

# *Keren*

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אַחַתְּנוּ, אֶתְ הַיּ לְאַלְפֵי רַבָּהּ.

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Journal Editor, RABBA WENDY AMSELLEM

Editorial Board: RABBI JEFFREY FOX, DR. CHAIM TRACHTMAN

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*Keren*

Yeshivat Maharat

3700 Henry Hudson Parkway

Bronx, NY 10463

[info@yeshivatmaharat.org](mailto:info@yeshivatmaharat.org) • 718.796.0590

[www.yeshivatmaharat.org](http://www.yeshivatmaharat.org)

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# About Yeshivat Maharat

Maharat is the first institution to train Orthodox women as Spiritual Leaders and Halakhic authorities, and envisions a world in which Judaism is relevant, Jewish communities are educated, and diverse leaders guide individuals to live spiritually engaged lives. Maharat's mission is to educate, ordain and invest in passionate and committed Orthodox women who model a dynamic Judaism to inspire and support individuals and communities.

Maharat was founded in 2009 as the first yeshiva to ordain women to serve in the Orthodox clergy, after the ordination of Rabba Sara Hurwitz by Rabbi Avi Weiss and Rabbi Daniel Sperber. The word Maharat is a Hebrew acronym for *manhiga hilkhait rukhanit toranit*, one who is a teacher of Jewish law and spirituality. By providing a credentialed pathway for women to serve as clergy, through rigorous study of Talmud, halakhah, pastoral counseling and leadership development, we increase the community's ability to attract the best and brightest into the ranks of its clergy. In addition, by expanding the leadership to include women, we seek to enliven the community at large with a wider array of voices, thoughts, and perspectives.

Now in its 10th year, Maharat has graduated 26 women who are serving in clergy roles in synagogues, schools, hospitals, universities and Jewish communal institutions. There are 31 more students in the pipeline, preparing to change the landscape of Orthodox Judaism and the community at large.



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### Keren III

מֵאֲזֵנֵי צֶדֶק אֲבָנֵי צֶדֶק, אֵיפֶת צֶדֶק וְהֵינן צֶדֶק – יְהִיֶה לָכֶם. You must have an honest or correct (*tzedek*) balance, honest weights and measures.

This is a strange use of the word *tzedek*. One cannot have righteous measurements, and *tzedek* here does not seem to mean justice either. Rambam, in his *Sefer Hamitzvot, Mitzvot Asei* 208, commenting on this verse, explains that the command to have accurate weights and measures, מֵאֲזֵנֵי צֶדֶק אֲבָנֵי צֶדֶק, is a demand of precision and accuracy.

*Tzedek* here means that the measurement must be precise, exact. There is no room for any difference. It implies a rigidity, an inflexibility of sorts. Seen through this light, *tzedek* means strict justice. A world where there is right and wrong, and the only place to be is on the side of justice, of *tzedek*, of being right.

This is Amichai's definition of *tzedek*. It is problematic in that it leaves no room for multiple perspectives. And yet, I often feel that I have *tzedek* on my side. In my bones and heart, I feel that I was right in my pursuit of ordination; despite pushback, I think the path to opening up Yeshivat Maharat for others to pursue their dream of leading and serving the Jewish community is right. It is just. I know that *halakha* permits me to be a leader and I believe that God condones my rabbinate, despite the fact that some say that women should not speak and lead publicly. I know I am right about the issues that matter. And I also know, that there are those who disagree, who have an alternative definition of right. Allowing both of our values to exist within the framework of *halakha* makes for a healthier Orthodox community, where men and women, liberal and conservative — can all find a place to call home.

There is a potentially destructive side to pursuing justice. Hillel and Shammai discuss this in b. *Gittin* 55a, regarding a thief who steals a beam. The *gemara* explains that

תנו רבנן גזל מריש ובנאו בבירה ב"ש אומרים מקעקע כל הבירה כולה ומחזיר מריש לבעליו וב"ה אומרים אין לו אלא דמי מריש בלבד משום תקנת השבין:	[“The beam that has been stolen, (and the thief) went and built it into a large building/palace”:] The Rabbis taught: If a person steals a beam and builds it into a palace, Beit Shammai say that the whole palace must be destroyed in order to restore the beam to its owner. Beit Hillel say that the latter can claim only the monetary value of the beam, so as not to place obstacles in the way of penitents.
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## Introduction

Beit Hillel, of course, is more logical — there is no need to destroy the castle. Something beautiful has flowered and been built on the foundation of the stolen beam. The monetary value of the beam must certainly be returned, but there is no need to destroy the palace. Yet, there is also something compelling about Beit Shammai's view. If the owner wants the beam back, the entire castle must be demolished in order to return the beam in the name of fairness and justice.

It is hard to imagine existing in a world of Beit Shammai's definition of strict justice. According to Beit Shammai, we would live in a society where justice must be achieved no matter what the cost. My exact beam would need to be returned, even if it warranted destroying an entire castle. This is not the reality I want for myself. This is not the world I want my children to grow up in.

Amichai ends his poem with these words:

אבל ספקות ואהבות עושים	But doubts and loves
את העולם לתחוח	Dig up the world
כמו חפרפרת כמו חריש	Like a mole, a plow.
ולחישה תישמע במקום	And a whisper will be heard in the place
שבו היה הבית	Where the ruined
אשר נחרב	House once stood.

For Amichai, the *bayit*, the *birah*, the building, the castle is not worth destroying, in the name of *tzedek*. Being right, does not always merit extreme action.

If we were to not always demand that we are right, we would also allow for more kindness and generosity of spirit. This is hard for me. Sometimes the passion I feel for something that I know to be right — not only about gender, but about social action, about poverty, righting wrongs that I see, I want to do anything to bring about justice. But, when there is only strict justice, when we look at the world with a rigidity of always thinking we are right, there is truly a danger, as Amichai says, of destroying the buildings.

So, how do we pursue *tzedek*? Justice should never exist alone. In our biblical examples of *tzedek*, almost every time the word appeared it is combines with the word *mishpat*. *Tzedek* must be tempered with *mishpat*. It is a softer more welcome kind of justice that implies a multiplicity of approaches. We have to mitigate that sense of unbending justice with compassion, and perspective, and open mindedness. With *tzedek* and *mishpat*.

### *Keren III*

A free and open discussion of ideas is an important way to cultivate an appreciation of diverse perspectives and approaches. We are proud to present our thinking to the community in this edition of the Keren Journal and I look forward to the discussion that will flourish and to the respectful exchange of ideas that will continue to move all of us forward.

# ***A Blessing Redistributed***

TALI ADLER

Rabbi Tali Adler received her undergraduate degree from Stern College for Women, where she double majored in political science and Jewish studies. During her time at Yeshivat Maharat she worked at the Dr. Beth Samuels High School Program, Harvard Hillel, Yeshivat Hadar, Kehillat Rayim Ahuvim, and the New York Presbyterian Hospital. Rabbi Adler received semikha from Maharat in 2018 and is currently a faculty member at Yeshivat Hadar.

## The Question

**I**n the standard reading of Bereishit, we imagine that although previously the Abrahamic blessing has been transmitted to only one chosen son, to the exclusion of other children, this pattern breaks with Yaakov and his sons, and that each of Yaakov's children is an inheritor of the Abrahamic *bracha* in his own right. While Yosef may be the favored son, first receiving the bulk of his father's love and then a double portion through the inclusion of two of his sons in the count of the tribes, he is not understood as the sole inheritor of the Abrahamic *bracha* like Yaakov or Yitzchak before him.

This reading, however, demands that we assume that the pattern of the chosen and unchosen sons simply ends with Yaakov and his children. It is unclear, however, why that might be so: however painful the plight of the unchosen child might be, in the stories of Avraham and Yitzchak it seems obvious that while all sons might inherit some sort of blessing from their father, only one son can be the inheritor of the Abrahamic *bracha*, the covenant that God made with Avraham and his descendants. Why, then, do we assume that that pattern simply ends, abruptly, after three generations, with no explanation? Why do we assume that, unlike his father and grandfather before

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him, Yaakov has the ability — or the desire — to transmit the Abrahamic *bracha* to all of his sons?

There are different possible answers to this question. Perhaps Yaakov's sons are somehow different. Perhaps the very fact that there are twelve of them, instead of the standard two<sup>1</sup>, is meant to indicate to us that we have finally arrived at the state of semi-nationhood, in which *bracha* can be transmitted to all. Perhaps the pattern is not actually a pattern at all, simply an unfortunate consequence of who the two unchosen sons were, and the individual character defects that made them unworthy as inheritors of the Abrahamic blessing.

Each of these explanations is plausible, and deserves further treatment. However, there is another possibility: Yaakov does not break the pattern. Yosef does. In this reading, Yaakov does choose Yosef to the exclusion of his other sons — a choice that is first indicated in the beginning of Yosef's story, and one that is reinforced when Yaakov and Yosef are reunited. In this reading, Yaakov follows the pattern set out by his father and grandfather before him, the pattern of the single chosen son. What is different, in this story, is not Yaakov's choice, but Yosef's. In this paper I will attempt to read the story of Yosef and his brothers as a story in which Yaakov chooses Yosef to the exclusion of his other sons, and in which Yosef, at the end of his life, breaks the pattern of chosenness and unchosenness by making the decision to share the Abrahamic blessing with his brothers.

## The Pattern: Chosen and Unchosen

In order to understand the difficulties in the standard reading of the story of Yosef it is necessary to explore the previous pattern in Bereishit: the pattern of the chosen and unchosen sons. In this pattern, while several children may be blessed, only one can be the recipient of the Abrahamic, covenant blessing that God promised to Abraham and his descendents.

Although the Abrahamic *bracha* is only introduced several chapters (and many generations) later, we first encounter the pattern of chosen and

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1. Although Avraham has six children with Keturah and possibly more with other concubines (Bereishit 25:6), the text never treats them as prospects for the covenantal blessing, as opposed to Yishmael and Yitzchak, the two sons whose births were foretold by God.

unchosen sons with the first pair of siblings in Bereishit, Kayin and Hevel. Initially, Kayin seems predestined to be the favored, chosen son. His birth is treated as a primary event, while Hevel's is treated as a mere addendum<sup>2</sup>. Similarly, while Kayin's mother explains his name as an acknowledgement that she has created a man with God's help, Hevel's name is given no explanation — although the Hebrew meaning of the root *h-v-l*, nothingness, seems to indicate that she did not consider him a son of much importance. This preference for Kayin, however, is soon upended: when the two brothers both bring offerings to God, God shows favor to Hevel and his offering, overlooking Kayin's gift. This seems to be a choice, one that marks Hevel as the chosen son, in contrast to Kayin, who is unchosen. This, at least, seems to be how Kayin understands God's actions. Furious, Kayin murders Hevel, removing his rival for God's favor. Kayin's famous words “*hashomer achi anochi*” (Bereishit 4:9), inaugurate a world in which brothers, forced to compete against each other for the status of chosen son, cannot be each other's keepers. Kayin and Hevel are the tragic beginning to generations of sibling rivalry between chosen and unchosen sons, a pattern that will endure throughout Bereishit.

Although Kayin and Hevel may be rivals for the position of chosen son, we do not encounter the covenantal *bracha* until Avraham is introduced to Bereishit. We first encounter the *bracha* in its original form, transmitted from God to Abraham, when God tells Abraham to depart his homeland for the land that God will show him:

וַיֹּאמֶר יְקֹנֵק אֶל־אַבְרָם, לֵךְ־לְךָ מֵאֶרֶץ וּמְנוּלָדְתְּךָ וּמִבֵּית אָבִיךָ, אֶל־הָאָרֶץ, אֲשֶׁר אֲרָאָה, וְאֶעֱשֶׂהָ, לְגֹי  
גְדוֹל, וְאַבְרָכָהּ, וְאֶגְדֹּלָהּ שְׁמָי; וְהָיְתָה בְרָכָה, וְאַבְרָכָהּ, מִבְּרָכֶיךָ, וּמִשְׁלָלֶךָ, אִמּוֹ; וּנְבָרְכֶךָ בָּהּ, כָּל מִשְׁפַּחַת  
הָאָדָמָה (בראשית יב:א-ג).

This iteration of the Abrahamic *bracha*, the first we encounter, contains two main elements: the promise that Abraham's descendants will become a great nation and that he will have the ability to transmit blessing (and curses) to those around him. Later, when Abraham arrives in Canaan, another element is added to the blessing: the promise of land:

וַיֹּדֵא יְקֹנֵק אֶל־אַבְרָם, וַיֹּאמֶר, לְזָרְעֶךָ אֶתְּנוּ אֶת־הָאָרֶץ הַזֹּאת; וַיָּבֹן שָׁם מִזְבֵּחַ, לִיקְנוֹק הַנְּרָאָה אֵלָי  
(בראשית יב:ז).

By the time Avraham dies, God's blessing to Abraham contains three elements:

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2. וְתִסְפָּף לְלֵדָת, אֶת־אֲחִיו אֶת־הָבֵל (בראשית ד:ב).

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the promise that Abraham's descendants will become a great nation, the promise of land, and the promise of the ability to transmit blessing.

Beginning with Avraham, the covenantal *bracha* may only ever be inherited by one child. God first makes this point when Avraham, who already has a son, Yishmael, with his handmaiden, Hagar is informed by God that he will have another son, Yitzchak, with his wife Sarah.

וַיֹּאמֶר אֱלֹקִים, אֲבֵל שָׂרָה אִשְׁתְּךָ יֵלְדָת לְךָ בֵן, וְקָרָאתָ אֶת-שְׁמוֹ, יִצְחָק; וְהִקְמֹתִי אֶת-בְּרִיתִי אִתּוֹ לְבְרִית עוֹלָם, לְזָרְעוֹ אַחֲרָיו וְלִישְׁמַעֲאֵל, שְׁמִעְתִּיךָ – הִנֵּה בְרַכְתִּי אֹתוֹ וְהִפְרִיתִי אֹתוֹ וְהִרְבִּיתִי אֹתוֹ, בְּמֵאֵד מְאֹד. שְׁנַיִם-עָשָׂר נְשִׂאִים יוֹלֵד, וְנִתְתִּי לְגוֹי גָדוֹל, וְאֶת-בְּרִיתִי, אֶקִּים אֶת-יִצְחָק, אֲשֶׁר תֵּלֵד לְךָ שָׂרָה לְמוֹעֵד הַזֶּה, בְּשָׁנָה הָאַחֶרֶת (בראשית יז:ט-כא).

In these *pesukim*, God not only informs Avraham of Yitzchak's impending birth, but announces that it is Yitzchak, not Yishmael, who will be the inheritor of God's covenant with and promises to Avraham. While God promises that Yishmael will be blessed as well, only one son can be the inheritor of the covenant, and that son — the chosen son — is Yitzchak. Yishmael, the unchosen son, will be the father of many nations, but it is Yitzchak who will carry the Abrahamic covenant with God, the covenant that links Avraham's family to God and the land they have been promised.

After Avraham's death, God appears to Yitzchak and affirms him as the inheritor of the covenantal blessing:

וַיֵּרָא אֵלָיו יְקֹקֵוֹ וַיֹּאמֶר אֵל-תֵּרַד מֵעַרְוִמָה. שָׁכֵן בְּאֶרֶץ, אֲשֶׁר אִמְרָ אֵלֶיךָ. גֹּר בְּאֶרֶץ הָאֲדָמָה, וְהָיָה עִמָּךְ וְאַבְרָכָה. כִּי-לֹךְ וְלִזְרַעְךָ, אֲתוֹן אֶת-כָּל-הָאָרְצוֹת הָאֵל, וְהִקְמֹתִי אֶת-הַשְּׂבָעָה, אֲשֶׁר נִשְׁבַּעְתִּי לְאַבְרָהָם אָבִיךָ. וְהִרְבִּיתִי אֶת-זֶרְעֶךָ, כְּכֹכְבֵי הַשָּׁמַיִם, וְנִתְתִּי לְזֶרְעֶךָ, אֶת כָּל-הָאָרְצוֹת הָאֵל, וְהַתְּבָרַכְוּ בְּזֶרְעֶךָ, כָּל-גּוֹי הָאָרֶץ. עַקֵּב, אֲשֶׁר-שָׁמַע אֲבָרָהָם בְּקֶלְי; וַיִּשְׁמֹר, מִשְׁמֵרְתִּי, מִצִּוְתִי, חֲקוּתִי וְתוֹרָתִי (בראשית כב:ה-).

This blessing contains the three original elements: the promise of land, the promise of numerous descendents, and the ability to transmit blessing to others. This time, though, the blessing contains an additional element: the identification of the blessing with Avraham. God emphasizes that the *bracha* is transmitted to Yitzchak because of his descent from Avraham and the promise that God made to him. These elements will reappear when Yaakov inherits the covenantal blessing — and, importantly, will be present in Yaakov's blessings to Yosef, and absent in those he gives his other sons.

This pattern of the chosen and unchosen children continues with Yitzchak's children, Yaakov and Esav. Once again we encounter two children, only one of whom can be the inheritor of the covenant. Although it is initially

assumed that Esav, the older son, is destined to inherit the covenant, Yaakov conspires first to have Esav sell him the birthright in exchange for a bowl of lentils, and then, later, disguises himself as Esav in order to fool his nearly blind father into giving him the blessing. The plot succeeds, and Yitzchak blesses Yaakov, thinking that he is actually blessing Esav:

וַיִּתֵּן-לֵךְ, הַאֱלֹקִים. מִטַּל הַשָּׁמַיִם. וּמִשְׁמֵנֵי הָאָרֶץ – וְרֵב דָּגָן, וַיִּתְּרֶשׁ. יַעֲבֹדוּךָ עַמִּים. וַיִּשְׁתַּחוּ (וַיִּשְׁתַּחֲוּ) לְךָ לְאֵמִים – הַנְּהוּ גְבִיר לְאֶחָיִךְ, וַיִּשְׁתַּחֲוּ לְךָ בְּנֵי אִמָּה; אֲרֻרֶיךָ אָרוּר, וּמְבָרְכֶיךָ בְּרוּךְ (בראשית כז:כח-כט).	May God give you from the dew of heaven, and of the fat of the earth, and plenty of wheat and wine. Nations will serve you, and peoples will bow to you. Be lord over your brothers, and let your mother's sons bow to you. Those who curse you will be cursed and those who bless you will be blessed (Bereishit 27:28–29).
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Esav quickly discovers his brother's deception. In one of the Torah's most heartbreaking scenes, which underscores the tragedy of the rejected son, Esav begs his father for a blessing of his own. Yitzchak blesses Esav, but makes it clear that he cannot give him the same blessing that he gave Yaakov; that blessing once granted cannot be taken back, and, it seems, cannot be shared. Instead of the Abrahamic blessing, Esav receives a blessing for material success and the occasional ability to overcome his brother's dominance. Notably absent from this blessing are the Abrahamic elements: fertility, relationship with God, the ability to bless, and the the promise that his descendants will be entitled to the promised land.

For Yaakov, the Abrahamic blessing actually comes in two waves: the first, as noted above, he receives when he disguises himself to steal the blessing Yitzchak had intended for Esav. The second, however, is given when he is about to depart for Haran to evade Esav's murderous rage. Before he departs, Yitzchak (knowingly, this time) blesses him:

וְאֵל שְׂדֵי יִבְרַךְ אֶתְּךָ, וַיִּפְרֹךְ וַיִּזְרְבֶהָ; וְהָיִיתָ, לְקַהֲל עַמִּים. וַיִּתֵּן-לֵךְ אֶת-בְּרִכַּת אַבְרָהָם, לְךָ וּלְיִצְחָק אֶתְּךָ –  
לְדֹשְׁתֶּךָ אֶת-אֶרֶץ מִגְרִיךָ, אֲשֶׁר-נָתַן אֱלֹקִים לְאַבְרָהָם (בראשית כח:ג-ד).

This second blessing, unlike the first, explicitly invokes the Abrahamic covenant: it refers to the blessings of Abraham, and promises that that blessing will be extended to Yaakov's children after him as well. Just as God emphasized the familial, ancestral aspect of the *bracha* when God transmitted it to Yitzchak, Yitzchak emphasizes that aspect in transmitting it to Yaakov in turn — this time going so far as to coin the phrase “*birkat Avraham*,” Avraham's blessing.

### Keren III

Yitzchak is not simply blessing Yaakov as any father might bless a son; he is choosing him — however forced that choice may be — as the recipient of the familial, Abrahamic blessing, a blessing he will transmit to his descendants in turn.

The pattern and language of the covenantal blessing, then, have been clearly established by the time we are introduced to Yaakov's sons. The blessing may only be transmitted to one son to the exclusion of the others (even when deception or heartbreak is involved) and contains identifiable elements: the promise of land, fertility, the ability to transmit blessing, and a direct link to Avraham. These elements will all be associated with Yosef in the story of Yaakov's sons, and markedly absent from his brothers and their blessings.

## Yosef as the Chosen Son

אֵלֶּה תְּלִדוֹת יַעֲקֹב, יוֹסֵף בְּרִשְׁבֵּעַ-עֶשְׂרָה שָׁנָה הָיָה...

With these words, Bereishit 37 introduces us to the story of Yosef and his brothers — or, more specifically, the story of Yosef versus his brothers.

From the beginning, Yosef is designated as special. Rather than reintroducing us to all twelve of Yaakov's sons as one imagines a verse that begins with “these are the generations of Yaakov” might do, we are introduced only to Yosef, Yaakov's designated and obvious favorite. Yaakov feels uncompelled to hide his favoritism for Yosef, going as far as to make Yosef a *ketonet pasim*, a garment that seems to indicate Yosef's special status.

The exact translation and nature of the *ketonet pasim* is famously obscure. What we do know, is that we encounter the phrase “*ketonet pasim*” only one other time in *Tanach*, in 2 Samuel 13:18–19 where we are told the *ketonet pasim* is worn by the king's virgin daughters. In this context, the *ketonet pasim* seems to be a sign of royalty. Indeed, the Sforno states that the *ketonet pasim* “indicated that Yosef was to be the leader in the house and field, just as we find Elyakim being figuratively enrobed with the mantle of Shevna, as an expression of his assumption of authority” (see Isaiah 22:21). In this reading, the *ketonet pasim* is a sign that Yosef is not just beloved, but different; marked for a different fate than his brothers. Yosef, cloaked in the *ketonet pasim*, is elevated above his brothers, a sort of aristocrat among shepherds. It seems, then, that the *ketonet pasim* is not just a marker of Yaakov's love for Yosef, but

of Yosef's elevated, chosen status among his brothers. Although Yaakov has many children, only one child is destined to inherit Yaakov's status as the carrier of blessing, as Yaakov's true heir and the heir to the covenantal blessing. Yaakov, and the Torah itself, are not simply marking Yosef as a favorite son but as a covenantal chosen one.

Yaakov's choice of Yosef is not arbitrary. The text informs us that Yaakov loves Yosef the most because he is his *ben zekunim*, the child of his old age. This phrase is difficult to understand: Yosef, after all, is not Yaakov's youngest son. If the phrase *ben zekunim* simply means a child who is the favorite because he was born in his father's old age, it would make more sense for Binyamin, Yaakov's youngest, to be Yaakov's *ben zekunim*. Additionally, as several commentators point out, there does not seem to be any significant age gap between Yosef and several of his older brothers. At most, Yaakov's final children with Leah are likely only a year or two older than Yosef, hardly the sort of significant age difference that would make Yosef a favored child of old age in contrast to his brothers.

It seems, in context, that "*ben zekunim*" does not simply indicate a child born in the parent's old age, but something else as well: a much-anticipated child born in a parent's old age. Yosef is not the favorite simply because he was born to Yaakov when Yaakov was old, but because Yosef is the much-anticipated, prayed for child of Rachel, Yaakov's favorite wife, finally born when his father is old<sup>3</sup>. If this is the case, then Yosef is similar, in many ways, to Yitzchak: a child born of a designated/favorite wife to a father who already has other children. In telling us that Yosef is the favorite because he is a *ben zekunim* the text links Yosef to Yitzchak, another chosen son whose birth narrative centers around his parents advanced age.

Yosef, then, is not simply his father's second-to-youngest (more specifically, eleventh-born) son, who becomes his favorite because he is born when his father is old. Instead, Yosef is the favorite because he is the much anticipated oldest son of Yaakov's favorite wife — one of two potential "*bechor*"s and inheritors of the covenantal blessing. Reuven, Leah's oldest son and other possible *bechor*, has disqualified himself from that position as heir through his actions with Bilhah, his father's concubine. In fact, Leah's three oldest children have all seemingly disqualified themselves — Reuven, through his

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3. In fact, Yaakov only leaves Haran once Yosef is born, an indication that he may have been waiting for Yosef's birth to return to the covenantal land.

### Keren III

actions with Billhah, and Shimon and Levi through their actions in Shechem. Yosef, Rachel's oldest son and Yaakov's second "bechor" is, in many ways, the next logical choice — if not directly after Reuven (although I would argue that Yosef would be a logical choice as second-in-line, as the second possible bechor), then certainly after Leah's first three children.

In addition to being a bechor, Yosef fits the pattern of the covenantal heir established in previous generations. Like Yitzchak and Yaakov, Yosef is one of two children. Similarly, like Yitzchak and Yaakov, Yosef is a son born after an extended period of barrenness and, implicitly at least, an appeal to God.

The idea that Yosef seems to fit the role of a single, chosen son is not a new one. The Malbim, in his commentary on Bereishit, argues that this is, in fact, how Yosef's brothers interpreted the situation:

ולכן וישנאו אותו, והוא כי עד עתה רק אחד מן הבנים היה הלב והסגולה ויתר הבנים היו כקליפות, וישמעאל נדחה מפני יצחק ועשו מפני יעקב, ויצחק ויעקב ירשו ברכת אברהם: הבכורה והברכה וירושת הארץ והדבוק האלקי, ... ובאשר לא ידעו השבטים שעתה יתנוצץ הענין האלקי על מטה שלמה ושכל שבטי קה יהיו לב וסגולה, וראו שיעקב אהב רק את יוסף, חשבו שזה מפני שחושב שהוא הלב והסגולה ויתר בניו כקליפות, ובפרט שעשה לו כתנת פסים שמורה שרוצה ליחדו לעבודת ה' ולתת לו מעלת הבכורה (מלבים על בראשית לז:ד).	And as a result they hated him; because until now only one of the sons would be the chosen one, and the rest like extraneous husks. Yishmael was pushed away because of Yitzchak and Esav pushed away because of Yaakov, while Yitzchak and Yaakov inherited Avraham's blessing: the birth- right, the blessing, the inheritance of the land, and the connection to God... And since the tribes did not know that now the Divine Matter sparked over a complete bed, and that all the tribes of God would be chosen, they saw that Yaakov loved Yosef alone, and thought that because of this, he was the chosen son and the rest of them would be extraneous, and they especially thought this because Yaakov made Yosef a <i>ketonet pasim</i> which showed that he wanted to single him out to worship God and to give him the birthright (Malbim on Bereishit 37:4).
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The Hoil Moshe, a nineteenth century Italian commentary, similarly argues that Yosef's brothers assume he is to be Yaakov's exclusive heir:

המלך תמך עלינו – אחי יוסף קנאו בו כי יראו פן יחשבהו יעקב בכור, ואחרי מות אביהם יצטרכו ללכת אל ארץ אחרת.	Will you indeed rule over us — Yosef's brothers were jealous of him lest Yaakov consider him the <i>bechor</i> and after their father died they would have to go to a different land.
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While the Malbim and Hoil Moshe think that the brothers were mistaken, we have every reason to think that the brothers were correct — that, in fact, at this point Yaakov does intend to choose Yosef as the intended inheritor of the covenantal blessing to the exclusion of his siblings. At this point in the narrative, there is no reason to think that the brothers were incorrect in their assessment. In choosing Yosef to the exclusion of his siblings, Yaakov is following the pattern established by his father and grandfather before him.

Yaakov's other sons are understandably angry. In choosing Yosef, Yaakov is not simply perpetuating the cycle of chosen and unchosen, which, in and of itself, may have caused jealousy between brothers. By going “out of order” to favor his second wife's firstborn, Yaakov is subverting the actual birth order of his sons. While Yosef is, indeed, a firstborn, among Yaakov's family he is also the eleventh son. In choosing Yosef, Yaakov is once again choosing his second, more beloved wife, Rachel, over his first, non-chosen wife, Leah. Yosef's dreams, to the brothers, are confirmation of their suspicions. They affirm that Yosef is that chosen son — and, furthermore, that he may use his status as the covenantal heir to rule over them, a prerogative that has not been exercised by any previous covenantal heir.

## Yosef's Sale

It is this, perhaps, that explains, at least in part, why the brothers take such drastic action. They are not furious at the fact that one brother is to receive the covenantal blessing to the exclusion of the others, or because Yaakov favors one brother more than the others. What the brothers cannot tolerate is that Yaakov's favoritism causes him to choose the wrong son. It may be only right that one son should be chosen as the inheritor of the covenant, but that brother should be chosen according to the order sons were born to Yaakov — not the order in which they were born to his wives. From this perspective, once Reuven, Shimon, and Levi have disqualified themselves, it is Yehudah, the fourth born, who should inherit the covenant — not Yosef, Yaakov's eleventh son. (Interestingly, it is Reuven, the first born and would-be *bechor*, who convinces the other brothers to cast Yosef into a pit rather than murder him, and Yehudah, the would-be inheritor, who convinces the brothers to sell him rather than spill his blood.)

### Keren III

This anger — anger that the blessing has been promised to the wrong son, a son who should not, according to birth order, be first in line to inherit — mirrors Esav's anger when Yaakov, his younger brother, steals the *bracha* from him. Unlike Yaakov, however, Yosef has no mother to send him away from home to wait out his brothers' homicidal anger. In the absence of a protective mother, fratricidal anger over the subversion of the birth order takes its course, resulting in Yosef's sale. The would-be fratricide also recalls the story of Kayin and Hevel, the first murder in the Torah and the story in which we are first introduced to the idea of a chosen and unchosen child (demonstrated when God accepts Hevel's offering and rejects Kayin's). Here, however, murder is averted.

The brothers strip Yosef of his *ketonet pasim*, the symbol of his status as the chosen son. This seizure of clothing echoes Yaakov's earlier theft of Esav's clothing in order to steal his birthright. Here, however, the brothers cannot fool their father by donning Yosef's garments, and, instead, shred the garment. While they may succeed in removing the symbol of the *bracha* from Yosef, no other brother can convincingly don the symbol himself.

Once Yosef has been stripped, the brothers decide not to murder him, but to sell him instead. Notably, Yosef is removed from the pit by a band of Ishmaelites. Yishmael is, in many ways, the symbol of the "unchosen" son: not only is he himself supplanted by his younger brother, but the Torah records that Esav, after the *bracha* is stolen from him, marries one of Yishmael's daughters — symbolic, perhaps, of his new status as an unchosen son. By passing Yosef to the Ishmaelites, the brothers are literally removing him from Yaakov's chosen, covenantal tribe, and sending him to dwell among the unchosen.

The brothers then dip Yosef's *ketonet pasim* in blood in order to trick their father into believing that Yosef has been devoured by a wild animal. The brothers use the blood of a goat, the same animal Rivka used to pass Yaakov off as Esav. Perhaps they hope that, having rid themselves of Yosef, they will be able to use the garment and goat much the same way Yaakov used Esav's garment and the *gdi izim*, young goat, to convince their father that, in Yosef's absence, one of them should be chosen as the rightful heir in his place. Yaakov, however, refuses to be comforted. He continues to long for Yosef, and does not choose another son in his place.

## Yosef in Egypt

Despite the brothers' best efforts, Yosef continues to play the role of covenantal heir. Much like God was with Yaakov when he left Canaan to go to Haran to escape his brother's anger, Yosef, in exile because of his brothers' hatred, is still accompanied by God. Just as Yaakov never has a direct relationship with God until he is forced to leave home, Yosef's exile and servitude seem to build a previously absent relationship with God. Like Yaakov before him, Yosef is in exile and servitude in a foreign land. Similarly, like Yaakov and Yitzchak (and as promised in the covenantal blessing) Yosef acts as a transmitter of blessing to those around him.

The language of *bracha* is repeatedly associated with Yosef in Egypt. Upon Yosef's arrival as a slave in Potiphar's house, we are told that his master sees that God is with Yosef. While God does not communicate directly with Yosef, the text makes it clear that God is with him, much as God promised to be with Yaakov when he fled to Haran<sup>4</sup>. Yosef flourishes in Potiphar's household, which is blessed on his account:

וַיְבָרֶךְ יַקְנוֹק אֶת בֵּית הַמִּצְרַיִם בְּגַלְלֵי יוֹסֵף וַיְהִי בְרַבְּתָּהּ יַקְנוֹק בְּכָל אֲשֶׁר יֵשׁ לוֹ בְּבַיִת וּבְשָׂדֶה (בראשית לט:ה).

Once again, this language is reminiscent of Yaakov's experience in Haran, where Lavan realized that he was blessed on Yaakov's account:

וַיֹּאמֶר אֱלֹהֵי לָבָן, אִם-נָא מִצְאָתִי חַן בְּעֵינַיִךְ; נַחֲשֵׂתִי, וַיְבָרְכֵנִי יְהוָה בְּגַלְלֶךָ (בראשית ל:כז).

These two repeated tropes — God being with Yosef, and blessing those around him on his account — continue to mark Yosef as the inheritor of the covenant. While Yosef's brothers may have thought that by removing Yosef from the family and from Canaan, they were effectively removing him from the line of inheritance, the Torah immediately affirms for us that Yosef is still favored by God, and has the ability to transmit blessing to those around him, a marker of the covenantal heir.

Yosef does not simply passively accept God's help, but actively remarks upon it to those around him. Collectively, Yosef mentions “*Elokim*” seven times to the Egyptians around him; the first to Potiphar's wife when he refuses to sleep with her, the second to the baker and butler in prison when he tells

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4. וַהֲנֵה אֲנֹכִי עִמָּךְ, וְשִׁמְרֹתֶיךָ בְּכָל אֲשֶׁר-תִּלְכֶּה, וְהִשְׁבַּתֶּיךָ, אֶל-הָאָדָמָה הַזֹּאת. כִּי, לֹא אֶעֱזָבְךָ, עַד אֲשֶׁר אִם-עָשִׂיתִי, אֶת אֲשֶׁר-דִּבַּרְתִּי לָךְ (בראשית כח:טו).

### *Keren III*

them that all dream interpretations come from God, and five times when he interprets Pharaoh's dream and implores him to pick a man of God to help him run the kingdom. The seven mentions, which indicate a complete unit, may indicate Yosef's completed transformation from a child enamored with his own destiny and unaware of God's involvement in his life to a mature man of God who is aware of the ultimate source of his own success.

While Yosef matures religiously throughout his time in Egypt, it is only when he is brought before Pharaoh that he finally ascends to the status that his dreams predicted so many years ago. Pharaoh's dreams, in many ways, recall Yosef's own: the sheaves of wheat in Pharaoh's dreams hearken back to those that appeared in Yosef's. This similarity is, perhaps, an indication that these dreams (or, more accurately, their interpretation) will lead to the fulfillment of Yosef's long deferred dreams.

Pharaoh's dreams, with their clear demarcation between good cows and sheaves, symbolic of abundance, and the bad, famished ones, are reminiscent of the marked divide we have experienced so far in Bereishit between chosen and unchosen sons: some sons are recipients of the covenantal blessing, recipients of abundance, while others are unchosen, destined for deprivation. Notably, the language used to describe the healthy cows, *yefot mareh*, is the same language the Torah uses to describe Yosef's beauty. (One cannot help but wonder if, in hearing how the famished, deprived cows devour the healthy, beautiful cows, Yosef recalls his own attack by his unchosen brothers.) Yosef's genius in this moment is not simply the interpretation of the dream — the ability to see abundance and deprivation, and to predict which will come when, which will be assigned to whom — but to realize that there is something that can be done about it. Yosef's suggestion to save from times of abundance for times of scarcity is unique in Bereishit, and seems surprising to those around him. Yosef's unique genius is the ability to see abundance and deficit and to share between the two so that there is enough to go around. It is this ability, perhaps, that will allow Yosef to see past the chosen/unchosen dichotomy, and to share his abundance (the blessing) with his brothers.

With his interpretation of Pharaoh's dreams and his subsequent ascent to the throne, Yosef's time of suffering and servitude draws to a close. The text informs us that Yosef is thirty years old, the first mention of Yosef's age since his sale to Egypt. This completes the story of Yosef's youth, enveloping it with two mentions of his age; the first, at the beginning of his story, when Yosef is a seventeen year old inspiring hatred among his brothers as a shepherd, and

the second, with Yosef as a thirty year old man who has ascended to incredible power in Egypt. He is not only powerful, but a symbol and provider of abundance: he accumulates food as abundant as “the sand of the sea,” language similar to God’s promise to Avraham regarding his descendants — another reminder that Yosef, even in his role as the second most powerful man in Egypt, is still the chosen inheritor of Avraham’s blessing, including the promise of fertility and abundance (expressed through the name he gives his second son Ephraim, which he explains as “God has made me fertile in the land of my suffering” (Bereishit 41:52)) and the ability to provide blessing to all nations. This particular ability is more pronounced in Yosef than in any other covenantal heir we have previously encountered: while Avraham, Yitzchak, and Yaakov all carry blessing to those around them, carrying gifts of prosperity and fertility to those they encounter, Yosef actually supports multiple nations through his efforts in Egypt.

## Yosef and His Brothers Reunited

Like the contrast between the healthy cows and starving cows in Pharaoh’s dreams, the contrast between Yosef’s success and fertility in Egypt and his family’s starvation in Canaan is stark. We are reintroduced to Yaakov and his family though Yaakov’s agitated question to his sons: *Why are you keeping up appearances?*<sup>5</sup> This language immediately indicates a strained relationship between Yaakov and his remaining sons; Yosef’s loss and the experience of famine, rather than creating closeness between Yaakov and his remaining sons, seems to have created more distance. Yaakov commands his sons to go down to Egypt to procure food. Their situation at this point is dire, underscored by Yaakov’s closing words: that we may live and not die.

Although Yaakov demands that his sons go to Egypt to procure food, he does not allow Binyamin, his youngest son, to go with them. Yaakov treats Binyamin specially as his one remaining son from Rachel. It may be that this is not simply out of love for Rachel, but because he sees Binyamin as his other possible heir in Yosef’s absence. Binyamin’s absence and Yaakov’s special treatment of his last remaining son by Rachel will soon become the crux of the

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5. בראשית מב:א.

### Keren III

reunion between Yosef and his brothers. Yosef will judge his brothers by how they relate to Yaakov's special treatment of this youngest, special son, and how they treat Binyamin in turn. In their conversations with Yosef, the brothers will reveal how they relate to each other, to Binyamin, to Yosef, and to their father by how they tell the story of their family, an account that changes dramatically over the course of their meetings. Ultimately, it is the change in the way the brothers tell their story, going from a narrative that tells the story of their family as they wish it was to the story of their family as it actually is, that will be the key to Yosef's trust.

In chapters 42–44 of Bereishit, the brothers give several accounts of their family structure. In the beginning, these accounts echo the reality the brothers wish for: an account where they are simply ten brothers, sons of the same man, without the added complications of Rachel's two sons, the sons for which Yaakov is willing to upend birth order in passing on the covenantal blessing. In fact, when the brothers are first brought before Yosef, they do not acknowledge the difference between Binyamin and the rest of Yaakov's sons at all. They tell Yosef that they are ten brothers, completely ignoring the existence of Yaakov's two favored sons by Rachel.

When Yosef prompts them, accusing them of being spies, the brothers expand their definition of themselves, acknowledging that they are, in fact, twelve brothers, although the youngest is at home and one is "absent." Even in this, however, the brothers elide any possible differences between them. They do not mention that they have multiple mothers, much less multiple mothers with different ranks within the family. Even in explaining that Binyamin is at home, the brothers simply refer to him as the youngest, making it seem like Binyamin remains at home because of his age, rather than his treasured status as Rachel's only remaining son and, implicitly, Yaakov's remaining heir. The brothers describe themselves as they wish Yaakov saw them, all as children of one father, equally valuable regardless of which mother they come from.

It is only in their final encounter with Yosef, after he has accused Binyamin of stealing, that the brothers change their narrative to one that more fully reflects their complicated, painful reality. Yehudah explains "שֵׁשׁ-לָנוּ אָב זָקֵן, וְיֶלֶד־זָקֵן" (Bereishit 44:20). Here, for the first time, Yehudah explains that Yaakov's sons have different mothers, and that two of those sons were special to Yaakov because of their mother. Yehudah not only centers Rachel's two children, he describes Binyamin as Yaakov's "yeled zekunim," a term that is similar to the phrase "ben zekunim" that was

previously used to indicate Yosef's status as the chosen son, indicating that he understands and accepts that, in Yosef's absence, Binyamin, Rachel's only remaining son, will likely become the covenantal heir. This account of the brothers' family is significantly different from the previous narratives. In this account, Yehudah acknowledges what the brothers have been trying to fight all along — that their father had a favorite wife, and sees that wife's children as his primary sons. Yehudah goes so far as to quote his father's words to them “אָתָּם דָּעַתָּם, כִּי שְׁנַיִם בָּרָאָה לִי אִשְׁתִּי” (Bereishit 44:27). These words are doubly painful — they refer to Rachel simply as “my wife,” not “one of my wives,” and states simply “my wife gave me two sons,” with no mention of Yaakov's ten other children — a far cry from the brothers original narratives, in which they described themselves simply as ten sons of the same man, excluding Rachel's children entirely.

In this moment, Yehudah has the opportunity to allow Binyamin to be taken by Yosef, and to remove Rachel's children from the family. It is likely that if Binyamin is taken away, Yehudah will become the presumptive heir. Similarly, with Binyamin removed from the family, they might actually become the family the brothers described in their first meeting with Yosef in Egypt: ten sons of one father, all of equal status, regardless of mother.

Instead, Yehudah accepts his father's understanding of his family, an understanding that originally led him and his brothers to sell Yosef into slavery. Yehudah not only accepts his father's account of the family, but is willing to sacrifice himself to prevent his father from suffering. (Interestingly, Yehudah's sole concern here seems to be his father's suffering. He has not yet come so far that he is willing to sacrifice himself to avoid Binyamin's suffering.<sup>6</sup>)

It is not only Yehudah's willingness to sacrifice himself to save Binyamin that leads Yosef to reveal himself, but his willingness to accept the reality of their family as it is — brothers with different mothers, with different statuses, and one, more beloved, and chosen to the exclusion of the others. Yehudah's acceptance of this reality tells Yosef what he needs to know: that his family can accept its reality, and, by extension, his place within it. The brothers' narrative, which gradually expands to include Rachel's children and then to grant them the reality of their elevated position within it, a position that once brought them dangerously close to fratricide, has finally become one that can

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6. My teacher Wendy Amsellem points out that even now, Yehudah might think Binyamin actually deserves to suffer if he stole the goblet.

include Yosef within it as well. The Yosef who reveals himself to his brothers is a Yosef who is sure, at last, that his brothers are ready to accept him and his place as the chosen son within the family<sup>7</sup>.

## Yaakov's Blessings

Yaakov, when he can finally bring himself to believe the news that his beloved son is alive, immediately sets out for Egypt in order to see his son before he dies. As he sets out on his journey, accompanied by his entire household, God appears to him one last time. God tells Yaakov not to be frightened, and informs him that He will accompany Yaakov down to Egypt, and, more importantly, that He will bring him — and, by implication, Yaakov's chosen descendents — back to the land once again. This promise is a renewal of the Abrahamic covenant at a moment of fragility. For twenty-two years, Yaakov has believed that his chosen son, the son who was destined to inherit the covenant, was dead. This, coupled with near starvation in famine, Shimon's imprisonment, and Yaakov's desperate decision to allow Binyamin to accompany his brothers down to Egypt, may well have led Yaakov to question the terms of the covenant — whether he, Yaakov, was still the carrier of the *bracha*, and whether any of his sons would inherit that covenant after him. In appearing to Yaakov for the first time since Yaakov returned to the land decades earlier and promising him that even though he is leaving the land to go to Egypt, God will bring Yaakov's descendents out of Egypt and back to the land once again, God is assuring Yaakov that the covenant is still live. It seems that when God ends that promise by assuring Yaakov that he will die with Yosef at his side, God is not simply reassuring an old man who has lived for years believing that his beloved son is dead that their reunion will be final, but marking Yosef as the appropriate inheritor of this renewed covenant.

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7. Yehudah and Yosef play off of each other's strengths. Yehudah is a man who has the ability to accept difficult truths, as he does when he acknowledges his paternity of Tamar's unborn child. Yosef is a person who can not only see the world as it is, but decide how to use that reality to create a better one (eg., in his interpretation of Pharaoh's dream and his suggestion for how to survive and profit from the famine). It is Yehudah's acknowledgment of the difficult truth about the family that allows Yosef to reenter the family and, as we will discuss, change the reality of the family by choosing to share his blessing with his brothers.

