M e o r o t

A Forum of Modern Orthodox Discourse

(formerly *Edah Journal)*

Marḥeshvan 5768

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Marḥeshvan 5768

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Yeshivat Chovevei Torah
Rabbinical School
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Meorot

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STATEMENT OF PURPOSE

Meorot: A Forum of Modern Orthodox Discourse
(formerly *The Edah Journal*)

Statement of Purpose

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Graphic Design: Erica Weisberg
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Marḥeshvan 5768

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Editor's Introduction to the *Marḥeshvan* 5768 Edition

Eugene Korn

Welcome to the 6:2 *Marḥeshvan* 5768 edition of *Meorot!* This edition contains a number of important articles and interchanges, emanating from America and Israel.

Soon after Maimonides died in 1204, his works aroused bitter controversy in the Jewish communities of Spain and France. *Sefer Mada`a,* the first part of his great legal code, *Mishneh Torah*, as well his most important philosophical work, *The Guide to the Perplexed*, were even burned.. Of course, we no longer burn problematic texts, but as Prof. Menachem Kellner shows in his incisive article, *Farteicht un Farbessert*, many religious Jews have always found difficulty with Rambam's statements and some adopted perhaps a more effective stratagem to subvert what Rambam wrote. Kellner demonstrates how Rambam's texts were "corrected" to meet the prevailing religious views of some of Rambam's later day readers—sometimes even completely reversing the original meaning of his statements. And Rambam's universalism, it seems, remains as problematic today as it was in the past among those Jews claiming a more parochial religious *Weltanschauung.*

Meorot 6:1 included an interchange of views on the role of conventional *halakhah* and Jewish moral values in the theater of war. Prof. Michael J. Broyde argued forcefully that war suspends the peacetime prohibition against killing innocents and civilians. In this edition, the *Hatan Pras Yisrael* (recipient of the Israel Prize), Prof. Gerald J. Blidstein, questions some of Broyde's claims and asks whether the Torah does not demand a higher morality of Jews than those international norms (e.g. the Geneva Convention) established by and for gentile nations. Prof. Blidstein finds the application of "*dina de-maltkhuta dina*" (the law of the [gentile] sovereign is the law [for Jews]) to be one suited only for the Diaspora and inapplicable to Israelis in their moral dilemmas during the heat of battle. Prof. Broyde offers a partial response to Prof. Blidstein.

In the past decades, both men and women have explored the halakhic parameters of women's roles and privileges and attempted to push the envelope in nearly all areas of life. No domains has raised more debate than those of synagogue and ritual. In a long detailed study, Jen Taylor Friedman lays out her halakhic analysis for the eligibility of women to be *sofrot*—scribes writing valid Torah scrolls. Basing her argument largely on texts in *Masekhet Soferim*, she distinguishes between two classes of *sifrei Torah*, those that are valid for the *mitsvah* of writing a *sefer Torah* and those written for the purposes of discharging the community's obligation of reading the Torah in synagogue. R. Dov Linzer, *rosh ha-yeshiva* of Yeshivat Chovevei Torah, responds to Ms. Friedman. While sympathizing with her desire for more women's participation in ritual life, R. Linzer finds her arguments to be halakhically invalid.

Prof. Moshe Sokolow demonstrates the need for interpretation—including untraditional commentators—in Orthodox Bible study and discusses the grounds for authority and legitimacy in interpretations of *Tanakh*. He offers a glimpse of what a Modern Orthodox *Tanakh* with interpretation might look like by providing a sample interpretation of Genesis 18.

We are please to present Prof. James Diamond's review essay of Prof. Kellner's recent study of Rambam, *Maimonides' Confrontation with Mysticism.* Diamond emphasizes how Maimonides debunks the popular meanings of common categories of halakhic life, such as *qedushah, taharah,* the transcendent character of Hebrew and Temple ritual, and demonstrates that while Rambam and mystics practice the same religion, they subscribe to entirely different belief systems.

I trust you will enjoy the variety and depth of the articles in this edition of *Meorot,* and invite you to send your responses to meorotjournal@yctorah.org.

B'verakhah,

Eugene

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Marḥeshvan 5768

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Farteitcht un Farbessert (On "Correcting" Maimonides)

MENACHEM KELLNER

Abstract: Maimonides' universalism is both striking and, to many of his readers, surprising. So surprising are they that passages in his writings have been modified over the generations to pull the sting of their universalism and make them accord with more widely accepted notions of Jewish separateness and superiority. Examples of this phenomenon are examined here; it is also suggested that copyists and editors 'corrected' texts before them to what they were sure Maimonides 'must have' meant.

Biography: Menachem Kellner is a Professor of Jewish Thought at the University of Haifa. His recent books include *Maimonides' Confrontation With Mysticism* (Littman, 2006), which is reviewed in this edition of *Meorot, Must a Jew Believe Anything,* 2nd edition (Littman, 2006) and *Maimonides' Book of Love* (Yale, 2004).

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Farteitcht Un Farbessert (On "Correcting" Maimonides)[1]

MENACHEM KELLNER

As a general rule, it seems to me that the absence of clear and straightforward Hebrew equivalents for terms in other languages suggests that those terms reflect a non-Jewish ambience. Even so, some such turns of phrase can enhance our understanding of Jewish thinkers and streams of thought. As one example, consider the terms "universalist" and "particularist," which originate in the Christian theological debate between those who believed that all humans could be saved and those who believed *extra ecclesiam nulla salus* ("there is no salvation outside the Church"). In that technical sense, the terms have no relevance to Judaism, which long ago concluded that righteous gentiles have a place in the world to come.[2] In a more general sense, however, the distinction between universalism and particularism can be quite useful to comparing certain texts, streams, and thinkers within the Jewish tradition. In that context, I understand a particularist stance to be one that regards the Jew, *qua* Jew, as enjoying some personal, religious, spiritual, or value-based superiority over the gentile *qua* gentile. That advantage is tied to some essential, immanent element within the Jew, an element of his or her "hardware," not of his or her software.[3] A universalist stance, in contrast, denies any claim to the superiority of Jewish "hardware" and sees the distinction between Jew *per se* and gentile *per se* as entirely a matter of "software."

In the history of Jewish thought, it is difficult to find anyone more aptly described as a "universalist" than Maimonides.

The tension between universalism and particularism has been a characteristic of Judaism throughout its history. On the one hand, Judaism is grounded on a single fundamental insight: one God created the entire universe and all the people within it, and He created those people in His image. This insight gave rise to the idea that God "takes an interest" in the fate of all people, without distinction. On the other hand, a single Creator implies that there is but one proper way to draw near to Him, that all other ways are invalid, and that one who follows those other ways is likewise acting invalidly. The tension generated by this dualism is voiced both in Scripture and in rabbinic writings,[4] and it becomes a central motif in medieval Jewish thought.

[1] Yiddish for "translated and improved," referring to the famous joke—or actual event?—involving a Yiddish translation of Shakespeare's works that so described itself on its title page. This article appeared originally in Hebrew as *'Farteitcht un Farbessert'*:Comments on Tendentious 'Corrections' to Maimonidean Texts, B. Ish Shalom (ed.), *Be-Darkei Shalom: Iyyunim be-Hagut Yehudit li-Shalom Rosenberg* (Jerusalem: Bet Morasha, 2006): 255-263. Translated from the Hebrew by Joel Linsider.

[2] *Tosefta*, *Sanhedrin* 13:1—"There are righteous heathens who have a share in the world to come." See also Maimonides' ruling in *Mishneh Torah, Hilkhot Melakhim* 8:11 (cited below).

[3] For the use in this sense of the distinction between "hardware" and "software," I thank my learned friend, Prof. Daniel Lasker.

[4] See Leon Roth, "Moralization and Demoralization in Jewish Ethics," in his *Is There a Jewish Philosophy: Rethinking Fundamentals* (Oxford: Littman Library of Jewish Civilization, 1999), pp. 128-143; Menachem Kellner, "On Universalism and Particularism in Judaism," *Da`at* 36 (1996): v-xv.

In the history of Jewish thought, it is difficult to find anyone more aptly described as a "universalist" than Maimonides. Among other things, Maimonides can be associated with the following positions:

- There is no difference in essence between Jew and gentile, and the Jew *per se* enjoys no superiority over the gentile *per se*. The difference between Jew and gentile is grounded solely in the Torah: A Jew who observes the commandments thereby has an advantage over an ordinary gentile; but a moral and learned gentile certainly has an advantage over a coarse, ignorant Jew.[5]

- Israel's election is the result of a historical accident, plain and simple: it was Abraham the Hebrew who discovered God. Had a Navajo Indian been the first person to discover God following the decline in humanity after the generation of Adam's grandson Enosh, that person's tribe would have become the chosen people; the Torah would have been given in the Navajo language; the historical parts of the Torah would have dealt with Navajo history; and the Promised Land, presumably, would have been in Nevada.[6]

- Israel's Torah, when all is said and done, is meant for all humanity;[7] it was given to Israel to preserve (and observe) until messianic times, when all will be ready to accept it. At that time, all people will worship God "with one consent,"[8] as equals in all respects.

- The Jew, *per se*, has no quality of the sort referred to in various quarters as "noble soul," "closeness to God," or "*der pintele yid*" that distinguish him or her from the gentile *per se*.

- There is no difference in essence between a Jew by birth and a proselyte. Halakhic differences between the two result from legal technicalities and ascribe no essential superiority to the Jew by birth.

