



## Shoftim

Vol. 7, Issue 45 • 1 Elul 5783 / August 18, 2023

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### SECOND CHANCES

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**I**t's twenty years later and I'm dating again.

The first time was a week after receiving my *gett*. I met him at Union Station and we walked to the National Gallery. He was gentle and liked to hike and in his spare time he taught children how to read, but, as for himself, never read books. The matchmaker shook her finger at me and said, *if he's single, sober, and solvent, what does it matter whether he reads books—or not?*

When the matchmaker asked what I was looking for in a husband, I gave her a list. It contained two items: kind and intelligent. There's a third, question-marked item: energy. That's because I am so full of beans that if a man were fixed to a couch, we might not work well together. But I'd give up the third item if, every so often, the man on the couch offered an encouraging word or a fast quip. I'm not

particular about a man's profession or possessions, his looks or lineage. An intelligent man reads books, and a kind man cares about others. That's my list.

For five years I waited for the *gett*, preparing for a life in limbo, as a captive—neither married nor divorced. I told myself: No one is absolutely free; there are only degrees of freedom. What is a *gett*? A piece of paper, nothing more. I counted gratitudes.

Even so, when the bill of divorcement dropped into my hands, a whirl of euphoria passed through me. I was dancing in the parking lot coming out of the rabbinical court; I kept dancing and am dancing still.

Without any doubt, I would try again. To make amends, a *tikkun*, to my shattered self. The marriage was a mistake, and while in limbo I had plenty of time to consider how I'd gotten there: my impetuosity, poor judgment, fear of being left behind, being unworthy of someone worthy. Had I completed the cycle of *teshuvah*, of return and repair? If I were in the same position, would I commit the same mistake again?

As if a forty-something woman who had been in and out of marriage, and raised many children, could be in the same position as a girl of twenty. Why *did* I want to try again?

Because marriage is indispensable. It is the Jewish expression of hope, from the blessings of Jeremiah to the exiles: “Build houses and live in them; plant gardens and eat what they produce. Take wives and have sons and daughters; take wives for your sons, and give your daughters in marriage, that they may bear sons and daughters; multiply there, and do not decrease” (Jer. 29:5-6). We are still here, two thousand years after the destruction of Jerusalem, because we did not succumb. We married Jews and raised Jewish children.

Marriage is indispensable, and so divorce happens. Even when Jews lived in exile among those who forbade divorce, Jews married, divorced, and remarried. Even as our neighbors honored celibacy, Jews pursued marriage as a sacrament to God and community.

I took Jeremiah’s counsel, married young, divorced, and was trying again. *What’s the rush?!* my girlfriends said. *Enjoy your freedom! What do you need a man for? Didn’t you have enough of that? Travel! Go to the theater!*

I do not want to be alone when my children leave, I answered them.

*But you will never be alone!* my girlfriends said. *You have us!* I worried my friends would divorce me

when I got divorced, but nothing of the sort took place. *We love you!* they said, *We love you!* Still, I told them, friends are not the same as husbands. *Yes*, they agreed, *friends are better than husbands. There’s no limit to how many you can have, and you can keep finding younger ones the older you get.*

These friends are incorrigible, bless them, but so am I. The matchmaker took my list of two requirements and matched them up against her list of single men.

The first time around, in my 20s, my innards were tied in knots before a date. Having no brothers and having attended only girls’ schools, I had hardly spoken to a man before being launched into *shidduchim*. My girlfriends were funny, generous, and teeming with life. I told myself that finding a husband is like finding a girlfriend—no? Aren’t we all made in the image of God, beginning in dust and ending in dust? Don’t we yearn and hope, all of us, for the same things?

I was a dreadful dater in my 20s, nervous as a ninny. What to wear and what to say, the importance of appearances, of not rocking the boat, keeping cards close to the chest, flirting—these skills I never acquired. If I saw something, I said what I saw. If I heard something, I turned it to humor. But my kind of joke never got a second date. Nerves compounded on nerves. I began to see myself as unworthy of marriage, as defective. My inner turmoil and sense of failure mounted...

Until I was rescued by my husband, and was so immensely grateful for his choosing me. We dated

and married in the blink of an eye. He didn't seem to see what it was that other men saw, that made me so below average, so unpopular.

Twenty years have passed. I meet with men every day. I have raised daughters and sons. I can make conversation with anyone, turning light chatter into eternal verities. Apparently, women and men are not the same. I set myself a goal, to discover the Mind of Man. And to lose my fear of men.

