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העיתון התורני של ישיבת רמב"ם

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The Student Torah Journal of

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## Editors' Note

It is, to the best of our knowledge, unprecedented for *Mayim Achronim*, the Torah Journal of Maimonides School, to have been published twice in one school year. In this second edition of the year, we are happy to present a wide range of authors and varied topics. Again, we encourage all Maimonides students to contribute to coming editions. Your input is always appreciated. We would like to thank those who contributed to this edition, especially the faculty members, and to thank particularly Rabbi David Shapiro and Ms. Erica Schultz for their continued assistance.

The Editors,

Elliot M. Salinger and Avinoam J. Stillman

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*The cover art on the Fall 2009 issue was also by Ari Green.*

*The editors regret that attribution was omitted.*

## Table of Contents

”וגם חרבונה, זכור לטוב”

Meron Amar

1

**The Waters of מריבה: An Echo of תורה**

Ms. Atara Bressman

4

**לעיסת מסטיק בדרך לבית הכנסת בשבת בלי עירוב**

Eitan Kahn

9

***The Judean Post* during שיבת ציון**

Avigayil Kelman

11

**Gambling in הלכה**

Isaac Levy

15

**מלאכת הוצאה**

Yoni Nouriel

18

**A Maimonidean Teleology of the הלכה**

Elliot M. Salinger

22

**פסח (ראש השנה and) Date**

Rabbi Zalmen Stein

32

**To (Ab)Stain:**

**An Inquiry into Rabbinic Conceptions of נזירות**

Avinoam J. Stillman

35



## ”וגם חרבונה, זכור לטוב”

Meron Amar

On ערב פורים תשי”ע, I was at *shul* with my father to hear the מגילה, and we were discussing the appearances of Godly intervention in the miracles of פורים. But there was one key piece to the story which I had never explored before and of which I became conscious after the מגילה reading was over.

I was interested in the final line of the שושנת יעקב hymn: ”וגם חרבונה זכור לטוב.” I asked my father who חרבונה was, and he told me that according to Moroccan tradition, חרבונה is אליהו הנביא. It is for this reason that we say זכור לטוב after his name just as we do for אליהו הנביא.

We must first understand חרבונה’s role in the miracle of פורים, and how his actions were so fundamental to the פורים story, in order to understand why he is mentioned at the end of the מגילה service.

חרבונה first appears in the first פרק of the מגילה as one of אחשורוש’s advisors. He reappears, really out of nowhere, later on in the מגילה, at אסתר’s second feast, where he mentions to the king that המן built enormous gallows on which to hang מרדכי. When the king hears this, he orders המן to be hanged on his own gallows. As a result of the critical report by חרבונה, המן is killed and the Jews are saved from destruction at the hands of עמלק.

This is why we say ”וגם חרבונה זכור לטוב.” We wish that God’s messenger be remembered for saving all the Jews. But one question still remains: why do we say that חרבונה is אליהו הנביא? Could it not be that he was just an officer to the king who had come in at the right moment? I heard a beautiful answer at the Young Israel of Brookline שבת זכור *tisch* at Rabbi Gewirtz’s house.

The Rabbi said that פורים marked a turning point in the Jews’ relationship with God. It was not merely <sup>1</sup> קיימו מה.”

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<sup>1</sup> שבועות לט; שבת פח.

”שקיבלו כבר” It was more than that. In pre-פורים times, the Jews operated with God on an open miracle basis. It was a relationship in which the בית המקדש and the שכינה where literally in the face of the people and נביאים spoke the direct words of God. But פורים changed the *status quo*. As a result, the hidden relationship with God began. Now there were personal prayers to God rather than the open cries for help, and hidden miracles and prophecies through רוח הקדש.

פורים marks this shift in the nature of the relationship because of its absurd quality. Once the Jews had experienced their first גלות since the time of the Temple, and their lives were threatened by the countries of their residence, the Jews would learn that God would interact with them and save them from complete destruction. The מגילה doesn't mention anywhere the name of God, representing the change in the relationship from *circa* פורים until now. God chooses to remain hidden, to send the Jews help without open miracles, but with mere coincidences which can only be recognized by those who attempt to do so. God wanted a new relationship with the people whereby they would always be successful if they searched for God. Therefore, what might appear to be a coincidence to an outsider is really the יד ה' intervening in the life of an עבד ה'. In the פורים story God hid Himself and let the מאמינים see Him and take advantage of His miracles to save themselves. ה' ברוך that “קיימו וקיבלו”<sup>2</sup> the Jews accepted upon themselves this new covenant with God.

Now we may return and ask: what does חרבונה and his appearances have to do with the new relationship with God? The answer to the question is that חרבונה represents the hidden miracles that God sends the Jews. God sent אליהו הנביא in disguise to intercede at the perfect moment and save the Jews from destruction, completing the entire פורים story.

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<sup>2</sup> אסתר ט: כז

Who knows how many times God has sent אֱלֹהֵינוּ in the form of a חַרְבוֹנָה to help protect the Jews. One thing is certain, "וגם חרבונה זכור לטוב."

## מתן תורה: מי מריבה: An Echo of The Waters of

Ms. Atara Bressman

Starting with the end of פרשת קרח and continuing through the end of פרשת חקת, the Torah depicts a string of events all centering around a similar theme: death. After witnessing the ground swallow up קרח and his עדה, the Jewish people realize their own vulnerability before God's presence, and fear that they may all be doomed for death. פרשת חקת opens with the laws of the פרה אדומה, the red heifer, which purifies one who becomes defiled and impure after contact with the dead.

The string of events in ספר במדבר echoes a strikingly similar sequence of events listed in ספר שמות, right after the Jewish people have left Egypt.

In ספר שמות, as the Jewish people enter the desert, and forty years later, in ספר במדבר, as the Jewish people prepare to leave the desert and enter into ארץ ישראל, they complain about their supply of bread and water, the very staples of life. The Jewish people express a fear of death, whether it be death as a result of enemies, the trials of the desert, God's presence at הר סיני, or God's presence in the משכן. According to most commentators, the nation that complains at the end of ספר במדבר is a completely new generation, those who were born in the desert and will finally enter Israel. The generation that received the Torah and crossed the ים סוף in ספר שמות has died throughout the forty years in the desert. Seen in this light, the new generation's experience as they prepare to enter the land is almost exactly the same as their fathers' experiences forty years earlier as they came out of Egypt.

רש"י's comment on the episode in שמות, when the Jewish people had only bitter waters, strengthens the apparent parallels between these narratives. The Torah tells us that after God showed משה the tree which could sweeten the waters: "שם לו חוק ומשפט ושם נסהו" (שמות טו: כה)

רש"י fills in exactly what the "fixed rule(s)" of חוק and משפט were. According to רש"י, God taught the Jewish people

some parts of the Torah that they would need immediately: the laws of שבת, the laws pertaining to the courts (דינים), and פרה אדומה. Yet, the inclusion of פרה אדומה here is quite puzzling. Indeed, the Jewish people very soon learn the laws of שבת, when they are instructed not to collect the מן on שבת. Then, they set up courts under the direction and instruction of משה's father-in-law, יתרו. It is unclear, though, when the Jewish people were involved in the laws of purity from death, which would necessitate knowledge of the פרה אדומה.

Furthermore, רש"י's source for his comment on this פסוק is unknown. While there are many מדרשים that, like רש"י, specify which laws משה taught at מרה, none of them mention the פרה אדומה. While רש"י is probably quoting a מדרש that is no longer extant, he did specifically choose to quote a מדרש that did include the פרה אדומה, amongst many similar מדרשים which make no mention of it at all. Seemingly, רש"י went out of his way to include פרה אדומה at this juncture in history. What makes the laws of the פרה אדומה so unique that each generation must learn them as they prepare to enter the land of Israel?

When studying these stories, one must keep in mind that, although it is quite natural for there to be a lack of water in the desert, for the Jewish nation, a lack of sustenance was quite unexpected. בני ישראל were living miraculously in the desert: their food fell from the sky and God provided them with water. Therefore, if the Jewish people had no water, it was only because God took away their water, (or made the water bitter, at מרה). In ספר שמות, God's didactic motives are quite clear. The Jewish people complain about their physical sustenance, and then God provides it through a miracle, in order to teach them to rely on Him. A former nation of slaves must be trained carefully to become God's chosen nation, the עם סגולה.

The second generation, though, never had the opportunity to experience the splitting of the sea or מתן תורה. Even more so, their food fell from the sky from the time they were born. They may not have even realized the extraordinary nature of

the מן, since they knew nothing different! But, the nation that enters ארץ ישראל must surely realize the greatness of ה', and learn that, in reality, their daily sustenance comes from Him. Moreover, this nation must embrace the laws of the Torah, and fully accept the מצוות. Against this background one can understand why God wanted this generation to experience the same "training" that their fathers' had, almost forty years earlier. By taking away their water supply, ה' forced בני ישראל to realize that ultimately, they are completely dependent upon Him.

רב מאיר שמחה of Dvisnk, in his משך חכמה, takes this concept a step further. According to the משך חכמה (on במדבר כ:יא) ה' wanted this generation to undergo an experience similar מתן תורה as well. At הר סיני, the Jewish people went through an intense physical experience, in which they were somehow able to "see voices,"

"וכל העם רואים את הקולת ואת הלפידים ואת קול השפר ואת ההר עשן; וירא העם וינעו ויעמדו מרחוק"  
(שמות כ: טו)

ה' wanted this generation to also "see voices." Therefore, He instructed משה to speak to the rock; through this the Jewish people would see the power in the voice of God through משה, seeing how water miraculously poured out of the rock. משה, however, did not completely understand what ה' wanted the nation to experience. Instead of emphasizing to the nation how to see and witness the greatness of ה', משה instead only focused on the nation's listening, commanding:  
"שמעו נא המורים!" (במדבר כ: י)

According to רב מאיר שמחה of Dvisnk, this was the fatal sin of משה: that he did not realize the didactic purpose of this miracle - that the Jewish people should have an experience likened to that of הר סיני. Indeed, this parallel fits well with the midrashic similes linking the Torah to water and ה' to a rock. In this light, the whole story in פרשת חקת can be seen as a metaphor for הר סיני: through this experience, the Jewish

people were supposed to see the water, or Torah, come from a rock, or ה'.