- There is no doubt that one who observes the commandments enjoys a huge advantage over one who does not, but that advantage is relative, not absolute. Man's purpose is the perfection of his intellect; that perfection cannot be attained without

[5] I have marshaled evidence in support of these arguments in the following works: *Maimonides on Judaism and the Jewish People* (Albany: SUNY Press, 1991) "On Universalism and Particularism in Judaism," *Da`at* 36 (1996): v-xv; "Chosenness, Not Chauvinism: Maimonides on the Chosen People," in Daniel H. Frank, ed., *A People Apart: Chosenness and Ritual in Jewish Philosophical Thought* (Albany: SUNY Press, 1993): 51-76, 85-89; "Overcoming Chosenness," in Raphael Jospe and Seth Ward, eds., *Revelation and Redemption in Judaism and Mormonism* (Fairlawn: Associated University Presses, 2001): 147-172; "Was Maimonides Truly Universalist?" in *Trumah: Beiträge zur jüdischen Philosophie* 11 (*Festgabe zum 80. Geburtstag von Ze'ev Levy*) (2001): 3-15. Much of the argumentation of these articles is synthesized in my *Maimonides' Confrontation With Mysticism* (Oxford: Littman Library of Jewish Civilization, 2006) (henceforth: *'Confrontation'*).

[6] I recognize that some readers may find this argument shocking. But—to use a phrase I normally dislike—what can we do? This is the position implied by Maimonides' words in *Mishneh Torah*, *Hilkhot Avodah Zarah*, chapter 1; cf. also *Guide of the Perplexed* II:39, III:24, and III:29 and consider as well with Maimonides' well known comments on the historical reasons for (and consequently conditional nature of) many of the Torah's commandments in general and the sacrificial cult in particular. For further elaboration, see *Confrontation*, pp. 33-84.

[7] On the Sages' view of this matter, see the instructive book by Menachem Hirschman, *Kol ba'ei olam: zerem universali be-sifrut ha-tanna'im ve-yahaso le-hokhmat ha-amim* [All humanity: a universalist stream in tannaitic literature and its attitude toward gentile wisdom] (Tel-Aviv, Ha-Kibbutz Ha-Me'uhad, 1999).

[8] Whenever he discusses messianic times, Maimonides cites Zeph. 3:9—"For then will I turn to the peoples a pure language, that they may all call upon the name of the Lord, to serve him with one consent" (OJPS trans.).

being restrained, self-disciplined, and highly moral; and there is no better, more effective, and more tested way of attaining moral perfection than by observing the commandments. But observance of the commandments is not the sole way to attain moral perfection, and one who does not observe them can still attain perfection as a creature made in God's image—though it will be more difficult for him or her to do so.[9] The Jew *per se*, then, has no advantage over the gentile with respect to anything related to prophecy, providence, or achieving a share in the world to come.

What led Maimonides to adopt these universalist positions? The question is flawed in its premise that we need to explain Maimonides' decision to take a universalist stance; in fact, Maimonides saw himself a simply continuing on the path set in the Torah, and there is nothing to explain. All people were created—in principle[10]—in the image of God.[11]

The Jew has no advantage over the gentile with respect to anything related to prophecy, providence, or a share in the world to come.

Maimonides, to be sure, understands the nature of that image in Aristotelian terms, [12] but that is a detail that in no way vitiates the Jewish/biblical essence of his position.[13] For Maimonides, the essence of man is his reason;[14]

[9] As much he might want to, Maimonides has no way of excluding from the world to come morally and intellectually perfected Jews who do not observe the commandments. Professor Daniel J. Lasker disagrees with me – see our discussion in *Confrontation*, p. 239, note 63.

[10] The qualification here reflects Maimonides' view that creation in God's image is a challenge, not a given; as a practical matter, only a few actualize their intellectual powers to the point of attaining the status of "created in God's image." Moreover, not every person is born with the physical and mental qualities needed to attain intellectual fulfillment. See *Guide* I:34; Pines trans., pp. 76-79. (References to the *Guide* are to Moses Maimonides, *The Guide of the Perplexed*, trans. and with an Introduction and Notes by Shlomo Pines [Chicago and London: Univ, of Chicago Press, 1963].)

11 For a recent and exhaustive analysis of this idea, see Yair Lorberbaum, *Zelem eloqim: halakhah va-aggadah* [*Image of God*] (Jerusalem: Schocken, 2004). For the Maimonidean connection, see Hannah Kasher, "*Haviv ha-adam*" [Beloved is man], *Da`at* 41 (1998): 19-29.

[12] See, e.g., "For being a rational animal is the essence and true reality of man" (Guide I:51; Pines, p. 113); see also Guide I:52, II:48; III:8; III:12.

[13] In fact, particularists within the Jewish tradition have the burden of confronting the Bible's extremely clear view that all humans were created in the image of God. They have done so in various ways, some of them hair-raising. See, for example, Maharsha (R. Samuel Eliezer Eidels, 1555-1631), *Hiddushei halakhot va-aggadot* on *Sanhedrin* 37a. The mishnah there states that humanity began with one individual to teach the principle that "one who destroys a single [Jewish] person is regarded by Scripture as if he had destroyed the entire world and one who saves a single [Jewish] person is regarded by Scripture as if he had saved the entire world" (see below, fn. 16, on the reason for bracketing the word "Jewish"). Maharsha comments: "he took pains to say 'a single Jewish person' because the image of man, who was created as one individual, is the image of the One on high, the Unity of the world. And the image of Jacob is His image, as the Sages say in the chapter *Hezqat ha-batim* [Bava Batra, chapter 3]. But gentiles [the Hebrew reads *kuttim,* the people settled by the Assyrian king in Samaria after he exiled the ten tribes; that is presumably the result of censorship] are not the image of man but are, rather, like other creatures, and one who destroys one of them does not destroy an entire world nor does one who saves one of them…[save an entire world]." Similarly, Maharal (R. Judah Loew of Prague, 1525-1609) writes (*Sefer derekh hayyim* 3:14) that "In any case, the nations of the world have the human form, but they do not have the essence of the human form; that image is to be found among the other nations, but it does not count for anything, and that is why it is not said that 'Israel is beloved because they were created in the image of God.' Moreover, Adam and Noah possessed this attribute even though they were called 'Israel,' but once God, may He be blessed, chose Israel, this image was diminished within the other nations. Still, the divine image pertains to man insofar as he is man, as is explained." See also *Nezah yisra'el*, chapter 11. To my dismay, such examples abound.

[14] Although Maimonides professed universalism, by no means did he profess egalitarianism; he was elitist to his core. But despite his disdain for the masses, he was patient with them; it may truly be said of him that he suffered fools gladly. For an instructive example, see Paul Fenton, "A Meeting with Maimonides, *Bulletin of the School of Oriental and African Studies* 45 (1982):1-5.

he reiterates this idea over and again, from his earliest writings to the *Guide*.[15]

Without doubt, many Jews have found it difficult to deal with Maimonides' universalist positions. Reacting to a history suffused with destruction, persecution, pogroms, expulsions, and—worst of all—the Holocaust, Jewish tradition developed a range of defense mechanisms; among them was the claim that the Jew *per se* has greater spiritual and personal value than the non-Jew. In Maimonides' view (and my own), that stance does not accurately represent the Torah's position, but it cannot be denied that it has taken deep root among Jews and finds expression in some of its most central and important texts. Maimonides understood this problem and formulated his positions carefully—not because he was afraid to be more blunt, but because of his profound sense of *noblesse oblige*. He saw no need to wield an ideological hammer and beat the heads of simple people when the result of doing so was likely to be confusion rather than instruction.

But Jews found Maimonides' positions so difficult to digest that, over time, pious Jews "corrected" his words to conform them to the Judaism they knew.[16]

I am convinced that these people did not act with malice; on the contrary, they were no doubt certain that they were correcting real errors that had cropped up in the texts of the great sage's writings. (There also are instances in which changes were introduced by the censor's hand; the best known and most obvious appears in *Mishneh Torah*, *Hilkhot Melakhim* 11:4.[17])

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In this brief article, dedicated with affection and esteem to Shalom Rosenberg, a man who has contributed greatly to the understanding of Jewish philosophy in general and Maimonidean thought in particular, I want to consider several Maimonidean texts that did not fall victim to censorship but that were, rather, "corrected" by well-intentioned copyists who meant to remedy what to their eyes were defects.

The best known example of the phenomenon I want to discuss appears in *Mishneh Torah*, *Hilkhot Melakhim* 8:11 (Twersky,* p. 221, except for boldface insertion):

> A heathen who accepts the seven commandments and observes them scrupulously is a "righteous heathen," and

[15] See, e.g., *Milot ha-higgayon*, chapter 10: "And speech [*dibbur*; intellectual capacity] is the distinction in man, for it differentiates the human species from others. And that 'speech' is the power by which he can depict the intelligibles; it establishes man's true nature" (*Milot ha-higgayon*, trans. from Arabic to Hebrew by Moses Ibn Tibbon, ed. Moses Ventura [Jerusalem: Mosad Harav Kook, 1969], p. 53; see also *Guide* III:8).