This, at least, is how Yaakov seems to interpret God's promise. Before his death, Yaakov calls Yosef and his two children, Ephraim and Menashe, to his bedside. This moment is the climax of Yaakov's reunion for Yosef: the moment in which Yaakov will pass the covenantal *bracha* to Yosef and his sons — to the exclusion of Yosef's brothers. This is the first of two waves of blessing Yaakov will transmit to Yosef (the second occurring one chapter later, when Yaakov tells his children what will happen "in the end of days;" reserving the language of covenantal blessing for Yosef alone). This scene resembles, in many ways, Yitzchak's (accidental) blessing of Yaakov. It is a type scene, in which a patriarch calls a chosen son in order to bless that son before the patriarch dies.

There are three "keys" in this scene which indicate that Yaakov is, in fact, choosing Ephraim and Menashe as his covenantal heirs to the exclusion of his other sons. The first is Yaakov's adoptive language. Yaakov begins by recounting God's promise to him that he will become a "*kehal amim*" (Bereishit 48:4) and that he and his descendants will inherit the land of Canaan. Immediately after recounting this promise, Yaakov turns to Yosef's two sons, and says that they will be to him like Reuven and Shimon. What is the meaning of this obscure statement? While many explain that "like Reuven and Shimon" simply means that Ephraim and Menashe will become tribes in their own right, like all of Yaakov's sons, I believe that the choice of sons, Reuven and Shimon, is significant. Reuven and Shimon, Yaakov's two oldest children, would have inherited the *bechora* and covenantal blessing if not for their mistakes. By stating that Ephraim and Menashe are like "Reuven and Shimon" to him, Yaakov is stating that Yosef's two children — and, by extension, Yosef himself — are his primary heirs. As in previous generations, there are two primary heirs, one of which (as Yaakov points out when he switches his hand, designating Ephraim as the *bechor* instead of Menashe) will be the primary, covenantal heir, destined to become the greater nation, while the other still inherits the "consolation blessing" of at least becoming a great nation in his own right.

The second key indicator in this scene is Yaakov's invocation of his ancestors in blessing Ephraim and Menashe. When he places his hands on Ephraim and Menashe's heads, Yaakov invokes his father and grandfather, Avraham and Yitzchak. As noted above, this is a key feature in the transmission of the covenantal blessing. While many sons may be blessed, we have only Avraham mentioned in connection with *bracha* when it is his *bracha*, the Abrahamic blessing, that is being transmitted. Significantly, Yaakov never mentions Avraham and Yitzchak when blessing any of his other sons. Furthermore, in

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blessing Ephraim and Menashe, Yaakov says that that they should be called in his name — that is, that they should be the carriers of his name, and, implicitly, his heritage. Yaakov emphasized this when he says that all of Israel should bless their children in Ephraim and Menashe's names. In the context of the birthright, this is not arbitrary. (After all, although Jews today do bless their children in Ephraim and Menashe's names, it is strange to bless your children in the name of people who are not their ancestors.) Instead, Yaakov is marking Ephraim and Menashe as the designated patriarchs of the chosen people.

Third, and perhaps most importantly, Yaakov repeatedly promises, in this scene, that Yosef and his children will return to the land. While this is often interpreted as a general promise to all of Yaakov's children, it is notable that Yaakov only says this when alone in a room with Yosef and his children, and not in the next scene when he blesses the rest of his sons. Yaakov's words "God will be with you and return you to the land of your ancestors" (Bereishit 48:21), is directed only to Yosef and his sons. It seems, at this point, that only Yosef and his sons are promised an eventual return to the land. The rest of Yaakov's sons, like Yishmael and Esav before them, may be destined to find their fortune elsewhere. At this point we have every reason to believe that Yosef and his sons will be Yaakov's sole covenantal heirs, and that the eventual return to the land is promised to them alone.

Yosef's status as the covenantal heir is further affirmed in Yaakov's final gathering of his sons, in which he describes each of them and blesses them accordingly. Yosef's *bracha* contains several elements, lacking in the others, that mark it as the covenantal blessing. Yosef's blessing is the only one of the twelve that actually uses the root "*b-r-ch*," which also appears throughout Yosef's story and his time in Egypt. The root appears six times in Yosef's blessing, which, when combined with the final rejoinder regarding all twelve of the sons "אִישׁ אֶשֶׁר כָּבְדָתוֹ, כִּבְדָה אֶתֶם" (Bereishit 49:28) creates a unit of seven. Furthermore, Yosef's blessing contains explicit mention of the ancestral blessing — בְּרַכְתָּ אֲבִיךָ, גְּבִרְוֹ עַל-בְּרַכְתָּ הוֹרִי — (Bereishit 49:26) something markedly missing from the blessings he grants any of his other sons. Equally notable is that none of the other sons' blessings invoke God, while Yosef's blessing invokes Him with several names — including *E-l Sha-dai*, the name that usually accompanies the covenantal blessing.

While Yaakov's other sons receive blessings, they are not the covenantal blessing, which is reserved for Yosef alone. Even Yehudah's *bracha*, which promises him rulership over his brothers, does not contain the covenantal

elements or mention God. While Yehudah is granted some sort of blessing having to do with temporal authority, he is not granted fertility, ability to transmit blessing, a promise of return to the land, or relationship with God. (Although Yehudah's blessing mentions "Shiloh," later to become a city in the land of Israel, this does not necessarily mean that Yehudah is promised a share in the land. Many commentaries instead read the word as "*shai lo*," tribute shall come to him, which seems to make more sense in the context of a blessing about rulership.) While Yehudah's blessing may grant him temporal authority, it does not include him in the covenant. The ability to rule is not a part of the covenantal blessing<sup>8</sup>. Yehudah may be blessed with the ability to reign over his brothers, even Yosef, but that ability to rule does not mean that he is part of the covenant with God.

When Yaakov dies, Yosef and his sons alone have been told of God's promise of return to the land. Not only does it seem that the other brothers are not included in the promise, they may not know about it at all. Furthermore, while all the brothers received final "blessings" from Yaakov (although some blessings seem rather negative in nature,) Yosef alone received a blessing with language that invoked Yaakov and his ancestors, or God. The brothers, who heard Yosef's distinctive blessing and seem to understand that Yaakov chose Yosef as the covenantal heir, are understandably nervous. Yosef is not only the second in command in Egypt, but also the inheritor of Avraham's *bracha*. Their fears so many years ago, that Yosef alone would receive the blessing, have been justified.

## Yosef's Choice

Of course, as readers of the Torah, we know that all twelve of the brothers do become inheritors of the covenantal *bracha*. Although Yosef receives a "double portion" in that Ephraim and Menashe both become tribes, he is not

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8. While Yaakov's initial blessing, the one he steals from Esav, does include the promise that he will rule over his brothers, this is not one of the characteristics of the covenantal blessing, being notably absent in all the promises made to Avraham and Yitzchak. In fact, Rav Amital argues that it is exactly this portion of the blessing that Yaakov returns to Esav at their reunion. (המדרש הוירטואלי, ישיבת הר עציון. עמיטל, הרב יהודה. 'קח נא את ברכתי בית).

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the unique carrier of the blessing and relationship with God. How, then, does the *bracha* get transmitted to the other brothers?

The answer, I believe, is that a close reading of the final *pesukim* of Bereishit shows that Yosef decides to share the *bracha* with his brothers — an unprecedented act in a book in which the struggle for status as the chosen son has led to fratricide and repeated incidents of narrowly averted murders.

After promising his brothers his protection and support for their families, Bereishit recounts that Yosef lived to be 110 years old and see his great grandchildren born in the land of Egypt. Typically, as with Yitzchak<sup>9</sup> and Yaakov<sup>10</sup>, this would be the point at which the patriarch, preparing for his death, calls his son to him in order to bless him before he dies. The text prepares us for this scene by reminding us that Yosef has descendants and, more specifically, in putting Ephraim first and noting Menashe's grandchildren as an addendum (בְּנֵי מְכִיר בֶּן-מְנַשֶּׁה – יְלָדָיו, עַל-בְּרָכֵי יוֹסֵף) (Bereishit 50:23) reminding us which son has been chosen. The reader, at this point, should expect Yosef to call Ephraim to his bedside, tell him that he may die soon, and pass the covenantal blessing on to him and his family.

Instead, in a surprising turn, Yosef delivers this deathbed speech to his brothers. While his language resembles that of a patriarch (his words, אֲנֹכִי מָת, resemble Yitzchak's language when he calls Esav to his bedside, and Yaakov's when he calls Yosef and his sons to his own,) his choice of audience is a marked departure from anything we have seen before in Bereishit. Yosef informs his brothers that they will be redeemed — that God will take them out of Egypt to the land that was promised to Avraham, to Yitzchak, and to Yaakov.

These verses, so often overlooked, should actually be read as a surprise ending. Before this moment only Yosef has been explicitly informed of a promise of redemption and return to the land, much less promised a share. In informing his brothers that they too will be redeemed, Yosef is actually sharing a blessing that had previously been granted to him and his family alone. In an unprecedented move, where previous patriarchs chose their sons, Yosef is choosing his brothers. After generations of struggle between brothers for the covenantal blessing, Yosef chooses to end the cycle of chosen and unchosen sons. In choosing his brothers, Yosef makes the move that transforms

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9. בראשית כז:ב.

10. בראשית מח:א.

Avraham's line from a family which much continuously prune itself, removing the unchosen elements, into a blessed nation.

The problem of the *bracha* and the chosen child is, in a way, a problem of scarcity. In the model of the chosen and unchosen children the *bracha* is a scarce resource. This is underscored by the language the Torah repeatedly uses about Canaan's ability to support multiple branches of Avraham's family: we are told that both Lot and Esav, unchosen sons, leave the land because there are not enough resources to support both Lot and Avraham or both Yaakov and Esav. Until Yosef, both the land and Avraham's *bracha* are understood through the lens of scarcity. Yosef's intuition about the years of famine and abundance — the intuition that abundance can be shared in such a way that no one needs to experience scarcity — is the same understanding that leads him to share his own abundance, in the form of the Abrahamic *bracha*, with his brothers. The solution to Pharaoh's dream, which leads to the physical reunion and salvation of Yaakov's family, is the same solution that mends the longstanding pattern of rift between brothers and allows all of Yaakov's sons to be united in blessing and chosenness. Yosef is once again able to see previously unconceived solutions: to take a scarce resource and, through redistribution, make it abundant.

By closing with Yosef's choice, Bereishit heals the rift that began with Kayin and Hevel, the first incidence of competition between brothers and continued through generations — first of Noach's family, and then in Avraham's. Yosef is a direct counterpoint to Kayin. Kayin's brother Hevel is treated as extraneous, his very birth seen as a mere continuation of Kayin's own. With Yosef's birth, in contrast, Rachel immediately wishes for another son — for a brother for her first born. The phrase “וַתִּסְּרָף לָלֶדֶת” that first marks a second son and first brother as an unnecessary addition (Bereishit 4:2, in reference to the birth of Hevel) is answered with Rachel's heartfelt “יִסְּרָף ה' לִי בֶן אַחֵר” (Bereishit 30:24 in reference to Rachel's desire for a second son after the birth of Yosef, her first). Where Kayin's deepest desire is to destroy the second, extra son, Yosef's is to seek out the brother — and brothers — invoked at his birth. Yosef's choice offers a different model to the one that has operated throughout Bereishit. In closing with Yosef's choice, Bereishit offers Yosef's words, “*et achai anochi mevakesh*” (Bereishit 37:16) as an answer to Kayin's “*hashomer achi anochi*” (Bereishit 4:9). The answer is a resounding yes — not just my brother's keeper, but my brother's seeker and blesser as well.

## Coda: Why Yosef?

Why, though, can Yosef choose his brothers? Why does Yosef have the ability to break a cycle that has dominated the story of humanity as told in Bereishit?

### Yosef the Son of Rachel

When viewed through the lens of his mother and the circumstances surrounding his birth, Yosef may be seen as, in some way, gifted from birth with the ability to seek and choose his brothers.

While the ability to share chosenness and the covenantal blessing only begins in the male line with Yosef's decision to share the *bracha*, it may have precursors in the story of Yaakov's wives — specifically, Rachel and Leah. In this story, marriage to Yaakov, the covenantal son, is the path to chosenness and inclusion in the covenant for whoever becomes his wife<sup>11</sup>. Leah, who was supposed to be the “unchosen” daughter, through the machinations of her father (machinations which resemble the circumstances through which Yaakov himself stole the blessing from his “chosen” brother, Esav,) becomes Yaakov's first wife. In the normal model of chosenness in Bereishit, in which only one sibling can be chosen, this would preclude Rachel from becoming chosen as well. However, (at Lavan's suggestion,) Yaakov marries Rachel as well. While this situation is painful, it is the first model of something unprecedented in Bereishit: two siblings sharing blessing and inclusion in the covenant. This itself represents a radical break with the rest of Bereishit, one which could serve as a precursor to Yosef's choice.

The *midrash*, however, expands on Leah's marriage to Yaakov, painting it not simply as the result of Lavan's deception, but as a deliberate choice on Rachel's part motivated by compassion for her sister<sup>12</sup>. In this *midrash*, Rachel and Yaakov know that Lavan plans to deceive Yaakov by substituting Leah for Rachel at the wedding, and create secret signs by which Yaakov will

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11. The *midrash* that speaks about Leah having originally been intended for Esav while Rachel was intended for Yaakov — and Leah's incessant crying about that fate — further indicates that the pattern of chosenness was, in some way, meant to apply to Leah and Rachel as well as Yaakov and Esav.

12. *Eichah Rabbah*, Petichta 24.

know whether the bride offered to him is actually Rachel. Rachel, however, has a change of heart before the wedding. Unwilling to see her sister publicly shamed, Rachel shares the signs with Leah, facilitating the deception and Leah's marriage to Yaakov.

In this *midrash*, Rachel actually makes a choice and subverts an existing paradigm: unlike Yaakov who employs deception in order to steal the blessing from his sibling, Rachel facilitates deception in order to help her sister achieve blessing as well. Rachel makes a choice to give — and later to share — blessing to and with her sister. Yosef, then, follows in his mother's example when he chooses to share his blessing with his brothers. (Interestingly, both subvert Yaakov's favoritism.) It is Rachel's choice, a choice that the *midrash* casts as the reason for the ultimate redemption of the Jewish people, that allows for Yosef's own.

# **“She Returned to Her Father’s House”: The Death of R. Chaninah ben Teradion**

WENDY AMSELLEM

Rabba Wendy Amsellem teaches Talmud at Yeshivat Maharat and she is the Editor of Yeshivat Maharat’s Keren Journal. She is also a faculty member at Drisha and at Pardes and she is an editor at The Lehrhaus. Rabba Amsellem is an alumna of the Drisha Scholars Circle and she has a BA in History and Literature from Harvard University.

**W**hy was Rabbi Chaninah ben Teradion wrapped in a Torah scroll and burned to death? The Talmud Bavli in Tractate *Avodah Zara* offers several answers to this question by telling a story that evolved over the course of several hundred years. This essay will analyze the Bavli narrative of Rabbi Chaninah ben Teradion’s death and trace the earlier texts which are its building blocks.

The context in the Bavli is a discussion of Mishnah *Avodah Zara* 1:7 which prohibits giving non-Jews either the tools or the structures with which to kill Jews:

We do not sell them bears and lions and all things which could harm

the masses. We do not build with them a *basilika*<sup>1</sup>, a *gardum*<sup>2</sup>, a stadium, or a *bimah*<sup>3</sup> ...

The Mishnah is concerned that if Jews sell ferocious animals to non-Jews or help them to build places where executions happen, they will be aiding and abetting the murder of innocents. Non-Jews are portrayed as somewhat arbitrary in their legal proceedings, which is both a source of their danger and also a means of escape. On Bavli *Avodah Zara* 16b, R. Eliezer is caught on charges of sectarianism, which he evades with well chosen words of ambiguous flattery. Later, in Bavli *Avodah Zara* 17b-18a, the story of the execution of R. Chaninah ben Teradion is sandwiched between the tale of the arrest and miraculous acquittal of R. Elazar ben Perata and the near arrest and miraculous escape of R. Meir.

## Translation and Structure

- I. It was taught in a *beraita*: When R. Elazar ben Perata and R. Chaninah ben Teradion were arrested, R. Elazar ben Perata said to R. Chaninah ben Teradion, “Fortunate are you that you were arrested on one charge, woe to me that I was arrested on five charges.” R. Chaninah said to him, “Fortunate are you that you were arrested on five charges and you will be saved, woe to me that I have been arrested on one charge and will not be saved. Because you have occupied yourself with Torah and with acts of kindness and I have only occupied myself with Torah.”
  - A. This is as Rav Huna [taught], for Rav Huna said, “All who occupy themselves only with Torah, it is as if they have no God, as it is said,

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1. An elevated structure on which the accused was judged and at times executed. Rashi, BT *Avodah Zara* 17a, s.v. *basilika*.
2. “A small platform (usually raised one step) on which the accused is questioned (and at times tortured as part of questioning)” as defined in Daniel Sperber, *A Dictionary of Greek and Latin Legal Terms in Rabbinic Literature* (Jerusalem: Bar Ilan University Press, 1984), 76.
3. “An elevated platform serving as seat of judge or tribunal” as defined in Daniel Sperber, *A Dictionary of Greek and Latin Legal Terms in Rabbinic Literature* (Jerusalem: Bar Ilan University Press, 1984), 70.

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*And there were many days in Israel without a true God*<sup>4</sup>. What is [the meaning of] *without a true God*? All who occupy themselves only with Torah, it is as if they have no God.

- B. And did [R. Chaninah ben Teradion] really not occupy himself with acts of kindness?
1. Is it not taught in a *beraita*, A person should not give his money to the charity purse unless it is in the charge of a Sage like R. Chaninah ben Teradion.
  2. He was appointed because he was trustworthy, but he did not do it.
  3. Is it not taught in a *beraita*, [R. Chaninah ben Teradion] said, "I confused Purim money with charity money and distributed them to the poor."
  4. He did [acts of kindness], but not as it was needed to be done.
- II. They brought R. Elazar ben Perata.
- A. They said to him, "Why did you study and why did you steal?" He said to them, "If the sword, then not the book and if the book, then not the sword. And since not this one, also not that one."
- B. [They said to him], "Why do they call you Master?" [He said] "Master, the master of weavers."
1. They brought him two coils [of thread] and said to him, "Which is the warf and which is the weft?" A miracle occurred and a female wasp came and sat on the warf and a male wasp came and sat on the weft. He said to them, "This is the warf and this is the weft."
- C. They said to him, "And why did you not come to the House of Avidan?" He said to them, "I am old and feared that you would trample me with your feet."
1. They said, "And until now how many old men have been trampled?" A miracle occurred on that day an old man was trampled.
- D. [They said to him], "And why did you set your slave free?" He said to them, "That never happened!"
1. One of them stood to testify against him. Elijah came disguised as one of the important figures of the government. [Elijah] said

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4. Chronicles II 15:3.

to him, “Since miracles have occurred for him in all of the other [charges], in this as well, a miracle will occur and you will display your perfidy.” He did not heed him and stood to talk. A letter was written by the important government figures to be sent to the Caesar and it was sent with that man. Elijah came and threw him 400 parasangs. He left and did not return.

III. They brought R. Chaninah ben Teradion.

A. They asked him, “Why have you occupied yourself with the Torah?” He replied, “Thus the Lord my God commanded me.”

B. At once they sentenced him to be burnt, his wife to be slain, and his daughter to be consigned to a brothel.

1. The punishment of being burnt came upon him because he pronounced God’s Name in its full spelling.
  - a. And how did he do this? Is it not taught in a Mishnah<sup>5</sup>, these are those who have no portion in the world to come: One who says the Torah is not from Heaven, and the resurrection of the dead is not from the Torah. Abba Shaul says: Even one who pronounces God’s Name in its full spelling.
  - b. It is different when one is teaching oneself. As it is taught in a *beraita*, *Do not learn to do [like the abominations of those nations]*<sup>6</sup> — but you learn to understand and to instruct.
  - c. Rather then, what is the reason that he was punished? Because he pronounced God’s name in public.
2. And his wife was to be slain, because she did not prevent him [from doing it].
  - a. From this it was deduced: Anyone who has the power to prevent [one from doing wrong] and does not prevent, is punished for him.
3. His daughter to be consigned to a brothel, for R. Yochanan related that once she was walking in front of some great men of Rome who

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5. Mishnah *Sanhedrin* 10:1.

6. Deuteronomy 18:9.

### *Keren III*

remarked, "How beautiful are the steps of this maiden!" Whereupon she took particular care of her steps.

- a. And this is as R. Shimon ben Lakish said: What is the meaning of the verse, *the sins of my heel surround me*<sup>7</sup>? Sins that a person grinds with his foot in this world surround him on the day of judgment.

IV. As the three of them went out they justified upon themselves the [Divine] Judgment.

A. He said: *Rock whose ways are perfect*<sup>8</sup>.

B. And his wife said: *God is faithfulness and has no iniquity*<sup>9</sup>.

C. His daughter said: *Great is counsel and multitudinous is the plot for your eyes are open upon the ways of all people to give each person according to his ways and the fruits of his actions*<sup>10</sup>.

D. Rabbi said: How great were these righteous ones, that verses of justification of [Divine] Judgment came to them at the time of justifying [Divine] Judgment.

V. Our Rabbis taught: When R. Yossi ben Kisma became ill, R. Chaninah ben Teradion went to visit him.

A. He said, "Chaninah my brother, do you not know that this nation was empowered by God? They have destroyed God's home and burned God's palace and killed God's pious ones and destroyed God's good ones and they still exist! And I heard that you sit and study Torah and assemble groups publicly and have a Torah scroll resting in your bosom." [R. Chaninah] said, "Heaven will have mercy." [R. Yossi ben Kisma] said, "I am telling you sensible things and you say to me Heaven will have mercy! I would be surprised if they do not burn you and the Torah scroll in fire!"

B. [R. Chaninah] said, "Rabbi, what am I for the world to come?" [R. Yossi ben Kisma] said, "Has any event come to your hand?" [R. Chaninah]

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7. Psalms 49:6.

8. Deuteronomy 32:4.

9. Deuteronomy 32:4.

10. Jeremiah 32:19.

said, "I confused money of Purim with charity money and I distributed both to the poor." [R. Yossi ben Kisma] said, "If so, may your portion be as my portion and your fate as my fate."

- C. They said: it was but a few days before R. Yossi ben Kisma died and all of the great ones of Rome went to bury him and they eulogized him greatly.
- VI. And when they returned they found R. Chaninah sitting and studying Torah and assembling groups publicly with a Torah scroll resting in his bosom. They brought him and wrapped him in the Torah scroll and surrounded it with vines and ignited the fire. They then brought tufts of wool, which they had soaked in water, and placed them over his heart, so that his soul would not leave him quickly.
- A. His daughter exclaimed, "Father, that I should see you in this state!" He replied, "If it were I alone being burnt it would have been a thing hard to bear; but now that I am being burned and the Torah scroll [is being burned] with me, the One who seeks retribution for the Torah Scroll will seek retribution for me."
- B. His students said, "Rabbi, what do you see?" He said to them, "The parchments are burning but the letters are flying." "You should open your mouth so that the fire will enter you." He said to them, "It is better that [my soul] be taken by the One who gave it, but the man should not injure himself."
- C. The Executioner said to him, "Rabbi, if I raise the flame and take away the tufts of wool from over your heart, will you bring me into the life of the world to come?" He said to him, "Yes." he replied. "Swear to me." He swore to him.
- VII. [The Executioner] raised the flame and removed the tufts of wool from over his heart, and his soul left quickly.
- A. The Executioner then jumped and threw himself into the fire. And a voice from Heaven came out and said, "R. Chaninah ben Teradion and the Executioner are invited into the life of the world to come."
- B. When Rabbi heard it he wept and said: One may acquire his world in a single hour, and one may acquire his world in many years.

## Literary Analysis

The story of the arrest and execution of R. Chaninah ben Teradion is told in the context of the arrest and acquittal of R. Elazar ben Perata. The story has seven parts. Part I introduces the simultaneous arrest of both Rabbis and R. Chaninah's prediction that R. Elazar ben Perata would escape but that he himself would not. Part II describes the charges levied against R. Elazar ben Perata and the wiliness and unabashed deception that he employs to win his freedom. By contrast, in part III, R. Chaninah ben Teradion immediately concedes the truth of the charges against him and the story elaborates upon the reasons that he and his family are to suffer. Part IV details R. Chaninah ben Teradion, his wife and his daughter all publicly accepting God's judgment upon themselves. In part V, the story goes back in time to recount a conversation in which R. Yossi ben Kisma predicts R. Chaninah's death if he continues to publicly teach Torah. This part is thematically linked to part III and part IV in that R. Chaninah ben Teradion consistently and stoically accepts his fate. Yet, instead of seeking a transgression for which R. Chaninah's death is a punishment, in part V R. Chaninah is presented as the quintessential hero, willing to continue to study Torah despite the danger. Parts VI and VII describe the scene at R. Chaninah ben Teradion's death, and concludes with the conversion and voluntary martyrdom of his executioner.

Each part of the story functions as its own mini subsection. The seven part structure serves to highlight the middle part, part IV which is the core of the story. In part IV R. Chaninah ben Teradion, his wife, and his daughter recite verses indicating their complete acceptance of God's judgment. This part has been lifted almost verbatim from *Sifrei Devarim* 307, which will be discussed below. R. Chaninah's refusal to try to escape his fate is the essential element of the story and it stands out all the more since it is presented in the context of R. Elazar ben Perata's audacious arguing. R. Chaninah's unwillingness to engage in this kind of verbal jousting is both admirable and suspect. The story wavers between faulting him for his death and glorifying his willingness to die. A key question that the story explores is whether R. Chaninah's death is a fitting punishment or an awe-inspiring martyrdom.

- I. It was taught in a *beraita*: When R. Elazar ben Perata and R. Chaninah ben Teradion were arrested, R. Elazar ben Perata said to R. Chaninah ben Teradion, "Fortunate are you that you were arrested on one charge,

woe to me that I was arrested on five charges.” R. Chaninah said to him, “Fortunate are you that you were arrested on five charges and you will be saved, woe to me that I have been arrested on one charge and will not be saved. Because you have occupied yourself with Torah and with acts of kindness and I have only occupied myself with Torah.”

The opening of the story establishes two key themes. One, that R. Chaninah ben Teradion is resigned<sup>11</sup> to his fate, and the second that he assumes that his fate is the result of malfeasance on his part.

A. This is as Rav Huna [taught], for Rav Huna said, “All who occupy themselves only with Torah, it is as if they have no God, as it is said, *And there were many days in Israel without a true God.*<sup>12</sup> What is [the meaning of] *without a true God*? All who occupy themselves only with Torah, it is as if they have no God.

The fault which R. Chaninah ben Teradion attributes to himself is an all-encompassing focus on Torah to the exclusion of doing other good deeds. This foreshadows later parts of the story where R. Chaninah’s commitment to Torah study at all costs will be criticized by R. Yossi ben Kisma. Right from the start, R. Chaninah is associated with a complete immersion in Torah study. His identification with Torah study will be literalized as the story continues and the Torah scroll becomes his second skin.

B. And did [R. Chaninah ben Teradion] really not occupy himself with acts of kindness?

1. Is it not taught [in a beraita], A person should not give his money to the charity purse unless it is in the charge of a Sage like R. Chaninah ben Teradion.
2. He was appointed because he was trustworthy, but he did not do it.
3. Is it not taught in a beraita, [R. Chaninah ben Teradion] said, “I

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11. Interestingly, Gerald Blidstein reads R. Chaninah’s resignation in light of the *Bavli’s* assertion later that R. Chaninah insists on teaching Torah publicly and he claims that “Perhaps this is the ironic meaning of Hanina’s reply to Elazar: my crime—that of open spiritual confrontation—will not permit me to be saved.” Gerald Blidstein, “Rabbis, Romans, and Martyrdom — Three Views” *Tradition* 21 (1983–85), 57.

12. Chronicles II 15:3.

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confused Purim money with charity money and distributed them to the poor.”

4. He did [acts of kindness], but not as it was needed to be done.

The Talmud now is faced with a quandary. Could the righteous martyr R. Chaninah ben Teradion really not have done good deeds? A *beraita* is cited, evincing that R. Chaninah was a faithful charity collector. The Talmud concludes that R. Chaninah had indeed done good deeds, but not to the extent nor in the manner that they should have been done.

Jonathan Wyn Socher, in his article, “Protest or Pedagogy? Trivial Sin and Divine Justice in Rabbinic Narrative”<sup>13</sup> notes that rabbinic stories about Divine Justice tend to question God’s justice and to resolve the question by accusing the suffering righteous person of a minor transgression. Socher argues that these two tendencies are conflicting:

The first considers events that reveal the limits of rabbinic abilities to interpret their world in terms of divine justice ... The second is a pedagogical motif that is prevalent in rabbinic ethical literature: Sages uphold small virtues and warn against small vices for their students as religious elites, employing dramatic claims of drastic consequences. This motif implies a very strong confidence in God’s justice, not a struggle with theodicy.<sup>14</sup>

Socher claims that the impulse to question God’s justice is the opposite of the desire to claim that God’s judgment is so exact that even minor transgressions are punished. In his analysis of several rabbinic tales, he demonstrates that editors vary between emphasizing the challenge to Divine Justice and stressing the appropriateness of the punishment. It is worth noting that in the stories Socher examines, the one who suffers challenges God’s judgment, and someone else explains the suffering as punishment for a small sin. In the case of R. Chaninah, he himself provides a reason for his punishment and the *Bavli* editors question whether in fact R. Chaninah had transgressed as he claimed he had.

This tango between wanting to blame R. Chaninah ben Teradion and

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13. Jonathan Wyn Socher, “Protest or Pedagogy? Trivial Sin and Divine Justice in Rabbinic Narrative” *HUCA* 74 (2003), 243–278.

14. Jonathan Wyn Socher, “Protest or Pedagogy? Trivial Sin and Divine Justice in Rabbinic Narrative” *HUCA* 74 (2003), 246.

wanting to defend him continues throughout the story. There is a simultaneous desire to find a reason for R. Chaninah's death and to contest that reason, so as not to besmirch him.

II. They brought R. Elazar ben Perata.

A. They said to him, "Why did you study and why did you steal<sup>15</sup>?" He said to them, "If the sword, then not the book and if the book, then not the sword. And since not this one, also not that one."

B. [They said to him], "Why do they call you Master?" [He said] "Master, the master of weavers"

1. They brought him two coils [of thread] and said to him, "Which is the warp and which is the weft?" A miracle occurred and a female wasp came and sat on the warp and a male wasp came and sat on the weft. He said to them, "This is the warp and this is the weft."<sup>16</sup>

C. They said to him, "And why did you not come to the House of Avidan<sup>17</sup>?" He said to them, "I am old and feared that you would trample me with your feet."

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15. Gerald Blidstein claims that "To be a 'robber' in Roman parlance was really to be rebel, a fighter for Jewish independence." Blidstein assumes that all of the charges against R. Elazar ben Perata are accurate and his activist denial of them coheres with the assertion that he was an activist against Roman rule. Gerald Blidstein, "Rabbis, Romans, and Martyrdom — Three Views" *Tradition* 21 (1983–85), 56–57.

16. Rashi explains that the R. Elazar ben Perata was able to identify the warp once the female wasp sat on it, because the warp "receives the weft as the female receives the male." See Rashi on *Talmud Bavli Avodah Zara* 17b, s.v. *ata ziburta*. Female wasps are larger than male wasps and only the female wasps have stingers, and so perhaps that was how R. Elazar ben Perata was able to distinguish between them. Tosafot, on the other hand, doubt that R. Elazar ben Perata would have been able to identify the sex of the wasps, "it is not so recognizable in such a small species between the male and the female." They posit instead that it was two different species. Tosafot on *Talmud Bavli Avodah Zara* 17b, s.v. *ata ziburta*.

17. Reuven Kimelman notes "Caesarea itself had a meeting place (*odeum*) where religious controversies were held. The *odeum* is probably to be identified with one of the *תּוֹבָרַיִת* of rabbinic literature." Reuven Kimelman, "R. Yohanan and Origen on the Song of Songs: A Third Century Jewish-Christian Disputation" *Harvard Theological Review* 73, no. 3–4 (July-October 1980), 571. Daniel Boyarin though argues "In the context of this story, it almost certainly must be a place for pagan worship and not a site for disputations between Jews, Christians, and pagans for if it were the latter, how would the Rabbi's attendance or absence been indicative of

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1. They said, “And until now how many old men have been trampled?”  
A miracle occurred on that day an old man was trampled.
- D. [They said to him], “And why did you set your slave free?” He said to them, “That never happened!”
  1. One of them stood to testify against him. Elijah came disguised as one of the important figures of the government. [Elijah] said to him, “Since miracles have occurred for him in all of the other [charges], in this as well, a miracle will occur and you will display your perfidy.” He did not heed him and stood to talk. A letter was written by the important government figures to be sent to the Caesar and it was sent with that man. Elijah came and threw him 400 parasangs. He left and did not return.

The story then describes R. Elazar ben Perata’s escape from his charges. Using a combination of verbal games and outright lies, and aided by some miracles, R. Elazar manages to refute all of the charges. R. Chaninah has already explained that R. Elazar would be successful in this because of his good deeds. All the same, R. Elazar uses skill and trickery to refute the charges against him, in contrast to R. Chaninah who passively affirms the one charge levied against him.

The choice to tell the story of R. Chaninah ben Teradion’s death immediately after the tale of R. Elazar ben Perata highlights R. Chanina’s straightforward acceptance of his fate.<sup>18</sup> This is further emphasized by the verses that he and his wife and daughter cite and by his exchange with R. Yossi ben Kisma.

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his religious identity?” Daniel Boyarin, *Dying for God: Martyrdom and the Making of Christianity and Judaism* (Stanford: Stanford University Press, 1999), 167 n. 44. It could be, though, that R. Elazar ben Perata is being accused of not taking part in communal life, in which case it might be that there was a civic duty to attend disputations. It is worth noting that elsewhere in the *Bavli* where the House of Avidan is mentioned, it is also in the context of a non-Jewish authority asking a Rabbi why he has not come to the House of Avidan. See *Talmud Bavli Shabbat* 116a (Rava is asked why he has not come to the House of Avidan) and *Talmud Bavli Shabbat* 152a (R. Yehoshua ben Channaniah is asked why he has not come to the House of Avidan). Both Rava and R. Yehoshua ben Channaniah respond with seemingly made up excuses, but neither needs to rely on a miracle to help make their argument. The fact that the third generation Babylonian *amora* Rava and the *tanna* R. Elazar ben Perata are both asked about attending the House of Avidan seems to indicate that it is a trope rather than an actual place.

18. Others have understood R. Elazar ben Perata’s miraculous deliverance as an

III. They brought R. Chaninah ben Teradion.

- A. They asked him, “Why have you occupied yourself with the Torah?” He replied, “Thus the Lord my God commanded me.”
- B. At once they sentenced him to be burnt, his wife to be slain, and his daughter to be consigned to a brothel.
  - 1. The punishment of being burnt came upon him because he pronounced God’s Name in its full spelling.
    - a. And how did he do this? Is it not taught in a Mishnah<sup>19</sup>, these are those who have no portion in the world to come: One who says the Torah is not from Heaven, and the resurrection of the dead is not from the Torah. Abba Shaul says: Even one who pronounces God’s Name in its full spelling.
    - b. It is different when one is teaching oneself. As it is taught in a *beraita*, *Do not learn to do [like the abominations of those nations]*<sup>20</sup> — but you learn to understand and to instruct.
    - c. Rather then, what is the reason that he was punished? Because he pronounced God’s name in public.

The *Bavli* is attempting to answer two questions. Why do the Romans want to kill R. Chaninah ben Teradion? And, what has he done wrong such that God will let him be killed? In the *Bavli*’s opinion there are two separate crimes. The Romans accuse R. Chaninah of occupying himself with Torah, a charge to which he handily accedes. Still though, if all he had done was teach and study Torah, surely the Torah should have protected him<sup>21</sup>. Therefore the *Bavli* lists

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indication of his greater worthiness than R. Chaninah. See Jan Willem van Henten, “Jewish and Christian Martyrs” in *Saints and Role Models in Judaism and Christianity*, eds. Marcel Poorthuis and Joshua Schwartz (Leiden: Brill, 2004), 178. I believe that the story is not highlighting the greater virtue of one party, but rather a calculated difference in responding to the hostile authorities.

19. *Mishnah Sanhedrin* 10:1.

20. Deuteronomy 18:9.

21. See Jan Willem van Henten, “Jewish and Christian Martyrs” in *Saints and Role Models in Judaism and Christianity*, eds. Marcel Poorthuis and Joshua Schwartz (Leiden: Brill, 2004), 174 in which he claims that, “the great attention in the first account to the sins of R. Hanina as a means of explaining his execution, implying that his violent death functioned as a personal atonement, also seems to relativize

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another reason for R. Chaninah's punishment, other than teaching Torah<sup>22</sup>. He pronounced the name of God in public, as part of his teaching. The two crimes share similarities. In both cases, R. Chaninah in his zeal to study and to teach, ignores basic restrictions and boundaries.

R. Chaninah's original confession about himself, that he studied Torah to the exclusion of doing good deeds, also indicates an overweening passion for Torah. Yet public teaching is not a factor and so it seems to be part of a different tradition of R. Chaninah ben Teradion's misdeeds.

2. And his wife was to be slain, because she did not prevent him [from doing it].
  - a. From this it was deduced: Anyone who has the power to prevent [one from doing wrong] and does not prevent, is punished for him.
3. His daughter to be consigned to a brothel, for R. Yochanan related that once she was walking in front of some great men of Rome who remarked, "How beautiful are the steps of this maiden!" Whereupon she took particular care of her steps.
  - a. And this is as R. Shimon ben Lakish said: What is the meaning of the verse, *the sins of my heel surround me*<sup>23</sup>? Sins that a person grinds with his foot in this world surround him on the day of judgment.

Reasons are also sought for the punishments of R. Chaninah ben Teradion's wife and daughter. Their misdeeds seem mild and do not warrant the harsh

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his martyrdom or make it ambiguous." By contrast, Jonathan Socher argues that a goal of attributing a sin to a sage is that Rome is thereby disempowered. "This ...removes agency from Rome and the realm of political action and places it in the realm of the Rabbis' God. Rather than being killed for practicing Jewish law, they are being killed for not sufficiently fulfilling rabbinic ideals." Jonathan Wyn Socher, "Protest or Pedagogy? Trivial Sin and Divine Justice in Rabbinic Narrative" *HUCA* 74 (2003), 257.

22. Yaakov Elman argues that the Babylonian Talmud expresses a belief that sometimes the righteous suffer even if they have not sinned. See Yaakov Elman, "Righteousness as its Own Reward: An Inquiry into the Theologies of the Stam" *PAAJR* 72 (1990-91), 35-67. In this story, though, the *Bavli* is actively seeking out a sin that could have caused R. Chaninah ben Teradion's suffering.

23. Psalms 49:6.

penalties meted out<sup>24</sup>. R. Chaninah's wife is accused of not preventing him from teaching his students with the full pronunciation of God's name. Intriguingly, the text presumes that the wife had knowledge of her husband's pedagogy and a potential veto over what he taught.

R. Chaninah's daughter's punishment is especially grotesque. She has neither done nor not done an action, only taken more care with the way she was already walking. *Bavli Shabbat* 66b describes how the women of Jerusalem would walk in a deliberately seductive manner. Using a verse from Isaiah 3:16 as an anchor, the *Bavli* describes how the women would take mincing steps and line their shoes with alluring spices, such that when they came across the young men of Israel, the women would kick the ground, release the fragrances and "cause the evil inclination to enter [the young men] like the venom of a viper." In the *Bavli's* understanding of Isaiah 3:16, seductive walking is a metaphor for a mode of behavior that seems innocent (the women are not technically committing a violation), but is calculated to encourage sin.

By contrast, R. Chaninah's daughter did not deliberately entice the Romans. She was walking on her way, but she takes pleasure in their compliment and takes more deliberate care with her steps. The teaching brought by R. Shimon ben Lakish as a proof-text, that "Sins that a person grinds with his foot in this world surround him on the day of judgment" further highlights the seemingly trivial nature of the daughter's wrongdoing and the extremity of her punishment. For each of the three family members, there is a desire to find a transgression that justifies their fate. Simultaneously though, the mildness of their wrongdoing reifies their status as righteous people and makes it all the more impressive that they unflinchingly accept God's judgment.

IV. As the three of them went out they justified upon themselves the [Divine] Judgment.

A. He said: *Rock whose ways are perfect*<sup>25</sup>.

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24. Ra'anan Boustan points out that rabbinic texts "systematically attribute the martyr's suffering and death to his individual failings, however slight. The very triviality of these sins attributed to the martyr serves to represent the rabbinic martyr as a paragon of virtue." Boustan calls this, fittingly, "The Peccadillo Motif." Ra'anan Boustan, *From Martyr to Mystic: Rabbinic Martyrology and the Making of Merkavah Mysticism* (Tubingen: Mohr Siebeck, 2005), 56, 63.

25. Deuteronomy 32:4.

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- B. And his wife said: *God is faithfulness and has no iniquity*<sup>26</sup>.
- C. His daughter said: *Great is counsel and multitudinous is the plot for your eyes are open upon the ways of all people to give each person according to his ways and the fruits of his actions*<sup>27</sup>.
- D. Rabbi said: How great were these righteous ones, that verses of justification of [Divine] Judgment came to them at the time of justifying [Divine] Judgment.

This is the core part of the narrative. R. Chaninah ben Teradion, his wife, and his daughter all willingly accept the decrees against them. Unlike R. Elazar ben Perata, they do not engage in subterfuge or ambiguous word play. Indeed, they do not even address their accusers directly. They understand their fate as an expression of God's will, and they recite verses indicating their complete submission. R. Chaninah and his wife each recite a half of the same verse in Deuteronomy, both proclaiming the flawlessness of God's ways. The daughter recites Jeremiah 32:19, which highlights the retributive and fair nature of God's justice. Indeed, the *Bavli* connects most closely her misdeed (of provocative walking) with her punishment (of forced prostitution). Rabbi, upon hearing this story, commends not only their choice of verses, but also their ability to summon those verses at the moment of judgment.

Their recitation of these verses indicates a certain cordoning off of the characters from their oppressors. They are not engaging with their accusers, neither pleading for mercy nor attempting to disprove the charges. Instead they see the persecutors as instruments of God's will. As such the authorities have no relevance of their own and no agency to do other than God has commanded.

- V. Our Rabbis taught: When R. Yossi ben Kisma became ill, R. Chaninah ben Teradion went to visit him.
  - A. He said, "Chaninah my brother, do you not know that this nation was empowered by God? They have destroyed God's home and burned God's palace and killed God's pious ones and destroyed God's good ones and they still exist! And I heard that you sit and study Torah and assemble groups publicly and have a Torah scroll resting in your

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26. Deuteronomy 32:4.

27. Jeremiah 32:19.

bosom.” [R. Chaninah] said, “Heaven will have mercy.” [R. Yossi ben Kisma] said, “I am telling you sensible things and you say to me Heaven will have mercy! I would be surprised if they do not burn you and the Torah scroll in fire!”

Here the chronology of the story shifts directions. The section begins again with “Our Rabbis taught,” generally indicating that the redactors are introducing a new piece of source material<sup>28</sup>. We move back in time to a period before R. Chaninah’s arrest. R. Yossi ben Kisma offers an alternate vision of what it means to submit to God’s decree. He argues that God has empowered the Romans and so submitting to the Romans is on par with submitting to God<sup>29</sup>. R. Chaninah ben Teradion does not engage with R. Yossi ben Kisma’s argument. Instead he replies, “Heaven will have mercy.” This could either be an indication that R. Chaninah accepts R. Yossi ben Kisma’s argument and so is hoping that God will forgive him for flouting the Romans. More likely though, he is brushing off R. Yossi ben Kisma’s advice.

Certainly, R. Yossi ben Kisma seems to understand it as a side-step. Bristling, he chastises R. Chaninah for ignoring sound advice and predicts a violent outcome for R. Chaninah and his Torah.

B. [R. Chaninah] said, “Rabbi, what am I for the world to come?” [R. Yossi ben Kisma] said, “Has any event come to your hand?” [R. Chaninah] said, “I confused money of Purim with charity money and I distributed both to the poor.” [R. Yossi ben Kisma] said, “If so, may your portion be as my portion and your fate as my fate.”

Once again, R. Chaninah does not dispute R. Yossi ben Kisma. He understands that he is likely to die for his continued public Torah study. This is a key moment in the martyrdom narrative, as it is critical that the martyr be

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28. Jeffrey Rubenstein, *Talmudic Stories* (Baltimore: The Johns Hopkins University Press, 1999), 25. I am indebted to Sara Labaton for bringing this point to my attention.

29. Boyarin suggests more strongly, “... there is more than a hint here, in the voice of R. Yose the son of Kisma, at a quietist theological position antithetical to that of the martyr. It is God who sent the Romans to rule over the Jews, and the rebellious act of provocatively gathering crowds to study in public is thus rebellion against God’s will.” Daniel Boyarin, *Dying for God: Martyrdom and the Making of Christianity and Judaism* (Stanford: Stanford University Press, 1999), 58.