In the euphoria after the *gett*, I am ravenous for life, insatiably curious about everything. Before each date, a spark of excitement runs through me. I ask a question, he begins his stories, I ask more questions, he keeps talking. I am riveted. Every meeting is a pinhole camera into the Mind of Man.

In my 20s, I couldn't get a second date. In my 40s, I'm in demand.

Yes, I look better. Although my father sold women's clothes for a living, he thought of them as inventory to turn a profit, not as items his girls should put on their bodies. His sisters shaved their heads and dressed as boys after liberation from the Nazi slave camps, saving themselves from the depredations of Russian soldiers. Outer beauty for girls meant bad outcomes. My father was shabby, a thinker, an intellectual. In the car, filling empty moments, he quizzed us in Torah and mathematics. *Charm is deceitful and beauty is vain*, he preached, watching the preening women who drifted past. *Tachlis!* He urged. *Tachlis!* I followed his teaching, and was a shabby dater.

Not the second time around. Even if beauty is within, what's outside counts more. Especially if her face and her eyes are attending to a man. Unwavering, uninterrupted attention is irresistible. This time around, every man wants a second date. They get in line.

I was not ready for marriage when I married – still a half-child – but there wasn't going to be someone ready for me when I was ready. A girl went along with the masses or she missed her chance. A single girl was nothing except a girl-in-waiting.

Perhaps in my 40s I'm ready for marriage. How do I know? Because I can say *no* to a matchmaker insisting on a second date with a man who doesn't read books, even if he's crazy for me. So what? They all are, and I'm looking for something particular. "And what might *that* be?" she asks. I describe the man to her.

When I moved to Washington, people suggested I contact Marty Ginsburg, who was the great man in my field. I invited him to lunch and, responding with charm and wit, he said he'd be thrilled. Except I had given him the wrong address for the restaurant where we were to meet. Being a *mensch*, he stood outside at the address I gave him. It was a winter's day, twenty degrees below freezing. Marty was an old man by then, and not well, but he waited for me. Then, immediately after we were seated at lunch, he set before me a legal problem and asked me to solve it. No niceties, no chatting, just *tachlis*.

By some miracle I was able to solve the problem, and

from then on we were mates. Marty told me tales of his wife Ruth and how she couldn't get a job when she graduated first in her class from law school. He put other legal problems before me to solve.

Whenever I meet a new prospect, I think of the standard Marty set: a *mensch* who talked *tachlis*. There are no perfect partners; we embark on marriage when singlehood is the more imperfect choice. The second time around, I have the luxury to be choosy. Marriage is no longer a necessity for which everything must be sacrificed, as it was when I was a girl. It is a hope emerging out of struggle.

In the meantime, I remain single. But I no longer see this as a failure arising from a defect in my character. Many of the men the matchmaker has set before me have asked to marry me. The plethora is flattering and confusing and makes me sad for my young, shy, shabby, honest self who couldn't get a second date. Keeping my standards high, I know that I may not find what I am looking for, and that is not a failure either. Learning to be on my own is a skill I am building because, even if I find a partner, I am likely to be alone again. It's not comfortable to say it, but for most women, sometimes early but often later on, singlehood is an inevitability. Most old people are women.

In recent months, my older children have started dating. They are professionals in their 20s in Manhattan, kind and intelligent, with a stain on their lineage. Not because their parents are divorced, but because the mother who raised them sat for many years captive in a broken marriage.

Religious couples don't divorce because their marriages are inconvenient or even uncomfortable; they divorce because they're desperate. My children grew up in those conditions. This is their inheritance.

If there is a *tikkun* to my marriage, it will not be through me. It will be through my children. They have inherited the bitter consequences of their mother's mistakes, but also her faith. A faith she learned from her parents and which she teaches her children: although Jerusalem was plowed with salt and her people taken captive, they did not succumb. Even in exile, Jews married Jews and had Jewish children. Two and a half thousand years after Jeremiah's prophecy of doom, Jerusalem is rebuilt and she is radiant. And she is teeming with children.

As the dream of Jews in exile has become Jerusalem's traffic jammed miracle, so I hope my children rise out of their parents' broken bond and build enduring love.