According to this understanding, in both שמות and במדבר God has pedagogical goals: to teach the Jewish people to rely on Him, to realize His power, and to accept the Torah and the מצוות. It is in this specific context, though, that the laws of פרה אדומה are taught to the Jewish people. The Jewish people learn that if they become impure from contact with the dead, they must undergo a strange process, one where they are purified through the ashes of a red heifer. When ה' takes away food and water from the Jewish people in the desert, and then returns the food and water in an unnatural way (e.g. from a bitter spring or a rock), He is teaching the nation that their lives, their basic physical necessities, are dependent on Him. The laws of the פרה אדומה teach a mirror lesson, that death is in the hands of God as well. We live under the illusion that we can control our own lives. The confrontation with death makes us realize how vulnerable and weak we really are. It is only through a mysterious law like the פרה אדומה, which one must practice after he faces the death of *someone else*, that we can realize how our lives are truly dependent upon a greater moving force.

Additionally, there is something specifically powerful about physically performing a commandment. Cognitively, the Jewish people accepted God's dominion and his dictates. But, through actually doing the מצוות, one intensifies his fear of, and internalizes a connection to, ה'. The laws of פרה אדומה are the archetype for such an experience. The laws of פרה אדומה are completely physical, yet non-scientific. It is through these acts of faith, that one can fully demonstrate his acceptance of the yoke of מצוות. Perhaps the words of the great Hasidic leader, רב מנחם מנדל of Vitebsk, sum up this experience best:

*“There is a type of fear of God which is really fear of the commandments. When someone realizes that observing the commandments is a matter of a divine moment, and begins to perform them with his physical limbs and other material ‘tools,’*

*he becomes fearful and spiritually agitated, for how can he cause something divine to materialize?... Once someone has experienced this fear and spiritual agitation several times, he begins to derive strength from his faith in God, because he knows that performing the commandments is a means of establishing a connection with God..."*

As each generation prepared to enter ארץ ישראל, ה' designed situations for them in the desert which trained them to realize His dominion over the world and His power over each person's very existence. Through actively performing the commandments of the Torah, even those that may seem strange to our human understanding, one can fully internalize, and begin to develop, a deep connection and relationship with הקדוש ברוך הוא.

## לעיסת מסטיק בדרך לבית הכנסת בשבת בלי עירוב

Eitan Kahn

כולם אוהבים ללעוס מסטיקים, מנטים, אבטיחים, ותותים — על האוטובוס, בכיתה, בקולנוע, או בדרך לבית הכנסת בשבת. אבל האם מותר ללעוס מסטיק בדרך לבית הכנסת בשבת בלי עירוב? כדי לענות על שאלה זו צריך להתחיל עם המקורות הראשונים.

כתוב בספר שמות פרק טז פסוק כט: "ראו כי ה' נתן לכם השבת על כן הוא נותן לכם ביום הששי לחם יומיים, שבו איש תחתיו אל יצא איש ממקומו ביום השביעי." בקשר למילים "שבו איש תחתיו," מצטט רש"י את המכילתא שאומרת: "מכאן סמכו חכמים ד' אמות ליוצא חוץ לתחום." הנה המקור הראשון שבו מדובר במפורש על הרעיון של רשות האדם בשבת.

יש לנו רעיון בסיסי מהמכילתא על עירוב, אבל התלמוד הוא המקור שיגע בפרטים של השאלה.

במסכת שבת פרק ששי (במה אישה) דף ס"ד עמוד ב: **משנה** - "יוצאה אישה ... בפלפל ובגלגל מלח, וכל דבר שניתן לתוך פיה; ובלבד שלא תתן לכתחילה בשבת. ואם נפל לא תחזיר." **גמרא** (סה.) - פלפל לריח הפה, גלגל מלח לדורשני (לחולי השיניים). "מהמשנה רואים שיכולים לצאת בשבת בלי עירוב עם פלפל או גלגל מלח בפה. הגמרא מסבירה את הסיבות לכך: פלפל לריח הפה, וגלגל מלח לפצע. אבל משמע שאם רוצים ללעוס מסטיק בשבת חייבים לשים את המסטיק בתוך הפה לפני שבת, ושם הוא נפל מהפה אסור להחזיר אותו לפה. לפי זה: אפילו בלי לדבר על האיסור של "חזרה", כבר לא הגיוני ללעוס מסטיק בשבת אם המסטיק צריך להישאר בפה כל השבת. בא נראה מה הפוסקים אומרים על הרעיון הזה.

אולי הרמב"ם כותב משהו שקצת שייך לשאלה שלנו. הרמב"ם כותב במשנה תורה הלכות שבת פרק יט הלכה יב כך: "ויוצאה בפלפל ובגרגיר מלח ובכל דבר שתתן לתוך פיה מפני ריח הפה. ולא תתן לכתחילה בשבת." הנה הרמב"ם לא מוסיף שום דבר למשנה ולגמרא שלמדנו. וכן רבנו יעקב בטור אורח חיים (סימן שג) כותב על סוגיה זו: "ובפלפל ובגרגיר מלח ובזנגביל ובקנמון שתתן לתוך פיה, ובלבד שלא תתנם לכתחילה בשבת; ואם נפל לא תחזיר." נראה שיהיה מאד קשה למצוא תשובה שקשורה במיוחד למסטיק. כנראה שהפוסקים לא חשבו שהשאלה הזאת כל כך חשובה!

הרב יוסף קארו כותב בשולחן ערוך אורח חיים (סימן שג, סעיף טו): "ובפלפל ובגרגיר מלח ובכל בושם שתתן לתוך פיה; ובלבד שלא תתנם לכתחילה בשבת. ואם נפל לא תחזיר." רוב מה שכתוב בשולחן ערוך כבר למדנו, אבל יש שינוי אחד: הוא מוסיף שמותר גם לשים "בושם" בפה בשבת. זה פותח קצת את האפשרות למסטיק. אבל גם פה זה לא במפורש.

אין מקורות שדנים בשאלה של מסטיק במפורש, אבל אולי יכולים לקחת מהרעיונות שלהם ולהשתמש בהם כדי לענות על השאלה שלנו. לכאורה, אולי יהיה מותר לצאת וללעוס מסטיק בשבת בלי עירוב - אם שמים את המסטיק בפה לפני שבת, ולא מוציאים אותו מהפה כל השבת; ורק בשביל שיהיה ריח טוב בפה. אולי אפשר לטעון ככה. ברם, ממבט אחר, אפשר להגיד שללעוס מסטיק בשביל ריח הפה הוא כמו רפואה; וחכמים אסרו לקחת תרופות בשבת [אם לא במקום סכנת נפש או אפילו אבר], שהרי בזמנם היו צריכים לטחון את התבלינים כדי להכין את הרפואה. אבל גם אפשר לטעון שמסטיק שונה מתרופה, כי לא צריכים לטחון שום דבר.

בסיכום, אי אפשר להכריע מתוך המקורות שלמדנו, וצריכים לשאול שאלה מרב שידוע כפוסק. אנתנו יכולים לראות מכאן שאי אפשר לפסוק הלכה עם רק ידיעת ההלכה ומאמרי חז"ל. בכמה מקרים, צריכים מבט חדש מלמדן בקי בש"ס ופוסקים כדי לפסוק שאלות הלכה במצבים חדשים.

***The Judean Post during שיבת ציון***  
Avigayil Kelman

*Editor's Note: The following article was originally an essay for R. Goldman's 12<sup>th</sup> grade Navi class.*

**Assignment:** Pretend you are one of the men who had been married to a non-Jewish woman before עזרא came to ירושלים. Please compose a letter to your local newspaper describing your experience living through עזרא's movement to break up these unions. Your presentation should be based on the narrative in the last two פרקים of עזרא. Discuss the wisdom of עזרא's approach to this difficult situation and how it was received by the population.

**Front-page News:** It has not been easy. But the right path has hardly ever been an easy one. Although, it is difficult for me to write about the details of my past few days in ירושלים, and, although, it is not in my nature to publicize the particulars of my personal life, least of all, in the *Judean Post*, I believe that in these trying times it is imperative for the sake of כלל ישראל that I, and others, like me, tell our story.

