

### RECLAIMING DIGNITY REVIEWED

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*Reclaiming Dignity: A Guide to Tzniut for Men and Women* (Mosaica Press, 2023)

Like too many women, Bracha Poliakoff, an educator and clinical social worker, has struggled with a “disordered relationship with the concept of *tznius* [modesty]” (*Reclaiming Dignity*, 4)—a phenomenon that she now seeks to combat. To this end she has commissioned, assembled, and edited writings (as well as raised funds) for *Reclaiming Dignity*, a new book on *tzniut*, with plans for a follow-up website and school curriculum.

Poliakoff’s efforts make a statement about *tzniut* as strong as the book itself. In pursuing this project, she has exemplified an *eishet hayyil* model of *tzniut*, one in which women resolutely take action that radiates beyond the home and share their wisdom with others.

The resulting volume is comprised of two parts: first, a compilation of brief essays on *tzniut* as a

*middah* (character trait), written by 26 “educators, role models and influencers” (XXXIV), nearly all of whom are women; and second, an extended halakhic analysis by Rabbi Anthony Manning.

### Deeper than Dress

Poliakoff’s introduction details how troubled she is by the conflation of different meanings of *tzniut*, particularly by the extent to which women’s dress dominates contemporary discourse and displaces discussion of *tzniut* as a *middah*. She returns to this point later, introducing an insightful essay on clothing in Tanakh by Dr. Deena Rabinovich, with an editor’s note explaining the essay’s inclusion as a way of “providing a means of imbuing our clothes with the depth of *tznius* as opposed to having them define *tznius*” (53).

The contributions to the essay collection successfully avoid this land mine, hammering home the message that *tzniut* is not just for women or about women’s wear. Even so, many of the pieces seem to be addressed chiefly to women and center on self-presentation. Only a few—including two of the three rabbinic contributions to the volume—

seriously consider the relationship of *tzeniut* to what we allow ourselves to see or the media that we consume.

As may be expected, several of the essays emphasize the significance of *tzanua* dress. For example, Israeli runner Beatie Deutsch, in an expanded version of a [viral social-media post](#), grapples with her commitment to garb that slows her down; Dr. Leslie Ginsparg Klein delves into the importance of dressing with *nikhbadut* (class); and Ilana Cowland builds an argument that, “thanks to the clothing that covers your body, your inner self is expressed” (136).

The interplay of external and internal, often framed here as that of body and soul, becomes a recurring motif, as contributors present their working definitions of *tzeniut*. The definitions coalesce on three elements, neatly summarized by [Rivka Wein Harris](#): “privacy, humility, and *feinkeit*” (172), the latter defined as “propriety and proper deportment” (175).

Contributors to the volume root each of these three dimensions in the individual’s relationship with the Almighty, heeding the biblical demand of “walking modestly [*ve-hatzne’a lekhet*] with your God” ([Mikhab 6:8](#)). Extolling privacy, Faigie Zelcer describes *tzeniut* as “the quality of internality... a sphere within which exists our relationship with Hashem... an intensely personal, private, and unique bond” (163). Encouraging humility, Yael Kaisman defines a *tzanua* person as “someone whose ego is centered on expressing Godliness, and contributing to the world by being a vehicle of God’s presence in this world” (104). Regarding *feinkeit*, Dr. Yocheved

Debow (in a reprint of a chapter from her book [Talking About Intimacy and Sexuality: A Traditional Guide for the Jewish Parent](#)) observes that “the words we speak and how we speak them, as well as our actions, should always be consistent with this sense of walking with God in the world” (179).

The relationship with God also lies at the heart of prayer. In a particularly incisive essay, Elisheva Kaminetsky traces the difficulty of educating students in both *tzeniut* and prayer to this commonality between them, explaining that “our relationship with Hashem... is not something that can be taught or imposed” (167). Her concrete suggestions for *tzeniut* education include engaging in more God-talk, role-modeling, and stressing spirituality, all of which would enhance prayer as well.

### Confronting Challenges

Kaminetsky also advocates for providing students with opportunities to ask questions. Raising open questions, without rushing to resolve them, invites those struggling with *tzeniut* to view identifying with it as an open-ended process that they too might undertake. Perhaps because so many of the contributors are experienced educators with much to say, many of the essays tend to answer more than they question. A few stand out for taking a more exploratory approach that some readers may find more effective.

For example, Shevi Samet examines the challenges of applying *tzeniut* to social media, acknowledging

that “if there’s a spectrum of acceptability and one needs to apply radical honesty and self-reflection in determining their place on it... we run the risk of getting it wrong” (76). Sarah Rudolph quotes an intriguing *midrash* ([Bereishit Rabbah 53:9](#)) that calls the biblical Sarah “excessively modest” to underscore the complexity of “determining how much [modesty] is too much, not enough, or just right” (127). And Shalvie Friedman concludes her efforts to rationalize “The Headache of Hair Covering” by taking comfort in how her sense of the mitzvah’s opacity drives her to seek new meaning from it (147).

[Writer](#) and [podcaster](#) Alexandra Fleksher poses a question that likely concerns many of the contributors, along with readers: how can we reconcile *tzeniut* with spreading one’s ideas or taking the spotlight? Her answer for herself is instructive. First, rabbis have encouraged her pursuits. Second, she writes, “Since these are not halachic issues, I also find my answers in how comfortable I feel” (119).

Along these lines, the essays create a sustained and powerful argument for the significance of internalizing the *middah* of *tzeniut* and drawing guidance from it, as opposed to basing the criteria for *tznua* behavior solely on extrinsic motivations, such as fear of punishment or a desire to conform or please. Unfortunately, as Esti Hamilton cautions, *tzeniut* education too frequently feeds a damaging culture of conformity. “Often,” she explains, “it is not the laws of modesty, but rather the ‘laws’ of conformity (often to a rigid standard) that create a battleground for a girl as she grows up and starts to

individuate... The misplaced focus on conformity causes another challenge for frum women: a constant obsession with body and dress, similar to that which exists in the secular world, and which is enormously destructive” (154). As Ginsparg Klein remembers from her experiences growing up, “Certain personality traits were more *tznius* than others; introverts were more likely to be labeled *tznius* than extroverts” (110). Kaisman confides that, for this reason, her younger self “was secretly concerned about whether Hashem wanted me to lock my personality in a box and throw the key away” (103). In other words, some types of *tzeniut* education can *interfere* with one’s inner self being expressed.

Observations like these honestly reveal the specific, complex, and sometimes painfully unfair demands that Orthodox communities make of women in the name of *tzeniut*, and thus ground the case for *tzeniut* as a *middah* more firmly in lived reality. Including more such observations might have increased the impact of the compilation.

### **From Inspiration to Practice**

The compilation’s approach to teaching *tzeniut* reflects a broader educational trend to emphasize an inspirational view of the individual’s path to *ahavat Hashem* over a fearful brand of *yir’ah* that enforces communal pressures. How does placing stress on values and inspiration translate into halakhic practice?

Zelcer, describing the logic behind her [Penimi Tznius Curriculum](#), argues that recent educational

efforts have failed because “when tznius became a battle over only hems and buttons, the women did not buy it... Women resisted, for they were given only a tiny slice of a huge and beautiful tapestry of connection” (164-165). She seems to assume that an appreciation for the whole tapestry will carry observance past any halakhic knots.

By contrast, Dr. Debow notes, “From my research, I have found that most [Orthodox] teenage girls appreciate and understand the value of *tzniut*. For the average Orthodox teenager, the arguments are generally in the details and not in the principle” (181).

Indeed, halakhic strictures of *tzeniut* may prove less amenable to internalization than the *middah*. Deutsch makes the same point. Though she is personally committed both to *tzeniut* and to dressing within the bounds of Halakhah, she has the courage to admit that “as much as I internalize the meaning of *tznius*... there are parts of this mitzvah that I don’t always understand... I don’t believe the choice to wear less clothing is necessarily a reflection of one being less in touch with their inner being” (100). She makes *tzeniut* and its strictures her own by embracing shifts in her perspective on them as an ongoing journey.

### **The Halakhic Analysis**

The essays build anticipation for a halakhic analysis that will connect appreciation for *tzeniut* as a *middah* with internalization and observance of halakhic detail. Rabbi Manning, co-director of Midreshet Tehillah (a Neve Yerushalayim affiliate)

and a *talmid* of Rabbi Yitzchak Berkovits, answers this challenge by deliberately focusing “not on halacha per se, but the underlying hashkafic and meta-halakhic currents that drive the topic” (199). Rabbi Manning’s main interest lies in halakhic methodology and how it “resonates with the spirit of Torah” (352).