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presented with the option to save himself and yet still choose to go forward with his course of behavior. Jan Willem van Henten, in his article, “Jewish and Christian Martyrs,” outlines the motifs of a martyr text:

Such martyr texts describe how a certain person, in an extremely hostile situation, preferred a violent death to compliance with a decree or demand of the (usually) pagan authorities. The martyr decides to die rather than obey the foreign government ... By giving up one's convictions, renouncing Jewish or Christian identity or stopping the activity that would force the foreign government to intervene, the would-be martyr could have prevented his or her execution<sup>30</sup>.

R. Chaninah's interaction with R. Yossi ben Kisma reinforces the choice presented at the beginning of the narrative. It is not just that when arrested by the authorities, R. Chaninah did not choose to obfuscate or deny his Torah activities. The story claims that even earlier in a non-threatening environment, R. Chaninah was presented with the choice to save himself by ceasing the forbidden activity. R. Chaninah twice chooses, both with his colleague and with the authorities, to die rather than disclaim the public teaching of Torah.

It is noteworthy that the redactors do not tell the story in chronological order. We begin with R. Chaninah's arrest and then circle back to R. Yossi ben Kisma's earlier warning. Perhaps this is because the redactors wanted to contrast R. Elazar ben Perata's and R. Chaninah ben Teradion's differing responses to the charges against them. Once the comparison is set, the redactors introduce a second source, using the phrase “Our Rabbis taught” to mark the transition. This second source echoes and confirms R. Chaninah's refusal to try to deter his fate.

R. Chaninah is interested, though, in what will happen after his death. He wonders about his chances at a portion in the world to come<sup>31</sup>. Rabbi Yossi ben Kisma asks him if any event has come to his hand. This cryptic question seems

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30. Jan Willem van Henten, “Jewish and Christian Martyrs” in *Saints and Role Models in Judaism and Christianity*, eds. Marcel Poorthuis and Joshua Schwartz (Leiden: Brill, 2004), 165–166.

31. Shmuel Shepkaru notes that Chaninah does not assume that martyrdom alone would guarantee a portion in the world to come. “This question to R. Jose ben Kisma projects Teradyon's own doubts regarding his fate after death. Voluntary death is not to be the determining factor of his fate.” Shmuel Shepkaru, “From After Death to Afterlife: Martyrdom and its Recompense” *AJS Review* 24 (1999),

to be understood by Chaninah ben Teradion as a query as to any particular merits he may have accrued? R. Chaninah responds with a description of his zealotry in giving charity. When he accidentally confuses two pots of money, he distributes both to the poor. This pious behavior impresses R. Yossi ben Kisma, leading him to proclaim, “If so, may your portion be as my portion and your fate as my fate<sup>32</sup>.”

Saul Lieberman suggests a different reading<sup>33</sup>. He claims that generally the question of “Has any event come to your hand?” means “Have you engaged in any dubious behavior<sup>34</sup>?” Lieberman claims that Rabbi Yossi ben Kisma is asking what is causing R. Chaninah to doubt his portion in the world to come. R. Chaninah responds that he confused two collections of money and even though he tried to correct it, perhaps it was problematic to change money from one purpose to another. R. Yossi ben Kisma’s reaction is that if this is the worst thing that you can think of that you have done, “may your portion be as my portion and your fate as my fate.”

R. Yossi ben Kisma disagrees with R. Chaninah’s choice to continue public Torah study and predicts a horrible death for him, but ultimately, he wishes to share R. Chaninah’s fate. This desire to share the martyr’s fate and reward will be echoed again at the end of the story.

C. They said: it was but a few days before R. Yossi ben Kisma died and all

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25. Shepkaru argues that a theology connecting martyrdom with personal reward begins much later with the Hebrew Chronicles of the First Crusade, 32–44.

32. Shepkaru again notes, “Teradyon’s merit is not based on his voluntary death; distribution of his own money to the poor secured his place in the world to come.” Shmuel Shepkaru, “From After Death to Afterlife: Martyrdom and its Recompense” *AJS Review* 24 (1999), 26.

33. Saul Lieberman, “Redifat Dat Yisrael” in *The Salo Wittmayer Baron Jubilee Volume on the Occasion of His Eightieth Birthday*, ed. Saul Lieberman (Jerusalem: American Academy for Jewish Research, 1975), 220.

34. Lieberman lists several other examples; *Talmud Bavli Beitzah* 9b, *Talmud Bavli Babba Kamma* 117a, *Talmud Bavli Niddah* 24a, *Tamud Yerushalmi Kidushin* 3:12, 64d. Lieberman, “Redifat Dat Yisrael.” 220 n. 46. In all of these other cases, the person responds to the question with a legal ruling that they have recently rendered which is then rejected by the questioner. This perhaps is why Lieberman understands the question as accusatory. I think it is not necessarily the case. It could be a neutral question which in some cases leads the respondent to divulge erroneous decisions, but in other cases leads to a description of praiseworthy behavior.

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of the great ones of Rome went to bury him and they eulogized him greatly.

It seems that R. Yossi ben Kisma's illness was fatal and that his counsel to R. Chaninah was his parting advice. When R. Yossi ben Kisma dies a few days later, it is no surprise that the Roman nobles come out to mourn him in full force. Given that R. Yossi ben Kisma had been preaching the divinely ordained triumph of Rome and thus the requirement of Jewish obedience to Roman rule, it makes sense that he would be a favorite of the "great ones of Rome." The Roman nobles find R. Chaninah teaching Torah publicly as they are returning from R. Yossi ben Kisma's funeral. In this way, the R. Yossi ben Kisma story is folded back into the larger narrative of the death of R. Chaninah ben Teradion. The narrative returns to where it had been before the Yossi ben Kisma digression, namely directly after the decrees are pronounced against R. Chaninah and his family. In addition, the contrast of R. Chaninah's disobedience of Roman law is made all the more blatant as it follows the funeral of the great accommodationist.

VI. And when they returned they found R. Chaninah sitting and studying Torah and assembling groups publicly with a Torah scroll resting in his bosom. They brought him and wrapped him in the Torah scroll and surrounded it with vines and ignited the fire. They then brought tufts of wool, which they had soaked in water, and placed them over his heart, so that his soul would not leave him quickly.

It seems that the story has now moved forward in time, to where we had left the characters in part IV. R. Chaninah, his wife, and his daughter have been informed of their punishments and each has accepted his/her own punishment without demur. R. Chaninah's punishment is now meted out in intricate layered detail. First he is wrapped in the scroll, then vines are placed to secure it around him and finally, wet wool is placed over his heart to prolong his agony. These details will help trace the evolution of the story, but they are also critical in that R. Chaninah's protracted death will give him a chance to have several crucial conversations.

A. His daughter exclaimed, "Father, that I should see you in this state!" He replied, "If it were I alone being burnt it would have been a thing hard to bear; but now that I am being burned and the Torah scroll [is

being burned] with me, the One who seeks retribution (lit. asks about the insult) for the Torah Scroll will seek retribution (ask about the insult) for me.”

R. Chaninah’s daughter is the first to react. She does not question the decree, but she laments that she is to witness his suffering. The seeing of a martyrdom is a critical component of its power. Acts of martyrdom are not private. They are calculated to impact those who view them. It is not clear if the daughter is bewailing her father’s fate or her own fate in being forced to watch it. R. Chaninah responds by saying that it is better to be burned with a Torah than to be burned alone, because as God will surely seek vengeance for the burning of the Torah, God will avenge R. Chaninah’s death as well.

This is a puzzling statement. One might think it would be better to be burned without the Torah and that the burning of the Torah is its own distinct tragedy. Also, it is unclear why the eventual vengeance mitigates the pain that the daughter feels upon being forced to view her father’s suffering<sup>35</sup>. Despite his initial acceptance of his fate, here R. Chaninah seems to feel that he is being wronged and he is comforted in his belief that God will right the wrong. This makes more sense if R. Chaninah’s crime is violating the Roman ban on teaching Torah. If instead, R. Chaninah’s death is a just punishment for pronouncing God’s name in vain, perhaps he is criticizing the overtly harsh way in which his death is executed<sup>36</sup>. Either way, R. Chaninah’s statement is a departure from his completely passive stoic acceptance of his fate in part IV and highlights an internal tension within the story. Apparently one can accept God’s judgment and yet still seek retribution against those who carry it out<sup>37</sup>. Additionally, the language that the *Bavli* uses עבונה “the one who asks about the insult of” may indicate that

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35. Jonathan Crane sees this as R. Chaninah bequeathing “to her a particular world view, complete with its value system, in which she could take comfort.” Jonathan Crane, *Narrative and Jewish Bioethics* (New York: Palgrave Macmillan, 2013), 51.

36. See *Bavli Ketubot* 111a where God makes the nations of the world swear not to subjugate Israel too harshly.

37. See *Bavli Gittin* 56a where Nero says, “The Holy One Blessed be He wants to destroy His House and to put the blame on me” and Tractate *Kallah*, “And if you will not kill me God has many agents of death ... Rather in the end, God will extract retribution for my blood from your hand.”

### Keren III

Rabbi Chaninah feels that there is something degrading about this public spectacle<sup>38</sup>.

B. His students said, “Rabbi, what do you see?” He said to them, “The parchments are burning but the letters are flying.” “You should open your mouth so that the fire will enter you.” He said to them, “It is better that [my soul] be taken by the One who gave it, but the man should not injure himself.”

This is the first time in the narrative that students are introduced. Indeed, in all of the earlier iterations of this story, there are no students present. For the *Bavli* though, a teacher’s death is a time for important instruction to be conveyed to students and so of course they must be there. The students ask two questions and learn two important lessons. The first is “Rabbi, what do you see?” As opposed to the daughter who bemoans what she must see, the students are curious about what it is that R. Chaninah is seeing<sup>39</sup>. They assume that as their master, he has a perspective and an insight that they do not possess and they want him to share it with them. He responds that even though the parchment is burning, he sees the letters flying upwards. Even though the Torah is burned, it is not destroyed. Presumably, since he and the Torah have become physically intertwined, the burning of his body similarly does not prefigure the destruction of the essential aspects of himself.

His students then suggest, quite reasonably, “You should open your mouth so that the fire will enter you.” He should open his mouth and end his pain sooner. R. Chaninah responds that even though the physical self is not a person’s ultimate essence, one should not hasten one’s own death, even in the presence of extreme suffering. This statement seems aligned with R. Chaninah’s complete acceptance of his fate in part IV.

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38. Interestingly, the phrase *מי שמבקש עלבונה* does not appear elsewhere in rabbinic literature. There is a related phrase in *Avot* 6:2 where R. Yehoshua ben Levi castigates those who do not study Torah by saying “אוי להם לבריית מעלבונה של תורה”. There it seems that the Torah’s dignity has been offended, not through its active destruction by fire, but rather through a passive disengagement.

39. H.A. Fischel claims that martyrs were thought to have had a special power of vision, akin to prophecy, as they were about to die. H.A. Fischel, “Martyr and Prophet,” *Jewish Quarterly Review* 37 (1947), 364–365. This would explain the students’ particular question of “Rabbi, what do you see?”

- C. The Executioner said to him, “Rabbi, if I raise the flame and take away the tufts of wool from over your heart, will you bring me into the life of the world to come?” He said to him, “Yes.” he replied. “Swear to me.” He swore to him.

The Executioner, who presumably has heard this exchange, offers to intercede and end the Rabbi’s torment in exchange for a promise of passage into the world to come. R. Chaninah readily agrees to this, even though this falls somewhere in between him injuring himself and his life being taken by the One who gave it. Indeed, R. Chaninah’s consent to allow the executioner to hasten his death has been discussed in various responsa about ethics surrounding euthanasia and organ transplants<sup>40</sup>.

VII. [The Executioner] raised the flame and removed the tufts of wool from over his heart, and his soul left quickly.

- A. The Executioner then jumped and threw himself into the fire. And a voice from Heaven came out and said, “R. Chaninah ben Teradion and the Executioner are invited into the life of the world to come.”

The executioner immediately acts and as R. Chaninah dies, the executioner throws himself into the fire as well. Instead of the martyrdom repelling those who see it, the executioner is so attracted that he willingly joins the martyrdom. Whether because of Chaninah ben Teradion’s oath to him, or as a reward for his own act of martyrdom, the heavenly voice invites both men into the life of the world to come<sup>41</sup>.

- B. When Rabbi heard it he wept and said: One may acquire his world in a single hour, and one may acquire his world in many years.

As a coda, Rabbi comments that some work their whole lives to gain entry into the world to come, while others with one grand sweeping gesture can earn the

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40. See, for example, the responsa of Rabbi Eliezer Yehuda Waldenberg, *Tzitz Eliezer* X 25:6, *Tzitz Eliezer* XVIII 48, and of Rabbi Moshe Feinstein, *Iggrot Moshe Choshen Mishpat* II 74:2.

41. Droge and Tabor note the irony of this, “If one can obtain life by a deliberate act of self-destruction, what happens to Hanina’s original statement that one must not hasten death, much less directly destroy oneself?” Arthur J. Droge and James D. Tabor, *A Noble Death: Suicide and Martyrdom Among Christians and Jews in Antiquity* (San Francisco:HarperSanFrancisco, 1992), 102.

same reward<sup>42</sup>. It is not clear whether Rabbi is weeping with frustration that some people like himself toil their whole lives in order to reach the world to come while others are fast tracked. Or perhaps he is overcome with emotion at the thought that the world to come is within anyone's grasp.

## Literary Context

The story of the martyrdom of R. Chaninah ben Teradion exists in several earlier iterations. Its first appearance is in *Sifrei Devarim* 307.

Another thing, *The Rock whose ways are perfect*<sup>43</sup>. When they caught Chaninah ben Teradion, a decree was decreed against him to be burnt with his scroll. They said to him, "A decree was decreed against you to be burnt with your scroll." He recited this verse *The Rock whose ways are perfect*<sup>44</sup>. They said to his wife, "A decree has been decreed against your husband to be burned and against you to be killed." She recited this verse *God is faithfulness and has no iniquity*<sup>45</sup>. They said to his daughter, "A decree has been decreed against your father to be burnt and your mother to be killed and against you to do work." She

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42. Rabbi makes the identical proclamation twice more. In *Bavli Avodah Zara* 10b, the Roman officer Ketia Bar Shalom is executed for defending the Jews. As he is taken to be killed, he circumcises himself and bequeaths his worldly possessions to R. Akiva and his colleagues. A voice from Heaven proclaims that Ketia bar Shalom is invited into the life of the world to come. When Rabbi hears this, he weeps and says, "One may acquire his world in a single hour, and one may acquire his world in many years." Similarly in *Bavli Avodah Zara* 17a, R. Elazar ben Durdia sleeps with every prostitute he can find, but when he eventually repents and dies, a voice from Heaven proclaims that R. Elazar ben Durdia is invited into the life of the world to come. When Rabbi hears this, he again weeps and says, "One may acquire his world in a single hour, and one may acquire his world in many years." The executioner seems a composite of these two figures. Like Ketia bar Shalom, he is an outsider defending Jews against Roman rulers. But like R Elazar ben Durdia, he is also presumably a sinner, since his job is to execute people at the behest of the Romans. All three men perform a heroic deed on the day of their death, thereby taking what Rabbi sees as short-cut into the world to come.

43. Deuteronomy 32:4.

44. Ibid.

45. Ibid.

recited this verse, *Great is counsel and multitudinous is the plot for your eyes are open*<sup>46</sup>. Rabbi said, “How great are these righteous ones, that in their time of trouble, they summoned three verses justifying the judgment, the likes of which are not found in all of scriptures, they focused their hearts and justified the judgment upon themselves. A philosopher stood up on his *aperchia*<sup>47</sup>. He [the philosopher] said, “My master, do not be brazen that you have burned the Torah — from the place that she went out, she returned to her father’s house.” He [the ruler] said, “Tomorrow your judgment will be as theirs.” He [the philosopher] said, “You have given me good tidings, that tomorrow my portion will be with them in the world to come.”

The *midrash* is brought as a discussion of Deuteronomy 32:4: *The rock whose ways are perfect for all His paths are just, God is faithfulness and has no iniquity, He is righteous and straight*. The *midrash* demonstrates that what it truly means to believe that God is *the rock whose ways are perfect*, is to be willing to accept God’s judgment unquestioningly, no matter what it is. R. Chaninah, his wife, and his daughter are not told by the authorities why they are being punished, nor does the *midrash* question what they have done to deserve their fate. Instead they affirm their absolute acceptance of God’s decree by citing verses indicating God’s perfect Justice. Rabbi’s comment highlights the fact that even in their moment of devastation, they not only accept God’s judgment, but they do so with literary flair, calling up the most perfect verses.

The *midrash* does not actually describe the carrying out of the punishment, but it seems that as the Torah is burning, a philosopher addresses the ruler and claims that burning the Torah is not equivalent to triumphing over the Torah. Instead, she has simply returned to her father’s home<sup>48</sup>.

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46. Jeremiah 32:19.

47. Finkelstein suggests that the word should be *aphercus*, the ruler of the province, and that the phrase עמד פילוסופוס על אפרכיא על שול means that the philosopher opposed the ruler of his province. Finkelstein, *Sifrei on Deuteronomy* (New York: Jewish Theological Seminary, 1993), 346, n. 10.

48. Aharon Agus understands the idea of the Torah returning to her father’s house in a darker way:

The Torah ‘returns to her father’s house’ as if in widowhood; the tragedy of the Torah is congruent with that of the martyr and thus with that of Israel. But the return to the father’s house is also a return to a pristine state. Love may be again, there may ensue new relationships ... The

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This comment enrages the ruler who declares that the next day the philosopher will share the fate of the martyrs. Instead of protesting this verdict, the philosopher welcomes it, saying, “You have given me good tidings, that tomorrow my portion will be with them in the world to come.”

The philosopher plays an important role in the story. As the outsider, he witnesses the behavior of the martyr and rather than being repulsed, he is attracted and wants to share their fate. Yet his presence at the scene is odd. It is not clear why a philosopher would be at this execution or what about the martyrs is compelling for him. It is also not clear why he thinks that his death will guarantee him a portion in the world to come.

The *midrash* is jagged, with several other aspects equally unclear. Why is the Torah burned? Is it burned together with R. Chaninah ben Teradion or merely at the same time? What is the work that the daughter must do? The *midrash* does not flesh out the issues, as its central theme is acceptance of God’s judgment. The *Bavli*, in part IV, recites this passage from the *Sifrei*, but provides a context that answers many of these questions. Part III of the *Bavli* relates the reasons why R. Chaninah and his family are punished as well as the nature of the daughter’s punishment. Part VI describes the exact process by which R. Chaninah and the Torah are burnt. The somewhat awkwardly placed philosopher is turned into the executioner, both of whom choose to share in R. Chaninah’s martyrdom. As we will see, there are two more refinings that the story will undergo between its first appearance in the *Sifrei* and its transformation into the *Bavli* narrative.

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philosopher admonishes his overlord not to let his seeming power go to his head because, although the tragedy for Israel is real, it is at the same time a new beginning, an arrival.

Aharon Agus, *The Binding of Isaac and Messiah: Law, Martyrdom, and Deliverance in Early Rabbinic Religiosity* (Albany: State University of New York, 1988), 132. In this understanding, the Torah’s marriage has ended and the Torah returns as widow to her father’s home. Yet, it is not evident to whom the Torah was married. Was she married to her physical presence on parchment, and with the burning of the parchment, came her widowhood? Was she married to R. Chaninah ben Teradion and with his death the marriage ended? Agus poetically extends the metaphor of the return to the father’s house, but it is not clear that the story can bear it out.

## Tractate *Semachot*

The next retelling of R. Chaninah's martyrdom appears in Tractate *Semachot*<sup>49</sup> 8:12. The dating of Tractate *Semachot* is difficult<sup>50</sup>. Dov Zlotnick claims:

We have thus found nothing in Sm pointing decisively to a late date. On the contrary, it can now be stated that the latest authorities mentioned in the text are the Tannaim of the fifth generation, Rabbi Judah the Prince and his contemporaries. Moreover, the language is Mishnaic Hebrew, and its style and structure, the literary formulation and sequence of the Halakah and the Aggadah, is always that of the Tannaim. In the absence of further textual evidence and in view of the fact that Sm is clearly identified as Tannaitic by the Gaon Natronai and by all medieval scholars, it seems preferable to submit to the authority of the ancients and suggest an early date — the end of the third century<sup>51</sup>.

According to Zlotnick, Tractate *Semachot* is to be considered a late tannaitic text. M.B. Lerner cites Zlotnick's arguments, but concludes that "the employment of certain editorial techniques, especially as far as the insertion of aggadic passages is concerned, does not preclude a somewhat later date<sup>52</sup>." Based on the details of the story of the martyrdom of R. Chaninah ben Teradion, I will argue for a relatively early dating of *Semachot*, or at least an early dating of this particular passage, making it the second iteration of the story after *Sifrei*. *Semachot* presents this narrative:

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49. Tractate *Semachot* is a euphemism for *Evel Rabbati* (Mourning). See M.B. Lerner, "The External Tractates," in *The Literature of the Sages. First Part: Oral Tora, Halakha, Mishna, Tosefta, Talmud, External Tractates*, ed. Shmuel Safrai (Philadelphia: Fortress Press, 1987), 389.

50. Michael Higger explains that the composite nature of the minor tractates, as well as the likelihood that some *beraitot* are no longer recognizable as tannaitic material makes it exceedingly difficult to assert authoritatively when they were written. Michael Higger, *Treatise Semahot and Treatise Semahot of R. Hiyya and Sefer Hibbut ha-Keber* (New York: Bloch Publishing Company, 1931), 13–14.

51. Dov Zlotnick, *The Tractate "Mourning"* (New Haven and London: Yale University Press, 1966), 8–9.

52. M.B. Lerner, "The External Tractates," in *The Literature of the Sages. First Part: Oral Tora, Halakha, Mishna, Tosefta, Talmud, External Tractates*, ed. Shmuel Safrai (Philadelphia: Fortress Press, 1987), 391.

### *Keren III*

When Chaninah ben Teradion was caught for sectarianism, they decreed that he would be burnt, and that his wife would be killed and that his daughter would sit in a brothel. He said, "What was decreed against that poor woman?" They said, "to be killed." He recited regarding her, *God is righteous in all of His way and pious in all of His deeds*<sup>53</sup>. *The rock whose ways are perfect for all His paths are just, God is faithfulness and has no iniquity, He is righteous and straight*<sup>54</sup>. She said to them, "What was decreed upon that Rabbi?" They said, "to be burned." She recited regarding him *Great is counsel and multitudinous is the plot for your eyes are open upon the ways of all people to give each person according to his ways and the fruits of his actions*<sup>55</sup>.

Right from the start, Tractate *Semachot* begins to clarify ambiguities found in *Sifrei*. *Semachot* announces that R. Chaninah was arrested on charges of sectarianism. Whether R. Chaninah was actually a sectarian or whether this was a trumped up charge is unclear. Additionally, *Semachot* explains that the work that the daughter was forced to do in is prostitution.

Additionally interesting is that in *Semachot* it appears that each character has heard of his or her own fate, but not of the others. R. Chaninah asks what is to befall his wife and upon hearing the answer, he justifies God's judgement with two verses. His wife asks about R. Channah's fate and then justifies it with the verse from Jeremiah 32:19 that the daughter had used in *Sifrei*. In *Semachot*, the ultimate acceptance of God's judgment seems to be a willingness to accept the suffering of a loved one. The daughter, though, does not recite a verse of justification, because she ultimately challenges God's justice.

And when they burnt him, they wrapped him in a Torah scroll and burnt him and the Torah scroll with him. And his daughter was yelling and prostrating herself before him and she said, "This is the Torah and the Reward for Torah?" He said to her, "My daughter, if you are crying for me and prostrating yourself for me, it is better for me to be consumed by a fire that has been fanned and not by a fire that has not been fanned, as it is said, *He shall be consumed by a fire that*

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53. Psalms 145:17.

54. Deuteronomy 32:4.

55. Jeremiah 32:19.

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*has not been fanned*<sup>56</sup>. And if you are crying on account of the Torah scroll, behold the Torah is fire and fire cannot consume fire, behold the letters are flying up in the air and the fire is only consuming the skin/parchment alone.

In *Semachot*, the mechanics of the burning are elucidated. It is not just that R. Chaninah and his Torah scroll are burned, but an additional detail is added. R. Chaninah is wrapped in the Torah scroll. Both are set on fire in a scene that is so horrific that his daughter screams, “This is the Torah and the Reward for Torah?” Her challenge is in stark contrast to the central theme of *Sifrei*, that of complete submission to God’s will. Here the daughter instead argues that what is happening is not in accordance with the way the world should be. Those who study Torah should be rewarded, not tortured.

Her father responds in a manner that is oblique. He claims that if her tears are for him, he prefers suffering in this world to punishment in the world to come<sup>57</sup>. But if her tears are for the Torah that is burning, she need not fear, because the Torah is not being destroyed. Its letters are flying upward and only the parchment is burning.

This portion of *Semachot* seems to be a reworking of the end of the *Sifrei* passage. Instead of the philosopher proclaiming the inviolability of the Torah, those words are given to R. Chaninah. The philosopher has been dropped and now it is a story about a father and a daughter. In response to his daughter’s challenge, R. Chaninah reaffirms his faith in God’s justice and in the survival of Torah.

## Tractate *Kallah*

The dating of Tractate *Kallah* has long been a matter of debate. Rashi (R. Solomon ben Isaac of Troyes 1040–1105 CE) claims that it is of tannaitic origin<sup>58</sup>. Scholars of the modern era have dated *Masechet Kallah* to the Gaonic period<sup>59</sup>.

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56. Job 20:26.

57. This may be an indication that he believes himself to have done something worthy of punishment. Perhaps the sectarian charges were warranted.

58. Rashi on Babylonian Talmud *Shabbat* 114a, s.v. *bechol makom*.

59. See M.B. Lerner, “The External Tractates,” in *The Literature of the Sages*. First Part: *Oral Tora, Halakha, Mishna, Tosefta, Talmud, External Tractates*, ed. Shmuel

Recently, David Brodsky has successfully argued in *A Bride Without A Blessing: A Study in the Redaction and Content of Massekhet Kallah and Its Gemara* that Tractate *Kallah* is a product of the early Amoraic period. Brodsky begins by dating the first two chapters of *Kallah Rabbati* as earlier than the stammaitic layer of the *Bavli*. He demonstrates that these chapters share linguistic patterns with early amoraic material, but do not use the language associated with the stammaitic layer. Brodsky then argues that since the first two chapters of *Kallah Rabbati* function as a commentary to Tractate *Kallah*, Tractate *Kallah* “cannot be considered post-amoraic either, since a text cannot predate the commentary on it<sup>60</sup>.”

The parallel to our *Bavli Avodah Zara* story that is found in *Masechet Kallah* only appears in some manuscripts of Tractate *Kallah*<sup>61</sup>. The story follows a statement found in all the manuscripts, that R. Eliezer ben Yaakov says a Sage may not contribute money to the charity collection unless a person such as R. Chaninah ben Teradion is appointed over it.

It was said about R. Chaninah ben Teradion that once he mixed up Purim money with charity money and he was sitting and wondering and he said “Woe to me, perhaps I am liable for death by Heaven.” As he was sitting and wondering the executioner came and said to him, “Rabbi, they decreed against you that you should be wrapped in your Torah scroll and burnt with it. [The executioner] stood and wrapped him in the Torah and surrounded it with vines<sup>62</sup> and lit the

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Safrai (Philadelphia: Fortress Press, 1987), 395. See also H.L. Strack and Gunter Stemberger, *Introduction to the Talmud and Midrash*, translated and edited by Markus Bockmuehl (Minneapolis: Fortress Press, 1996), 229.

60. David Brodsky, *A Bride Without A Blessing: A Study in the Redaction and Content of Massekhet Kallah and Its Gemara* (Tubingen: Mohr Siebeck, 2006), 34–86.

61. The story appears in MSS Oxford 2257, JTS R1283, and in the printed edition of the Babylonian Talmud.

62. Brodsky translates תבילי זמורת as a pile of sticks and notes that the word זמורה can also mean an officer’s rod or a phallus. Based on this reading, Brodsky notes, “It is not insignificant, then, that the executioner attempt to kill R. Hanina through these bundles of *zemorot*, bundles that homonymously at least represent both the phallus and the authority possessed by the executioner. In fact, when R. Hanina is standing in the fire wrapped in the Torah scroll, he becomes a giant phallus of sorts, the light emitted from them which puts out the fire should be understood, then, as the quintessential semen, containing the power to put out the fire and save R. Hanina.” David Brodsky, *A Bride Without A Blessing*, 168, n. 119. Needless

fire, but the fire cooled and distanced from him. The executioner stood amazed and said, "Rabbi, are you the one about whom it was decreed that he should be burnt?" He said, "Yes." [The executioner] said, "And why is the fire going out?" [R. Chaninah] said, "I swore by my Maker that nothing would touch me until I know whether it was decreed upon me from Heaven. Wait one hour and I will let you know." The executioner was sitting and wondering. He said, "These people who decree life and death upon themselves — how does the government have any power over them?" [The executioner] said, "Get up and whatever the government wants to do to me, let it do." He said, "Empty-headed one! The decree has been agreed to by Heaven. And if you will not kill me, God has many agents of death. There are many bears and leopards and lions and wolves, and many snakes and scorpions that will kill me. Rather, in the end, God will exact retribution for my blood from your hand." And the executioner knew that it was so. [The executioner] jumped and fell into the fire and his voice was heard from the fire and he said, "Wherever you die, I will die and there I will be buried, and when you will live, I will live." Immediately a voice came down from Heaven and said, "R. Chaninah and his executioner are invited to life in the world-to-come."

This story contains several of the key elements of the earlier versions. R. Chaninah ben Teradion is burned to death with his Torah scroll and he accepts his fate as an expression of Divine Justice. As in the *Sifrei*, an outsider is attracted by the martyrdom and chooses to die along with R. Chaninah.

Yet, there are also key differences. The daughter and wife disappear from the story and the outsider, instead of being a philosopher is instead the executioner. No verses are cited and there is no meditation on the survival of the Torah. Instead the story essentially becomes a dialogue between the rabbi and the executioner. Rabbi Chaninah is presented at the outset as having done something wrong<sup>63</sup>. The misdeed seems fairly trivial, but he worries that it

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to say, my translation of תבילי ומרות as vines does not allow for quite as imaginative an image.

63. Brodsky notes that the given that the story follows R. Eliezer ben Yaakov's statement lauding R. Chaninah ben Teradion's trustworthiness as a charity collector, we would expect the story to demonstrate great reliability. As such, the *Bavli's* version of the tale, in which R. Chaninah's disbursement of all the monies to charity is seen

### Keren III

warrants him death at the hands of Heaven. Right on cue, the executioner shows up to carry out the punishment.

The executioner does not list the charges against R. Chaninah and he promptly begins the preparations for R. Chaninah's death. As in *Semachot*, he wraps the Torah around R. Chaninah, but now a new detail is added. Vines are placed around the Torah Scroll to keep it in position and the fire is lit. Suddenly though, the story diverges into farce. The flames will not stay lit, the executioner is befuddled, and R. Chaninah explains that he has vowed not to die until he ascertains whether this is indeed a Heavenly decree. The executioner agrees to give him some time and now the executioner finds himself in the same position as R. Chaninah (ישב ותמיח), sitting and wondering about the turn of events.

The executioner decides that if R. Chaninah is powerful enough to forestall his own burning, he will let him go free. R. Chaninah, instead of gratefully leaving, proceeds to insult the executioner and to explain that death comes from God, not people. If the executioner will not kill him, God will simply send another agent of death<sup>64</sup>. It does not matter to R. Chaninah how he dies. The only difference is whether the executioner will be ultimately faulted for taking R. Chaninah's life.

This is a complicated argument, which is later echoed in the *Bavli* in Rabbi Chaninah's response to his daughter. It is possible for Heaven to decree that someone should die, but also for the agent of death to be held accountable for the killing. Interestingly, in *Kallah*, the executioner presumably decides to go through with the burning, but the story elides the actual moment of R. Chaninah's death. Instead it picks up just afterwards with the executioner joining R. Chaninah in the fire and declaring his devotion using the language that Ruth uses to evoke her fealty to Naomi<sup>65</sup>.

In *Kallah*, R. Chaninah demonstrates his acceptance of God's judgment not through verses, but through his refusal to accept the executioner's offer of

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as proof of his worthiness of entering the world to come would make more sense than the version that appears in Tractate *Kallah*, where his unreliability brings about his death. See Brodsky, *Bride without a Blessing*, 166. I would argue though, that the story here in *Kallah* demonstrates R. Chaninah's great sensitivity towards his charity duties, even if he is not always able to live up to his own standards.

64. See also *Bavli Taanit* 18b, *Sifra Emor* 9:5, and *Mechilta of R. Shimon Bar Yochai Exodus* 21:13 for a similar expression of inescapable Divine Justice.

65. Ruth 1:16–17.

freedom. R. Chaninah displays ultimate agency, choosing his death instead of fleeing it. It is a story of R. Chaninah's faith in Divine Justice and the impression that this faith makes one an outsider. As such, the wife and daughter are not relevant to the story and so they disappear. The Torah scroll also does not seem to play a role here, but the tradition associating R. Chaninah's death with the burning of the Torah is so strong that the Torah remains a part of the story anyway.

## Conclusion

In its earliest form in the *Sifrei*, the story of R. Chaninah ben Teradion is a straight-forward tale of a man and his family who accept a terrible decree upon themselves without questioning God. Over time aspects of this story are elaborated upon, re-arranged, and questioned. As the story is reworked into the Babylonian Talmud, the editors craft it into a sweeping tale of stubborn resistance to Roman rule paired with a fairly complete and stoic acceptance of God's judgment. Many themes are complicated by the editors. R. Chaninah both deserves his fate and does not. His acceptance of his martyrdom is both celebrated and suspected. He refuses to hasten his death and yet he agrees to allow another to end his torment. The artistry of the story is clear, especially when its agenda is not.

The editors of the *Bavli* used narrative to explore the pressing issues of their time. Should one submit to non-Jewish authorities? To what extent should calamities be understood as God's justice, manifest? Is resistance to a decree akin to rejecting God's judgment, or is it God's preference for Jews to employ any means necessary to survive? By taking up, and complicating, the story of the martyrdom of the *tanna* R. Chaninah ben Teradion, the editors of the *Bavli* tell a layered, subtle story that addresses the complex experience of Jews under foreign rule.

# *The Nature of Sanctified Time*

DINA BRAWER

Rabba Dina Brawer is the founder of JOFA UK and the creator and producer of the #YourTorah podcast designed as an invitation to discover Mishnah. She lectures, writes and broadcasts to wide and diverse audiences around the world. Rabba Brawer received semikha from Maharat in 2018 and she holds a BA in Hebrew and Jewish Studies from the University of London and an MA in Education and Psychology from the Institute of Education, London.

## Introduction:

Is sacred time an objective reality or is it the result of our subjective experience? The rationalist Maimonides and the mystical Zohar hold opposing views. We will explore these two approaches and ask how they contribute to our understanding and experience of Shabbat.

## Defining the problem:

How are we to understand the *kedushah* of Shabbat? Is it an ontological quality? Is the seventh day intrinsically holy? Or is the holiness of Shabbat a subjective experience?

In the Friday night kiddush we recite verses from Genesis (2:1–3) that begin with *Vayechulu*, describing how G-d completed the act of creation and rested on the seventh day, concluding with: *And G-d blessed the seventh day, and sanctified it; because that in it He rested from all His work which G-d in creating had made.*

This last verse states that G-d blessed and sanctified the seventh day.

In the opening verse for kiddush on Shabbat day, however, we are called

to: *Remember the Sabbath day, to sanctify it.* (Exodus 20:7). These two verses contradict each other: one states that G-d sanctified the seventh day, suggesting it is an intrinsically holy day. The other calls on us to sanctify Shabbat, suggesting it is a day like any other, and the experience of holiness is subjective and dependent on us to sanctify it.

## Two approaches:

We will explore the tension between the intrinsic and subjective holiness of Shabbat by juxtaposing two main approaches — that of Rambam (Maimonides, 1135–1204) known as a rationalist, and that of the Zohar (a foundational mystical text of the 13th century).

### Shabbat's sanctity as a subjective experience:

Rambam sees two reasons for the commandment to rest on the seventh day. The first is strictly utilitarian; a person needs a day of rest from the daily grind of work. *'With regard to the Sabbath, the reason for it is too well known to have need to be explained, for it is known how great a rest it procures. Because of it the seventh part of the life of every individual consists in pleasure and repose from the fatigue and weariness from which there is no escape either for the young or for the old'* (Maimonides, *Guide to the Perplexed* III:43).

Rambam's second reason is theological; by abstaining from work a person reinforces their belief in G-d. *'At the same time it perpetuates throughout the periods of time an opinion whose value is very great, namely, the assertion that the world has been produced in time'* (Maimonides, *Guide to the Perplexed* III:43).

For Rambam, ritual is a powerful anchor for ideas.

*Opinions do not last unless they are accompanied by actions that strengthen them, make them generally known and perpetuate them among the multitude. For this reason we are ordered by the law to exalt this day, in order that the principle of the creation of the world in time be established and universally known in the world through the fact that all people refrain from working on one and the same day* (Maimonides, *Guide to the Perplexed* II:39).

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It is noteworthy that in his reasoning, Rambam does not refer to the holiness of the day. Both of his reasons for resting on Shabbat are utilitarian; to give our body necessary physical rest, and to declare and strengthen a belief in G-d's creation process.

Menachem Kellner, a contemporary Maimonidean scholar and philosopher, argues that, based on the above citations, Rambam does not see any ontological quality in the *kedushah* of Shabbat (Kellner, *Maimonides' Confrontation with Mysticism*, Littman Library of Jewish Civilization, 2006, pp. 123–124).

Rather, Shabbat functions as a means of ingraining a belief in G-d's existence, unity, incorporeality, and creation of world. Shabbat provides a means of anchoring these beliefs so that they are not lost or corrupted. Rambam's approach instrumentalizes the ritual of Shabbat.

We have seen Rambam's approach as a philosopher, next we will examine his approach as a halachist: *'Why do we recite a bracha over spices on Motzei Shabbat? Because the soul is depressed that Shabbat is leaving. Therefore we cheer it up and make it feel better with the nice smell'* (Mishneh Torah, *Hilchot Shabbat* 29:29).

In Rambam's reasoning for the ritual of inhaling spices at the conclusion of Shabbat, he speaks of the soul being depressed as Shabbat ends. The Talmud, by contrast, describes an 'additional soul' that graces a Jew on Shabbat. When Shabbat terminates, this additional soul is painfully absent:

*As Rabbi Shimon ben Lakish said: The Holy One, Blessed be He, gives a person an additional soul on Shabbat eve, and at the conclusion of Shabbat removes it from him, as it is stated: "He ceased from work and was refreshed [vayinafash]" (Exodus 31:17). Rabbi Shimon ben Lakish expounds the verse as follows: Since he ceased from work, and now Shabbat has concluded and his additional soul is removed from him, woe [vai] for the additional soul [nefesh] that is lost (B. Talmud Beitzah 16a).*

Tosafot (B. Talmud Beitzah 33b) comments that the reason we recite a blessing on spices at the conclusion of Shabbat and not at the conclusion of *Yom Tov*, is that only on Shabbat do we experience an additional soul, and the spices revive us once it departs.

Maimonides, though, does not mention the loss of the extra soul as a reason for the requirement for spices when Shabbat ends. His approach is strictly utilitarian, which is the trend of medieval thinkers, before the further development of the kabbalah.

Other medieval Jewish thinkers such as Rav Saadia Gaon, Ibn Ezra, Rashi, Judah Halevi, and Jacob of Anatoli all focus on the idea that Shabbat provides freedom from work and the mundane, and allows time to socialize, enjoy, even study more Torah, but they do not speak of an intrinsic cosmic holiness, or of national sanctity.

The Spanish poet and philosopher Judah Halevi (1075–1141) in his *piyut* ‘*Al Ahavatecha*’ writes about the longing the Jew experiences all week long for Shabbat, the theme is very much one of respite from work: ‘*Six day we are to you like slaves...on the fifth day I’ll know that on the morrow I’ll have freedom... on the sixth day my soul will rejoice because rest is approaching...*’

In his philosophical work, *The Kuzari*, Judah Halevi returns to the motif of Shabbat as a respite from the physical:

*The body makes up on the Shabbat the loss it has suffered during the six days and prepares itself for labor to come, while the soul reflects on the loss it has suffered...it is as if a man cures himself from a past illness and provides himself with a remedy to ward off any future sickness (Kuzari III:5).*

Jacob ben Abba Mari ben Simson Anatoli (c. 1194 — 1256) was a translator of Arabic texts to Hebrew, who was influenced by Rambam’s philosophy. He explains the holiness of Shabbat as having intellectual significance:

*And since not every man is free to study all the time...G-d appointed for them a certain time and hallowed the Sabbath day, so that on that day everyone could listen to Torah and to the words of the Sages and reflect as is proper on that day in order to understand and grasp what is holy, for holiness exists only in this respect...sanctifications consist not in cessation from work...nor does sanctification consists in preparing the Sabbath meal (Malmad haTalmidim, Lyck 1866. Cf. Isaiah Tishby, *The Wisdom of the Zohar*, Vol III, Littman Library of Jewish Civilization, 2008, p. 1219).*

But while Jacob of Anatoli believes that the sanctity of Shabbat is an intellectual construct, when he explains *kiddush*, the ritual act of sanctification of Shabbat, he frames it as a rather practical function:

*the primary intention here is not joy in itself, but to steer man away from drunkenness, for if man did not have a [specific] time for drinking wine, he would go on drinking every day and become a drunkard. But since we have a fixed day set aside for a meal with wine, our desire for wine on other days is diminished (Malmad haTalmidim, Lyck 1866. Cf. Tishby, *The**

### *Keren III*

*Wisdom of the Zohar*, Vol III, Littman Library of Jewish Civilization, 2008, p. 1219).

In summation, Shabbat is seen by the medieval philosophers as fulfilling intellectual, social, and utilitarian needs, rather than being about nourishing a person's spiritual needs or possessing spiritual content altogether.

### **Shabbat's sanctity as an objective quality:**

With Ramban (Moses ben Nachman, Girona 1194–1270) we find a shift from the utilitarian and subjective approach to the sanctity of Shabbat espoused by previous medieval philosophers. Ramban's approach is directly influenced by the *Sefer haBahir* (first manuscript c. 1174), a mystical work that precedes the Zohar by about a century.

In his commentary to the verse in Genesis (2:3) 'And G-d blessed the seventh day, and sanctified it' Ramban interprets the holiness of Shabbat as an objective quality:

*And the truth is, that the blessing of Shabbat is source of blessing, the Yesod (foundation) of the world.*

*He sanctified, meaning he derived it from the Holy.*

*And if you understand my words, you will know what they said in Midrash Bereshit Rabbah (11:8) that because He has no spouse, and Kneset Israel shall be Your spouse, and understand that on Shabbat there is an additional soul in truth (Ramban, Bereshit 2:3).*

Ramban explains that God's blessing of the seventh day is the source of all blessings and the foundation (*Yesod*) of the whole world. Here we find the holiness of Shabbat as an ontological quality, it is derived from something entirely different from the rest of the week and the other parts of creation. In addition, Ramban alludes to a more profound understanding of the Midrash in *Bereshit Rabbah*, that suggests that God has to bless the seventh day, because unlike the previous six days, it could not be paired with another day.

*Why did G-d bless Shabbat? [...] Rabbi Shimon bar Yochai taught: Shabbat pleaded with the Holy One, Blessed be He, saying: "Everyone else has a partner, but I have none!" G-d answered saying: "The Community of Israel will be your partner" (Bereshit Rabbah, 11:8).*

Ramban, radically suggests that, it is not just Shabbat that has no pair, but that G-d is without a spouse, and that through Shabbat, the Jewish people become G-d's spouse. He also highlights that which Rambam had completely ignored, the additional soul that Shabbat bestows on the Jew.

Ramban's mystically oriented approach is novel, and we find it expanded and amplified in the Zohar. The Zohar describes Shabbat as follows:

*It is holiness and is adorned with holiness,  
and adds sanctity to its sanctity.  
Therefore this day is the joy of the upper and lower worlds.  
everything rejoices in it.  
It fills the world with blessings.  
They are all nourished by it.  
On this day the **upper and lower worlds** rest;  
on this day the wicked in gehinnom rest...they all rejoice in the joy of the  
king and experience no sorrow on this day' (Zohar Chadash, Bereshit 17b).*

The Zohar's language is shot through with mystical imagery (upper and lower worlds, sanctity upon sanctity and holiness) that is absent in the writings of the Jewish rationalists. Where the rationalists appeal to logic, the Zohar appeals to our imagination.

The following passage of Zohar, traditionally recited by hasidim on Friday before evening prayers is even more imaginative and evocative in its depiction of Shabbat.