It had become a popular trend among the Jews of Babylon, in the past twenty-five years or so, to choose wives from among the daughters of their foreign neighbors. This method proved quite successful in maintaining business deals, and most importantly, in furthering the Jewish struggle to obtain, if not, affection, then, at least, acceptance in the eyes of their Babylonian counterparts. I will say this with honesty: we had grown quite comfortable in our surroundings, and, whether out of uncertainty or faithlessness, we did not believe that the time had come for ה' to redeem us. I took one such foreign wife. Her name is *Mash'Allah*. *Mash'Allah's* father was my partner in the jewel trade, which I invested all my energies into, not to mention, half my fortune. He offered his daughter to me as a reward for our success together and as a toast to the many

years of prosperous trade, which would follow. *Mash'Allah* is a very lovely woman, and I accepted the proposal. I did not know then that I would regret my decision. Not our six fruitful years of marriage, nor our two wonderful boys, but I would regret having to see my wife and children leave me one day. Regret is a feeling, which knows me well these days, second only to another feeling, that of fear. I never thought that I could know such a fear as the one בני ישראל felt after witnessing the public exhibition of our beloved leader's terrible anger and deep sorrow. Upon discovering that many of the men of Israel had married Babylonian women, עזרא tore his garments, plucked his hair, and sat down in the dust a whole day until the setting of the sun. When the time for the evening sacrifice came, עזרא sat up from his fast, and threw himself back down to his knees, crying to ה', "I am *ashamed* to turn my face to You, Lord, our guilt is mounted toward the heavens!" "O Lord What shall we say after this?" "We have forsaken Your commandments!" Shame. עזרא was ashamed. We were ashamed. The shame was almost too intense to bear. Everything עזרא was claiming was correct. ה' had taken us out of Egypt, saved us from our enemies, and now finally He is redeeming us by allowing our return to the homeland, and how do we repay Him? We have broken His covenant and intermarried with the very nations that try, time and time again, to eradicate us! What fools we had been, to turn away from our God who loves us, and, as עזרא says, "always punishes us far less than our iniquities deserve." עזרא had announced that, "we had sinned to God." He included himself in the crime, although he is the purest man I know. I realized then what an incredible thing it is to be a member of כלל ישראל. We are all brothers, and, as with siblings, when one is hurt the others automatically suffer. We wept as we, as a nation, watched עזרא. It was one of the first times we'd felt like a true nation in years. We felt bound to one another in our guilt and equally in our grief.

The first man who was brave enough to face the crowd and admit our guilt was בני יחיאל. He proposed that we each be

courageous enough to end our unlawful marriages, and send our wives and their children away. עזרא stood in agreement and he bid the לויים, כהנים, and the entire nation to swear to do as שכניה had said. Throughout the day עזרא remained in mourning and would refuse to eat or drink. He proclaimed that all members of exiled Judea should converge in ירושלים in three days time. Any man who did not join the קהילה within the time allotment would be removed from it. On כ' כסלו, there was a tremendous rainstorm, and despite it we gathered into the open space before God's בית and trembled. עזרא stood and proclaimed that the men of Israel must separate from their foreign wives, and, as one, the men responded, "so we must do."

In the next few days, the elders of every Jewish city set up court systems to annul the marriage of each guilty man. I was the last man to be called to stand in front of the ירושלמי court. By ראש חודש טבת, the matter was closed. As I watched *Mash'Allah* and our dear sons ride away from me into the desert, knowing it was the last time I would ever see them, I had no more tears to shed. It came down to this. This, I concluded, was the consequence of breaking the sacred Torah. This was the ache in my heart. If we had remained in Babylon, our children would have intermarried after us, and their children after them, and בני ישראל would have slowly, but surely consumed itself. ה' has in actuality saved us from extinction, when we did not even merit being saved. ה' has saved me. And it hurts. Just as עזרא showed me, sometimes being rescued can be painful. When a father rescues his wayward son from losing his way, the youth will endure pain. He will be so ashamed with himself that it may even make him angry with his father for a time. Eventually, the youth's anger fades and is replaced with love and gratitude toward his father, his rescuer, since the boy realizes that his father knows him better than he knew himself and has saved him from losing the most precious possession he has: his identity.

I will miss *Mash'Allah* and the children, but I have discovered the way of the world and what it means to be Jewish person. Try as we might, we Jews will never blend in to the other nations of the world—we are too different. I plan, from here on out, to wear my faith openly and with pride, and to become the Jewish man that I am supposed to be.

אלישיב בן מעשיה,  
Correspondent to *The Judean Post*

# Gambling in הלכה<sup>1</sup>

Isaac Levy

There is a major מחלוקת among Rabbinic authorities on the Halachic status of gambling. One of the earliest halachic sources on the topic of gambling is the גמרא in ערובין פב. which discusses the issue of whether a gambler is qualified to testify in a court of law as an עד. Halachah disqualifies “thieves,” meaning individuals who derive most of their living from stealing, from serving as witnesses. Therefore, the question arises whether or not earning money through gambling constitutes thievery. The גמרא cites a מחלוקת on this matter between רבי יהודה and the חכמים. רבי יהודה is of the opinion that “אסמכתא קניא” which means that since both parties gamble, they are doing so with the understanding that they might lose their money betting, and they therefore are accepting the terms of the game. Therefore the gambler’s winnings are considered money that is legally acquired from the losers of the game. Gambling would therefore not be considered a form of theft, and gamblers would be halachically qualified to testify in court. The חכמים on the other hand, maintain that “אסמכתא לא קניא,” meaning that earning money in this manner, where the wagers are placed in the hope of winning and the loser surrenders his money to chance, does not constitute a legal acquisition. Therefore, earning money through gambling is to be considered theft, which makes the gambler פסול לעדות.

ד”ה אמר ר’ יהודה אימתי כו’ בזמן שאין לו גמרא on תוספות (ו’ seems to rule like רבי יהודה, who reasons that gambling does not constitute theft. Nevertheless, one could see how תוספות would agree that full-time gambling, as one’s primary occupation and source of income, is still אסור. The

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<sup>1</sup> My thanks to R. Eli Mansour’s “Daily Halacha” series for many of the sources for this article. The original may be found at <http://www.dailyhalacha.com/displayRead.asp?readID=1075&txtSearch=gambling>.

הלכות עדות יב: א in רמב"ם, on the other hand, has a different view. Although he seems to accept רבי יהודה's opinion, he views gambling as גולה דרבנן. While הלכה considers earning money through gambling a legal means of acquisition, this only applies on a דאורייתא level. The Rabbis legislated that gambling should be treated as theft. Therefore, according to Rambam gambling is אסור דרבנן. However, even תוספות's position would not necessarily legally sanction gambling. According to some, the הלכה only says outright that full-time gambling as a profession or main source of income is אסור, but it nevertheless frowns upon even occasional gambling due to the fact that it is considered an improper activity. In any event, חשן משפט לד: טז in שולחן ערוך says outright, without making distinctions between cases where the money is found in a different way, that gambling is Rabbinic theft, or "אבק גזל."

The גמרא in חולין צא: relates an interesting exchange between יעקב אבינו and the איש with whom he fights. In particular, the גמרא is commenting on the remark "שלחני כי" בראשית לב: כז inעלה השחר" The גמרא says that following this comment, יעקב: replied to his opponent by asking "are you a thief or a קוביוסטוס?" תוספות (ד"ה קוביוסטוס) explains that קוביוסטוס means a gambler, and more specifically that the word is derived from "cubes." This refers to dice, one of the ancient media through which gambling occurred. תוספות continues to explain, saying that it was common practice for gamblers who tended to owe money to multiple individuals to hide out during the day to avoid being confronted over their outstanding debts.

R. Mordechai Willig<sup>2</sup>, in the name of R. Aharon Soloveichik, explains that in fact anyone who becomes addicted to a harmful behavior is violating a biblical prohibition. As a proof, he refers to a comment in which the ספר החינוך makes this point regarding the פסוק

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<sup>2</sup> These comments were made at a שיעור given at Congregation Beth Abraham in Bergenfield, N.J. on December 18, 2005 entitled "Gambling in Halacha." It may be found at the following link: [http://www.torahweb.org/video/rwil\\_121805.html](http://www.torahweb.org/video/rwil_121805.html)

"ולא תתורו אחרי לבבכם" in במדבר טו:לט, which he codifies as מצוה שפז. He explains that his פסוק prohibits addictions to the lusts of this world. He goes on to discuss that the root of this prohibition is the famous idea from the משנה in מסכת אבות ד:ב that "עבירה גוררת עבירה." The חינוך explains that one who gives in to a negative addiction, such as drinking wine, will inevitably come to repeat this action, thereby increasing his desire towards that action. R. Aharon Soloveichik extended this idea to drugs and other addictive substances, and R. Willig extends it even further to any addictive behavior, such as gambling.

At the end of the day, a gambler probably would still be פסול לעדות even if gambling is only theft on a Rabbinic level since he could still qualify as a "רשע" who cannot be a witness according to the Torah. In any event, gambling is an activity which is prohibited on some level and is not consonant with Torah values and a Torah lifestyle.

מלאכת הוצאה  
Yoni Nouriel

reads: שמות יז: כט

"ראו כי ה' נתן לכם השבת על כן הוא נותן לכם ביום הששי לחם וימים, שבו איש תחתיו אל יצא איש ממקומו ביום השביעי."

The Torah warns בני ישראל not go out of their "תחום" (this will be explained shortly) to collect the מן. Although the איסור to leave one's תחום is not limited to the collecting of the מן, the פסוק ties the idea of resting on שבת with going out of one's way to collect the מן. Therefore, even though in our times, when the מן has been "extinct" for a few thousand years, we derive the הלכות of carrying from one type of רשות to another רשות from the מן.

The מכילתא expands on the concept of one's רשות, and one's תחום, from the seemingly extraneous phrase of: "שבו איש תחתיו"

שבו איש תחתיו: מכאן סמכו חכמים ארבע אמות ליוצא חוץ "" לתחום."

We learn that although one is not allowed to leave one's תחום on שבת, one is allowed to move beyond the תחום, as long as one's own רשות is still connected with the תחום. What is considered one's רשות? This is a radius of four אמות around one's body. Thus, even if one has left the תחום, one is still allowed an extra four אמות to walk outside the תחום.

The מכילתא also expounds on the seemingly superfluous clause "אל יצא איש ממקומו"

אל יצא איש ממקומו: אלו אלפים אמה של תחום שבת. ולא במפורש, שאין תחומין אלא מדברי סופרים, ועיקרו של מקרא על לוקטי המן נאמר."