Rabbi Manning begins, understandably, by laying his own hashkafic foundation for discussion. In addition to setting the stage for his analysis, his introduction to *tzeniut* as a concept also makes it clear to the reader—who has already read several such introductions in the essay compilation—that the two parts of *Reclaiming Dignity* function as separate books. Though many points of discussion in common with the essays appear in the long Halakhah section, they receive only brief, scattershot mention in footnotes. This seems like a missed opportunity to amplify the contributors’ voices and to enrich the halakhic discussion by engaging with them.

The halakhic discussion has many virtues. Rabbi Manning addresses it to men and women alike, drawing from [the work](#) of Rabbis David and Avraham Stav to present an analysis of *tzeniut* for men. He highlights connections between *tzeniut* and interpersonal *mitzvot*, carefully distinguishes *ervah* from *tzeniut*, does not ascribe undue significance to [the prohibition of lifnei ivver](#) (placing a stumbling block before the blind) as a basis for a woman’s *tzanua* self-presentation, and argues against pursuing or imposing excessive stringency. The analysis moves in a logical progression from the personal realm to the public

and communal. It is especially gratifying to see those elements of the discussion that mirror [the writings](#) of my teacher, Rav Yehuda H. Henkin *ztz"l*, and of [Deracheha](#).

The laws of *tzniut* provoke much debate, in part because the relevant halakhic categories elude simple definition. Rabbi Manning devotes considerable attention to clarifying concepts such as *tzniut*, *hashkafah*, rabbinic law, and *kol ishah* that he thinks others have misunderstood, and he expresses disagreement with respect. For example, Rabbi Manning calls it misleading to suggest that “more covering” for women is a pious stringency. Rather than cast those who teach this way negatively, he sheds light on their reasoning and then spotlights his own: “While it is understandable that some teachers feel that this kind of push is helpful in our morally ambiguous world, it is my view that honesty and clarity when teaching Torah is always the best policy” (324).

The assiduous attempts to avoid judging others go very far, sometimes perhaps too far, as in a principled defense of Hasidic customs for women not to drive. “To dismiss such a position,” writes Rabbi Manning, “as ‘oppressive or hierarchical’ is unacceptable and judgmental. Rather, we need to respect the position and understand where it may fit into the rubric of... tzniut” (342-343).

### A New Mitzvah

Rabbi Manning writes with confidence and passion, seeking to draw every possible insight from the texts that he quotes. In his enthusiasm, he can sometimes

overstep. For example, the Talmud ([Ketubot 72a](#)) infers a woman’s obligation to cover her *head* from the *kohen*’s obligation to undo a *sotah*’s hair, “*u-fara et rosh ha-ishah*,” as part of the *sotah* ritual ([Bamidbar 5:18](#)). A second Talmudic passage learns from the same verse that the *kohen* would also partially uncover the *sotah*’s body ([Sotah 8a](#)), but it does not mention any implications for a woman’s obligation to cover herself. After quoting both passages, Rabbi Manning makes a weighty, if not fully unpacked, statement that introduces a Torah-level mitzvah to cover the *body*, also linked to the *sotah*: “The halachic implications of this mitzvah [of uncovering the *sotah*] explain two Torah *mitzvot*—the first relating to covering the hair, and the second to covering the body” (287).

A footnote cites one later authority ([Rav Meir ben Shem Tov Melamed](#), Salonika, d. 1627) in direct support of this statement, while the main text immediately moves on to this linkage’s “significant implications for the hashkafic values of tzniut in public” (288). As a point of comparison, Rabbis Stav quote the same source—but present this claim only as a possibility—and then lay out the halakhic counterarguments. Indeed, since this claim does not seem to appear in the writings of *rishonim* (early authorities) or in major halakhic codes, one wonders how educationally constructive it is to include it and thereby give added emphasis to the shaming of the *sotah*.

By the end of the chapter, Rabbi Manning has reframed this possible Torah-level mitzvah for a woman to cover her body in public as a Torah-level obligation for men and women to act in a dignified

manner in public: “Every man and woman, before they walk out of the house, should ask themselves if they are dignified or not in the context of what they are doing and where they are going. If not, they may be in breach of the Torah mitzvah of ‘*u’fara et rosh ha-ishah*’” (291). Rabbi Manning presumably means only to fortify his hashkafic point, which is well taken, rather than to suggest that this is the fundamental Halakhah. Still, the continuous interweaving of Halakhah and *hashkafah* can create some confusion as to when the halakhic analysis leaves off and the hashkafic homiletics kick in.

### Directions for *Dat Yehudit*

By anchoring *tzeniut* in public in a Torah-level obligation, Rabbi Manning gains more freedom in analyzing a related halakhic category, *dat Yehudit*, because less now depends on it. Rambam defines *dat Yehudit* as the *tzeniut* practice of Jewish women ([Mishneh Torah, Hilkhoh Ishut 24:12](#)). He then lists six actions, derived from the Mishnah ([Ketubot 7:6](#)), through which a married woman violates *dat Yehudit* and thus forfeits her marriage settlement (*ketubah*). Rabbi Manning adopts the position that specifically these examples of *dat Yehudit* are absolute halakhic strictures, while other modest customs accepted by the community, though binding, remain contingent on context and subject to change.

This view allows for an important, forthright discussion about how “styles, fashions, and customs change within communities... and the *minhag* [custom] evolves” (305-306). It also provides a basis for recognizing the validity of a wide range of

practice and for rejecting attempts to ascribe universal halakhic force to the standards of any one community. As Rabbi Manning notes, “There is a problem in projecting a *dat Yehudit* onto another community where it is inapplicable” (344).

At the same time, Rabbi Manning defines the scope of *dat Yehudit* within a given community very broadly, even attempting to apply it to men. Granted, *dat Yehudit* can apply to cases other than those mentioned by the Mishnah. Thus, Rabbi Moshe Feinstein ([Iggerot Moshe Even Ha-Ezer 1:69](#)) rules that a woman’s behaving *immodestly* (*bi-fritzut*) in a manner inconsistent with her community norms would be in violation of *dat Yehudit*. Rabbi Manning goes even further with respect to women. His list of possible applications of *dat Yehudit* for women includes: “Participation in sports (mixed or women only)... Acting or singing in women-only performances. Giving a public *shiur* in front of men? Driving??” (Question marks his, 341).

Thankfully, he does eventually set some limits: “Generally speaking,” he adds, “an activity that is purely functional and that would not ordinarily attract attention should not be included” (343). Even with this caveat, Rabbi Manning’s application of *dat Yehudit* remains expansive in the extreme, especially since his discussion of what constitutes inappropriate attracting of attention presents *dat Yehudit* itself as a halakhic yardstick.

This circularity threatens to erode the distinction between modesty and conformity. Assurances such as, “As long as the lines of *dat Yehudit*... are not

crossed, distinctiveness and individualism can be an engaging expression of personal character, without becoming anomalous or eccentric to the point of attracting attention in a way that lacks *tzniut*” (314), do not fully reassure. One longs for the clear-eyed candor of Esti Hamilton warning against the perils of undue conformity.

To his credit, Rabbi Manning distinguishes between standards imposed from above, such as dress-code rules, and *dat Yehudit* that emerges “organically and subtly through the behavior of women in that community who are conscious of the relevant sensitivities of *tzniut* and the importance of dignity” (303-304). In practice, as Rabbi Manning acknowledges, the origins of a community’s practice are not so easy to trace. More important, if these developments in women’s attitudes and behaviors are in fact organic, how viable is it to map their workings with precision? And is a lengthy written discussion the best guide to navigating them?

Some of the essays hint at a different outlook on the *tzeniut* customs of Jewish women and how to impart them, as when Alexandra Fleksher finds that awareness of her own comfort level can provide some answers. Rifka Wein Harris articulates an educational approach that she has used with her teenagers: “Our task as parents is to steadfastly project and reflect *feinkeit* in the hope that once they exit the long, fraught tunnel of teendome, they will intuit and reflect these boundaries on their

own” (177). This type of approach resonates as authentic and trusting. It does not lend itself to detailed elaboration.

As these essayists remind us, the community of women is made up of individuals. The collective force of women’s behaviors, regardless of whether they are formalized as *dat Yehudit*, begins with each woman making decisions about how to speak, dress, and behave. [\*Reclaiming Dignity\*](#) seeks to cultivate the sensitivities that inform these decisions.