[16] The phenomenon is familiar from other contexts. A particularly well known example, alluded to in fn. 13 above, is presented by *Mishnah Sanhedrin* 4:5, which states "accordingly, only one man was created, to teach that one who destroys a single [Jewish] person is regarded by Scripture as if he had destroyed the entire world and one who saves a single [Jewish] person is regarded by Scripture as if he had saved the entire world." As Ephraim Elimelekh Urbach has shown, the word *mi-yisra'el* ("Jewish") is a relatively late insertion into the text of the *mishnah*. See E. E. Urbach, *Mei-olamam shel hakhamim: Qovez mehqarim* [World of the Sages] (Jerusalem: Magnes Press, 1988), pp. 561-577. Through a series of coincidences, I discovered what is apparently the earliest textual witness to the correct text: Koran 5, 27-32! See my note on the subject, *Tarbiz,* 75 (2006): 565-566.

[17] See the analysis by Leah Naomi Goldfeld, "*Hilkhot Melakhim*," *Sinai* 96 (1984): 67-79. See also A. M. Hershman, "Textual Problems of Book Fourteen of the Mishne Torah," *JQR* 40 (1950): 401-12.

* Except as otherwise noted, excerpts from the *Mishneh Torah* are taken from the translations in Isadore Twersky, *A Maimonides Reader* (West Orange NJ: Behrman House, 1972). Departures from those translations needed to present the textual issues raised here are in boldface.

> will have a portion in the world to come, provided he accepts them and performs them because the Holy One, blessed be He, commanded them in the Law and made known through Moses our Teacher that the observance thereof had been enjoined upon the descendants of Noah even before the Law was given. But if his observance thereof is based upon a reasoned conclusion he is not deemed a resident alien or one of the pious of the Gentiles, but **[printed Hebrew versions: nor]** one of their wise men.

Typographically, the difference between the two versions is miniscule. (In the Hebrew, they read, respectively, אלא ("but") and ולא ("nor"); omitting half of the letter *alef* transforms it into a *vav* and changes one word into the other.) Substantively, the different is vast: is a person who observes the seven Noahide commandments on the basis of "a reasoned conclusion" and without any reference to the Torah—indeed, without even having heard of Torah, as in the case of Aristotle—considered a wise man or not? And if we recall that wisdom constitutes the entry pass into the world-to-come,[18] the difference becomes even greater.[19] It is hard to imagine that the original version read ולא ("nor") and that some copyist "corrected" it to אלא ("but") so as to make Maimonides' words more universalist. Given the medieval ambience, that possibility strikes me as extremely remote.

This text has been extensively studied by both traditional and academic scholars, and there is no need to cover that ground again here.[20] Taking account neither of textual studies of manuscripts and printed editions nor of philosophical and religious arguments, it seems

Maimonides did not deny that Abraham and those persuaded by his rational arguments were wise men.

to me that the considerations noted above demonstrate that the original reading must be אלא ("but"). Moreover, there is a further argument, beyond the learned ones already adduced, that lends support to that conclusion. The patriarch Abraham, of course, was not a Jew; indeed, he began as an idolater and had no knowledge of the Torah. By "reasoned conclusion" alone he came to recognize the Creator. Later, he approached his contemporaries (actual Noahides—descendants of Noah) and persuaded them, by rational proofs, to accept God. Clearly, Maimonides did not deny that Abraham and those persuaded by his rational arguments were wise men. This, it seems to be, is a compelling argument in support of reading "but," not "nor."

Hilkhot Melakhim offers a second example of such a change, this one at the very end of the *Mishneh Torah* (*Hilkhot Melakhim* 12:5; trans. at

[18] For discussion of the pertinent texts, see M. Kellner, *Must a Jew Believe Anything?* 2n ed. (London: Littman Library of Jewish Civilization, 2006), pp. 149-163.

[19] This text is widely taken as dealing with the pious gentile's place in the world to come, but that reading is erroneous. At issue in this *halakhah* and the preceding one are very different questions: Who is considered a pious gentile? Under what circumstances may a gentile reside in the Land of Israel when it is under Jewish sovereignty? It is mistaken, therefore, to think that Maimonides here rules that a gentile who observes the Noahide commandments on the basis of reasoned conclusion will not enter the world to come; that subject is simply not under consideration. I develop and support this claim more broadly in *Confrontation*, pp. 241-250. My friend Prof. Ze'ev Harvey has pointed out to me that the term "gentile sages" (*ḥakhmei ummot ha-olam*) (rendered in the extract in the text as "their wise men") refers to a clear talmudic classification. At *Berakhot* 58a, the Talmud establishes that the blessing "Who has given of His wisdom to flesh and blood" is to be recited upon seeing a gentile sage; there is no such blessing to be recited on seeing a pious gentile.

[20] I consider these studies in my discussion in *Confrontation* cited in the preceding footnote.

Twersky, pp. 225-226; bracketed insertions by the present author). The most common printed editions read as follows:

> In that era [the messianic age] there will be neither famine nor war, neither jealously nor strife. Blessings will be abundant, comforts within the reach of all. The one preoccupation of the whole world will be to know the Lord. Hence Israelites will be very wise, they will know the things that are now concealed [var.: the concealed and profound things will be known to all] and will attain an understanding of their Creator to the utmost capacity of the human mind, as it is written, "For the earth shall be full of the knowledge of the Lord, as the waters cover the sea" (Is. 11:9).

Another version, however, reads as follows:

> In that era [the messianic age] there will be neither famine nor war, neither jealously nor strife. Blessings will be abundant, comforts within the reach of all. The one preoccupation of the whole world will be to know the Lord. Hence they will be very wise, they will know the things that are now concealed [var.: the concealed and profound things will be known to all] and will attain an understanding of their Creator to the utmost capacity of the human mind, as it is written, "For the earth shall be full of the knowledge of the Lord, as the waters cover the sea" (Is. 11:9).

The difference, of course, is that according to the second version, the whole world "will be very wise, they will know the things that are now concealed"; the first version reserves that destiny to Israelites ("Israel" in the Hebrew). The passage has a complicated textual history, as evidenced by collection of variant readings included in Shabbtai Frankel's edition, and he cites additional minor differences, having no bearing on the meaning, between the manuscripts and printed versions.[21]

I would add only three observations:

1. As in the previous case, if Maimonides had written "Israel" and someone else later deleted the word, we would have an emendation tending toward greater universalism—a result unable to withstand rational analysis.
2. Maimonides here asserts that in messianic times, the exclusive "preoccupation of the whole world" will be to know the Lord and that in those days (may they arrive speedily!) someone—Israel or all the world—"will attain an understanding of their Creator to the utmost capacity of the human mind." He begins by speaking of "the whole world" and ends by speaking of "the human mind"; it seems quire unlikely that he would insert "Israel" in the middle, as a specification between two generalizations.
3. The verse from Isaiah with which Maimonides concludes both this *halakhah* and the entire *Mishneh Torah* (which reads, in full, "They shall not hurt nor destroy in all My holy mountain; for the earth shall be full of the knowledge of the Lord,[22] as the waters cover the sea") refers to all humanity, not only Israel.[23]

[21] For discussion, see Simon-Raymond Schwarzfuchs, "*Les Lois royales de Maimonide*," *REJ* 111 (1951-52): 63-86, pp. 81-82.
[22] According to Maimonides, this knowledge is attained through human (that is, rational) instrumentalities, not through specifically Jewish ones.
[23] Maimonides concludes the *Mishneh Torah*, as he begins it (*Hilkhot Yesodei ha-Torah*, chapters 1-4) with a discussion applicable to humanity in general. For a fuller discussion of this point, see my *Maimonides on Judaism* (above, n. 5), p. 41.

Clearly, we have here another particularistic "improvement" of Maimonides. The copyist(s) could not believe that the master meant to conclude his halakhic magnum opus by teaching of a messianic era in which gentiles, no less than Jews, will be great sages; will abandon jealously, war and strife; will enjoy abundant blessings and comforts; will engage solely in the effort to know God; and, accordingly, will attain knowledge of God, each in accord with his own ability.

We have here another particularistic "improvement" of Maimonides.

Nor is the phenomenon limited to the *Mishneh Torah*. Another instructive example, in Maimonides' Letter to Obadiah the Proselyte, shows not only how Maimonides' text was emended during the Middle Ages but also how scholars today read that text.

Rabbi Yitzhak Shilat[24] was faced with several versions of Maimonides' letters to Obadiah the Proselyte. One of them contained the following passage, as cited in Blau's edition of Maimonides' letters (no. 293, p. 549); words that are the subject of the textual variants discussed below appear in boldface.*

> The reason for this is, that Abraham our father taught the people, opened their minds, and revealed to them the true **religion** [*dat*] and the unity of God; he rejected the idols and abolished their adoration; he brought many…under the wings of the Divine Presence; he gave them counsel and advice and ordered his sons and the members of his household after him to keep the ways of the Lord…as it is written, "For I have known him to the end that he may command his children and his household after him, that they may keep the way of the Lord, to do righteousness and justice" (Gen. 18:19). Ever since then whoever adopts Judaism and **confesses the unity of the divine name, as it is written in the Torah—they are all disciples of Abraham our Father, peace be with him, and members of his household, and he turned them to righteousness**.
>
> In the same way as he turned his contemporaries through his words and teaching, so does he turn all who will convert in the future through the testament he left to his children and household after him. Thus Abraham our Father…is the father of his pious posterity who walk in his ways, and the father of his disciples **and every proselyte who converts.**

Rabbi Shilat, however, published the following as his primary version:

> The reason for this is, that Abraham our father taught the people, opened their minds, and revealed to them the true **way** [*derekh*] and the unity of God; he rejected the idols and abolished their adoration; he brought many…under the wings of the Divine Presence; he gave them counsel and advice and ordered his sons and the members of his household after him to keep the ways of the Lord…as it is written, "For I have known him to the end that he may command his children and his household after him, that they may keep the way of the Lord, to do righteousness and justice" (Gen. 18:19). Ever since then whoever adopts Judaism and **confesses the unity of the divine name, as written in the Torah [var. adds: and all who enter into the religion of Moses our teacher, the religion of truth and righteousness[25]]—they are disciples of**

[24] See Yitzhak Shilat, ed. and trans., *Iggerot ha-Rambam* (Letters of Maimonides) (Jerusalem: Ma`aliyot, 1987), p. 234.