The מכילתא explains that one's תחום is determined by a radius of two thousand אמות (opinions range from one-and-a-half to two feet) from one's body. (The תחום also expands from a place where one dwells. Therefore, if there is a city with many houses, the תחום of that city is measured from the end of the last houses on its border.)

This idea of resting and not relocating one's body on שבת out of the תחום is reflected in the very beginning of מסכת שבת in a new dimension: carrying from one רשות to a new type of רשות. This איסור lies in the concept of מלאכת הוצאה - loosely translated as "carrying."

"יציאות השבת שתיים שהן ארבע בפנים, ושתיים שהן ארבע בחוץ. כיצד? העני עומד בחוץ ובעל הבית בפנים - פשט העני את ידו לפנים ונתן לתוך ידו של בעל הבית, או שנטל מתוכה והוציא - העני חייב ובעל הבית פטור. פשט בעל הבית את ידו לחוץ ונתן לתוך ידו של עני, או שנטל מתוכה והכניס - בעל הבית חייב והעני פטור. פשט העני את ידו לפנים ונטל בעל הבית מתוכה, או שנתן לתוכה והוציא - שניהם פטורין. פשט בעל הבית את ידו לחוץ ונטל העני מתוכה, או שנתן לתוכה והכניס - שניהם פטורין."

The משנה establishes the main format for the technical rules of carrying, and these eight cases are accepted in all of halachic literature (see below for the רי"ף, רא"ש, and רמב"ם).

There are two types of actions one has to perform to be חייב for violating הוצאה. These are עקירה, the act of lifting an object from one רשות, and הנחה, the act of putting an object down in a second רשות. The first גמרא on the משנה says, in fact, that one is לגמרי פטור when one has not completed the full מלאכה, i.e. doing either עקירה or הנחה, but not both. A question one might pose on the משנה is the following: if one is already carrying something on שבת ערב in one רשות while standing, and subsequently moves from one רשות to another after the onset of שבת, is one חייב? On one hand, one might answer that this person has not actively picked something up with his/her hand (i.e. has only done הנחה, not עקירה), and should therefore be פטור. On the other hand, one could answer that moving his body while holding the object could be considered the עקירה!

The גמרא on ג דף: addresses this question.

"בעי מיניה רב מרבי: הטעינו חבירו אוכלין ומשקין והוציאן לחוץ, מהו? עקירת גופו כעקירת חפץ ממקומו דמי ומיחייב, או דילמא לא. "א"ל חייב, ואינו דומה לידו. מאי טעמא? גופו ניח ידו לא ניח

It is clear from the גמרא that there is a difference between “uprooting” one’s body in our case and having something put in someone’s hand in the משנה since one is חייב by moving one’s body with something “loaded” on one’s body. The reasoning is simple: one’s body is “anchored” on the ground such that when one “uproots” the body and moves, this is considered the עקירה. In the משנה, where one puts or takes something from another person’s hand, the hand is not “anchored.” In this case, therefore, the taking of the object, עקירה, is not attributed to the person whose hand was not “anchored.”

An important רש"י must be noted. רש"י asks the question: why does the גמרא use the objects אוכלין ומשקין as the example? Why does the גמרא not mention a case where one is “loaded” with barrels, or pottery, for example? רש"י answers that it is normal for any person to think about and carry foods and drinks for שבת. Upon examining this רש"י, we can learn two things. One, a warning: people should be very careful in regards to carrying belongings on שבת, and כל שכן when dealing with what we need for שבת. Two, the גמרא does not deal with food and drink exclusively, rather with everything. Thus, we find the שולחן ערוך not using the words אוכלין ומשקין but rather חפץ, an object. We see that this רש"י has, albeit subtly, halachic ramifications.

The גמרא demands further analysis at its literal level: why did the חכמים institute that it is אסור for one to do only half of the מלאכה, i.e. הנחה or עקירה? To make the question stronger, the גמרא even adds that one who does not complete the מלאכה is פטור לגמרי. What is the reasoning behind the איסור דרבנן?

This question is answered by רש"י who explains that if one were to do many acts of הוצאה that are פטור לגמרי, one might eventually make a mistake and do the full עקירה and מלאכה. This is a safeguard so that we will not violate an הנחה. This is a safeguard so that we will not violate an דאורייתא איסור. This רש"י becomes an essential part of the reading of the גמרא by many ראשונים.

The רי"ף has virtually the exact same format and wording as the משנה. Similarly, in the גמרא, the רי"ף has virtually no changes (except for the small אגדתא and irrelevant Halachot learned from the אגדתא, which are deleted).

The רא"ש added nothing new for our purposes to the משנה. His reading of the משנה is basically the same as that of the רי"ף. The רא"ש on the גמרא is also the same reading as the רי"ף. The רא"ש does, however, explain the reasoning of the גמרא's statement of "גופו ניח ידו לא ניח" which makes the גמרא's answer seem more sensible. He explains that when a חפץ is being taken out of or put into the hand of someone, one's hand is not on the ground. Thus, when עקירה is being performed, none of the עקירה is being done by the עני. However, when one's physical body is rested on the ground and a חפץ is placed on his body he is essentially moving from one place on the ground as he moves his body.

The רמב"ם summarizes the basics of the חיוב for הוצאה in just two sentences in ט: הלכות שבת יב:

" אין המוציא מרשות לרשות חייב עד שיוציא כשיעור המועיל, מרשות היחיד לרשות הרבים או מרשות הרבים לרשות היחיד, ויעקור מרשות זו ויניח ברשות שניה. אבל אם עקר ולא הניח, או הניח ולא עקר, או שהוציא פחות מכשיעור, פטור."

The גמרא, שולחן ערוך, סימן שמי"ז As mentioned above, רש"י becomes incorporated into the text, where he says that the words אוכלין ומשקין are used only as an example. Indeed, the שולחן ערוך uses the word חפץ instead of אוכלין ומשקין.

In summary, the משנה's and גמרא's format is virtually untouched in each of the halachic codes that we have examined. The גמרא's ruling is thus not disputed, and the הלכה למעשה is very well defined.

## A Maimonidean Teleology of the הלכה Elliot M. Salinger

Indubitably, the הלכה is the force which affects us as religious Jews more than any other. Both in its study and practice, the הלכה has immense control over our day to day lives and long term beliefs, values, and decisions. Consequently, it behooves us to ask the question: what is the *telos* of the הלכה? What is its ultimate goal and purpose?

One important authority who has discussed this issue is the רמב"ם. He has a rather lengthy discussion regarding the teleology of the הלכה in the מורה נבוכים. The following are some of the highlights.

### מורה נבוכים ג: כז (תרגום אבן-תיבון)

כונת כלל התורה שני דברים: והם תיקון הנפש ותיקון הגוף. אמנם, תיקון הנפש הוא שיתנו להמון דעות אמיתיות כפי יכלתם; ומפני זה יהיה קצתם בפירוש וקצתם במשל, שאין בטבע ההמון לסבול השגת הענין ההוא כפי מה שהוא. ואמנם תיקון הגוף יהיה כתיקון ענייני מחייתם קצתם עם קצתם ...

ודע ששתי הכוונות האלה האחת מהן בלא ספק קודמת במעלה. והוא תיקון הנפש, רוצני לומר: נתינת הדעות האמיתיות. והשנית קודמת בטבע ובזמן, רוצני לומר: תיקון הגוף; והוא הנהגת המדינה ותיקון ענייני אנשיה כפי היכולת. וזאת השנית היא הצריכה יותר תחילה, והיא אשר הפליג לדקדק בה ולדקדק בחלקיה כולם, מפני שאין יכולת להגיע אל הכוונה הראשונה אלא אחר שיגיעו אל השנית הזאת ... והתורה האמיתית אשר בארנו שהיא אחת ושאין זולתה, והיא תורת משה רבינו, אמנם באה לתת לנו שתי השלמיות יחד, תקון ענייני בני אדם קצתם עם קצתם בהסיר העוול ובקנות המדות הטובות המעולות, עד שתתכן עמידת אנשי הארץ והתמדתם על סדר אחד להגיע כל אחד מהם אל שלמותו הראשון, לתיקון האמונות, ונתינת דעות אמיתיות כאשר יגיע השלמות האחרון. וכבר כתבה התורה ב' השלומיות, והגידה אלינו שתכלית אלו התורות כולם היא להגיע אליהם ...

This רמב"ם is consistent with the רמב"ם's greater philosophies on health, beliefs, and המצוות. He writes in various places in חלק ג' of his מורה נבוכים that the reason for God's commanding several מצוות was to prevent us from ingesting unhealthy foods or practicing something not conducive to good health. The רמב"ם maintains that non-

kosher food is prohibited since it is unhealthy and repulsive, as he writes later in the מורה:

”כי כל מה שאסרתו התורה עלינו מן המאכלים—מזונם מגונה.”<sup>1</sup>

Additionally, the רמב”ם maintains that the purpose of other Scriptural commands is to eradicate incorrect beliefs and character traits and inculcate correct ones. One need not look further than ג:לה of the מורה for confirmation of these statements. There, the רמב”ם writes that the point of most מצוות is to establish and perpetuate specific principles—both general philosophical ones and ones specific to Jewish Divine worship—throughout the nation.<sup>2</sup> As a leading medical and philosophical authority, it is not surprising that the רמב”ם should adopt this specific teleology of the הלכה.