*...Again there shall be heard...in the towns of Judah and the streets of Jerusalem that are desolate, without humans, without inhabitants, without animals—the sound of joy and gladness, the voice of bridegroom and bride... (Jer. 33:10-11).*

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## RAV AHARON LICHTENSTEIN'S ENDURING VALUES

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**Book Review of Rabbi Aharon Lichtenstein, *Values in Halakha: Six Case Studies*, ed. Reuven Ziegler (Jerusalem: Maggid Books, 2023).**

It is always a cause for celebration when a new book by Rabbi Aharon Lichtenstein appears, and this new book certainly does not disappoint. It is a collection of six essays broadly concerned with Jewish ethics. The first four were written while he was a research fellow at Yeshiva University's Israel Rogosin Center for Ethics and Human Values in the 1960s, and the last two are English translations of two articles published in 1972 and 1980 respectively. These essays should be considered in the context of other essays he has written on similar topics, such as "Does Judaism Recognize an Ethic Independent of Halakhah?"<sup>1</sup> and "The Human and Social Factor in Halakhah."<sup>2</sup> Taken as a whole, these essays confirm that R. Lichtenstein's most important contribution to Jewish thought is the relationship of *halakhah* to

ethics, as this is a recurring theme in all of the essays. The variety of sources that R. Lichtenstein quotes, which can be appreciated by a quick look at the book's bibliography, is awe-inspiring and a testament to his singular command of both the Torah and Western cannon. In the course of the book's pages, we meet, for example: Irving Babbitt, Walter Bagehot, Herschel Baker, Jeremy Bentham, Nicolas Berdyaev, Napoleon, Dietrich Bonhoeffer,<sup>3</sup> Eugene Borowitz, John Bramhall, Richard Brandt, Emil Bruner, Martin Buber, and Douglas Bush.<sup>4</sup> The essays were written at a time when he was actively involved in both the Torah and academic worlds, having recently completed his doctorate in English Literature at Harvard. It is also interesting to note that he quotes and relates to the work of two leaders of Reform Judaism, Solomon Freehof and Eugene Borowitz, which would be unusual in today's highly fragmented and divided Jewish world.

In a style which is unusual for R. Lichtenstein, he uses the responsa literature of the early Modern period as a starting point for the first three essays in the book, and begins the essays with biographies of their authors, *Rema* and *Havvot Ya'ir*. R. Lichtenstein rarely highlighted historical context in his *shiurim*, and I am not sure why he chose to do

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<sup>1</sup> Aharon Lichtenstein, *Leaves of Faith Vol. 2* (Jersey City: Ktav, 2004), 33-56.

<sup>2</sup> Aharon Lichtenstein, *Leaves of Faith Vol. 1* (Jersey City: Ktav, 2003), 159-188.

<sup>3</sup> A Protestant theologian killed by the Nazis for resisting the regime, and one of R. Lichtenstein's personal heroes. I

remember R. Lichtenstein giving me a biography of him and suggesting I read his work.

<sup>4</sup> R. Lichtenstein's PhD advisor at Harvard. For a moving account of their relationship see:

<https://www.etzion.org.il/en/philosophy/great-thinkers/harav-aharon-lichtenstein/my-education-and-aspirations-autobiographical>

so here. Perhaps it is related to the mission of the Rogoson Institute or perhaps R. Lichtenstein himself wanted to emphasize that these issues had practical import and were not merely theoretical.

R. Lichtenstein himself nicely summarizes the interplay between ethics and *halakhah*, which is the main theme of the book:

As regards ethical theory, it can be said with equal justice that every man is—albeit not necessarily born—an absolutist or a relativist... Historically, the Jewish position on this question has been unmistakably clear, radical and unequivocal commitment to absolute truth and absolute values... How much more difficult, however, is the ethical challenge confronting the halakhist... The fissure that time inevitably creates between elements of the ideal halakhic system and the particular reality to which they initially related; special circumstances surrounding a specific case even when the overall scene has remained unchanged; the difficulty of employing a legal system—whose demands may, in the nature of things, often be minimal—as a general guide to ethical conduct the interplay of technical and

substantive elements within Halakha—all severely task the ethical insight of the halakhist on the one hand and his intellectual capacity on the other.<sup>5</sup>

The first case in the book discusses one of Rema's famous *teshuvot*, where he allowed the wedding of an orphan bride to take place on Shabbat (against the apparent rabbinic decree forbidding weddings on Shabbat) for fear that the wedding would be canceled and the girl would never get married. As R. Lichtenstein points out, there are two main thrusts to Rema's lenient ruling against the conventional position. On the one hand, Rema maintains that, according to conventional halakhic methodology (based on a singular position of Rabbenu Tam), there is no rabbinic prohibition to marry on Shabbat in the case at hand. And even if one disagrees with Rabbenu Tam (as most Rishonim do), there are three possible reasons why the prohibition should be overridden in this case. First, there is the principle that the preservation of human dignity and the prevention of personal shame can override rabbinic prohibitions.<sup>6</sup> Second, Rema maintains, there is a license to violate certain laws in the interest of marital peace. Rema's third basis for leniency is his assertion that there are instances where certain prohibitions can be set aside in order to fulfill the *mitzvah* of procreation.