The halakhic analysis, however, suggests that “local rules” should generally override personal sensitivities (346), and that only specific people “are ‘qualified’ to set the tone for *dat Yehudit*” (350). Suggestions like these could downplay a crucial point, which is a corollary of the view that aspects of *dat Yehudit* are a changeable, living expression of Jewish women’s internalized values. Personal sensitivities shape *dat Yehudit* even as they are shaped by it.

Both sections of [\*Reclaiming Dignity\*](#) have the potential to help women and men chart a more sensitive course to walking modestly with God. Following Poliakoff’s lead, the essayists expertly shift the focus of *tzeniut* discourse onto the *middah*. Rabbi Manning gives this shift more halakhic expression and adeptly defends a diversity of practice. It is where the book ends that the real work of enacting *tzeniut* begins, as readers move on to “intuit and reflect these boundaries on their own.”

## THE WILL IS MAN'S ONLY PROPERTY: A READING OF A SHORT PASSAGE FROM MR. SHOSHANI

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*This article is dedicated to the memory of Prof. Shalom Rosenberg, who passed away as we were completing the final edits.*

**M**onsieur Shoshani isn't even his real name, but that name has become synonymous with one of the most obscure, mysterious, brilliant, and unconventional figures in postwar Jewish thought. An itinerant teacher who shunned social convention, he wandered around the world teaching some of the most important and influential Jewish minds of the 20th century, including Elie Wiesel, Emmanuel Levinas, André Neher, and the late Shalom Rosenberg. He would leave them unexpectedly without saying goodbye, while traveling from place to place—teaching, studying, and gathering students from far and wide. Until quite recently, many more legends and stories were known about the mysterious Shoshani than the content of anything that he taught.



*Young portrait of Mr. Shoshani, courtesy of mr-shoshani.co.il.*

Recently, however, the National Library of Israel received from Rosenberg nearly 100 notebooks in Shoshani's own handwriting, which have been digitized and are now available to the public inside the library's building. In addition, a new [website](#) has posted even more material. The notebooks are as obscure as the man who wrote them. Tiny, barely legible handwriting hugs the edges of the pages. Numerous idiosyncratic abbreviations dot the pages, as do long tables of seemingly random numbers. Topics range from current events, Spanish grammar, history, nutrition, and of course Talmud and Torah. But they are not the kind of thing that one might sit and read. They need to be deciphered, and even then, much guesswork and speculation will inevitably be involved.

The notebooks have received a great deal of attention, though almost nothing has yet been published about their content. This essay will offer

close reading of one very short passage, serving as a model of how one might read and unpack other passages. The passage appears in a tattered student notebook without a cover that includes 72 pages. The number “37” appears in red letters on the first page, apparently added by someone other than Shoshani. ([The notebook appears here as 1CH15.](#)) Due to the short length of the passage, which appears on the first page of the notebook, we cannot address how one might connect the dots between this passage and longer thematic issues nearby or scattered elsewhere in the notebooks. That will have to wait for another time. Suffice it to say that there are such connections.

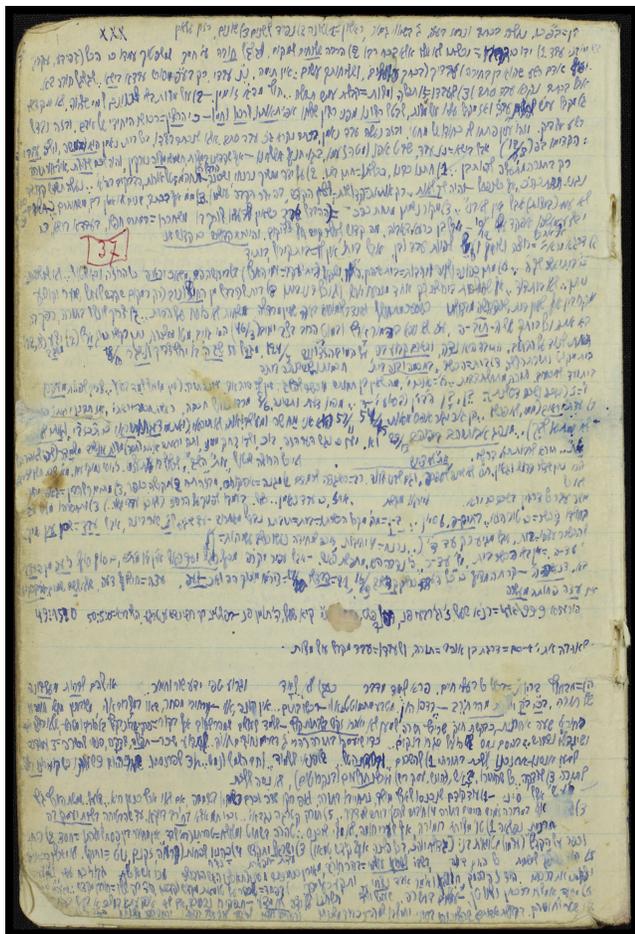
Because this essay is an attempt to model how one might unpack the notebooks, we want to make explicit the method we used. We began by transcribing the passage. Naturally, experience reading Shoshani’s cryptic handwriting helps, as does experience with understanding his abbreviations, symbols, and ways of referencing sources.

After transcribing, we would review each word and phrase. Sometimes Shoshani identifies biblical texts by chapter and verse. More often, references are implicit. *Sefaria* and other searchable databases were

helpful. We searched for keywords that appeared close to one another in the Shoshani passage, and this helped us identify other sources that were being referenced. In addition, our own memories were sometimes helpful in finding other connections and references.

Finally, we made an attempt to weave the quotes, references, and their implications into a relatively coherent narrative. This was a slow and painstaking process, and it required a fair amount of imagination to fill in the gaps in his cryptic prose. We present this reading as a *possible* sense of the passage, rather than a definitive one.

In this passage, Shoshani uses a discussion of “Servants of God” to speak about the role of human beings in a fatalistic, if not deterministic, universe. Ultimately, God’s plan will be fulfilled. All the individual can change is his or her own tiny role in that plan, perhaps only the attitude with which the individual faces the predetermined fate. This paragraph is embedded in a longer discussion over the following few pages of metaphors for human relations to God, including “servant,” “son,” “messenger,” and others. In the longer passage, he breaks down each metaphor into various levels, one higher and more advanced than the other.



Page 1 of notebook 1CH15, courtesy of mr-shoshani.co.il.

Below you will find our transcription, meant to be as precise and literal as possible. After that, we offer a translation and make explicit the references that we found. In addition, we offer our interpretation of the passage sentence by sentence. A literal transcription appears first, and our somewhat neatened and smoothed-over translation appears in bold italics.

We have transcribed the few lines of texts, which include words, letters, symbols, and underlines, all

of which appear in the original.

(ב) מובני עבד (1) ידו כיד רבו = יכלתו לא שלו אלא בכוח רבו (2) הרבה שלוחים למקום. לגלגל חובה ע"י חייב. למשפטיך עמדו כי הכל (צפרדע, עקרב ואף אדם רשע שהוא אין בן בחירה) עבדיך (בכחך פועלים, ושליחותך עושים. תימה. ג"נ ל"כ עבדי. רק בע"פ מפורש עבדא בישא :: לגלגל חובה בא. אבל בכתב נקרא עבד סתם) (3) לעבדו = זו תפלה ומצות = קבלת עמש תחילה :: חוץ מד"א זו מין. --ב) עול מצות בלי לכוונם למי שציוה. לא מקדשם ג) מקבל עמ"ש להיות עבד, ואז מקבל עליו עול מצוות, לבטל רצונן מפני רצון שולחו אפי' תאותיו, צרכיו, וחיויו - כי הרצונן = רכשו היחידי של אדם. ובזה נבדל רשע מצדיק. וזהו ענין פתחו לי כחודו של מחט. ובזה נעשה עבד נאמן.

### The Meaning of the Term Servant:

In this passage, Shoshani suggests four meanings of the term "servant" (or even "slave"), used as a metaphor for the human relationship with God. The four meanings seem to be in ascending order, from the least ideal to the most ideal.

#### I. The Servant as an Extension of the Master

***1) His hand is like the hand of the master = his ability is not his own but by means of the power of his master.***

The expression "his hand is like the hand of the master" is a paraphrase of the Talmud in [\*Bava Metzia 96a\*](#), which suggests that even under conditions that a person cannot appoint an agent to perform an act, a slave can be appointed. The slave is not an agent or messenger, but simply an

extension of the master. The master uses the slave exclusively for the master's ends.