It seems at this point that we have found the answer to our question according to the רמב”ם. For him, the *telos* of the הלכה is twofold: to perfect ourselves both physio-biologically and religio-ethically. However, there is a very large difficulty with this רמב”ם. To understand this question, we must first ask another question: What does it mean to say that something is the goal of the הלכה? What implications does it carry? The answer to this question is related back to the הלכה itself and its inner workings and mechanisms. The question of “what is the *telos* of the הלכה?” is identical with that of “what is the most important consideration of the הלכה?” We now have the background to understand the aforementioned challenge to the רמב”ם, which is that we do not find that the הלכה cares about health<sup>3</sup> and instilling correct beliefs.<sup>4</sup> Indeed, they seem

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<sup>1</sup> מורה נבוכים ג:מח (תרגום אבן-תיבון)

<sup>2</sup> The specifics of the reasons behind each מצוה or groups of מצוות are far beyond the scope of this article. However, the reader is highly encouraged to study פרקים כו-מט of חלק ג' of the מורה, where the רמב”ם has his full philosophical discussion about המצוות הטעמי.

<sup>3</sup> One might challenge this assertion with the statement of חז”ל that חמירא ”סכנתא מאיסורא” (חולין י:), but this is not a consideration which carries with it much halachic force. All it can do is prohibit the otherwise permitted, but not the more radical converse.

nugatory inasmuch as they are not major factors in the halachic decision making process. Therefore, we are forced to superimpose a significant qualification on the רמב"ם previously cited. That רמב"ם was only referring to the philosophical purpose of the הלכה, not the halachic one.

To better comprehend this distinction between philosophical and halachic reasons for commandments, we will briefly discuss a famous apparent contradiction within the רמב"ם involving his opinion vis-à-vis the מצוה of שילוח הקן and טעמי המצוות in general.

The impetus for this discussion is a fascinating גמרא.

**ברכות ה: ג (לג:); מגילה ד: ט (כה.)**

האומר... על קן ציפור יגיעו רחמיה... משתקים אותו.

**גמרא שם**

... אלא על קן צפור יגיעו רחמיה, מאי טעמא? פליגי בה תרי אמוראי במערבא: ר' יוסי בר אבין ור' יוסי בר זבידא. חד אמר מפני שמטיל קנאה במעשה בראשית, וחד אמר מפני שעושה מידותיו של הקב"ה רחמים ואינן אלא גזירות.

This discussion would indicate that מצוות in general, and especially שילוח הקן, have no reasons. This is what the רמב"ם writes explicitly in the following sources.

**פירוש המשניות להרמב"ם: ברכות ה: ג (תרגום אבן-תיבון)**

ענין מה שאמרו: "על קן ציפור יגיעו רחמיה", כמו שחמלת על קן הציפור ואמרת "לא תקח האם על הבנים",<sup>5</sup> כן רחם עלינו. וכל מי שאמר כן בתפילתו משתקים אותו, מפני שהוא תולה טעם זאת המצוה בחמלת הקב"ה על העוף, ואין הדבר כן. שאילו היה מדרך רחמנות לא צויה לשחוט חיה ועוף כלל. אבל היא מצוה מקובלת, אין לה טעם.

**פירוש המשניות להרמב"ם: מגילה ד: ט (תרגום אבן-תיבון)**

"ועל קן ציפור יגיעו רחמיה", לפי שהטעם אינו מצד רחמנות מהשם יתברך באומרו "לא תקח האם על הבנים",<sup>6</sup> אבל היא גזירת הכתוב.

**משנה תורה: הלכות תפילה ט: ז**

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<sup>4</sup> One might counter that in certain streams of Judaism, particularly that of the רמב"ם, beliefs and dogma have a large role to play, so it must be that they really are halachically significant. This is answered by saying that it is true that they *qua* themselves are important to the הלכה. However, we don't find that beliefs *qua* lessons that emerge from obeying a מצוה having large roles in determining the הלכות of that מצוה, either by their presence or absence.

<sup>5</sup> דברים כב: ו

<sup>6</sup> Ibid

מי שאמר בתחנונים: מי שריחם על קן ציפור שלא ליקח האם על הבנים או שלא לשחוט אותו ואת בנו ביום אחד ירחם עלינו וכיוצא בענין זה, משתקין אותו, מפני שמצוות אלו גזירות הכתוב הן ואינן רחמים. שאילו היו מפני רחמים לא היה מתיר לנו שחיטה כל עיקר.

However, this position seems to contradict the רמב"ם's classical view discussed earlier that מצוות do have reasons. This is expressed in the following מקורות both in general idea and specific cases.

#### **משנה תורה: הל' מעילה ח:ח**

ראוי לאדם להתבונן במשפטי התורה הקדושה ולידע סוף ענינם כפי כחו... והמשפטים הן המצוות שטעמן גלוי וטובת עשייתן בעולם הזה ידועה, כגון איסור גזל ושפיכות דמים וכיבוד אב ואם. והחוקים הן המצוות שאין טעמן ידוע. אמרו חכמים: "חוקים חקתי לך ואין לך רשות להרהר בהן."<sup>7</sup>... והקדימה תורה ציווי על החוקים, שנאמר: "ושמרתם את חקותי ואת משפטי אשר יעשה אותם האדם וחי בהם."<sup>8</sup>

#### **משנה תורה: הלכות תמורה ד:יג**

... אף על פי שכל חוקי התורה גזירות הם כמו שביארנו בסוף מעילה, ראוי להתבונן בהן וכל מה שאתה יכול ליתן לו טעם תן לו טעם. הרי אמרו חכמים הראשונים שהמלך שלמה הבין רוב הטעמים של כל חוקי התורה...

#### **מורה נבוכים ג:מח (תרגום אבן-תיבון)**

וכן נאסר לשחוט אותו ואת בנו ביום אחד, סייג והרחקה, שמא ישחט מהם הבן לפני האם, כי צער בעלי חיים בכך גדול מאוד... וזהו הטעם גם בשילוח הקן... ואל תקשה עלי באומרים ז"ל: "האומר על קן צפור יגיעו רחמיך" וגו', כי זו אחת משתי הסברות אשר הזכרנום, כלומר, השקפת מי שסובר שאין טעם למצוות אלא הרצון המופשט, ואנו הלא הלכנו אחרי ההשקפה השניה.

The רמב"ם here writes clearly that he does not accept the opinion in the גמרא that the מצוות are just גזירות, yet he rules like that opinion twice in the פירוש המשניות and again in the משנה תורה. Many commentators on the רמב"ם have attempted to resolve this contradiction.<sup>9</sup> The explanation most cogent and

<sup>7</sup> יומא סז:

<sup>8</sup> ויקרא יח:ה

<sup>9</sup> Vide the תוספות יום טוב and the הלכות תפילה ט:ז on מעשה רוקח and the הלכות תפילה ט:ז on מעשה רוקח and the הלכות תפילה ט:ז on מעשה רוקח, for example.

compelling is that of the בן ידיד, a lesser known פירוש on the משנה תורה.<sup>10</sup>

### בן ידיד: פירוש על המשנה תורה: הל' תפילה ט: ז

כאן נטה להלכה אחר דעת מי שאמר שמדותיו גזירות ובספר מורה נבוכים חלק ג' פרק מ"ח נטה אחר דעת מי שאמר שמטיל קנאה אצל מידותיו רחמים, ועיין שם בפירוש הרב שם טוב ז"ל. והנראה לי כפשוטו, דכיון דבכמה מקומות אמרינן בש"ס "גזירת הכתוב היא," וקיימא לן שלא נתגלו טעמי תורה, לפיכך להלכה פסק כמאן דאמר שמידותיו גזירות. והתם בספר המורה נתן דעתו למצוא לכל המצוות טעם, ונתן טעם גם לזו. וכמו שכתב, וזה לשונו: "ואנחנו נמשכנו אחר הדעת השנייה," עד כאן. פירוש: דבאותו ספר נמשך לתת טעם לכל המצוות. ואין הכי נמי, דלהלכה תפסינן דמידותיו גזירות. ועיין שם באותו חלק פרק כ"ו באורך. וסבירא ליה לרבינו דלדורוש שרי, וכמו

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<sup>10</sup> Along with being very logically sound, as explained above, the בן ידיד's distinction best fits the רמב"ם's actual statement. The commentators cited in the previous footnote draw a distinction in the רמב"ם between philosophy and תפילה to explain this contradiction, thus resolving the specific issue of the רמב"ם's statements on the מצוה of שילוח הקן in the מורה נבוכים, משנה תורה, פירוש המשניות, and גזירת הכתוב. They say that mentioning something in the context of requesting something from God gives it an extra weightiness and seriousness. This is the reason why we cannot attribute a reason to a מצוה in prayer. This approach assumes that the רמב"ם's real, fundamental position is that there are reasons for מצוות. This is slightly difficult since although this seems to be his consistent approach globally in the מורה and in the citations from תמורה and מעילה, the רמב"ם calls not only the מצוה of שילוח הקן גזירת הכתוב, but he refers to several other מצוות and הלכות as such. For examples, vide ג: ד הלכות תשובה regarding טומאה הלכות מקואות יא: יב, שופר הלכות יח: ו, טהרה and טומאה הלכות מורים ו: ז, עדים זוממין הלכות עדות יח: ג, כיבוד אב ואם, and ibid: ז: יא regarding the fact that only a male can be considered a ומורה בן סורר ומורה. However, the בן ידיד's distinction between law and philosophy works in all the cases. Whenever the רמב"ם discusses טעמי המצוות positively, it is in the context of a philosophical discussion. However, his statements in תפילה and the המשניות are all in a halachic context—he is describing the details of the הלכה. Additionally, in two out of three of the sources cited, he refutes the "רחמנות" argument for the reason for the commandment with a halachic disproof, indicating that the טעם does not function as a determining factor in the legal system, indicating that he does not accept טעמי המצוות on the halachic level.

שעשה הוא, וכהמדרש רבה פרשת תצא, וכהתרגום יונתן בפרשיות אמור ותצא, עיין שם, ולמעבד עובדא לא נהגינן. כן נראה לי ברור...