*Mystery of Sabbath: She is Sabbath — united in the mystery of one, so that mystery of One may settle upon Her. Prayer for the entrance of Sabbath: then the Holy Throne is united in mystery of One, arrayed for the supernal Holy King to rest upon Her. When Sabbath enters She unites, and separates [herself] from the Other Side, all judgments removed from Her. And She remains unified in holy radiance, adorned with many crowns for the Holy King. All powers of wrath and masters of judgment all flee (and pass away from her) and no alien power reigns in all the worlds. Her face shines with supernal radiance, and She is adorned below by the Holy People, all of whom are adorned with new [or: joyous] souls. Then, beginning of prayer, blessing Her with joy and beaming faces, saying: "Bless (et) YHVH who is blessed!" (Zohar II: 135a-b, Trans. Daniel C. Matt, Pritzker edition).*

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This passage imagines Shabbat as a time when the Divine masculine and feminine unite (*unified in holy radiance*), and as a result all is well in the world (*powers of wrath and masters of judgment all flee*). The Divine feminine, the *Shechinah*, is adorned by the Jewish people below, as they are adorned by her.

To be clear, the Zohar is not merely presenting a symbolic connection between a Jew's Shabbat ritual and the transformation that occurs in the upper worlds. Rather the Zohar is insisting that there is a theurgic connection. A Jew's actions below *create* the spiritual realities above.

*'If a person does not celebrate shabbat joyfully, they cause a separation in upper worlds, like taking the bride away from husband'* (Tikkunei ha-Zohar, 21, 59b).

In his systematic review of Shabbat through the lens of Jewish mysticism, Moshe Idel explains how Moshe Cordovero (Safed 1522–1570), an important later Kabbalist, reinforces this theurgic connection:

*Cordovero conceives Sabbath not just as a moment in time propitious for the revelation of the holy, but as an entity, consisting of holiness and light, which descends in a certain moment and is experienced by those who prepare themselves and their belongings so as to contain the presence of Shabbat* (Idel, "Sabbath: The Concepts of Time in Jewish Mysticism," in Gerald J. Blidstein (ed.), *Sabbath: Idea, History, Reality*, Ben Gurion University Press, 2004, p. 82).

## Which Shabbat do you relate to?

We have seen two very different approaches to Shabbat. The rationalists see Shabbat in practical, social, and intellectual terms. There is nothing ontologically sacred about a Saturday. It is rather what we do on this designated day that is of significance.

The mystics, on the other hand, sense in this particular day an intrinsic sanctity spanning the terrestrial and celestial domains. This contrast can best be captured in Max Weber's (German philosopher, 1864–1920) distinction between a (pre-modern) *enchanted* world and a (modern or secular) *disenchanted* world.

So what are we to make of all this? Which of the two depictions best describe our experience of Shabbat? Or, to put the question slightly differently,

which of these two radically different world views should we adopt in our conceptualising Shabbat?

At first blush, the answer seems obvious. Those with a mystical bent will gravitate towards the mystics' enchanted Shabbat, while those wedded to a rational mindset will opt for the disenchanting version. But what if the choice was not binary? What if the enchanted version did not so much force a rationalist to abandon logical thinking, as much as invite her to temporarily step outside it?

Arnold van Gennep (1873–1957), an ethnographer with particular interest in transition rites, speaks of *pivoting the sacred* (Van Gennep, *The Rites of Passage*, Routledge, 2004). Gennep understood sacredness as something that is not fixed but relates to circumstances, suggesting that we create situations that enable us to enter a sacred time and space.

To make this practical, let's contrast the experience of seeing a play being rehearsed, with the actual live performance at the theatre.

When seeing a rehearsal, we see the actors for the people they are, without make up, wigs, or costumes. We see the interruptions for stage directions, for scenery changes, or just for the actors to sip water. We are fully aware that the play is not 'for real'. When we go to theatre for a performance, in order to fully experience it and enjoy it, we need to deliberately 'forget' that the actors are wearing fake beards and costumes. We choose to immerse ourselves in the scene on stage, and lose ourselves in the world that is presented to us. This is what Gennep means by pivoting the sacred. That we 'set a stage' so that we can experience the sacred, and that we willingly enter the 'sacred' mode in order to experience it. To fully experience Shabbat, we may need to set aside the rationalist lens, if not abandon it entirely, and allow our actions and rituals to open for us a sacred consciousness.

William Blake (1757–1827), known for his poetic ability to see the extraordinary in the ordinary, wrote about the elusive boundary between physical reality and our perception of it:

*The tree which moves some to tears of joy is in the eyes of others only a green thing that stands in the way. Some see nature all ridicule and deformity...and some scarce see nature at all. But to the eyes of the man of imagination, nature is imagination itself* (excerpt from a letter to Reverend John Trusler, 1777).

The hard core rationalist, who insists on subjecting every experience to level

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headed, sensible inquiry, will be unable to enter into sacred space and time, and Shabbat will remain a utilitarian framework. But for those who are able to suspend the rational and pivot the sacred, Shabbat can be transformed into an enchanted moment in time, bringing with it a deep sense of spiritual nourishment.

# ***Daber Davar: Speech of Shabbat***

JEFFREY FOX

Rabbi Jeffrey Fox is the Rosh Yeshiva of Yeshivat Maharat. He received his smicha from Yeshivat Chovevei Torah and has previously served as the Rabbi of Kehilat Keshet: The Community Synagogue of Tenafly and Englewood.

**Sacred Attunement: A Jewish Theology,  
Michael Fishbane (2008) (pages 133–134)**

**T**here are two kinds of silence. One of these is natural silence and is characterized by the absence of noise. It is a modulation, a diminishment, a negative valence. The other kind of silence is spiritual and is characterized by potentiality and anticipation. We sense this every time we watch a conductor or an ensemble gesture slightly just prior to the production of sound; and we also sense it during moments of self-collection and focus, before something of significance is said to another person. With respect to music, anticipatory silence helps prepare the self to hear sound sounding; for it focuses attention on the transition from silence to sound. With respect to deliberate speech, silence conveys the ethical potential of words; for it sharpens the transition from inwardness to worldly expression. Prayer may also stand at this juncture of silence and speech. It may do so when one begins to articulate thanks or hope, or prepares to recite a blessing, and thereby affirm a theological dimension of the world. For immediately prior to the onset of prayer or blessing, the self may focus both mind and heart on the content of the words and their reference. This is a spiritually pregnant silence and gives birth to words framed by that silence and infused by it in every aspiration. Entering into articulation in this way is entering into a world brought to expression through language. The sounds of speech are meaningful only through the silences that

precede them or carry them forward. Otherwise, there would only be din and noise.

## Contemplative Prayer, Thomas Merton (1971) (pages 23, 29)

For the monk searches not only his own heart: he plunges deep into the heart of that world of which he remains a part although he seems to have “left” it. In reality the monk abandons the world only in order to listen more intently to the deepest and most neglected voices that proceed from its inner depth...

Whatever one may think of the value of communal celebration with all kinds of song and self-expression — and these certainly have their place — the kind of prayer we here speak of as properly “monastic” (though it may also fit into the life of any lay person who is attracted to it) is a prayer of silence, simplicity, contemplative and meditative unity, a deep personal integration in an attentive, watchful listening of the “the heart.” The response such prayer calls forth is not usually one of jubilation or audible witness: it is a wordless and total surrender of the heart in silence.

## Introduction

Creation was initiated through divine speech — *And God said*, “Let there be light” (Genesis 1:3). The Torah defines the first human being in the second chapter of Genesis with the phrase נפש חיה (a living spirit, Genesis 2:7). Onkelos translates this phrase into Aramaic as “רוח ממלא” — “a speaking spirit.” There are many laws about the parameters of permissible speech during the week. This paper unpacks the question of how we ought to speak on Shabbat.

The more common formulation of this question focuses on when we are permitted to ask a non-Jew to violate Shabbat on our behalf. This article addresses a prior question that we must answer — are we even allowed to talk about or mention a behavior that in and of itself violates Shabbat? The restrictive view reflects a certain notion of the power of speech. The more we imbue our language with the ability to create our environment, the more inclined we

might be towards stringency in this matter. The more lenient approach may reflect a different approach to the nature of speech.

This paper will weave together Halakhic and Aggadic material in an attempt to explore how we might re-imagine our speech on Shabbat. Each section will unpack one or two texts, together with their parallels, to build an argument for why reinvigorating the observance of this relatively minor aspect of the Laws of Shabbat might offer a deeper insight into what Shabbat can be in our lives. There are four sections followed by a conclusion:

1. The Requirement to Make Shabbat Different (*Bavli Shabbat* 113a/b)
2. Rabbi Shimon bar Yochai's Mother and the Pious Man Taking a Walk (*Yerushalmi Shabbat* 15:3)
3. Talking Politics on Shabbat (*Terumat ha-Deshen*)
4. Idle Chatter and the Nature of Speech (*Magen Avraham*)
5. Conclusion (*Bavli Shabbat* 119b)

## 1) The Requirement to Make Shabbat Different

The *Bavli* (*Shabbat* 113a/b) says:

<p><b>תלמוד בבלי מסכת שבת דף קיג עמוד א/ב</b> (ישעיהו נח) וכבדתו מעשות דרכיך. וכבדתו שלא יהא מלבושך של שבת כמלבושך של חול! וכי הא דרבי יוחנן קרי למאניה מכבדות: מעשות דרכיך שלא יהא הילוכך של שבת כהילוכך של חול. ממצוא חפצך חפצך אסורין חפצי שמים מותרין. ודבר דבר (ע"ב) שלא יהא דבורך של שבת כדבורך של חול. דבור אסור. הרהור מותר.</p>	<p>(Isaiah 58) <i>And you shall honor it, not doing your own ways: And you shall honor it that your Sabbath garments should not be like your weekday garments. As Rabbi Yochanan called his garments 'My honorers'. Not doing your own ways that your walking on the Sabbath shall not be like your walking on weekdays. Nor finding your own affairs your affairs are forbidden, the affairs of Heaven [religious matters] are permitted. Nor speaking your own words (page 113b) that your speech [conversation] on the Sabbath should not be like your speech on weekdays. Speaking speech is forbidden but thought [about mundane matters] is permitted.</i></p>
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1. In the א version is slightly different, 'יד' R. Yochanan is here quoted as referring particularly to the clothing he wears on Shabbat.

It is the last two lines of this passage that interest me — what does it mean that we are meant to speak differently on Shabbat? How does one accomplish this? In fact, if you take the very last phrase on face value it says, “Speech is forbidden, thoughts are permitted.” What does it mean to forbid speech?<sup>2</sup>

When you take this passage in full, it reflects the power of Shabbat. According to the following midrash all aspects of our daily life — the way we dress, the way we walk and the way we speak — are meant to be different on Shabbat. The unique place of speech is articulated by Rabbi Ephraim Lunshitz (d. 1619) in his masterful commentary on the ten commandments:

**כלי יקר שמות פרק כ פסוק יג**  
 וטעמו של דבר הוא לפי שכל פעולות האדם הוא בכלי המעשה שלו אבל פעולת הקדוש ברוך הוא הוא בדיבור לבד... כשהאדם שובת בשבת ואינו עושה מלאכה בכלי המעשה שלו אין שבתה זו דומה לשבתת הקדוש ברוך הוא. כי הקדוש ברוך הוא שבת אפילו מדיבור פיו והאדם אינו שובת כי אם מפעולת כלי המעשה. על כן נאמר, “דבר דבר שלא יהא דיבורך של שבת כדיבורך של חול” לזכור שבתת הקדוש ברוך הוא אשר שבת מן הדיבור.

And the reason for this matter is that all the activities of people are with their tools of action, however the activities of the Holy One Blessed be He are with speech only... When a person rests on Shabbat and does not engage in any forbidden labor with their tools of action this resting is not like the resting of the Holy One Blessed be He. This is so because the Holy One Blessed be He rests even from the speech of the mouth, and people only rest from their tools of activity. Therefore, the Rabbis said, “*Nor speaking your own words* that your speech [conversation] on the Sabbath should not be like your speech on weekdays” to remember the resting of the Holy One Blessed be He who rested even from speech.

The Kli Yakar claims that there is an important aspect to limiting our speech as it gets us closer to God. The *Mishna Berura*, in commenting on the nature of a successful fast wrote:

2. There is a technical debate between Rashi (ד"ה שלא יהא דיבורך) and Tosafot (ד"ה שלא). Rashi explains that this refers to the prohibition of talking about business on Shabbat. Tosafot learns that prohibition from a prior *drasha* (ממצוא חפצר) and instead quotes the Midrash that I will quote below. See also Rambam *Hil. Shabbat* 24:1.

משנה ברורה סימן תקעא סעיף קטן  
ב'  
וראיני כתוב בספר אחד שכשאדם  
רוצה להתנדב תענית טוב יותר  
שיקבל תענית מן הדבור ממה  
שיקבל עליו מן האכילה כי ממנו לא  
יהיה לו נזק לא בגופו ולא בנשמתו  
ולא יחלש עי"ז וכעין זה כתב הגר"א  
באגרתו שצריך האדם לייסר עצמו  
לא בתענית וסיגופים כ"א ברוסן פיו  
ובתאותיו וזהו התשובה וכו':

And I have seen it written in one book that if someone wants to engage in a voluntary fast that it is better to accept upon themselves a fast-from-speech than from food. This is true because a person will not become weak or damage his body or soul by fasting from speech. And the Vilna Gaon has written something similar in one of his letters, "That a person must cause themselves to suffer, not through fasting and self-mortification but rather through a bridle on your mouth and your desires, and this is repentance."

Here again we see a link made between speech and physical behavior. Withdrawing from speech is understood to serve as a powerful tool for repentance. I would not recommend a regular attempt at a speech-fast every Shabbat, but the idea that limiting our speech can bring us closer to God on Shabbat has some powerful echoes in the Halakhic system.

## 2) Rebbi Shimon bar Yochai's Mother and the Pious Man taking a walk

The *Yerushalmi* quotes a similar idea about speech, and links us directly back to the creation of the world:

תלמוד ירושלמי מסכת שבת פרק טו  
דף ע"ח טור א' ה"ג  
אמר רבי אבהו שבת לה' (ויקרא כה:ב)  
שבות כה' – מה הקדוש ברוך הוא שבת  
ממאמר אף את שבות ממאמר.

Rebbi Avahu said, "Shabbat *la-hashem* (Leviticus 25:2) *shvot* (cease and desist) *ka-hashem*. Just like the Holy Blessed One desisted from speech [on Shabbat] so too you should desist from speech on Shabbat.

Here, the *Yerushalmi* is clearly seeking to limit speech on Shabbat. Rebbi Avahu says that just as God withdrew from speech on the seventh day, so too must each of us do the same. If creation was accomplished through divine speech, then Shabbat was carved out through divine silence. By limiting our speech, we attempt to walk in God's ways.

### Keren III

And the *Yerushalmi*<sup>3</sup> continues:

מעשה בחסיד אחד שיצא לטייל בכרמו בשבת וראה שם פירצה אחת וחשב לגדרו במוצאי שבת. אמר הואיל וחשבתי לגדרה איני גודרה עולמית. מה פעל לו הקב"ה? (דף עח טור ב/ה"ג) זימן לו סוכה אחת של נצפה ועלת לתוכה וגדרתא ממנה היה ניזון וממנה היה מתפרנס כל ימיו. <sup>4</sup>	It once happened that a <i>hasid</i> went to take a walk in his vineyard on Shabbat. He saw a breach in his fence and he thought about fixing it after Shabbat. He said, "Since I thought [on Shabbat] about fencing it in, I will never put up that fence." What did the Holy Blessed One do for him? He caused a bush to grow in that spot and fence in the breach. And from that bush he was supported all the days of his life. <sup>5</sup>
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The presumption of the story in the *Yerushalmi* is that since this man went above and beyond the letter of the law, so too God responded with a miracle above and beyond the confines of nature. Supererogatory behavior is rewarded beyond normative expectations.

And here the *Yerushalmi* concludes:

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3. This story of this pious man appears in the *Bavli* as well, *Shabbat* 150a:

תנו רבנן: מעשה בחסיד אחד שנפרצה לו פרץ בתוך שדהו, ונמלך עליה לגודרה, ונזכר ששבת הוא, ונמנע אותו חסיד ולא גדרה. ונעשה לו נס, ועלתה בו צלף וממנה היתה פרנסתו ופרנסת אנשי ביתו.

This story as it appears in the *Bavli* says that our pious friend initially wanted to fix the fence on Shabbat which would certainly be forbidden. In the *Yerushalmi* version his thought was only to fix the fence after Shabbat. When the Rif (דף סד ע"א בדפיו) and the Rosh (פרק כג סימן ה) retell the story they both refer to the *Bavli's* version in which he thought about rebuilding the fence on Shabbat itself.

4. The story also appears in *Vayikra Rabba* (34:16) page תתיד in the Margoliyot edition. See note 1 there on page תתטו where he points out that the story does not appear in the Leiden ms. of the *Yerushalmi* but appears to have been added in by an editor.
5. See also the Ritva (ד"ה וזכר), the Maharsha (ח"א ד"ה ונמלך) as well as the Taz (א"ח ח"ה) who deal with the question of what might have been wrong with his idea. In addition, see the Chatam Sofer in his commentary on *Masechet Shabbat* on the story who quotes the ספר הגלגלים who claims that this pious man was a *gilgul* of the stick gatherer who was himself Tzlofchad which explains the miracle of the *tzlaf* bush growing as part of the miracle.

אמר רבי חנינא מדוחק התירו  
 לשאול שלום בשבת. אמר רבי  
 חייא בר בא רבי שמעון בן יוחי  
 כד הוה חמי לאימיה משתעיא  
 סגין הוה אמר לה אימא שובתא  
 היא. תני אסור לתבוע צרכי  
 בשבת. רבי זעורה שאל לר'  
 חייא בר בא מהו מימר רעינן  
 פרנסינו? אמר ליה טופס  
 ברכות כך הן.

Rebbi Chanina said, "With difficulty they permitted greeting others on Shabbat." Rebbi Chiyya bar Ba said, "When Rebbi Shimon Bar Yochai saw his mother talking too much he would say to her, 'Mother, it is Shabbat!' It was taught, "It is forbidden to petition for your needs on Shabbat." R. Zeira asked R. Chiya bar Ba, "May we say *shepherd us, sustain us* (the petitionary language of *birkat ha-mazon*)? He replied, "The fixed liturgy is different."<sup>6</sup>

The story about Rebbi Shimon bar Yochai is somewhat complicated. In the *Yerushalmi's* version R. Shimon just tells his mother that it is Shabbat. As it appears in *Vayikra Rabba* (פרשה לד:טז) we are told that she is speaking too much and then R. Shimon tells her that it is Shabbat. The Midrash then uses the word "ושתקא" "and she shut up" to describe his mother's response.<sup>7</sup> The way that the *Zohar* shares the same story is even more harsh:

זוהר כרך א (בראשית) פרשת בראשית  
 דף לב עמוד א  
 וכך הוה עביד ר"ש כד חמי לאמיה דהות  
 משתעיא הוה אמר לה אמא שתוקי שבת  
 הוא ואסיר

And this is what Rebbi Shimon would do when he saw his mother speaking. He would say, "Mother, shut up, it is Shabbat and speech is prohibited."

Here, R. Shimon actually tells his mom to be quiet — or perhaps even tells her to shut up. In each version the story becomes more and more aggressive. In the *Yerushalmi*, R. Shimon just mentions that it is Shabbat. In the Midrash *Vayikra Rabba* we are told that she is quiet. And then, finally, in the *Zohar*, R Shimon tells his mother to be quiet. Why might R. Shimon take this

6. Regarding the practice to recite prayers on behalf of sick people see the *Gemara in Shabbat* 12a/b that requires one who visits the sick to say, "שבת היא מלזעוק ורפואה קרובה" — "It is Shabbat and we should not call out." See the *Shulchan Aruch, Orach Chayyim* 288:10, together with Magen Avraham (סק"ד) and *Mishna Berura* (ס"ח) who are not happy with the general practice that takes place in most shuls today. There may be no way to change the public שבודק מי for sick people on Shabbat, but it is important to note that it does seem to contravene the *Halakha* as it appears in the books.

7. See the Margoliyot ed. page תתט, note 3 where he deals with the different versions of how this word appears in the manuscripts.

### Keren III

to such an extreme place that he speaks to his mother in a way that seems disrespectful?

To understand this strong Rabbinic language, it may be helpful to look outside the rabbinic canon. In two non-Rabbinic Jewish books from the time of the second Temple the question of speech on Shabbat is raised. In both instances the punishment for violating this rule is the death penalty. Both the Book of Jubilees (chapter 50 verse 8) and the Damascus Document (Chapter 13 verses 2 & 5) codify improper speech as a capital crime.

To be very clear, these texts represent non-Rabbinic Jewish views from between the third century BCE and the first century CE. They pre-date the codification of the *Mishna* by about two hundred to four hundred years. However, when you situate the Rabbinic approach found in the *Yerushalmi*, *Vayikra Rabba*, and the *Bavli* within a broader intellectual context of Jubilees and Qumran, something very important emerges — the Rabbis were being lenient!<sup>8</sup>

Within the rabbinic *sitz im leben* there were Jews who treated the violation of rules regarding speech as a Torah prohibition. The Rabbis, in their codification of the very same laws, treat all of these *dinim* as Rabbinic. The Oral Torah that we inherited is different from the author of the Book of Jubilees.

Were *Chazal* responding directly to these non-Rabbinic traditions? It is impossible to know for sure. However, the rabbinic approach to these specific issues reflect a fundamentally different approach to the nature of speech. The Rabbis want us to speak differently on Shabbat, but that requirement is not raised to the level of a Torah law. How might this play out in a normative, Halakhic question?

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8. It is interesting to imagine a continuum from Jubilees and Qumran, to R. Shimon b. Yochai and R. Avahu and then the normative rabbinic position. There is often a mystical overtone to some of the Qumran texts which puts them in conversation with R. Shimon b. Yochai.

### 3) Talking Politics on Shabbat

There is a fascinating *teshuva* by Rabbi Israel Isserlein<sup>9</sup> in his work, *Terumat ha-Deshen*, that builds on the story of R. Shimon and his mother regarding what seems like a question that could have been asked today:

#### תְּרוּמַת הַדֶּשֶׁן סִימָן ס"א<sup>10</sup>

**שאלה:** מה שנוהגים רוב בני אדם אף המדקדקים במעשיהם, להתאסף ביום השבת לאחר יציאת בהכ"נ, ולספר שמועות מעניני מלכים ושרים וערך המלחמות וכה"ג, יש חשש איסור בדבר או לא?

**Question:** That which most people, even those who are careful in their observances, gather on Shabbat after the end of services and talk about the rumors regarding kings and princes and the proceedings of war and the like, is there is a concern that this might be forbidden?

**תשובה:** יראה דצריך לדקדק בדבר, דהתוס' (שבת קיג: ד"ה שלא) וכן האשירי (שבת פט"ו ס' ב) כתבו בפ' אלו קשרים, דאסור להרבות בשיחה בטילה בשבת כדמוכח בעובדא דאימא דרשב"י: כדאיתא בויק"ר... וכירושלמי אמרינן דבדוחק וטורח התירו בשאלות שלום בשבת עכ"ל. הא קמן להדיא דאסור להרבות דברים כמו בחול, וכש"כ יותר מבחול.

**Answer:** It seems that we need to investigate the matter. Tosafot (*Shabbat* 113b, s.v. *she-lo*) and the Rosh (*Shabbat* 15:2) both wrote that it is forbidden to speak idle chatter on Shabbat as it is clear from the story of R. Shimon b. Yochai's mother as it says in *Vayikra Rabba*... and the *Yerushalmi* says that with difficulty they permitted greeting people on Shabbat. Here we clearly see that it is forbidden to chatter like during the week, and all the more so is it forbidden to speak more than during the week.

אמנם אם אותם בני אדם מתענגים בכך, כשמדברים ומספרים שמועות מהמלכים ושרים ומלחמותיהם וכה"ג, כדרך הרבה בני אדם שמתאווים לכך, נראה דודאי שרי...

However, those people who really enjoy talking and chatting about the kings, the princes, their wars and the like, as many people really desire, it appears that it is certainly permitted.

9. Rabbi Isserlein died around 1460 in lower Austria and had a profound impact on the Rema and the history of Ashkenazi Jewish Law and practice. The Shach (*Yoreh Deah* 196:20) points out that Rabbi Isserlein wrote his own questions and was not responding to questions written by others. This means that the formulation of the question can have Halakhic import.

10. This *teshuva* is cited by the Rema in the *Shulchan Aruch* 307:1 and elaborated upon by the Taz ad loc.

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אמנם ראיתי הרבה פעמים, שמקצת  
מאותם בני אדם המתאספים לספר  
שמועות הללו, אינם מתענגים בריבוי  
שמועות הללו, אלא שעושים כן  
לרצון חבריהם הנאספים עמהן כה"ג  
נראה דיש חשש איסור לאותן שאין  
מתענגים.

Nevertheless I have seen many times that some of the people who gather to talk about these matters do not really enjoy the conversation, rather they do so because their friends who are gathered with them want to talk about politics with them. In this fashion it appears that there is concern for a prohibition for those who do not enjoy.

The question here foregrounds the complexity of this issue. Speaking on Shabbat ought to be different than speaking during the week — but what does that mean? At some level this seems to not simply be about how much we say, but rather the content and tone of our communication. What about areas of discourse that often lead to discord? The *Terumat ha-Deshen* understood that there are certain topics that can be deeply divisive and that should, therefore, be avoided on Shabbat. How many times have we all been at a Shabbat meal that has devolved into a fight over politics?

How might Rabbis imbibe these values when crafting sermons and *divrei Torah* for Shabbat? Does this mean that the Rabbi can never say anything that makes people uncomfortable? Part of the mandate of a religious leader is to encourage their community to think differently about the issues of the day, to offer a Jewish lens with which we can all view the world. This *teshuva* understands that the value of enjoying Shabbat is meant to be taken seriously. However, one person's enjoyment can be another's annoyance.

#### 4) Idle Chatter and the Nature of Speech

Are you allowed to talk about something that can not done in a permissible fashion on Shabbat? Imagine that you are leaving on a midnight flight after Shabbat to Israel, are you permitted to talk about the flight during Shabbat lunch? This question animated many of the classical commentaries on the *Shulchan Aruch*. In addition to weighing the sources to arrive at a clear answer to this question, I would like to evaluate the competing values that are driving the different approaches.

The analysis begins with a short selection from *Masechet Shabbat (Bavli 120b)*:

אמר רב יהודה אמר שמואל מותר לאדם לומר לחבירו לדרך פלוני אני הולך למחה, שאם יש בורגנין הולך. Rav Yehuda said in the name of Shmuel, "A person is permitted to say to his friend, 'I am going to such and such village tomorrow.' Because if there were huts [that extended the *techum*] it would be permitted."

Rashi (ד"ה שאם יש בורגנין) explains that even if the huts are not currently in place, and the village is beyond the *techum*, since this is something that is theoretically permitted one may talk about the journey. The implication of Rashi's comment is that something that is always forbidden — like flying to Israel — could not be discussed.

The Rosh (פרק כג סימן ו) spells out this position:<sup>11</sup>

הלך כל דבר שיש בו צד היתר שיכול לעשותו בשבת יכול לומר אעשה זה למחר וכן יכול לומר לחבירו עשה לי דבר זה למחר ובלבד שלא יזכיר לו שכירות. ודבר שאין לו היתר לעשות היום אפילו אין בו אלא איסורא דרבנן אסור לומר אעשה דבר זה למחר או לומר לחבירו עשה לי. Therefore, any matter that has a way to be permissible on Shabbat you can say that you will do this tomorrow. And you can also ask your friend to do this for you tomorrow, as long as you don't arrange a rental fee. But something that can never be permitted today [on Shabbat], even if it is only a rabbinic violation, you may not say that you will do this today nor may you ask your friend to do this on your behalf.

This approach understands the prohibition of דבר דבר — *daber davar* — as outlawing talking about any behavior that is always prohibited. This idea reflects back to the opening passage from *Shabbat* 113a/b that the way we speak on Shabbat is meant to be different. That somehow our speech is treated almost like a physical act. The Maharasha (d. 1631), Rabbi Shmuel Eidels, (חידושי אגדות) formulates this with a seductive idea:

וענינו שהדבור במלאכת שבת כמעשה... And the idea is that talking about prohibited labor is like an action.

Because the original act of creation was divine speech, that same act takes on a different standing on Shabbat for human beings. The imperative to walk in God's ways transforms the speech act from a passive experience into an active

11. Tosafot on the page (ד"ה אבל), the Piskei ha-Rid (ד"ה אמר), and the Tur (או"ח שי) all echo this same approach.

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moment. The power of words is that they create reality. This kind of creativity needs to be limited on Shabbat.

There is, however, another approach. The Magen Avraham (א"ח"ש"ז סק"א) outlines four *rishonim* that he claims all maintain that simply talking about something that is always prohibited, as long as no one is being asked even implicitly to participate, is permissible.

He begins by arguing that the Ramban (שבת קנ: ד"ה הא) and Rashba (שבת (פכ"ד מהל' שבת הלק ג))<sup>12</sup> as quoted in the Magid Mishneh (קנ: ד"ה הא) both explain the statement of Rav Yehuda in the name of Shmuel in the same way. Here is the Ramban:

הא דאמרינן מותר לאדם לומר לחבירו לכרך פלוני אני הולך למחר. לאו דוקא שיאמר כן בלחוד דהגדה זו לא מהניא ולא מעלה. אלא אפי' אומר לו "לשם אני הולך לך עמי" מותר.	That which we said, "A person is permitted to say to his friend, 'I am going to such and such village tomorrow.'" This does not only mean that you can say just this, for such a speech act accomplished nothing [and is obviously permitted]. Rather, even to say, "I am going to such and such place, come with me" is permitted.
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One might infer from this passage that if, and only if, there is a request made of a third party is such talk prohibited. Therefore, if a person were just chatting about their plans for after Shabbat, even if they were referring to something that is always prohibited, such a conversation would be allowed. This reading is not very compelling, and many are not convinced.

However, the Magen Avraham continues to make his argument, this time marshalling an inference from the Rambam at the beginning of the twenty fourth chapter of *Hilkhot Shabbat*:

לפיכך אסור לאדם להלך בחפציו בשבת ואפילו לדבר בהן כגון שידבר עם שותפו מה ימכור למחר או מה יקנה או היאך יבנה בית זה ובאי זה סחורה ילך למקום פלוני.	Therefore, it is forbidden for a person to walk after his [financial] needs on Shabbat. And even just to talk about them — like talking with your partner about what you might sell tomorrow or buy or how you might build...
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The Magen Avraham claims that particularly when two business partners are

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12. The Ritva (שבת קנ: ד"ה אמר) has the same approach to the *sugya* but the Magen Avraham did not have access to this text.

seeking advice one from the other, the conversation is problematic. However, two friends just chatting about their own investments is perhaps permitted.

He then goes on to quote a section from the Rokeach (*Siman* 133, from *Hil. Shabbat*) that appears in the *Beit Yosef* (307) and makes a specific inference:

<p><b>בית יוסף אורח חיים סימן שז</b> כתוב ברוקח (סי' קלג<sup>13</sup>) אינו יכול לומר אני חפץ לרכוב למחר כי איני [אולי צ"ל אינו] יכול להשכיר בשבת עכ"ל ונראה לי דבאומר לו כן כדי שיזמין לו סוס לרכוב עליו מייד.</p>	<p>It is written in Rokeach (133): He may not say, "I want to ride tomorrow." Because he may not rent [a horse] on Shabbat. And it appears to me that [it is forbidden] because we are dealing with a case when he says it to him in order that he will arrange for him a horse to ride on.</p>
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The inference that the Magen Avraham makes in this case is that it is only forbidden to talk about going for a ride on a horse in the presence of someone from whom you might actually rent a horse. The implication is that if there were no one around from whom you might be able to hire a horse, that just mentioning that you are going on a ride is permissible. The Magen Avraham has brought together the Ramban, Rashba, Rambam and Rokeach as read by the *Beit Yosef* as a group of *rishonim* who all maintain that one may mention behaviors that are prohibited as long as there is no request for action on the part of another.

The Halakhic language for the lenient position is that simple idle chatter (סיפור דברים בעלמא) as long as there is no invitation or request (תועלת) is permitted. According to this position I could talk about how I am getting to the airport for my flight to Tel Aviv as long as I am not, even implicitly, trying to arrange for a ride to the airport with someone at my table. By stringing together this group of *rishonim* the Magen Avraham created a position that *achronim* feel a need to respond to in one way or another.<sup>14</sup>

This approach does not see anything wrong in just talking about behavior that is fundamentally prohibited. Perhaps the debate between Rosh and Ramban (as understood by the Magen Avraham) is really about the deeper

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13. ספר הרוקח הלכות שבת סימן קלג- מותר לאדם לומר לדרך פלוני אני הולך למחר. אין יכול לומר לגוי, "אני יוכל לרכוב למחר." כי אינו יכול להשכיר בשבת.

14. See the comments of the *Peri Megadim*, *Eshel Avraham*, the *Machatzit ha-Shekel* and the *Levushei Serad* directly on the Magen Avraham (307:2). See also *Elya Rabba* 307:22.

question of the nature of the speech act on Shabbat. The Rosh, as fleshed out by the Maharsha, understood that human speech is so creative that it is akin to a physical act on Shabbat. The Ramban is perhaps claiming that speech should be understood in a more limited fashion as ‘just’ an expression of human will or desire.

The majority position of the Rosh is codified in the *Shulchan Aruch* (307:8).<sup>15</sup> Both the *Mishna Berura*<sup>16</sup> and the *Aruch ha-Shulchan*<sup>17</sup> reject the Magen Avraham’s approach to the *rishonim*. In the final analysis, the more lenient position only exists within the Magen Avraham’s read of the Ramban, Rashba, Rambam, and Beit Yosef’s approach to the Rokeach.

## 5) Conclusion

The *Gemara* in *Shabbat* (119b) makes an even more direct link between speech and action:

<p>תלמוד בבלי מסכת שבת דף קיט עמוד ב אמר רבי אלעזר מניין שהדיבור כמעשה? שנאמר בדבר ה' שמים נעשו.</p>	<p>Rebbi Elazar said, “From where do we know that speech is like an action? As it says <i>Through the word of God, the heavens were created.</i>”</p>
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This statement appears embedded in a *sugya* about the *tefilot* of Shabbat.<sup>18</sup> While it is possible to read R. Elazar’s statement very broadly, for the purposes of this paper I am mainly interested in how this idea impacts our Shabbat observance.

15. This position has important implications for the more limited question of asking a non-Jew to violate Shabbat on your behalf. One would have to say that in any instance in which one is permitted to ask a non-Jew to do something that violates Shabbat that the prohibition of דבר דבר is simply lifted. This works well with one of Rashi’s approaches to the prohibition of אמירה as he sees it as based on דבר דבר, see Rashi עבודה זרה דף טו עמוד א ד”ה כיון דזבנה קנייה. However, Rashi מסכת שבת דף קנן עמוד ד”ה מאי טעמא שרי ליה למיתב לנכרי שליחות. This reason raises all sorts of questions about the nature of agency. In addition, see the Rambam (פ”ו מהל’ שבת הל’ א) who offers yet a third approach.

16. See *Mishna Berura* 307:36 together with the *Biur Halakha* אעשה לא יאמר.

17. See *Aruch ha-Shulchan* 307:21–24.

18. See the Klausenberger Rebbe, Rabbi Yekutiel Yehuda Halberstam in his דברי יציב who makes this point.

The Shelah, R. Isaiah Horowitz (d. 1630), quotes this passage and points out that Rashi is quiet. He then explains the *Gemara* in this way:

של"ה מסכת שבת פרק נר מצוה – סג.  
ובבחינת סור מרע, דהיינו לא תעשה  
– בדיבור.  
ונראה לי דהפירוש הוא כך, כשם  
שצריך לשובות ממלאכות, כן צריך  
לשובות מהדיבור... והנה הקדוש ברוך  
הוא לא עשה במעשה רק בדיבור,  
שנאמר (תהלים לג:ו) 'בדבר ה' שמים  
נעשו, ומזה הדיבור שבת, שמע מינה  
שצריך לשובות מהדיבור כמו ממעשה.

And it seems to me that the explanation is as follows — just as we must cease from forbidden labor, so too we must cease from speech... And behold the Holy One Blessed be He did not create through action, rather only through speech, as it says (Tehillim 33:6) *Through the word of God, the heavens were created* and from this [type of] speech God rested. We learn from this that we must cease from speech just as we cease from action.

The Shelah, Maharsha, and Kli Yakar<sup>19</sup> all make similar comments about the nature of speech, particularly on Shabbat. In many ways their approach is built on the *Yerushalmi's* simple connection to God's ceasing from speech as creation on Shabbat. We can each walk in God's ways by simply taking more care in the way that we speak on Shabbat.

Our religious lives are filled with words — prayers recited three times a day, *berachot* over food. What might it look like to attempt to limit our greatest human gift, the gift of speech, for twenty five hours a week. Learning to be more careful about the way we engage with language over Shabbat will impact our experience of that day and, please God, the entire week.

The two opening quotes from Fishbane and Merton serve as a reminder of what a prayer filled Shabbat might look like. For Merton, the monastic experience was not meant to remove a person from the world entirely but served to propel the individual to hear the suffering of the world and leap into action. Fishbane beautifully outlines the power of anticipatory silence, of holding back, so that you can leap into connection.

May we all be blessed to experience the silence and the joy of Shabbat.

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19. All three of whom died within fifteen years of one another, between 1619 and 1631. These early seventeenth century Jewish thinkers pre-dated any talk of the twentieth century analytic philosophers who developed the notion of speech-act and communication.

# The *Kashrut* of Synthetic Meat: Fleshing Out the Culture of Artificial *Fleish*

CLAUDIA MARBACH

Rabba Claudia Marbach received her BA in English from Barnard College and her JD from Boston University. She has taught at JCDS Boston is currently working in a chaplaincy program at Hebrew Senior Life in Dedham, MA in a specialty unit on resilience and trauma-informed spiritual care. Rabba Marbach received semikha from Maharat in 2018 and is teaching at her pop-up beit midrash program, One Night Shtender, and at Yedid Nefesh, a partnership minyan which she co-founded and where she is the ritual and spiritual leader.

## The Problems With Traditional Meat?

**T**he ecological impact of the way in which we produce food has increased enormously in recent years. For example, according to various sources, it takes between fifty-two<sup>1</sup> and one hundred and fifty gallons of water to produce one quarter-pound hamburger.<sup>2</sup> Today, approximately “twenty-six percent of the Planet’s ice-free land is used for livestock grazing and thirty-three percent of

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1. <https://www.npr.org/sections/thesalt/2012/06/27/155527365/visualizing-a-nation-of-meat-eaters>.

2. [www.gracelinks.org/1361/the-water-footprint-of-food](http://www.gracelinks.org/1361/the-water-footprint-of-food).

croplands are used for livestock feed production. Livestock contribute to seven percent of the total greenhouse gas emissions through enteric fermentation and manure.”<sup>3</sup> As the population of the world expands and developing countries move from plant-based diets to meat-based diets as a sign of entering the middle class, the damage to the environment will increase. And as demand for meat increases, more animals will suffer in mainstream factory farm production and in the slaughterhouses.

Mass consumption of meat presents other threats to humans. “Of all antibiotics sold in the United States, approximately eighty percent are sold for use in animal agriculture; about seventy percent of these are ‘medically important’ (i.e., from classes important to human medicine).”<sup>4</sup> The World Health Organization has called this “an increasingly serious threat to global public health that requires action across all government sectors and society.”<sup>5</sup> Overuse of antibiotics in factory farms has led to increased bacterial resistance to antibiotics which are entering the food chain and causing serious illness in humans.<sup>6</sup>

The Oxford University’s Wildlife Conservation Research Unit concluded that “Cultured meat could potentially be produced with up to ninety-six percent lower greenhouse gas emissions, forty-five percent less energy, ninety-nine percent lower land use, and ninety-six percent lower water use than conventional meat.”<sup>7</sup> In comparison to conventionally-produced European meat, the team estimate cultured meat would involve approximately seven to forty-five percent lower energy use, seventy-eight to ninety-six percent lower greenhouse gas emissions, ninety-nine percent lower land use, and eighty-two to ninety-six percent lower water use depending on the type of meat.<sup>8</sup> The use of water, increase in foodborne disease which leads to the overuse of antibiotics, and the high level of greenhouse gas emissions mandate that alternative sources of meat must be considered.

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3. [www.fao.org/docrep/018/ar591e/ar591e.pdf](http://www.fao.org/docrep/018/ar591e/ar591e.pdf).

4. <http://www.fda.gov/downloads/ForIndustry/UserFees/AnimalDrugUserFeeActADUFA/UCM338170.pdf>.

5. <http://www.who.int/mediacentre/factsheets/fs194/en>.

6. <https://www.cdc.gov/narms/faq.html>.

7. <http://www.ox.ac.uk/news/2011-06-21-lab-grown-meat-would-cut-emissions-and-save-energy>.

8. *Ibid.*

### Keren III

As citizens of the world, Jews cannot sit by and ignore the environmental issues around us. Cape Town, South Africa is due to run out of water by this summer. The United Nations World Water Development Report 2018 states “The world population is expected to increase from 7.7 billion in 2017 to between 9.4 and 10.2 billion by 2050 ... Global demand for agricultural and energy production (mainly food and electricity), both of which are water-intensive, is expected to increase by roughly 60% and 80% respectively by 2025.”<sup>9</sup> We are citizens of the world and will be affected by those trends.

We are obligated not only by our desire to live in the world but also by our Torah. In Genesis 2:15 we are told, “G-d took the man and placed him in the Garden of Eden, to work it and guard it.” In Deuteronomy 20:19, we are commanded, “Do not [needlessly] destroy.” The Talmud,<sup>10</sup> Rambam,<sup>11</sup> and the *Shulchan Aruch*<sup>12</sup> all discuss needless destruction and prevention of pollution. Since we are the *shomrei ha’adama* we are obligated to do what we can to lower our environmental impact. Furthermore, the warming of the planet, scarcity of water, and increase of disease could surely become a matter of *pikuach nefesh* if we do nothing.

## The Origins of Synthetic Meat

In 1981 stem cells were discovered in mice. Since that time the idea of cells that could continue to reproduce and become specific cells has intrigued scientists. Some have been inspired to produce meat in laboratories as a way of finding a sustainable, eco-friendly, and perhaps healthier alternative to most meat on the market.

Lab synthesized meat starts with muscle stem cells, sourced either from mature cells or fetal cells, from either a live or newly dead animal. The cells are then put in a medium of either animal-based or vegetable-based substances.<sup>13</sup>

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9. <http://unesdoc.unesco.org/images/0026/002614/261424e.pdf>, p.10.

10. Talmud Bavli, *Bava Kama* 82b; *Mishnah Bava Batra* 2:1

11. Maimonides, *Mishneh Torah, Sefer Kinyan*, Laws of Neighborly Relations 11:1; *Mishneh Torah, Sefer Shoftim*, Laws of Kings 6:8–10, 14–15.

12. *Shulchan Aruch, Choshen Mishpat* 155:21, 155:36.

13. Developers are eager to move towards solely vegetable-based substrate because it reduces the need for more animals and it is cheaper.

Once the cells begin to reproduce they are put on a biodegradable structure like a trellis to help them form meat-like texture. The resulting meat is tasteless and needs the addition of fats and flavorings to taste like meat. In 2013 the first “hamburger” made from lab synthesized meat cost about \$330,000 dollars. When it eventually reaches the markets by 2021 it should cost closer to \$11 a burger,<sup>14</sup> with synthetic sausage and chicken nuggets also expected to be available.<sup>15</sup>

While burgers from this meat are not yet commercially available they will be in the next ten years. Generally *halacha* does not weigh in before a question from reality is posed but many *poskim* have already begun to discuss the *kashrut* of lab-synthesized meat. So far there is no consensus about the status of such meat and even if it should be considered meat at all! This paper will discuss the variety of halachic arguments and thought on the subject to date.

Will synthetic meat be kosher? Although the majority of producers will be non-Jewish companies, there are several companies in Israel already developing lab synthesized meat. The simplest and most halachically conservative argument requires that lab synthesized meat comes from a kosher animal and retains that identity throughout its development from stem cell to “hamburger”. Since we call it meat and it eventually looks like meat then the stem cells should be sourced from properly *shechted* kosher animals just after death and the resulting food should be considered *besari*. This *psak* may seem prudent because with any new technology *halacha* likes to take a wait and see approach even if it is a technology that is foreseeably going to be popular.<sup>16</sup>

However, there are those who argue that this conservative approach is not correct. They believe that the process of creating synthetic meat is so far removed from the traditional manners of raising meat that the product is something new entirely, and so the initial sample of stem cells is not

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14. Lab synthesized meat will eventually be cheaper than traditionally raised meat.