Shoshani does not identify explicitly who is the slave whose actions are an extension of God's, but from context of the paragraph's concerns with servants and messengers of God, he seems to be referring to the ways in which nature and inanimate objects are the tools of divine providence. They have no free will and power of their own, and to the extent that they act, they are governed by nature and God's will. God accomplishes His providential plans through nature, whether the day-to-day existence of the world or perhaps even divine reward and punishment in the form of rain or natural disasters.

## II. The Servant as Fulfilling God's Task

***2) God has many messengers. He arranges punishments through sinners. And they stand today to Your judgment, for everything (the frog, the scorpion, and even the evil person who has free choice) are Your servants.***

Making sense of this cryptic passage requires beginning with the Talmud in [Shabbat 32a](#) and the notion of arranging punishment through sinners (מגלגלין חובה על ידי חייב). The Talmud is concerned with solving a syntactical feature of the verse that commands homeowners to build fences around their rooftops in order to prevent people from falling off the roof. The verse explains that one is to build a fence on a roof so that "you do not bring bloodshed on your house if someone falls from the roof" ([Deuteronomy 22:8](#)). This English translation does not do justice to the original Hebrew, כי יפול

הנופל ממנו, which could be translated in a hyper-literal fashion as "when the one who falls, falls from it." The word כי translated as "when," rather than "if," seems to echo the odd term in the verse for the hypothetical victim, who is described as the "one who falls." The Talmud asks of this phrase: if you do as you are told and build the fence, then nobody at all will fall—there would be no "one who falls" and therefore no "when" someone falls. What should we make of this locution?

The Talmud uses this linguistic feature as an opportunity to reflect on divine providential punishment. One does not merely fall off a roof by accident. One who falls off a roof was destined to do so as part of the divine calculus of reward and punishment. There is no safety measure that any homeowner could take that would protect the victim from what God has in store for him. The homeowner builds the fence not to prevent suffering to the one who falls, whom the Talmud deems as destined to die—as "already falling from the six days of creation." Instead, the homeowner builds the fence so that the homeowner does not him- or herself become a pawn in the chess game of divine providence. If the homeowner builds a fence, God, who prefers His providence to be hidden, will be forced to find another breach in safety protocols in another home to kill the victim. If the homeowner sins and does not build the fence, the homeowner becomes guilty. God can use the guilty homeowner as a tool to punish the victim. God, as it were, ***arranges punishment through sinners.***

Shoshani then quotes an entire verse from Psalms ([119:91](#)), which here should be read together with

the previous two verses: “Forever, O Lord, Your word stands fast in the heavens. Your faithfulness endures for all generations. You have established the earth, and it stands firm. They continue this day according to Your ordinances, for all are Your servants.”

There are several interpretive wrinkles in this passage, but one possible reading is that creation of heaven and earth was done through God’s word. Heaven and earth are consistent and everlasting because they are all God’s servants. Both the forces on earth and those astronomical forces in heaven are all God’s servants. As [Ibn Ezra](#) explains the verse: “Heaven and earth stand as slaves to do Your bidding.” Nature is itself a reflection of God’s plan. Moreover, according to many medieval rabbis, the astronomical forces have direct influence on the sublunar world, in what could be referred to as a kind of “scientific astrology.”

Shoshani interrupts the verse to describe a curious frog and scorpion. The reference is to a series of parallel *midrashim* that, like the discussion of the fence on the roof, deal with divine providence. The *midrashim* explain that God uses all of nature to fulfill His will, “sometimes through a snake, sometimes through a frog, and even through a scorpion or mosquito” ([Leviticus Rabbah 22:3](#)). The snake bites the victim because God commands it. Frogs attacked the Egyptians during the second of the ten plagues as God’s messengers. In [Nedarim 41a](#), Shmuel witnesses a scorpion sent on a divine mission to sting a sinner. The scorpion floats across a river on the back of a frog but refuses to sting the

frog, because the scorpion is (with apologies to John Belushi) on a mission from God (see also [Numbers Rabbah 18:22](#)). Shmuel sees this as a fulfillment of the very verse in Psalms Shoshani had just quoted: “Forever, O Lord, Your word stands fast in the heavens.”

In a related *midrash*, the mighty General Titus, responsible for desecrating and destroying the Second Temple, was ultimately killed when a lowly insect, who was sent by God on a vengeful mission, burrowed into Titus’s brain, eating it from the inside (much as Titus entered the Holy of Holies, desecrating it from the inside; see [Leviticus Rabbah 22:3](#)). If the verses suggest that nature, going about its normal business, fulfills God’s will in the normal course of events, these *midrashim* suggest that God can command nature to deviate from its typical workings in order to accomplish God’s mission.

In the next step, Shoshani moves from nature to human beings, particularly evildoers who have free will but—through their evil choices—still end up doing God’s will. Shoshani, not fully explaining the paradox, seems to raise a religious and theological challenge that goes back to the Bible itself (and has parallels in Greek myths of fate): God knows the future and predicts it. Human beings go about their business, and even though those people act in their own interests, God’s will comes to fruition. Ultimately, everyone is a servant of God, in the sense of being a tool in the providential plan.

The next sentence brings examples and clarification of the notion that evildoers make their evil choices

but still push forward the divine plan. Brackets in the translations here and below are our additions for clarity; parenthesis are in the original.

*(They act through Your power and they do Your mission. Ergo, there is no question [regarding] Nebuchadnezzar [who is referred to as God's] servant. Only the Oral Law refers to him as an evil servant. Ergo, he comes to arrange punishment. But in the verse he is referred to as a regular servant.)*

The lowly insect of *Leviticus Rabbah* is God's tool in broader matters of geopolitics and Jewish history—smiting Titus, the enemy of Israel. In this parenthetical passage, Shoshani extends the theme. Readers might get a sense that God uses His providential tools for the benefit of the Jewish people, punishing only Jewish enemies. Shoshani suggests otherwise. The Babylonian king Nebuchadnezzar, who destroyed Jerusalem and the First Temple, was a manifestation of divine providence. The frog and scorpion have no free will and are tools in God's plan, but Nebuchadnezzar has free will and is still a manifestation of God's plan.

Shoshani expressed this by a reference to verses in Jeremiah ([25:9](#)): “Because you have not heard My words, behold, I will send and take all the families of the north,’ says the Lord, ‘and Nebuchadnezzar the king of Bavel, My servant, and I will bring them against this land, and against its inhabitants.” (Nebuchadnezzar is referred to as God's servant again in [Jeremiah 27:6](#).) Shoshani wonders why the verse would speak of the evil king as God's “servant,” an accolade that would seem appropriate only for

the most pious. He explains that the verse refers to the king as a servant, in line with the notion that all of the world is acting out God's will.

But Shoshani adds that although Nebuchadnezzar might be a servant, he is not a good one. He points to the language that the Oral Torah ([Kohélet Rabbah 12:7](#)) uses to describe Nebuchadnezzar, namely a “bad servant” (עבדא בישא). The *midrash* explains that for 18 years Nebuchadnezzar had heard a heavenly voice commanding him to destroy the Temple, but he was reluctant to do so. The *midrash* seems to be criticizing Nebuchadnezzar for not responding more quickly to that heavenly voice.

Pointing out that the distinction between the good and bad servant only appears in the Oral Law might be a way of blurring the distinction between the “good” and “bad” servants. God's will shall be done with or without an individual's cooperation. In that sense, whoever happens to do what God had planned is “really” good. What makes Nebuchadnezzar bad is not that he acted in a destructive way toward the Jews but that he was reluctant to do what God wanted him to do in the first place.

An individual can do nothing to change the outcome. But a person can learn to use his or her own free choice in the best way possible—to switch from a bad to a good servant of God—without an expectation that it will change the larger outcome. Shoshani may be already hinting at what will appear shortly: the idea that all the individual has is his or her own attitude toward God's will, his or her own

free will. This brings Shoshani to the third of his four categories of servants of God.