The key point from this בן ידיד is that the רמב"ם accepts טעמי המצוות, but in the realm of השקפה, not הלכה. This means that philosophically, the רמב"ם maintains that there are real reasons for commandments, but they are not legally significant. If we accept טעמי המצוות at all, then this idea that טעמי המצוות is only operative in the realm of השקפה makes sense by *reductio ad absurdum*. If we say that טעמי המצוות carry halachic significance, then that means that the הלכה would change based on whether or not that טעם is being accomplished. Since the individual experiences the law—and thus the reasoning behind it—subjectively and relatively, then for each person the הלכה could change into an idiosyncratic and nebulous collection of observances, spelling the end of the halachic system. This is clearly untenable, and thus טעמי המצוות cannot influence the הלכה.<sup>11</sup>

This is an intriguing idea that the בן ידיד has. That we can accept one view להלכה while retaining the diametrically opposed view "להשקפה" is quite remarkable. Of course, as with all grand resolutions involving ראשונים, especially those of the רמב"ם, we must not get ahead of ourselves. This explanation seems to belittle the רמב"ם's dominant rationalist tradition of טעמי המצוות. Regardless, this distinction is brilliant and can help us think in distinct paradigms that allow us to

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<sup>11</sup> Truthfully, whether or not reasons for commandments, whether specified by a פסוק or not, can influence הלכה is a מחלוקת in the נמרא between רבי שמעון and רבי יהודה/חכמים. This idea is referred to as דרשינן. Whether or not we rule like the opinion that, in fact, does טעמא דקרא. Whether or not we rule like the opinion that, in fact, does טעמא דקרא is also a disagreement. Even more complex is whether or not the רמב"ם, with whom this article is concerned, accepted this concept. It appears that, for a variety of intricate and complicated reasons, the רמב"ם was not even of the opinion that the concept even truly existed, and all the more so that he did not accept it להלכה. (I thank my teacher R. Yaakov Jaffe for informing me about this insight.) These details, however, lie far beyond the scope of this article.

better understand the רמב"ם's philosophical and legal conceptualizations.

Now that we can distinguish clearly between halachic reasons and philosophical ones, we shall return to our revised question: what is the most halachically significant factor? The way by which we shall answer this question is by identifying the halachic reasons behind the largest mitigating factors that exists in הלכה. In other words, the הלכה's true purpose can be seen by understanding in what cases and for what reasons it allows itself to be all but overridden.

The two most powerful mitigating factors in הלכה are those of פיקוח נפש and הוראת שעה. Both of these factors have the ability to override Biblical prohibitions, to the exclusion of all others. Indeed, there are other factors that carry much weight in the halachic decision making process, such as כבוד הבריות דרכי, שלום, איבה, בית, and others. However, these factors generally only operate on a דרבנן level.<sup>12</sup>

First, we will identify the halachic reason behind the imperative of פיקוח נפש.

### שבת קנא:

תניא רבן שמעון בן גמליאל אומר: תינוק בן יומו חי, מחללין עליו את השבת. דוד מלך ישראל מת, אין מחללין עליו את השבת. תינוק בן יומו חי מחללין עליו את השבת— אמרה תורה: חלל עליו שבת אחד כדי

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<sup>12</sup> Vide יט-כ: ברכות, which is the *locus* for the famous discussion regarding the halachic implications of כבוד הבריות. Admittedly, the status of כבוד הבריות vis-à-vis דאורייתא commands is complicated, but all opinions agree that it does not override a true דאורייתא מצוה (with the possible exception, of course, of adhering to מצוות דרבנן) in a way which involves proactive commission. For exceptions to the claim that more interpersonally-oriented concerns can only affect Rabbinic law, vide R. Aharon Lichtenstein's "The Human and Social Factor in Halakha," published in *Tradition* 36 (2002) pp. 89-114. הלכה פסק contains, by its very nature, a subjective element left up for the individual פוסק to decide based on the empirical situation. However, in general, the biblically mandated imperative of פיקוח נפש and case of הוראת שעה are significantly more potent than their rabbinically derived cousins.

שישמור שבתות הרבה. דוד מלך ישראל מת-אין מחללין עליו. כיון שמת אדם, בטל מן המצוות.

The גמרא introduces the idea of desecrating one שבת in order that the one for whom שבת was desecrated should be able to observe many more שבתות. The last line of the גמרא summarizes the reasoning behind the discrepancy in rulings. After one dies, he or she is פטור from observing any מצוה. This means that the command and leniency of פיקוח נפש only exists when there is a potential for the Jew to keep obeying the Torah. In other words, the halachic *telos* of פיקוח נפש is the הלכה's own continuity.<sup>1314</sup>

Now we shall study the ruling of הוראת שעה, when a בית דין can temporarily suspend or abrogate a מצוה in particularly dire circumstances.

#### רמב"ם: הלכות ממרים ב:ד

... שאפילו דברי תורה יש לכלל בית דין לעקרו הוראת שעה. כיצד? בית דין שראו לחזק הדת ולעשות סייג כדי שלא יעברו העם על דברי תורה מכין ועונשין שלא כדין, אבל אין קובעין הדבר לדורות ואומרים שהלכה כך הוא. וכן אם ראו לפי שעה לבטל מצות עשה או לעבור על מצות לא תעשה כדי להחזיר רבים לדת או להציל רבים מישראל מלהיכשל בדברים אחרים, עושין לפי מה שצריכה השעה.

<sup>13</sup> Admittedly, what remains to be seen is how פיקוח נפש operates vis-à-vis other מצוות. Presumably, the same reasoning behind פיקוח נפש on שבת would apply to all other מצוות. The reason why we only state this reason in the case of שבת is because that is the most frequent case of פיקוח נפש that arises.

<sup>14</sup> This idea, that the Torah's self-suspension for the sake of preserving life is in order to preserve Torah, might be referred to by the *Talner Rebbe*, R. Dr. Isadore Twersky, זצ"ל, in his article entitled "Aspects of Maimonides' Epistemology: Halaka and Science," published in *From Ancient Israel to Modern Judaism: Intellect in Quest of Understanding* in 1989 by Brown University. In footnote 39 on p. 14, as he describes פיקוח נפש, R. Dr. Twersky writes, "The teleology is all-important in understanding the differences between religion and medicine. The Torah, while not intending 'its words the cure the body,' is concerned with the well-being of the body... it delegated the means to the science of medicine. To put it differently, the Torah allows for its suspension in order to prolong life, but the teleology of life in turn is completely subordinate to the Torah."

This case seems to have the same reason as the preceding one, viz. to ensure the הלכה's own basic stability.<sup>15</sup> If this did not seem clear yet, the רמב"ם's next line proves our theory beyond a shadow of a doubt.

שם

כשם שהרופא חותך ידו או רגלו של זה כדי שיחיה כולו כך בית דין מורים בזמן מן הזמנים לעבור על קצת מצוות לפי שעה כדי שיתקיימו כולם, כדרך שאמרו חכמים הראשונים: "חלל עליו שבת אחת כדי שישמור שבתות הרבה."

By connecting the previously seen idea of "חלל עליו שבת אחת" with that of הוראת שעה in the medical metaphor for the מצוות, the רמב"ם makes unambiguous his conception of sometimes being able to sacrifice a part to keep the whole alive.<sup>16</sup> Or, in different phraseology, the הלכה

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<sup>15</sup> Perhaps this is why the רמב"ם feels compelled to add that these rulings do not last indefinitely and that temporary ruling is never to be considered to be the actual הלכה. Doing so would be contrary to the entire point of הוראת שעה, which is preserving the integrity of the halachic system. Additionally, the רמב"ם mentions these two ideas in his brief discussion of הוראת שעה in ד: הלכות סנהדרין כד. There is, however, a more broad type of הוראת שעה in Judaism, which is that of a נביא. The רמב"ם codifies these הלכות in ט-ג: הלכות יסודי התורה. This kind of הוראת שעה is very widely applicable, and seems to contradict the very foundations of the halachic system and process. Perhaps this explains some of the otherwise slightly incongruous details in these הלכות. The רמב"ם, interestingly, codifies these הלכות after explaining the מצוות of בל תגרע and בל תוסיף, which exist altogether in order to ensure the integrity of the הלכה as a legal system. Additionally, here the רמב"ם mentions twice that the extralegal commands of a נביא must be temporary, not permanent, and that not even a נביא may command idol worship. The רמב"ם emphasizes these elements of the נביא case of הוראת שעה since they come to counteract its seemingly amorphous and contra-halachic nature.

<sup>16</sup> Another observation about this רמב"ם involves the cases of הוראת שעה. The only case cited in this הלכה is that of administrations of punishments that are not strictly warranted according to the letter of the law. This is the case that the רמב"ם cites in ד: הלכות סנהדרין כד, as well, based on יבמות ז: and סנהדרין מו. That the quintessential case of הוראת שעה is extralegal punishment fits in well with our thesis. One of the primary goals of punishment in any legal system is to serve as deterrent for those who would otherwise be criminals and impress upon the populace the

forgoes one law so that the whole system can be sustained. Therefore, the answer to our question is that the halachic *telos* of the הלכה is its own continuity and integrity.<sup>17</sup>

As dry as it may seem, our thesis fits in as a corollary of the halachic טעמי המצוות: God decreed thus. Consequently, after all the dust settles, we end up with four ideas from the רמב"ם. On the philosophical level, we follow מצוות for various specific reasons, some of which are remembering God or staying away from unhealthy foodstuffs; however, on the halachic level, we obey commands simply because the Almighty has commanded us to do so. Similarly, on the philosophical level, the *telos* of the הלכה is to instill within us the correct values, beliefs, character traits, and health decisions; but, in contradistinction, the *telos* of the הלכה on the halachic level is its own proliferation and propagation.