There is an important principle that “אין שמחה אלא בבשר ויין” “there is no joy without meat and wine.” As the expenses of an observant lifestyle increases that may become unattainable for many. As a community as a whole, we have an obligation to make sure that people can afford to keep kosher. We do not want people to opt out of observance because of the cost of kosher meat.

15. <https://www.cnn.com/2018/03/01/health/clean-in-vitro-meat-food/index.html>.

16. Igrot Moshe, *Orach Chaim* 3:52 “משתמשים” “שטוב לבשל בו כמו באש ממש ואלו שיש להם תנור כזה משתמשים” “בו יותר מבשול דבאש ומה שלא נתפשטו תנורים אלו עדיין הוא משום דלא מצוי עדיין הרבה תנורים וכשיהיו “מצויין ודאי ישתמשו בהם כר”ע”.

halachically significant. Compounding the halachic arguments, some *poskim* see the overwhelming human and animal costs to us and our planet as compelling reasons to declare that it can be sourced from any animal and be *pareve*. Rav Cherlow argues that the cruelty to animals and the spread of disease are compelling arguments to allow this meat.<sup>17</sup> Rav Aviner makes the argument that world hunger is a compelling reason for the *kashrut* of this meat because it will eventually become so inexpensive that we will be able to feed the poor of the world and of Israel.<sup>18</sup>

This paper will analyse the various halachic considerations relating to the *kashrut* of lab synthesized meat based on the source of the stem cells and the means of production and the practical reality of the laboratory. These arguments fall broadly into three categories. Does this synthesized product meet the halachic threshold of meat? Does the fact that the mode of production differs radically from traditional animal raised meat make a difference halachically? Finally, what are the traditional *kashrut* issues that do or do not apply?

## אין העין שולטת — Not Visible by the Human Eye

As with all considerations of *halacha* relating to technology, ascertaining the *metziut*, or reality, is fundamental. Lab synthesized meat is created by first:

... carefully removing muscle tissue from ... a[n] animal. Muscle precursor cells, such as myosatellite cells, are then separated from the other cells in the tissue sample and grown in vitro in a bioreactor. When muscle precursor cells are separated to be grown in a bioreactor, they are placed in a medium, where they have all the necessary nutrients to multiply. These stem cells rapidly divide and eventually differentiate to generate muscle fibers that form the essential component of animal derived meat. The cell multiplication creates thin layers of cells or loose cells. To turn these cells into muscle tissue, they must be injected into a scaffolding gel through which they can organize and connect to form muscle tissue.<sup>19</sup>

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17. <https://www.ynet.co.il/articles/0,7340,L-5185466,00.html>.

18. <https://www.youtube.com/watch?v=4uzaFm7vAdM>, last accessed June 4, 2018.

19. John D. Loike, Ira Bedzow and Moshe D. Tendler, "Pareve Cloned Beef Burgers: Health and Halachic Considerations," *Hakirah* 24 (Spring 2018): 193.

Lab synthesized meat harvests mature stem cells sometimes from biopsies but usually from recently slaughtered animals. The reason stem cells are used in lab synthesized meat development is that, given the right conditions, they continue to divide and multiply indefinitely. The stem cells are put into a medium on a structure on which to grow, and they are kept warm and occasionally given electric shocks to stimulate the muscle cells.

While the stem cells come from the body of an animal, whether or not they are halachically significant is the first question that must be considered. The halachic principle of *איך העין שולטת בו*<sup>20</sup> states that if something is not visible to the human eye the thing has no legal significance — it is as if the thing does not exist. As the *Aruch Ha-Shulchan* explains, “In truth, the Torah did not forbid anything that the [naked] eye cannot perceive, for the Torah was not given to angels....”<sup>21</sup>

R. Moshe Feinstein, confirmed this:

לגבי תולעים שמה שלא נראה	In regards to worms that cannot be seen by the
לעין האנושי אלא בעזרת	human eye but rather by the aid of a microscope ...
מיקרוסקופ וזכוכית מגדלת	[such worms are] not considered halachically
הוא לא נחשב מבחינה הלכתית	significant.

The worms that Rav Moshe was discussing are multi-celled living organisms. In the case of lab synthesized meat the whole growth is based on a few cells. Since the original stem cell does not reach the threshold of significance then it does not have halachic significance. Therefore it is not halachically meat of any sort.

R. David Bleich<sup>22</sup> notes that according to R. Jonathan Eibeschutz,<sup>23</sup> “the movement by a ‘swarming creature’ while yet subvisual renders the organism a prohibited creature once it does mature and become visible. Earlier motion is deductively demonstrable and hence cannot be disregarded by human intellect.” In other words, bugs that we do not see at first but then we do see, do become significant. We cannot ignore our minds. Yet again we are talking about multi-celled whole organisms that live on their own, not as individual

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20. *Shulchan Aruch, Yoreh Deah* 36:84.

21. *Aruch Ha-Shulchan, Yoreh Deah* 84:36.

22. J. David Bleich, “Survey of Recent Halakhic Periodical Literature: Stem-Cell Burgers”, *Tradition* 46:4 (Winter 2013): 53.

23. Kereti u-Peleti, *Peleti, Yoreh Deah* 84:5.

cells. The stem cells are not a *beriah* or creature in their own right. Rabbi Bleich and others use this to argue that even though the stem cell is not originally seen, the fact that once it has multiplied hundreds of thousands of times it is seen, it thus loses the status of *אין העין שולטת בו*. While that may be true by that time, Rabbi Tzvi Reizman argues that given the original lack of halachic significance a state of *issur* cannot be created.<sup>24</sup>

Rabbi Yehoshua Neuwirth, in *Shemirat Shabbat Ke-Hilchatah*, relates that Rabbi Shlomo Zalman Auerbach originally opined that an organism that can never be perceived as living or mobile cannot be regarded as a “creeping thing that creeps upon the earth” (Vayikra 11:41).<sup>25</sup> Rabbi Bleich further notes that R. Moshe Feinstein said, “ש אפשר שדבר שלא נראה למעשה לעינים אינו אסור — it is possible that something that cannot actually be seen by the eye is not forbidden,” and continues to declare “ולכל הפחות אינו בחשיבות בריה” — and at the very minimum does not have the status of a *biryah*.<sup>26</sup> Again a cell is not the same as a *biryah*.

In contrast, Rav Shlomo Zalman Auerbach writes:

<p>בענין שאלתו בדבר הנדסה גנטית שמכניסים חלקיקי תאים מבריה אחת לשניה, ובזה משנים את תכונותיה של השניה. ועיי"ז להתיר איסור כלאים מכיון שאין חלקיקים אלו נראים לעין האדם. כיון שאנשים מטפלים בחלקיקים האלה ומעבירים אותם ממין אחד לשני הרי זה חשיב ממש כנראה לעינים ולא דמי כלל לתולעים שאינם נראים.</p>	<p>On the question of genetic engineering, that we put in parts of cells from one living being into another, and in doing so change the plan of the second. And in this way allow the <i>issur</i> of <i>kelayim</i> because these parts are not visible to the eye. Because people are working on these parts and transferring them from one to the other, they are considered visible to the eyes and not the equivalent to worms that are not seen.<sup>27</sup></p>
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In lab synthesized meat we are not manipulating the “plan” of the stem cells we are growing so that they fall into another category.

24. Tzvi Reizman, “Meat from Stem Cells”, *Techumin* 34 (5774) 112.

25. R. Yehoshua Neuwirth, *Shemirat Shabbat Ke-Hilchatah*, I, 2nd edition (Jerusalem, 5739) 3:37, note 105 as originally cited in J. David Bleich, “Survey of Recent Halakhic Periodical Literature: New York City Water” *Tradition* 38:4 (Winter 2004):79, reprinted in Bleich, *Contemporary Halakhic Problems: Volume VI* (Jersey City: Ktav, 2012), 216.

26. Bleich, *Contemporary Halakhic Problems: Volume VI*, 216n27, citing to *Igrot Moshe, Yoreh Deah* 4:2.

27. Responsa *Minchat Shlomo, Tanina* (2–3), Siman 100.

Rabbi Reizman, in *Techumin* 34,<sup>28</sup> argues that a stem cell is a kind of proto-cell. The Talmud in *Yevamot* 69b calls a fetus less than forty days old “מיא בעלמא” that is of no significance at all. If the stem cell is not significant at all and is not readily visible to the eye can it even be called meat? Rav Yaakov Ariel rejects this comparison, saying that a fetus goes through many changes after forty days while the stem cell is a muscle stem cell which replicates but does not evolve or change in any way besides quantity.<sup>29</sup> Rabbi Ze’ev Whitman<sup>30</sup> argues that the stem cells are too small to eat and so cannot be called the *shem* of meat and certainly do not constitute any *shiur* of meat.

Rabbeinu Tam, in justifying the local practice of eating honey into which some bees’ legs were mixed, explains by way of an analogy with ass bones.<sup>31</sup> The Mishnah implies that the rabbis held that unlike its flesh, the bones of an ass are not ritually impure.<sup>32</sup> Per Rabbeinu Tam, the same distinction between “flesh” and “bone” applies to the legs of bees. If the bones of an ass are not prohibited as part of the flesh of a prohibited animal, than neither should the legs of bees. Rabbi Yom Tov Lipmann Heller<sup>33</sup> explains, in turn, that according to Rabbeinu Tam, bees’ legs are “fleshless.” Or, to use the language of Rabbeinu Asher ben Yechiel who concurs with Rabbeinu Tam, bees’ legs are “*afra b’alma*,” mere dust, that is, dietarily irrelevant. Stem cells, similarly fleshless, would thus be no different than bees’ legs.<sup>34</sup>

One could conclude that stem cells are not halachically significant because they are not visible to the human eye. Furthermore, that stem cells are even smaller than an embryo which is considered ‘*maya b’alma*’ which is nothing at all.

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28. Tzvi Reizman, “Meat from Stem Cells”, *Techumin* 34 (5774): 103.

29. Yaakov Ariel, “The Kashrut of Cultured Meat: Response”, *Techumin* 36 (5776): 453.

30. Ze’ev Whitman, “Cultured Meat: Review and Response”, *Techumin* 36 (5776): 458.

31. Tosafot on *Avodah Zarah* 69a, s.v. *ha-hu*.

32. *Yadayim* 4:6.

33. *Pilpulei Charifta*, *Avodah Zarah* 69a, subsection 20.

34. [http://utj.org/viewpoints/responsa/the-kashrut-of-laboratory-produced-meat/#\\_ftn31](http://utj.org/viewpoints/responsa/the-kashrut-of-laboratory-produced-meat/#_ftn31).

## Is it halachically considered meat?

The Rambam in his discussion of *basar b'chalav* states:

אין אסור מן התורה אלא בשר  
בהמה טהורה בתלב בהמה  
טהורה שנאמר (שמות כג ט)  
(שמות לד כו) (דברים יד כא)  
"לא תבשל גדי בתלב אמו" וגדי  
הוא כולל גלגל השור גלגל השא  
גלגל העז ... ולא נאמר גדי בתלב  
אמו אלא שדבר הקטוב בהוזה.

According to Torah Law, the prohibition is only of [a mixture of] meat from a kosher animal and milk from a kosher animal, as it is written: "Do not cook a kid in its mother's milk." The term "a kid" includes the offspring of an ox, the offspring of a sheep, and the offspring of a goat ... The [general] term "a kid in its mother's milk" [is used not to exclude other situations, but rather as] the Torah is speaking regarding the ordinary circumstance.<sup>36</sup>

In this case, we are not discussing a food that is created in an ordinary circumstance. Rabbi Chanoch Kahan cites this Rambam as an argument that since there is no mother or baby the meat should not be prohibited.<sup>36</sup>

Rav Chanoch Kahan also cites Rav Hershel Schachter, noting that, "in his opinion, meat is only something that comes from an animal that was born naturally from a mother. Every meat produced in a different way is not meat for halachic matters."<sup>37</sup> Rav Shlomo Aviner says that if we look at the process the meat is not at all like meat and could be *pareve*.<sup>38</sup> Rav Dov Lior and Rav Yuval Cherlow are even more emphatic that such meat is *pareve* because it is so far removed from the usual production of meat.<sup>39</sup>

### If the original cell is gone does the meat product share its identity?

One might argue that one does not need a *shiur* of non-kosher stem cells to render lab synthesized meat non-kosher. Let us compare this to a substance where even a *de minimis* amount of the substance is not allowed. For example, *tevel* is not allowed for consumption even in minute quantities. *Mishnah Terumot* 9:6 states:

35. Rambam, *Mishneh Torah*, Forbidden Foods 9:3.

36. [https://www.machonso.org/hamaayan/?gilayon=40&id=1201#\\_ftnref21](https://www.machonso.org/hamaayan/?gilayon=40&id=1201#_ftnref21).

37. [https://www.machonso.org/hamaayan/?gilayon=40&id=1201#\\_ftnref27](https://www.machonso.org/hamaayan/?gilayon=40&id=1201#_ftnref27).

38. <https://www.kipa.co.il/2-יהדות/הלכה/על-מה-מסכימים-הרב-ליאור-הרב-שרלוי-והרב-א-2>.

39. *Ibid*.

הטבֵּל, גְּדוּלֵי מִתְּרִין בְּדָבָר  
שֶׁזָּרְעוּ כִּלְה. אֲבָל בְּדָבָר שֶׁאֵין  
זָרְעוּ כִּלְה, גְּדוּלֵי גְּדוּלֵי, אֲסוּרִין.  
אִיזְהוּ דָּבָר שֶׁאֵין זָרְעוּ כִּלְה, כְּגוֹן  
הַלּוּף וְהַשּׁוּם וְהַבְּצָלִים. רַבִּי  
יְהוּדָה אָמַר, הַשּׁוּם, כְּשֶׁזָּרְעוּרִים:  
Non-tithed produce, its growths (*gidulim*) are  
permissible in a kind whose seed disintegrates. But  
in a kind whose seed does not disintegrate, [even]  
the growths of its growths are forbidden. Which is a  
kind whose seed does not disintegrate? For  
instance, *Luf* [plant], garlic, and onions. Rabbi  
Yehudah says: onions are like barley.

Just as the *zerah kaleh*/disintegrated seed disintegrates but its genetic material is passed on to the new cells so to the lab synthesized meat has the genetic material of the original cell but is not the same as the original stem cell. As the biologist Thomas Schwarz stated, “if the essence is the physical material of the cell, then no. That would get diluted beyond recognition. Every time the cell replicates, it does so by division. First it needs to make a copy of its DNA and then to double the amount of protein that it has and it will do that by taking up and using the nutrients in the broth. Then, when the cell divides, each new cell will get half of the old DNA and old proteins and half of the new copies of each... If the only thing that happened was this doubling and dividing, it will be perhaps a millionth part of every cell in the meat. But in practice it would be even less because the old proteins would be destroyed and broken down and replaced constantly so that really the only trace would be very small sections of DNA scattered among all the cells that were present in the meat.”<sup>40</sup>

Rambam states:

ואם צמח אין מחייבין אותו  
לעקור והגידולין חולין ואם  
היה דבר שאין זרעו כלה  
אפילו גידולי גידולין  
אסורין  
עד שלש גרנות והרביעי  
מותר.  
[If the seed decomposes], should it grow, we do not  
require him to uproot [the plants]. The growths  
(*gidulim*) are considered as ordinary produce. If the  
produce is of a type whose seed does not decompose,  
even the produce that grows from the growths  
— indeed, even until the third generation — is  
forbidden. The fourth generation is permitted.

Even if one did argue that the stem cells were more like *gidulim* that did not decompose, in the processing of lab synthesized meat the scientists could easily ascertain when the fourth generation has replicated itself.

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40. In private conversation with the author.

R. Yaakov Ariel in *Techumin*<sup>41</sup> said that the *gidulim* metaphor is not strong because with stem cells there is no connection to the earth and *gidulim* are concerned with the land. He compares the stem cells more closely to mushrooms upon which the blessing *shehakol* is said because their nature is so disconnected from the natural state. He also objects because the *gidulim* are derivatives of *gidulim* whereas the cells are a continuous chain. However, an onion can grow by planting the bulb of the onion which has the same genetic code as its parent.

### יחי *Ever Min Ha-Chai* — Limb from a Live Animal

Stem cells need to be fresh to be cultured. One option is to harvest the cell in a biopsy. If the cells are taken from a live animal, some argue that we must consider whether the stem cells would or could be considered *ever min ha-chai*. Genesis tells us that אַךְ-בֶּיֶשֶׁר בְּנִפְשׁוֹ דָּמּוֹ לֹא תֹאכְלוּ “You must not, however, eat flesh with its life-blood in it” (Bereshit 9:4). Furthermore Devarim tells us בְּקִי הַזֶּקֶק לִבְלֹתֵי “אֲכַל הַדָּם כִּי הַדָּם הוּא הַחַיִּים וְלֹא תֹאכַל הַנֶּפֶשׁ עִם הַבֶּשֶׂר “But make sure that you do not partake of the blood; for the blood is the life, and you must not consume the life with the flesh” (Devarim 12:23).

Rashi on *Chullin* 102b refines the definition and notes that the *ever* must be something that cannot be replaced:

<p>לא תאכל הנפש עם הבשר זה אבר מן החי – דאבר חי מקרינן נפש שאם יחתכנו אינו עושה חליפין שלא ישוב עוד כנפש הנטולה שאינה חוזרת והכי משמע לא תאכל הנפש בעודו עם הבשר בעוד החיות עם הבשר:</p>	<p>While stem cells do not regenerate, a cow has many and would not be harmed with the harvesting of an eraser sized piece of flesh in a biopsy administered with anesthetic</p>
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The *Tur* identifies two *issurim*: *ever min hachai* and *basar min hachai*. He specifically says שהגזירה אינו נוהג אלא בטהורים only applies to kosher animals.<sup>42</sup> The *Tur* does not require that *ever min ha-chai* flesh have a bone or be a whole limb:

41. Yaakov Ariel, “The Kashrut of Cultured Meat: Response”, *Techumin* 36 (5776): 449.

42. *Tur Yoreh Deah* 62:1; Rambam, *Mishneh Torah*, Forbidden Foods 5:1.

לפיכך אבר הפורש מן החי, בין שיש  
בר בשר וגידים ועצמות בין שאין בו  
אלא בשר לבד, כגון הלשון והטחול,  
והכליות והביצים – אסור לאוכלו,  
בין אם יש בו כזית בין אם אין בו  
כזית.

Therefore a limb that is separated from a live  
animal, whether or not it is meat, sinews, or  
bones, or a limb that has no bones like a tongue,  
spleen, kidneys or testicles — are forbidden to  
eat. Whether a *k'zayit* or less than a *k'zayit*.

The *Tur* explicitly says that *ever min ha-chai* refers to kosher animals. This distinction is not mentioned in the *Shulchan Aruch* but the *Bach* agrees while the *Shach* says that one cannot offer *ever min ha-chai* to a non-Jew.<sup>43</sup> So, ironically, it may be more acceptable to use the cells from a non-kosher animal. The mention of a *k'zayit* means that we are talking about food, but in our case the stem cell cannot be considered food because it is so small and not able to be seen by the naked eye.

Based on *Sanhedrin* 59b one might argue that since it would primarily be non-Jews taking such biopsies they would then be *over sheva mitzvot bnei Noach* and that we would be accessories in *lifnei iver*.<sup>44</sup>

In the *Bayyit Chadash* on *Tur*, *Yoreh Deah* 62, Rabbi Sirkes views “flesh” as applied narrowly when considering the violation of the law against “taking a limb from a living being.” Flesh must be actual meat. What may also be deduced from Rabbi Sirkes’s view is that flesh is defined to be meat of sufficient substance to be offered on the altar. This would clearly not apply to “stem cells”<sup>45</sup> since they cannot be seen, held, or intentionally eaten.

So although *ever min ha-chai* is a concern, it is not a concern in the case of lab synthesized meat. In addition, once the original cells are harvested, they are separated and manipulated to “immortalize” the cells.<sup>46</sup> The process of immortalization changes the cell so that it continues to reproduce forever and so obviating the need to harvest any more cells.

Although it is clear that blood is not allowed for consumption<sup>47</sup> according

43. Shach *Yoreh Deah* 62:3

44. Talmud Bavli, *Sanhedrin* 59b; Christine Hayes, *What’s Divine About Divine Law?* (Princeton UP, 2015), 361–365, as cited in Rabbi Daniel Nevins CJLS YD 87:10.2017.

45. [http://utj.org/viewpoints/responsa/the-kashrut-of-laboratory-produced-meat/#\\_ftn28](http://utj.org/viewpoints/responsa/the-kashrut-of-laboratory-produced-meat/#_ftn28)

46. <http://elliott-swartz.squarespace.com/science-related/invitromeat> for more of a scientific description of the process.

47. Genesis 9:4; *Pesachim* 74b; *Shulchan Aruch*, *Yoreh Deah* 67.

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to the Torah, in the process of preparing the cells for the lab synthesized meat process any extraneous cells will be removed, including any blood cells since they are not necessary.

Furthermore, Rabbi Tendler cites Rav Moshe Feinstein as saying, “The blood that was absorbed within the meat would lose its prohibitory taste when the meat became inedible.” Since, he continues, the stem cells are inedible throughout the culturing process “when the muscle tissue regains its gustatory status in becoming cloned meat, it would no longer be prohibited because of the blood within it.”<sup>48</sup>

### Not born of parent — *Ben Pakua*

*Halacha* does have precedence for meat that is not quite meat. A *ben pakua* calf is a calf that is found in its mother’s uterus at the time of *shechting*. *Chullin* 75b describes a live calf found in a *shechted* mother. If the animal is not born through the cow’s vaginal canal or as the Gemara describes it “touches the ground”, that animal does not need *shechita* and its milk is *mutar*. Its blood, however, is forbidden. If the *ben pakua* animal mates with a similar animal the offspring never need *shechita*.<sup>49</sup> The *Shach* there<sup>50</sup> says that the exemption from *shechita* continues even if the parent is a *treifa*. Currently there is a controversy surrounding an effort in Australia to develop a herd of *ben pakua* cows which would be exempt from *shechita* in perpetuity.<sup>51</sup> This would enable kosher meat to be available in countries in Europe where *shechita* is outlawed.

*Ben pakua* meat is relevant to the discussion of lab synthesized meat because the nature of the animal can be changed. The *Shach* discusses the lack of *simanim* that the *ben pakua* has that eliminate the need for *shechita*. Clearly lab synthesized meat has no *simanim* of *shechita*. Lab synthesized meat is not developed in the womb of an animal and it has no neck or blood. Therefore it should be considered something new entirely.

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48. John D. Loike, Ira Bedzow and Moshe D. Tendler, “Pareve Cloned Beef Burgers: Health and Halachic Considerations”, *Hakirah* 24 (Spring 2018): 200, citing *Igrot Moshe, Yoreh Deah* 2:23

49. *Shulchan Aruch, Yoreh Deah* 13:3-4.

50. *Shach, Yoreh Deah* 13:4:13.

51. <http://www.5tjt.com/the-new-commercially-produced-ben-pekuah-meats/>.

## Meat from Another Source: *Sefer Yetzira* Meat

There are several text in our *mesorah* that discuss meat that is even further removed from the natural development of animal products than *ben pakua* meat. *Sanhedrin* 59b discusses meat that comes from heaven. “Rabbi Yehuda ben Teima would say: Adam, the first man, would dine in the Garden of Eden, and the ministering angels would roast meat for him and strain wine for him... the meat descended from heaven.” The Gemara goes on to describe meat that fell from heaven in answer to Rabbi Shimon ben Halafta’s prayers to be saved from a marauding lion. When the heavens generously provide him with extra food “He took it and entered the study hall, and inquired about it: Is this thigh a kosher item or a non-kosher item? The Sages said to him: Certainly it is kosher, as a non-kosher item does not descend from heaven.” While we do not usually use *aggadata* to decide *halacha*, the Gemara does take seriously the idea that there can be various origins of the things that we consider “meat”.

*Sanhedrin* 65b takes this one step further and describes meat created using *Sefer Yetzira*

מותר לכתחלה כדרך חנינא ורב אושעיא כל מעלי שבתא הוּ עסקי בהלכות יצירה ומיברי להו עינלא תילתא ואכלי ליה.	What is permitted <i>ab initio</i> is to act like Rav Hanina and Rav Oshaya: Every Shabbat eve they would engage in the study of the <i>halakhot</i> of creation, and a third-born calf would be created for them, and they would eat it in honor of Shabbat.
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*Sefer Yetzira* reflects God’s secrets of nature. By making *Sefer Yetzira* meat humans are partnering with God in creation. Malbim on Bereshit 18:7 describes that Avraham used this same method to create the animal that he fed to the angels and concludes that *Sefer Yetzira* meat must be *pareve* since they also had milk and butter at that meal. The *Cheshek Shlomo* on the *Shach Yoreh Deah* 98:7, concretizes this ruling “And know that meat from an animal created by means of *Sefer Yetzira*... can be cooked with milk because it is not considered meat. And that is according to the ruling of the Malbim.”

As science advances we are increasingly intertwining ourselves with God’s secrets.<sup>52</sup> Lab synthesized meat is one manifestation of a product that does not

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52. See R. Dov Lior’s assertion that by doing this scientific research we are drawing closer to God, especially at minute 2, at <https://www.youtube.com/watch?v=MAp5o3HFVIM&t=14s>. Last accessed June 10, 2018.

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occur naturally. Like *Sefer Yetzira* meat, it does not come from two parents, nor is it born from a womb. Therefore we should regard lab synthesized meat as something new and therefore kosher and *pareve*.

Rav Aviner writes about lab synthesized meat:

הוא לא התהליך הרגיל, זה לא שלקחו תא ושכפלו ממנו פרה, אלא ישירות התא יתרבה. לכן, אמנם בסופו של דבר יש בשר, אבל הוא לא בשר שנולד בתהליך הרגיל.	This is not a normal process, it is not as if they took a cell and cloned it into a cow, rather the cell directly multiplies. Therefore, even though in the end there is meat, it is not born in the usual way. <sup>53</sup>
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R. Aviner also cites R. Chaim Soloveitchik of Brisk who said that miracle oil is not kosher for the lighting of the menorah since the miracle of the Hannukah oil was that the quality of the oil was such that it burned extremely slowly, not that it was miraculously increased.<sup>54</sup>

Rav Aviner concludes from R. Chaim's statement that:

נמצא שהתוצאה לא קובעת, אעפ"י שזה ממש נראה, אלא התהליך קובע. לכן, אם הדבר עובר שינוי ישניתוק מן המקור והוא נחשב כדבר חדש.	The result is not what is halachically determina- tive... but rather the process. So if the thing undergoes a process that severs it from its origins it is thought of as something entirely new.
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The stem cells are separated from the original source, manipulated in a laboratory and grown in an artificial substrate. Even though they may come to resemble meat, they surely are not like any meat we have seen before.

## Things that Grow From Air or Other Different Ways

*Halacha* considers certain food items that grow in unusual ways to essentially “jump” to a new category of food. For example, *Nedarim* 58a discusses onions that grow during the *Shemita* year.<sup>55</sup> If the leaves are dark in color they are *assur*

53. <https://tinyurl.com/y8kdu5pu>.

54. ס' ימי חנוכה להגר"י שכטר סי' א.

55. “בצלים שירדו עליהם גשמים וצמחו, אם היו עלין שלהן שחורין – אסורין, הוריקין – מותרין... וכנגדן למוצאי שביעית – מותרין.”

and the Ran says that is due to the onions growing directly in the ground. If they are light in color they are allowed. The Ran<sup>56</sup> explains that the lighter colored onion leaves indicate that the onions grew without being connected to the earth and are thereby exempt from the laws of *Shemita*.

Rav Ovadia Yosef says that the *bracha* for these onions should be “*shehakol*”. “Since there is no suction from the ground, that the water stops between the seeds and the ground, the blessings of the fruit and vegetables should not be blessed.”<sup>57</sup> Similarly, Rabbi Shlomo Zalman Auerbach states: “A tomato on a tree requires us to bless the creator of the fruit of the tree on such a tomato, since it is actually grown on a tree, even though the same species grows mainly from the ground and not from wood, and even though it is done only by a person.”<sup>58</sup> Hydroponically grown vegetables in Israel are exempt from *maasrot*<sup>59</sup> and are allowed to be eaten if grown during *Shemita*.<sup>60</sup>

If growing a tomato in water as opposed to earth put that fruit into a separate category, even though it looks and tastes like a tomato and in fact we still call it a tomato, then lab synthesized meat should certainly not be considered like regular meat since it is much more manipulated and removed from the normal manner in which meat is grown and produced.

## יוצא מן האיסור *Yotzei min ha-Issur* — Issue from a Forbidden Animal

The principle that something that comes out of *issur* is itself *issur* is well established. It includes the meat, milk, and eggs of a forbidden animal.<sup>61</sup> Rabbi Bleich explains, “*Yotzei* as applied to growth, i.e., accretion of tissue and the

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56. ופ"י הר"ן: הוריקו מותרין – שכיון שהם ירוקים לאו מחמת יניקת הקרקע נתגדלו אלא מחמת הבצל עצמו.

57. Ovadia Yosef, *Yechaveh Da'at* 6:12.

58. *Minchat Shlomo Tanina*, 2: 2.

59. Rav Yechiel Michel Tuchetzinski (*Zeriah* 3:4) and others cited in *Mishpatei Aretz* (*Terumot* 1:19). *Teshuvos Har Tzvi* (*Zeraim* 2:31), however, requires *maasrot*. See also discussion in *Derech Emunah* (*Terumot* chap. 2, *Biur Halacha* s.v. *Ochel*).

60. *Yechaveh Da'at* 6:12 citing Rav Yechiel Michel Tuchetzinski (*Sefer Ha-Shmitta* vol 2, pg. 104) and others.

61. *Mishnah Bekhorot* 1:2, ככלל פשוט בהלכה הוא שהיוצא מן הטמא טמא והיוצא מן הטהור טהור; *Chullin* 64b; Rambam, *Mishneh Torah*, Forbidden Foods 3:1.

enhanced bulk of a mature animal, serves as a halakhic categorization of a living animal and of its descendants. There seems to be no source that would serve to extend that concept to some hypothetical post-mortem synthetic growth of additional non-kosher animal tissue or to tissue (or cells) plucked from a living animal and made the subject of artificial reproduction in its severed state.”<sup>62</sup>

All the examples of *Yotzei* are of natural processes of the animal such as milk, eggs, or reproduction. Rav Aviner<sup>63</sup> and others see this process as so different from natural reproduction that the stem cells can no longer be considered *yotzei*.

### ביטול — *Bitul* — Nullification

Some thinkers have discussed the question of whether, if the stem cells are somehow halachically significant, could they be *batel* in the growth medium. At first the growth medium that scientists used was composed of fetal bovine blood. Now the companies are working towards an algae or vegetarian based medium not only for health reasons, but also to keep down costs. At present the recipes of the media used are a closely held trade secret. Given that the medium will be vegetable base, will the stem cells be *batel* in the medium?

By one estimate, from ten source cells it could be possible, in ideal conditions, to culture 50,000 tons of meat in two months. But even at the time of creating the mixture the stem cells are certainly *batel b'shishim*. The stem cells could not possibly meet the threshold of *noten ta'am*, especially, as noted above, in that they impart no taste even when fully cultured. There are opinions that a *neveila* is not *ma'amid* unless it is *noten ta'am*. In that case there would not be a need for *bitul* at all, similar to the subvisual category.

יש חולקים וסוברים שאף בנבלה אין מעמיד אוסר אלא בנותן טעם, ובטל בששים.<sup>64</sup>

If one were to decide that *bitul* was necessary one would have to contend

62. J. David Bleich, “Stem-Cell Burgers”, *Tradition* 46:4 (2013): 56.

63. <https://tinyurl.com/y8kdu5pu>.

64. מרדכי חולין צט ב, ותשובות מיימוני למאכלות אסורות יח, בשם רבנו תם; מנחת כהן ספר התערוכות ג ג, ופרי חדש יר"ד צח סק"ז, בדעת תוספות חולין צט ב ד"ה לא במאה; ים של שלמה חולין ח קו. בטעמם ראה ים של שלמה שם, וראה ש"ך יר"ד פז ס"ק לה שחולק.

with *bitul issur l'chatchila* because the scientists are intentionally putting the stem cells into the growth medium. *Bitul issur l'chatchila* is *assur* for Jews and is considered a *d'rabanan* according to most Rishonim.<sup>65</sup> There seem to be three main concerns about *bitul issur l'chatchila* in the halachic discussions; that the ratio of *issur* to *heter* might be miscalculated, that there is a broader disapproval of eating *issur*, or that we should not be eating *issur l'chatchila*. In the case of lab synthesized meat the ratio of stem cell to substrate is carefully measured and moderated because the cells are being cultured in a lab and the people doing the culturing want consistency of the product. The Rashba<sup>66</sup> carves out an exception for when the *issur* is so tiny compared to the *heter* which seems likely to apply here. The Nodeh B'Yehuda says that in wet mixtures the *issur* is certainly *d'rabanan*.<sup>67</sup> The *metziut* seems to argue against the need for *bitul* in lab synthesized meat. The *mamashut* of the *issur* is not recognizable by the human eye and could not even be considered *issur* because it does not reach the halachic threshold of a meat. It has no taste and is derived from an unusual process. These *sefekot* on an *issur d'rabanan* would allow Jews in the Israeli companies developing lab synthesized meat to proceed. The residual feeling of *genai* that we are employing *issur* for *heter* could be outweighed by the overwhelming issues of the health of our planet, *tzar ba'alei chaim*, and potentially *pikuach nefesh*.

A non-Jew is allowed to mix *issur* and *heter* in *bitul* proportions for herself. The non-Jews in the case of the majority of lab synthesized meat are clearly creating lab synthesized meat for their own commercial gain as well as saving the planet by creating food to feed the growing population of the world. If Jews make up 0.15% of the world population it is hard to argue that the intent of the developers is targeted at the Jewish market. The Radbaz discusses the concern that a Jew might instruct a non-Jew to do the *bitul* on the Jew's behalf and wonders whether we should prohibit such food to avoid such an eventuality. However, he rejects this possibility when a non-Jew is doing the *bitul* on his own initiative. It is clear that in this situation that the primary market for this food is not the kosher market. The Radbaz notes that such a

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65. See *Beitza* 4b; *Shulchan Aruch, Yoreh Deah* 99:7.

66. Cited in *Aruch Ha-Shulchan, Yoreh Deah* 98:2, 7.

67. Nodeh B'Yehuda *Yoreh Deah, Mahadura Tinyana* 45.

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mixture made by gentiles on behalf of gentiles without being instructed to do so by Jews would be permitted.<sup>68</sup>

The Rema further argues that such a mixture is allowed if not available from a Jewish source:

בסי קח, א כתב הרמ"א שקנייה מגוי נחשבת	Whether that remains true once the
כלכתחילה, אך שם הוא התייר כשאין	Israeli companies start production is
אפשרות לקנות דבר דומה מישראל. <sup>69</sup>	another matter.

Maharam and Radbaz debated whether a Jew can buy such a mixture. Maharam said it is *mutar*<sup>70</sup> to buy food that is already *nitbatel* by a non-Jew because the *bitul* is considered *b'dieved*.<sup>71</sup> The Rema says that buying food containing an *issur* which is *batel* from a non Jew is always *b'dieved* and the Radbaz says that one should not buy such food.<sup>72</sup> But the *Darchei Teshuva* says that it is *b'dieved* and allowed.<sup>73</sup>

Tashbatz argues that if it is the non-Jew's consistent behavior and is his job, it is thought to be *l'chatchila* — as if one says to another, “cook for me.” American halachic practice seems, according to the OU, that once a product becomes commercial and *hechshered*, we can no longer consider the *bitul* *b'dieved* but rather the *bitul* is performed for us and the *bitul* is *l'chatchila*.<sup>74</sup> The Taz argues that such a mixture is not *bitul issur l'chatchila* if you are doing it for another purpose.<sup>75</sup> In lab synthesized meat the mixture is not an end in itself but rather to create another kind of food altogether. Rabbi Ezekiel b. Yehudah Landau<sup>76</sup> ruled that the bladder of a non-kosher fish could be used

68. שו"ת רדב"ז חלק ג סימן תקמז (תתקעח). וא"ת כיון שהוא מכירו נגזור שמא יאמר לעכו"ם לבטלו כדאמרין לגבי שבת. לא קשיא חדא דהתם איסורו מן התורה דהיינו למלאות מים מרשות היחיד לר"ה או לעשות כבש או ללקוט עשבים אבל בנ"ד לא הוי אלא מדרבנן דהא מהתורה כבר נתבטל. ותו דהתם גזרינן בעכו"ם המכירו שמא יאמר לעכו"ם לעשות ואמירה לעכו"ם יש בו שבות אבל בנ"ד אפי' שיאמר לו לבטל אין באמירה זו איסור ואין האיסור אלא באכילה ודוק ומ"מ מודה אני שאם אמר לעכו"ם לבטל דקניסין ליה ואסור לאותו שאמר לעכו"ם לבטל ולאחרים שרי וכדכתיבנא:

69. שדיחמד (כרך א עמ' 92 הוצאת בית הסופר תשכ"ג) כתב בשם רוב הפוסקים שהתירו ושכן המנהג למעשה.

70. הכתב-סופר (שו"ת או"ח סי' פז ד"ה ואפילו).

71. Rema, *Shulchan Aruch, Yoreh Deah* 122:6.

72. Responsa of Radbaz 3:5547.

73. See *Darchei Teshuva* 108:2

74. "בדבר המשקה הקאקא-קאלא" מאת הרב טוביה גפן בשו"ת קרני-ההוד.

75. Taz, *Yoreh Deah* 84:18; 99:7; *Shach* ad loc. 38; *Bach, Yoreh Deah* 137:2.

76. *Nodeh B'Yehuda Yoreh Deah, Mahadura Tinyana* 26.

to clarify mead, and that this would not be considered לכתחילה בטל בשישים, since the intention is not to enhance taste but to remove lees. The Chatam Sofer says that when a mixture is not cooked the prohibition is *d'rabanan* when there is no issue of *noten ta'am*, as is the case here.<sup>77</sup> Rabbi Spitz<sup>78</sup> argues that soaking kosher food in a forbidden substance (or vice versa) is considered cooking them together which would rise to the level of a *d'rabanan issur*. But Rabbi Spitz assumes a non-kosher bovine fetal blood medium which, as stated above, is not the practice.

There are cases of *bitul issur* that we do allow that could be helpful examples. Rabbi Whitman cites the example of kefir<sup>79</sup> made from milk from an impure animal, *basar b'chalav*, and *neveila*. The ingredients are combined and then agitated. The result is a starter that grows for several generations until it grows and develops to something called kefir grain which is neither grain nor considered *issur*.<sup>80</sup> If this case is a permitted mixture why would our lab synthesized meat not be accepted for the same reason? The processes here are more similar to the processes in lab synthesized meat rather than in a cooking example. Both start from non-visible bio-chemical mixtures that replicate themselves for many generations. The *Terumat ha-Deshen* says that in a case where there is a *safek* whether there is *issur* in a mixture then there is no *bitul l'chatchila*.<sup>81</sup> In that case he is describing worms or parts of worms in flour where the likelihood is high. In the case of lab synthesized meat where we have a *safek* that there is any *issur*, in that the stem cells are not visible and there is no *ta'am*, then any mixture is not a mixture with *bitul l'chatchila*.

## זה וזה גורם — *Zeh v'Zeh Gorem* — Two Equally Contributing Factors

Another argument comes from the concept of *zeh v'zeh gorem*, when there are two equal contributing factors, one of which is *heter* and one of which is

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77. Chatam Sofer, *Yoreh Deah* 79:81.

78. Yehuda Bezalel Spitz, "Meat from Stem Cells", *Techumin* 35 (5775): 196.

79. Ze'ev Whitman, "Cultured Meat: Review and Response", *Techumin* 36 (5776): 460.

80. *Ibid.*

81. *Terumat ha-Deshen* 1:171.

*issur*.<sup>82</sup> According to *halacha* the mixture or result of the two is *heter*. According to Tosafot<sup>83</sup> in *Pesachim* this works especially when there is no *b'ain* which is similar to the lab synthesized meat case, since there is no *issur* that is visible. Tosafot claims that *zeh v'zeh gorem* only works when both parts are equally important. Here the stem cells would not multiply without the medium and the medium would not feed anything without the stem cells. Rav Yehuda Spitz rejects the argument that the two ingredients are equally important.<sup>84</sup> R. Bleich wrote that "Were the non-kosher stem cell the sole cause, the cultured meat cells would be forbidden as *yozei*. But those meat cells are the resultant effect of dual causes, viz., the stem cell and the nutrients introduced into the petri dish in order to make cell division possible. Moreover, the nutrients do not function simply as catalysts that are not present in the effect; rather, the nutrients are physically integrated into the newly produced cells. It therefore follows that the cultured meat is the product of *zeh va-zeh gorem* and hence permissible. This conclusion is correct only if the nutrients are derived from kosher sources."<sup>85</sup> Furthermore, the Chatam Sofer wrote about rennet: ויין דלט"ז מותר לגמרי א"כ מותר לכ"ע לבטלו בס' לכתחלה ולהתיר זוז"ג לכתחילה אמנם כל זה אם נתרך בזמן מועט that we can combine bitul of 1/60 with *zeh v'zeh gorem* and allow rennet in tiny quantities *l'chatchila*.<sup>86</sup>

### דבר המעמיד כנגד פנים חדשות — *Davar ha-Ma'amid* (A Coagulant) vs. *Panim Chadashot* (New Faces)

Some argue that the stem cells, like rennet or gelatin, can never be *batel* because they are more like a *davar ha-ma'amid*. They claim that without the stem cells there would be no growth at all. They claim that the cells are similar to gelatin. In that case we enter into an international *safek*. Rav Aharon

82. Talmud Bavli, *Avodah Zarah* 48b; *Temurah* 30a.

83. Tosafot, *Pesachim* 26b s.v. "Chadash Yotatz".

84. Yehuda Spitz, "Meat from Stem Cells: Response", *Techumin* 35 (5775): 193.

85. J. David Bleich, "Stem-Cell Burgers", *Tradition* 46:4 (2013): 58.

86. Chatam Sofer, *Yoreh Deah* 81.

Kotler<sup>87</sup> and Rav Moshe Feinstein<sup>88</sup> both forbade gelatin from *neveilot* and *tereifot* of non-kosher animals. They reason that the gelatin started out as something non-edible and through the processes they became *ra'uy l'achila* (edible) so the *ta'am issur* (prohibited taste) came back. They further argue that even though gelatin is a highly processed ingredient, the main element — the collagen — is present throughout.

In contrast, Rav Ovadia said that gelatin constitutes “*panim chadashot*” or an entirely new ingredient.<sup>89</sup> “The process of making gelatin involves using the animals’ skin and bones after they are well dried, over several months, and then mixing them with chemicals and ground to powder. Then new “faces” arrive and so gelatin is allowed (and pareve).”

So here we have a *metziut* question and a serious *safek d'rabanan*. Is the lab synthesized meat a *davar ha-ma'amid* or *panim chadashot*? One could argue that by creating this food in this novel way, for example by adding healthier Omega-3 fats, a whole new category of food is being created. The fact that the cells are manipulated to become “immortal” puts them in a category that is different from normal cells and is something completely new. Or one could argue that the same cells are still there or at least the same genetic material is still there, since the original cells have long disappeared by the time the food reaches the consumer.<sup>90</sup>

Rabbi Ze'ev Whitman argues that the stem cells are not a *davar ha-ma'amid* but rather more like a plant in soil.<sup>91</sup> The plant cannot grow without

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87. *Responsa Mishnat Rabbi Aharon, Yoreh Deah* 16:9, 17.

88. *Igrot Moshe, Yoreh Deah* 2:27.

89. Yabia Omer, *Yoreh Deah* 8:11 see also <https://www.torahmusings.com/2014/07/gelatin-halacha-recent-developments/>.

90. Perhaps it is appropriate here to invoke Rav Moshe in a different context where he said that if there are multiple serious *sefeikot d'rabanan* then we hold *l'kula*.

והנה לדידי היה מסתבר שכיון שספק ביה"ש אם הוא יום או לילה ספק בהמצאות איך הוא שהא לא  
ידוע לשום איש, וספק בהג' מילין ורביע הוא ספק דפלוגתא דרבוותא בדינא יש להחשיב זה לס"ס

“And so it would seem here that because there is a *safek* of whether *bein hashemashot* is day or night, there is a *safek* of *metziut* (reality) since not known to anyone and a *safek* about three *mil* and a quarter is a *safek* about which Rabbis disagree and we can consider this a *safek s'feka*.” *Igrot Moshe, Orach Chaim* 4:62 Since there is a doubt about the reality and also a great disagreement between notable *poskim* with good arguments on both sides then we should rule leniently.

