LEHRHAUS

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Revealed yet Concealed: the Meaning of *Aseret Ha-Dibrot*

Yosef Lindell

Although the practice is not without its detractors (see Rambam's classic responsum), it is common practice to stand during the public reading of the Ten Commandments, or A*seret ha-Dibrot.*

This popular *minhag* notwithstanding, the degree of prominence that should be attributed to the Ten Commandments has long been a subject of controversy. Although the Mishnah (*Tamid* 5:1) states that the *Aseret ha-Dibrot* were recited every day in the Temple, this practice was later abolished because of "claims of heretics," who, according to the *Yerushalmi* in *Berakhot* (9b), asserted that "these [commandments] alone were given to Moses at Sinai." The heretics' identity is a point of contention among scholars, but it is clear that the Sages were concerned that people were assigning undue stature to these ten *dibrot* and the many *mitzvot* they contain.[1]

Scholars have also theorized that the very term A*seret ha-Dibrot*, which is different than the language "*aseret ha-devarim"* used in the Torah (Devarim 4:13, 10:4), was invented by the Sages to dispel any notion that these are the most important commandments. *Aseret ha-devarim* literally means "ten statements," but can also be understood as ten commandments; perhaps, one might erroneously think, uniquely important commandments. *Dibrot*, on the other hand, is not the plural of *davar*, a thing, but of *diber*, speech. What is more, *diber*, which appears only once in *Tanakh* as a noun, connotes not just any kind of speech, but specifically revelatory speech. When Yirmiyahu contends that the words of the false prophets have not been revealed to them by God, he protests that "*ve-hadiber* (and the word) [of God] is not in them" (Yirmiyahu 5:13). Thus, the A*seret ha-Dibrot* are "ten divine utterances" that were spoken by God to the Children of Israel as part of the revelatory experience at Sinai. Unlike the other *mitzvot*, God revealed them to all of Israel in a transcendental encounter.

There is no doubt that the *mitzvot* contained in the *Aseret ha-Dibrot* are important. It is for this reason that God chose to reveal them, and not any other statements, to the entire nation. Yet there remains a danger that the Sinai experience might make them appear overly important. Perhaps that is why the Sages chose to use the term *dibrot* instead of *devarim*: to emphasize that their uniqueness lies primarily not in their content, but in the manner in which they were transmitted. They are central principles of the Torah, and that is why they

[1] Some have suggested that Christians taught that God requires one to observe only a portion of the Ten Commandments and a few other matters (Luke 18:20, Mark 10:19). There is also a fascinating *midrash* that attributes to Korah the view that only the Ten Commandments are divine. Also of note, the first-century Jewish writer Philo placed great emphasis on the Ten Commandments, considering them general categories under which all the other commandments could be placed. For further study, see Ephraim E. Urbach, "The Decalogue in Jewish Worship" and Yehoshua Amir, "The Decalogue According to Philo," in *The Ten Commandments in History and Tradition*, Ben-Zion Segal and Gershon Levi, eds. (Jerusalem: Magnes Press, 1990).

were revealed, but their unique status ought not to diminish the need to observe the other commandments.

Moreover, a close reading of a talmudic discussion toward the end of *Makkot* (23b-24a) supports the contention that the Sages intentionally avoided emphasizing the importance of the commandments in the *Aseret ha-Dibrot*, instead focusing on their unique manner of transmission:

> R. Simlai preached: "Six hundred thirteen precepts were communicated to Moshe: three hundred sixty-five negative precepts, corresponding to the number of solar days [in the year], and two hundred forty-eight positive precepts, corresponding to the number of the members of a man's body." Said R. Hamnuna: "What is the text for this? 'Moses commanded us Torah, an inheritance of the congregation of Jacob,' 'Torah' being in letter-value equal to six hundred eleven; 'I am' and 'Thou shalt have no [other gods],' which we heard from the mouth of the Might [Divine]."
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> David came and reduced them to eleven [principles], . . . Isaiah came and reduced them to six . . . Micah came and reduced them to three . . . Again came Isaiah and reduced them to two . . . Amos came and reduced them to one . . . To this R. Nahman b. Isaac demurred . . . But it is Habakuk who came and based them all on one [principle], as it is said, 'But the righteous shall live by his faith.'

The *Aseret ha-Dibrot* are conspicuously absent among the principles to which the 613 commandments can be reduced. In fact, elsewhere the Sages stress the opposite, namely that the *Aseret ha-Dibrot* are encapsulated in other Torah passages. *Yerushalmi Berakhot* states that the *Aseret ha-Dibrot* are referenced in the *Shema*; *Midrash Tanhuma* says they are embedded in the commandments at the beginning of *Parshat Kedoshim*. As noted above, it seems reasonable to conjecture that the Sages did not want to present the *Aseret ha-Dibrot* as principles embodying the whole Torah for fear that their prominence might diminish the luster of the other commandments.[2]

Yet the *Aseret ha-Dibrot* are not entirely absent from the passage in *Makkot*. R. Hamnuna states that the *gematria*, or numerical value, of the word "Torah" is 611. In order to reach R. Simlai's count of 613, one must also include "*Anokhi*" and "*Lo yiheyeh lekha*," which were

[2] Rabbinic literature is, unsurprisingly, not entirely uniform on this point. The *Yerushalmi* (*Shekalim* 25b) states, "Just as at sea there are huge waves, with a host of little waves between them, so are there Ten Commandments, with a host of refinements and particular commandments of the Torah between them." This statement reserves a special place for the *Aseret ha-Dibrot*. The *Mekhilta* (*Yitro* 20:2) raises the possibility that the *Aseret ha-Dibrot* should have been placed at the very beginning of the Torah. Some later writers also assigned special prominence to the Ten Commandments. Rav Saadiah Gaon, for example, wrote liturgical works for *Shavuot* that subsume each of the 613 commandments under one of the Ten Commandments. And some, based on the ruling of Rav Yosef Karo, continue to recite the *Aseret ha-Dibrot* every day, albeit privately, not publicly. Maharshal even advocated for their public recitation before *Barukh she-Amar*. We see that in different places and times, communities and individuals have struck different balances in determining the proper role and place of the Ten Commandments. See Urbach, ibid., pp. 182-84; and Rabbi David Golinkin, "Whatever Happened to the Ten Commandments?" Still, I have followed what I believe to be the primary thrust of rabbinic literature.

heard from God directly (*mi-pi ha-gevurah*). *Anokhi* and *Lo yiheyeh lekha* are, of course, the first two of the *Aseret ha-Dibrot*. The Talmud thus emphasizes that although these two commandments are part and parcel of the 613 *mitzvot*, they are still different, not because they are more important, but because they were spoken directly by God to the people.[3] Paralleling the shift from *devarim* to *dibrot*, the talmudic discussion shifts the focus from content to speech. *Anokhi* and *Lo yiheyeh lekha* are two commandments among many, but they are unique because the nation heard them directly from the mouth of God.

Further, the term *dibrot*, or the singular form often used by the Sages, *dibur*, often captures not just the revelatory aspect of divine speech but also its ineffability. The *Bavli* in *Rosh Hashanah* (27a) states, "[The commandments] Z*akhor* and S*hamor* were said in one utterance (*be-dibur ehad*), what the mouth cannot speak and the ear cannot hear." The *Mekhilta* (*Yitro* 20:1) similarly writes that God spoke all Ten Commandments "in one utterance (*be-dibur ehad*), which is impossible for a flesh and blood creature to do." In these passages, the Sages declare that all ten commandments were spoken simultaneously, a manner of speech of which only God is capable. By invoking the word *dibur* in terms of ineffability, while the highly similar word *diber* in Yirmiyahu connotes an encounter with God, the Sages seem to suggest that divine speech possesses two almost contradictory aspects. Even as it is uniquely revelatory and transparent, it is also uniquely inhuman and inscrutable. God's speech conceals as much as it reveals. (See also Rambam, *Guide to the Perplexed*, II:33).