### III. The Nonideal, Self-Serving Servant

**3) To serve Him = this is prayer and [fulfillment of] commandments = accepting the yoke of heaven first, ergo except for one matter, this is heresy. b) The acceptance of the yoke of commandments without focusing on the One who Commanded. They are not sanctified.**

The *Shema* prayer is considered in Judaism the *locus classicus* on the acceptance of the yoke of Heaven and the yoke of the commandments. The Jew recites the *Shema* prayer day and night in order to reemphasize the commitment to accept these yokes. The first paragraph of *Shema* focuses on love of God and following Him intensely. Traditionally, this has been seen as a higher motivation for a relationship with God than what is described in the second paragraph. There, the focus is on reward and punishment, a lower level of motivation. Here, Shoshani quotes the word “לעבדו” from the second paragraph ([Deuteronomy 11:13-21](#)), where one follows God not out of love but due to self-interest.

Shoshani links the *Shema* passage with the larger notion of service of God through prayer. He explains: לעבדו=זו תפילה, **To serve Him = this is prayer.** The verse in the second paragraph of *Shema* commands the Jew to “serve Him with all your heart and soul” ([Deuteronomy 11:13](#)). On the first page of Tractate *Ta’anit*, the Talmud wants to know what service of God with the heart is, and it answers that “this is prayer” ([Ta’anit 2a](#)).

The context of Tractate *Ta’anit* is about prayer in cases of drought, exactly what these verses see as the punishment for turning away from God. In that context, the prayer in question refers primarily to petitionary prayer, prayer *for* something, prayer as request. The following line of the Talmud addresses the next verse of the second paragraph of *Shema*, “And I shall give the rain of your land in its due time” ([Deuteronomy 11:14](#)). The Talmud learns that it is appropriate to request rain while praying, and indeed that rain is one of the three locks for which God Himself holds the key. These keys, the Talmud says, “were not transmitted to a messenger.” Shoshani, no doubt, expects us to pick up the reference to “messenger” in that longer Talmudic passage and connects it to the notion of the “messengers of God” discussed above. God may use unprotected roofs or frogs and scorpions as His messengers, but sometimes God intervenes directly to bring about His desired outcomes.

Prayer, then, brings the person in closer to proximity to the divine, in which providence is not through a messenger. But Shoshani is not satisfied with this kind of divine service, for it is, as Leibowitz would also teach—and there are several parallels here to Leibowitz—petitionary prayer is ultimately self-serving.

Here, Shoshani echoes two other kinds of nonideal servants of God, at least partially self-serving, both of which are discussed in *Hazal*. The first is one who accepts the yoke of Heaven but does not translate that into a complete commitment to *mitzvot*. Instead, the person refuses to accept one specific commandment. Here, the key passages stem from

[Bekhorot 30b](#): “A gentile who comes to convert and takes upon himself to accept the Torah except for one matter—he is not accepted.” But the Talmud makes it clear that this is relevant not only to a potential convert, but even to Jews struggling to improve their overall level of observance: “An *am ha’aretz* [i.e., one who is not normally careful about ritual impurity and tithes] who accepts upon himself [the commitment to observe] the matters associated with a *haver* [i.e., taking on observance of ritual purity and tithes].” If that person subsequently acts suspiciously, i.e., is seen not to observe even “one matter,” then suddenly that person, according to one Talmudic opinion, becomes suspect about violating every other commandment.

Shoshani seems to extend the logic not only to converts and *amei ha’aretz*—that is, those who want to change their formal status. He claims that one who accepts the yoke of Heaven with even one exception is, in effect, a heretic. That person’s observance is conditional: he or she will follow God’s commandments if—and only if—it is convenient enough, moral enough, logical enough, or sensible enough. The one exception proves the rule. The individuals’ commitment to God is contingent.

Shoshani refers to this individual who accepts all but one of the commandments as a “heretic,” and here he is echoing another Talmudic interpretation, this one about the *third* paragraph of the *Shema*. That paragraph ([Numbers chapter 15](#)) commands one to place fringes, *tzitzit*, on the corners of one’s garments as a reminder not to be tempted to follow

“after one’s heart” ([Numbers 15:22](#)). The Talmud ([Berakhot 12b](#)) explains following one’s heart with the expression *zo minut*—“this is heresy.” Shoshani uses the term *zo min*, “this is a heretic,” a slight variation on the expression. While the Talmud suggests that one’s heart might be tempted by a heretical idea, Shoshani is suggesting that making one’s commitment to God contingent on anything—the service of God described in the second paragraph of *Shema*—is itself a kind of heresy.

Toward the end of this passage, we find an obscure expression, *lo mekadsham*, “they are not sanctified.” On the surface, Shoshani is suggesting that one who performs commandments for these nonideal reasons does not reach true holiness. In addition, he is also continuing to reference the above Talmudic passage about the convert. The Talmud distinguishes between a rejected convert, who is not accepted since he or she refuses to commit to all of the commandments, and a convert who accepts all of the commandments and later is suspected of violating one of them. According to the Talmud’s conclusion, once the person has converted, if he or she later rejects or violates commandments, that person is a *meshumad*, a Jewish person who consistently transgresses.

The distinction matters in the case of marriage, referred to in Talmudic terminology as *kiddushin*, sanctification. The rejected convert who attempts to marry a Jewish woman will legally fail to do so. The wedding ceremony is invalid, and the couple are not married, since the man was never Jewish. The convert who was accepted but later went on to sin

can initiate a marriage. We suspect that Shoshani is echoing this passage about the convert to make a larger point about the commitments of born Jews as well. The rejection of the potential convert tells us something more general about the nature of commitment to commandments: a born Jew who rejects commitment to even one commandment is the kind of person who, were he or she not born Jewish, would not be accepted into the Jewish fold. The technicality—perhaps even the accident—of being born Jewish keeps the person in the fold, but that person is not really sanctified and would not be accepted as a Jew otherwise.

We are left to explain Shoshani's concern with one who accepts "*the yoke of commandments without focusing on the One who Commanded.*" The lack of focus on the One who Commanded is a reference to [Guide for the Perplexed 3:51](#). Maimonides describes a person who performs commandments "only with the limbs," one who prays without concentrating on the meaning of the words, one who studies Torah while thinking about "building of our house." That person has not "reached the highest perfection." This is particularly true of one who fulfills the commandments without attention to "One who Commanded." Shoshani shares the criticism of rote or unthinking performance of commandments.

But what of *accepting the yoke of heaven first*? As will become clear below, Shoshani is concerned about the order in which a person adopts two religious stances: accepting the yoke of heaven, and becoming a servant of God. According to Shoshani, accepting the yoke of commandments first is a lower level. This stems from the Talmudic discussion of

the order of recitation of *Shema*. According to Rabbi Yehoshua ben Karhah ([Berakhot 13a](#)), the first paragraph of *Shema* refers to acceptance of the yoke of Heaven, while the second refers to acceptance of the yoke of the commandments. Shoshani, then, is hinting at one who confuses the order, reading the second paragraph before the first, or at the very least remaining committed only to the lower-level second paragraph. That person may perform commandments but does not have a commitment to God Himself. Shoshani links this notion of commitment to commandments without commitment to God to the one who only accepts the religious task conditionally or in a rote fashion.

#### IV. The Ideal Servant of God

*c) One who accepts the yoke of heaven to become a servant, and then accepts the yoke of the commandments. He negates his own will before that of the One who sends him. Even his desires, needs, and life are for his Master. For the will = the only possession of a man. This is what distinguishes an evil person from a righteous person. This is the matter of the eye of the needle. This is how he becomes a faithful servant.*

This passage begins by discussing the correct order for reciting the paragraphs of *Shema*, specifically that one recites the first paragraph of *Shema*—what Shoshani refers to as acceptance of the yoke of Heaven—first. Then, that person recites the second paragraph, which Shoshani refers to as accepting the yoke of commandments. Accepting these religious commitments in the right order is the key to the proper religious life, leading to dedication,

renunciation, and submission. *Negating his own will before that of the One who sends him* is certainly meant to contrast with the lesser servant of God from the previous paragraph, who accepts all but one of the commandments. That one rejected commandment is a fly in the ointment of his or her religious commitment, a fly that poisons its entirety, turning the person into an “*evil person*,” despite performing all the other commandments.

The reference to the eye of the needle stems from a well-known passage in [Song of Songs Rabbah 5:2](#). If the penitent opens an opening the size of an eye of a needle, God will open an infinitely wide entrance to penitence. That is to say, the commitment to negate one’s own will before the divine imperative is a momentary, small commitment, one which is ultimately transformative of every other aspect of religious life. Lack of commitment to one commandment makes one an evildoer, but one seemingly small commitment opens up great possibilities.

