

Thoughts on "Confrontation" and Sundry Matters Part II

By: Marc B. Shapiro

Some people are so set on showing the differences between Christianity and Judaism that in the process they end up distorting Judaism. Let me start with an example that for the last fifteen years must be considered a Jewish teaching. By Jewish teaching I mean a view that is taught in the observant community. This doesn't mean that all or even most people will agree with it, anymore than they agree with the ideas of Daas Torah, religious Zionism, religious anti-Zionism, or that the *shirayim* of the Rebbe has mystical significance. But agree or not, these are clearly Jewish teachings.

Today it must be admitted that Judaism and Christianity share a belief in the Second Coming of the Messiah. While this is an obligatory belief for Christians, for Jews it is, like so many other notions, simply an option. The truth of my statement is seen in the fact that messianist Habad is part and parcel of traditional Judaism, and, scandal or not, most of the leading Torah authorities have been indifferent to this. That is, they see it as a mistaken belief, but not one that pushes its adherent out of the fold. In other words, it is like so many other false ideas in Judaism, all of which fall under the rubric "Jewish beliefs." As long as these beliefs don't cross any red lines, the adherents are regarded as part of the traditional Jewish community.

To give a parallel example, many people reading this post are good rationalists, and therefore regard astrology as quite foolish. But we are all well aware of the many Jewish teachers who taught the efficacy of this system. Therefore, astrology must be regarded as an acceptable belief for adherents of traditional Judaism. Whether it is correct or not is a completely different matter, and if the latter criteria determines whether something is included under the rubric of traditional Judaism, then it will be a small tent indeed.

Unlike Professor David Berger, it doesn't overly concern me that the belief in a Second Coming didn't exist twenty years ago. After all, Judaism is a developing religion. Two hundred years ago leading Torah scholars criticized Hasidism for advocating all sorts of new ideas, and yet these too became part of Judaism. In another fifty years the notion of a Jewish Second Coming will probably be seen by most as just another Hasidic eccentricity (albeit the province of only one sect), up there with prayers after the proper time and *shirayim*. The important point for me is what makes a belief an acceptable one in Judaism is not whether it is new, and certainly not whether it is correct, but whether the rabbinic leaders tolerate it. Over time they have shown that they can tolerate all sorts of foolish doctrines, Habad messianism being merely the latest.

Professor Berger argued his case valiantly, but it has largely fallen on deaf ears, and this includes the ears of great Torah scholars. So, like it or not, traditional Judaism now encompasses hasidim and mitnagdim, rationalists and kabbalists, Zionists and anti-Zionists, and those who think the Messiah will be coming for the first time together with those who think it will be a return trip.

What has occurred with Habad messianism and its painless integration into wider Orthodoxy can also teach us something with regard to the history of Judaism and Christianity. Had Paul not insisted on his antinomian path, that is, had the Law remained central to early Christianity, there is no reason to assume that there would have been a break with Pharisaic Judaism.

When thinking about Habad, there is one other point we have to bear in mind. There are great Torah scholars who unfortunately believe the messianic foolishness, and they should be treated with respect. After all, R. Hayyim Joseph David Azulai, the Hida, quoted from the works of scholars who continued to believe in Shabbetai Zvi even after his apostasy.³³ He certainly opposed their Sabbatianism, and we must oppose the Habad messianism, but one's religious legitimacy in contemporary Orthodoxy is not destroyed because of the belief in a false Messiah.

Let me now return to an issue mentioned already, namely, the naivete in dealing with the differences between Judaism and Christianity that is common in Orthodox circles, especially among those who engage in apologetics and kiruv type activities. To give an example that I have both seen in print and heard in lectures, there are those who talk about how compared to Catholicism Judaism is a much more realistic religion when it comes to divorce, in that it permits it if people don't get along. That is fine, as far as it goes, but some people then go overboard and denigrate any outlook that opposes "Judaism's position." In doing so, these well-meaning people end up of denigrating Beit Shammai's view. Some will recall that Beit Shammai said that "a man may not divorce his wife unless he has found in her some unseemly conduct" (*Gittin* 9:10), which means unchastity. Now the halakhah is not in accord with Beit Shammai, but his is certainly a Jewish position. Any presentation of Judaism that presents the standard view of divorce as "the" Jewish position, and denigrates any other approach, has the unintended consequence of denigrating Beit Shammai as not having had a "Jewish" position.

In other words, it is disparaging to Beit Shammai for any contemporary to speak about how Beit Hillel's view is "better" than that of Beit Shammai. In fact, there are traditional sources that speak about how in Messianic days the halakhah will follow Beit Shammai, in this and in all other disputes. I think the traditional position would be to assert that Beit Hillel's position is not objectively any "better", and certainly not more ethical, than that of Beit Shammai. Furthermore, a number of poskim actually hold that Beit Hillel and Beit Shammai only dispute about a second (or subsequent) marriage, but that with regard to the first marriage, Beit Hillel agrees with Beit Shammai that a man can divorce his wife only if he finds a matter of unchastity. R. Solomon ben Simeon Duran goes even further and asserts that in this dispute the halakhah is actually in accord with Beit Shammai!³⁴ אכה עמשמ ה"בכ הכלה ה"בו ש"בד ג"עאוי³⁴ ש"בכ הכלהד

This is not the accepted halakhah, but it illustrates how unseemly it is to portray a position held by important poskim as out of touch or foolish. As mentioned above, I have seen many times when apologists try to show the beauty of Judaism by contrasting it positively with some "non-Jewish" position (on the unsophisticated assumption that the best way to better their position is by denigrating another). As noted, I have also observed that sometimes the position they are denigrating happens to also be a Jewish position (just not the accepted position). Of course, when you point this out to them, and show them that the way they were arguing had the unintended consequence of ridiculing a position held by traditional Jewish figures, they immediately apologize and give assurances that they won't do so again.

My question always is, why not? Five minutes ago they were happy to declare how unfair or foolish a certain position is, and once being informed that the position is also held by Jewish

thinkers they drop their argument like a hot potato. Are we to conclude that it is not the inherent logic of an argument that gives it validity, but only who its adherents are? Does an approach only stop being ridiculous when the polemicist learns that it was held by a traditional thinker? Obviously yes, which leads to the conclusion that there is no purpose in the polemicist arguing the merits of his case at all, since everything he states is only conditional. In other words, the polemicist is telling us: "I can attack a position as being foolish and illogical, but this is only when I think the position is held by non-Jewish or non-traditional thinkers. Once I learn that the position is also held by traditional thinkers, all of my previous words of criticism should be regarded as null and void." This is another example of what elsewhere I have termed the "elastic" nature of Jewish apologetics and polemics.