* The translation is adapted from that appearing in Twersky, pp. 475-476; changes have been made to capture the Hebrew more literally in order to show the differences between the Blau and the Shilat Hebrew editions.

[25] R. Shilat cites this variant, from another ms., in a marginal note.

Abraham our Father and members of his household, and he turned all of them to righteousness.

In the same way as he turned his contemporaries through his words and teaching, so does he turn all who will convert in the future through the testament he left to his children and household after him. Thus Abraham our Father…is the father of his pious posterity who walk in his ways, and the father of his disciples, **they being every proselyte who converts.**

The variations pertinent to our discussion may be summarized in the following table:

Blau Edition	Shilat Edition
1. …revealed to them the true religion (*dat*)	…revealed to them the true way (*derekh*)
2. …whoever confesses the unity of the divine name, as it is written in the Torah—they are all disciples of Abraham our Father, peace be with him, and members of his household, and he turned them to righteousness.	whoever adopts Judaism and confesses the unity of the divine name, as written in the Torah [var. adds: and all who enter into the religion of Moses our teacher, the religion of truth and righteousness]—they are disciples of Abraham our Father and members of his household, and he turned all of them to righteousness
3. Thus Abraham our Father…is the father of his pious posterity who walk his ways, and the father of his disciples and every proselyte who converts	Thus Abraham our Father…is the father of his pious posterity who walk in his ways, and the father of his disciples, they being every proselyte who converts

What is the significance of these differences?

In the first item, the Blau edition tells that Abraham taught his contemporaries *the true religion*; the Shilat edition speaks of *the true way*. Abraham clearly did not teach the Torah to the gentiles of his time, half a dozen generations before the Torah was given at Sinai, and the meaning of the Blau version therefore must be that before the giving of the Torah, there were gentiles who followed the true religion—the religion that Abraham taught them. The Shilat version, meanwhile, implies that there is a true way to serve God that is not necessarily identical with Israel's Torah.

In the second case, Rabbi Shilat took pains to include within his text a variant that substantially moderates what he appears to have regarded as an excessively universalistic message.[26] According to the version that appears in Blau's edition, anyone who confesses the unity of the divine name as it is written in the Torah is considered a disciple of Abraham and a member of his household; recall that this is Maimonides' position as expressed in *Hilkhot Melakhim*, chapter 8. Rabbi Shilat's intellectual integrity precluded him from disregarding this version, but he cites as well another version, which he finds more congenial, according to which only one who converts ("enter[s] into the religion of Moses our teacher, the religion of truth and righteousness") is considered a disciple of Abraham and a member of his household. It is inconceivable, in what appears to be his view, that a gentile who recognizes God and the Torah but still remains a gentile could be considered a disciple of Judaism's founder and a member of his household.

In the third case, Blau's text describes Abraham as father to (1) his pious posterity who walk in his ways;[27] (2) his disciples; and (3) every proselyte who converts. It follows that Abraham has disciples who are neither his descendants nor converts—in other words, that there are gentiles who are considered

Abraham's disciples. According to Rabbi Shilat's text, however, Abraham is father to (1) his pious posterity who walk in his ways and (2) "his disciples, they being every proselyte who converts." It follows, according to this version, that there are no gentiles who are considered disciples of Abraham.

In the three instances we have examined, Maimonides' words were altered in order to blur their universalistic message. But emendations of this type have been used to temper other Maimonidean religious positions, unrelated to the question of universalism, that seemed deviant. Prof. David Henshke has recently examined a striking instance of this, and I will conclude here with a brief review of that case.[28]

Maimonides writes as follows in *Mishneh Torah*, *Hilkhot Me`ilah* 8:8 (trans. in Twersky, pp. 145-146, modified by insertion of the words in boldface and deletion of the words in braces {}):

> It is fitting for man to meditate upon the laws of the holy Torah and to comprehend their full meaning to the extent of his ability. Nevertheless, a law for which he finds no reason and understands no cause should not be trivial in his eyes. Let him not "break through to rise up against the Lord lest the Lord break forth upon him" (Ex. 19:24); nor should his thoughts concerning these things be like his thoughts concerning profane matters. Come and consider how strict the Torah was in the law of trespass [*me`ilah*; misappropriation of property dedicated to sacred use]! Now if sticks and stones and earth and ashes became hallowed by words alone as soon as the name of the Master of the Universe was invoked upon them, and anyone who comported with them as with a profane thing committed trespass and required atonement even if he acted unwittingly, how much more should man be on guard not to rebel against a commandment decreed for us by the Holy One, blessed be He, only because he does not understand its reason; or to heap words that are not right against the Lord; or to regard the commandments in the manner he regards ordinary affairs.
>
> Behold it is said in Scripture: "You shall therefore keep all my statutes [*huqotai*] and all Mine ordinances [*mishpatai*], and do them" (Lev. 20:22); whereupon our sages

[26] Instructive evidence of Rabbi Shilat's method in Maimonidean exegesis appears in his article "*Segulat yisra'el—shitot ha-kuzari ve-ha-ramban*" [Israel's special quality—the approach of the *Kuzari* and of Maimonides], in *Ma`aliyot* 20 (Maimonidean studies and interpretations) (Second decennial volume by Yeshivat Birkat Moshe, Ma`aleh Adumim), ed. A. Samet and A. Fleischer (Ma`aleh Adumim: Ma`aliyot, 1999), pp. 271-302. In that article, Rabbi Shilat strives mightily to square the views of R. Judah Halevi and Maimonides by making the latter more like the former. I respond to some of his arguments in my article "Was Maimonides Truly Universalist?" (above, n. 5).

[27] Note that Maimonides here suggests that a descendant of Abraham who is not pious or does not walk in his ways (which may be the same thing) thereby loses his relationship to Abraham. That position is articulated forcefully in Maimonides' epilogue to his Thirteen Principles (trans. in Twersky, p. 422):

> "When a man believes in all these fundamental principles, and his faith is thus clarified, he is then part of that "Israel" whom we are to love, pity, and treat, as God commanded, with love and fellowship. Even if a Jew should commit every possible sin, out of lust or mastery by his lower nature, he will be punished for his sins but will still have a share in the world to come. He is one of the "sinners in Israel." But if a man gives up any one of these fundamental principles, he has removed himself from the Jewish community. He is an atheist, a heretic, an unbeliever who "cuts among the plantings." We are commanded to hate him and to destroy him. Of him it is said: "Shall I not hate those who hate you, O Lord?" (Ps. 139:21).

For a full discussion of this passage, see my *Must A Jew Believe Anything?* (above, n. 18). In a different context, Maimonides considers another sort of impious descendant of Abraham—the progeny of Abraham's concubine Qeturah. See *Mishneh Torah*, *Hilkhot Melakhim* 10:7-8.

[28] See David Henshke, "*Li-she'eilat ahdut haguto shel ha-ramban*" [On the unity of Maimonides' thought], *Da`at* 37 (1997): 37-52.

have commented that "keeping" and "doing" refer to the "statutes" as well as to the "ordinances." "Doing" is well known, namely, to perform the statutes. And "keeping" means that one should be careful concerning them and not imagine that they are less important than the ordinances. Now the "ordinances" are commandments whose reason is obvious, and the benefit derived in this world from doing them is well known; for example, the prohibition against robbery and murder, or the commandment honoring one's father and mother. The "statutes," on the other hand, are commandments whose reason is not known. Our sages have said: My statutes are the decrees that I have decreed for you, and you are not permitted to question them. A man's impulse pricks him concerning them and the Gentiles reprove us about them, such as the statutes concerning the prohibition against the flesh of the pig and that against meat seethed with milk, the law of the heifer whose neck is broken, the red heifer, or the scapegoat.

These copyists evidently could not swallow the fact that, according to Maimonides, the sacrifices had no immanent role of their own

How much was King David distressed by heretics and pagans who disputed the statutes! Yet the more they pursued him with false questions, which they plied according the narrowness of man's minds, the more he increased his cleaving to the Torah; as it is said: "The proud have forged a lie against me; but I with my whole heart will keep Your precepts."(Ps. 119:69) It is also said there concerning this: "All your commandments are faithful; they persecute me falsely, help You me" (*ibid.* 119:86).

All the (laws concerning the) offerings are in the category of statutes. The sages have said that the world stands **even** because of the service of the offerings; **inasmuch as** {for} through the performance of the statutes and the ordinances the righteous merit life in the world to come.[29] Indeed, the Torah puts the commandment concerning the statutes first; as it is said: "You shall therefore keep My statutes, and Mine ordinances which if a man do, he shall live by them" (Lev. 18:5).