91. Ze'ev Whitman, “Cultured Meat: Review and Response”, *Techumin* 36 (5776): 459.

the soil and the nutrients and so constitutes *panim chadashot*. Rabbi Wayne Allen wrote “so if the stem cells were categorized as ‘davar ha-ma’amid,’ the entire process of producing “meat” in the laboratory would be called into question. But as noted above, the stem cells are not a catalyst advancing the transformation of a substance into meat. They are the source out of which “meat” grows. Thus, if using cheese making as the operative analogy, the stem cells are not the equivalent of the rennet added to the milk to curdle it. The stem cells are the milk itself.”<sup>92</sup>

Rabbi Tendler does not see the relationship of the meat culture to the medium as analogous to that of milk and rennet wherein the rennet turns the milk into cheese. The stem cells do not turn the medium into cultured meat but rather “[t]he muscle precursor cells consume the nutrients of the medium and grow into muscle tissue. Therefore, the medium has no substance as part of the cultured meat, and should not be considered as mixed with the cells to prohibit the cultured meat.”<sup>93</sup> Therefore the cells are not a stabilizer for the medium. He further suggests that for the lab synthesized meat to be considered *pareve*, the stem cells should be sourced from animal skin with no meat attached, as that is halachically *pareve*.<sup>94</sup>

*Bava Kama* 96b describes a case that seems to be similar by analogy to stem cells and lab synthesized meat. “By contrast, if he robbed another of a brick, and by crushing it turned it into earth, he has acquired it due to the change. If you say: Perhaps he will return it and fashion it into a brick? This is a different brick, and a new entity [*panim chadashot*] has arrived, i.e., entered into existence, here.” The Gemara here is describing an entity made up of building blocks that are crushed and reformed similar to the process of extracting stem cells from meat, refashioning them with nutrients and a matrix on which to grow and so a new entity emerges.

## מְרָאֵי עֵין — *Marit Ayin* — Preventing False Assumptions

*Marit ayin* is the concern that even though you are not doing anything wrong,

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92. [http://utj.org/viewpoints/responsa/the-kashrut-of-laboratory-produced-meat/#\\_ftnref26](http://utj.org/viewpoints/responsa/the-kashrut-of-laboratory-produced-meat/#_ftnref26).

93. John D. Loike, Ira Bedzow and Moshe D. Tendler, “Pareve Cloned Beef Burgers: Health and Halachic Considerations”, *Hakirah* 24 (Spring 2018): 201.

94. *Ibid.*, p. 203.

it might appear to another's eye that you are committing a transgression. Within *kashrut*, *marit ayin* seeks to prevent onlookers from mistakenly thinking that one is serving an *assur* mixture.<sup>95</sup> The *Pri Chadash* warns against adding *gezeirot* of *marit ayin* beyond what is designated in the Talmud because otherwise there will be no end to what is prohibited.<sup>96</sup> Rav Ovadia Yosef stated that one is allowed to drink synthetic milk and eat *parve* ice cream after a meat meal.<sup>97</sup> The *Kreiti u-Pleiti* wrote that if it is usual then the food is allowed.<sup>98</sup> Rav Yehuda Spitz says that lab synthesized meat is still too expensive to say that it is usual. As lab synthesized meat becomes common people will recognize it for what it is and not be confused, just as tofu and other *pareve* “milk” products no longer seem to be governed by *marit ayin*. Rav Aviner says, “And regarding eating such a burger with dairy, there is no problem of *Maarit Ayin*, since we do not add to the list of things forbidden in the Gemara on account of *Maarit Ayin*.”<sup>99</sup>

## אֲחֻשְׁבַּי — *Achshevai* — Non-Foods to Foods

The principle of *Achshevai* states that “a person can consciously promote non-foods to a food status by using it as a food.”<sup>100</sup> For example, “during Pesach we permit a scribe to write with ink that contains chametz, notwithstanding the fact that it is expected that the scribe will suck on the pen and ingest some of the chametz ink. We are not concerned about the chametz since, a) the ink is not food; b) the scribe has not consciously chosen to eat the ink. It is not *Achshevei*, considered a food, unless the scribe chooses to use the ink as a regular food.”<sup>101</sup> “The Nodah BiYehudah restricts the Halachic definition of

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95. Talmud Bavli *Chullin* 104b; Rambam, *Mishneh Torah*, Forbidden Foods 9:20; *Shulchan Aruch*, *Yoreh Deah* 67:3.

96. *Pri Chadash* 461:2.

97. Ovadia Yosef, *Yechavei Da'at* 3:59.

98. *Kreiti u-Pleiti* on *Shulchan Aruch*, *Yoreh Deah* 298:1.

99. Rav Shlomo Aviner, “Kashrut of Laboratory-Grown Hamburger”, *Torat Ha-Rav Aviner* 12 (August 2013).

100. <https://ohr.edu/5518>; Rosh on *Pesachim*, *daf* 21; Gra & Magen Avraham on *Shulchan Aruch* 442; *Aruch Ha-Shulchan* 442:30.

101. <https://ohr.edu/5518>.

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food to those products that are used as a food in themselves. Products that are exclusively used as an adjunct to be used with other foods, are not foods. He limits *Achshevei* to products that are chosen to be consumed in their present form and therefore permits using a food additive derived from non-kosher since it is in itself not an edible product.”<sup>102</sup> Stem cells are not food products at the beginning of the process although the end product is edible. It is not clear that the principle of *Achshevei* applies here, and if it did it would be a *safek* in addition to all the other *sefeikot d’rabanan*.

## Conclusion

The original cells from which lab meat is synthesized are not halachically significant. Rather, they should be considered *panim chadashot* because of all the manipulation they undergo in the process. Consequently, lab synthesized meat may be sourced from any meat and the resulting product will be *pareve*.

The conservative nature of *halacha* might compel one to say that the source should be from kosher animals only<sup>103</sup> or only from fish.<sup>104</sup> This would make synthetic meat more expensive and less easily available to the kosher eating population. *Poskim* have an obligation to consider the financial burden to the community and not impose unduly expensive stringencies. Lab grown meat has the potential to significantly reduce the cost of keeping kosher. In addition, it will reduce greenhouse gases, prevent mass cruelty to animals, and help keep more of the world’s population fed. As Rav Lior wrote, “There will always be those who are *machmir* but we have to balance it with the desire to stop world hunger and the great harm to nature and the *issur* of *Tzar ba’alei chaim*.”<sup>105</sup> Based on all these considerations, I wholeheartedly endorse the *kashrut* of lab produced meat and look forward to the day it becomes a staple of our diet.

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102. Nodah B’Yehuda II, *Yoreh Deah* 57 as cited in <https://ohr.edu/5518>.

103. Yehuda Spitz, “Meat from Stem Cells: Response”, *Techumin* 35 (5775): 193.

104. Yaakov Ariel, “The Kashrut of Cultured Meat”, *Techumin* 36 (5776) 454.

105. <https://tinyurl.com/ygsavpcg> (translation by author).

# ***Is Coca-Cola Kosher? Rabbi Tobias Geffen and the History of American Orthodoxy***

ADAM MINTZ

Rabbi Adam Mintz was ordained by Yeshiva University and received his doctorate from New York University. He teaches Talmud at Yeshivat Maharat, is an Adjunct Associate Professor at City College New York and is the Rabbi and founder of Kehilat Rayim Ahuvim.

**T**he ability of the American Orthodox rabbinate to enhance Jewish life through its involvement with the broader American community is taken for granted today. Yet, for the immigrant Jewish community of the early twentieth century, such rabbinic influence was, for the most part, a distant dream. The American rabbi, whether educated in Europe or the United States, rarely had the connections or the credibility to influence the outside community. Coca-Cola, as is well-known, is one of the major consumer products in the United States. The issue of whether Coca-Cola was kosher was raised by members of the American Jewish community in the 1920's and 1930's. It was Rabbi Tobias Geffen, a Lithuanian educated rabbi, living in Atlanta, Georgia during this period, who skillfully combined his rabbinic learning and his powers of persuasion in order to convince the executives of Coca-Cola to make the necessary changes in the formulation of Coca-Cola so that it would meet the standards of *kashrut*.

Using the published works of Rabbi Geffen and the collection of his letters and communications found in the archives of the American Jewish Historical Society, I will present the story of Rabbi Geffen and the beginnings of his

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rabbinic supervision of Coca-Cola as an early model of the ways in which the Orthodox rabbinate reinvented itself to serve the Jewish community in America.<sup>1</sup>

Tobias Geffen was born in Kovno, Lithuania on August 1, 1870.<sup>2</sup> He was raised in a traditional Lithuanian Jewish home with its emphasis on the study of Torah. As a child he attended the local *heder* and after his bar mitzvah he traveled to Grodno to study under the well-known scholar, Rabbi Eliakim Shapiro. In 1898 he married Sara Hene Rabinowitz, the daughter of a prominent Jewish businessman in Kovno. To enable her husband to continue his study of Torah, Sara Hene opened a paper goods business in Kovno to support the family. The Geffens were deeply affected by the Kishinev Pogrom of 1903 and the anti-Semitic episodes that followed in Russia and they decided to sell the business and to emigrate, together with their two small children, to the United States. Rabbi Geffen was severely criticized for his decision by friends and rabbis who felt that he should have accepted the rabbinic position in a prominent Lithuanian city rather than emigrate to the United States. Rabbi Geffen withstood the criticism and received rabbinic ordination from Rabbi Zvi Hirsch Rabinowitz and Rabbi Moshe Danishevsky of Slobodka before leaving for the United States.<sup>3</sup>

Life was difficult for the Geffen family when they arrived on the Lower East Side. According to his son, Rabbi Geffen worked for several months in a sweatshop owned by his wife's half-brothers. In 1904 he was hired as the rabbi of Congregation Beit Kneset Ahavat Zedek B'nai Lebedove on the Lower

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1. For a review of American Judaism at the beginning of the twentieth century, see Jonathan D. Sarna, *American Judaism* (New Haven, 2004), 135–207.
  2. A biographical sketch of Rabbi Geffen's life was written by his son, Louis Geffen, in *Lev Tuviah: On the Life and Work of Rabbi Tobias Geffen*, edited by Joel Ziff (Newton, MA. 1988), 19–40. While it contains much useful information, it is understandably written from a son's perspective. There is an excellent biographical article on Rabbi Geffen written by Nathan N. Kaganoff, "An Orthodox Rabbinate in the South: Tobias Geffen, 1870–1970" in *American Jewish History* 73:1 (September, 1983), 56–70. This article is based on material from the Tobias Geffen Papers in the archives of the American Jewish Historical Society including a typescript of an autobiography written in Yiddish in 1951 entitled *Fifty Years in the Rabbinate: Chapters of My Life*. For a complete list of Rabbi Geffen's writings and biographical material, see Moshe D. Sherman, *Orthodox Judaism in America: A Biographical Dictionary and Sourcebook* (Westport, CT. 1996), 73–4.
  3. Kaganoff, 57–8.

East Side. Unfortunately, the rabbinate did not provide an adequate salary to support a family and Rabbi Geffen was unwilling to augment his income by accepting money for supervision of slaughter houses or butchers. In addition, he was advised by a doctor who had also immigrated to the Lower East Side from Kovno that the New York air was damaging to his health.<sup>4</sup>

At this point, Rabbi Geffen was contacted by the Kollel Perushim in Kovno. Their American fundraiser had resigned from his job and the Kollel asked Rabbi Geffen to travel to cities throughout the United States to raise funds on its behalf until another fundraiser could be found. He was employed by the Kollel for several months. On one occasion, he spent Shabbat in Canton, Ohio where he spoke on behalf of the Kollel. As it turned out, the synagogue in Canton was looking for a rabbi. Rabbi Geffen's address made a favorable impression and a membership meeting was immediately called for Sunday morning at which time Rabbi Geffen was unanimously offered the position of rabbi and given a three year contract. There was not enough time for Rabbi Geffen to return to New York to bring his family before the upcoming High Holidays so he remained alone in Canton for the holidays and moved his family to their new home after Succot.<sup>5</sup>

The Orthodox Jewish community of Canton was small, consisting of 800 people out of a general population of fifty thousand. There were two Orthodox synagogues in the community, both located on the same block. There had been a major split in the community which was reflected in the fact that there were also two *shohatim* and two kosher butcher shops. When Rabbi Geffen arrived in Canton, he was employed by only one of the synagogues. However, his first goal was to mend the rift in the community. According to the deal that Rabbi Geffen arranged, the two synagogues remained in separate buildings and he now served as the rabbi of both congregations. Services would be conducted together, alternating between the two buildings every other week. Both congregations signed a document that they would follow the terms of the agreement for the period of five years.<sup>6</sup>

Rabbinic life in Canton was very satisfying to Rabbi Geffen. The only problem was the weather. Rabbi Geffen had trouble with the severe winters and heavy snows and decided that he would prefer to live in a warmer climate.

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4. *Lev Tuviah*, 23.

5. Kaganoff, 59–60.

6. *Ibid.*

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In the summer of 1910, Rabbi Geffen was appointed as a delegate to the Thirteenth Zionist Conference in Pittsburgh. Rabbi Moshe Simon Sivitz, in whose home he was staying, showed him an announcement in the Yiddish newspaper that a synagogue in Atlanta was looking for an Orthodox rabbi who had received his ordination from European rabbis. Rabbi Geffen applied for the job and was invited to come to Atlanta. Unaware of his plans, the synagogue in Canton renewed Rabbi Geffen's contract for another term. However, he politely declined the offer and moved with his family to Atlanta. He was officially appointed rabbi of Shearith Israel, and remained there for the next sixty years.<sup>7</sup>

When the Geffens arrived in Atlanta, the city had a Jewish population of about four thousand out of a general population of 150,000 people.<sup>8</sup> At the turn of the century, the only Orthodox synagogue was Congregation Ahavath Achim. In 1902, a group of the more stringently Orthodox Jews from this congregation founded a new synagogue which was named Shearith Israel. They had broken away when Ahavath Achim allowed men who worked on Shabbat to be called to the Torah. In addition, the breakaway group tended to be less affluent and was insulted when Ahavath Achim, burdened by debt from their new building, denied admission on the High Holidays to people who could not afford to purchase tickets.<sup>9</sup>

Shearith Israel held services in rented locations until 1907 when they purchased St. Paul's Methodist Church and transformed it into a synagogue. Rabbi Geffen was the third rabbi of this new congregation and was very well suited for the community as it was largely composed of Lithuanian Jews. Interestingly, there was an increase in the number of Galician and Ukrainian Jewish settlers in Atlanta after 1900 and several Hasidim arrived in the city. Initially, they joined Shearith Israel but by 1911 they were numerous enough to create their own synagogue.<sup>10</sup>

The Orthodox community of Atlanta in 1910 was not properly organized. Each of the four kosher butcher shops employed its own *shohet* and, moreover, there was no overall communal supervision for these butcher shops. Rabbi

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7. Ibid., 58–61.

8. Steven Hertzberg, *Strangers Within the Gate City: The Jews of Atlanta 1845–1915* (Philadelphia, 1978), 232.

9. Ibid., 90–2.

10. Ibid., 93–4.

Geffen had been a member of the Union of Orthodox Rabbis of the United States and Canada (Agudath Harabbonim) since 1904, which was considered to be the most reputable rabbinic organization at the time. This elevated Rabbi Geffen's status in the community and gave him the credibility to visit the various butchers and slaughter houses and to suggest changes and improvements to the kosher meat sold in Atlanta.<sup>11</sup>

The status of Jewish education in Atlanta was also very problematic. When Rabbi Geffen arrived there were no community or congregational religious schools. Instead, a small number of private teachers taught several students for a nominal fee. After much effort, and with the assistance of several communal leaders, Rabbi Geffen was able to organize a community Hebrew school. He supervised the school, arranged the curriculum and engaged the teachers. The school grew and after a few years it was taken over by the other Orthodox synagogue in Atlanta. In addition, Rabbi Geffen privately taught his children at his home. Several parents sent their children to join this private class and a small yeshivah was established. This was the beginning of Jewish education in Atlanta.<sup>12</sup>

Rabbi Geffen initiated the first organized effort to raise funds for needy European families following World War I. At the request of the Agudath Harabbonim, of which he was the Southern representative, Rabbi Geffen arranged weekly collections from people who donated between ten and fifty cents per week. With the help of several young boys and girls he collected money each week which was sent to the Central Relief Commission in New York. Over the course of a number of years, several thousand dollars were collected. Rabbi Geffen was also active during both World War I and II visiting the military camps in the Atlanta area and conducting services for the Jewish soldiers.<sup>13</sup>

Atlanta was the home of a federal penitentiary and Rabbi Geffen was involved with many of the Jewish prisoners. Rabbi Geffen received letters from various American cities asking him to assist Jewish prisoners by supplying matzah for Pesach and in one instance to obtain a *get* on behalf of the wife of a prisoner. During Prohibition, a Jew from the Midwest came to Rabbi Geffen explaining that he had been convicted of bribing a Federal official.

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11. *Ibid.*, 62.

12. Kaganoff, 62–3 and Louis Geffen, 31–2.

13. Louis Geffen, 34.

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He explained that he had come voluntarily to avoid the embarrassment of traveling to the Federal penitentiary on the train handcuffed. This man lived in Rabbi Geffen's home for two weeks before he was taken into the prison and Rabbi Geffen was later involved in having him placed on parole. In his autobiography, Rabbi Geffen described his efforts in obtaining a pardon from Governor Eugene Talmage for a Jewish prisoner in a Georgia chain-gang.<sup>14</sup>

In many ways Rabbi Geffen did not match with the stereotype of an Eastern European rabbi. He was a staunch Zionist and served as president of Mizrahi, the religious Zionist organization, in Atlanta from 1930 to 1933. He also served as vice president of the Atlanta Zionist organization, the Keren Hayesod, and the Jewish National Fund. He maintained a relationship with the Reform rabbi in Atlanta. In 1931 Rabbi Geffen was invited to recite the benediction at the dedication of the Reform Temple in Atlanta by Rabbi David Marx and he accepted. Many years later, at the age of 95, Rabbi Geffen was invited by Dr. Louis Finkelstein, Chancellor of The Jewish Theological Seminary of America, to offer the benediction at the graduation exercises. Rabbi Geffen delivered the benediction to the graduating class which included two of his grandsons.<sup>15</sup>

The life of Rabbi Geffen reflects a willingness on the part of this Eastern European rabbinic immigrant to confront the complexities of American life while at the same time strengthening the traditional community in America. However, Rabbi Geffen's place in American Jewish history was guaranteed through his ability to confront one of the bastions of American life and to ensure its kosher status for future generations.

In a *teshuvah* that has become known as the "Coca-Cola *Teshuvah*",<sup>16</sup> Rabbi Geffen explained his involvement in this issue:

In the year 5695 (1935) an inquiry was addressed to me concerning the well-known soft drink Coca-Cola, which is manufactured in the

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14. Kaganoff, 66–7 and Louis Geffen, 33.

15. Kaganoff, 68 and Louis Geffen, 39. The Hebrew text of Rabbi Geffen's benediction is found in *Lev Tuviah*, 57–8 (Hebrew section).

16. The Hebrew original of this *teshuvah* can be found in Tuviah Geffen, *Karnei Ha-Hod* (Atlanta, 1935) 244–47. The English translation, prepared by his son Louis Geffen and his grandson, David Geffen, is found in *Lev Tuviah*, 117–21. All references will be to the English translation.

city of Atlanta, Georgia. Is it kosher for drinking during the entire year and on Passover?<sup>17</sup>

Coca-Cola was founded in 1885 in Columbus, Georgia by John Pemberton as a coca wine. Later that year, Fulton County, Georgia passed Prohibition legislation and Pemberton responded by developing a carbonated, non-alcoholic version of coca wine. The beverage was named Coca-Cola because the stimulus mixed in the drink was coca leaves from South America, the source of cocaine. Initially, each glass of Coca-Cola contained nine milligrams of cocaine. However, the cocaine stimulus was removed in 1903. As a marketing technique, the secret formula of Coca-Cola is reputed to be held by only a few Coca-Cola executives with the original document in the vault of the SunTrust Bank in Atlanta.<sup>18</sup>

While Rabbi Geffen introduced this issue as having come to his attention in 1935, in reality he had been involved with the kosher status of Coca-Cola for some time. Rabbi Geffen's efforts to examine the ingredients of Coca-Cola and to determine its kosher status can be pieced together through an examination of some of the documents found in his collection of letters now housed at the American Jewish Historical Society. Rabbi Geffen was meticulous in preserving all communications that were sent to him. Unfortunately, we lack most of his responses to these letters. It is through these documents that the story of kosher Coca-Cola can be uncovered.

Rabbi Geffen's first communication regarding Coca-Cola was in 1925. In a letter addressed to him and dated July 14, 1925, Rabbi Elihu Kochin, rabbi of the Orthodox Jewish Community of Pittsburgh,<sup>19</sup> wrote:

I inquire of you to inform me concerning the kosher status of Coca-Cola...For at this point, many of the people are drinking Coca-Cola

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17. Lev Tuviah, 117.

18. The history of Coca-Cola has been documented in both popular and academic sources. The most recent and most complete history of Coca-Cola is Mark Pendergrast, *For God, Country and Coca-Cola* (NY, 1993). See especially pp. 456–60 for a discussion of the legend of the “sacred formula”. For an article on the “sacred formula” and the problems that *kashrut* presented, see Laurie M. Grossman “The Big Problem Is: If They Tell, That Wouldn’t Be Kosher, Either”, *The Wall Street Journal* (April 29, 1992), B1.

19. For a short biography of Kochin, see Yosef Goldman, *Hebrew Printing in America 1735–1926: A History and Annotated Bibliography* (Brooklyn, 2006), II:688.

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without proper rabbinic certification and claiming that it is kosher. Please clarify this matter.<sup>20</sup>

We do not have Rabbi Geffen's reply. However, we can glean some additional information from a correspondence with Congregation Mischne of Memphis, Tennessee in 1932. In a letter dated May 5, 1932, the Congregation wrote:

It has been a very long time since we have written to you but as we wish to get a little information from you as to let us know whether you have got the information concerning Coca-Cola which you stated that the company was not willing to give you the exact contents which goes into the manufacturing of this Coca-Cola.

Lately we notice there are a few cities in the United States as well as Memphis that several Rabbi's (sic) O.K. the Coca-Cola as Kosher for Passover.<sup>21</sup>

Rabbi Geffen evidently responded promptly to this letter as we have another correspondence from Congregation Mischne to Rabbi Geffen dated May 20, 1932. In this letter, Congregation Mischne made reference to the fact that Rabbi Geffen had written that he had inspected the Coca-Cola plants and that Coca-Cola contained glycerin which was not kosher. They conclude the letter as follows:

The reason why Rabbi Taxon<sup>22</sup> is interested in same is that he happened to give a (HECSHAR) on this drink through the Rabbi Parnes of Chicago.<sup>23</sup>

From this correspondence, it is evident that in 1932 Jews were drinking Coca-Cola and considered it kosher. Furthermore, there were some rabbis who were actually certifying Coca-Cola as kosher. At the same time, Rabbi Geffen had already investigated the Coca-Cola plant and determined that in fact Coca-Cola contained a non-kosher ingredient. In the history of kosher

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20. Letter from Rabbi Kochin dated the third day of the portions *Matot/Massei*, Geffen Papers, Box 15 Folder 1.

21. Letter dated May 5, 1932, Geffen Papers, Box 15 Folder 1.

22. Rabbi Morris Taxon was the rabbi of Baron Hirsch Synagogue in Memphis. For a short biography, see *Who's Who in American Jewry 1926* (NY, 1927), 616 and *American Jewish Year Book* vol. 44 (1942-43), 345.

23. Letter dated May 20, 1932 in Geffen Papers, Box 15 Folder 1.

supervision one would imagine that Rabbi Geffen's view would prevail and that Coca-Cola would be declared not kosher by the rabbis. In this case, however, this is not what happened. It is possible that Rabbi Geffen's view was not known to the general public. However, there seems to be another factor in the continuation of the rabbinic allowance of Coca-Cola and that factor is the involvement of Rabbi Shmuel Pardes, referred to in the previous letter as authorizing the kosher supervision of Coca-Cola in Memphis. Rabbi Pardes was a respected Orthodox rabbi in Chicago and editor of the respected rabbinic journal *Hapardes*.<sup>24</sup> He was also involved in the business of giving kosher supervisions. He sent several letters to Rabbi Geffen concerning the kosher status of Coca-Cola. In the first letter dated February 17, 1931, Rabbi Pardes wrote that he had recently heard that Rabbi Geffen believed that Coca-Cola was not kosher. Rabbi Pardes explained that there were several cities in North America where Coca-Cola had received rabbinic supervision both for year round and Passover and that the burden of proof fell upon Rabbi Geffen to prove that Coca-Cola is not kosher.<sup>25</sup>

Rabbi Geffen responded very promptly to Rabbi Pardes' letter as we have Rabbi Pardes' response written ten days after the original letter. In this follow-up letter dated February 28, 1931, Rabbi Pardes wrote that he read Rabbi Geffen's response several times and he did not understand what bothered Rabbi Geffen about the kosher status of Coca-Cola. He continued to explain that he had investigated the Coca-Cola plant in Chicago and found no inclusion of a non-kosher ingredient. He wrote that he could not imagine that the Coca-Cola plant in Chicago included different ingredients than the plant in Atlanta but he wrote that he had no choice but to travel to Atlanta to investigate the plant himself. He concluded the letter as follows: "I wrote last week to all the rabbis who give kosher supervision to Coca-Cola advising them of this problem."<sup>26</sup>

There is no further communication between Rabbi Pardes and Rabbi Geffen concerning his planned visit to Atlanta and his determination on the kosher status of Coca-Cola. There is, however, important information

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24. For a short biography of Rabbi Pardes, see Sherman, 161–2.

25. Letter from Rabbi Pardes, Tuesday *Parshat Terumah*, 1931 in Geffen Papers Box 15 Folder 1.

26. Letter from Rabbi Pardes, Saturday night, *Parshat Tetzaveh*, 1931 in Geffen Papers, Box 15 Folder 1.

### *Keren III*

included in the rabbinic journal *Hapardes*. In his initial letter to Rabbi Geffen, Rabbi Pardes had written that some rabbis in 1930 had asked him to include advertisements in *Hapardes* for Coca-Cola announcing that it was kosher for Passover. Initially, he had refused but after he had clarified that Coca-Cola was indeed kosher, he included a notice in the December, 1930 issue of *Hapardes*. In this issue there is a page-long article written by Rabbi Pardes entitled "Coca Cola: The American National Drink". He began the article with a brief history of the origins of Coca-Cola. He continued to describe the success of Coca-Cola in America and he concluded the article with a description of the ingredients of Coca-Cola and the statement that "Coca Cola is kosher with the ultimate standards of kashrut". He explained that it had been inspected by chemists who determined that there were no non-kosher ingredients in Coca-Cola.<sup>27</sup> In the following issue of *Hapardes*, January, 1931, Rabbi Pardes included a Yiddish advertisement for Coca-Cola with the following statement at the bottom of the advertisement:

I have investigated and checked all the beverages in the Coca-Cola factory and I found that there is no problem of the inclusion of a non-kosher ingredient. This drink is made of all natural ingredients and it is worthy of being served at the table of rabbis.<sup>28</sup>

The advertisement is signed by Rabbi Pardes.

In the March, 1931 issue of *Hapardes*, Rabbi Pardes included another advertisement for Coca-Cola with a slightly different signed statement at the bottom:

In the recent past I visited the main factory of Coca-Cola in Atlanta, Georgia. The workers in the factory revealed to me all the secrets and even the secret formula. I investigated and found that Coca-Cola is kosher and may be consumed.<sup>29</sup>

It would appear that Rabbi Pardes did not hesitate to publicize the fact that Coca-Cola was kosher even before he visited the main factory in Atlanta. At the same time, he kept his word to Rabbi Geffen and visited the Atlanta factory sometime between the middle of February and March, 1931.

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27. *Hapardes* 4:9 (December, 1930), 3.

28. *Hapardes* 4:10 (January, 1931), n.p. (back of cover).

29. *Hapardes* 4:12 (March 1931), 20.

How did Rabbi Geffen respond to the imprimatur that Rabbi Pardes gave to the kosher supervision of Coca-Cola during the year and on Passover? Did he continue to express his view that Coca-Cola was not kosher or did he take a different approach? In 1935, as an introduction to the *teshuvah* that Rabbi Geffen wrote concerning the kosher status of Coca-Cola, he wrote:

A few months ago I sent a letter to the Orthodox rabbis of America in regard to the kashrus of the well-known drink known by the name Coca-Cola which is manufactured in Atlanta, Georgia. Since that date I have received many inquiries and requests for more information and positive proof according to the laws of the Shas in regard to this matter. It is a very difficult matter for me to answer each of these inquiries and for this reason I have determined to give a reply (Teshuvah) in regard to this matter in my book "Karnei Hahod" which is now in press and will soon appear. Every person who is interested to know the real sources and reasons for this "Heter" of Coca-Cola will be able to find them in this book under the heading "The T'shuvah in Regard to Coca-Cola."<sup>30</sup>

In the *teshuvah* that followed, Rabbi Geffen described in detail the process that led him to determine that Coca-Cola was kosher for all year and for Passover. Rabbi Geffen began by explaining what he found in his investigation of the ingredients of Coca-Cola:

The 'M' is a liquid product made from meat and fat tallow of non-kosher animals: it is an item which Jews are forbidden to eat and drink.<sup>31</sup>

The first curious aspect of this *teshuvah* is the fact that Rabbi Geffen identified this liquid as "M". In the published Hebrew *teshuvah*, the word "*muris*" is used to describe this liquid.<sup>32</sup> The letter "M" is an abbreviation of the Hebrew word

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30. This paragraph appeared as an introduction to the typewritten English translation of the Coca-Cola *Teshuvah* and as the closing paragraph to the original Hebrew *teshuvah* in Geffen Papers Box 15 Folder 1. Interestingly, it is absent from both the printed edition of *Karnei Ha-Hod* and from the English translation published in *Lev Tuviah*. I am perplexed by the reason for this omission. The letter to the rabbis is dated July 2, 1934 and appeared in both Hebrew and English.

31. *Lev Tuviah*, 117.

32. *Karnei Ha-Hod*, 244.

### Keren III

“*muris*”, a Talmudic term defined as pickle brine. In a version of the Hebrew *teshuvah* that is found in Rabbi Geffen’s papers and is re-published in 1963 in his volume of essays, *Nazar Yosef*, Rabbi Geffen identified this liquid as glycerin oil.<sup>33</sup> This identification of glycerin is also found in a typewritten copy of the English translation found in the collection of Rabbi Geffen’s papers.<sup>34</sup> As will be shown later in the paper, Rabbi Geffen was instructed to remove the name of the problematic ingredient by the attorney for Coca-Cola in order to maintain the secrecy of the secret formula.

He explained that this ingredient, glycerin, is found in very minute proportions in the ratio of 1 to 1000. While generally such a small percentage would not deem the product not kosher, Rabbi Geffen explained that since this ingredient was a planned rather than an accidental ingredient it could not be consumed by Jews. Yet, he concluded that a solution was found to this problem:

With the help of God, I have been able to uncover a pragmatic solution according to which there would be no question nor any doubt concerning the ingredients of Coca-Cola. This solution came to my mind when it was revealed to me by some of the expert chemists that the ‘M’ could also be prepared from plant oil such as that made from coconut, cottonseed oil and other plants.<sup>35</sup>

According to Rabbi Geffen, however, even after solving the glycerin problem, there remained an issue with the use of the Coca-Cola on Passover:

This problem arises because in its processing the employees insert and mix the ingredient ‘A’ which is made from *chametz*. Since any amount of *chametz* prohibits its use on Passover, it is expressly prohibited to drink Coca-Cola on this holiday.<sup>36</sup>

In the Hebrew *teshuvah*, this ingredient is identified as “*anigron*”, a Talmudic term defined as a sauce of oil and garum.<sup>37</sup> The identification of the ingredient

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33. Tuviah Geffen, *Nazar Yosef* (Atlanta, 1963), II:157–61.

34. Geffen Papers, Box 15 Folder 1. In the English translation, it is identified simply as glycerin without the word oil.

35. Lev Tuviah, 121.

36. Ibid., 120.

37. *Karnei Ha-Hod*, 246.

as “A” in the English translation is an abbreviation of “*anigron*”. In the version of the Hebrew *teshuvah* in Rabbi Geffen’s papers,<sup>38</sup> the ingredient is described as alcohol as it is translated in the typewritten English translation.<sup>39</sup>

Here too Rabbi Geffen is able to find a solution:

Now, in regard to the prohibition of its use on Passover because of the question of *chametz*, I discovered that it is possible to prepare ‘A’ not from grain kernels but instead from sugar beets or sugar cane.<sup>40</sup>

Rabbi Geffen concluded his *teshuvah* with the following reflection:

I thank God for the opportunity that He has given me, making it possible to protect the general Jewish public from eating a mixture composed of tallow, a sin punishable by excommunication, and from eating *chametz* on Pesach. This matter is firmly established, and it has become possible for those who have been eating that which is forbidden to eat that which is permitted.<sup>41</sup>

In light of the history of the emerging tradition of rabbinic sanctioning for the drinking of Coca-Cola, Rabbi Geffen’s *teshuvah* is a fascinating statement on his view of the rabbinic role in America at the time. Rabbi Geffen had initially stated that he believed that Coca-Cola contained a non-kosher ingredient and that he deemed it unacceptable. He was opposed by Rabbi Pardes and the other rabbis who followed Rabbi Pardes’ lead. Rabbi Geffen could easily have stood his ground and continued to insist that Coca-Cola was not kosher. He lived in Atlanta and had investigated the plant. While there was no guarantee that his decision would be followed, his position was legitimate and needed no apology on his part. Yet, he chose to involve himself in a process that ultimately led to the Coca-Cola Company altering their secret formula regarding two ingredients, a process whose outcome Rabbi Geffen must have doubted until the very end.

Rabbi Geffen’s decision to attempt to find a means by which he could satisfy the regulations of Jewish law while not challenging the people’s practice reflects an attitude that was critical in the development of Orthodoxy in

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38. Nazar Yosef, II:161.

39. Geffen Papers, Box 15 Folder 1.

40. Lev Tuviah, 121.

41. Ibid.

### *Keren III*

America in the first half of the twentieth century. Rabbi Geffen had a legitimate position in which he could have written a *teshuvah* declaring Coca-Cola to be not kosher. Yet, he was astute and realized that such a position, while halakhically valid, would have been ignored by the American Jewish community. Rabbi Geffen would have defended a halakhic position but he would have made himself irrelevant to the Jewish community that was drinking Coca-Cola based on what they considered to be acceptable rabbinic supervision. Instead, Rabbi Geffen took the alternate approach as he wrote toward the end of his *teshuvah*:

Because Coca-Cola has already been accepted by the general public in this country and in Canada, and because it has become an insurmountable problem to induce the great majority of Jews to refrain from partaking of this drink, I have tried earnestly to find a method of permitting its usage.<sup>42</sup>

Rabbi Geffen's decision to work to convince Coca-Cola to change their ingredients in order to satisfy the needs of the Jewish community represents Rabbi Geffen's understanding of the personality of the Jewish community at the time. These American Jews, many of whom were struggling to find their place in a land that was often hostile to their religion, respected and appreciated rabbis who sought to include them within the Orthodox camp and not condemn them to the category of sinners.<sup>43</sup>

Rabbi Geffen's decision to find a manner to make Coca-Cola kosher would never have been possible without his ability to work with the decision makers at Coca-Cola and to convince them to change the formula. How was Rabbi Geffen, the Lithuanian rabbi whose preferred language was Yiddish, able to accomplish this feat? Nathan Kaganoff claimed the initial introduction to the Coca-Cola executives was made by Harold Hirsch, Coca-Cola's attorney and an influential member of the Atlanta Jewish community.<sup>44</sup> While there are no documents that explicitly make this connection, it makes sense. Harold Hirsch (1881–1939), a native of Atlanta, was a Columbia Law School graduate. In

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42. *Ibid.*, 120.

43. For an analysis of this rabbinic approach in America, see Marc Shapiro, "Book Review: *Jewish Commitment in a Modern World: Rabbi Hayyim Hirschenson and His Attitude to Modernity* by David Zohar" in *Edah Journal* 5:1 (Tammuz 5765).

44. Kaganoff, 64.

1904, he joined the Atlanta law firm of John Candler, who was the brother of one of the original owners of Coca-Cola. In 1909 he assumed charge of all of Coca-Cola's legal affairs and in 1923 Hirsch was appointed a vice president of Coca-Cola. Among his many achievements, he fought for the trademark "Coca-Cola" which was finally granted in a decision by the U.S. Supreme Court. He was also influential in protecting Coca-Cola from the many Coca-Cola imitators.<sup>45</sup>

Hirsch was also influential within the Atlanta Jewish community. He served as trustee, secretary, vice president, and president of the Hebrew Benevolent Congregation, the influential Reform Atlanta synagogue founded in 1867. He was a member of the Executive Committee of the American Jewish Committee from 1936–38 and he participated in the reorganization of the Joint Distribution Committee in 1930. In his later years, he emphasized the importance of unifying the entire Jewish community through his philanthropic work.<sup>46</sup>

There is a fascinating story popular within the Geffen family that explains Rabbi Geffen's friendship with Hirsch. According to this tradition, his daughter, Helen Geffen (1914–2003) attended public high school with one of Hirsch's children. Helen was chosen as the class valedictorian and delivered the valedictory address at the graduation. Harold Hirsch was so impressed with her address that he paid for Helen's college education at the University of Georgia, which was his beloved alma mater. Rabbi Geffen remained indebted to Hirsch and a friendship developed between them.<sup>47</sup> He dedicated his volume of essays that included the Coca-Cola Teshuvah to Harold Hirsch:

For his kind assistance and interest in the publication of this volume, the writer extends grateful thanks to Mr. Harold Hirsch of Atlanta, Georgia.<sup>48</sup>

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45. Mark Bauman, "Role Theory and History: The Illustration of Ethnic Brokerage in the Atlanta Jewish Community in the Era of Transition and Conflict" in *American Jewish History* 73:1 (September, 1983), 79–85 and a wonderful, though brief, biography of Hirsch in *American Jewish Year Book* Vol. 42 (1940–41), 165–72.

46. See *American Jewish Year Book* Vol. 42, 170–72

47. Based on a conversation with Stanley Raskas, Rabbi Geffen's grandson, on February 26, 2008 and an email correspondence with Rabbi David Geffen, also a grandson, on February 23, 2008.

48. *Karnei Ha-Hod* (Atlanta, 1935).

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When Hirsch died in 1939, Rabbi Geffen published a pamphlet containing a eulogy praising Hirsch. The eulogy was published in Hebrew, Yiddish, and English.<sup>49</sup>

According to this family tradition, when Rabbi Geffen was initially approached by other rabbis concerning the *kashrut* of Coca-Cola, he asked Hirsch for permission to see the secret formula of Coca-Cola. Otherwise, he explained to Hirsch, he would have no choice but to declare Coca-Cola not kosher. Six months passed and finally Hirsch replied that he had gained access to the secret formula for Rabbi Geffen but that Rabbi Geffen would not be allowed to share this formula with anyone. His daughter, Helen, who was studying chemistry at the University of Georgia, analyzed the ingredients for her father and found that two of the ingredients were not kosher. While it is not clear in what year Helen graduated high school and when the relationship between the two men began, the story reflects Rabbi Geffen's ability to befriend members of the broader Jewish community.<sup>50</sup>

The first communication that Rabbi Geffen preserved between himself and Coca-Cola is dated April 6, 1934. In this letter, Roy Gentry, Assistant to Harrison Jones, Vice President of Coca-Cola, signed on Mr. Jones' stationery. Jones was one of the most influential and colorful executives during this period.<sup>51</sup> In the letter, Gentry apologized for the fact that there had not been enough time to prepare the Atlanta Bottling Co. for the Passover season of 1934. This letter points to the fact that Rabbi Geffen had already been in contact with Coca-Cola and that a solution had been arranged. It was merely a function of time to prepare the bottling plant properly. In addition, the letter referred to a visit that Gentry paid at the Geffen home. There appears to have been a friendly relationship between these two men.<sup>52</sup>

Gentry's warm feelings for Rabbi Geffen are expressed in a letter dated July 17, 1934. In this letter, Gentry addressed L.F. Montgomery, General Manager

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49. Rabbi Tobias Geffen, *Memory in Script: Eulogy on That Noble Personage Mr. Harold Hirsch* (Atlanta, 1940).

50. Based on a conversation with Stanley Raskas, Rabbi Geffen's grandson, on February 26, 2008 and an email correspondence with Rabbi David Geffen, also a grandson, on February 23, 2008.

51. See the references to Harrison Jones in Pendergast, *For God, Country and Coca-Cola* (NY, 1993).

52. Geffen Papers, Box 15 Folder 1.

## Adam Mintz

of the Atlanta Coca-Cola Bottling Co. and reassured him concerning Rabbi Geffen's motives and goals:

I have found Dr. Geffen to be very conscientious and fair...This is a matter of principle and not money with Dr. Geffen and he has signified that he will be more than pleased to cooperate with you next year when you get ready to kosher Coca-Cola in the bottling plant for the Passover season.<sup>53</sup>

Gentry's trust of Rabbi Geffen is also expressed in a letter that he wrote Rabbi Geffen on February 25, 1936. The vegetable glycerin that was to substitute for the animal glycerin was going to be produced by the Proctor and Gamble Co. in Cincinnati. In this letter Gentry explained to Rabbi Geffen that he was enclosing copies of the affidavits from Proctor and Gamble verifying that the glycerin that they were providing was 100% vegetable glycerin. He wrote to Rabbi Geffen: "You of course appreciate the fact that these papers are most confidential."<sup>54</sup>

The reason for the Coca-Cola executives' acceptance of Rabbi Geffen's ingredient substitution is not explicit in any of these communications. In his letter to Montgomery, Gentry made reference to a marketing consideration:

...and while I know that your volume of sales through this channel is going to be very small, I feel sure that Dr. Geffen's distinguished position in the orthodox church in this part of the country will cause those orthodox Jews who do feel inclined to buy Coca-Cola koshered for the Passover season to appreciate all the trouble and inconvenience that this may entail.<sup>55</sup>

While engendering good will is always a good business practice, it is doubtful that given the small number of Jews at that time who kept kosher that this would have been enough reason to alter the special Coca-Cola formula.

Of course, the role of Harold Hirsch cannot be discounted as the reason that Harrison Jones accepted Rabbi Geffen's requests. Hirsch made the initial introduction between Rabbi Geffen and Harrison Jones and he maintained an interest in this process even after the initial introduction, in his role as

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53. Ibid.

54. Ibid.

55. Ibid.

### Keren III

Coca-Cola's lawyer. In a letter to Rabbi Geffen dated February 7, 1935, Hirsch described how Rabbi Geffen had shown him a draft copy of the English translation of his *teshuvah* on Coca-Cola. Hirsch made a suggestion to Rabbi Geffen that he asked Rabbi Geffen to accept:

We are most grateful for what you have done in this connection, but at the same time the information that we have given to you in regard to "Coca-Cola" is confidential and we should not like to have published in the world anything in regard the contents of "Coca-Cola". I ask, therefore, that you eliminate from your proposed article any reference to glycerine or alcohol as such...<sup>56</sup>

This letter highlights the fact that Hirsch very carefully balanced his responsibilities to Coca-Cola with his role as a leading member of the Jewish community in Atlanta. Ironically, during the 1930's one of Coca-Cola's major competitors in Germany launched a "Kosher Coke" propaganda campaign claiming that Coca-Cola was run by an American Jew, Harold Hirsch. Herr Flach, who manufactured an imitation drink called Afri-Coke, was a member of a Nazi organization. In 1936, on a goodwill tour of American industry, he arranged for a tour of a New York Coca-Cola bottling plant where Flach scooped up a handful of bottle caps indicating that Coca-Cola was Kosher for Passover. Back in Germany, Flach distributed thousand of flyers featuring pictures of the bottle caps. He claimed Coca-Cola was a Jewish-American company run by Harold Hirsch. The executives of Cola-Cola supported Hirsch and did not succumb to pressure to remove him from the Board.<sup>57</sup>

Whereas Hirsch's influence and the marketing consideration may have

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56. Ibid. As mentioned above (n. 30), on July 2, 1934, Rabbi Geffen wrote a Hebrew document addressed to "Honored Rabbi" stating that he had visited the Coca-Cola plant and replaced the non-kosher ingredient. This letter is translated into English and typed with Rabbi Geffen's signature and stamp. This letter used the word "glycerine" in Hebrew and English. This was most probably the letter that Hirsch had in his possession and insisted that the word "glycerine" be removed. I have not been able to locate a corrected copy of the letter. It is also possible that there was another letter pertaining to Passover containing the word "alcohol" as Hirsch referred also to "alcohol." I have not been able to locate this letter either.
57. See Pendergrast, 219–20 and an excellent internet post at <https://adventuresincemeteryhopping.com/2014/09/26/making-coca-cola-kosher-atlantas-rabbi-tobias-geffen/>.

played a role, Gentry's favorable impression of Rabbi Geffen's motives and his honesty paved the way for a relationship that allowed the necessary changes to be made in the formula of Coca-Cola. While Rabbi Geffen never lost his Lithuanian stature, he understood how to accomplish what needed to be done in his new homeland.