Indeed, the Torah's account of Sinai drives home this point. It recounts an awe-inspiring theophany, yet some basic details of the experience are shrouded in mystery. Did the people hear any commandments directly from God? The story in Shemot is not at all clear. We read, "Moshe spoke, and God answered with a voice" (Shemot 19:19). What does that mean? "The people witnessed the thunder and lightning, the blare of the shofar, and the mountain smoking," but in their terror, they retreated and asked Moses to intercede (ibid., 20:15-18). It almost sounds like they backed out before they heard God speak. The Torah's account in Devarim is clearer, and largely suggests that the nation heard all Ten Commandments directly from God (Devarim 5:19-28). And yet, Devarim 5:5 again suggests that Moshe served as some sort of intermediary during the event.

Perhaps the rabbinic passages explored above speak to this confusion. On the one hand, the Sages preserve direct revelation by stressing that Israel heard at least two commandments, but on the other, they acknowledge the text's ambiguity by suggesting that perhaps the people heard no more than two; and that, in any event, what they heard was *be-dibur ehad*—an utterance radically different than human speech. Revelation, divine in its nature, is not entirely comprehensible in human terms.

Perhaps, then, when we stand for the Ten Commandments, we are meant to be reminded of Sinai's paradox: sometimes it is when God is closest that He is also most difficult to understand.

[3] In *Shir Hashirim Rabbah*, the Rabbis debate whether the people only heard the first two commandments directly from God, or whether all ten were part of the national revelation.

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The Reward for Honoring Our Parents

Ezra W. Zuckerman Sivan

Introduction: The Puzzling Reward for Observing the Fifth Commandment

The text of the fifth commandment, in both Exodus 20 and Deuteronomy 5 (read this Shabbat in synagogues throughout the world), is puzzling. Uniquely among the other nine "sayings" that comprise the Decalogue, the Torah informs us that those who honor their parents will earn a reward. Yet the reward itself is hard to figure. At first glance, it is long life. But what's the connection between long life and honoring one's parents? The plot thickens when we realize that the reward may not be so simple. To see why, let's compare the reward for observing the commandment of *shiluah ha-ken*, shooing a mother bird before taking the eggs or chicks from its nest, with that for honoring one's father and mother:

Shooing the Mother Bird (Deuteronomy 22:7):
"So that it will be good for you and your days will be extended."

Honoring Your Father and Mother (Exodus 20:12; Deuteronomy 5:16):
"So that your days will be extended (and so that it will be good for you),[4] on the earth that the Lord your God is giving you."

The final seven words (eleven in English) of the reward for honoring parents seem extraneous. If the Torah is promising a long (and good) life, it could have said so with the same language as the commandment to shoo the mother bird. Why does it need to add that this (good) long life will take place on the "earth that God is giving" us? Where else would the life take place, if not on earth? (There were no space stations then.) Why is this necessary?

I would like to suggest an approach to this puzzle that builds on a comment of R. Ovadia Seforno (Italy, 1475-1550). This approach is informed by the idea that "much of Deuteronomy is an exercise in 'complementary reapplication,'" "whereby Moses provides a different perspective on earlier issues and events - one that is geared to an audience who are soon to be entering the land to settle and conquer it without the benefit of his leadership and God's constant presence and providence."[5] The twist in this case is that Moses seems at the same time to be providing commentary on the wording in Exodus and to be shifting its framing so that it speaks to the needs of his fortieth-year audience. In particular, this framing aligns with an emphasis on parents' role in complementing national institutions to transmit the covenant, and with a broader model of national parenthood that includes Israel's forefathers as well as God and Moses.

Reward: Protection from Exile

[4] Words in parentheses appear only in the Deuteronomy version.

[5] Ezra Zuckerman Sivan, "Three in One: Creation, Exodus, and Equality." *Lehrhaus*, August 3, 2017. Accessible at https://www.thelehrhaus.com/timely-thoughts/three-in-one-creation-Exodus-and-equality/.

Let's begin by noting Seforno's explanation for why Exodus 20:12 (and Deuteronomy 5:16) goes out of its way to mention the "earth" as the place where "extended days" will take place:

על האדמה. בשמירתם תזכה לזה שאותו אורך ימים שאמרתי תקנהו בשבתך על האדמה שלא תגלה ממנה.

> "**On the earth**." In their observance [of this commandment], you will merit that the extended days I referred to, you will acquire it by dwelling on the earth, in that you will not be exiled from it.[6]

In short, Seforno is suggesting that there is more to the reward for honoring our parents than "long life": it also includes *preventing national exile from the land of Israel.*

Seforno's reading might seem to be a stretch were we to rely on the chapters of Genesis and Exodus leading up to the Decalogue, where the term "earth" is only once used to refer to the Land of Israel (Genesis 28:15), and otherwise tends to mean matter on the earth's surface. But if we read the fifth commandment in the context of Deuteronomy, Seforno's interpretation is straightforward. Moses invokes the concept of "extended days" repeatedly in the speeches that surround his review of the Decalogue. And in each case, he indicates that the Children of Israel's ability to maintain their hold on the Land will depend on their continued commitment to the covenant. Here is the first such statement, in two pairs of verses that constitute the bookends of the climax of Moses' preamble, leading into his recounting of the Decalogue (key words bolded):

> ***4*:25**: **When you have children and grandchildren**, **and have been established in the land** for a long time, you might become decadent and make a statue of some image, committing an evil act in the eyes of God your Lord and making Him angry. **4:26**: I call heaven and earth as witnesses for you today that **you will then quickly perish from the Land** that you are crossing the Jordan to occupy. **You will not remain there very long, since you will be utterly destroyed.**
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> **4:39:** Realize it today and ponder it in your heart: God is the Supreme Being in heaven above and on the earth beneath - there is no other. **4:40** Keep His decrees and commandments that I am presenting to you today, **so that He will be good to you and your children after you**. **Then you will endure for a long time in the Land that God your Lord is giving you for all time.**[7]

In verse 26 and especially verse 40, we see almost exactly the same language as in the fifth commandment, and the meaning is very clear: Israel's failure to abide by the covenant will

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[6] Exodus 20:12, ad loc. As far as I know, Seforno does not expand on the idea that the reward is that Israel "will not be exiled from the Land" anywhere else, nor does he develop the connection between this interpretation of the reward and Deuteronomy's explanation of what it means to honor your parents. Note finally that Seforno suggests that this reward applies to all five of the commandments on the first side of the two tablets. This is also in keeping with the approach developed here, as it reflects the idea that honoring one's parents works hand in hand with recognizing and obeying God.

[7] Trans. R. Aryeh Kaplan, *The Living Torah.* Note that this selection is the traditional Torah reading for *Tishah be-Av*, which is fitting for a day that marks the tragedy of exile.

lead it to miss out on the benefits of living on the Land, and ultimately to lose its hold on the Land and be cast into exile. Note also how the term "אדמה" or "earth" is used interchangeably with "ארץ" or "land [of Israel]" here, and that reward and punishment are cast in terms of intergenerational disruption.

Not only does Moses deploy this "fifth commandment language" to refer to Israel's hold on the Land in this lead-in to his review of the Decalogue, but he also does it repeatedly throughout Deuteronomy. There are no fewer than six additional such instances:

- In 5:29-30, when describing the reward for fulfilling the commandments as Israel maintains its hold on the Land for many years; mixed in here is the theme that the Torah is the path of "life," which becomes a dominant theme in Deuteronomy;
- In 11:8-9, at the climax of the passage (starting in 10:12) in which Moses defines the relationship between God and Israel, spelling out what God wants from Israel;
- In 25:15, at the climax of the series of social laws that will distinguish Israelite morality from that of the current residents of the Land;
- In 30:15-20, which is the climactic statement warning Israel what will come if they do not keep the covenant, and encouraging them to choose life;
- In 31:10-31:13, which is the climax of the *mitzvah* of *hakhel*, the requirement to read the book of Deuteronomy in front of the people following every Sabbatical year on the holiday of Sukkot;
- In 32:47, which is the coda to the teaching of the song of *Haazinu,* and which echoes the same theme of the covenant as the source of life.