With this in mind, let me now say something that I know will make many people uncomfortable, but which I have felt for a long time. Throughout Jewish literature one can find any number of explanations as to how the notion of the Trinity is in direct opposition to Jewish teachings, since Judaism demands a simple, unified God. There is no doubt that for much of our history this was the standard view. However, once the doctrine of the sefirot arises on the scene, matters change. Many of the arguments put forth by kabbalists to explain why the belief in the sefirot does not detract from God's essential unity could also be used to justify the Trinity, a fact recognized by the opponents of the sefirotic doctrine. Since the doctrine of the sefirot has become part and parcel of Judaism, we must now acknowledge that Judaism does not require a simple Maimonidean-like, divine unity.

In fact, without any reference to the sefirot, R. Judah Aryeh Modena was able to conclude that one could indeed justify the notion of the Trinity so that it did not stand in opposition to basic Jewish beliefs about God's unity. As Modena points out in his anti-Christian polemic, *Magen va-Herev*, the real Jewish objection to the Christian godhead is not found in any notion of a Triune God, but in the Christian doctrine of the Incarnation.³⁵ The idea that God assumed human form, i.e., that a human is also God, is regarded by us as way over the line. This is not only because it deifies a human, but also because there is a great difference between a spiritual God divided into different "parts," and an actual physical division in God. The latter is certainly in violation of God's unity even according to the most extreme sefirotic formulations. (It would not, however, appear to be in violation of R. Moses Taku's understanding of God, since he posits that God can assume form in this world at the same time that He is in the heavens. For Taku, Christianity's heresy would thus be seen only in their worship of a human, which is *avodah zarah*.)

From the Trinity, let's turn to Virgin Birth, another phenomenon which everyone knows is not a Jewish concept, or is it? If by Virgin Birth one means conception through the agency of God, then there is no such concept in Judaism. Yet if by Virgin Birth we also include conception without the presence of human sperm, then as we shall soon see, this indeed accepted by some scholars. (I stress human sperm, so that we can exclude the legend of Ben Sira's conception, which occurred by means of a bathtub, not to mention all of the responsa dealing with artificial insemination.)

Pre-modern man believed in all sorts of strange things, one of which was the concept of the incubus and the succubus, which was found in many cultures. The idea was that male and female demons would have sex with humans while they slept. Among the outstanding Christian figures who believed the notion possible include Augustine and Aquinas.³⁶ This was an especially good way to explain an unwanted pregnancy: just blame it on the demon. While the classic example of the incubus is when a male demon comes upon a sleeping woman, there were times when this happened while both parties were awake, and we will soon see

such a case in Jewish history. Lest one think that this is only a pre-modern superstition, what about all those people who claim to have had sexual relations with aliens who abducted them?³⁷

As the superstitions in Jewish society have often mirrored those of the dominant culture, we shouldn't be surprised that sex with demons comes up in our literature. Already the Talmud (*Eruvin* 18b) speaks of Adam begetting various types of demons. This source doesn't say who the mother was, but since it wasn't Eve it must be a female demon. Yet the Talmud is quick to note that Adam never actually had sex with this female demon. Rather, she impregnated herself with his sperm that was emitted accidentally. Throughout Jewish history there were women who were believed to have had sex with demons, and this raised halakhic issues that had to be dealt with. There is no need for me to give various sources on this as they have been nicely collected by Hannah G. Sprecher in a fascinating article.³⁸ I will just mention one point which I find interesting, and which I mentioned in one of my lectures on R. Ben Zion Uziel.³⁹ While R. Uziel is in many respects a model for a Modern Orthodox posek, it is quite jarring to find that he too takes seriously the claim that a woman was intimate with a demon. Instead of sending her to a psychologist, he devotes great efforts to showing that she can remain with her kohen husband.⁴⁰ That poskim would discuss this sort of thing is not surprising, and in an earlier post I mentioned a current talmid chacham who discusses if one can eat the flesh of a demon. Similarly, Sprecher cites a twentieth-century work that deals with circumcising a child whose father was a demon.⁴¹ Yet to find R. Uziel, a supposedly modern posek, also taking this very seriously was quite a surprise to me. I guess the greater surprise was that of the various women involved with the demons. While some were no doubt off their rocker, others presumably just invented the story to save themselves from the shame of an improper relationship and its consequences. Imagine their surprise when instead of being condemned for their illicit affair, the rabbis actually believed the story that they made up, namely, that the man they had sex with was really a demon!⁴²

Once a woman is believed to have had sex with a demon, and certainly if she had a child in this fashion, people are generally not going to want to have anything to do with her and her family. Being descended from the Devil is hardly the best yichus. Yet much of the world began like this, at least according to one early interpretation. Targum Ps.-Jonathan to Gen. 4:1 explains that Cain's father is not Adam, but Sammael, who also is known as Satan and the Angel of Death. As James Kugel has shown, this tradition is found in other early sources, such as 1 John 3:12 which describes Cain as being "of the Evil One." *Pirkei de-Rabbi Eliezer* 21 describes how the serpent impregnated Eve, and we know from other sources that the serpent is none other than Sammael. While we might be inclined to smile and regard this all as pleasant folklore, there is actually much more here than meets the eye. As Kugel brilliantly notes, this portrayal of Cain serves to explain why God did not accept his sacrifice, a point that is never explained in the text. In addition, it helps solve the puzzling comment of Eve (Gen. 4:1): "I have gotten a man with the Lord," understanding "man" to mean angel, as is elsewhere found in Scripture.⁴³

Lest one think that in modern times tales of the Devil's children are only to be found in novels and on the big screen – one immediately thinks of *Rosemary's Baby* and *The Omen* – let me tell you a fascinating story. In the beginning of the nineteenth century a married woman named Yittel Levkovich gave birth to a child which, we are told, was obviously not her husband's. Yittel claimed that she had been raped by a male demon. This claim was accepted and the woman was not regarded as an adulteress nor was the child regarded as a mamzer. Yet other Jews refused to marry with the descendants of this woman, and these descendants were known as "Chitshers." Matters got to be so bad that in 1926 a broadside was published signed

by many Hungarian rabbis declaring that there was no problem marrying into the Chitshers. Among the signatories was the young R. Joel Teitelbaum, the rav of Satmar.

Despite this plea, there were those who continued to shun the Chitchers, and even to this day there are families in the Hungarian hasidic world who will refuse to intermarry with other Hungarian hasidim since the latter are descended from Yittel and the demon. Tying in with the Christian theme with which I began this post, there was even a belief that a Chitcher has the image of a cross under his skin opposite the heart!⁴⁴ Take a look at the end of this responsum.

סימן קכג

ה' לס' שמוח תרצ"ט לפ"ק פעטראשעני יצ"ו.

שוכט"ס לכבוד אהו' מחו' הרב הגאון המהולל יקר הערך צ"ת וכו' כש"ח מוה"ר יוסף צבי האלפערט נ"י אבדק"ק שאמקוט והגליל יצ"ו.

