comprises a selected anthology of Kaplan's writings spanning well over half a century. Over the decades, these have appeared in publications as diverse as the journal *Sh'ma*, the *Jewish Standard*, *The New York Times*, and even Yeshiva University's undergraduate newspaper, *The Commentator*. The volume presents the reader both with a set of period pieces depicting Modern Orthodoxy in Kaplan's early years and a cogent commentary on the more recent and contemporary Orthodox scene.

Kaplan's range of topics is wide and diverse. The columns and essays traverse seamlessly from Jewish law to family experiences as well as popular culture (including television and sports), tributes to leading personalities, beautiful obits of departed loved ones, and touching personal vignettes, including a remarkable portrait of an East European director of RIETS at YU who—like Kaplan himself—adored Woody Guthrie's music. An introduction, italicized for easy identification, precedes many of the essays, contextualizing the piece historically and its intended purpose. An afterword, similarly italicized, in many cases usefully updates the reader as to where the issue under discussion stands today.

Of particular interest to Kaplan are the challenges to contemporary Modern Orthodoxy and its quest for a distinctive identity in contrast both to the Haredi world and to the liberal religious movements. Clearly at home across the Jewish denominational spectrum, Kaplan addresses with sensitivity and respect those with whom he disagrees on both his Right and Left flanks. For example, he offers glowing encomia to relatively right-wing YU *roshei yeshiva*, such as R. Hershel Schachter, R. Yehuda Parnes, and R. Mordechai Willig, notwithstanding pointed disagreements with their respective *hashkafot* disparaging Modern Orthodoxy and Open Orthodoxy.

His analysis opens with an effort to define Modern Orthodoxy, distinguishing between those whose values remain generally in sync with Haredi Orthodoxy but who harness aspects of modernity—e.g., computer technology so as to access responsa literature—and what may be termed "Modern Orthodoxy veritas," which internalizes modern culture as a source of values rather than purely as an instrumentality. Similarly, he contrasts Modern Orthodoxy with the more inclusive yet more vague "Centrist Orthodoxy," a fluid and undefined mid-point somewhere between the Orthodox Right and Left featuring a mood informed by modern culture but within sharply defined parameters. By contrast, Kaplan champions a distinctive synthesis of Torah and modern culture that explores the ties and tensions between two value systems while upholding the primacy of Torah. His case is perhaps strengthened by Dr. Norman Lamm, *z"l*, who admitted toward the close of his presidency at Yeshiva University that he may well have erred in seeking to replace the nomenclature "Modern

Orthodoxy" with the fuzzier and more ambiguous "Centrist Orthodoxy."[1]

Thus, Kaplan challenges some of the rightward drift in contemporary Modern Orthodoxy. He bemoans gender segregation at some wedding receptions and *semahot* in the Modern Orthodox community, a trend seemingly at odds with resolving the universally lamented "shidduch crisis." Conversely, he details the struggle to legitimize women's *tefillah* groups, a cause he and his wife championed successfully in both Manhattan and Teaneck in the face of vigorous opposition from noted *roshei yeshiva*.

A distinguished attorney by trade, Kaplan capably elucidates some of the most fascinating court cases related to Jewish law and Orthodox institutions. Among these he unpacks: (1) the 1980s *yarmulke* case of a U.S. Air Force captain denied the right to wear his *kippah* on duty and who subsequently brought his case before the U.S. Supreme Court; (2) the 1970s case of Yeshiva University declining to recognize a faculty union as a bargaining unit, in which the Supreme Court, by a 5-4 vote, rejected the faculty demand for unionization and upheld YU's position; and (3) the "*Get* Bill" legislation in New York State enabling the secular state court to incentivize a Jewish bill of divorce in the case of a recalcitrant husband refusing to issue a *get and* leaving his spouse incapable of remarriage in accordance with Jewish law.

In each of these cases, Kaplan adroitly unpacks the issues under contention. The *yarmulke* case entailed conflict between the military ethos of conformity with time-honored Jewish custom. The YU case addressed whether university faculty were staff and therefore entitled to unionize, or management who determined their own teaching hours and course requirements and therefore not entitled to unionize. With respect to the *Get* Bill, Kaplan argues—correctly, in my opinion—that the secular state should not be involved in solving Jewish halakhic problems. If Jewish divorce law imposes hardship on the divorced female spouse—as it clearly sometimes does when women become *agunot*—rabbis and scholars need to resolve this issue internally and not depend on state intervention, which easily could lead to further state intervention in Jewish religious practice and regulation of internal Jewish communal affairs.