This evidence is overwhelming: while each of the seven passages cited above provides a somewhat different take on this theme, what is consistent is that the reward of "long" (and good) "days" on the Land is a *national reward for keeping the covenant.*

Link between Honoring our Parents and National Exile

It would seem then that Moses understands the fifth commandment as Seforno does. But this merely leads us to rework our original question: *Why is protection from exile an appropriate reward for honoring our parents?*

I'd like to propose a twofold answer: (a) Deuteronomy gives parents a special role in ensuring that commitment to the covenant continues from one generation to the next; and (b) Deuteronomy's conception of parenthood extends beyond biological parenthood to include national parenthood, both in the form of the forefathers and God (and perhaps Moses).

With regard to the special role for biological parents, consider the four occasions in the "*mitzvah*" section of Moses' main speech - which includes the recounting of the Decalogue and the text of the Shema testament of faith and commandment to love God[8] - where Moses describes this role:

[8] For an insightful organization of Deuteronomy, see R. Menachem Leibtag, "*Sefer Devarim* – Introduction," accessible online at http://tanach.org/dvrint.htm.

- In 4:9-10, parents are given the task of "teach[ing] your children and your children's children [about the] day you stood before the God your Lord at Horeb."
- In 6:7, we find the famous words of the Shema, "ושננתם לבניך," that parents must "repeat" "these words" to their children.
- In 6:20-22, a parent is instructed that when his child asks about the meaning of "these laws and statutes," he should tell him the story of the Exodus.[9]
- In 11:19, at the climax of this speech, we find the injunction of the second paragraph of the Shema, that parents must teach "my words" to their sons.

A review of these passages indicates that parents are assigned a special role in inculcating belief in God, the importance of observing the commandments, and the memory of God's revelation and supernatural benefaction to Israel. It is instructive to put this role in context. As noted above, in Deuteronomy, Moses introduces several important national institutions for reinforcing the covenant. These include the aforementioned *hakhel* ceremony, song of *Haazinu*, public declaration of the blessings and curses on Mounts Gerizim and Eival, and requirement that each Israelite king commission the writing of a "book of the Torah" to be read repeatedly (17:18-20). Considered on their own, such institutions suggest an intergenerational transmission process that does not rely on parents. And perhaps for good reason: each set of parents will naturally relate the tradition in a somewhat different way, incurring some risk that the message will be garbled. By instead emphasizing the parental role *together* with national institutions, Moses is teaching that parental guidance is essential for reinforcing public teachings and perhaps for carrying on distinctive family (and tribal) traditions within the larger national tent. National institutions and families are meant to work together to reinforce commitment to the covenant, and thereby to help Israel earn its hold on the Land and enjoy its fruits.[10]

The very manner by which Moses reviews the theophany of Sinai, including his recounting of the Decalogue (Deuteronomy 4-5), helps to dramatize the complementarity between parental and national modes of transmission. Given that the vast majority of those assembled in the Plains of Moab in the fortieth year were either small children or unborn at Sinai, it is very odd that Moses speaks to them as if they were there. What's more, Moses describes a supernatural experience that the text indicates could not be processed through normal sensory perception. Moses is thus undertaking a significant risk: his description of events might be challenged by members of his audience who will say either that they weren't at Sinai and thus cannot vouch for his version of events, or that it was described differently to them by their parents. Implicitly, however, Moses is confident that no such challenge will be mounted; and indeed, none is recorded. This would seem to reflect the success of the parents of those assembled in faithfully transmitting the experience of Sinai such that it would cohere

[9] This is the question attributed to the wise son in the Haggadah, and the answer of "We were once slaves to Pharaoh in Egypt" is the beginning of the *Maggid* section. This also echoes the parental role first described in Exodus, associated with the other three sons (see Exodus 10:2, 12:26, 13:8, and 13:14).

[10] Thanks to R. Tzvi Sinensky for pointing out that Abravanel stresses that the fifth commandment is on the first side of the tablets (commandments between God and man) because the ultimate purpose of honoring one's parents is to ensure the transmission of the tradition.

with the narrative shared collectively by Moses.[11] To properly observe the fifth commandment, then, these children need to relay the experience of Sinai to their children just as their own parents had done. This maintains the covenant and makes them deserving of the land.

National Parenthood

The link between this reward and honoring one's parents is further reinforced when we consider the importance of the two forms of *national* parenthood that Moses emphasizes in Deuteronomy: Israel's forefathers and God/Moses.

It may seem obvious, but it is no less fundamental, that the most common reference to "father" in the Torah is not to biological fathers but the forefathers Abraham, Isaac, and Jacob.[12] Similarly, the most common reference to "children of" occurs in reference to "children of Israel." This idiom is nowhere more prevalent than in Deuteronomy. By my count, Deuteronomy refers twenty-five times to the Land as that which has been promised to the forefathers. Moses repeatedly emphasizes that the generations of the wilderness have done nothing to deserve the Land but that their claim to the Land derives solely from the merit of their forefathers whom God loves and to whom the Land was promised (see especially 4:31-37). Finally, this idea is institutionalized via the *mikra bikkurim* (26:5-9) declaration made by farmers when bringing the first fruit to Jerusalem. Regardless of how one translates the opening phrase of ארמי אבד אבי, the statement is clearly referring to a forefather (either Jacob or Abraham) and identifying him as the farmer's "father." Thus we see that the act of honoring one's forefather relates directly to enjoying the land's bounty.

Israel's other national parents are God and Moses. God is referred to as Israel's father in four separate occasions in Deuteronomy (echoing the first such occasion, in Exodus 4:22), the first two occasions as simile and the second two as metaphor:

- In 1:31, God is described as carrying Israel through the wilderness much as a man carries his son.
- In 8:5, the experience of the manna in the wilderness (described as involving cycles of starvation and nourishment) is characterized as a training period akin to the way a man trains or disciplines his son.

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[11] Attentive readers may note that I am essentially advancing the thesis that Moses was employing a version of the "Kuzari Principle" whereby testimony to mass revelation will not be believed unless it is backed up by the mass of eyewitnesses. The key is that Moses' message - that there had been a mass revelation, with particular details - would ordinarily be hard for anyone to accept. But for those assembled at the Plains of Moab, not only does Moses' message cohere with what their parents told them, but by looking around the encampment, everyone can apparently see that everyone received the same message from their own parents. This would seem to be impossible were the mass experience of theophany false.

[12] The emphasis on the forefathers without mention of the foremothers obviously grates on the modern reader. It is possible to suggest that Moses (and God) are abiding by contemporary conventions, and that their presentation of the narratives of Genesis will suggest to later generations that the foremothers played critical roles in founding the nation as well. Such an interpretation can be read as apologetics of course. It is worth noting, however, that the fifth commandment (and associated commandments) puts father and mother on equal footing.

- In 14:1-2, Israel is told explicitly that they "are sons to God" and "a holy nation," and therefore they should not maim or shave their eyebrows "for the dead."
- In the song of *Haazinu*, God is referred to as Israel's father (and "possessor") and Israel as a wayward son (see 32:5-6; see also 32:19-20).

Further, if God is in some sense Israel's father, Moses is Israel's mother. At a key juncture, Moses expresses exasperation: "Did I become pregnant with this nation, did I give birth to it, [such] that you tell me, 'You must carry it in your bosom the way a nurse carries a suckling child on the Land that you promised to their fathers (Numbers 11:12)?'" Although Moses denies his role as the Jewish people's mother, it is highly plausible that this is precisely where he has fallen short in his leadership. Indeed, reinforcing this reading, a number of *midrashim* refer to Moses as the Jews' mother (see *Torah Sheleimah Bamidbar* 11:90-91).[13] Strikingly, the words "on the Land of their fathers" are extraneous here, just as they are in the fifth commandment. But there is good news: Moses is not Israel's sole parent. In Numbers, God responds to Moses' exasperation by sharing the leadership burden with the elders (see 11:17), and leadership succession is worked out over the rest of the book. And while Moses may begin Deuteronomy with a review of his frustrations with his children, he describes God's parenthood as constant and beneficent, as seen above.