Ironically, Rabbi Geffen's ability to convince the Coca-Cola executives to change the ingredients came under attack from a leading rabbi and rabbinical group many years later. Rabbi Eliezer Silver, one of the leading Orthodox rabbis of the time and the head of the Agudath Harabbonim,<sup>58</sup> issued a proclamation in 1957 that Coca-Cola had not been kosher up to that point. He described that he visited the Proctor and Gamble plant in Cincinnati and saw that they made glycerin from both animal and plant products and ran them through the same pipes. He wrote that Proctor and Gamble had agreed to change their production methods but that until this was achieved, Coca-Cola was not kosher.<sup>59</sup> Coca-Cola had a number of rabbinic supervisors since that time and the supervision was taken over by the Union of Orthodox Jewish Congregations of America in 1991.<sup>60</sup>

Rabbi Geffen served as the rabbi of Congregation Shearith Israel in Atlanta for sixty years and died in 1970 as he approached his one hundredth birthday. He was honored at a testimonial dinner in 1957. Among those who attended were the mayor of Atlanta and the president of Emory University. Rabbi Geffen had developed a special relationship with Emory University as six of his seven children attended the school. At that time, classes at Emory were still held on Saturdays so Rabbi Geffen made special arrangements so

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58. For a short biography of Silver, see Sherman, 199–200. A more extensive biography can be found in Aaron Rakeffet-Rothkoff, *The Silver Era: Rabbi Eliezer Silver and his Generation* (OU Press, 2013).

59. National Jewish Post (November 1, 1957), n.p. Located in Geffen Papers Box 15 Folder 1.

60. In 2003, Rabbi Shmuel Gruber quoted Rabbi Geffen's *teshuvah* and agreed with his argument that the glycerin could not be considered non-existent since it was a necessary ingredient. However, Rabbi Gruber ignored the remainder of the *teshuvah* where Rabbi Geffen explained that Coca-Cola no longer used animal glycerin and Gruber argued that therefore Coca-Cola is not kosher. See Rabbi Shmuel Gruber, "Be-Din Bittul Davar She-Derekh Tikkun Asiato Be-Kakh" in *Ohr Yisrael* 8:2 (Tevet, 5763), 124.

### *Keren III*

that his children would be able to attend classes but would be excused from taking notes or exams on Saturday.<sup>61</sup>

In 1957, at the age of eighty-seven, Rabbi Geffen was designated Rabbi Emeritus and another rabbi was hired by the congregation. In 1958, the congregation voted to introduce mixed seating in the main sanctuary during services. Rabbi Geffen was given his own service in the chapel which maintained the *mechitzah* and he officiated at this service until several months before his death.<sup>62</sup>

Rabbi Geffen lived through several generations of American Jewry. He came to America as part of an immigrant group that struggled to find its place in this country while maintaining their religious commitment. He saw many Jews who abandoned the religious practices of their ancestors. At the same time, he worked hard to allow American Jewry to have an easier time maintaining their commitment to Judaism in the United States. His conviction and hard work to insure that Coca-Cola was kosher was an early example of the courage and ability of the American Orthodox rabbinate.

At the conclusion of his Yiddish autobiography which was never published, Rabbi Geffen wrote:

May the story of an American Jewish family transplanted from the soil of the Old Country to the new land of freedom and democracy serve as an example of inspiring Jewish living, with traditions as its keynote, combined with true American idealism as its guiding light, bringing to fruition the beautiful syntheses of the ancient Hebraic faith and culture with scientific civilization of our Twentieth Century way of life.<sup>63</sup>

Rabbi Tobias Geffen gave the American Jewish community Coca-Cola and much more.

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61. Kaganoff, 69.

62. *Ibid.*, 69–70.

63. "Autobiography" in Geffen Papers Box 1 Folder 7.

# תמרח: Spreading the Word

LEAH SARNA

Rabbanit Leah Sarna earned a BA in Philosophy & Psychology from Yale University, and she is also an alumna of Migdal Oz, the Center for Modern Torah Leadership Summer Beit Midrash, and the Drisha Institute. She received Semikha from Maharat in 2018. Rabbanit Sarna is the Director of Religious Engagement at Anshe Sholom B'nai Israel Congregation in Chicago, Illinois.

## I. Introduction

**O**n an average day, a twenty-first century person spreads any number of substances onto his or her body. In the shower, she spreads body wash, face wash, shampoo, and conditioner.<sup>1</sup> After a shower, he might use a hair product like a gel, wax, or cream, and he might apply a moisturizer to his skin. A teenager might spread some medical substance on her face to eliminate acne. Brushing teeth involves spreading toothpaste. Washing hands requires the spreading of soap. Chapped lips are treated with chapstick or some variety of vaseline. Getting dressed, a person will use some form of deodorant. Additionally, a person might choose to apply makeup, which would involve spreading an assortment of liquids, powders, solids, and creams onto the face. Lastly, in many climates, people are advised to put on sunscreen every day to protect themselves from the potential of skin cancer. All of these spreads in

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1. I am indebted to R' Wendy Amsellem for the coaching and wisdom she provided throughout the process of writing this article. Thank you to my *chevrusa*, Atara Cohen, for her patience and practical תורת חיים of skincare. Thank you to Rabbis Jeffrey Fox and Adam Mintz for their resources and feedback and for teaching me that כח דהיתרא עדיף. Thank you to Rabbi Baruch Goldman of the Maimonides School for teaching me to love the theory and details of *Hilchot Shabbat*.

one way or another help us to feel more comfortable in the world, whether because they help us feel confident in our looks and scents or because they alleviate physical discomfort.

Many of these body-spreadables pose challenges to Shabbat observance. Shabbat generally requires us to break from our regular routines. We do not work, we do not cook, we do not text, and we do not drive. It is no wonder that Shabbat observance asks us to break up our typical cosmetic and cleanliness routines as well. But within what parameters? That is the subject matter of this article.

There are a number of potential concerns involved with body-spreadables, including dying (צובע), hair removal (גזוז), healing (רפואה), and the creation of something new (מליד). In this essay, I will focus specifically on concerns relating to the prohibition of spreading (ממרח).<sup>2</sup> In Section II I will present a definition of the prohibition — distinguishing between the Torah prohibition and rabbinic prohibitions — and I will also describe a type of spreading that is completely permitted (סיכה). I will lay out a number of ways to determine into which category a particular substance might fall. Lastly, I will explain a number of caveats which will help us to understand that the prohibition of ממרח is not just about the type of substance, but also, of course, about the activity being performed. Section III will be a deeper look into a few specific types of spreads: stick deodorants and chapsticks, hand cream and hair products.

As cosmetics improve, diversify, and pervade the most basic creature-comforts of our lives and identities, this topic has become increasingly important. Until a *kashrut* organization invests in creating a list of every spreadable product sold in pharmacies (both local and online) and categorizes them into “permissible for regular use on Shabbat,” “permissible for use on Shabbat only if diluted” and “prohibited for use on Shabbat,” lay-people will either need to ask their local rabbi before using any substance or be equipped to make careful halachic decisions on their own as they introduce new products into their routines.

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2. It is important to note that not all halachic authorities believe that ממרח at all applies to things that are spread on the body. The *Shemirat Shabbat K’Hilchita* records a conversation he had with Rav Avraham Yitzhak Klein who spoke about this subject with the Chazon Ish and reported that the Chazon Ish was inclined to be lenient on this matter. (שמירת שבת כהלכתה לג הערה סד).

## II. Halachic Framework: Torah Prohibition, Rabbinic Prohibition, Permissible

Any single activity performed on Shabbat is classified into one of three categories: permitted, a rabbinic prohibition, or a Torah prohibition. The spreadables under our consideration fill the range of categories. In this section, we will attempt to establish a framework and give definition to each of these categories such that a person might be able to determine which of their spreads may be used on Shabbat, and in which ways.

### A. The Torah Prohibition

Torah prohibitions are classified into thirty-nine *Avot Melachot*, or main categories of prohibited activity. The Talmud in Tractate *Shabbat* 73a lists all of them, including *הממחקו* (or in some versions, *המוחקו*) which is a prohibition on smoothing animal hides by removing hairs and other irregularities.<sup>3</sup> In that same section, on 75b, the Talmud goes into greater detail about this prohibition and teaches us that a *Toledah*, a sub-prohibition, of *ממרח* is a prohibition on spreading, *ממרח*.<sup>4</sup> The example the Talmud there gives is one who spreads a plaster over a wound.<sup>5</sup>

The Mishnah in *Shabbat* 176a provides us with another example of *ממרח*. The Mishnah discusses various activities pertaining to barrels, and at the end concludes that one may not spread wax over a hole in a barrel because that would constitute a violation of *ממרח*.<sup>6</sup>

Maimonides provides a clear summary of the Torah prohibition of *ממרח*:

3. רש"י שם ד"ה הממחקו, חידושי הר"ן ד"ה הממחקו, מאירי שם.
4. The Talmud does not actually anywhere describe *ממרח* as a *Toledah*. This categorization is assumed by the Acharonim, e.g. *Aruch Ha-Shulchan*, *Orach Hayyim* 321:37.
5. "Plaster" here is used as an attempt to vaguely translate what the Talmud means by its usage of "רטיה" in the Bavli and "אספלנית" in the Yerushalmi. This refers to some kind of very thick mixture which would dry into a solid compress once spread upon a wound. Jastrow on the entry for *אספלנית* suggests that these were combinations of wax and fats.

תלמוד בבלי מסכת שבת דף עה עמוד ב — הממרח רטיה בשבת חייב משום ממחק.  
תלמוד ירושלמי מסכת שבת דף נב, ב פירק ז הלכה ב — רבי חייה בשם רבי יוחנן... הממרח את האיספלנית  
חייב משום ממחק.

6. משנה מסכת שבת פירק כב משנה ג — שובר אדם את החבית לאכול הימנה גרוגרות ובלבד שלא יתכוין לעשות

“one who spreads any kind of plaster (for a wound), or wax or tar, or anything like these of the things that spread, such that they become smooth, has transgressed the prohibition of smoothing.”<sup>7</sup>

We can conclude that the Torah prohibition involves, in the language suggested by Rabbi Dovid Ribiat, “Pliant Solid Substances.”<sup>8</sup> Of the examples brought by the Talmud, wax is the one that people today have the most experience with. Smoothing wax or a wax-like substance onto another surface, or smoothing a surface of wax in general, would constitute a Torah violation of ממרח.<sup>9</sup>

## B. The Rabbinic Prohibition

Included in the Talmudic discussion of barrels is a question: could barrels be plugged up not with wax, but a thick oil? Tractate *Shabbat* 146b records a debate between Rav and Shmuel on this matter: Rav prohibits and Shmuel permits. The Talmud there tells us that “the one who prohibits says that we forbid it because of wax.”<sup>10</sup> The Halacha, in the end, accords with Rav: we have a rabbinic prohibition on spreading thick oils or fats, in case one will come to spread wax.<sup>11</sup> Many of the issues addressed in this article will turn on our definition of “thick oil.”

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כלי ואין נוקבים מגופה של חבית דברי רבי יהודה וחכמים מתירין ולא יקבנה מצדה ואם היתה נקובה לא יתן עליה שעוה מפני שהוא ממרח אמר ר' יהודה מעשה בא לפני רבן יוחנן בן זכאי בערב ואמר חוששני לו מחטאת

7. משנה תורה הלכות שבת יא:ו — וכן הממרח רטייה כל שהוא, או שעווה, או זפת, וכיוצא בהן מדברים המתמרחין, עד שיחליק פנים — חייב משום מוחק.
8. Dovid Ribiat, *The 39 Melochos*, vol. III, 4 vols. (Misrad HaSefer, 1999) page 917. All further citations are from this volume.
9. See section II.E. of this essay for a discussion about a leniency as pertains to braces wax.
10. תלמוד בבלי מסכת שבת דף קמו עמוד ב — מישחא; רב אסר, ושמואל שרי. מאן דאסר — גזרינן משום שעוה, ומאן דשרי — לא גזרינן. אמר ליה רב שמואל בר בר חנה לרב יוסף: בפירוש אמרת לן משמיה דרב מישחא שרי. I have chosen to define משחא as thick oil because Rashi and most Rishonim define it as שמן עב.
11. This is the opinion of the Rif, Rosh, and Rambam. However, the Raavya feels that there is no rabbinic prohibition, and it is possible that the Gr”a could be relied on to say the same.  
רי”ף מסכת שבת דף סא עמוד ב — מישחא רב אסר ושמואל שרי מאן דאסר סבר גזרינן משום שעוה ומאן דשרי סבר לא גזרינן משום שעוה והלכתא כרב.

### C. Permitted: Anointing

The Mishnah in Tractate *Shabbat* 111a explicitly permits anointing the body with oil on Shabbat.<sup>12</sup> Presumably this means the spreading of oil, which we might otherwise have imagined to be a prohibited form of ממרח. Naturally, this leaves us with a challenge: how do we distinguish between oil, which the Mishnah explicitly permits us to spread on our bodies, and “thick oil” which is rabbinically prohibited?<sup>13</sup>

### D. Distinguishing Permitted and Prohibited Substances

These three categories are hard to delineate with clarity. We can say with a degree of confidence that the solidity of the spreadable item is what separates them one from the next. Torah-prohibited items are true solids which hold their form completely and are then spread onto the body. Creams, gels, and ointments are much trickier to classify, as surely some are totally permitted while others fall into the category of rabbinic prohibition. So how do we

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- רא"ש מסכת שבת פרק כב סימן ח — ולא יתן עליה שעוה כו' משחא רב אסר ושמואל שרי מאן דאסר גזרינן משום שעוה ומאן דשרי סבר לא גזרינן משום שעוה. והלכתא כרב.
- רמבם משנה תורה הלכות שבת כג:יא — הממרח רטיה בשבת חייב משום מוחק את העור, לפיכך אין סותמין נקב בשעוה וכיוצא בה שמא ימרח ואפילו בשומן אין סותמין את הנקב גזירה משום שעוה.
- ביאור הגר"א אורח חיים סימן שיד סעיף יא — או שמן. כ"פ הרי"ף כרב. ונראה שלא היה בגי' א"ל רב שמואל כו' ועיין רש"י ועיין ברא"ש פ' במה אשה בהא דכלילא והרמב"ם התיר אפי' דניסכא ע"ש.
- ראב"ה חלק א — מסכת שבת סימן שמ — ולי נראה כיון דשמואל שרי במשחא ורב יוסף פליג ואמר דרב נמי שרי הילכתא כוותיה דשרי.
- המשנ"ב ש"ד:מ"ה — מגדיר שומן וחלב כשעוה ולא כשמן עב, אבל הרמב"ם פסק להפך והארוחות שבת (יז:כו בהערה מ) דן בענין זו ופוסק כרמב"ם נגד המשנ"ב.
12. תלמוד בבלי מסכת שבת דף קיא עמוד א — משנה. החושש בשיניו לא יגמע בהן את החומץ, אבל מטבל הוא כדרכו, ואם נתרפא — נתרפא. החושש במתניו לא יסוך יין וחומץ, אבל סך הוא את השמן, ולא שמן וורד. בני מלכים סכין שמן ורד על מכותיהן, שכן דרכן לסוך בחול. רבי שמעון אומר: כל ישראל בני מלכים הם רמבם משנה תורה הלכות שבת כא:בג — וכן שמנים שדרך הבריאים לסוך בהן — מותר לסוך בהן בשבת, ואף על פי שנתכוון לרפואה; ושאר הבריאים סכין בהן, אסורין.
- משנה ברורה על שולחן ערוך אורח חיים הלכות שבת סימן שיד סעיף יא — (מה) שעוה או שמן עב — אף על גב דאין מירוח בשמן אסור דגזרינן אטו שעוה ודוקא שמן עב כיון דשייך בו קצת מירוח אתי לאחלופי.
- ערוך השולחן שכז:א אבל בשכז:ג מסתפק האם בריאים היום סכים בדרך רגילה. לענ"ד זו לא שייך היום כשרוב בני"א סכים בקדם ידים ופנים בכל יום.
13. There is a temptation to say simply, “everything thicker than oil is thick oil and rabbinically prohibited.” Many authorities have chosen against this direction, including those cited in this next sub-sections as well as: מנוחת אהבה, מנוחת שטז:יא, מנוחת אהבה, מנוחת שטז:יא, and Ribiat pg. 920.

distinguish? Here I will put forward three different suggestions for how to determine which cosmetic products do or do not violate the prohibition of ממרח.

### 1. Measure Viscosity

The Star-K, a *kashrut* organization based in Baltimore under the rabbinic auspices of Rabbi Moshe Heinemann שליט"א, recommends that we distinguish between permitted and prohibited products by measuring their viscosity. Their published material does not include a discussion of any distinction between rabbinic and Torah prohibitions, but that is most likely because they feel those distinctions are not practical for the average reader.<sup>14</sup> They write that any product with a viscosity of 600 cP or less as tested at 70 degrees Fahrenheit is not subject to the prohibition of ממרח.<sup>15</sup> They found, for example, that Softsoap Liquid Handsoap has a viscosity far above 600 cP, and therefore they prohibit it, though they do not feel that all hand soap categorically needs to be watered down, since they permit Ultra Dawn Concentrated Dish Liquid/Anti-Bacterial Hand Soap.<sup>16</sup>

There are pros and cons to this approach. On the positive side, this approach does not categorically prohibit any type of item, only consistencies (which could potentially be adjusted with temperature changes or dilutions).

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14. If the Star-K held like the Gr"א that there is no rabbinic prohibition of ממרח their guidelines would be much more lenient. There is no opinion that משוח is a *d'orayta* prohibition — the Talmud explicitly uses the language of “גזרינן משוח.”

15. There is no information available as to how the Star-K arrived at the measurement of 600 cP, and it is not hard to imagine that this standard might be debated, given the many debates found in just about every application of these *halachot*. Footnote 15 of the Star-K's article on the topic (cited in the following note here) states: “We measured the viscosity of various liquids using a viscometer. Our results indicate that products with a viscosity higher than 600 cP are subject to *memarayach*.” This argumentation is not compelling, though surely the *Rabbonim* who conducted these experiments were *Gedolei Torah* — they chose to be opaque in their reasoning here. Their argumentation is particularly not compelling because they do not list what permitted substance they measured which gave them a viscosity of 600 cP- for they mention explicitly in Footnote 14 that olive oil, a classic example of a permitted substance, is only 84 cP (as compared to honey, at 8500 cP)..

16. Section III.C. of Star-K's “Kashrus, Shabbos, and Pesach Guide to Cosmetics” by Rabbi Dovid Heber, located at <https://www.star-k.org/articles/articles/seasonal/353/the-kashrus-shabbos-and-pesach-guide-to-cosmetics/>.

This means that if a person very much desires to apply a certain type of product, they just need to buy a variety and test them out to find one with a permissible viscosity. On the other hand, this method is rather impractical. Most people do not have the capability to measure viscosity in their homes. Perhaps we could mandate that everyone learn how to measure viscosity in their own homes using a scale, a sphere, a graduated cylinder and a stopwatch, or they could acquire a more hi-tech viscometer.<sup>17</sup> Alternatively, some *kashrut* organization could test and advise about every spreadable found in a drugstore, suggesting the best method for their use on Shabbat such as “totally permitted” or “must be diluted in a ratio of 1:2” or “cannot be diluted and prohibited for usage on Shabbat.” Otherwise, if we are to assume this standard, Rabbis must acquire means of measuring viscosity in order to appropriately advise their constituents. This is not an outrageous suggestion: many elements of the rabbinic job require specific instruments and training. If rabbis are asked to assist congregants in determining whether a potential blood stain is a permitted or prohibited shade of brown, then rabbis surely can be asked to distinguish between permitted and prohibited viscosities which can be scientifically measured. However, it seems difficult to imagine that this standard is necessary: cosmetics, soaps, and ointments have been around for a long time and classical rabbinic training has never included practice in the usage of viscometers.

## 2. Could It Seal A Barrel?

Given that the rabbinic prohibition is headquartered in a Talmudic discussion of barrel-plugging on Shabbat, perhaps the most appropriate standard would be: could it seal a barrel? If there were a hole in a barrel, would spreading this substance be at all useful in terms of closing it up? In this context, our definition of “thick oil” needs to be reconsidered: perhaps when the Rishonim describe “thick oil” they mean congealed oil: a substance solid enough that it would not simply slide down the side of a barrel if applied.<sup>18</sup> This seems in line with Maimonides’ interpretation of the Talmudic text, where he describes the substance under discussion as “fats.”<sup>19</sup> This test, though likely the most true to our traditional texts, is similarly impractical to the measurement of viscosity.

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17. <https://www.wikihow.com/Measure-Viscosity>.

18. משנה ברורה סימן שכח טעיה כב — (עא) אבל לא בחלב — וה"ה אם השמן היה קרוש דדמי לחלב [מרדכי]: [בפ' במה טומנין]

19. See above, footnote 11.

Most people do not keep wooden barrels around in their homes today, and even if they did — they would need to be similar to historic barrels, the type the Talmud and Rishonim had in mind when they described this prohibition.

### 3. Does It Spread On A Plate?

A less scientific, but easier to DIY, standard involves just a plate. Rabbi Binyamin Bomberger, a community Rabbi and high school principal in Beit El, published a short responsum on this subject in which he suggests that one should put some of the product onto a flat plate. If it starts to spread out, one may apply it on Shabbat. If it stays in a pile, then one may not apply it on Shabbat.<sup>20</sup> This standard would most likely permit all kinds of liquid soap, which the Star-K's test (discussed above) would not allow. However, it also might lead to stringencies: some foamier substances might not spread on a plate but would still be useless if stuck to the side of a barrel.

I find this standard the most compelling mainly for its practicality. Everyone can test their own products in their own homes before Shabbat. In addition, if a substance spreads on a horizontal plate — surely it would not be at all viable to plug a barrel, mitigating the rabbinic concern that you will use it for that purpose and then come to spread other more solid things to achieve the same effect.

## E. Assorted Caveats

It is essential to remember that activities, not products, are prohibited on Shabbat. Products only become themselves prohibited on Shabbat through the complex rules of *Muktzeh*, but if there is a use for them beyond spreading or in a way that is permissible to spread (and you generally use the product in that way, or you have intention to use it in that way before the onset of Shabbat), then the product might be permissible even if the activity of spreading the product is prohibited.<sup>21</sup>

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20. <https://www.yeshiva.org.il/ask/57957>. Rabbi Bomberger supplies no footnotes or discussion of precedent to his suggestion. He simply argues that if it spreads, it is sufficiently liquid not to qualify for the prohibitions of ממרח. Rav Eliezer Melamed in *Peninei Halakha: Hilkhot Shabbat* 14:6 suggests a similar test.

21. The specifics of how the rules of *Muktzeh* might apply to various spreadable products is beyond the scope of this article.

## 1. Unsealed: אינו מדביק בטוב

Historically, many people would surround their pots with dough in order to retain heat inside of the pot. The *Shulchan Aruch* permits using dough as a sealant, and argument ensues amongst Acharonim as to why spreading dough onto a pot does not violate ממרח.<sup>22</sup> The *Taz*, as explained by the *Mishnah Berurah*, permits this spreading because it doesn't seal the pot and the spreader doesn't intend for it to stick on tightly; he merely wants to keep out the cold.

This is not a relevant exception for the vast majority of things we spread on our bodies, where we expect those things to coat our skin or hair fully, and if we were to miss a spot we would be unhappy about it.

However, this is a very important consideration in the discussion about braces wax. Rabbi Ribiat, based on this approach of the *Taz*, permits a person to shape and spread braces wax before Shabbat and then apply it to their braces on Shabbat using only a pressing motion, without any side-to-side spreading, since this wax often falls off on its own under normal circumstances and is therefore not carefully sealed.<sup>23</sup>

## 2. Foods

In general, we assume that there is no prohibition of ממרח when it comes to

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22. שולחן ערוך אורח חיים הלכות שבת סימן שיח סעיף ו — כלי שיש בו דבר חם שהיד סולדת בו, מותר להניחו בשבת ע"ג קדירה הטמונה כדי שישמור חומו ולא יצטנן, ויכול לטוח פיו בבצק אם יש לו בצק שנלוש מאתמול **ט"ז אורח חיים סימן שיח ס"ק י** — לטוח פיו בבצק. — ק"ל דהא טיחה היינו ממרח דבערוך כתב טיחה ומריחה וסיכה ומשיחה אחת הם וא"כ מ"ש מההיא דפ' תבית הובא בסי' ש"ד ס"ד דלא יתן שעוה בנקב החבית מפני שהוא ממרח וצ"ל דש"ה שרוצה לסתום הנקב ע"כ רוצה לדבק השעוה בדופן הכלי סביב הנקב כדאיתא שם במשנה אר"י מעשה בא לפני ריב"ז ואמר חוששני לו מחטאת פרש"י שמא מירח השעוה לדבקה לשעוה בדופני הכלי סביב הנקב משמע דלאו ודאי הוא שמדבק אלא חיישינן לזה דקפיד שלא יזוב המשקה והכא שאינו רוצה לסתום פיו כ"כ הרבה אלא שלא יהיה מגולה לגמרי שיתקרר וע"כ לא חיישינן שמא ידבק הרבה בכלי כנ"ל:

**מגן אברהם סימן שיח מגן אברהם סימן שיח ס"ק כב** — בבצק — אבל בדבר המתמרח אסור

For more on the *Magen Avraham's* complex approach to spreading dough, see

מחצית השקל אורח חיים סימן שיח ס"ק כב

**משנה ברורה סימן שיח ס"ק נב** -פיו בבצק — כדי שלא יצא חומו וימירי בשאינו מוקצה כגון דצריך הבצק לתרנגולין שבביתו. ועין במ"א דדוקא בבצק שהוא אינו בר מירוח אבל בשעוה וזפת או טיט שהוא דבר המתמרח אסור משום ממרח וכענין דאיתא לעיל בסימן ש"ד ס"א דאסור ליתן שעוה בנקב החבית לסתמו מפני שהוא ממרח והט"ז כתב דבצק נמי בר מירוח הוא אלא הטעם דאין בזה משום מירוח לפי שאין מקפיד עליו לדבק אותו בטוב רק שלא יהיה מגולה לגמרי שלא יתקרר אבל שם גבי נקב החבית קפיד עליה לדבק היטב ולהחליקו סביב הנקב שלא יזוב היין החוצה עכ"ד ולפי זה אף בטיט ושעוה מותר בענינו אבל להמ"א הנ"ל אסור:

23. Ribiat pg. 926 and footnotes.

foods. Therefore, any type of butter, for example, which cannot be applied to the skin, can still be spread on food.<sup>24</sup> There is no prohibition on spreading peanut butter on a piece of bread, for example, even though spreading something of that thickness onto the body would be a rabbinic prohibition.<sup>25</sup> (An exception to this rule: if either the spread or the base would be inedible without the spreading.<sup>26</sup>)

### 3. Absorbed

If the spread will be absorbed into the base then it is permitted to apply the item and rub it in. The Talmud in *Shabbat* 121b describes a case of a person who spit on Shabbat and rules that one may “trample it innocently.”<sup>27</sup> Rishonim suggest that this is permitted because of the innocence, but not because this is any kind of permissible spreading.<sup>28</sup> This rule is discussed in the *Shulchan Aruch* and there as well it seems that the combination of disgust and innocence permit the trampling of spit.<sup>29</sup> However, the *Magen Avraham* introduces a new and exceedingly logical idea: “it is not considered spreading

24. שמירת שבת כהלכתה יד:ל.

25. שולחן ערוך אורח חיים הלכות שבת סימן שכא סעיף יט -הגה: ומותר להחליק האוכל בשבת, ולא היו בזה משום ממחק, הואיל ואפשר לאכול בלא זה; ומ”מ המחמיר במאכל של תפוחים וכדומה שדרכו בכך, תע”ב

26. משנה ברורה סימן שכא ס”ק פא -בלא זה — ע”כ לאו מידי קעביד הא אם אי אפשר לאכול בלא זה אסור דיש עיבוד באוכלין מדרבנן.

27. תלמוד בבלי מסכת שבת דף קכא עמוד ב — דאמר רב יהודה: רוק — דורסו לפי תומו... אבא בר מרתא דהוא אבא בר מנימי הוה מסקי ביה דבי ריש גלותא זוזי, אייתיהו קא מצערי ליה. הוה שדי רוקא, אמר להו ריש גלותא: אייתו מאנא סחיפו עליה. אמר להו: לא צריכיתו, הכי אמר רב יהודה: רוק דורסו לפי תומו. אמר להו: צורבא מרבנן הוא, שבקוהו

28. רש”י מסכת שבת דף קכא עמוד ב — רוק דורסו לפי תומו — שאין מתכוין למרח ולאשוויי גומות, דאף על גב דממילא ממרח הוא, כי לא מיכוין — שרי, משום מאיסותא

**טור אורח חיים הלכות שבת סימן שטז** — וכן ברוק שלפניו יכול לדרוס עליו אף על גב דממילא ממרח ומשוה גומות כיון שאינו מכין לכך ואיכא מאיסותא וכתב הר”ם **מרוטנבורק** שאין לשפשוף ברגליו דלא קאמר אלא דורסו אבל לא לשפשוף **וכ”כ הרמב”ם** ז”ל לא ירוק ע”ג קרקע וישוף ברגליו דלא קאמר אלא דורסו אבל מותר לדרוס רוק שעל גבי קרקע לפי תומו:

The *Orchot Shabbat* 17:27 footnote 40 asks how spit could possibly be a substance subject to ממרח if oil is not subject to the prohibition of ממרח. He logically suggests that the concern about ממרח is the spit mixed together with dirt, so the concern relates to the subsequent mud.

29. שולחן ערוך אורח חיים הלכות שבת סימן שטז סעיף יא — לא ישפשוף ברגליו רוק ע”ג קרקע, משום משוה גומות, אבל מותר לדרסו לפי תומו שאינו מתכוין למרח ולהשוות גומות; ואף על גב דממילא ממרח הוא, כי לא מכין שרי, משום מאיסותא

unless one intends to spread one thing on another, but here one just intends for the spit to be absorbed by the ground.”<sup>30</sup> This position is supported by the *Mishnah Berurah* and the *Aruch Ha-Shulchan*,<sup>31</sup> and recorded in the name of Rav Shlomo Zalman Auerbach.<sup>32</sup> Rav Soloveitchik, as recorded in *Nefesh Ha-Rav*, taught this idea as well and suggested that there is no prohibition of ממרח unless you are adding a new layer to a surface. Additionally, the Rav added that anything that cannot be seen to the eye cannot be a violation of a *Melacha*.<sup>33</sup> Therefore, we can say that if the spread is not meant to end up on the surface of the base, but rather absorbed inside the base (whether that is skin or hair) such that it cannot be seen, that activity would not be prohibited under the category of ממרח.

#### 4. Dabbing

The prohibition of ממרח is specifically spreading. Placing a product without any kind of side to side or up and down rubbing is not included in the prohibition. However, it is important to note the following: (1) any product which is normally used for spreading and cannot be permissibly used for spreading on Shabbat is most likely *muktzeh* and therefore cannot be moved on Shabbat, which would preclude dabbing (unless a person in advance of Shabbat expects to use it for dabbing). (2) Any dabbing which will then in some backhanded way end up spread (for example, dabbing cream on a baby which will then necessarily be spread when a diaper is put on or dabbing antiseptic ointment on a wound which will be

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30. מגן אברהם על שולחן ערוך אורח חיים הלכות שבת סימן שטז סעיף יא — וצ"ע דליתסר משום מירוח עצמו. וי"ל דממרח לא שייך אלא כשכונתו שיתמרח דבר ע"ג חבירו אבל הכא רוצה שיבלע בקרקע.

31. משנה ברורה על שולחן ערוך אורח חיים הלכות שבת סימן שטז סעיף יא — ומשום מירוח גופא ליכא למיסר. דלא שייך מירוח אלא כשממרח איזה דבר ע"ג חבירו וכונתו שיתמרח אבל כאן רוצה שיהיה נבלע:

**ערוך השולחן אורח חיים סימן שטז סעיף לב** — וגם מירוח אין כאן דמירוח אינו אלא כשממרח דבר על חבירו ולא כשרצונו שתבלע בקרקע וברצפה שלא תהא ניכר כלל דזהו עיקר כוונתו.

32. שמירת שבת כהלכתה לג הערה סד — "ומהגרש"ז אויערבך זצ"ל שמעתי, דעם ממרח את המשחה עד שכולה נמסה ונבלעת בגוף האדם, לא מקרי ממרח, ולא אסר אלא כשהמשחה נשארת והוא רוצה להחליקה על הגוף" (למרות שלדעת השש"כ אסור למרוח משחה בבריא ולא חושב שאולי הכל נבלע — שש"כ יד:ס).

33. נפש הרב קסח"ט — לא שייך לאסור מטעם ממרח אלא במקום שהוסף שטח חלק חדש ע"ג משוה...ומה. נפשו שמצהרים מוכרי המשחה במודעות שלהן, שישאר שטח חלק בלתי נראה ע"ג השיניים לשמור אותם, ראשית כל, מסתמא איננו אמת. ואפילו נניח שכן הוא באמת, מכל מקום דבר שהוא בלתי נראה אין בו משום מלאכה.

spread by a bandage) is only permitted if there is some degree of illness or need.<sup>34</sup>

### III. Various Applications

In this section we will apply the halachic Framework (Section II) to a limited number of cosmetic products. This article in no way attempts to be an exhaustive discussion of every type of product, in part because cosmetic products today are highly varied and constantly changing. Ideally, a Shabbat observant consumer should be able to determine for him or herself whether and how the specific product at hand may be used.<sup>35</sup> However, given that this article's scope is limited to questions of ממרח, without touching on נולד or צובע or רפואה — this article alone is insufficient for this task.

As extensive discussions already exist in specific areas, in particular surrounding toothpaste<sup>36</sup> and liquid soap,<sup>37</sup> I will not discuss those areas.

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34. פניני הלכה הלכות שבת 28:8; שמירת שבת כהלכתה לג:יד ובהערות מצטט הרשו"א; ארחות שבת יז:יט ובהערות שם.

35. The *Tzitz Eliezer* see this approach as systemically dangerous, in some ways stemming in general from a distrust of women as halachic actors. I do not share this distrust. Instead, I feel that we should arm halachically-minded individuals with the ability to determine between permitted and prohibited, just as we do in so many other areas of Halacha. From there, when questions or gray-areas arise, they should ask their local Rabbi.

שו"ת ציץ אליעזר חלק ז סימן ל — ראשית הרי כמה וכמה סוגי זאלבע ישנם ועינינו הרואות כמה וכמה משחות שהן עבות באופן ששפיר שייך בהן מרוח, וגם משחות הרכות לפעמים מתוך שמונחים זמן ממושך מתעבות, וא"כ א"א לתת הדבר לשיעורין ולמסור בידי נשים וע"ה תורת כל אחד בידו להחליט בדבר המגביל ובא לידי איסור דאורייתא.

36. **Among those who permit:** יביע אומר ד:ל"ט וד:כ"ב; שו"ת שרידי אש חלק א סימן ל; פניני הלכה: ארחות שבת יז:כז ובשם שבת יד:ז; ספר קצות השלחן ח"ז סי' קל"ח בבדי השלחן סק"ל; נפש הרב קסחי"ט; ארחות שבת יז:כז ובשם הרב אלישיב בהערות; מנוחת אהבה כ"י

**Among those who prohibit:** שו"ת ציץ אליעזר חלק ז סימן ל; שו"ת מנחת יצחק חלק ג סימן מח; שמירת שבת כהלכתה יד:לט; ארחות שבת יז:כט

37. **Among those who permit:** שו"ת גנת ורדים כלל ג סי' יד; ושש"כ יד:יח והערה מט שם מצטט: שו"ת דהרי"א "דהרי"א כדברים המותרים שנהגו בהם איסור"; ערוך השולחן שכו"א; שו"ת ציץ אליעזר חלק ו סימן לד; פניני הלכה הלכות שבת ד:ד

**Among those who prohibit:** משנה ברורה שכו"ל ע"פ התפארת ישראל (בדין סבון קשה או רך) והמתירים סוברים שאיסורו זו אינו שייך לסבון נוזלי; אג"מ א:קג

## A. Chapstick and Stick Deodorant

Chapstick and Stick Deodorants are not rubbed in to the skin once applied; they lay on top in a thin layer which remains present for a substantial period of time. From the user's perspective, the longer this layer remains the better.<sup>38</sup> Chapstick and stick deodorants are solids: if taken out of their plastic packaging at room temperature, they would retain their shape completely. This consistency puts them into the category of products which will potentially be a Torah prohibition if spread, given their similarity to wax. Therefore, the usage of chapstick and stick deodorants on Shabbat constitutes a Torah prohibition and must be avoided.<sup>39</sup>

## B. Hand and Face Creams

Hand creams exist in a wide variety of consistencies. Some, like O'Keefe's Working Hands cream which comes in a jar and is so thick that, according to the O'Keefe website, "the jar formula physically cannot be put through a tube,"<sup>40</sup> certainly seem to be of the consistency that their usage might be a Torah prohibition. Most are loose enough that they would maximally violate a rabbinic prohibition, and some are straightforwardly permissible due to their liquidity. For Shabbat, a person should avoid the thickest types of creams and be sure to rub the cream in all the way in order to avoid all potential problems of ממרח.<sup>41,42</sup> This could be best accomplished by taking only a small amount of

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38. Those who permit toothpaste (see above) often argue that although the user wants toothpaste everywhere on their teeth, they do not care that it remain there for any amount of time, and therefore it is not truly a form of spreading. This is not the case with chapstick or stick deodorant, where the user would want them to stay on the skin for as long as possible.

39. People are strongly encouraged to utilize spray or roll-on deodorant on Shabbat instead.

40. <http://www.okeeffescompany.com/faq>.

41. Many modern *poskim* permit the use of hand cream including: שיח נחום כ; רב ר"ם חכהו בשבת בשבתו שופטים ב' באלול תשס"ט; שו"ת במראה הבזק חלק תשיעי תשובה ט; מנוחת אהבה כ:ט מתיר משום ממרח ואוסר משום נולד שזו דעת יחיד שלו וקשה להבין

42. One type of spread that in particular deserves our attention is personal lubricant, since in its correct usage it is not rubbed in at all. Rabbi Ribiat lists personal lubricant in his examples of permissible kinds of spreads (Volume III page 920). Rav Elyashiv Knohl ז"ל suggests that personal lubricant needs to be watered down

cream at a time and then carefully rubbing it in all the way before applying more cream.<sup>4344</sup>

### C. Hair Products

The first thing to note about hair products is that it is difficult to assume that a hair product was “absorbed” from a halachic standpoint.<sup>45</sup> Practically speaking,

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before use on Shabbat (“A Guide to Marital Relations from A Torah Perspective” pg. 30). The Yoetzet Halacha hotline of the United States told me in a personal email that only lubricants the consistency of oil may be used on Shabbat. לולא דמסתפנא I would say that since personal lubricant would never be a waxy, Torah prohibition type of consistency, its usage is at most a rabbinic prohibition (and the *אורייתא* brings doubt to the existence of a rabbinic prohibition in the first place). Personal lubricant is used to avoid a Torah prohibition of *חבל* and also for the purposes of *עונג שבת* and *פרורו*. In order to uphold two *מצוות עשה* and avoid a *לאו*, perhaps we could find space to be lenient with regards to this potential rabbinic-level violation of *ממרח*.

43. One might say that even when the lotion is totally rubbed in such that it doesn't violate *ממרח*, one can still feel that the skin has been smoothed, so that ought to constitute *ממחק*. However, in order to violate *ממחק* one must remove something from a rough surface. Classic examples of *ממחק* include sharpening knives, sanding, etc. ( *מנוחת אהבה* כ )  
( )
44. The same logic can be applied to sunscreen, though of course spray sunscreen is now widely available and that is certainly the best option for use on Shabbat. There is no reason to avoid moisturizers that contain sunscreen so long as they are rubbed in entirely and one uses them preventatively instead of for the purposes of healing.
45. To begin with, Rav Shlomo Zalman Auerbach held that hair is “*אינן בולעות*” (*Shemirat Shabbat K'Hilchita* pg. 33, footnote 64.) In addition, I investigated this idea in two other halachic pathways: 1. If we have a concern for *סחיטה* then presumably there would be room to assume *בליעה*. However, the Talmud explicitly says *בשערות* אין *סחיטה* (*Shabbat* 128b) and this particular *machloket* Rishonim is discussed at length in *Beit Yosef Yoreh Deah* 199. Rav Moshe Feinstein and others eventually came to hold that on a rabbinic level there is *סחיטה בשערות* (*Iggrot Moshe Orach Hayyim* 1:133). One should not necessarily assume from this complex rabbinic prohibition that the presence or lack of *בשערות* implies anything about *בליעה* on Shabbat. 2. If a hair cream were absorbed into hair, perhaps that particular cream would not constitute a *חציצה*. However, the discussions about pre-*mikvah* product usage suggest that products should not be used or should be carefully washed out, neither of which especially help to determine whether or not the Halacha sees hair as absorptive. In the discussion of *חציצה*, we see hair not as a mass, but as a collection

many of the hair products that a person would be likely to apply on Shabbat are meant to coat the hairs and help them to stick together (to mitigate frizz), which means that a user would not want these products to be absorbed into the hair. Therefore, any hair product used on Shabbat must be thin enough to not constitute ממרח in any form.<sup>46</sup> If a product does not come with this kind of consistency, it can be watered down. Most of these products are meant to be applied to wet hair, so watering them down should be effective. There are two other important concerns to take into consideration:<sup>47</sup> (1) the method of application must be considered, since one might violate גזוז by pulling out hairs on Shabbat.<sup>48</sup> (2) Anything that binds hairs together and hardens might be a rabbinic level violation of בונה.<sup>49</sup>

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of individual hairs each with a potential for knots and problems. This orientation towards hair does not necessarily carry over to *Hilchot Shabbat*. From a scientific angle it seems that individual hairs do indeed absorb moisture and product, but there is wide variety amongst hair-types. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4387693/#:~:po=22.0833>.

46. משנה ברורה סימן שג ס"ק פא — ויש שנוהגין דבר איסור להחליק שערותיהם בחבל מהותך ומעורב במיני בשמים שקורין בלשונונו פומאד"ה וחוששני להם מחטאת דנראה שיש בזה משום ממרח וראוי להזהיר בני ביתו [ע"ז מאמר מרדכי]:

**שמירת שבת כהלכתה נד** — מותרת האשה לסוך את שערותיה בשמן שערות ומכל מקום תשתמש רק במעט שמן כדי שלא תבוא לידי סחיטת השערות אבל השימוש במשחת שערות או בגלל המעצב את השער אסור בכל אופן (ובהערות: משום מלאכת ממרח).

47. Some *poskim* might feel that mousse is נולד. It seems that this argument would map onto the discussion about whipped cream, and the *minhag* in most American communities is to follow the permissive approach.

48. שולחן ערוך אורח חיים הלכות שבת סימן שג סעיף כז — אסור לסרוק במסרק בשבת, ואפילו אותו שעושים משער חזיר שא"א שלא יעקרו שערות.

**משנה ברורה סימן שג ס"ק פה** — אסור לסרוק — משום תלישת שער הגוף דהוי תולדה דגזוז: **רמ"א בשולחן ערוך אורח חיים הלכות שבת סימן שג סעיף כז** — אבל מותר לחוף ולפספס ביד. **מגן אברהם סימן שג ס"ק כג** — מפספס- שמבדיל שערותיו זו מזו.

49. מגן אברהם סימן שג ס"ק כג — וכתב הריב"ש אפשר שהוא מה שרוחצין המסרק בשמן טרוף במים ומעבירין: המסרק על ראשו להדביק השערות זו בזו ולהשכיבן על הראש וזה דומה לבנין עכ"ל משמע דבלא"ה שרי

**ביאור הלכה סימן שג סעיף כז ד"ה \* לחוף ולפספס** — לחוף ולפספס ביד — איתא בש"ס דפוקסת אסור משום שבות דדמי לבנין כמו גודלת ופרש"י בשם רבותיו דהיינו שמתקנת שיערה במסרק או בידיה וכתב הריב"ש שאין כונת רש"י בזה בסריקה דזה אסור משום גזוז ועוד שלא אמרו סורקת במסרק אלא הוא תקון אחר נעשה במסרק ואפשר שהוא התקון שעושים הנערות שאחר שראשן היה סרוק יפה ואין בו חשש של השרת נימין רוחצין המסרק בשמן טרוף במים ומעבירין המסרק על ראשן להדביק השערות זו בזו ולהשכיבן על הראש וזה דומה לבנין עכ"ל משמע דבלא"ה שרי לעשות זה התקון אחר שכבר היה הראש סרוק יפה ואינו עושה רק להשכיב השער.

**שמירת שבת כהלכתה ידנו** — אסורה האישה להתיז על שערותיה תרסיס (ספריי) כדי לשמור את התסרוקת

## IV. Conclusion

In a world where people are spreading an assortment of products on their bodies every day just in order to feel clean and comfortable, a discussion of the relevant *Hilchot Shabbat* seems urgent. We must be able to educate and guide people as they shop for products and apply them to their bodies, especially since “community norms” cannot be relied on for activities that mostly happen in private.