The *NLRB v. Yeshiva University* case was perhaps the most complicated of these judicial decisions, evidenced by the 5-4 vote. Kaplan invokes his undergraduate days, when students virtually unanimously perceived the college administration as possessing decision-making authority while faculty had to be content with substandard salaries and poor working conditions. As a member of YU's full-time faculty while the case was under review, I followed this debate carefully. Kaplan's perception of where authority lay is largely correct. But at the time, I also noted that the putative union heavily favored the needs of senior faculty at the expense of junior faculty who were barely eking out a living, if that. Whether a union at YU would have succeeded in securing adequate wages and working conditions for a

[1] Norman Lamm, *Seventy Faces: Articles of Faith*, vol. 1 (Hoboken, NJ: Ktav Publishing House, 2002), 2.

dedicated yet largely demoralized faculty remains questionable. For its part, the Court—impressed that YU faculty recently had become actively involved in hiring, tenure, and promotion decisions—ruled that faculty indeed were "management" and could not unionize.

Kaplan has much to say about a range of other issues dividing Orthodoxy, and everyone will find something to agree with and to disagree with. He lauds non-Orthodox rabbis and leaders, whose wisdom he cherishes and from whom he learned greatly. Similarly, he mounts an eloquent defense of women as Orthodox rabbis, a much-contested issue between "Open" and "Centrist" Orthodoxy. To be sure, there are notable omissions. Biblical criticism receives no mention, while partnership *minyanim* merit only a passing notice that he attended one at least on one occasion. Similarly, he references the late Meir Kahane only as a young Hebrew teacher, eschewing all mention of the latter's odious ideology, which unfortunately appears in greater vogue today in some contemporary religious Zionist circles in Israel. Conversely, Kaplan teases the readership with a favorable reference to "Post-Orthodox" teachers but neglects to tell his readers who they are, what they teach, and what they believe in.

So what does one make of this witty and engaging anthology? The volume provides a lucid albeit partisan guide through the warp and woof of contemporary Modern Orthodox debates and controversies. Always respectful of those with whom he disagrees, even most strongly, Kaplan models a civil discourse all too often lacking in the Orthodox world, to say nothing of a polarized American society generally. Although the volume contains unnecessary repetitions, programmatically it serves both as an excellent entry point into the thicket of contemporary Orthodox discourse and as take-off point for intelligent and thoughtful discussion as to Orthodoxy's future directions.

But the answers to the larger questions of synthesis, coexistence, and conflict between the value systems of Torah and modern culture remain elusive. Clearly the study of Torah benefits when it imbibes the teachings of philosophy, geography, literature, even psychology. History, by contrast, particularly ancient history, often appears in conflict with the narrative of the Torah. Conversely, modernity has much to learn from the study of Torah about human nature, justice, even political theory. But what happens when the two cultures stand in conflict with one another rather than coexist harmoniously? Does one jettison knowledge of ancient history when studying *Tanakh*? Virtually everything that occurs within Israeli Orthodoxy has repercussions and implications for American Orthodoxy. Yet Kaplan neglects to draw these parallels. Does religious Zionism (*Torah Va-Avodah*) connote creation of a Jewish democratic state on principles of Torah? Or has religious Zionism been hijacked by Gush Emunim, to say nothing of the extremism of Smotrich and Ben Gvir? Perhaps most importantly, has Modern Orthodoxy nurtured the intellectual leadership so necessary both for itself and the Jewish people writ large, or has it abdicated such leadership in favor of *gedolim* often removed from the needs of *klal yisrael* and who aspire to create "learner earners" rather than men and women who embody synthesis? These questions—whether applied to critical

study of Jewish text, political wisdom, or contemporary ethics—all warrant extensive consideration. Joseph Kaplan points the way, but his book is not the endpoint of such deliberations.

Kaplan's vigorous advocacy for a truly Modern Orthodoxy will meet with both resonance and opposition. But no one interested in Orthodoxy, its place on the Jewish scene, and its future ought to ignore this critically important work.

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