Conclusion: Why the Emphasis (in Deuteronomy) on God's Command?

We have thus demonstrated how the reward of a sustained national hold on the Land is quite appropriate given the conception of parenthood advanced in Deuteronomy, one that pertains to the transmission of the covenant at three levels: biological parenthood (complementing national institutions), forefathers, and human and divine leaders. Moreover, once we think about parenthood in this way, the reward of protection from exile seems more like a natural consequence than supernatural justice. How could Israel expect to maintain its hold on the land if it did not honor its parents in these ways?

I close by noting an additional reason this approach is appealing: it helps resolve the second important puzzle pertaining to the wording of the fifth commandment, one that also applies to the fourth:[14] Why are the fourth and fifth commandments (Remember/Keep the Sabbath day and Honor your father and mother) followed by the phrase "as the Lord your God commanded you" in Deuteronomy but not in Exodus?

A theory advanced by Netziv (R. Naftali Tzvi Yehudah Berlin, Lithuania, 1816-1893) in his commentary *Ha-emek Davar* provides an essential piece to this puzzle. Netziv argues that this phrase is emphasized specifically in the fifth commandment because otherwise one might have thought, as with commandments six-ten, that the basis for this command lies in human reason (about social relationships). The addition of "as God commanded you" indicates that honoring one's parents is not as straightforward as that, but that one must observe this commandment specifically as God has directed us - i.e., as a way of fulfilling the covenant.

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[13] My thanks to Ms. Davida Kollmar for pressing me to refine my thinking on Moses' role as mother.

[14] A more minor puzzle is why "and so it will be good to you" is added in Deuteronomy. Given the various parallels in Deuteronomy, this seems consistent with the second generation's new focus on soon having to live off the land (rather than the manna and water provided by God).

Netziv's theory needs two additional elements before it can explain why the phrase "as God commanded you" is particularly appropriate in the fortieth-year version of the fifth commandment. One element is the recognition that, as I have discussed in an earlier *Lehrhaus* essay, the seven-day week was a radical innovation at the time of manna but would have been fully institutionalized after forty years of living according to its (manna-based) rhythms. I also discussed how this shift can explain why the emphasis in Exodus is on *remembering* the Shabbat but on *keeping* the Shabbat in Deuteronomy, and why Exodus describes Shabbat as a blessing rooted in Creation, whereas Deuteronomy describes Shabbat as an institution for furthering the experience of equality recalling the Exodus from Egypt.

In short, each version places emphasis on elements that are most at risk. In Exodus, it is important to root Shabbat in creation because this was a novel idea, and it was important to institutionalize the radically new practice of the seven-day week; by contrast, there was no need to emphasize the connection to the Exodus or the experience of radical equality embedded in the Shabbat: the recently-freed slaves fully appreciated this when they had experienced their first *Shabbatot*, and how different this was from Egyptian bondage. By contrast, Moses in Deuteronomy can rely on forty years of teaching about creation, whereas the salience of radical equality and memory of the Exodus had likely faded. Moreover, extending Netziv's logic, whereas the rationale for the Sabbath and the week would have been foreign to the generation of the Exodus, the next generation would have begun to appreciate the ethical and social benefits of the Sabbath and week. They might now begin to think they could interpret the commandment without the Torah's guidance. It would thus make sense to emphasize that the Sabbath must be *observed as God commanded*.

This logic can be applied back to the fifth commandment. Like the fourth, its meaning would have changed by the fortieth year, thus requiring special emphasis on the fact that it must be observed as God dictated and not according to reason. Note first that as in the case of the Shabbat/week, there was a sense in which honoring one's parents indeed would have been new. In particular, parental authority would have been severely undermined by the forced labor that Israel had to endure for generations. There is nothing that threatens respect for parents more than a child's sense that the parent is powerless to address his or her needs. Moreover, the Exodus itself might not have helped to reestablish parental authority. One available interpretation for the generation of the Exodus is that they must be superior to their parents; after all, it was their generation that merited redemption, while their parents' generation had not. Accordingly, placing special emphasis on God as the ultimate source of the commandment could have undermined parental authority.[15]

While the foregoing interpretation is a bit speculative, I think it is less speculative to note that it would have been particularly important to emphasize in the fortieth year that the fifth commandment is "between man and God." Israel was now at the banks of the Jordan and about to settle the Land. It was set to leave the supernatural environment in which God provided for their every need - much as a parent provides for a small child (see citations above). In this new environment, the importance of biological parents would become clearer,

[15] We are familiar with such tensions today, as described in detail in Haym Soloveitchik's classic essay "Rupture and Reconstruction: The Transformation of Contemporary Orthodoxy," available online at http://www.lookstein.org/links/orthodoxy.htm.

whereas God's role as father and benefactor would become less clear. And so it follows that the divine source for the fifth commandment now becomes important to emphasize. Accordingly, it is in Deuteronomy where the full nature of the fifth commandment is laid out most fully. It is not one that rejects the traditional parental role but enhances its significance by embedding it in a larger national mission.

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Tu be-Av and the Concubine of *Givah*

Tzvi Sinensky

The origins and significance of *Tu be-Av* are shrouded in mystery. On what basis does the Mishnah declare this obscure holiday, alongside *Yom Kippur*, one of the two happiest days on the Jewish calendar? What are we to make of these days' unusual ritual, in which the women danced in the vineyards and made overtures toward the men? Is *Tu be-Av* merely a Jewish Valentine's day? A close reading of the Mishnah and Gemara, coupled with the intertextual connection between the Mishnah and the final verses of *Sefer Shoftim*, lend a fresh perspective to the holiday's meaning and contemporary relevance.

The *Sugya* in *Ta'anit*

After completing its discussion of the laws of *Tishah be-Av*, the Mishnah (*Ta'anit* 26b), apparently looking to conclude an otherwise morose tractate on a positive note, shifts gear and declares:

> Rabban Shimon ben Gamliel said: There were no days as joyous for the Jewish people as the fifteenth of *Av* and *Yom Kippur*, as on them the daughters of Jerusalem would go out in borrowed white clothes, so as not to embarrass one who did not have. All the garments would require immersion. And the daughters of Jerusalem would go out and form a circle [*mahol*] in the vineyards. And what would they say? "Young man, please lift up your eyes and see what you choose for yourself. Do not set your eyes toward beauty, but set your eyes toward family: 'Grace is deceitful and beauty is vain, but a woman who fears the Lord, she shall be praised' (Mishlei 31:30), and it says: 'Give her the fruit of her hands, and let her works praise her in the gates' (Mishlei 31:31)." And similarly it says: "Go forth, daughters of Zion, and gaze upon King Solomon, upon the crown with which his mother crowned him on the day of his wedding, and on the day of the gladness of his heart" (Shir Ha-Shirim 3:11): "On the day of his wedding" - this is the giving of the Torah. "And on the day of the gladness of his heart" - this is the building of the Temple, may it be rebuilt speedily in our days.

If the Mishnah's primary motivation is to end with "words of consolation," a number of its details seem problematic. Of what relevance is *Yom Kippur* to our discussion? And, as many commentators (e.g., *Tiferet Yisrael, Yakhin* 63) note, such revelry, to say the least, seems inappropriate for *Yom Kippur*. What is more, if the Mishnah's interest lies primarily in the celebratory aspect of these holidays, why does it emphasize the ways in which the young ladies cared for one another by loaning clothing to the needy? Finally, the very fact that the women took initiative by seeking out men is also striking, and not necessarily what we might have expected from members of a traditional society some 2,000 years ago. This impression is strengthened by the second verse the women invoke, "Give her of the fruit of her hands, and let her own works praise her in the gates," which underscores a woman's individual creative contributions.