In the final paragraph of this passage, Maimonides alludes to the *mishnah* (*Avot* 1:2) that states: "Simon the Righteous was one of the last of the Great Assembly. He would say: the world stands because of three things, the Torah, the service of the offerings, and acts of kindness." He interprets that *mishnah* in a manner consistent with his view of the temple cult: the world stands *even* because of the sacrifices, for they provide an example of the Torahs's statutes, the performance of which enables the upright to attain the life of the world to come.[30]But it appears that Maimonides' copyists were troubled by these words, and most printed editions (including the one evidently reflected in the unemended translation above) read "Accordingly, the sages said that the world stands because of the service of the offerings…."[31] These copyists evidently could not swallow the fact that, according to Maimonides, the sacrifices had no immanent role of their own and, in a better world, would not have had to be ordained[32]

[29] Note that Maimonides shifts the discussion from what the world stands on to what a person should do to merit a share in the world to come.

[30] This is not the place to consider whether this text represents a retreat from Maimonides' consistent position that true key to the world to come is an understanding of the intelligibles. In my view, this text can be readily interpreted in light of Maimonides' well known position on the matter, but that exercise is not relevant here. On Maimonides' position, see Hannah Kasher, "'Torah for Its Own Sake', Torah Not for Its Own Sake, and the Third Way," *JQR* 79 (1988-89): 153-63.

[31] Henshke provides a broad treatment of the textual issues.

To support my view that Maimonides' wording was here "improved" in a way untrue to his actual stance, let me cite his commentary on the pertinent passage in *Avot* (translated here into English from the Hebrew translation of Rabbi Shilat): "He means to say that through wisdom, i.e., the Torah; and through virtuous attributes, i.e., acts of kindness; and through performance of the Torah's commands, i.e., the sacrifices—one perpetuates the improvement of the world and arranges the universe in the most perfect possible way." The *mishnah* states that the world stands on three things; one of them is the sacrificial service. In Maimondes' interpretation, however, the sacrifices are not themselves one of the three things on which the world stands; rather, they exemplify the commandments overall.

It is noteworthy as well that Maimonides transforms "the world stands" (that is, continues to exist) into something much more prosaic: improvement of the world.[33]

Anyone teaching Jewish thought today has had the experience of presenting some text by Maimonides to which a student reacts by excitedly insisting that "Maimonides could not have said such a thing!" I have tried to show here that this sort of reaction is not a new one and has produced efforts (not conscious, I am convinced) to "improve" Maimonides' words.[34]

[32] Nahmanides' sharp critique of Maimonides' position (in the former's commentary on Lev. 1:9) is well known: "But these words are mere expressions, healing casually a severe wound and a great difficulty, and making the table of the Eternal polluted [as if the offerings were intended only] to remove false beliefs from the hearts of the wicked and the fools of the world…" (Nahmanides, *Commentary on the Torah – Leviticus*, trans. Charles B. Chavel, [New York: Shilo Publishing House, 1974], p. 19). (The phrase translated by Chavel as "mere expressions" might be more accurately if less gently rendered as "nonsense."***—trans.***) For discussion of the critical response to Maimonides' view, see Josef Stern, *Problems and Parables of Law: Maimonides and Nahmanides on Reasons for the Commandments (Ta`amei Ha-Mitzvot)* (Albany: SUNY Press, 1998).
[33] On Maimonides' concept of improvement of the world (*tiqqun olam*), see M. Lorberbaum, "*Rambam al tiqqun olam"* [Maimonides on *tiqqun olam*], *Tarbiz* 64 (1995): 65-82. As Mr. Jacob Avikam has pointed out to me, Maimonides in his commentary also changes the *mishnah*'s sequence of terms, reversing the order in which sacrifices and acts of kindness are mentioned.
[34] I am greatly indebted to Prof. Hannah Kasher for her wise comments on an earlier version of this article. My thanks as well to my friend, Mr. Eliezer Zitronbaum, who did a wonderful job of "*Farteitcht un Farbessert*" with respect to the original version of this essay.

Meorot
A Forum of Modern Orthodox Discourse

REVIEW ESSAY

Maimonides Contra Kabbalah: *Maimonides' Confrontation with Mysticism* by Menachem Kellner

Reviewed by James A. Diamond

Biography: James A. Diamond is the Joseph and Wolf Lebovic Chair of Jewish Studies at the University of Waterloo and director of the university's Friedberg Genizah Project. He is is the author of *Maimonides and the Hermeneutics of Concealment* (SUNY Press, 2002) and the forthcoming *Converts, Heretics and Lepers: Maimonides and the Outsider* (University of Notre Dame Press, expected Fall 2007)

Meorot 6:2
Marheshvan 5768
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A Publication of
Yeshivat Chovevei Torah
Rabbinical School

Maimonides Contra Kabbalah: *Maimonides' Confrontation With Mysticism* by Menachem Kellner (Portland, Oregon, Littman Library of Jewish Civilization, 2006, 343 pp.)

By James A. Diamond

Menachem Kellner's latest book might be considered a mirror-image sequel to his previous provocative study, *Must a Jew Believe in Anything*.[1] *Must a Jew* faulted Maimonides for introducing into Jewish thought and *halakhah* a foreign theology of creed and doctrine—matters with which, Kellner claimed, normative Judaism never concerned itself. He thereby charged Maimonides with opening the door to the kind of religious schism and fragmentation that is the current malady of Jewish orthodoxy, where belief is dogmatized and *imposed* and insurmountable barriers are thereby erected between insiders and outsiders. The introduction of halakhically mandated beliefs allows for sharp lines of separation between those who defer to *ex cathedra*-like theological pronouncements of halakhic sages[2] and those who, though supported by ample sources in the variegated course of Jewish intellectual history, might veer from the official doctrine of the day. On the other hand, *Maimonides' Confrontation* is an ode to the same Great Eagle, who laid down the gauntlet against a regnant rabbinic and popular theology, systematically arguing for what a Jew must decidedly *not* believe. As a foil to Kellner's previous work, *Confrontation* could have easily been entitled, *What a Jew Must Not Believe.* In what follows I will attempt to go beyond mere review and both engage and bolster an intriguingly compelling argument whose implications extend from the academy to the yeshiva and radiate out to the religious community at large.

If there is an archenemy, it is Judah Halevi.

Kellner's thesis is that Maimonides' intellectual and halakhic oeuvre is distinguished by a systematic purging from Judaism of the proto-kabbalistic features that had seeped into and permeated its culture. If there is an archenemy in this book it is Judah Halevi (d. 1141), whose "mystical" weltanschauung Maimonides exerted every effort to suppress.

This phenomenon threatened what he considered to be the purpose for which the entire Jewish normative edifice had originally been constructed—preserving the unity and absolute transcendence of God. Maimonides' conception of many of the mainstays of Jewish thought and law such as "holiness" (*qedushah)* and ritual states of purity and impurity (*tahorah, tume`ah*) profoundly challenged then current perceptions of these categories as somehow essential or

[1] M. Kellner, *Must a Jew Believe in Anything* (Portland OR: Littman Library of Jewish Civilization, 2nd ed., 2006)

[2] Resorting to such notions as *da`at torah* in *halakhic* decision making breaks down an essential distinction between Judaism and Christianity. A. Altmann nicely captures this distinction in terms of the *Sanhedrin* in contrast to the Church: "The *Sanhedrin* is not a 'sacral authority' like the church…It is rather…*halakhic* agency, receiving its sanction only through the single fact of being appointed by the Torah, but not through an actual pneumatic relation to the word of God." See *"What is Jewish Tehology?" in The Meaning of Jewish Existence: Theological Essays*, 1930-1939 (Hanover NH: Brandeis Univ. Press, 1992), pp. 46-56; quotation from p. 46).

ontological states of reality. Kellner demonstrates methodically and convincingly that these categories do not describe existing reality, as suggested by a mystically inclined worldview. Rather, they constitute a social reality (p. 13). They are conventional and in many cases even arbitrary institutional constructs intended to assist Jews in perfecting their humanity, something we shall see Jews share in common with all other human beings.

By juxtaposing Maimonides' view with an antithetical approach that would be familiar to many of *Meorot*'s readers, we can bring Maimonides' project into sharper focus. A prime contemporary proponent of such an approach is R. Joseph B. Soloveitchik (d. 1993), who views the Jewish command structure as an *a priori* system through which the "man of *halakhah*" approaches and comprehends the empirical world much like a mathematician.[3]

R. Soloveitchik's construct of "halakhic man" can be taken as a frontal assault on what he himself already understood as Maimonides' "religious instrumentalism."[4] The socio-anthropological rationale for the *mitsvot* that Maimonides offers in Part III of the *Guide* views them as historically contingent and, therefore, potentially subject to alternative formulation had circumstances been different—or even the same. R. Soloveitchik's *a priori* model of *halakhah* as something transcending science, history and sociology admits of no such possibility. The Sinaitic normative legacy could not be any other way. Although R. Soloveitchik attempts to salvage some of Maimonides for his own theology by bringing to bear the very different Rambam of the *Mishneh Torah*, which is more accommodating of the *ish ha-halakhah,* Kellner demonstrates that Maimonides' "instrumentalism" is thoroughgoing and that the *Guide* and the *Mishneh Torah* are consistently aligned. Although not without its own problems, this approach is far more fruitful than attributing all inconsistencies between the juridical Rambam and the philosophical Maimonides to a kind of split personality.

For Maimonides, all those religious notions must be jettisoned in order to safeguard God's existence and unity.