מכתבו היקר הגיעני וכו' ואשר נועץ עמי מה לעשות באחד שעשה שידוך עם בתו עם בן פלוני ואח"כ נודע לי שמעוררים על משפחת התתן שהוא ממשפחת ה"היטשער" אשר רבים נמנעים מהם להתחתן עמהם, האם יכול לנתק הקשר האירוסין בלי שיהי מחויב לשלם לו קנס. אמנם התתן ואביו טוענים שהמה אינם ממשפחה זו והכל הוא שקר ורק הבריות מחמת קנאה וזנאא וכיו"ב העלילו עליהם ז"א. הנה אהו' מחותני נ"י הביא הרבה שיטות בזה ואין לי לתוסף ע"ז הרבה רק מעט מועיר והיינו תשו' הריב"ש סי' תצ"ט שכי' דכל דפרישי אינשי נקרא מום ובתשובת חיים ז"אל להגאון החיד"א סי' ע"ד כי באחד שקנה סחורה ואח"כ נודע שהרב פרח טושן חושש עליו שי"ב איסור כלאים ובאמת אפי' כלאים דרבנן לא הוי מ"מ פוסק דיכול לחזור ממקחו על סמך תשו' הריב"ש הנ"ל ע"ש. א"כ גם בנידון דידן הוא כן אעפ"י שהאב והבן טוענים ששקר ענו בהם בכ"ז הוי מום ויכול אבי הכלה לחזור מהשידוך ואין צריך לשלם שום כנס כנלענ"ד.

ולמה שבקשני הדגני שאברר לו מה זה טובה של אותה המספחה ומאין מחצבתה ולמה הבריות מעררי עלי ומנעים א"ע מלהתחתן עמהם. הנה לעשות רצונו הטוב הפצתי ואני אגלה לו מה ששמעתי בלמדי עוד אצל זקני הגאון ז"ל בטשעטשעוויטץ הסמוך לקהל סטראפקעף אשר שם נעשה המעשה המכוערה דהיינו בכפר היטשעף שהוא בגליל סטראפקעף ועל שם הכפר הזה נקראת משפחה זו "היטשער" והיינו העובדא הכי הוה. אשה א' מכפר הנ"ל באתה בלילה מבית הטבילה ונאנסה בדרך מערל א' וי"א משד א' ומביאה זו נולד בן הנקרא מיכל וי"א שהי' לו שם אחר וממנו נתרבה משפחה גדולה ונחיישבה בגליל אונערי לאנד ולכן באבערלאנד אין יודעים כלום מזה ורובם מהם נתיישבו בקהלות הסמוכות לסטראפקעף כמו טשעטשעוויטץ מיהאלעוויטץ הומענע וכיו"ב. שמעתי מאנשים נאמנים שהי' דב גאון א' בסטראפקעף ששמו הי' ר' חיים יוסף ז"ל והי' מוכרח לברוח משם בלילה מחמת שרוב הקהלה הוא מאלו ואלו המה בעלי מחלוקת וריב יען שאינם מורע ישראל אשר יאמר עליהם שהמה ביישנים ובני רחמנים [ויעיי' ביצה כ"ה]

פסחים כ"ב והרי אבמה"ח ס"ל ר' אביהו כראב"י ור"ל דנפ"ל איסור אבמה"ח מטרפה ושם כי במי' שמוחר בהנאה דכי' לכלב תשליכון אוחו עכת"ד. הנה הוא קו' נאה ומצאחי בירחון ת"ח משנת תרע"ב סי' צ"ט שמביאה בשם ת"ח א' ומסיים שם בצ"ע. אמנם י"ל דהנה הצליח הקי' שם מאי פריך והרי אבמה"ח דלמא ס"ל כר"ל דח"ש מותר ואירי בח"ש דלבנ"ח אסור כי ל"נ שיעורין לבנ"ח ולפ"ע ליכא כי לישראל ח"ש מותר. ות"י דר"א בודאי כר"ו רבי' ס"ל דח"ש אסור ע"ש. ומעתה י"ל דהה"ד ג"כ ס"ל כר"ו רבי' דנפ"ל איסור אבמה"ח מל"ת הנפש עם הבשר ולא מטרפה כמ"ש חולין קכ"ב ע"ש. ועפ"י מובן לי מ"ש התוס' חולין ל"ג דר"ל ל"ל מא"מ וכן מובן לי מ"ס ראב"י ל"ל מא"מ כי י"ל בשלמא ר"ו דנפ"ל איסור אבמה"ח מל"ת הנפש עם הבשר דהוי כעין לישנא הכי בבנ"ח בפי' נח ל"ת הנפש וגו' וא"כ השתי אזהרו' נאמרו לישראל ולבנ"ח דהיינו שהנפש קאי על אבמה"ח לכן א"א לחלק ביניהן אלא בע"כ אמר' מא"מ דלישראל שרי ולבנ"ח אסור דא"כ זה הוי כבי' הפכים בנושא א' משא"כ לראב"י ור"ל שס"ל דנפ"ל אבמה"ח מטרפה ממילא אינם מוכרחי' לסבור מא"מ.

ועי"ל דהנה הח"ס ז"ל הביא קו' ר"ט שיער על המכילתא שד"א דטרפה אסורה בהנאה אמרת קו"ח מנבלה שמטמאה ומותרת בהנאה כש"כ טרפה שאינה מטמאה בודאי מותרת בהנאה וק' א"כ מנ"ל לר"א מנבלה איסה"נ כמ"ש פסחים כ"א דלמא משו"ה כי התורה מנבלה היתר הנאה דלא נימא להיפך מה טרפה שאינה מטמאה אסורה בהנאה כש"כ נבלה דמטמאה ודאי אסורה בהנאה. ות"י הח"ס דקיי"ל דטרפה אינה חי' וגם ר"א ס"ל כן כמ"ש תוס' זבחים ס"ט א"כ בודאי פשיטא דקרא דלכלב תשליכון אותו לכמ"ש הרמב"ם בשר הראוי לכלב ואין שום ס"ד דלאיסה"נ אתי ולכלבי הפקר לכן שפיר יליף ר"א מנבלה משא"כ המכילתא הוא רבי ישמעאל והוא ס"ל ט"ח וא"כ צריכים למידחק במי' בשר הראוי לכלב שפיר הוי בעינן למימר לכלבי הפקר ולאיסה"נ אי לאו הקו"ח מנבלה ע"ש בחי' עמ"ס חולין רפא"ט. וא"כ י"ל ראב"י דס"ל ג"כ ט"ח כמ"ש הלב ארי' חולין י"א כי הוא ס"ל חולין ג"ז דטרפה יולדת א"כ כש"כ דס"ל דט"ח כמ"ש ג"כ בתוס' שם ע"ש. א"כ ממילא אאפ"ל שס"ל ר' אביהו כראב"י האיר' יליף איסה"נ דהיינו כ"מ שנא' ל"ת וכו' אחר איסור אכילה ואחד איסה"נ במשמע מנבלה הלא אז הדרה קו' הגאון ר"ט שיער הנ"ל לדוכתא ואם הוא בכ"ז נפ"ל מנבלה ש"מ בע"כ דלית לי' כראב"י לכן פריך הגמרא שפיר והרי אבמה"ח וכו' ודו"ק. והנני בזה רבך תאוהבך ודשו"ט.