The Talmud's (30b-31a) treatment of the *mishnah* is no less curious. While claiming that the reason for *Yom Kippur*'s joy is obvious ("because it has pardon and forgiveness, the day on

which the last pair of tablets were given"), the Gemara is unsure why *Tu be-Av* is celebrated with such exuberance. The Gemara proposes no less than six explanations:

- On this day the tribes were permitted to marry one another.
- On this day the tribe of Benjamin, previously foreswarn from marrying members of the other tribes, was permitted to rejoin the nation.
- On this day the Jews stopped dying in the desert.
- On this day Hoshea ben Elah removed the guards that Yerovam had erected to bar Israelites from traveling to the Judean Temple for the holidays.
- On this day the dead of Beitar were released for burial.
- On this day they finished cutting logs for the sacrifice pyre. (Commentaries debate whether the joy stemmed from the completion of a *mitzvah* or the time that was now available for extended Torah study.)

The range of bases for *Tu be-Av* is curious in its own right. If this holiday is so joyous and, by implication, of particular importance, why are we so unsure as to what it commemorates? Interestingly, Rashbam *Bava Batra* 121a s.v. *yom* and others claim that the views cited in the Gemara don't disagree with one another, but simply represent varied traditions that rabbis reported in their teachers' names. Even on this view, the question as to the sheer variety of possibilities remains.

The continuation of the Gemara raises further difficulties. The Gemara details the precise hierarchy of clothing sharing among the maidens:

> The daughter of the king borrows from the daughter of the High Priest; the daughter of the High Priest from the daughter of the Deputy High Priest; the daughter of the Deputy High Priest from the daughter of the Priest Anointed for War; the daughter of the Priest Anointed for War from the daughter of a common priest; and all the Jewish people borrow from each other, so as not to embarrass one who did not have.

The laws concerning the priests are no longer applicable. So why does the Gemara, compiled long after the Second Temple's destruction, see fit to elaborate?

Next, Rabbi Elazar extends the point, emphasizing that "even clothing stored in a box" requires immersion. Why should such an item, which in all likelihood was not rendered impure, require immersion? R. Gershom and R. Hananel claim that immersion is required on the off chance that the woman had indeed rendered the clothing impure. The Yerushalmi (*Ta'anit* 4:7) argues that while technically such clothing does not require immersion, once the woman removes the item from the box to immerse it, she is more likely to lend it to her neighbor. Rashi (31a s.v. *tzerikhin*) and Meiri (ibid., s.v. *ve-amar*), however, contend that the reasoning is the same as that of the Mishnah's general principle, namely to avoid embarrassing one who lacks clothing. Similarly, all clothing must be immersed equally. Particularly according to Rashi and Meiri's reading, Rabbi Elazar's ruling reinforces an observation we made regarding the *mishnah*: if the goal is merely to shift *Masekhet Ta'anit* from mourning to joy, why the emphasis on the women's sensitive generosity and the temporary dismantling of economic and social-religious hierarchies?

The Gemara then cites a tradition that different girls would woo their prospective partners by emphasizing their unique qualities:

> What would the beautiful women among them say? Set your eyes toward beauty, as a wife is only for beauty. What would those of distinguished lineage among them say? Set your eyes toward family, as a wife is only for children. What would the ugly ones among them say? Acquire your purchase for the sake of Heaven, provided that you adorn us with golden jewelry.

The Gemara, in other words, continues the *mishnah*'s emphasis on the women's independence and individual initiative, even suggesting that some women would demand jewelry for themselves!

Finally, the *sugya* (and *masekhet*) concludes with a classic *aggadah*:

> In the future, the Holy One, Blessed be He, will arrange a dance [*mahol*] of the righteous, and He will be sitting among them in the Garden of Eden, and each one will point with his finger, as it is stated: "And it shall be said on that day: Behold, this is our God, for whom we waited, that He might save us. This is the Lord for whom we waited. We will be glad and rejoice in His salvation" (Yeshayah 25:9).

While this concluding section hearkens back to the *mishnah*'s terminology of "*mahol*," a circle, this mere textual analogue seems to provide inadequate grounds for the Gemara's choice of this passage to conclude *Masekhet Ta'anit*. Is there a deeper connection between *Tu be-Av* and this teaching regarding the messianic era?

Finally, it is worth noting a debate among the halakhic authorities concerning the contemporary relevance of *Tu be-Av*. The aforementioned passage regarding the "daughter of the priest" seems to suggest that this holiday was limited specifically to the Temple period. Indeed, *Shibolei Ha-leket* (30) follows the *Geonim* in ruling that one may recite *tahanun* on *Tu be-Av* due to the nullification of *Megilat Ta'anit*, which lists dates on which fasting is impermissible. Yet *Shulhan Arukh* (*Orah Hayyim* 131:6) lists this holiday among the days on which *tahanun* is omitted, and *Magen Avraham* (*Orah Hayyim* 573:1) rules that even today one may not fast on *Tu be-av*. (See also *Gevurat Ari* to *Ta'anit* 31a.) Given the Gemara's implicit linkage of the celebration to the era of priestly service, on what basis do these latter authorities rule against *Shibolei Ha-leket* that *Tu be-Av* remains in force?

Pilegesh be-Givah

To properly understand the holiday of *Tu be-Av*, we cannot examine this *sugya* in isolation. Instead, *Ta'anit* must be read in light of an episode which picks up on the Gemara's second explanation for *Tu be-Av*: the conclusion of the larger tragedy of *pilegesh be-Givah*, the grisly story of the concubine who was murdered by members of the tribe of Benjamin (Shoftim 19-21).

To review briefly, the final chapters of *Sefer Shoftim* tell the story of a man and his concubine who, upon traveling from her father's home in Beit Lehem to their house in the mountain of Ephraim, spend a night in the Benjaminite town of *Givah*. Despite being put up by a hospitable man, the hosts and guests find themselves surrounded by a Sodom-esque mob.

The husband sacrifices his concubine by pushing her outside the door so as to satisfy the hordes, who violate and leave the woman to die overnight. Upon recovering her body in the morning and returning home, the husband carves up the corpse into twelve segments and disseminates them to the tribes of Israel. Horrified by witnessing such barbarism in their midst, the rest of the nation demands of the tribe of Benjamin that they hand over the perpetrators to be killed, yet the tribe refuses. The Israelites therefore take up arms against *Shevet Binyamin*. While the Benjaminites are victorious on the first two days of battle, ultimately the rest of the nation wins the civil war, killing at least 25,000 males from Benjamin, and then wiping out all their towns, including all the women. The nation gathers at *Mitzpah* and swears that no one will marry off his daughter to a Benjaminite.

The final chapter of Shoftim then turns to the question of the continuity of the tribe of Benjamin. Was an entire tribe to be lost to Israel? After all, before setting out to battle, the nation had vowed not to marry off any of their daughters to men from the tribe of Benjamin. Yet no Benjaminite women survived, seemingly condemning the tribe to extinction. To resolve this problem, they begin by identifying 400 virgins from the town of *Yavesh Gilad*, whose residents had not been present when the nation accepted the oath at *Mitzpah*. Arrangements are made for the 400 women to marry men of Benjamin. Yet many Benjaminite males remain unmarried. To fully resolve the issue and ensure the tribe's continuity, the elders of the nation develop another plan, with which *Sefer Shoftim* concludes (21:19-25):

> They said, "The annual feast of the Lord is now being held at Shiloh." It lies north of Bethel, east of the highway that runs from Bethel to Shechem, and south of Lebonah.
>
> So they instructed the Benjaminites as follows: "Go and lie in wait in the vineyards.
>
> As soon as you see the girls of Shiloh coming out to join in the dances, come out from the vineyards; let each of you seize a wife from among the girls of Shiloh, and be off for the land of Benjamin.
>
> And if their fathers or brothers come to us to complain, we shall say to them, 'Be generous to them for our sake! We could not provide any of them with a wife on account of the war, and you would have incurred guilt if you yourselves had given them [wives].'"
>
> The Benjaminites did so. They took as wives, from the dancers whom they carried off, as many as they themselves numbered. Then they went back to their own territory, and rebuilt their towns and settled in them.
>
> Thereupon the Israelites dispersed, each to his own tribe and clan; everyone departed for his own territory.
>
> In those days there was no king in Israel; everyone did as he pleased.