In a sense one can say that for Maimonides all those religious notions that were traditionally accepted as inherent in the world, and that continue to be thought of as such in contemporary Jewish religious culture, must in fact be jettisoned in order to safeguard God's existence and unity. It may come as a shock to all who subscribe to Maimonides' thirteen principles of faith that their credo is belied by belief in a divine presence (*shekhinah)* or glory (*kavod)* having spatio-temporal dimensions and not regarded simply as practically oriented metaphors. The concretization, however limited, of an utterly transcendent, ontologically unique, unknowable, and indescribable Being is tantamount to what Maimonides would consider *kefirah* (heresy).

A prime example of Maimonidean iconoclasm pertains to the sense in which we are to understand the Hebrew language as "holy" (*leshon ha-qodesh).* If *qedushah* is a quality that inheres in something, then Hebrew defies any linguistic commonality with other languages. Each stage of creation is initiated by divine words spoken in Hebrew such as *Let there be* or *And He called.* Animal life emerges as a consequence of a divine command *Let the earth bring forth.* If the beginning of Genesis is taken literally, Hebrew is God's native tongue, must therefore pre-exist the world, and is the tool by which the creation materializes.

[3] *Ish ha-Halakhah*" (Heb.), Talpiot 1:3-4 (1944) pp.651-735 at pp.663-64; English trans. by L. Kaplan, *Halakhic Man* (Philadelphia: Jewish Pub. Soc. of America, 1983). *Halakhic Man*, "draws near the world with an a priori relation. His approach begins with an ideal world and concludes with a real one" (id., p. 19). Ultra-orthodox antagonism toward the *Rav* has always puzzled me. If that world had actually bothered to examine his *Ish ha-Halakhah* or other essays that develop his philosophy of *halakhah*, they would be made mandatory reading in every *yeshiva.* His views on *halakhah* are far from "progressive" or "liberal." Perhaps their mistake is an assumption that literacy is somehow incompatible with *frumkeit.*

[4] *The Halakhic Mind: An Essay on Jewish Tradition and Modern Thought* (Ardmore PA: Seth Press, 1986), p. 93.

God's declaration "Let there be light" effectuates light's existence, lending the language some innate creative power. For Maimonides, however, Hebrew's "sanctity" lies in its lack of sexually explicit terms for genitalia or coital acts. It is lofty, in other words, because it is a prudishly expurgated language that resorts to euphemism for anything that smacks of eroticism (*Guide,* III:8; Pines pp. 435-6[*]) . A fundamental principle that underlies much of Maimonides' *Guide* and, particularly, the first section with its lexicon of Hebrew terms and their meanings, is the conventionality of Hebrew; like any language, it evolves and reflects the particular socio-cultural milieu in which it is spoken. In one fell swoop, as was most probably his intent, Maimonides undermines a core legacy of the mystical— or, in his view, superstitious—tradition that reifies Hebrew.

Maimonides undermines a core legacy of the mystical— or, in his view, superstitious— tradition that reifies Hebrew.

The point has many important implications for current Jewish belief; I will confine myself to three of them. First, Hebrew, and, consequently, the Torah, lose the kabbalistic hyper-significance that reduces sentences to a string of characters and allows meaning to be teased out of individual words, letters, numerical values of letters (*gematria*), shapes of letters, and even blank spaces.[5] Secondly, Hebrew divine names (*sheimot)* merely reflect the types of heavenly governance that are observable in the world. In other words they are derivative of the world and do not capture any divine essence (*Guide,* I:61; Pines, p. 149); one would not find a *kami`a* (amulet inscribed with divine names) in Maimonides' synagogue.

Thirdly, books belonging to the mystical sacred canon such as *Sefer Yetsirah,* a treatise traditionally attributed to Abraham and conspicuously ignored by Maimonides, would be included in any Maimonidean list of banned books. Its notion of Hebrew characters as both generative forces and building blocks of the very structure of the cosmos[6] flies in the face of a linguistic theory of Hebrew as conventional; it regards Hebrew not simply as a mode of communication but as a supernaturally imbued force and transforms the Torah from a teaching conveyed through its language to a conjurer's tool that resonates with magical powers. Had R. Joseph Karo, halakhist supreme *cum* mystic, been open to the Maimonidean perspective, he would never have been perplexed by Maimonides' failure to quote a *baraita* (*Sanhedrin* 21b) that speaks of the king being required to hang his exclusively mandated second Torah scroll around his neck "like an amulet" (*Kesef Mishneh*, MT, *Hilkhot Tefillin u-Mezuzah*, 7:2). According to Maimonides, the king's extra Torah scroll acts as a reminder of its content, not as a magical protective shield.

Maimonides' demystification of Hebrew ties into his essential understanding of the nature of God and the Torah's content. How would Maimonides respond to the biblical account of divine speech as a creative force and therefore of Hebrew as somehow innately potent? As with all anthropomorphisms, the operative rule here the Talmudic rubric, "the Torah speaks in the language of human beings" (e.g., *Nedarim* 3a-b; Maimonides, *Mishneh Torah*, *Hilkhot Yesodei ha-Torah* 1:12; *Guide* I:26), which demands that any attribution to God of human characteristics be taken metaphorically. God does not possess a mouth, lips or vocal chords and His sole activity is thought; accordingly, He did not speak. Maimonides leaves no doubt whatsoever about the equivocal sense of Divine speech in the first chapters of Genesis as a metaphor for "will" (*Guide* I;65, Pines, p. 159). As a result all magical or theurgic use of Hebrew is preempted. One can master Hebrew and combine letters in any way one wishes in an effort to gain mastery of nature, and possibly even of God. However; the effort will be for naught, since God's primal will is inscrutable.

In this instance, as in others in the book, what Maimonides challenged has become so commonplace in current Jewish Orthodoxy that it would now be considered integral to mainstream Judaism rather than a mystical quirk. To take but

one example, no less a brilliant twentieth century *poseq* than R. Moses Feinstein (d. 1986), when canvassing the complexities of a law dealing with oaths (*nedarim),* takes it as a given that Hebrew is wholly distinct from other languages in its being "the essence of speech, not a product of human convention, as through it was the world created and the Torah given."[7] Since this is an integral part of his legal rationale, it has normative implications, bearing on our understanding of both a biblical prescription dealing with oaths and its Talmudic overlay.

Another fundamental of mystical theurgy and, *ipso facto*, of popular folk religion that Maimonides saw a need to address involves angels**.** Alongside God's names on the *kami`ot* that adorn many synagogues to this day are those of a myriad of angels. There would be no sense in appealing to or calling on figments of the imagination. For Maimonides this would make even less sense, since they are the boorish fantasies of ignorant minds. Maimonides' world is indeed populated by "angels" because they are metaphorically representative of all causal forces in nature. Since the Hebrew term *mal'akh* simply means "messenger," all of nature can be said to operate via angels since nature was initially activated by God and therefore is ultimately an expression of God's will. Angels are the elements, what propels animals, the catalysts for all physical functions, the inspiration of mental activity, and indeed "all forces are angels." (*Guide* II:6; Pines, pp.262-3). By having angels represent everything, they represent nothing, so thoroughly subverting the term as to drain it of all meaning. Angelology is much more attractive for public consumption than science because it relieves human beings of the rigorous intellectual undertaking required to truly understand the world. Angels reassuringly qualify everyone as a scientist, when in fact such a worldview amounts to surrender to "the blindness of ignorance" (*Guide* II:, Pines, p. 263).

This "confrontation" has sweeping consequences theologically, halakhically and exegetically. For Maimonides, the ultimate goal in life is to know God, and the sole means by which one can do so is through knowledge of His creation. In fact, the very pinnacle of human knowledge—and, consequently of perfection—is typified by Moses

Every replacement of natural causality with an angelic entity is a step further away from God and human perfection.

at the top of the mountain; Moses' glimpse of God's "back" constitutes an all encompassing apprehension of what "follows necessarily from My will- that is, all the things created by Me." (*Guide* I:38; Pines, p. 87). This comprehension entails the mutual connections among all existing things (I:54, p. 124) and can emerge only from the painstaking curriculum of what today would be termed the "outside" knowledge Maimonides expected of his true disciples (*Guide*, Epistle Dedicatory; I;34; Pines, pp. 3, 73-77).

Theologically, every replacement of natural causality with an angelic entity is a step further away from God and human perfection, since it egregiously misperceives the creation, the singular route toward knowledge of God and, thereby, intimacy with Him.[8]

Belief in angels can also seriously undermine halakhic observance. The widespread practice of inserting angelic names in *mezuzot* was harshly condemned by Maimonides in his *Mishneh Torah*. His criticism is instructive, for it reflects an overarching conception of *mitsvot* that courses through all the subjects in Kellner's book. More than simply a useless gesture to fictitious entities, inserting angelic names expresses a self-centered degradation by "asinine" people (*tipshim*) of a "paramount mitzvah geared toward the unity of God and the love and worship of Him" into "an amulet (*kami`a)* for self-gratification" (*Mishneh Torah*, *Hilkhot Tefillin u-Mezuzah,* 5:4). An apotropaic view of mezuzah as a kind of religious house and health insurance is far worse than simply nonsense; it transforms a God-directed

[7] *Iggerot Mosheh, Yoreh De`ah* vol. 5, ed. S. Rappoport (Jerusalem, 1996), p. 209.