אשר אנשיל יהודא טיללעך

סימן קכד

ב"ה ג' לט' יחזי תרע"ב לפ"ק פעטראשעני יצ"ו.

שו"ר לכבוד ידידי הרבני הח"ב טובא טובא איש
חמודות מתנהג בחסידות וכו' כש"ת מוה"ר דוד
ג"ש ג"י.

מכתבו הגיעני ואשר נועץ עמי מה לו לעשות בס"ת שנפל
טיסת דיו על השם והס"ת כבר נכתב כהוגן. הנה מעכ"ה
נ"י מביא הרבה שיטות בזה אשר מבוראים בשו"ת של גאוני
קדמאי ובתראי. ולי אין להוסיף ע"ז הרבה רק כיון שהס"ת
כבר נכתב כהוגן בקדושה אסור למחוק את השם מן התורה
וכן ע"י תינוק אסור כמ"ש בשו"ת דברי חיים ח"ב סי' ק"ד
רק אולי אפשר להתיר לגרור את הטיפה דיו יען שהטיפה
אינה קודש ואם שע"כ יגרר גם אות מן השם או גם בלא
גרירת האות מהשם יפסול משום חק תוכות ז"א אסור יען
שהוא דבר שאינו מתכוון ומותר בכל התורה כולה ופסיק
רישא ליכא יען שפ"ר לא הוי לכמה פוסקי' רק דרבנן וג"כ
רק כאיסור שבת אבל בשאר איסורי' לא משום דהוי לא
אפשר ולא מכוון ולאחר שבכר נפסל האות יכולי' לתקן
ואי משום שלא יהי' כסדרן אין בכך כלום כי כבר כ' הגאון
בעל דברי חיים ז"ל בכמה תשובות דבס"ת אפי' השם א"צ
להיות כסדרן ולצאת י"ח כל השיטות אפשר לעבור בקולמוס
כל השם ויובשר אליבא דכ"ע כנלענ"ד. כ"ז כתבתי בקיצור
נמרץ כי חשבתי א"צ להאריך לפניו יען שפתוחי' לפניו כל
השיטות והסברות אשר נאמרו ונשנו בזה כמו שכתבתי לעיל
ולא באתי רק להוסיף קצת על דבריו. והיות שעדיין צעיר
אנכי לימים ולא הרהבתי בעצמי להתיר ענין כזה לכן שאלתי
גם את פי מו"ח הגאון ז"ל והסכים עמדי.

ומה שהקי' מעכ"ה נ"י מאי משני הגמרא פסחים מ"ד משום
דהוי נזיר וחטאת. ב"כ הבאים כאחד הלא חטאת לא
הוי אלא איסור עשה והיינו יקדש ונזיר הוי איסור ל"ח
והיכא דלא הוי שניהן בלאו או בעשה שפיר מלמדי' כמ"ש
התוס' שבת ע' עכת"ד. והוא קו' נאה אמנם מצאתי' בשו"ת
מהרי"א האו"ח סי' קנ"ג שהביאה בשם הגאון ר"א האראוויטץ
ז"ל ע"ש. ונלענ"ד ליישבה ע"ד קצרה כי טעמא מאי שבעי'
שיהי' שניהם שוין בעשה או בל"ת דאל"כ י"ל מה לנזיר
שהוא בל"ת תאמר חטאת שהוא בעשה וכו' הלא לעומת זה
י"ל מה לחטאת שהוא קדשים שחמור טפי והרא"י שפתח
ואמר נכתוב רחמנא בקדשים ותיתי נזיר מנ"י ומשני חולין

וגם בטשעטשעוויץ נחיישכו הרבה מהם ולכן הי' מוכרח
הגאון ר' יוסף גרינוואלד וקנו של הגאון ר"מ גו"ד ז"ל
אבדק"ק חוסט לברוח משם כי אלו האנשים העיוז כ"כ נגדו
עד שבאמצע הדרשה תפסו בזקנו והשליכו אותו מביהכנ"ס
חוצה ר"ל. והרב הגה"צ ר' מאיר כהנא ז"ל וקנו של הגאון
ר' יוסף אלימלך כהנא אבדק"ק זשאדאני ואח"כ אבדק"ק
צעהלים ואונגוואר ג"כ הי' לו צער גדול שם כי העלילה
עליו שבא על שפחתו ר"ל עד שכל הרבנים גורו שלא ירהיב
שום רב לבוא שמה להיות לע"פ הללו אב"ד, רק אחרי
הפצרה רבה וגדולה שקבלו על עצמם שלא יעיוז עור, קיבל
זקני הגאון ר"י ברוך ז"ל הרבנות שם ובהסכמת הצדיק
מליסקא ז"ל. אבל גם לו הי' שם הרבה עגמת נפש ותמיד
התחרט מדוע עזב קהל באלקאני קהלה שלימה נאה וחסידה
ועיי' בס' תולדות רבני הגר ששם מוכיר המחבר קצת מזה
הע"נ שהי' לו לוקני ז"ל ואילו הייתי רוצה לפרט הכל או
קצרה היריעה מהכיל.

רק מעשה א' אביא ויראה הדג"י כמה גדולי' צדיקי' במיתתן
הנה בעת שישבתי בבית חמי הגאון ז"ל בסערענטש
השתדך רב א' שהי' נכדו של הח"ס ז"ל עם רב א' שהי'
אשתו ממשפחה זו ומחמת שהרב נכדו של הח"ס הי' מגליל
העליון לא ידע מענין זה כנ"ל לכן בא עם הרב הסמוך שהי'
אשתו ממשפחה זו בקשר האירוסין וכאשר נודע זאת למו"ח
הגאון ז"ל התמרר מאד והי' לו עגמת נפש גדולה על שזרע
קודש של הח"ס ז"ל נטמע במשפחה כזו וכ"פ רצה לכתוב
להרב הזה שינתק האירוסין ואמר שמצוה אית בי' אבל
בני ביתו לא הגיחו כי הוא דבר מכוער שהרב היושב על
מדין יעשה זאת ושתק אבל ע"נ לא שקטה. ומה עשה הקב"ה
שמתה בתו של אותו הרב [נכדו של הח"ס] שנה א' אחרי
החתונה ולא נשאר זרע מזה הוונג ואו אמר מו"ח ז"ל עכשיו
נראה עין בעין גדול כחו של הח"ס ז"ל וגדולי' צדיקי'
במיתתו וכו'. — והגם שלפני איזה שנים יצא קול קורא
נכתב ונחתם מכמה רבנים דמדינתנו שאסר לעורר על
משפחה זו בכ"ז פוק חוי מאי עמא דבר הקול קורא זה לא
הועיל מאומה והבדיות מונעי' א"ע מלהתחנן עמהם כמו
מקדם. וקודם חתימת מכתבי אוכריה ג"כ מה ששמעתי ממו"ח
ז"ל שאמר שהרב מסטראפקעף הג"ל אמד שמי שהוא
ממשפחה זו אפי' הכשר שבהם יש לו שתי וערב תחת עורו
כנגד לבו. וחי' הטוב ישמרנו מכל פגע רעה כא"צ הטובה
ונפש מחותנו הדשת"ה.