What are we to make of this final episode? To begin, the parallels to the ritual described in *Ta'anit* are unmistakable: the girls dancing in vineyards in the location of a Temple (Shiloh or Yerushalayim) during a holiday, and the matchmaking that takes place during the festival.

Reinforcing these striking similarities, the verses use turns of phrase such as "*yotzot ve-holot ba-keramim,*" which closely parallels the *mishnah*'s formulation of "*benot yisrael yotzot ve-holot ba-keramim*." It seems clear, as Radak (Shoftim 21:19) notes, that the *Mishnah Ta'anit* intentionally draws upon the verses in Shoftim.[16]

What is more, these parallels are reinforced by the Gemara's second explanation of the unique joy associated with *Tu be-Av*, namely that the ban against marrying members of the tribe of Benjamin expired on that day. The Gemara even goes so far as to cite a verse from *pilegesh be-Givah*, "*ish mimenu*" (Shoftim 21:1) - "*mimenu ve-lo mi-baneinu,*" "from us but not from our children" - in support of this derivation.

What is the significance of this compelling connection between Shoftim 21:19-23 and *Ta'anit* 4:7? To begin, let us analyze the elders' decision to encourage Benjaminite men to "snatch" women from the festival at Shiloh. Does the text judge the elders positively or negatively? It is hard to know for sure. On one hand, their motivation seems to be positive: they seek to salvage *Shevet Binyamin*. On the other hand, the verses' language carries numerous negative associations. Terms such as "*va'aravtem*" ("you shall ambush"), "*va-hatafkhem*" ("you shall grab"), and "*asher gazalu*" ("which they stole") carry negative associations. What is more, broadly speaking, it seems clear that the story is not intended exclusively as a negative commentary on the tribe of Benjamin; Benjamin's despicable behavior is simply indicative of the larger moral breakdown in Israelite society. This certainly includes the husband himself, who sacrifices his concubine, but presumably is meant even more broadly. As the book concludes (and reiterates at key junctures throughout *Sefer Shoftim*), "In those days there was no king in Israel; everyone did as he pleased." It therefore seems highly plausible that the text means to criticize the elders' decision to ensure a tribe's survival on the back of women who were kidnapped and coerced into unwanted marriages. At best, as R. Moshe Alshikh puts it, the elders' decision was a non-ideal one that they "did not perform in accordance with the letter of the law… [but only because] the moment necessitated such measures." Just as the tragedy of the concubine's rape features the brutalization of a vulnerable woman, so too the original biblical recording of the dancing festival involves the problematic (either due to the act itself or the larger circumstances) "snatching" of vulnerable women who had gathered for the Shiloh festival.

Bearing in mind the theme of vulnerability, we may return to the *sugya* in *Ta'anit*. As we noted earlier, by sharp contrast to the events of *pilegesh be-Givah*, the *mishnah* emphasizes that on *Tu be-Av* and *Yom Kippur*, the women seize initiative in soliciting the men. Moreover, as opposed to the incident in Shoftim, in which women were taken *en masse*, the *Gemara Ta'anit* emphasizes that different women emphasized their unique qualities. If *pilegesh be-Givah* features females who are treated as vulnerable, faceless objects, *Ta'anit*, as R. Tzadok of Lublin observes (*Dover Tzedek* pg. 209), offers a vision of self-assured young women who take initiative and distinguish themselves as individuals.

The *mishnah* and *gemara* then go further in counteracting the tragic episode in Shoftim. Not only does the *sugya* empower the women in their choosing of mates, but it also flattens the

[16] For an analysis of the precise historical relationship between the two festivals, as well as the seasonal-agricultural occasions they marked, see Hayim Gilad, "*Al Ha-Meholot,*" in *Beit Mikra* 4:589-91.

socio-economic differences among the maidens of Israel. The tragedy of *pilegesh be-Givah* features a powerful group (city residents) taking advantage of a vulnerable family (the guests, which include a concubine, who occupies a lower social status than a full wife), leading to civil war and massive devastation. By contrast, the women in *Ta'anit* go out of their way to significantly diminish dangerous hierarchies and ensure the dignity of vulnerable women who might otherwise be embarrassed.[17] This resolves the question we raised earlier: the exchange of clothing, including among members of the priestly families, is not an aside but essential to the theme of our *sugya*, which is intended to remedy the tragedy of *pilegesh be-Givah*. It is for this reason that the *mishnah* and Gemara lay so much emphasis on this point.

Our *mishnah*, moreover, extends the motif one step further. "*Sheker ha-hen ve-hevel ha-yofi*," "Grace is deceitful, and beauty is vain," declare the women.[18] Do not judge a woman by her appearance, nor any individual by his outward characteristics. The Jewish girls go out in borrowed clothing, so as not to embarrass one another. We can no longer distinguish the poor from the rich, the ugly from the beautiful. Their garments are all immersed in the *mikvah*; they too, we can suggest, are all now equally pure. The ladies call out to the men who have gathered: don't look at beauty; beauty is deceptive. Look instead at the family and the God-fearing character the young lady represents. The key to ensuring respect for the vulnerable in society is to begin by reminding ourselves that for all the externalities that divide us, fundamentally we share a common human dignity and ought not be measured by artificial yardsticks.

Indeed, this might be reflected in the story of *pilegesh be-Givah*. Upon first blush, we might be inclined to cast blame exclusively on the tribe of Binyamin. Yet upon closer analysis, as noted, the other tribes are not to be entirely absolved of all responsibility. The moral

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[17] Ritva *Bava Batra* 121a accents this theme, inquiring: doesn't the *Mishnah Sukkah* declare that one who did not witness the *simhat beit ha-shoeivah* did not witness joy in his life? How, then, can the *Gemara Ta'anit* assert that *Tu be-Av* and *Yom Kippur* were the most joyous days on the Jewish calendar? He answers by explaining that regarding *Sukkot*, "the joy was limited to the Temple and specifically to the giants of Israel and the priests and Levites;" here, however, the joy permeated throughout the entire nation.

[18] The commentaries note that the Gemara, which cites a *berayta* in which the attractive women draw attention to their beauty, appears to contradict the *mishnah*, in which the women insist that "beauty is vain." *Eliyah Rabbah* (*Orah Hayyim* 480:10) contends that while the *mishnah* appears to be describing only one set of women, in fact the various statements in the *mishnah* are distributed among the Gemara's three sets of women: the beautiful women say "lift up your eyes and see," those with lineage urge the men to ignore beauty, and those lacking both declare that "beauty is vanity." This interpretation of the mishnah, however, is quite forced, as it seems to be describing a single group, not three. What is more, on *Eliyah Rabbah*'s interpretation, it is particularly difficult to distinguish between the lines "Do not set your eyes toward beauty, but set your eyes toward family" and "Grace is deceitful and beauty is vain, but a woman who fears the Lord, she shall be praised," as the *mishnah* appears to cite the latter as a proof text for the former. *Maharsha* (31a s.v. *yefeifiyot*), on the other hand, suggests that whereas the Gemara describes all three groups of women, the *mishnah* addresses the most praiseworthy among them. While this interpretation also carries difficulties, it seems to be the most reasonable resolution of the *mishnah* and Gemara. In any event, while the Gemara does appear to appeal to some differences among different sets of women, even the Gemara's presentation fits our theme, inasmuch as it seems to emphasize the inclusive notion that there are a variety of legitimate characteristics that distinguish individuals from one another.

depravity of some members of *Shevet Binyamin* is a mere extreme manifestation of the larger breakdown in Israelite society during the period of the Judges.