[8] The first four *mitsvot*, as formulated in the *Mishneh Torah*—to know God's existence and His unity, to fear Him, and to love Him—are grounded in "knowledge" and "understanding" of the world, which virtually mandates the study of science and philosophy for their fulfillment. See *Mishneh Torah*, *Hilkhot Yesodei Hatorah* 1:6, 7; 2:2; 4:13; *Hilkhot Teshuvah* 10:6; *Hilkhot Talmud Torah* 1:11,12. On this see Herbert Davidson, "The Study of Philosophy as a Religious Obligation," in *Religion in a Religious Age*, ed. S.D. Goitein, (Cambridge, MA: Association for Jewish Studies, 1974), pp. 53-68.

action into one of narcissism. As Kellner notes, the holiness of *mezuzah* (as well as of *tefillin* and *tsitsit*) lies in its religious *utility,* not its *ontology* (p. 120). Maimonides' theology would preclude any attempt to blame human fortune and misfortune on the *kashrut* of a *mezuzah*, regarding the effort as defeating the very raison d'etre of the *mitsvah*.

The only divine plan is that which allows humankind to shape its own destiny.

Hilkhot Tefillin u-Mezuzah then concludes with a characteristic demystification of a talmudic text (*Menahot* 43b) that can be and has been taken to endow these ritual objects with a power to generate angels. Here is a prime example of the symbiotic relationship between the *Guide* and the *Mishneh Torah,* belying the view of those who prefer a diagnosis of schizophrenia. In a manner perfectly consistent with the naturalization of angels espoused by the *Guide*, these prescribed items are seen in the *Mishneh Torah* as instrumental in their role as "reminders" for correct thought and conduct; thus, "*these* are the angels which save him from sinning" (6:13). Note the telltale referent of "these." In Maimonidean language this means that the ritual objects serve as reminders that instigate physical and psychological impulses which in turn trigger movements and thoughts that result in moral behavior and theological integrity. The strength of the mystical tide against which Maimonides swam is evidenced by the tortuous homiletics resorted to from medieval times to today to reconcile him with some essentialist notion of the *mezuzah*'s intrinsic protective powers.[9]

Maimonides' view here extends to biblical exegesis and can critically reinvent popularly understood *midrashim.* The *midrash* portrays Judah's solicitation of Tamar (whom he thought to be a prostitute; see Genesis 38) as having been compelled by "an angel in charge of lust" whom God had commissioned to overcome Judah's natural inclination to pass by (*Bereshit Rabbah* 85). Maimonides, however, understands that same angel as a metaphor for the physical forces of sexual excitement (*Guide*, II:6; Pines, p. 264). And Maimonides' reinterpretation has important substantive implications. The *midrash* interposes an angelic force into this drama in order to absolve a saintly biblical personage of unseemly conduct, transforming his behavior into a positive act in the unfolding of a divine plan. However, by naturalizing this angel, Maimonides accomplishes the very opposite, saddling Judah with personal responsibility for this incident as a result of his inability to control his sexual urges.

More importantly, Maimonides' reinterpretation makes this biblical episode emblematic not of divine intervention but of the overall course of natural history, whose operative principle is *olam ke-minhago noheg* ("the world goes forward in its usual manner"). In a world governed by angels that are no more than symbols of natural causation, Judah is accountable for his actions. Perhaps the allure of a world populated by angelic and demonic entities that Maimonides sought to suppress is precisely in its offer of relief from individual responsibility. For Maimonides, the only divine plan is that which allows humankind to shape its own destiny.

In the first chapter of *Mishneh Torah*, *Hilkhot Avodah Zarah*, Maimonides portrays Abraham's discovery (more accurately, recovery) of monotheism and "true religion," and it is there, more than anywhere else in his intellectual and legal corpus, that he draws an incisive line in the sand between his theology and that which he opposed. In Kellner's apt formulation, Maimonides stands the traditional notion of divine election on its head by having Abraham choose God rather than vice versa. Maimonides stands the traditional notion of divine election on its head by having Abraham choose God rather than vice versa.

God plays no active role whatsoever in Abraham's forging of a relationship with Him. That

[9] See, for example, *Iggerot Mosheh, Yoreh De`ah*, vol.2, p. 239. See also Joseph Kafih's comments in his edition of the *Mishneh Torah*, *Sefer Ahavah*, p.370; Kafih categorically dismisses the possibility that Maimonides attributed any apotropaic dimensions to the *mezuzah*.

relationship is the natural outcome of decades of intellectual angst, inquiry, search and investigation leading to Abraham's rejection, at the age of forty, of everything he had grown up with in favor of a single Creator-God. Maimonides' Abraham then assumes the Socratic mantle as a purveyor of truth at any cost, including his own personal safety, by "sowing doubt," "engaging in debate," "informing," "overpowering with demonstration," "accumulating a following," informing each follower "in accordance with his capacity," and ultimately leaving a textual legacy by "authoring treatises."[10] At its very inception Judaism is rooted in enlightenment rather than mystery, in the demonstrable grasp of universal truths over esoteric parochial traditions, in the primacy of self development over submission to authority, and in reason over magic.

Although Kellner notes it only parenthetically (p. 79, n.114), it is worthwhile exploring a seemingly trivial point of contention raised against this Abrahamic model by Maimonides' most prominent medieval halakhic critic, Ra'abad of Posquieres (d. 1198). Ra'abad takes him to task for diverging from a midrashic tradition (*Nedarim* 32a) that calculates Abraham's age of discovery as three. What is so contentious about this minor detail as to draw Ra'abad's ire, especially when there are other midrashic sources perfectly consistent with Maimonides' characterization?[11] For Ra'abad—himself mystically inclined and the father of R. Isaac the Blind, a seminal thirteenth-century kabbalistic exponent—this minor detail underpins a profound disagreement between the kabbalistic and the rationalistic theological schools. What for Maimonides is a purely natural if painstaking process of maturation and intellectual discovery is for Ra'abad something divinely orchestrated and revelatory. Ra'abad's model is akin to that of Christianity and Islam, which trace their origins to miraculous intrusions into the course of history. Whether it is a man said to be born of a virgin (Jesus), an illiterate said to have been the medium for the most exquisite literary masterpiece known to man (Mohammad), or a toddler who independently achieved revelation (Abraham), the founding fathers of their respective faiths are essentially unique human beings and therefore inimitable. Maimonides, on the other hand, anchors his Judaism in a philosophic quest sustained by natural human endeavor**,** something that can be feasibly replicated.[12]

Maimonides stands the traditional notion of divine election on its head by having Abraham choose God.

One can aspire to be an exceptional human being but not to an ontologically distinct one. A relevant model toward which one can aim interests Maimonides far more than an unattainable myth.

Abraham paves the way, not for Judaism, but for a "nation that knows God" (*ummah she-hi yoda`at et ha-shem.)* Whereas Halevi's nation is distinguished by some inherent godly gene called the "divine thing" (*inyan elohi*), Maimonides' coheres through knowledge. As a result, Halevian—and, later, Zoharic—humankind is stratified by a genetic hierarchy that resists even conversion.[13] In contrast, I would go as far as to argue, Maimonides' letter to Obadiah the proselyte

[10] *Mishneh Torah, Hilkhot Avodat Kokhavim*, 1:3. For a parallel passage in the Guide see II:39, Pines, p. 379, where Abraham is described as having "assembled the people and called them by way of teaching and instruction to adhere to the truth that he had grasped…attracting them by means of eloquent speeches and by means of the benefits he conferred upon them."

[11] *Bereshit Rabbah* 30:8; 46:2

[12] Joseph Karo, firmly within the mystical camp and yet a staunch defender of Maimonides against Ra'abad's onslaught, steers a brilliant compromise between the two positions: Abraham's his intellectual journey began when he was three but culminated at the age of forty. (*Kesef Mishneh, Hilkhot Avodah Zarah* 1:3)

[13] Halevi makes it quite clear in his *Kuzari*, XX I:27: "Anyone from the nations of the world who accompanies us and converts, may the Lord be gracious to him as He is to us, is not brought to our level." It is on this basis that Halevi disqualifies the convert from ever achieving prophecy, since "…he is not comparable to an Israelite from birth. For only an Israelite by birth is eligible to become a prophet" (I:115). For a discussion of the opposing schools, see Baruch Frydman-Kohl, "Covenant, Conversion and Chosenness: Maimonides and Halevi on 'Who is A Jew?'" *Judaism* 41/1, 64-79 (1992). For Halevi's position in particular see Daniel Lasker, "Proselyte Judaism, Christianity, and Islam in the Thought of Judah Halevi."

establishes the convert as the *only* authentic Jew: "While we [native-born Jews] are the descendants of Abraham, Isaac, and Jacob, you [Obadiah the proselyte] derive from Him through whose word the world was created."[14] The convert's motivations like those of his archetypical predecessor, Abraham, are not subject to challenge since he arrived at the essential truths of Judaism by reason. Tradition and upbringing played no role in his acquisition of the truth of God's existence and oneness. Therefore his relation to God is direct and free of extraneous cultural and social factors. In stark contradiction to the kabbalistic tradition that has informed Jewish religious culture to this day, Maimonides regarded the lack of ethnic pedigree as actually superior to its presence. Only the convert who arrives at the ultimate truth in spite of his tradition rather than because of it truly emulates Judaism's founding father, Abraham.