The second case R. Lichtenstein discusses is an analysis of a responsum of *Havvot Ya'ir* about

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<sup>5</sup> Aharon Lichtenstein, *Values in Halakha* (Jerusalem: Maggid, 2023), 134-5.

<sup>6</sup> See *Berakhot* 19b.

whether a group of textile merchants can enforce an agreement amongst themselves to set aside the prohibition of *hassagat gevul* (unfair competition). *Havvot Ya'ir* attacks the arrangement on both legal and moral grounds. Legally, the agreement might be invalid due to either *asmakhta*, commitment grounded upon misconception, or *davar shelo ba la-olam*, the *halakhah* that nonexistent objects cannot be sold. Notwithstanding the halakhic weakness of those two arguments, he forbids it for moral reasons: "For undoubtedly, as a result of it being regarded by you as lawful, turmoil, strife, recrimination, and desecration of God's name will increase manifold from what had been, until your homes will be filled with iniquity."<sup>7</sup>

In a sense, the cases that R. Lichtenstein chose to discuss are easier to deal with because both cases relate primarily to rabbinic prohibitions.<sup>8</sup> The more difficult case is what happens when there is a clash between personal hardships and Torah prohibitions? While R. Lichtenstein does not address that here, he does deal with this issue in one of his other essays. Regarding abortion, R. Lichtenstein writes:

The question of abortion involves areas in which the halakhic details are not clearly fleshed out in the Talmud and Rishonim, and in

addition the personal circumstances are often complex and perplexing. In such areas there is room and in my opinion an obligation for a measure of flexibility. A sensitive posek recognizes the gravity of the personal situation and the seriousness of the halakhic factors...He may reach for a different kind of equilibrium in assessing the views of his predecessors, sometimes allowing far-reaching positions to carry great weight and other times ignoring them completely. He might stretch the halakhic limits of leniency where serious domestic tragedy looms, or hold firm to the strict interpretation of the law, when as he reads the situation, the pressure for leniency stems from frivolous attitudes and reflects a debased moral compass.<sup>9</sup>

While R. Lichtenstein's discussion is purely hypothetical, another prominent *posek* addressed the conflict head on using some of the methodologies suggested by R. Lichtenstein. In one of his responsa, Rav Ovadia Yosef was willing to be lenient even against the rulings of *Shulhan Arukh* if there was a pressing need. He was asked about a woman who, when she was younger, had been

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<sup>7</sup> Responsa *Havvot Ya'ir* 163.

<sup>8</sup> The Biblical prohibition of *hassagat gevul* refers to the literal moving of land boundaries. The application to business competition is rabbinic in nature.

<sup>9</sup> Aharon Lichtenstein, "Abortion: A Halakhic Perspective," in *Leaves of Faith Vol. 2* (Jersey City, NJ: Ktav, 2004), 251.

living together with a man, became pregnant, and had a late-term abortion. She subsequently became a *ba'alat teshuvah*, married a *yeshiva* student, and gave birth to a son. According to *halakhah*, since she was previously pregnant with a late term fetus, a *pidyon habein* should not be performed. Her husband, however, was not aware of her previous pregnancy. The question arose as to whether she was required to tell her husband in order to prevent him from the sin of *berakhot le-vatalah* at the *pidyon habein*. If she were to tell her husband about her past life, she was concerned that it would destroy *shelom bayit* and would cause great conflict between them, and might even lead to divorce. Notwithstanding the fact that *Shulhan Arukh* maintained that *berakhah le-vatalah* is a Torah prohibition, to protect the woman from embarrassment, R. Yosef ruled that the *pidyon habein* should be done with all the normal *berakhot*. Peace between husband and wife, he maintained, is the higher value, because "even God's name can be erased for it."<sup>10</sup>