אשר אנשיל יהודא מילע"ה

This is a fascinating topic, and those who want more details should consult the previously mentioned article by Sprecher, from which I took the information mentioned until now. One aspect of the story that appeared too late to be included by Sprecher is mentioned by Jerome Mintz, and shows how despite R. Yoel Teitelbaum's words of support for the Chitschers, this did not carry on to one of the inheritors of his throne.

Jerome Mintz records the following from a Satmar informant:

The Satmar Rebbe's son, the oldest son, Aaron, he has sometimes a big mouth. Aaron, the Rebbe's son, gave a speech and he called Ableson's⁴⁵ mother a *hatzufah* [impudent woman]. "This Ableson's mother--that impudent woman with her *tsiganer* [gypsy] family--came to the shul and starts yelling." You know, with that phrase he was trying to bring up an old pain.

There is an old story about the Ableson family, given only from mouth to ear, about the quality of their family. There were some rumors about a hundred years ago about the Ableson family, that it's not so spotless. A woman in the family had a relationship with some demon or something and that's how the branch of the family got started. . . . Nobody knows how she became pregnant. She went away to a different town and came back pregnant and she didn't have any love affair. She was a virgin. She was still a virgin. . . . It's written in a lot of books at that time. The Kotsker, one of the big rabbis, said that one of their ancestors was made pregnant by a demon.

This goes back six generations. The family is spread out and the descendants feel a little guilty. They try to behave, you know, so that nobody should throw it back at them. The family is so widespread because they're so rich. They've gotten into every family. They're very aggressive people, probably because they come from the devil. . . . Even today when somebody is making a marriage arrangement he wants to find out if the family is not from the witches. I know that my mother and my father when they made a marriage arrangement, it was a day before they left the country, they found out if there's a witch or not.⁴⁶

The R. Aaron mentioned in this story is one of the current Satmar Rebbes.

We find another example where a large family was ostracized in this fashion. The problem here was especially acute as many great Torah scholars had married into this family, and now aspersions were being cast on it. Those casting the aspersions referred to the family members as Nadler, which has the connotation of mamzer. (As with the term mamzer, it was also used as a general term of abuse and is the subject of a responsum of R. Solomon Luria.⁴⁷) Because of the growing calumnies against innocent families, the Maharal and numerous other great rabbis were forced to publicly support them and condemn all who would question their *yichus*.⁴⁸ What I don't understand is how, considering the base origin of the term "Nadler" and how it was used in such an abusive fashion, that the word actually became an acceptable last name. Indeed, it is now more than acceptable and people are proud to have this name, which they share with two outstanding scholars, not to mention my former congressman.

* * *

Returning to the issue of Christianity, many have discussed whether or not it is considered *avodah zarah*. I will deal with this at a future time, but now I want to raise another issue which I mentioned briefly in *Limits of Orthodox Theology*: What is worse, atheism or *avodah zarah*? Subsequent to the book's appearance I found more sources related to this, which I hope to come back to in a future post. For now, let me just call attention to found a very interesting comment of R. David Zvi Hoffmann with regard to *avodah zarah*. It is found in R. Hayyim Hirschenson's journal, *Ha-Misderonah* 1 (1885), p. 137. In speaking about the practice of the Talmud to sometime use euphemistic language, he claims that the expression "Grave is *avodah zarah*, for whoever denies it is as if he accepts the whole Torah" (*Hullin* 5a and

parallels) is an example of this. In other words, the Talmud really means: "Grave is *avodah zarah*, for whoever accepts it denies the entire Torah." I had never thought of this and it is certainly interesting. Hoffmann is himself led to this interpretation, which he sees as obvious, because if it was really the case that one who rejected *avodah zarah* would be regarded as one who accepts the Torah, how come a public Sabbath violator who rejects *avodah zarah* is still regarded as having rejected the Torah?

Nevertheless, despite its immediate appeal, I don't think Hoffmann's interpretation can be accepted, and the passage is not to be regarded as euphemistic. Rather, it is an example of the Sages' exaggerations, which we find in other places as well, such as where they state that a certain commandment is equal to all six hundred thirteen. In fact, I have what I think is conclusive proof that Hoffmann is mistaken in regarding this passage as expressing a euphemism. In *Megillah* 13a the passage appears in an altered form: "Anyone who repudiates *avodah zarah* is called 'a Jew.'" The Talmud then cites a biblical proof text to support this statement which shows that it was not meant to be understood as a euphemism.

While on the subject of Christianity, I would like to respond to the reaction of some who read my opinion piece on John Hagee. There I showed that what got so many upset, namely, Hagee's theological understanding of the Holocaust, was actually shared by R. Zvi Yehudah Kook.⁴⁹ Of course, I understand why people feel that attempting to explain the Holocaust is improper. I happen to share this sentiment. Yet if people are upset by what Hagee said, just wait until they see the following, which out of all the supposed justifications for the Holocaust, which have ranged the gamut, this is surely the most bizarre. What can I say, other than that it never ceases to amaze me how some of the greatest scholars we have say some of the craziest stuff imaginable.

I am referring to one of the reasons R. Ovadiah Hadaya gives to explain the Holocaust. He saw it as God's way of cleansing the world of all the mamzerim!⁵⁰ How a sensitive scholar, which Hadaya certainly was,⁵¹ could offer such an explanation really boggles the mind. To think that the cruel murder of six million, including over a million children, not to mention all of the other terrible results of the Holocaust, was in order to complete some yichus program is beyond strange. I can't recall who it was who said that any attempts at explaining suffering are invalid if you are not prepared to tell it to a parent whose child is dying of cancer. I certainly can't imagine anyone telling a parent that his family was wiped out in the Holocaust in order to get rid of the mamzerim! (A well-known American haredi rosh yeshiva responded very strongly when told about what Hadaya wrote, but I don't have permission to quote his words.) Prof. David Halivni commented, when I told him about Hadaya's view, that Sephardim often don't get it when it comes to the Holocaust. I remember thinking about Halivni's comment when R. Ovadiah Yosef gave his own explanation for the Holocaust, some years ago, one which created such a storm that Holocaust survivors protested outside his home. He claimed that the dead were really reincarnated souls suffering for their sins in previous lifetimes.

Although he doesn't mention it, Hadaya's view is obviously based on the Jerusalem Talmud, *Yevamot* 8:3, which speaks of a catastrophe coming on the world every few generations which destroys both mamzerim and non-mamzerim (the latter are destroyed as well, so that it not be known who committed the sin.) *Sefer Hasidim*, ed. Margalioth, no. 213, repeats this teaching.