We may now return to the plethora of interpretations the Gemara offers for the unique joy associated with *Tu be-Av*. Of course, the Gemara's second answer, namely that on this date the tribe of Benjamin was again permitted to marry into the Jewish nation, fits perfectly with the *pilegesh be-Givah* connection. But beyond that, many if not all of the other explanations cited by the Gemara underscore these selfsame themes. The permissibility of the tribes to marry one another, like the reintegration of the tribe of Benjamin, explicitly celebrates communal unity. Hoshea ben Elah's removal of the sentries enabled all Jews once again to travel to Jerusalem. The cessation of death in the desert signaled the entire community's ability to move beyond Tishah be-Av's sin of the spies and be reunited with God and His land. The respect accorded by the burial of the dead, such as those of Beitar, is perhaps the greatest symbol of the essential dignity of all people. And the completion of the wood cutting allowed students to join together in Torah study as the nights began to shorten.

It is in this sense that we can understand the linkage between *Tishah be-Av* and *Tu be-Av*, beyond their chronological proximity. The opening *mishnah* of the fourth chapter discusses three fasts that, at first glance, appear similar: *Tishah be-Av*, the *ma'amadot* (fasts of Israelites, Levites, and priests who represent the community at the Temple) and *Yom Kippur*. All three share a common denominator: on only these three occasions it was customary to recite *Birkhat Kohanim* during all four daytime prayers, including *Neilah*.

The chapter goes on to demonstrate, however, that *Tishah be-Av* and *Yom Kippur* are in fact opposites. *Tishah be-Av* is a day of mourning, *Yom Kippur* of joy. Like *Tu be-Av*, *Yom Kippur* features joyous dancing. Appearances are deceiving. Two people can be dressed up in black; one attends a funeral and the other a wedding.

The tragedies detailed in the *mishnah* capture the same theme. The sin of the Golden Calf, for which the Jews were forgiven on *Yom Kippur*, was due to the people's inability to look beyond the concrete. They failed to conjure a God that did not require physical manifestation, and so they built the Calf. Idolatry, which was rampant during the waning years of the First Temple period, was born of a similar inability to forsake an emotional dependency on icons. On the original *Tishah be-Av*, the Jews took the spies' report at face value. They gave up hope instead of looking beyond the surface and digging deeper. As the prophets stressed time and again, the First Temple was destroyed in large measure due to the higher echelons' refusal to look beyond shallow class differences and care for the vulnerable in society. And according to the Rabbis (*Yoma* 9b), it was due to *sinat hinam* (baseless hatred), the inability to look beyond our friends' actions and empathize with their inner righteousness, that the Second Temple was destroyed.[19]

The Circles of the Righteous

Mashekhet Ta'anit concludes with the same message. The verse from Shir Ha-Shirim refers to "the day of his engagement and the day of his joyous heart." This verse, explains the *mishnah*,

[19] See *Keren Orah* 30b s.v. *amar Rashbag* for a different suggestion linking *Shiva Asar be-Tamuz* to *Yom Kippur* and *Tishah be-Av* to *Tu be-Av*.

is not to be taken literally. The betrothal is the Revelation at Sinai; the day of joy is when the Temple was built. As the Rabbis read Shir Ha-Shirim as a whole, not everything is as it seems. The words of the verse - like the young Jews themselves - carry far deeper layers of meaning than any cursory once-over could reveal.

Finally, it is no mere association that leads the Gemara to conclude with the *aggadah* of the circle of the righteous. The "*mahol*" of the *tzadikim* echoes not only the dances of the girls in Jerusalem but those in Shiloh as well. The circle is the ultimate equalizer. All the *tzadikim* sit equidistant from God. Clear revelation, as manifest in the ability to "point to God" and see His presence clearly, begins with the recognition that we must look beyond surface differences, which must in turn inspire us to instill dignity among those in society who are most vulnerable.[20]

The *sugya*, then, strongly implies that *Tu be-Av*'s significance is not limited to the time of the Temple or *Megilat Ta'anit*, nor is it only realized in the messianic era, but, following the rulings of *Shulkhan Aruch* and *Magen Avraham*, represents an ongoing religious charge for us to look beyond surface differences and treat all people with dignity and sensitivity. Only in doing so can we actualize the deeper significance of *Tu be-Av* and begin to repair the travesty of *pilegesh be-Givah*.

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[20] *Sfat Emet* (s.v. *ve-khol*) goes further, suggesting that "each righteous individual has unique insight, which he conveys to his friend, as it states, 'and they receive from one another.'" On this reading, not only does the circle represent equality, but also that each individual possesses distinctive qualities and perspectives.

Blacklists and Bureaucrats, Resistance and The Rabbinate

Elli Fischer

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The recent "news" about the Israeli Chief Rabbinate's so-called "Blacklist"—"a list of overseas rabbis whose authority they refused to recognize when it comes to certifying the Jewishness of someone who wants to get married in Israel"—has brought to my mind an aphorism known as Hanlon's Razor. Hanlon's Razor cautions: "Never ascribe to malice that which can be adequately explained by incompetence." This close-cousin of Ockham's Razor presumes that problems have single causes—either malice or incompetence. In reality, things are rarely so simple, but it is still a useful way to think about problems. The temptation to attribute malice (or intention more generally) to the effects of incompetence can be hard to resist, as it is less than satisfying to attribute one's victimization to mere ineptitude. The rage feels so much more righteous when there is a "bad guy." When the narrative of malice is shaped and propagated by organizations whose success depends on it, reinforced by media outlets that repackage press releases as click-bait, it can indeed be hard to overcome Hanlon's Razor.

And here's the problem. If we hope to solve the challenges of Israel's religious establishment, like those manifested in the process by which the Chief Rabbinate evaluates attestations by Diaspora rabbis concerning applicants' Jewish birth, bachelorhood, or conversion, then we need a proper diagnosis of it, as misdiagnosis will result in the wrong course of treatment. Therefore, although I have not been shy about my defiance of Israel's deeply-flawed Chief Rabbinate, and despite my agreement about the presence of a deeply-rooted problem, I have been profoundly disappointed by the facile, uncritical, and altogether lazy treatment of this issue by the media, which has consistently attributed to the Rabbinate a much greater degree of intent, principle, and comprehensiveness than is warranted.

Consider the first news article, by JTA author Ben Sales, which launched the latest Orwellian Two Minutes Hate against Chief Rabbi Emmanuel Goldstein: its first sentence informs us that the Israeli Chief Rabbinate is "Ultra-Orthodox dominated" and frames the issue as one of "trust." The next paragraph mentions Rabbi Avi Weiss, a rabbi who has made a career of pushing the leftward boundaries of Orthodoxy and *halakhah* ("advocates a 'more open and inclusive Orthodoxy,'" as the Associated Press article on the subject helpfully informs us), and whose mere mention frames the issue as one of ideology and Orthodox boundary-making. The photograph accompanying the news item in several major news outlets is of Rabbi Weiss. Later in the first article, the rejection of documentation provided by specific rabbis is attributed to "antipathy" and "mistrust"—words that convey intentionality.

Or, the article published on July 16 (likewise, by Ben Sales), about the lack of women on the "Blacklist." The absence of women on the "Blacklist" suggests that the Rabbinate, in fact, accepts attestations proffered by women rabbis, or at least that none were rejected in 2016. The article does not cite even one woman rabbi whose letters were rejected, and quotes Rabbi Debra Newman Kamin as saying that her letters to the Rabbinate have been accepted in the past. The article, in short, does not present a shred of evidence that the Rabbinate

discriminates between men and women rabbis in this regard. Every word of the article is true in the sense that the people it quotes presumably said what is ascribed to them. Nevertheless, the bulk of the article is given to those who maintain that the Rabbinate is so anti-women that they would not deign to recognize women rabbis, even by blacklisting them. As articulated by Rabbi Rachel Ain, "If they put names of women rabbis on that list, they'd have to acknowledge that women can be rabbis, and I think that's not a step they're willing to take publicly … They're not willing to put my name on the list because they don't consider me a legitimate rabbi."