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gravity of the offense and the powers of the enforcers of the legal system. Here, too, the punishments serve to protect the integrity of the halachic system, and therefore would be the prime example of extralegal measures in the halachic legal system.

<sup>17</sup> Also of note is the fact that both of these extraordinarily potent mitigating factors and imperatives, פיקוח נפש and הוראת שעה, have internal limits regarding to which cases they may be applied. As is known, פיקוח נפש cannot override the “big three” of שפיחות דמים, גילוי עריות, and עבודה זרה. Vide יומא סז: and פסחים כה: based on הלכות יסודי התורה ה: זר. In addition, הוראת שעה is, by definition, a temporary ruling and does not operate for extended periods of time, as was discussed earlier. We would explain the phenomenon of limitations of פיקוח נפש as follows: Transgressing one of those מצוות is such an enormity that it represents the breakdown of the halachic system. Free occurrences of murder, idolatry, and adultery would undermine the foundations of Judaism and thus uproot the whole corpus of the הלכה. A proof to this is that the רמב"ם notes twice in בית דין שבת פרק ב' that one need not receive permission from the בית דין in order to utilize the principle of פיקוח נפש, the implication being that authorization from a higher legal authority would have otherwise been a prerequisite to taking that type of extreme action. By contrast, the authority to enact a הוראת שעה is in the hands of the בית דין, which ensures that matters will not spiral out of control, obviating strict limitations on the scope and applicability of הוראת שעה.

**פסח (ראש השנה) Date**  
Rabbi Zalmen Stein

The following formula for the calculation of the secular date of פסח is attributed to the German mathematician Karl Friedrich Gauss (1777-1855). He developed it for the calculation of the Easter date, which is directly related to the פסח date. This formula completely hides all traces of the Jewish character of the Easter date. For example, postponement 1 insures that the first day of פסח will not occur on Monday, Wednesday or Friday, which otherwise would violate the rule of לא אדיו ראש.

A complete analysis of the formula would require extensive study of the שולחן ערוך and רמב"ם with regards to הלל's calendar, in addition to the mathematical principles involved.

Let E be the secular year.

Let J = Jewish year, i.e.  $J=E+3760$ .

Let A = remainder when  $(12*J + 17)$  is divided by 19, i.e.  $A=(12*J+17) \bmod 19$ .

Let B = remainder when J is divided by 4, i.e.  $B=J \bmod 4$ .

Let  $X = 3,156,215/98,496 + 765,433/492,480 * A + B/4 - 313/98,496 * J$ .

Let I = integer part of X, i.e.  $I=INT(X)$ .

Let D = decimal part of X, i.e.  $D=X-I$ .

Let c = remainder when  $(3*J+5*B+I+5)$  is divided by 7, i.e.  $c=(3*J+5*B+I+5) \bmod 7$ .

Three postponements:

1. If  $c=2$  or  $c=4$  or  $c=6$  then make  $I=I+1$ ;  $c=c+1$ .

2. If  $c=1$  and  $A>6$  and  $D>=1,367/2,160 (=0.63287037037)$  then make  $I=I+2$ ;  $c=c+2$ .

3. If  $c=0$  and  $A>11$  and  $D>=23,269/25,920 (=0.897723765432)$  then make  $I=I+1$ ;  $c=c+1$ .

Convert to Gregorian calendar for years after 1582:

Let T = integer part of  $E/100$ , i.e.  $T=int(E/100)$ .

Let  $G = \text{integer part of } (3*T-5)/4$ , i.e.  $G=\text{int}((3*T-5)/4)$ .  
(For all years between 1901 – 2099,  $G=13$ .)

If  $E < 1583$  then let  $G=0$ .

Let  $I=I+G$ .

If  $c=7$  then make  $c=0$ .

Therefore, פסח will occur on March  $I$  th. If  $I > 31$ , make  $I=I-31$ , and פסח will be on April  $I$  th. The day of the week of the first day of פסח will be  $c$ , where  $c=1$  means Sunday,  $c=2$  means Monday,...,  $c=6$  means Friday, and  $c=0$  means Saturday. שאר השנה of this secular year (next Jewish year) will occur 163 days later.

Example: For the secular year 2005:

$E=2005$

$J=2005+3760=5765$

$A=(12*5765 +17) \bmod 19 = 18$

$B=5765 \bmod 4 = 1$

$X=41.950462963$  (see above formulae for these 4 lines)

$I=41$

$D=0.950462963$

$c=0$

Postponement, only #3 applies:

$c=0, A > 11, D > 0.897723765432$ ; so

$I=41+1=42$

$c=0+1=1$

Gregorian conversion:

$T=\text{int}(2005/100)=20$

$G=\text{int}((3*20-5)/4)=\text{int}(55/4)=13$

$I=42+13=55$

$55 > 31$  so  $I=55-31=24$

פסח is on Sunday, April 24, 2005 and ראש השנה is on Tuesday, October 4, 2005.

**To (Ab)Stain:**  
**An Inquiry into Rabbinic Conceptions of נזירות**  
Avinoam J. Stillman

Zeal moved thee;  
To please thy gods thou didst it!  
—John Milton, *Samson Agonistes*, l. 895

Self deprivation is rarely institutionalized in Judaism. Countless דברי תורה, including one in the previous issue of this fine publication, emphasize Judaism's inclusion of the physical as holy. Indeed, it is generally accepted that, barring set fast days and periods of mourning, Jews should, within the bounds of the הלכה, take full part in the pleasures of the corporeal world.

The מצווה of נזירות is the most significant point where our tradition makes an allowance for rather extreme asceticism. Thus, there have been varied approaches to נזיר, presenting a wide array of possibilities for how we should relate to this מצווה. This article will be limited to major trends in Talmudic literature and in the רמב"ם. The focal point of the exegeses we are to examine is the following verse, במדבר ו:יא.

ועשה הכהן אחד לחטאת ואחד לעולה, וכיפר עליו, מאשר חטא על הנפש, וקידש את ראשו ביום ההוא.

*And the priest shall prepare one for a sin-offering, and the other for a burnt-offering, and make atonement for him, for that he sinned by reason of the soul; and he shall hallow his head that same day.*<sup>1</sup>

Keeping that text in mind, let us progress to the later sources. The first Talmudic text relevant to the moral acceptability of נזירות is to be found in נדרים י. There we find the following debate about the sacrificial practices of the הראשונים,

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<sup>1</sup> This translation is drawn from the 1917 JPS, but has been altered slightly in order to maintain the ambiguity of the Hebrew.

the “early pious ones.” As their name would imply, the position of the חסידים הראשונים on the issue of נזירות is likely to pull a lot of weight.

דתניא רבי יהודה אומר: חסידים הראשונים היו מתאווין להביא קרבן חטאת, לפי שאין הקב"ה מביא תקלה על ידיהם. מה היו עושין? עומדין ומתנדבין נזירות למקום, כדי שיתחייב קרבן חטאת למקום.  
ר' שמעון אומר: לא נדרו בנזיר; אלא הרוצה להביא עולה - מתנדב ומביא; שלמים - מתנדב ומביא; תודה וארבעה מיני לחמה - מתנדב ומביא. אבל בנזירות לא התנדבו, כדי שלא יקראו חוטאין, שנאמר "וכיפר עליו מאשר חטא על הנפש."

חסידים הראשונים and ר' שמעון argue over whether they would obligate themselves in נזירות or not. The former holds that they wanted to be able to offer a חטאת, or sin-offering, as atonement, and for that reason would become נזירים. This tradition is challenged by ר' שמעון, who posits that they would never become נזירים as they didn't want to be labeled as sinners. He reads the above verse as saying that the act of being a נזיר is a sinful one. The text continues:

אמר אביי: שמעון הצדיק ורבי שמעון ור' אלעזר הקפר, כולן שיטה אחת הן: דנזיר חוטא הוי.  
שמעון הצדיק ורבי שמעון - הא דאמרן. ורבי אלעזר הקפר ברבי - דתניא ר' אלעזר הקפר ברבי אומר: "וכיפר עליו מאשר חטא על הנפש" - וכי באיזו נפש חטא זה? אלא שציער עצמו מן היין. והלא דברים קל וחומר: ומה זה שלא ציער עצמו אלא מן היין נקרא חוטא, המצער עצמו מכל דבר - על אחת כמה וכמה! מכאן: כל היושב בתענית נקרא חוטא. והדין קרא בנזיר טמא כתיב! משום דשנה בחטא הוא.