יש הריגת דבר או חרב שלא נגזר אלא לכלות הממזרים וכדי שלא לביישם שאם לא ימותו רק הממזרים היה נודע
היתה המשפחה מתביישת מפני חברתה [ולכן נוטל הכשרים עמהם]

It is with regard to the issue of the mamzer that one can see manifested a point I have often thought about. The great classical historian Moses Finley spoke of what he termed the "teleological fallacy" in the interpretation of historical change. "It consists in assuming the existence from the beginning of time, so to speak, of the writer's values . . . and in then examining all earlier thought and practice as if they were, or ought to have been, on the road to this realization, as if men in other periods were asking the same questions and facing the same problems as those of the historian and his world."⁵²

The fact is that earlier generations often thought very differently about things. For example, we are much more sensitive to matters such as human rights than they were. They took slavery for granted, while the very concept of owning another person is the most detestable thing imaginable to us. Followers of R. Kook will put all of this in a religious framework, and see it as humanity's development as it gets closer to the Messianic era.

We see this very clearly when it comes to the issue of the mamzer who through no fault of his own suffers terribly. The Orthodox community is very sympathetic to his fate, and it is unimaginable that people today will, as in the past express satisfaction at the death of a mamzer.⁵³ A difficulty with the sympathetic approach is the *Shulhan Arukh's* ruling (*Yoreh Deah* 265:4) that when the mamzer is born *מימחר וילע מישקבמ ויא*. The Shakh writes: *ויהא רמולכ*. *מהניבש מירזממה מייקל מישודקה לארשיל והל אהני אלד מעטמ*, 'וכ דליה תא מייק מירמוא'. In fact, according to R. Bahya ibn Paquda (*Hovot ha-Levavot, Sha'ar ha-Teshuvah*, ch. 10), if one is responsible for bringing a mamzer into the world, and then does a proper teshuvah, "God will destroy the offspring." Needless to say, if a modern person believed this to be true, it hardly would encourage him or her to do teshuvah.⁵⁴ (Philippe Ariès could perhaps have cited this text in order to bolster his controversial thesis that medieval parents were indifferent to their children, as it is unimaginable that a contemporary preacher would tell parents that the result of their *teshuvah* would mean the death of their child.)

What, from today's standards, would be the most cruel thing imaginable, is described by R. Ishmael ha-Kohen of Modena, the last great Italian posek (*Zera Emet* 3:111).⁵⁵ R. Ishmael rules that the word "*mamzer*" should be tattooed (by a non-Jew) on a mamzer baby's forehead!⁵⁶ This will prevent him from being able to marry. I know that no contemporary rabbi would recommend such a step (although the *Zera Emet's* advice is quoted in R. Zvi Hirsch Shapira's *Darkhei Teshuvah, Yoreh Deah* 190:11). Nor would anyone want the mamzer's house or grave to be plastered, as was apparently the opinion of some in talmudic days, in order that people would be able to shun him.⁵⁷

This leads to an issue that would require an entire volume to adequately deal with it. This volume would trace the Orthodox confrontation with changing values and show how Orthodox practices and ideas have responded. It is obvious that there is much more in the way of reevaluation of prior ideas in the Modern Orthodox world, but there is also a great deal in the haredi world as well. As noted already, I have observed this personally when haredi figures, and not only of the kiruv variety, have asserted that certain ideas and concepts are in opposition to Jewish values, and have then been flustered when I showed them that great figures of the past have actually put forth what today is regarded, even in the haredi world, as immoral statements.

Examples of this are easy to find. R. Jehiel Jacob Weinberg pointed to one: the Rambam's ruling in *Issurei Biah* 12:10. I am reluctant to spell this out here, because I know how it could be used by anti-Semites, so let me just quote it in Hebrew.

ישראל שבא על הגויה--בין קטנה בת שלוש שנים ויום אחד [!] בין גדולה, בין פנויה בין אשת איש, ואפילו היה קטן בן תשע שנים ויום אחד--כיון שבא על הגויה בזדון, הרי זו נהרגת מפני שבאת לישראל תקלה על ידיה, כבהמה.

I don't think that there is any sane person in the world, no matter what community he is in, who would advocate this in modern times.⁵⁸ Furthermore, if you defend, even in the most right wing community, what Maimonides says here with regard to an innocent child, you will be regarded as evil. The traditional commentators are at a loss to explain where Maimonides got this.

This example was pointed to by Weinberg as one of the traditional passages which most distressed him. Let me give another example which again illustrates how often contemporary moral judgments are far removed from those of previous generations, even when dealing with great Jewish leaders. R. Zvi Hirsch Chajes claims that a king has the right to kill the innocent children of someone who rebels, because of *tikun olam*,⁵⁹ and the Hatam Sofer, in a letter to Chajes, find this a reasonable position.⁶⁰ The purpose of the killing would be to put fear into others, who while may be willing to risk their own lives in rebellion, would be deterred if their families were wiped out. This is certainly not what anyone today would regard as "Jewish values."⁶¹ In fact, Seforno, Netziv, and *Meshekh Hokhmah*, in their commentaries to Deut. 24:16 ("Children shall not be put to death for the fathers"), specifically reject this possibility, with Seforno noting how this was a typical Gentile practice that the Torah is legislating against.⁶² In such a case, we have to follow the guidance of R. Jehiel Jacob Weinberg, who believed that if there is a dispute among halakhic authorities, the poskim must reject the view that will bring Torah into disrepute in people's eyes (*Kitvei ha-Gaon Rabbi Jehiel Jacob Weinberg*, vol. 1, p. 60):

ואגלה להדר"ג [הגרא"י אונטרמן] מה שבלבבי: שמקום שיש מחלוקת הראשונים צריכים הרבנים להכריע נגד אותה הדעה, שהיא רחוקה מדעת הבריות וגורמת לזלזול וללעג נגד תוה"ק

R. Shlomo Aviner has the same approach (*Am ve-Artzo*, vol. 2, pp. 436-437) . He refuses to say that any rishon was less moral than another, but he notes that conceptions of morality change over time and not every decision of a posek is an eternal decision. Today, when we have different standards of morality than in previous days. If there is a dispute among the authorities, we should adopt the position which we regard as more moral.

וברור שבהלכה פנים לכאן ולכאן. לכן כיוון שנתיבים אלה הם נתיבים מוסריים יותר, עלינו להכריע על פיהם. לפעמים ההלכה מוכרעת, בגלל שעת הדחק, ולפעמים ההלכה מוכרעת כי כך המנהג. אם כן, בימינו 'המנהג' הוא להיות מוסרי . . . יש גם מושגים מוסריים המשתנים על פי המציאות. אב הסוטר לבנו הקטן, אינו דומה לאב הסוטר

לבנו בן השמונה עשרה. האם סטירת לחי לבנו היא מעשה מוסרי או לא מוסרי? תלוי בנסיבות. לא כל הכרעות הפוסקים הן הכרעות נצחיות. . . . במצבנו כיום ישנם שיקולים מוסריים שמצטרפים להכרעותינו ההלכתיות

In a recent by book by R. Yuval Sherlo, *Reshut ha-Rabim*, p. 102, he acknowledges moral advancement and concludes: "Despite all the hypocrisy and cynicism there is moral progress in the area of human rights. True religious people believe that this is the will of God."