Rabbi Newman Kamin, whose letters, by her admission, have been accepted in the past, is in this case willing to ascribe the rare instance of the Rabbinate getting something right to mere clerical oversight: "A woman rabbi is like a unicorn, so why would you include a unicorn on the blacklist? ... We're not even on their radar screen." These attempts to interpret even the most benign evidence to fit preconceptions of nefarious behavior remind one of Tal Nitsan's infamous thesis that the rarity of IDF soldiers raping Palestinian women is attributable to Israeli racism and dehumanization of Palestinians.

Consider also the term "Blacklist": The term implies that there is some list kept by the Rabbinate, which it consults to determine whether a particular rabbi has been pre-rejected. However, this list was created to fulfill a Freedom of Information Request by an organization called ITIM. The names of all rabbis who appeared on documents rejected by the Rabbinate in 2016, for any reason were compiled and given to ITIM, whereupon the organization released it to the media and called it a "Blacklist." That is, the list exists because its compilation was demanded by ITIM, the very organization that did much to shape the "Blacklist" narrative.

All rejections, of all types of attestations, for whatever reasons are scoured for names of rabbis, which are then written on a piece of paper, and voila! There's your blacklist! ITIM has asserted for over a decade that the Rabbinate maintains blacklists or whitelists of rabbis it trusts to determine Jewish status, demanding the release of these lists in the name of transparency. Yet, each list that ITIM has produced has differed significantly from the one before it, and by now there are examples of various arms of the religious establishment mistrusting other arms. This is clear evidence of dysfunction, not of a rabbinic conspiracy to systematically determine which rabbis can be trusted and which cannot. Nevertheless, ITIM keeps crying wolf, with no loss of credibility. On the contrary, it has only thickened the organization's media profile.

Some op-eds on the "Blacklist" issue do not masquerade as news, but rather are platforms for various rabbis to express pride in being included on the list or volunteered to place their own names on the list in "solidarity" with their colleagues. Being blacklisted by the Israeli Chief Rabbinate has become a sort of status symbol (as we saw in the case of the women rabbis who insist that they are blacklisted even though they are not on the "Blacklist"). It has become proof as being one of the "good guys" (notwithstanding that one listed rabbi, who died in 2011, was convicted in 2009 for sexual offenses).

This makes sense if the "Blacklist" had any systematic or ideological rhyme or reason. However, if, as Hanlon's Razor urges us to consider, the problem is primarily one of dysfunction and incompetence, then being "Blacklisted" can be a source of neither pride nor

shame. If one's mail is delivered to the wrong address, is that a reason to be proud? Should one burn their driver's license in solidarity with a friend who was failed by an examiner having a rough day?

So let's take a step back and ponder the root of the dysfunction that plagues Israel's religious establishment. Throughout history, rabbis have had authority, but have rarely had power. This is a crucial distinction. Authority is conferred informally, and its enforcement mechanisms, when they exist, are social. Some of the personnel at the Chief Rabbinate may have themselves earned and accumulated their own personal authority, but the institution itself has very little, if any, authority. On the other hand, the Chief Rabbinate has actual power, conferred upon it by a modern, sovereign state, enshrined in legislation, and enforced, when necessary, by police and by state-sanctioned violence.

Take Rabbi Itamar Tubul, the Rabbinate clerk responsible for evaluating documentation from rabbis abroad. He is invested with government power, not rabbinic authority. Having met Tubul several times over the past half-decade or so (he was hired under the previous chief rabbis), I can say confidently that he is unprepared to handle his position. He speaks one language, Hebrew, and refuses to avail himself of the numerous online genealogical research tools and databases that could allow him to easily corroborate evidence of an applicant's Jewishness or bachelorhood. He does not understand the structure or makeup of communities outside of Israel (part of a broader—and certainly mutual—set of misunderstandings).

In June 2015, a friend and I met Israel's Ashkenazi Chief Rabbi David Lau one Shabbat on the streets of Modi'in. Among the matters that we discussed was the backwardness of the Rabbinate's apparatus for determining Jewishness. Rabbi Lau had an impressive answer: he was working with Yad Vashem to digitize massive archives from Eastern Europe that would go a long way to solving the "Who is a Jew?" conundrum, at least from the evidentiary perspective. When I mentioned Tubul and questioned whether he is the right person to oversee this, Rabbi Lau's ever-present paternal grin disappeared, and he mentioned the difficulties of removing political appointees. Two years later, Rabbi Lau's displeasure with Tubul over the "Blacklist" issue was barely concealed, yet Tubul still has his job.

Tubul is, to my mind, far from the only less-than-competent bureaucrat employed in Israel to proffer "religious services." The Chief Rabbinate, the Ministry of Religious Services, and other expressions of religion-state entanglement, are responsible for providing religious services—certify food as kosher, build synagogues and *eruvin*, marry, divorce, construct and staff *mikva'ot*, bury the dead, administer holy sites, and more—for over six million people. This entails a rabbinic bureaucracy whose scope outstrips, by several orders of magnitude, any historical precedent.

It is here, in the middle and lower levels of the bureaucracy, where jobs are given out to nephews (Latin: *nepos*) and as political favors. It is here where real pain can be inflicted before the matter arrives at the desk of someone with a moral pulse. The monster lives in the cellar; it hardly matters who occupies the upper stories, or what sort of hat they wear. The problem with the Rabbinate is not that it is too Orthodox or insufficiently Orthodox, but that through it the government confers power on those unfit to wield it.

As long as religious services remain an arm of government, control of them will remain the spoils of coalition politics. As long as Israel remains in a precarious geopolitical situation, Israelis will continue to consider control of religious service an acceptable price to pay for a few years of domestic stability. And so, the average encounter with the official arms of the Jewish religion will remain impersonal and alienating, and sometimes downright nightmarish.

This scenario evokes a poignant paragraph penned by the late Peter Berger, one of the greatest modern thinkers about the sociology of religion, in *The Heretical Imperative*:

> Religion begins as religious experience, which is not equally distributed. Therefore, the experience must become embodied by traditions, and by doing so brings the experience which breaches ordinary life into ordinary life, which tends to distort. His predicament is that of the poet amongst bureaucrats.

The bureaucracy is indeed crushing the poetry. How do we bring it back?

We bring it back not by fighting the system and its bureaucracy, but by *ignoring* it. It may be impossible, under the present political conditions, to force the government to take away power from the religious establishment, but no government can confer authority. Rather, we confer authority; every time we turn to the Rabbinate to decide who is a Jew, who may wed whom, or what is kosher, we recognize it as a religious authority. And so, when questions arise that affect the vulnerable—the *gerei tzedek* whose conversions are questioned, the small business owners exploited by corrupt *kashrut* supervisors—and we tell them to just ignore and circumvent the Rabbinate, we are asking them to accept second-class status.

It is the "Jews by birth," the ones with impeccable pedigree, who must begin ignoring the Rabbinate—yes, this means marrying illegally outside the Rabbinate—so that the most vulnerable recognize that we recognize them as full-fledged members, and that even if some bureaucrat has the power to decide otherwise, and he can theoretically lock up the rabbi and the couple that defies the law granting him that power, he does not have the authority to make that power mean something. The couple will be married "in accordance with the law of Moshe and Israel" whether or not the Rabbinate agrees. The convert will be embraced by the community with or without a clerk's stamp of approval. The food will be kosher even if the state bans the use of that word by any entity but an enfranchised local rabbinate.

We don't even need to fight. All we need to do is stop caring what they think of us.

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