אביי comments, saying that the opinion of שמעון הצדיק, which we are to see later, the aforementioned opinion of רבי שמעון, and the opinion of רבי אלעזר הקפר, which will be treated at some length, are analogous, are “one approach.” This approach is that being a נזיר is inherently sinful, and interprets verse 11 as saying that it is the נזיר's soul with regards to which he sinned. The sinful status is then expanded to include all self

deprivation or fasting. It would seem, however, that the plain meaning of the text is that the sin was that the *נזיר* became impure because of a corpse. Thus, in order to maintain both the context and the principle that the *נזיר* sinned in general, we say that he added to his initial sin, that of being a *נזיר* at all, by defiling himself through contact with the dead.<sup>2</sup>

Of the three authorities *אביי* identifies, the opinion of *שמעון* *הצדיק* is found in : *נזיר ד* :<sup>3</sup>

אמר שמעון הצדיק : מימי לא אכלתי אשם נזיר טמא, חוץ מאדם אחד שבא אלי מן הדרום, יפה עינים וטוב רואי וקווצותי סדורות לו תלתלים. אמרתי לו : בני, מה ראית לשחת שער נאה זה? אמר לי : רועה הייתי לאבי בעירי, והלכתי לשאוב מים מן המעיין ונסתכלתי בבבואה שלי ופחזו יצרי עלי וביקש לטורדני מן העולם. אמרתי לו : ריקה! מפני מה אתה מתגאה בעולם שאינו שלך, שסופך להיות רמה ותולע! העבודה שאגלחך לשמי! עמדתי ונשקתיו על ראשו. אמרתי לו : כמותך ירבו נזירים בישראל. עליך הכתוב אומר : "איש כי יפליא לנדור נזיר להזיר לה".<sup>4</sup>

*שמעון הצדיק* said that in his tenure as *גדול*, or High Priest, he had never eaten an *אשם*, or guilt offering, of a *נזיר* who became *טמא*. He then relates a story of a *נזיר*'s offering he did consume, as the person had become a *נזיר* for altruistic reasons. It is notable that *שמעון הצדיק*'s story seems to be directed specifically at *נזירים* who defile themselves. However, the *רמב"ם* utilizes the necessity of a *נזיר* having pure intentions in his assessment of *נזירות* in general in *הלכות נזירות י* :<sup>5</sup>

האומר : הריני נזיר אם אעשה כך וכך , או אם לא אעשה , וכיוצא בזה - הרי זה רשע; ונזירות כזו מנזירות רשעים הוא. אבל הנודר לה' דרך קדושה הרי זה נאה ומשובח, ועל זה נאמר "נזר אלקיו על ראשו ...

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<sup>2</sup> See (ד"ה משום דשנה בחטא הוא) here רש"י :  
דעל שם ששנה עצמו בחטא שנור עצמו, ועוד שטימא נזירותו, להכי כתיב ביה "אשר חטא על הנפש."  
הוא הדין נמי לשאר נזירין דאיכרו חוטאים; וגלי רחמנא.

<sup>3</sup> Also found in a slightly different version in : *נדרים דף ט* :

<sup>4</sup> במדבר ו:ב

<sup>5</sup> See also *הלכות נדרים יג* :כג.

קדוש הוא להי'.<sup>6</sup> ושקלו הכתוב כנביא, שנאמר: "ואקים מבניכם לנביאים ומבחורכם לנזירים."<sup>7</sup>

For the נזיר is what you make of it. If one is simply becoming a נזיר to receive something from God, then one is considered a sinner. However, if like the young man in שמעון הצדיק's story, one is trying to serve God through becoming a נזיר, then the goal of נזירות as established in תנ"ך has been achieved. Indeed, an altruistic נזיר is compared to a prophet.

In we find the following argument, wherein we will address רבי אלעזר הקפר's view, as well as a dissenting one:

אמר שמואל: כל היושב בתענית נקרא חוטא. סבר כי האי תנא דתניא ר' אלעזר הקפר ברבי אומר: מה תלמוד לומר: "וכפר עליו מאשר חטא על הנפש," וכי באיזה נפש חטא זה? אלא שציער עצמו מן היין. והלא דברים קל וחומר! ומה זה שלא ציער עצמו אלא מן היין נקרא חוטא, המצער עצמו מכל דבר ודבר על אחת כמה וכמה.<sup>8</sup>

says that all who fast are called sinners, a statement which is supported by ר' אלעזר הקפר, who makes an *a minore ad majus* (קל וחומר) argument that if by being a נזיר, and abstaining only from grape products, one is referred to as a sinner in that one must offer a חטאת, then surely abstaining from other foodstuffs would be even more of a sin.

ר' אלעזר אומר: נקרא קדוש, שנאמר: "קדוש יהיה גדל פרע שער ראשו."<sup>9</sup> ומה זה שלא ציער עצמו אלא מדבר אחד נקרא קדוש, המצער עצמו מכל דבר על אחת כמה וכמה. ולשמואל - הא איקרי "קדוש"! ההוא אגידול-פרע קאי. ולר' אלעזר - הא נקרא "חוטא"! ההוא דסאיב נפשיה.

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<sup>6</sup> במדבר ו:ז-ח

<sup>7</sup> עמוס ב:יא

<sup>8</sup> See above, נדרים י.

<sup>9</sup> במדבר ו:ה

ר' אלעזר, however, counters that since a נזיר is also called holy, surely all fasting must lead to a greater degree of holiness. The גמרא will now address the seeming contradiction of these two opinions with the biblical descriptions of the נזיר as both a sinner and holy. According to שמואל, the fact that the biblical text calls the נזיר "holy" is resolved by saying that only growing his hair long is characterized as קדוש. According to ר' אלעזר, only a נזיר who became impure by contact with death is called a "sinner."

Now the גמרא raises an apparent internal contradiction regarding ר' אלעזר vis-à-vis self deprivation:

ומי אמר רבי אלעזר הכי? והאמר ר' אלעזר: לעולם ימוד אדם עצמו כאילו קדוש שרוי בתוך מעיו, שנאמר: "בקרבך קדוש ולא אבוא בעיר." <sup>10</sup> לא קשיא: הא דמצי לצעורי נפשיה, הא דלא מצי לצעורי נפשיה.

There appears to be a new paradigm for when נזיר is sinful; asceticism *qua* asceticism is unacceptable, but wholly acceptable as a vehicle for spiritual growth. Of course, it is difficult not to cause self pain when one fasts or practices other forms of abstention. However, if one is physically able, fasting is acceptable, and even laudable.

Let us turn to ג.ג. to continue our exploration of ר' אלעזר's opinion:

אהא נאה נזיר ... מילתא דעבירה, ואמרי ליה נאה!! אין! דאפילו לרבי אלעזר הקפר, דאמר נזיר חוטא, הני מילי גבי נזיר טמא, דאידי דבעי מיסתר, דאמר רחמנא "והימים הראשונים יפלו כי טמא נזרו" <sup>11</sup> התם, הוא דלמא אתי למיעבר על נזירותיה. אבל נזיר טהור, לאו חוטא קרי ביה.

The laws of נזירות, as a subset of נשים, are much concerned with vows, and the subtleties of language which, in an oath, determine the responsibilities of the speaker. Here, the

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<sup>10</sup> הושע יא: ט

<sup>11</sup> במדבר ו: יב

argument surrounds the term אהא נאה, “I shall be pleasant,” which is said to bring an obligation of נזירות upon an individual. The latter part of this discussion asks whether נזיר, which is considered transgressive, can truly be considered something “pleasant.” The response is that ר' אלעזר הקפר, whom we identified as the prime exponent of an “anti-נזיר” viewpoint, in fact was only speaking about a נזיר who became ritually impure. The גמרא states explicitly that a pure נזיר is not called a sinner. This contradicts our previous understanding of ר' אלעזר הקפר's view. The following selection from later in נזיר, on יט, complicates things further:

דתניא : ר' אלעזר הקפר ברבי אומר : מה תלמוד לומר "וכיפר עליו מאשר חטא על הנפש" - וכי באיזו נפש חטא זה? אלא שציער עצמו מן היין. וקל וחומר : ומה זה שלא ציער עצמו אלא מן היין - נקרא חוטא , המצער עצמו מכל דבר - על אחת כמה וכמה. והא בניזיר טמא כתיב , ואנן אפילו נזיר טהור קאמרינן! קסבר ר' אלעזר הקפר נזיר טהור נמי חוטא הוא. והיינו טעמא דכתיב בניזיר טמא - הואיל ושנה בחטא.

The גמרא here is emphatic that ר' אלעזר הקפר considered any נזיר, even a pure one, to be sinful.<sup>12</sup> Attempts to resolve this contradiction by positing that a נזיר's merit outweighs his fault, but any resolution of these two diametrically opposed conceptions of ר' אלעזר הקפר's opinion will, of its very nature, be a compromise.

To sum up, נזיר is...

1. Good as a method for achieving atonement (following the precedent of חסידים הראשונים) as per יהודה ר.
2. Good when appropriate spiritually, as per שמעון הצדיק and רמב"ם.
3. Good when appropriate physically, as per ר' אלעזר.
4. Bad when the נזיר is rendered impure, but otherwise acceptable, as per נזיר ב: ג. ר' אלעזר הקפר and a plain reading of יא במדבר ו:יא.

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נזיר ב: ד"ה ואמאי נאה הא מילתא דעבירה היא ואמרי ליה נאה<sup>12</sup>

5. Bad in all circumstances, as per as per ר' אלעזר הקפר in נזיר שמואל, and presumably, יט.

Although there have been very few נזירים in the post-exilic age,<sup>13</sup> the argument over how to approach this מצווה has ramifications in many aspects of Judaism. Even within the opinion of a single figure, ר' אלעזר הקפר, there is significant difference as to how resoundingly נזיר is condemned. What is the proper approach to more modern forms of asceticism? When (if ever) is extremism, admittedly an amorphous term, acceptable? How stringent is too stringent? It seems that many of the defining characteristics of today's many factions in Judaism are rooted in differing perspectives on these issues. Many easy answers are offered to these questions, but they are not thoughtful ones. The relatively few opinions cited in this article should make it clear that intelligent observant Jews can, beyond the "bottom line" in הלכה, differ in their attitudes regarding what is acceptable in religious practice. To address issues such as these, one must look at them in the framework of Jewish thought. Knowing that שמעון הצדיק didn't eat the אשם of a נזיר טמא will not solve these problems for the thinking religious Jew, but hopefully after reading these texts, we can put contemporary issues into an established framework. Hopefully, by investigating texts such as these, our Judaism will be strengthened, but not polarized.

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<sup>13</sup> One notable exception is רב דוד כהן, known as "the נזיר," who was a main disciple of רב אברהם יצחק הכהן קוק.

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