Here, Shoshani pushes further in what may well be a combination of existentialist religious psychology and Spinozistic acceptance of whatever the divine inevitably has in store. In a statement that Shoshani leaves tragically unglossed, he claims that *For the will = the only possession of a man*. All a person possesses is his or her own will, that internal choice to either accept the divine will or not. It seems, in context, that that decision will not change the outcome, perhaps of anything at all, since there are so many messengers for the divine. All that one can do is to change one’s willingness to accept God’s will and the inevitableness of the outcome.

No doubt, this is a kind of theodicy of a man granted enormous intellectual gifts whose life had been overturned by the Holocaust, an autobiographical religious statement by a self-imposed vagabond who carried all of his material possessions in a small suitcase around the world, consciously rejecting any value material possessions or appearance. Perhaps his personality and lifestyle are themselves reflections of a passive acceptance of the inevitable fulfillment of God’s will along with an active attempt to focus his energies only on his own will.

A tentative interpretation of this short passage—a single paragraph in one of over 100 notebooks—is meant to set a model for reading and interpretation, as well as to open a conversation about the larger meaning of Shoshani’s thought. The passage reveals a remarkable virtuosity in use of sources, linking passages throughout the Jewish canon through the use of single words and phrases. In fewer than 150 words, it addresses perennial religious questions: purity of motivation, divine providence, determinism, mitzvah, suffering, the problem of evil, and obedience; it furthermore glosses the *Shema*, one of the *siddur*’s most prominent passages. Finding other layers in this or other passages, explaining how this passage fits with the broader content of the notebooks, and understanding how Shoshani’s thought is related to the larger arch of post-Holocaust Jewish thought, is surely the work for decades to come.

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## THE PREGNANT SOTAH: A CASE STUDY IN THE ETHICS OF ABORTION

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Much ink has been spilled on the Jewish view of abortion. This essay explores an obscure set of sources that have received little attention in the literature. My purpose in this article is not to take a halakhic or philosophical stance on the status of fetal life, but rather to shed light on some neglected rabbinic texts relevant to this issue. [Tractate Sotah](#) (the “wayward wife”) elaborates on the miraculous biblical ritual ([Numbers 5:11-31](#)) for testing the fidelity of a suspected adulteress. The Sotah drinks bitter water mixed with dirt, and a priest erases into it a scroll containing God’s name. In the rabbinic view, if she is guilty, she dies, but if she is innocent, she will be blessed with children. A dispute between Rashi and Tosafot regarding the case of a pregnant Sotah addresses the ethics of performing a ritual potentially fatal for a fetus.

The *locus classicus* of this case, [Sotah 26a](#), discusses which women are eligible to undergo the Sotah ritual. There, a *baraita* rules that a woman “pregnant from [the husband] himself either drinks [the bitter water] or forfeits her *ketubah*.” According to [Rashi](#), whose reading seems to be the most straightforward interpretation, this passage permits a pregnant Sotah to drink the bitter water, despite the fatal potential for the fetus.<sup>1</sup> [Tosafot](#), by contrast, reject Rashi’s read, instead explaining that when the *baraita* says the pregnant Sotah may drink the bitter water, it means she may undergo the ritual only after she gives birth. It is possible that this dispute revolves around the status of fetal life, which may have broader implications regarding the issue of abortion in Jewish law; however, theories elucidated in later commentaries complicate the ethical implications of the pregnant Sotah and undermine its relevance to abortion.

### Rashi and Tosafot

Rashi’s position, as reflected in his brief and ambiguous [comment](#) on the *baraita* in [Sotah 26a](#), indicates that he does not consider abortion to be murder, which appears to inform his approach to the case of the pregnant Sotah. Tosafot’s [interpretation](#), on the other hand, suggests a more

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<sup>1</sup> An aggadic source implies that the purpose of the Sotah ritual is to determine the paternity of a pregnant woman’s fetus; see [Tanhuma \[Buber ed.\], Naso 5](#); Lisa Grushcow, [Writing the Wayward Wife: Rabbinic Interpretations of Sotah](#) (Leiden: Brill, 2006), 103. The *baraita* also records a dispute between R. Meir and the Rabbis whether a woman pregnant from a previous husband is eligible for the Sotah ritual initiated by her current husband. Cf. [Sotah 24a](#); [Tosefta Sotah 5:1-2](#); [Mishneh](#)

[Le-Melekh, Hilkhhot Sotah 2:7](#); Avi Gurman, *The Origins and Evolution of the Prohibition Forbidding the Remarriage of the Pregnant or Nursing Widow in Jewish Law* [Heb.] (Jerusalem: Karmel, 2020), 169-188. However, [Sifrei Zuta](#) cites a dissenting view of Rabban Gamliel that, unlike the *baraita*, excludes a pregnant Sotah from the ritual; see *Keren Orah, Sotah 26a*; [Hazon Yehezkel, Tosefta Sotah 5:1](#); [Sapirei Efraim, Sifrei Zuta 5:28](#).

restrictive view of abortion. Both texts require careful analysis to identify the precise point of contention.

Rashi seems to read the *baraita* in [Sotah 26a](#) as indicating a lack of concern for fetal life, which is perhaps its most straightforward interpretation. Rashi [comments](#), “We do not say that the child should not be killed.”<sup>2</sup> This double negative implies that causing the death of a pregnant Sotah would not be considered feticide (murder of the fetus). Accordingly, the *mitzvah* (biblical commandment) of performing the Sotah ritual<sup>3</sup> outweighs the value of ensuring the fetus carries to term; conversely, if abortion is feticide, it would be difficult to understand why the *mitzvah* of Sotah would outweigh the prohibition of murder, which is *yehareg ve-al ya’avor* (categorically inviolable). However, the implications of this position beyond the context of Sotah remain unclear from this source alone. It does not necessarily follow from here that Rashi would allow an abortion in cases that do not have the mitigating factor of fulfilling a *mitzvah*; and as I will demonstrate below, many sources identify Sotah as a unique exception to general rules about abortion.

To better understand the reasoning behind Rashi’s assumption that abortion is not feticide, we must

consider another relevant source, which appears outside the context of Sotah in [Arakhin 7a](#). There, the Mishnah states, “A woman who is taken to be executed, we do not wait until she gives birth. A woman in the throes of labor, we wait until she gives birth.” By allowing the execution of a pregnant woman, the Mishnah does not seem concerned by the death it will inevitably cause to the fetus. The Gemara initially characterizes the first ruling as “obvious” given that the fetus is “her body.” Subsequently, the Gemara suggests that one might have thought to delay the execution based on [Exodus 21:22](#), which indicates that the fetus is the “property of the husband” (i.e., a separate entity from the mother).<sup>4</sup> As to why the Mishnah did not accept that argument, R. Yohanan cites a scriptural source, interpreting “and they shall also both of them die” ([Deuteronomy 22:22](#))—the mandate of capital punishment for adultery—to include both a mother and her fetus.

Rashi’s statement on Sotah seems consistent with his approach to [Arakhin 7a](#). Commenting on the Mishnah there, he [explains](#), “We kill her fetus with her, since it is one body.” Rashi implies that the fetus is considered part of the mother’s body (*ubar yerekh imo*), and thus the execution of a pregnant woman does not amount to feticide.<sup>5</sup> Here, too, however, one cannot necessarily extrapolate broader leniency

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<sup>2</sup> [Sotah 26a, s.v. o shotot](#). Similarly, Rambam glosses that a pregnant Sotah undergoes the ritual “as she is [now]” ([Hilkhot Sotah 2:7](#)); for commentary on Rambam’s position, see R. Sheraga Faivel Shternfeld, *Sefer Parashat Sotah* (Bnei Brak, 5782), 146-149. See also Meiri, discussed below in this essay.

<sup>3</sup> See, e.g., Rambam, [Sefer Ha-Mitzvot, Positive Commandments 223](#), and the introductory heading in print

editions of Rambam’s *Hilkhot Sotah*; [Sefer Ha-Hinukh 365](#); [Sefer Mitzvot Gadol, Positive Commandments 56](#).

<sup>4</sup> Cf. [Bava Kamma 49a](#).

<sup>5</sup> [Arakhin 7a, s.v. ha-ishah](#); cf. [Rabbeinu Gershom ad. loc](#); [Ran al ha-Rif](#)(19a) to [Hullin 58a](#) (first explanation); [Tosafot R. A. Eiger, Arakhin 1:4](#); R. Y. S. Elyashiv, *He’arot be-Masekhet Sotah*, 26a and *He’arot be-Masekhet Bava Kamma*, 49a; *Dvar Shaul, Sotah* §45.

for abortion beyond the context of capital punishment, which also fulfills a biblical commandment. Nevertheless, Rashi seems to apply the logic of [Arakhin 7a](#) to [Sotah 26a](#), suggesting the existence of at least two Talmudic rulings that appear to disregard the value of preserving fetal life.