All this stands in opposition to R. J. David Bleich's incredible statement: "The halakhic enterprise, of necessity, proceeds without reference or openness to, much less acceptance or rejection of, modernity. *Modernity is irrelevant to the formulation of halakhic determinations*" *Contemporary Halakhic Problems* (New York, 1995), vol. 4, p. xvii (emphasis added). This statement is wrong on so many levels that I am inclined to think that Bleich simply didn't express himself properly and meant to say something other than what appears from his words. In any event, in a future post I will return to Bleich's controversial understanding of the halakhic process.

As to the general problem of laws that trouble the ethical sense of people, we find that it is R. Kook who takes the bull by the horns and suggests a radical approach. The issue was much more vexing for R. Kook than for other sages, as in these types of matters he could not simply tell people that their consciences were leading them astray and that they should submerge their inherent feelings of right and wrong. It is R. Kook, after all, who famously says that fear of heaven cannot push aside one's natural morality (*Shemonah Kevatzim* 1:75):

אסור ליראת שמים שתדחק את המוסר הטבעי של האדם, כי אז אינה עוד יראת שמים טהורה. סימן ליראת שמים טהורה הוא, כשהמוסר הטבעי, הנטוע בטבע הישר של האדם, הולך ועולה על פיה במעלות יותר גבוהות ממה שהוא עומד מבלעדיה. אבל אם תצויר יראת שמים בתכונה כזאת, שבלא השפעתה על החיים היו החיים יותר נוטים לפעול טוב, ולהוציא אל הפועל דברים מועילים לפרט ולכלל, ועל פי השפעתה מתמעט כח הפועל ההוא, יראת שמים כזאת היא יראה פסולה.

These are incredible words. R. Kook was also "confident that if a particular moral intuition reflecting the divine will achieves widespread popularity, it will no doubt enable the halakhic authorities to find genuine textual basis for their new understanding."⁶³ R. Kook formulates his idea as follows (*Iggerot ha-Reiyah*, vol. 1, p. 103):

ואם תפול שאלה על איזה משפט שבתורה, שלפי מושגי המוסר יהיה נראה שצריך להיות מובן באופן אחר, אז אם באמת ע"פ ב"ד הגדול יוחלט שזה המשפט לא נאמר כ"א באותם התנאים שכבר אינם, ודאי ימצא ע"ז מקור בתורה.

R. Kook is not speaking about apologetics here, but a revealing of Torah truth that was previously hidden. The truth is latent, and with the development of moral ideas, which is driven by God, the new insight in the Torah becomes apparent.⁶⁴ In a volume of R. Kook's writings that appeared in 2008, he elaborates on the role of natural morality (*Kevatzim mi-Ketav Yad Kodsho*, vol. 2, p. 121 [4:16]):

כשהמוסר הטבעי מתגבר בעולם, באיזה צורה שתהיה, חייב כל אדם לקבל לתוכו אותו ממקורו, דהיינו מהתגלותו בעולם, ואת פרטיו יפלס על פי ארחות התורה. אז יעלה בידו המוסר הטהור אמיץ ומזוקק.

Another interesting statement from R. Kook on developing morality is found in *Pinkesei ha-Reiyah*, also published in 2008. (In a future post I will have more to say about these two new volumes.) In discussing how terrible war is, and the concept of a "permissible war," which is recognized as a halakhic category, he notes that the latter is only suitable for a world which hasn't developed properly, one which still sees war as a means to achieve things. This proper development can only come when all peoples have reached an elevated stage, since, *pace* Gandhi, you can't have one nation practice the higher morality of no war while other nations are still using force. R. Kook describes "permissible war" as follows (p. 29):

כל התורה הזאת של מלחמת רשות לא נאמרה כ"א לאנושיות שלא נגמרה בחינוך.

The way the Torah shows this is by the law of *yefat toar*, concerning which R. Kook writes:

כל לב יבין על נקלה כי רק לאומה שלא באה לתכלית חינוך האנושי, או יחידים מהם, יהיה הכרח לדבר כנגד יצר הרע ע"י לקיחת יפת תואר בשביה באופן המדובר. ומזה נלמד שכשם שעלינו להתרומם מדין יפת תואר, כן נזכה להתרומם מעיקר החינוך של מלחמת רשות, ונכיר שכל כלי זין אינו אלא לגנאי.

Wouldn't it be great to hear rabbis talk about stuff like this on Shabbat?! On the very next page of *Pinkesei ha-Reiyah*, R. Kook applies the same insight to the issue of slavery, seeing it as only a temporary phenomenon, one that the Torah wishes to see done away with.

In addition to what I have quoted from him in note 64, R. Norman Lamm has also recently written something else relevant to the issue being discussed:

If anyone harbors serious doubts about inevitable changes in the moral climate in favor of heightened sensitivity, consider how we would react if in our own times someone would stipulate as the *nadan* for his daughter the equivalent of the one hundred Philistine foreskins which Saul demanded of David (1 Samuel 18:25) and which dowry David later offered to him for his daughter Michal's hand in marriage (II Samuel 3:14) . . . The difference in perspective is not only a matter of esthetics and taste but also of morals.⁶⁵

He then develops the notion of a developing halakhic morality in which our evolving understanding of morality lead us back to the Torah "to rediscover what was always there in the inner folds of the Biblical texts and halakhic traditions" (pp. 226-227).

To be continued

* * *

Many of you reading this post have purchased my book *Studies in Maimonides and His Interpreters*. In the first printing there is an unfortunate typo in the very last word (there are also some typos in the Hebrew section). Although I read through the book a few times before printing, as did a copy-editor, we didn't notice it. Neither did numerous others who read the book, and I thank R. Yoel Catane, the editor of *Ha-Ma'ayan*, who was the first to catch the mistake (which has been fixed in the new printing). While the last word reads רמחמ, this should actually be מחמ, and was understood to refer to Muhammad. I was very upset upon learning of the careless typo. Seeing how I was beating myself up, my friend Shlomo Tikoshinski wrote to me as follows: וילע ויקול ניא - רמחמד ואל (see *Shabbat* 154a, *Mishneh Torah, Hilkhhot Shabbat* 20:1)

Notes

33 See Isaiah Tishby, *Netivei Emunah u-Minut* (Jerusalem, 1982), pp. 228ff.

34 *She'elot u-Teshuvot ha-Rashbash*, no. 411.

35 See Daniel J. Lasker, *Jewish Philosophical Polemics Against Christianity in the Middle Ages* (Oxford, 2007), pp. 81-82.