R. Lichtenstein summarized the issue as follows:

To the posek, however, fidelity to Halakah may be not only difficult but agonizing. Inevitably, he is periodically confronted by situations in which Halakha comes into apparent conflict with human needs – not simply with shallow

utilitarian desires, but with generally worthwhile needs. Under these circumstances, the process of decision can be soul searing. The sacrifices – and they can be enormous – which he may be ready and willing to make himself, he is morally, and psychologically, reluctant to exact from others. The price of decision becomes therefore – quite apart from the specific issue being decided – a moment of truth, an ethical and religious problem in its own right. Were the posek less committed to Halakha, less aware of his responsibility to the observance and preservation of divine law, there would be no problem...were he less sensitive to human need, there would, again, be no problem. It is the ethical and religious desire to be sensitive to both the halakhic and human dimension – or rather to be sensitive to their interaction – which produces a profoundly agonizing dilemma.<sup>11</sup>

My favorite page in the book is the last page of the article *The Concept of Lifnim Mishurat Hadin*.<sup>12</sup> For various reasons, R. Lichtenstein did not complete the essay, but he did leave an outline for the rest of the chapter. I am glad the editor

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<sup>10</sup> Responsa *Yabi'a Omer* Vol. 8, *Yoreh Deah* 32.

<sup>11</sup> Aharon Lichtenstein, *Values in Halakha* (Jerusalem: Maggid, 2023), 3-4.

<sup>12</sup> *Ibid.*, 275.



included it in the volume, as it is a wonderful opportunity to see the thought process of a Torah giant and profound thinker. The outline fascinatingly extends the principle of *lifnim mi-shurat ha-din* to *bein adam la-Makom* and the role of the voluntary in the world of *halakhah*. R. Lichtenstein's Torah *shiurim* are distinguished by their organization and clarity, and this outline allows one to see the same process in how he puts together his academic essays as well.

The essay *Pursuit of Self Interest* contains R. Lichtenstein's most extensive discussion of the theological and philosophical implications of the famous disagreement between Ben Petora and Rabbi Akiva on whether one can save one's own life at the expense of another's (*Bava Metzia* 62a). It is here that R. Akiva introduces the principle of *hayekha kodmin*, "your life takes precedence," and that therefore one is not required to give up one's own life for the sake of another. R. Lichtenstein contends that in certain instances, such as the case R. Akiva was discussing, self-interest can be wholly untainted, and Ben Petora's position is one of supreme heroism, despite normative *halakhah* following R. Akiva. He relates this to the general question of the *halakhah's* relationship to self-interest and how far this principle extends, discussing how R. Akiva's principle of self-interest might apply to communal and public policy issues.<sup>13</sup>

I would like to conclude with three brief points.

First, the question needs to be asked whether the book is still relevant. The majority of the book was written sixty years ago. R. Lichtenstein himself addressed the issue in an introduction to a prior printing of one of the chapters (which was reprinted in this volume as well):

Were the issues still significantly relevant? Had not some been the subjects of thorough monographs? Might not some of the material appear dated, once familiar allusions now anachronistic, on the one hand, and the failure to relate to more recent expressions of the *Zeitgeist* all too evident, on the other? With respect to this particular essay, for instance, hadn't the role of classical humanism in relation to Torah Judaism, as ally or adversary, receded substantially during the past generation?<sup>14</sup>

I believe the answer to R. Lichtenstein's questions is a resounding "yes." The issues discussed in the book, particularly the relationship between Torah, ethics, and morality, are perhaps even more relevant than when R. Lichtenstein first wrote these essays, due to political, sociological, and cultural changes which have occurred in the Dati-Le'umi and Modern Orthodox worlds. There seems to be less of an interest in intensive engagement with Western

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<sup>13</sup> Ibid., 191-199.

<sup>14</sup> Ibid., xii.

liberal thought in general and Torah u-Madda in particular.

Second, while these essays are important contributions to Jewish thought and will be studied for many years, anyone who has had any contact with R. Lichtenstein will know that they are not his primary legacy or contribution to the Jewish corpus. Far more important are the *shiurim* he gave in Yeshivat Har Etzion and Yeshiva University and the thousands of students he produced in over fifty years of teaching Torah.

And finally, for this reader, there was an element of sadness in reading these magnificent essays. Alas, in our impoverished generation there is no *gadol* alive whom we can even imagine writing a book like this. In these divisive and confusing times, we are sorely missing R. Lichtenstein's moral and ethical guidance and clarity steeped in the Torah he loved. Notwithstanding our loss, the publication of this book does a great service to his memory and can help guide and teach an orphaned generation.

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