[Tosafot](#), however, reject Rashi's read of the *baraita* in [Sotah 26a](#), insisting that the passage should be interpreted to allow a pregnant Sotah to undergo the ritual only *after* giving birth. They challenge, "Why let it be killed? Why would we care [to rush the ritual]? Let us wait until she gives birth."<sup>6</sup> The rhetoric of Tosafot implies that they take issue with Rashi's read for its apparent lack of care for the life of the fetus. Granted, performing the ritual fulfills a *mitzvah*, yet it is possible to do so without endangering the fetus by simply waiting until the mother gives birth before drinking the bitter water. But this reading of [Sotah 26a](#) seems to conflict with the implication of [Arakhin 7a](#), which emphasizes the need for an urgent execution. Tosafot therefore distinguish between Sotah and capital punishment: R. Yohanan's derivation for executing a pregnant woman in [Arakhin 7a](#) implies that absent a *gezeirat ha-katuv* (inscrutable Scriptural commandment), the rational approach is to refrain from causing the

death of a fetus, "because it is the husband's property" (i.e., a separate entity from the mother). Thus, since no such exegesis exists regarding Sotah, delaying the ritual is warranted.<sup>7</sup>

In [Arakhin](#), Tosafot elaborate an argument that bolsters distinguishing between [Arakhin 7a](#) and [Sotah 26a](#). They [explain](#) that after *gemar din* (conviction), the reason for not delaying execution stems from the concern of *inui ha-din* (affliction of judgment), the psychological agony of remaining on death row.<sup>8</sup> The analogue of *gemar din* in the context of Sotah is not clear, but the factor of *inui ha-din* would not seem to apply here. Although performing the Sotah ritual fulfills a *mitzvah*, it remains optional; the wife is not forced to undergo it, and either spouse has the power to cancel it before God's name is erased.<sup>9</sup> Not only is there no rush to complete the process, but the judges intentionally delay it and attempt to convince the woman to confess instead.<sup>10</sup> It follows that a pregnant Sotah may not undergo the ritual before she gives birth, since doing so may unnecessarily kill the fetus. Thus, whereas Rashi seems to view Sotah as analogous to [Arakhin 7a](#), Tosafot view R. Yohanan's teaching in [Arakhin 7a](#) as exceptional to *dinei nefashot* (capital cases), rather than the basis

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<sup>6</sup> [Sotah 26a, s.v. me'uberet atzmo](#).

<sup>7</sup> See [Mishneh Le-Melekh, Hilkhhot Sotah 2:7](#); [Beit Shmuel, Even Ha-Ezer 11](#); [Torat Ha-Kenaot, Sotah 26a](#); R. Y. S. Elyashiv, [He'arot Be-Masekhet Sotah, 26a](#); [Netivot Ha-Kodesh, Sotah 26a](#); [Netziv, Meromei Sadeh, Sotah 26a](#).

<sup>8</sup> [Arakhin 7a, s.v. yashvah](#); cf. [Tosafot, Sanhedrin 80b s.v. ubar; Ran al ha-Rif \(19a\) to Hullin 58a](#) (second explanation). The author/editor/compiler of Tosafot printed in the Vilna

edition of the Talmud may differ across tractates, and thus we should not necessarily assume consistency between the passages discussed here, or other discussions of Tosafot elsewhere about abortion.

<sup>9</sup> [Sotah 6a, 20a](#). See [Tosafot, Sotah 7b, s.v. mah](#) and [17b, s.v. mah](#).

<sup>10</sup> [Sotah 7a-7b](#); see also [Torat Ha-Kenaot, Sotah 26a](#).

for potentially allowing one to cause the death of the fetus in the case of a pregnant Sotah.

The commentary of Meiri potentially provides support for Rashi's reading of the *baraita* in *Sotah* by analogizing Sotah to capital punishment. Unlike Tosafot, Meiri maintains that the *baraita* in [Sotah 26a](#) allows a pregnant woman to undergo the ritual during her pregnancy and does not require a delay on account of the fetus. He explains that if the Sotah is innocent, there is no concern, and if she is guilty, she does not deserve a delay any more than she would in *dinei nefashot*, and he invokes the ruling in [Arakhin 7a](#) that we execute a pregnant woman.<sup>11</sup> Evidently, Meiri sees the potential outcome of death to the Sotah as analogous to capital punishment, which thus explains why he does not require a delay in the case of a pregnant Sotah. This conceptual framework supports Rashi's read, which assumed that the pregnant Sotah has the same rule as [Arakhin 7a](#). Tosafot, by contrast, implicitly reject the conceptualization of Sotah as an analogous capital case, instead noting that *Arakhin's* harsh ruling is the result of scriptural exegesis that does not apply to Sotah.

There is conflicting evidence in the Talmud regarding the place of Sotah in Jewish law. On one hand, Meiri's view analogizing Sotah to *dinei*

*nefashot* has support from several sources. Firstly, the Sotah appears before the High Court of seventy-one judges in Jerusalem, typically reserved for grave cases of national significance. There, "we threaten her like the way we threaten witnesses in capital cases," an analogy that Meiri interprets as referring to procedures similar to those prescribed in [Mishnah Sanhedrin 4:5](#), which includes questioning, "inquiry and interrogation" (*derishah ve-hakirah*), and emphasizing the gravity of shedding innocent blood; in the context of Sotah, the judges similarly warn the wife that the bitter water is lethal and she should not jeopardize her life.<sup>12</sup> Additionally, another source derives from the Sotah ritual that deliberations in capital cases must first proceed with arguments for acquittal.<sup>13</sup> These sources provide a compelling basis for Meiri's analogy.<sup>14</sup>

Some sources, on the other hand, support Tosafot and undermine the analogy between Sotah and capital punishment. As [Ramban](#) emphasizes, the miraculous intervention is *sui generis* in Halakhah. Sotah uniquely weaves divine judgment into the framework of human law.<sup>15</sup> Ultimately, if the Sotah dies from the ritual, it is not an execution in the conventional sense. Although the Sotah travels to the High Court, Tosafot do not view this step as dispositive for fulfilling the ritual.<sup>16</sup> Additionally,

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<sup>11</sup> Sotah 26a, s.v. *kinei*.

<sup>12</sup> [Sotah 7a](#), Meiri ad. loc; see also [Rashi ad. loc](#); cf. *Tiferet Yisrael*, Sotah 1:4; Ishay Rosen-Zvi, [The Mishnaic Sotah Ritual: Temple, Gender and Midrash](#) (Leiden: Brill, 2012), 49-66.

<sup>13</sup> [Sanhedrin 33a](#); cf. [Sifrei Bamidbar 12](#). See also [Tosafot, Sotah 17b, s.v. mah](#).

<sup>14</sup> For halakhic discussions, see *Minhat Sotah*, Sotah 26a; [Tosafot R. A. Eiger, Mishnah Yevamot 6:1](#); *Shu"t R. A. Eiger, Responsa*, vol. I, 222:18; [Shu"t Hatam Sofer, Hoshen Mishpat 77](#).

<sup>15</sup> [Ramban al ha-Torah, Numbers 5:20](#).

<sup>16</sup> [Sotah 7b, s.v. mah](#).

capital punishment requires two witnesses of the offense, a criterion definitionally absent in the case of the Sotah. Although the ritual is initiated on the basis of two witnesses who verified the husband's *kinui* (formal warning) and the wife's subsequent *setirah* (suspicious act of seclusion), the Sotah is only eligible for the ritual if there are no witnesses for the act of adultery itself.<sup>17</sup> Perhaps due to these sources, Tosafot concluded that the analogy between Sotah and capital punishment remains incomplete beyond the specific procedural rules invoked by the Talmud.

Regardless of the question of how to conceptualize the legal nature of the Sotah ritual, a fundamental dispute seems to emerge between Rashi and Tosafot on the status of fetal life. Rashi appears to assume that abortion is not murder, whereas Tosafot implies that it is. Such a conclusion is bolstered by the fact that Rashi does not appear to contend with Tosafot's ethical challenge to not unnecessarily endanger the fetus. His lack of insistence on delaying the ritual might lead one to infer a broader position that takes the rejection of fetal personhood to a very lenient conclusion. However, as I explore below, later thinkers offer novel explanations of Rashi's position that undermine such claims.