This article was quite limited in scope: more work is needed, especially as pertains to the parameters of נולד and רפואה vis-a-vis body-spreadables. The continuation of this project is essential. These products cannot be uniformly banned or permitted, and discussing types of products too simplistically is both dishonest and unproductive. Holy, learned Jews, who in other areas of *Hilchot Shabbat* are meticulously observant, get tripped up in matters of cosmetics. Hopefully this work will further enable the Jewish people to observe Shabbat in all of its details and thereby merit its comfort and rest.

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וכן אל לה לעשות כל פעולה עם כל חומר שהוא כדי להגביה את השערות (ובהערות: והרי ע"י הנוזל נדבקות השערות זו לזו וזה דומה לבנין).

Almost no hair products (other than dyes, perms, or chemical straightening) are permanent. Most are effective for less than one day. In addition, any product that causes hairs to stick together or harden is still a fairly weak bond and can be undone by hand with minimal pressure. Therefore it is difficult understand why any hair product could violate the prohibition of בונה, but I cannot argue with the Rivash especially when he is quoted *l'halacha* by the Magen Avraham, the *Mishnah Berurah* and the *Shemirat Shabbat K'Hilchata*. However, it might be possible to argue that the type of hair product that the Rivash discusses is only used by hair professionals or is no longer in existence today.

# **“Most of the World Believes in the Torah”: Polemical and Irenical Statements in Genesis Commentaries**

DEVORAH SCHOENFELD

Dr. Devorah Schoenfeld is Associate Professor of Judaism at Loyola University Chicago, where she teaches Judaism, Bible, and Comparative Religion and has published on Midrash, Parshanut, and Jewish-Christian Relations. She is in the Yeshivat Maharat Advanced Kollel Executive Ordination Track.

In the middle ages, before the 1170s, Jews in Christian Europe tended not to write openly about Christianity.<sup>1</sup> As Israel Yuval, Eliezer Touitou, Shaye Cohen, and others have argued, some Jewish Bible commentators wrote an implied anti-Christian polemic in their Bible commentaries.<sup>2</sup> These studies

1. For a discussion of polemical literature written by Jews in Islamic lands, see Daniel J. Lasker, *Jewish Philosophical Polemics against Christianity in the Middle Ages* (Oxford: Littman Library of Jewish Civilization, 2007).
2. For a discussion of anti-Christian polemic in Rashbam and Bekhor Shor, see Eliezer Touitou, “The Exegetical Method of Rashbam in Light of the Historical Reality of his Time,” in *Iyyunim be-Sifrut Hazal ba-Miqra u-ve-Toledot Yisrael*, eds. Y.D. Gilat, et al. (Ramat Gan: Bar Ilan University Press, 1982) and Sarah Kamin, “The Polemic Against Allegory in the Commentary of R. Joseph Bekhor Shor,” *Jerusalem Studies in Jewish Thought* 3 (1983–84): 367–92 [Hebrew]. On Rashi, see Elazar Touitou, “Rashi’s Commentary on Genesis 1–6 in the Context of Judeo-Christian Controversy,” *Hebrew Union College Annual* 61 (1990): 183. For an alternative

typically focus on how Jewish commentators might in their commentaries indirectly refute Christian claims, or how they might use stories about different Biblical characters as a way of talking about Jewish-Christian relations. Israel Yuval's *Two Nations in thy Womb*,<sup>3</sup> for example, takes as its central image the Biblical struggle between Jacob and Esau and the way Jewish commentators often saw this struggle as a metaphor for the struggle between medieval Jews and Christians over the question of who is still the chosen people. My own book *Isaac on Jewish and Christian Altars*<sup>4</sup> takes a similar look at how Rashi and the *Glossa Ordinaria* interpret the conflict between Isaac and Ishmael, and how each interpret that conflict in a way that sets them up as chosen by God, against the other. These works use the technique of decoding coded narrative: the use of coded non-Jewish figures for polemical purposes. Instead of writing openly about Christianity, or in similar cases about Islam, Jews might write about Esau, or Ishmael.

On examination of these stories, though, these pictures of the other are not entirely polemical. There are more positive ways that Jews and Christians wrote about each other, some implied rather than explicit. These positive statements can provide a resource for contemporary thinking about Jewish-Christian relations as well as nuance our understanding of medieval Jewish attitudes towards Christianity. One fascinating, evocative example is the twelfth-century Jewish commentator David Kimchi's interpretation of the purpose behind the near-sacrifice of Isaac. Like most medieval commentators,<sup>5</sup> he rejects the idea that it was a test in the sense that God needed to find out what Abraham would do, since of course God knows everything, and like many medieval commentators he preferred the idea that it was God demonstrating Abraham's greatness to other people. As opposed to other commentators who saw that the demonstration was for Abraham himself or for people of his time,

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approach, see Shaye Cohen, "Does Rashi's Torah Commentary Respond to Christianity? A comparison of Rashi with Rashbam and Bekhor Shor," in *The Idea of Biblical Interpretation*. Hindy Najman & Judith H. Newman (Leiden: Brill, 2004) 449–472.

3. Israel Jacob Yuval, *Two Nations in Your Womb: Perceptions of Jews and Christians in Late Antiquity and the Middle Ages*, Barbara Harshav and Jonathan Chipman, trans. (Berkeley: University of California Press, 2006).
4. New York: Fordham University Press, 2012.
5. Ramban makes the case particularly strongly.

Kimhi argues that it was to show Abraham's greatness to all the people in subsequent generations who would read this story in the Bible. As he writes:

והאמת כי הנסיון הזה להראות  
לבני עולם אהבת אברהם  
השלמה, ולא נעשה לאותם  
הדורות אלא לדורות הבאים  
המאמינים בתורה שכתב משה  
רבינו מפי האל ובספוריה שיראו  
עד היכן הגיע אהבת אברהם  
לאל; וילמדו ממנה לאהבה את ה'  
בכל לבבם ובכל נפשם.

...

ובאמת קודם שנכתבה התורה  
וספוריה היה הדבר הגדול הזה  
מסור לזרע אברהם יצחק ויעקב  
כי יצחק מסר ליעקב ויעקב לבניו,  
ואחר שנכתבה התורה לבני יעקב  
נתפרסם הדבר בעולם יש  
מאמינים ויש שאינם מאמינים.  
והיום כמה שנים מיום שבטלה  
עבודת הצלמים והאלילים  
מאמינים רוב העולם בתורת  
משה רבינו ובספוריה, אלא  
שחולקים עלינו על המצות,  
שאומרים כי דרך משל נאמרו.  
ובהאמין רוב בני העולם הספור  
הגדול הזה הוא עדות גדולה על  
אברהם אבינו שהיה אוהב האל  
אהבה שלמה ותמה וראוי לאדם  
ללמוד הימנו דרך אהבתו.

And the truth is that this test was to make known to the people of the world Abraham's complete love for God, and was not done for that generation but rather for future generations who believe in the Torah that Moses our teacher wrote by God's word, and in its stories, that they will see to what extent Abraham loved God and will learn from it to love God with all their hearts and with all their souls.

...

And truly, before the Torah and its stories were written down this great thing was passed on to the descendants of Abraham, Isaac, and Jacob because Isaac told it to Jacob and Jacob to his children, and after the Torah was written for the children of Jacob the thing was made known in the world, and there were those who believed and those who did not believe. Today, some years after the worship of idols and statues has been abolished, most of the world believes in the Torah of Moses our teacher and in its stories. They only disagree with us about the commandments in that they say that they were given to us by way of parable. And the belief of most of the world in this great story is a great proof of Abraham, that he loved God with a whole and overwhelming love, and a person should learn from him the way of his love. (Kimhi on Genesis 22:1)

When he writes that 'most of the world' believes in the Torah and its stories, he is clearly speaking out of a context, twelfth century Provence, in which 'most of the world' of which he would be aware is Christian. Second, he completely accepts that Christians see Abraham as a teacher of faith and learn from him to love God. Not only that, but to him God's purpose in the near-sacrifice of Isaac was not only to teach faith to Jews but to teach faith to Christians as well. Finally, he sees the way Jews read the Bible and the way Christians read the Bible as not that different from one another. The principle

difference is that Christians read the laws of the Torah as a parable, *al derekh mashal*. He presents Jewish-Christian difference as a kind of reasonable difference of opinion, a matter of simple difference in application of hermeneutical strategies. In any case Abraham is an example of faith for everyone.

Comments like this are what I would like to call irenical statements or irenical interpretations. If polemical interpretations are retelling of biblical stories in ways that reject the claims of another religion, irenical interpretations, in contrast, are interpretations that make room for another religion and its reality in its retelling of biblical stories. Like polemical interpretations, irenical interpretations can be explicit or implicit. Just as there is a wide range of kinds of polemics, ranging from simple argument and refutation to complete dehumanization and demonization, so too irenical comments can differ in intensity as well from full-scale legitimation of another community to statements that there might be some good in them.

Sometimes the same author will write both polemical and irenical exegesis. David Kimhi also wrote commentaries elsewhere that are clearly intended to refute Christian claims. For example, in his commentary on Psalms 2:7, “The Lord said to me, ‘You are My son: This day I have given birth to you.’” Kimhi writes:

<p>רד"ק תהלים פרק ב פסוק ז          כלומר: המלך הזה לי הוא, ובני          הוא ועבדי הוא, ושומע אלי. כי כל          מי ששומע לעבודת האל יקרא בנו,          כמו שהבן שומע אל האב ומזומן          לעבודתו. וכן בנינים אתם לה'          אלהיכם (דברים יד, א), אני אהיה          לו לאב והוא יהיה לי לבן (ש"ב ז,          יד), ואמר: בני אל חי (הושע ב, א).</p>	<p>It is as though to say, “This king is Mine and he is My son and servant and obeys Me” — for everyone who is obedient in the service of God He calls His son, just as a son obeys his father and is ready for his service. And so (in the verse) “ye are sons of the Lord your God” (Deut. 14:1), and “I will be his Father and he shall be My son” (2 Sam. 7:14); and it says (Hos. 2:1), “the sons of the living God.”</p>
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Here Kimhi uses comparison with other biblical passages to present an argument that this passage in Psalms does not refer to Jesus but can refer to any human king, or to anyone who serves God. As in the above passage, he does not explicitly refer to Christianity or Christian exegesis, but it is clear that he is responding to it here and presenting an alternative. Irenic and polemical exegetical moves, then, do not necessarily contradict with each other. Kimhi can argue that Christians misinterpret Psalm 2 while at the same time appreciating their correct understanding of Abraham’s example of faith.

## *Devorah Schoenfeld*

In interpretations of Genesis, Jewish commentators will sometimes use these stories to think about Jewish-Christian relations. Here I will consider three ways in which this happens:

1. Statements about ‘the nations’, made by commentators who lived in predominantly Christian countries, and in particular statements about ‘nations in our time’ or ‘the nations around us’, which make it absolutely clear that they are talking about Christians.
2. Interpretations of characters who are regarded by exegetes as symbolic ancestors of the Christian world. The most obvious example of this would be Esau, who was in midrashic literature often used as a stand-in for Rome. In medieval times Esau became the coded way that Jews spoke about Christians and Christianity. Esau is a very complex character in medieval Jewish commentaries, often portrayed as one of the worst villains but sometimes as righteous, or even, as we will see, as the father of prophets.
3. Interpretation of characters who are coded as non-Jewish or generically human, done by interpreters who are living in a Christian society. A key example would be Noah, who made the covenant with God that is understood by Jewish commentaries to be the universalistic covenant, the covenant that applies to all nations, and therefore is the example of a righteous person outside of the particular Jewish covenant. Midrashic and medieval commentaries struggle with Noah’s righteousness, and compare his virtue to that of Abraham.

Because so much attention has been paid to rabbinic polemics against Noah and Esau,<sup>6</sup> it is revealing to see the positive tropes in the rabbinic encounter with these figures. These motifs suggest some positive models that Jews could use to think about Christianity in the middle ages.

Noah

Noah is, as the patriarch of the only family to have survived the flood, the

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6. For rabbinic polemics around Esau, see Carol Bakhos, “Figuring out Esau. The Rabbis and Their Others,” *Journal of Jewish Studies* 58:2 (2007): 250–262, and Gerhard Langer, “‘Brother Esau?’ Esau in Rabbinic Midrash” in *Encounters of the Children of Abraham from Ancient to Modern Times*, ed.s Antti Laato and Pekka Lindqvist (Leiden:Brill, 2010).

### Keren III

ancestor of all humans. In Rabbinic thought God made a covenant with Noah that is separate from God's covenant with Abraham. Since non-Jews are not included in the covenant with Abraham, for them the primary covenant is that with Noah. *Sanhedrin* 56a-57a outlines seven laws given to Noah:

תנו רבנן שבע מצות נצטוו בני נח דינין וברכת השם ע"ז גילוי עריות ושפיכות דמים וגזל ואבר מן החי.	Our Rabbis taught: Seven commandments were given to the children of Noah: Laws, cursing God, idolatry, forbidden sexual relations, murder, theft, and eating the limb of a living animal. <sup>7</sup>
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These seven laws of Noah are the basis for the rabbinic idea that Jews do not have an exclusive monopoly on righteousness. According to the *Tosefta* in *Sanhedrin* 13:2, the righteous of the Gentiles have a share in the world to come, and following these laws would make a Gentile righteous.

Noah himself, as a character, is another location for rabbis to think about the actual or potential goodness of non-Jews. In *Genesis Rabbah* 30:4, the repetition of Noah's name shows that he is righteous, because it is parallel to God's repetition of Abraham's name when he calls him. The *midrash* then raises the objection that, if this is the case, Terah the father of Abraham would also be considered righteous (*Genesis* 11:27) and concludes that yes, *Genesis* 15:15 indicates that both Terach and Ishmael are righteous: Terach because Abraham is told that in death he will go to his fathers (so he and his father must be in the same place), and Ishmael because Abraham is told that his old age would be good, indicating that Ishmael would repent.

*Genesis Rabbah* frequently compares Noah to Job. To the Rabbis, they are parallel figures. Both are righteous non-Jews, and both saw their worlds destroyed. *Genesis Rabbah* 26:7 sets out that the descriptions of the wicked in the book of Job are about the generation of the flood, and the rabbis then use the book of Job consistently and frequently as an intertext to shed light on the flood story. Quotes from Job are brought in as parallels eighteen times in the Noah story<sup>8</sup>, to illuminate Noah's virtue and the destruction of the flood as well as the wickedness that brought it on. Noah also has similarities to Moses, as a parallel leader of his people (*Genesis Rabbah* 32:3). According to

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7. This discussion also appears in *Tosefta Avodah Zarah* 8:4 and *Genesis Rabbah* 34:8.

8. *Genesis Rabbah* 26:7, 27:3, 28:1, 28:7, 28:8, 29:1, 29:2, 29:7, 31:1, 31:4, 31:5, 31:6, 31:12, 31:13, 33:5, 34:7, 36:1, 36:2.

*Genesis Rabbah*, Noah warned his generation that the flood was coming to try to bring them to repentance, and did so out of his own initiative, even though he was mocked by his contemporaries, building the ark by day so that people would know the threat was serious (*Genesis Rabbah* 32:8). He did this for 120 years — the length of the life of Moses (*Genesis Rabbah* 30:7).

*Genesis Rabbah* also compares Noah with Abraham. Like Abraham, Noah was tested by God. *Genesis Rabbah*'s discussion of Noah being tested is nearly word for word identical with its discussion of Abraham's test in the near-sacrifice of Isaac in *Genesis* 22:

כתיב ה' צדיק יבחן ורשע ואהב תמס  
שנאה נפשו (תהלים יא, ה): אמר רבי  
ינתן היוצר הזה אינו בודק קנקנים  
מרועעים, שאינו מספיק לקוש עליהם  
אחת עד שהוא שוברם, ומי הוא בודק  
בקנקנים ימים, אפלו מקיש עליהם כמה  
פעמים אינם נשברים, כך אין הקדוש  
ברוך הוא מנסה את הרשעים אלא את  
הצדיקים, שנאמר: ה' צדיק יבחן, וכתיב  
(בראשית כב, א): והאלהים נסה את  
אברהם, אמר רבי יוסי בן חנינה הפשתני  
הזה בשעה שהוא יודע שהפשתן שלו  
יפה כל שהוא כותשה היא משתבחת וכל  
זמן שהוא מקיש עליה היא משתמנת,  
ובשעה שהוא יודע שהפשתן שלו רעה,  
אינו מספיק לקוש עליה אחת עד שהיא  
פוקעת, כך אין הקדוש ברוך הוא מנסה  
את הרשעים אלא את הצדיקים, שנאמר:  
ה' צדיק יבחן, אמר רבי אלעזר משל  
לבעל הבית שהיה לו שתי פרות אחת  
כחה יפה ואחת כחה רע, על מי הוא נוהג  
את העל לא על זאת שכחה יפה, כך  
הקדוש ברוך הוא מנסה את הצדיקים,  
שנאמר: ה' צדיק יבחן, ה' צדיק יבחן זה  
נח, שנאמר: ויאמר ה' לנח

It is written, “God tests the righteous, and the wicked and lover of violence His soul hates” (Psalms 11:5). Rabbi Yochanan said, this potter does not check damaged vessels, that it is not possible to hit them once without breaking them, instead he hits good vessels, that he can hit many times without them breaking. Thus God does not test the wicked, only the righteous, as it is written, “God tests the righteous”, and it is written “God tested Abraham” (*Genesis* 22:1). Rabbi Yosi ben Hanina said, when this flax worker knows that his flax is good, it improves when he beats it and shines when he hits it. When he knows that his flax is bad, he is unable to hit it even once before it breaks. Thus God does not test the wicked but only the righteous, as it is written, “God tests the righteous”. Rabbi Eliezer said: this is like an owner who had two oxen, one strong and one weak, he places the yoke on the one that is strong. Thus God tests the righteous, as it is written “God tests the righteous.” “God tests the righteous” — this refers to Noah, as it is written, “God said to Noah.” (*Genesis* 7:1)

This is nearly word for word identical with *Genesis Rabbah* 55:2 and the beginning of 55:3, with the only changes being replacing ‘Abraham’ for ‘Noah’ and *Genesis* 22:1 for *Genesis* 7:1.

Not all the comparisons with Moses and Abraham are completely positive. Genesis Rabbah 30:9 asks the question: was Noah righteous only in comparison to his wicked generation, or would he have been considered righteous even by the standards of a righteous generation? The matter is left open to debate:

בְּדֹרֹתָיו, רַבִּי יְהוּדָה וְרַבִּי נְחֵמְיָהּ, רַבִּי  
 יְהוּדָה אָמַר בְּדֹרֹתָיו הָיָה צַדִּיק, הָאֱלֹהִים  
 הָיָה בְּדוֹרוֹ שֶׁל מֹשֶׁה אוֹ בְּדוֹרוֹ שֶׁל  
 שְׁמוּאֵל לֹא הָיָה צַדִּיק. בְּשׁוּק סְמִיא צֹחֵן  
 לְעוֹרֵא סִגְי נְהוֹר, מִשָּׁל לְאַחַד שֶׁהָיָה לוֹ  
 מִרְתֵּף אֶחָד שֶׁל זֵנוּ, פִּתַּח חֲבִית אַחַת  
 וּמְצָאָה שֶׁל חֲמִין, שֶׁנָּקָה כּוֹן, שְׁלִישִׁית  
 וּמְצָאָה קוֹסֶס, אֲמַרִין לִיה קוֹסֶס הוּא,  
 אָמַר לְהוֹן וְאִית הֲכָא טַב מִינָהּ, אָמְרוּ לִיה  
 לֹא. כֵּן בְּדֹרֹתָיו הָיָה צַדִּיק הָאֱלֹהִים הָיָה  
 בְּדוֹרוֹ שֶׁל מֹשֶׁה אוֹ בְּדוֹרוֹ שֶׁל שְׁמוּאֵל לֹא  
 הָיָה צַדִּיק. רַבִּי נְחֵמְיָהּ אָמַר וּמָה אִם  
 בְּדֹרֹתָיו הָיָה צַדִּיק, אֱלֹהִים הָיָה בְּדוֹרוֹ שֶׁל  
 מֹשֶׁה אוֹ בְּדוֹרוֹ שֶׁל שְׁמוּאֵל עַל אַחַת כְּמָה  
 וְכָמָה, מִשָּׁל לְצִלְחִית שֶׁל אֶפְרָסִמוֹן  
 מְקַפֶּת צְמִיד פְּתִיל, וּמִנְחַת בֵּין הַקְּבָרוֹת,  
 וְהָיָה רִיחָה נֹדֵף, וְאֱלֹהִים הָיָה חוֹץ לְקְבָרוֹת  
 עַל אַחַת כְּמָה וְכָמָה.

“In his generations.” Rabbi Yehudah said, in his generation he was righteous, but if he had lived in the generation of Moses or Samuel he would not have been righteous. In the street of the blind the one-eyed is called sighted. This is like one who had a wine cellar, he opened one barrel and found vinegar, then a second likewise, and a third was going off. They said to him, “This wine is spoiling!” He replied, “Is there anything better?” They said, “No.” Rabbi Nehemiah said, in his generation he was righteous, if he had lived in the generation of Moses or Samuel he would have been even more so. This is like something fragrant left in a graveyard, and it still smells good, if it were left outside of the graveyard it would smell even better.

It is not entirely clear that *Genesis Rabbah* sees Noah as outside the Jewish people and as an example of non-Jewish righteousness. In *Genesis Rabbah* 32:5, there is a debate about the nature of the sin of the generation of the flood:

אָמַר רַבִּי שִׁמּוֹן בֶּן יוֹחָי הֵן עֲבָרוּ  
 עַל הַתּוֹרָה שֶׁנִּתְּנָה לְאַרְבָּעִים יוֹם,  
 לְפִיכָּה (בְּרַאשִׁית ז, ד): אַרְבָּעִים יוֹם  
 וְאַרְבָּעִים לַיְלָה. אָמַר רַבִּי יוֹחָנָן בֶּן  
 זַכַּאי הֵם קָלְקְלוּ אֶת הַצּוּרָה שֶׁנִּתְּנָה  
 לְאַרְבָּעִים יוֹם, לְפִיכָּה אַרְבָּעִים יוֹם  
 וְאַרְבָּעִים לַיְלָה. (בְּרַאשִׁית ז, ד):

Rabbi Shimon ben Yohai said, they transgressed the Torah which was given at forty days. Therefore “forty days and forty nights” (*Genesis* 7:4). Rabbi Yohanan ben Zakai said, they corrupted the human form that was shaped at forty days, Therefore “forty days and forty nights” (*Genesis* 7:4).

There are two alternatives here, one in which the sin of the flood was in their violation of the Torah, which assumes that they in some sense had it, and the other is that their sin was in corrupting their human nature. The first seems to assume that the Torah is in some sense necessary for all peoples, the other

imagines that it is possible to be virtuous simply by behaving in accordance with human nature.

Not all midrashic collections are so positive in their approaches to Noah, and in *Midrash Tanchuma* Noah is a much more ambiguous figure. It is critical of Noah in suggesting that, of the seventy nations that were descended from Noah, none took his name (Noah 2), and it criticizes Noah's decision to grow grapes and drink wine (Noah 13). He is less righteous than his son Shem, who is specifically seen as proto-Jewish and a Torah scholar, and because Shem was more righteous he was the one to offer the sacrifices (Noah 9). On the other hand, Noah is described as being like other virtuous figures in biblical history, David, Isaiah, and Job and Daniel's comrades Shadrach, Meshach, and Abed-Nego (Noah 10 and 11).

Rashi's attitude towards Noah is generally positive and closer to that of *Genesis Rabbah* than to that of *Midrash Tanchuma*. In his comment on 6:9 he quotes both opinions from the *midrash*, that Noah was only righteous compared to his generation (and not compared to Abraham) and that Noah is objectively righteous and would have been even more righteous in a more righteous generation.<sup>9</sup> He also compares Noah negatively to Abraham, by observing that God walked with Noah, indicating that Noah needed God's support, but Genesis 24:40 says of Abraham that he walked before God, indicating that he was righteous even without God's help.

Despite this, Rashi considers Noah righteous. He applies Prov. 10:7 to Noah, considering him a righteous man whose memory is for a blessing, and whose true offspring are his good deeds.

Unlike Rashi, the fifteenth-century Italian exegete Seforno considers Noah completely righteous and rejects the idea that Noah could have done better. As he writes on Genesis 6:9, "Noah walked with God. He walked in His ways, doing good to others and reproving his contemporaries, as our Sages tell us."<sup>10</sup> On the other hand, his household was not. As Seforno writes, "For it is you that I have seen to be righteous: You, not your household, nevertheless you and all your household I will save for your sake." (Seforno on Genesis 7:1)

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9. In *Genesis Rabbah* this passage places Noah in the generations of Moses and Samuel, while Rashi places him in the generation of Abraham.

10. Seforno cites as a source here Berossus the Chaldean, a Hellenistic Babylonian historian from the 3<sup>rd</sup> century BCE. This indicates, for Seforno, that Noah is a figure of universal history.

Noah is generically non-Jewish, rather than particularly Christian, and he is only relevant here because, to medieval Jewish commentators living in a Christian world, the generic non-Jew is Christian. Christian exegesis, though, does associate him with Christianity. The second-century Christian theologian Justin Martyr, who wrote one of the first anti-Jewish polemics in his *Dialogue with Trypho*, uses Noah as biblical evidence that one can be a good person without observing food laws and circumcision (*Dialogue with Trypho*, chapter 92). Although Justin is writing polemically, his argument is parallel to that of the rabbis of *Genesis Rabbah* who saw Noah as perfectly virtuous, and the possibility that the generation of the flood could have been righteous just by living according to their ‘human features’. Justin also presents Noah as a type of Christ (*Trypho*, chapter 138).

### Esau

Esau is more particularly Christian to Jewish exegetes. He is also a much more problematic character. In early Rabbinic exegesis, starting from the second century, Esau is associated with Rome, that is, pagan Rome. As *Genesis Rabbah* puts it, when Isaac promises Esau “the fat places of the earth” in Genesis 27:39, this refers to Italy (*Genesis Rabbah* 67:6). In the medieval commentaries, the association of Esau with Rome continued. Rashi repeats *Genesis Rabbah*’s identification of the place promised to Esau with ‘the Italy of Greece’, that is Rome (Rashi on Genesis 27:39). Starting from the fourth century, however, Rome was associated with Christianity, and in continuing to associate Esau and Rome, Jewish exegetes from the middle ages associate Esau with Christianity as well. In contrast, Christian exegetes such as Ambrose of Milan tended to associate Christianity with Jacob and Judaism with Esau.<sup>11</sup>

Medieval Jewish exegetes saw the relationship between Jacob and Esau as having relevance to their own times. For example, the thirteenth century exegete Nahmanides wrote in his introduction to Genesis 32, “Everything that occurred between our father and his brother Esau will occur always to us [in our relations] with Esau’s sons.” That is, he saw the relationship between Jacob and Esau as reflecting the relationship that evolved between Judaism and Christianity. For him this was an example of the principle that מעשה אבות סימן לבנים, that the deeds of ancestors are reflected in their descendants.

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11. Yuval, *Two Nations*, 19.

Ibn Ezra takes a more nuanced approach. To him, Jews in Christian lands were not exactly under the rule of Edomites, since there is no genealogical connection between Edom and the kingdoms of Europe. Rather, as he explains, the Edomites were the first believers in the truth of Christianity, and they taught it to Constantine, who made it the religion of Rome, and that is the reason for the association of Christianity with Edom.<sup>12</sup>

Most medieval commentaries take a negative approach to Esau. Rashi writes, for example, that Esau deceived his father by pretending extreme piety when he was in reality a notorious sinner. But there are also more positive ideas about Esau, sometimes in the same commentaries. For example, even Rashi, who normally writes very negatively about Esau, writes on Genesis 17:6 that the meaning of the prophecy that Abraham will be the father of many nations is Abraham will be the ancestor of the people that will descend from Isaac, and also the ancestor of the people that will descend from Esau. The descendants of Esau were also prophesied and announced by God to Abraham.

One writer who writes Esau in a more consistently positive way is the twelfth century French Jewish bible commentator Rashbam (Rabbi Solomon ben Meir), who may have been in conversation with Christian exegetes from the school of St. Victor.<sup>13</sup> When Esau comes to meet Jacob with 400 men in Genesis 32:7, Rashbam writes that, although Jacob was afraid that Esau was threatening him, the four hundred people were really there to honor him, because Esau loved Jacob despite everything and was happy that he had returned. Given that the last time Esau had seen Jacob was when Jacob had deceived his father to take the blessing, the picture we get here of Esau is one who values family so much that he is willing to move past discord and conflict.

Elsewhere, Rashbam connects Esau explicitly to Christianity. When Esau is born he is covered in a hairy mantle (אדרת שער), and Rashbam explains that this is like the hair-shirts worn by priests. So Rashbam both described Esau in positive terms and connects him explicitly to Christianity.<sup>14</sup>

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12. Ibn Ezra on Genesis 27:40. This comment is absent in some printed editions but is present in the *Vat. Ebr.* 38 manuscript. (Strickman & Silver, 271)

13. Beryl Smalley, *The Study of the Bible in the Middle Ages* (South Bend, IN: University of Notre Dame Press, 1989), 155–6.

14. Rashbam's term for Christians here is התעיים, those who err. So even though he sees Esau in more positive terms, and associates him with Christianity, this clearly does not indicate agreement with Christian teaching.

### Keren III

One exegete who completely exonerates Esau from any wrongdoing is the 11–12th century poet and exegete Ibn Ezra. Ibn Ezra's Esau endangered his life daily, hunting to bring food for his poverty-stricken<sup>15</sup> family. He had no use for the birthright — that is, the double inheritance given to the firstborn — because the dangers of hunting left him with no expectation that he would outlive his father and in any case there was nothing to inherit (Ibn Ezra on Genesis 26: 31 and 34). When Esau and Jacob reunite, Ibn Ezra's Esau has only good intentions towards Jacob, the proof being that he weeps like Joseph will when reunited with his brothers in Genesis 45:15 (Ibn Ezra on Genesis 33:4). This comparison of Esau with Joseph situates him firmly as a good, if complex, character who is an important part of Jacob's family.

Ibn Ezra notes the parallels between Jacob and Esau. He states that they were buried on the same day, and he interprets Esau's marriage to a relative in Genesis 28:6–9 as a response to Isaac's command to Jacob, which Esau saw as directed at both of them.

Another positive perspective on Esau's influence is through one of his sons, Eliphaz, who is mentioned in the genealogy of Esau in Genesis 36:10–12. Eliphaz is, by coincidence, also the name of one of Job's three friends in the book of Job. To the Targum Yonatan, written in the eighth century or somewhat later, the coincidence of names indicates that it is the same person, that Eliphaz of the book of Job was in fact Esau's son (Targum Yonatan on Genesis 36:12). Eliphaz in the book of Job is presented as a wise and thoughtful person, if perhaps over-eager to assert that suffering is a result of sin. In the Talmud he is far more than that. According to the Talmud in *Bava Batra* 5b he's one of the seven prophets of the nations. The evidence for this is given in *Bava Batra* 16b, which explains that since Job's friends arrived immediately they must have known of his suffering through prophecy.<sup>16</sup>

The idea of Eliphaz as a righteous ancestor of Rome is picked up by the fifteenth century Spanish-Jewish exegete Abarbanel, who was the treasurer of King Alphonso of Portugal and then worked for Queen Isabella of Castile and coordinated provisions for her armies, although despite his value to the

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15. Ibn Ezra imagines Isaac's family as poor in his old age, despite all Abraham's wealth and the flocks that Isaac had in his youth. For more on Ibn Ezra's interpretation of Esau, see Reuben Aharoni, "Why Did Esau Spurn the Birthright? A Study in Biblical Interpretation," *Judaism* 29:3 (Summer 1980): 323–331.

16. This story also appears in *Ecclesiastes Rabbah* 7:2.

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monarchs he was not able to prevent the expulsion of Jews from Spain. He also was in conversation with Christian exegetes about biblical interpretation and in one particular case he takes the unusual step of saying that he finds their explanations more convincing than rabbinic interpretation. He writes on his commentary on Genesis 10:1:

ואמנם בני יפת שמהם באו היונים והרומיים מה נאים מעשיהם של אומה זו ומנהגם ומדיניותו' ואופני הנהגתם ובגבורתיהם וכלם יפי תאר ויפי מראה צחו מחלב אדמו עצם מפנינים ...	The children of Japheth, that from him come the Greeks and the Romans, how pleasant are the deeds of this people and their customs and their countries and their ways of being and their heroism, and all of them are beautiful, "their faces are whiter than milk, their bones ruddier than rubies" (Lamentations 4:7)...
ואמנם בני עשו הם אשר הביאו החכמות לרומיים וליונים בני יפת כאשר מלך עליהם צפו בן אליפז וזרעו אשר חכמו מאד מאד בחכמת האצטגנינות ובשאר החכמות ומפני זה לא נמצאו החכמות באומות אחרות מבני יפת זולתי באלה השתים יונים ורומיים אשר בזמן ההוא היו לעם אחד ושפה אחת היתה לכלם.	It is the children of Esau who brought wisdom to the Romans and Greeks of the children of Japheth, when Tzepho son of Eliphaz and his descendants ruled over them, who were very very wise in astrology and all forms of wisdom, and because of this you will not find wisdom in any other nation of the children of Japheth other than those two, the Greeks and the Romans, who in that day were one nation with one language. (I Kings 8, reply to the sixth question)

Abarbanel thus completely transforms the association between Rome, and by extension Christian Europe, and Edom. Instead of a sinful father begetting a sinful nation, a wise, prophetic leader founded the wisest nation on Earth.

Rabbi Ovadia Seforno used pilgrimage imagery in his understanding of the relationship between Jacob and Esau. The only time in his interpretation of Genesis that he describes a patriarch as going on a pilgrimage to a sacred site is Jacob in his meeting with Esau, when Jacob is returning from exile and goes to meet Esau with gifts. Seforno writes on Genesis 32:21:

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אראה פניו דרך הבקור הראוי  
לשרים כענין יראה כל זכור  
את פני האדון. ולא יראו פני  
ריקם. וכן אמר לעשו אחר כך כי  
על כן ראיתי פניך כראות פני  
אלהים. כי המנהג לפקוד את  
השרים במנחה עם ראית  
פניהם:

“I will face him.” This is the accepted manner of appearing before lords, as we find “all your males will appear before the Lord...and none shall appear before the Lord empty-handed.” (Exodus 34:23 and 20) Thus he says to Esau after this, “Seeing your face is like seeing the face of God” (Genesis 33:10), since the custom when visiting lords is to bring them gifts.

Jacob related to Esau as we are commanded to relate to God during pilgrimage, which is also how it is appropriate for us to relate to princes.

Esau, to Seforno, is representative of the non-Jewish, presumably Christian, other. In his commentary on Genesis 25:23, Seforno writes that the reason that Jacob and Esau struggled in Rebecca’s womb is “because they are destined to become two nations with opposing ideas about religion” (נבדלים בדת). In his commentary on Genesis 33:4 Seforno writes that we are obligated to relate to “Esau” while in exile with submission and gifts, and if the Jews had related to the Roman conquerors this way the Temple would not have been destroyed.

To Seforno, not only is it right for Jacob to submit to Esau, it is what Isaac intended from the start. Seforno interprets that Isaac’s intention was to give Esau the blessing that he should rule over his brother. If Esau were taking care of the responsibility of rule, Jacob could have time for Torah study. And as Seforno writes in his comment on Genesis 27:20, it would be better for Jacob to be under the rule of his brother than that of any other nation. The interesting implication here is that the submission of Jews to Christian rulers in Europe not only isn’t tragic, it’s what should have happened all along.

David Kimhi finds a similar interpretation of Genesis 25:23, where Rebecca is given the prophecy that of her two children ‘*rav yaavod tzair*’, the older will serve the younger. The most usual translation of this is that Esau will serve Jacob. David Kimhi, however, points out that if you read it as poetry the meaning could in fact be the opposite: the older, the younger will serve him. In other words, that Jacob will serve Esau.

Despite the prevailing negative treatment, there is one positive tradition about Esau that is very common, even in commentaries that generally write about him extremely negatively, and that is that he excelled in how he fulfilled the commandment of honoring his father. In the tenth century *midrash Deuteronomy Rabbah* 1:15, Rabbi Shimon ben Gamliel says that even though

he had himself honored his father more than anyone, Esau honored his father even more, as Esau would dress in fine clothes to visit his father.

This idea appears even in commentaries that overwhelmingly interpret Esau in negative terms. Jacob ben Asher, also known as Ba'al ha-Turim (13–14th century, Germany and Spain), wrote one of the harshest medieval interpretations of Esau, describing him as an idolater and as the ancestor of Rome who was responsible for the destruction of the Temple. But, even in this interpretation, Esau did have the virtue of honoring his father. On Deuteronomy 2:5, which states that God gave Mt. Seir to the descendants of Esau he writes that this is בשביל מצות כיבוד, that God granted the Mt Seir to Esau's descendants "because he fulfilled the mitzvah of honoring (his father)." Even the *Zohar*, the thirteenth century work of mystical biblical interpretation whose take on Esau is generally very strongly negative, speaks powerfully of Esau's respect for his father. In its interpretation of Genesis 27:34 it writes:

פתח רבי ייסא ואמר (מלאכי א:ו) בן יכבד אב ועבד אדוניו, בן, דא עשו. דלא הוה בר נש בעלמא דיוקיר לאבוי, כמה דאוקיר עשו לאבוי. והוה יקירו דאוקיר ליה אשליט ליה בהאי עלמא.	Rabbi Yisa said,, "A son honors his father, and a servant his master" (Malachi 1:6). "A son" is Esau, for there was no person in the whole world who honored his father as Esau did, the honor with which he honored him caused him to rule this world. ( <i>Zohar Toldot</i> 146:4)
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Although Esau is otherwise despicable, his virtue in honoring his father was rewarded by his descendants having power in this world.

I call statements like these, that contrast with polemical statements, irenic because they are interpretations that are about making peace, in this case making peace with the reality that Jews are in a situation of being a minority in exile under someone else's rule. At least Esau has this one virtue, that he honors his father, and because of that his rule over the world is not completely undeserved.

This paper focuses on two particular examples in Genesis, Noah and Esau, but other key examples of righteous characters who are not Jewish include Jethro and Job. Jethro, father-in-law of Moses, is a priest of Midian. Some commentators attempt to turn him Jewish by explaining that he converted when he joined Moses before Sinai, but to others he is an example of a righteous

### *Keren III*

non-Jew who is a fellow traveller with the Jewish people.<sup>17</sup> Also importantly, Job who lived in the land of Utz is understood by many commentators as being not Jewish and also as having nothing to do with the Jewish people.<sup>18</sup> He worships in a not particularly Jewish way, offers sacrifices outside the Temple even though his story is being written fairly late, and when Job in his speeches gives examples of suffering in the world, none have anything to do with Jewish suffering, so it seems logical to conclude that Job was a non-Jewish character and most commentators interpret him that way. And yet he is the example of the most righteous person who ever lived.

Interpretation of characters who are coded as non-Jewish, or specifically as Christian, can be a powerful way of thinking about what it means to be a Jew in a predominantly Christian society. We can use some of the same techniques that have been used to find Jewish anti-Christian polemical statements in commentaries on Genesis to also find Jewish pro-Christian irenic statements. Just as there are Jewish commentaries that speak disparagingly of the nations around them, there are those that consider them extraordinarily wise, to have learned from the example of Abraham and to have their own prophets. Just as negative interpretations of Esau were sometimes a way for Jews to talk about the hostility between them and the Christians around them, positive interpretations of Esau could be a way of seeing the good in where they find themselves. These different ways of thinking about characters open up possibilities for thinking about Jewish-Christian relations, in medieval times and in the present, in more complex and more positive ways.

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17. Commentators who read him as a convert include Rashi and Ramban in their comments on Exodus 2:16 and 18:1 and Seforno on Exodus 18:12. Jethro's conversion, if it happens, takes place either before or after *Matan Torah*, and commentators all read him as a righteous person prior to this when Moses marries his daughter.

18. For example, Maimonides writes in *Iggerot HaRambam*, *Iggeret Teiman* 68, that Job, Zophar, Bildad, Eliphaz, and Elihu are all considered prophets and are non-Jews.

# Reclaiming Mikvah

MELISSA SCHOLTEN-GUTIERREZ

Rabba Melissa Scholten-Gutierrez, before coming to Yeshivat Maharat, worked as a social worker, Jewish communal professional, writer, and social media consultant. She combined these skill sets in her internships at JCC Manhattan, Hillel International, Hebrew Institute of Riverdale, and Global Day of Jewish Learning. Rabba Scholten-Gutierrez earned a Masters in Social Work from University of Illinois, Urbana-Champaign and completed her undergraduate education at University of California, Irvine. She received semikha from Maharat in 2018.

**M***ikvah* is a beautiful ritual with immense possibilities for spiritual enrichment; a monthly ritual for women which can be as powerful or monotonous as you choose to make it. Women singularly hold the power over this experience and what we share with one another can only help empower us to make it our own special moment. I believe that embracing *mikvah* as not only something we must do, but something we choose to do, is one of the most feminist things we have the opportunity to do as Jewish women. What follows is what works for me, and I encourage everyone to think about what ways they too can personally reclaim immersion as a powerful moment.

For me, it begins when I start my preparation. I choose to view the inherent possibilities in each step, rather than focus on the mundane counting, cleaning, and checking. Here are my personal intentions as I go through the process on *mikvah* night.

## **Chatzitza**

Remove all clothes and anything which could be considered a barrier  
— *I am created in God's image.*

## **Chafifa**

Wash body and hair thoroughly in shower, paying attention to folds, creases, and hidden places  
— *May goodness flow over me*

Remove dead skin and shave if planning to do so

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- *May I be exposed to the world around me*  
Brush hair well to ensure all knots and stray hairs are removed
- *May I be untangled from that which restricts me*  
Brush teeth and floss, clean around ears gently, and wipe eyes
- *May I speak, hear, and see goodness*  
Trim and clean nails, blow nose, and use the bathroom
- *May I be free of what needs to leave me.*

#### ***Iyyun***

- Do a final visual inspection of entire body
- *I am enough.*

As someone with a long history of body image issues, having someone see me naked is no easy thing. I could be stalled there from the start, however I make the choice to mentally prepare myself for the *mikvah* attendant to see me and am always relieved when she does not examine me too closely and instead trusts my ability to follow the checklist and have appropriate preparation. Regardless, I find myself having to push aside my fears and issues and simply trust in the *tzniut*-ness of my *mikvah* attendant. I have to believe with all my being that she will not watch me as my naked back is turned to her, just as I avert my eyes when guiding an immersion. Normally, trust must be earned over time, but in these moments I have to get myself there without the gift of time. Once I slip out of my robe and begin to walk into the water, all else must be forgotten if I am to make this the meaningful experience I crave.

I focus on every step I take going into the water. They are each a step away from the rigors of daily life. A step into the calming natural waters of life. Being completely present as I descend into this sacred space is a blessing all its own.

There are seven steps into the *mikvah* waters — each step provides an opportunity to connect to tradition. Depending upon what is on my mind, I pick some set of seven to think about; days of creation, patriarchs and matriarchs, the wedding blessings, days of mourning, etc.

Once fully into the *mikvah* pool, I get myself situated into the middle, take a deep breath and allow myself to be absorbed by the water, exhaling as I go in. Exhaling all the negativity and stress. Holding in the beauty of the moment. Taking a moment to right myself before repeating not only the physical dip into the water, but the spiritual one as well.

After I have completed my immersions in a kosher manner, which often

requires several attempts to insure that my entire body is under water, I take a moment to just be in that space. I allow myself to reflect on the past month and the coming month; on the relationships which have grown or wavered; on those people in my life who need the healing embrace of these living waters. I allow myself a personal prayer to connect to these people and ask God for the strength to be what is needed in the coming month.

Before I exit the waters, I take the time to embrace my innermost spiritual self, really pushing my own comfort levels. I force myself to think of the women all over the world who are also in this space at this time, and for the times before. Connecting not only to my physical ancestors, but to all those who are my soul-sisters in this *mitzvah*. Sending them wishes for the healing and nurturing waters to provide for them in the month to come.

Ultimately, I find that embracing the deeply spiritual side of this ritual in a world where so many rituals feel monotonous is empowering. It allows my entire sense of who I am as a modern religious woman to be revived and renewed on a monthly basis.

You are likely asking a few key questions now, so let's just be blunt: Yes, it is an annoyance to have to reschedule other things to get to *mikvah* on the right night and time. Yes, I hate having to trek out in the cold, dark night to be scrutinized by a stranger. Yes, I dislike having to schedule an appointment in a small window of time and feel rushed to get through.

Yes, I have to focus hard to get into the space to make it a truly spiritual encounter.

Yes, it is worth it to know that I am fulfilling such a wonderful *mitzvah*.

Yes, it is powerful to step into my Jewish femininity every month.