36 See Walter Stephens, *Demon Lovers: Witchcraft, Sex, and the Crisis of Belief* (Chicago, 2002), ch. 3.

37 See Thomas E. Bullard, *UFO Abductions* (Mount Ranier, MD, 1987). See also Jonathan Z. Smith's article "Close Encounters of Diverse Kinds," reprinted in his *Relating Religion* (Chicago, 2004), ch. 13.

38 "Diabolus Ex-Machina: An Unusual Case of Yuhasin," *Jewish Law Association Studies* 8 (1994), pp. 183-204.

39 Available at torahinmotion.org

40 *Mishpetei Uziel, Mahadurah Tinyana, Even ha-Ezer* no. 11.

41 *Yalkut Avraham* (Munkacs, 1931), p. 10.

42 While it is clear that demons come in both male and female, what about angels? According

to the *Magen Avraham*, *Orah Hayyim* 610:5, the reason only men wear white on Yom Kippur is because men want to appear like the angels, and angels are male! *Magen Avraham* didn't make this up, but is quoting a Midrash which teaches this idea. See *Yalkut Shimoni*, Proverbs 959, and Louis Jacobs, *Judaism and Theology* (London, 2005), ch. 19.

43 See *The Bible as it Was* (Cambridge, 1997), p. 86; *How to Read the Bible* (New York, 2007), pp. 60-61.

44 R. Asher Anshel Miller, *Hayyei Asher* (Bnei Brak, 1991), no. 123.

45 Mintz tells us that this is a pseudonym. For details of the conflict between "Yosel Ableson" and R. Aaron, see Mintz, *Hasidic People* (Cambridge, MA., 1992), pp. 302ff.

46 *Ibid.*, p. 307.

47 See the testimony recorded *She'elot u-Teshuvot Maharshal*, no. 101:

דוא בישט איין נאדלר. דוא נאדלר ווארום נימשטו מיר מיין געלט . . .

48 See R. Judah Loew ben Bezalel, *Netivot Olam* (Bnei Brak, 1980), *Netiv ha-Lashon*, ch. 9.

49 See [here](#)

50 *Yaskil Avdi*, vol. 8, p. 200.

51 See e.g., his responsum in R. Ovadiah Yosef, *Yabia Omer*, vol. 3 p. 300. Here he reminds dayanim not to lose site of the humanity of the people standing before them (which current dayanim voiding conversions seem to forget--I will return to this in an upcoming post):

על הדיין לראות מעצמו אם היה ענין כזה באחת מבנותיו ח"ו, ובא הבעל נגדה בטענה כזו, האם ירצה שביה"ד יפסקו עליה להוציאה בע"כ מבלי כתובה.

52 *Ancient Slavery and Modern Ideology* (London, 1980), p. 17.

53 See e.g., Maharil, *Hilkhos Milah* no. 20:

וצוה הרב לשמש העיר להכריז אחר המילה לציבור קול רם תדעו הכל שהילד הנימול הוא ממזר . . . ואמר אלינו מהר"י סג"ל שנתגדל הנער ההוא לבן עשר שנים ומת. וכתבו למהרי"ל לבשורה טובה שנסתלק ונאסף מתוכנו

R. Israel Moses Hazan, *Kerakh shel Romi*, p. 61b:

ועברו איזה ימים ומת הממזר (ברוך שעקרו ולא נתערב זרע ממזרים בתוך קהלתנו)

R. Elijah Aberzel rules that it is permitted to abort a mamzer fetus. See *Dibrot Eliyahu*, vol. 6, no. 107.

54 For an example of a preacher's words that even the most idiotic person today would never use in trying to comfort a bereaved parent, see R. Joseph Stadthagen *Divrei Zikaron* (Amsterdam, 1705), p. 38a:

ואם ח"ו מזבח כפרה מיתת בנים יארע, גם בזה אין ראוי להצטער [!] כי מי יודע מה היה מגדל ממנו יצור או כיעור, חכם או סכל, להרע או להטיב.

55 For those who have never heard of R. Ishmael, consider this: He is quoted by R. Ovadiah Yosef in *Yabia Omer* and *Yehaveh Da'at* many more times than R. Moses Feinstein.

56 In those days mamzerim were also named kidor, based on Deut. 32:20: *המה תוכופה רוד יכ*

57 See Meir Bar-Ilan, "Saul Lieberman: The Greatest Sage in Israel," in Meir Lubetski, ed., *Saul Lieberman (1898-1983), Talmudic Scholar* (Lewiston, 2002), pp. 86-87 (referring to *Tosefta Yevamot*, ch. 3).

58 In his *Avi Ezri* R. Shakh discusses a certain halakhah dealing with the death penalty for violating the Noahide commandments. In 1987 some (presumably Chabad) troublemakers, obviously not concerned about *hillul ha-Shem*, "leaked" this to Israeli newspapers with the result that the latter had headlines: *ניד אלל מייוג גורהל ריתמ דש ברה*. R. Shakh's people were quick to point out that the discussion in *Avi Ezri* is completely theoretical, something which the "leakers" were well of. See Moshe Horovitz, *She-ha-Mafteah be-Yado* (Jerusalem, 1989), 96ff. For a similar incident five years ago involving Yeshiva University, see "Critics Slam Rabbi, Y.U. Over Article on Gentiles," available [here](#)

59 *Torat ha-Nevi'im*, ch. 7.

60 *She'elot u-Teshuvot Hatam Sofer, Orah Hayyim* no. 108 (end).

61 Cf. however Nathan Lewin's argument, "Deterring Suicide Killers," available [here](#) Lewin, however, is dealing with adults, not potentially minor children. For Arthur Green's response, "A Stronger Moral Force," see [here](#)

62 See R. Shimon Krasner, "Ishiyuto u-Feulotav shel Shaul ha-Melekh," *Yeshurun* 11 (2002), pp. 779-780.

63 Tamar Ross, *Expanding the Palace of Torah* (Waltham, 2004), p. 292 n. 38.

64 Cf. this to what R. Norman Lamm wrote in [his response](#) to Noah Feldman's infamous

article, referring in particular to Feldman's discussion of the saving of non-Jewish life on Shabbat.

Surely you, as a distinguished academic lawyer, must have come across instances in which a precedent that was once valid has, in the course of time, proved morally objectionable, as a result of which it was amended, so that the law remains "on the books" as a juridical foundation, while it becomes effectively inoperative through legal analysis and moral argument. Why, then, can you not be as generous to Jewish law, and appreciate that certain biblical laws are unenforceable in practical terms, because all legal systems -- including Jewish law -- do not simply dump their axiomatic bases but develop them. Why not admire scholars of Jewish law who use various legal technicalities to preserve the text of the original law in its essence, and yet make sure that appropriate changes would be made in accordance with new moral sensitivities?

65 "Amalek and the Seven Nations: A Case of Law vs. Morality," in Lawrence Schiffman and Joel B. Wolowelsky, eds., *War and Peace in the Jewish Tradition* (New York, 2007), p. 208.