### Modern Perspectives

Within Rashi's school of thought that allows the testing of a pregnant Sotah, postmedieval rabbinic commentaries provide new arguments that

complicate the ethical implications of the ritual. Some suggest that the divine nature of the Sotah ritual absolves us of moral responsibility for the potential feticide, either because God will delay the Sotah's death to protect the fetus, or because we are not responsible for God's judgment. Other more recent thinkers offer a radical theory that the Sotah is presumed to be innocent, thus negating the risk of death for the fetus.

Whereas Meiri conceptualized the Sotah ritual as *dinei nefashot*, thereby locating it within the jurisdiction of human (Jewish) law, some offer a different conceptualization that considers the divine element. A [letter](#) from R. Joseph Rosen (the Rogatchover Gaon) to R. Elhanan Halpern discusses the possibility that a fatal outcome of the Sotah ritual would fall under the category of *mitah beyedei shamayim* ("death at the hands of heaven").<sup>18</sup> If God determines the fate of the Sotah, one could also suggest that God determines the fate of the pregnant Sotah's fetus, absolving the court of responsibility. [R. Elazar Moshe Horowitz](#) takes this idea in one direction, pointing out that God can choose to temporarily suspend the effects of the bitter water to protect the fetus: "Everything is in the hands of heaven, and by His will He can delay her [death] for some time."<sup>19</sup> In this read, we are not morally responsible because the fetus may very well live. More recently, some have sought to avoid R. Horowitz's implication that the presence of a fetus could undermine the efficacy of the Sotah ritual and

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<sup>17</sup> See, e.g., [Sotah 2a-2b, 31a](#).

<sup>18</sup> [Shu"t Tzofnat Paneah 212](#). Cf. *Tzofnat Paneah al Masekhtot Sotah Gittin* (Mehon Ha-Maor ed., 2016), pp. 7-8.

<sup>19</sup> [Ohel Moshe, vol. I, Sotah 26a](#); see also *Netivot Ha-Kodesh, Sotah 26a* (citing an oral teaching of R. Yisrael Meir Kagan [Hafetz Hayyim]). Cf. *Radal, Sotah 20b*.

cause the woman to live when she otherwise should have died. Instead, these thinkers suggest that if the bitter water kills the woman, we are not morally responsible for a divine action; it is not our place to question or speculate why God would allow the death of the fetus.<sup>20</sup> Either way, according to this school of thought, the ethics of the pregnant Sotah are subordinated to inscrutable divine judgment, much like the execution of a pregnant woman, which R. Yohanan ultimately justifies through a *gezeirat ha-katuv*. Those who emphasize the role of divine intervention here cannot conclusively extrapolate broader implications for abortion from the case of the pregnant Sotah.

Another crucial distinction between [Sotah 26a](#) and [Arakhin 7a](#) is the possibility of innocence. In the latter case, the court has already convicted the pregnant woman, and the execution will inevitably cause the death of the fetus. The Sotah's guilt, however, is definitionally doubtful, and she may survive the ritual. At most, the ritual presents a *risk* of death, which is mitigated by a variety of caveats that can render the test ineffective. According to rabbinic law, the bitter water will not be fatal if the husband himself ever committed a sexual sin; if witnesses to the adultery are overseas and did not come forward; if the husband knows she is guilty; and according to several opinions, if she had merit protecting her, the effect could be delayed for a

significant amount of time, which would enable the pregnancy to come to term safely.<sup>21</sup> It would be impossible for anyone to know with certainty that all the conditions of efficacy have been met. Thus, enabling a pregnant Sotah to undergo the ritual is not conceptually analogous to a direct act of abortion.

Some take this argument even further by suggesting that the Sotah who chooses to undergo the ritual is assumed to be innocent. In this view, a pregnant Sotah would pose no risk to the fetus. As mentioned above, the Sotah ritual is optional for the woman. R. Yehiel Michel Epstein (*Arukh Ha-Shulhan*) suggests that the Sotah's innocence is "close to certain" because she chooses to undergo the ritual; presumably, a woman who knows her own guilt would refuse the ritual for fear of death.<sup>22</sup> Similarly, R. Yaakov Kamenetsky suggests that the purpose of the Sotah ritual is not to punish adultery but rather to prove the wife's innocence, since the husband's jealousy and doubt will not be assuaged without divine intervention. As evidence, he cites the Gemara's comment that by allowing God's name to be erased into the Sotah waters, the Torah demonstrates the importance of peace between husband and wife; the goal to restore marital harmony, he implies, can only be achieved if the wife remains alive.<sup>23</sup> Other sources, however, suggest a more punitive purpose; at various stages

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<sup>20</sup> See *Sefat Emet*, [Sotah 26a](#); R. Yosef Shalom Elyashiv, *He'arot be-Masakhet Sotah 26a*; and *Alei Ba'er* *ibid*.

<sup>21</sup> [Sotah 47b](#), [6a-6b](#), [20a-21a](#), [22b](#); [Sifrei Bamidbar 7-8](#). Cf. [Tosefta Sotah 2:4](#); [Yerushalmi Sotah 3:5](#); Rambam, [Hilkhot Sotah 3:20](#); [Radal](#), [Sotah 20b](#); [Netivot Ha-Kodesh](#), [Sotah 26a](#).

<sup>22</sup> *Arukh Ha-Shulhan*, [Even Ha-Ezer 178](#); see also *Minhah Hareivah*, [Sotah 26a](#).

<sup>23</sup> *Emet Le-Yaakov*, Numbers 5:15; [Hullin 141a](#); for further discussion, see Yosef Lindell, "[Was the Sotah Meant to be Innocent?](#)" (*Lehrhaus*, 6/9/22). See also *Alei Ba'er*, [Sotah 26a](#), n. 103.

throughout the process, the judges humiliate the Sotah and immensely pressure her to confess.<sup>24</sup> Arguably, though, even if one accepts the punitive view, a woman who nevertheless insists on proceeding with the ritual would very likely be innocent. Accordingly, it would follow that a pregnant Sotah would almost never pose a risk to the fetus, thus limiting the relevance of the case to the issue of abortion.

### Conclusion

Some understandings of the pregnant Sotah potentially intersect with the issue of abortion. A straightforward reading of the dispute between Rashi and Tosafot revolves around the status of fetal life. Rashi seems to maintain that the fetus is considered part of the mother's body; thus, just as we execute a pregnant woman, we allow a pregnant Sotah to undergo the ritual. Tosafot, by contrast, seem to reject this possibility based on a concern for the life of the fetus, and they understand the case where a pregnant mother receives capital punishment as the exception to the rule against abortion. However, the broader implications of Rashi's position remain inconclusive. One postmedieval school of thought conceptualizes Sotah as a unique divine punishment, which undermines its relevance to the issue of abortion. Similarly, a group of modern thinkers reinterpret Sotah as a presumptively non-fatal ritual which would present no risk to the fetus, again limiting the relevance of the case to abortion.

<sup>24</sup> [Sotah 7a-7b](#), 14a; Rambam, [Hilkhot Sotah 3:3](#); cf. [Guide to the Perplexed III:49](#); Rosen-Tzvi, [Mishnaic Sotah Ritual](#), 3.

<sup>25</sup> For discussion, see, e.g., R. J. David Bleich, "Abortion in Halakhic Literature," *Tradition: A Journal of Orthodox Jewish*

Notwithstanding these limitations, we must still contend with [Arakhin 7a](#). While there is disagreement about the case of the pregnant Sotah and whether it is analogous to capital punishment, all sources seem to agree that we execute a pregnant woman despite the inevitable abortion it entails. Whereas the implications of [Sotah 26a](#) remain inconclusive, given its atypical place in Jewish law, [Arakhin 7a](#) seems directly relevant to the issue of abortion. Yet, because it has received attention in the literature, a full analysis of [Arakhin 7a](#) falls beyond the scope of this essay, which focuses on the case of the pregnant Sotah.<sup>25</sup> Further research is necessary to determine how the positions of Rashi, Tosafot, and other commentaries on [Sotah 26a](#) and [Arakhin 7a](#) might fit with their approaches to additional sources relevant to abortion in rabbinic literature. Despite its obscurity, the intellectual history of the pregnant Sotah offers a rich case study with significant implications for Jewish thought.

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