The natural-born Jew's faith is always suspect since one can never be certain whether adherence to the faith is not somehow motivated by familial allegiances.[15] The *Mishneh Torah*, to be sure, preserves legal rulings that discriminate against the convert, but none are grounded in an essentialist view of the non-Jew as inferior to the biological one. [16]

Maimonides' wholehearted embrace of the convert is a function of his universalism, which is blind to race and color but not to creed. Throughout his philosophical works, he considers the nature of man and human perfection in terms of the human being qua human being, not of Jews vs. gentiles. Simply put, what distinguishes humankind from the animal kingdom is intellect, and perfection lies in its realization (e.g., *Eight Chapters,* 1; *Guide* II:4; III:27, 54). Ultimate *imitatio dei* consists of exercising the mind, which is the only faculty we have even remotely in common with God (I:1). A realized intellect is the only thing that survives the body. There is no specifically Jewish intellect and consequently no such thing as what later came to be termed a "*goyishe kop*" (a disparaging Yiddish term for supposedly inferior gentile intellect). For Halevi, however, and for the later Zoharic and kabbalistic traditions, Jews are inherently distinct from and spiritually superior to gentiles.[17] This concept is virtually endemic to all the various strands of Hasidism, the popular avatar of the mystical tradition.[18] For Maimonides, knowledge is the only criterion for calibrating human spirituality: "for His favor and wrath, His nearness and remoteness, correspond to the extent of a man's

Only the convert who arrives at the ultimate truth emulates Abraham, Judaism's founder.

"for His favor and wrath, His nearness and reomoteness, correspond to the extent of a man's

[14] Maimonides, "Letter to Obadiah the Proselyte," trans. in *A Maimonides Reader*, ed. Isadore Twersky (West Orange NJ: Behrman House, 1972), p. 476.

[15] See my "Maimonides and the Convert: A Philosophical and Juridical Embrace of the Outsider," *Medieval Philosophy and Theology 11* (2003)pp. 125-146.

[16] See e.g., *Mishneh Torah, Hilkhot Ma`aser Sheini* 11:17; *Hilkhot Issurei Bi'ah* 12:17, 15:7; *Hilkhot Mattenot Aniyim* 8:17-18; *Hilkhot Melakhim* 1:4.

[17] This offensive mode of thought pervades the mystical tradition. For a full treatment, see Elliot Wolfson, *Venturing Beyond: Law and Morality in Kabbalistic Mysticism* (Oxford: Oxford Univ. Press, 2006) esp. chapters 1 and 2.

[18] Out of countless examples I cite one from a *hasidic* master particularly known for love of his fellow man, R. Levi Yitshaq of Berditchev: "…and God forbid that a Jew should associate with a gentile or converse with him about mundane affairs for the gentile is in truth disgusting, despicable and impure" (translation and emphasis mine. *Qedushat Levi* (Jerusalem, 2001) p. 289 (discourse for Shavuot). His love for his fellow man extends only to his fellow Jew; in his reputation for "love of Israel," the operative word is Israel.

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knowledge or ignorance" (*Guide* I:54; Pines, p. 124). The difference becomes readily apparent if we juxtapose a statement that typifies much of mystical theology and one that does so for Maimonidean theology:

Zohar 1:46b-47a

"*Let the earth bring forth every kind of souls of the living being (nefesh hayah): (*Gen. 1:24). The 'living being' (*nefesh hayah*) refers to Israel, who are the souls of the supernal, holy living being; Cattle, crawling things and living creatures of the earth-[are the other nations who are not souls of the living being, but rather foreskin [demonic] ."[19]

Mishneh Torah, Hilkhot Shemittah ve-Yovel, 13:13

"Not only the tribe of Levi but every single individual from the world's inhabitants whose spirit moved him and whose intelligence gave him the understanding to withdraw from the world in order to stand before God and minister to Him, to know God…is consecrated as 'holy of holies' and God will be his portion and inheritance forever."

Another corollary of Maimonides' confrontation with mysticism is the notion of ritual purity and impurity (*taharah* and *tume`ah)* to which Kellner devotes a chapter. Here again Kellner demonstrates that Maimonides made a conscious choice to reject the current in Jewish tradition that views these terms as denoting a real force ontologically inherent in the objects or people characterized by them. In his conception, they denote purely utilitarian legal categories that were ordained to accomplish certain moral and intellectual ends. For Maimonides, the halakhic status of ritual purity is relevant only vis-à-vis access to the Temple. From an ethical point of view, the entire regime of *taharah* and *tume`ah* is orchestrated to curtail access to the Temple so severely as to instill fear and humility (*Guide* III:47; Pines, p. 594). *Fear* of the Temple constitutes a formal positive commandment; but Maimonides is emphatic, both in his *Sefer ha-Mitsvot* (*Book of Commandments*) and in the *Mishneh Torah,* that the object of that *fear* is not the Temple space or location but rather "Him who commanded that we fear it."(*Mishneh Torah*, *Hilkhot Bet Ha-Behirah* 7:1; *Sefer ha-Mitsvot* positive commandment #21) The Herculean efforts needed to meet the demands of purity required by *holiness* are all aimed at directing the mind toward the metaphysical truth that the Temple represents.

Purity and impurity denote purely utilitarian legal categories ordained to accomplish moral and intellectual ends.

Intellectually, ritual purity is bound up with Maimonides' highly controversial rationale for the sacrificial cult. In short, sacrifice and Temple are concessions to human nature, whose well-being requires that change be gradual rather than abrupt and drastic. The ancient Israelite transition from idolatry to monotheism required the adoption of familiar idolatrous modes of worship (including animal sacrifice) and their subversion from within. For example, animals must be sacrifice upon an altar, but the altar must be built out of earth and not hewn stone since "the idolaters used to build altars with hewn stones" (*Guide,* III:45; Pines, p. 378).

For Maimonides, the entire regulatory edifice of sacrifice and Temple is geared toward restricting it to its bare minimum, in much the same way a drug addict is weaned off his addiction by gradual withdrawal facilitated by the use of another drug. The cult's confinement to one particular location, one building and one officiating family (the *kohanim* [priests]) is part of an abolitionist strategy. The sacrifice is a remedial reaction, not an innovation. Though Kellner doesn't formulate it this way, I would suggest that a ritual purity regime so all-pervasive as to render all but a handful of rare exceptions impure (*Guide*, III:47; Pines, p. 594) is an essential part of the plan of abolition. It serves to minimize rather than promote access and pilgrimage to the Temple, thus downplaying its significance in a manner consistent with its status as a divine accommodation of human needs. Temple, sacrifice, and ritual purity are all means toward

[19]Translation by Daniel Matt, *The Zohar: Pritzker Edition*, (Stanford Univ. Press, Stanford, Ca, 2004) vol.1, p.252

realizing the objective of divine unity. To perceive *tume`ah* as an ontological state or sacrifice as an intrinsically effective spiritual medium is to confuse means with ends, for both are purely utilitarian tactics for the eradication of idolatry.

Finally, Maimonides mounted a programmatic assault against the kabbalistic notion that the terms *kavod* (divine glory) and *shekhinah* (divine presence) connote a palpable spatial presence. For Halevi, Nahmanides (d. circa 1270), and their kabbalistic successors, these are visually perceptible divine manifestations or—as Gershom Scholem formulated it—"a mythical hypostasis of divine immanence in the world."[20]

The entire regulatory edifice of sacrifice and Temple is geared toward restricting it to its bare minimum, in much the same way a drug addict is weaned off his addiction.

Maimonides' methodical dismantling of these "hypostases" begins by vacating any literal connotations of *maqom* (place) when referencing God in favor of an exclusively metaphorical sense (*Guide*, I:8; Pines, p. 33). It continues by interpreting a verse such as "the whole earth is full of His glory" (Isa. 6:3) as "the whole earth bears witness to His perfection" (*Guide*, I:19; Pines, p. 46). This plugs back into the notion that the sole means of knowing God is by understanding His creation. Since every aspect of that creation reflects on its creator, Maimonides is saying here that every advance in probing the world and its structure metaphorically enhances God's "glory." God's presence, whether as *kavod* or as *shekhinah*, inheres in humankind's endeavors to understand His world, "for the true way of honoring Him consists in apprehending His greatness." (*Guide,* I:64; Pines, p. 157), and not in some geographical location. In an exquisite subversion of an all- pervasive misconception that something godly inhabits the Temple, Maimonides analogizes the meaning of "And the glory of the Lord filled the Tabernacle" (Exod. 40:34) to that of "the whole earth is full of His glory" (Isa. 6:3): just as every aspect of the world reveals, once understood, God's greatness, so does the Sanctuary (*miqdash*) serve as a spatial focus for contemplating that greatness. The *miqdash* does not house; it prompts and stimulates. One need only consider the contemporary treatment of the Western Wall in Jerusalem—a place for delivering mail to God, a place to which prayer is directed, a place whose stones are kissed and demand prostration—to appreciate what Maimonides was trying to avert and to lament the failure of his project.

To graphically illustrate Kellner's thesis, let me offer here the commandment of circumcision as but one out of a myriad of examples in which the Maimonidean-Kabbalistic divide can be clearly discerned. For Maimonides, the commandment is neither transformative nor does it create any special bond between the Jew and God. Its purpose is to physically diminish sexual pleasure and desire, initiate membership in a faith community, and signify commitment to a belief in the universal truth of divine unity (*Guide,* III:49, Pines pp. 609-11). It is a purely functional means for strengthening character, social cohesion, and ideological commitment; indeed, it is one that Jews bear in common with the descendants of Ishmael (*Mishneh Torah*, *Hilkhot Melakhim* 10:8). Its legal classification under the rubric of the "Book of Love (Sefer *Ahavah*)" considers it of a kind with *tefillin*, *tsitsit* and *mezuzah*; in their absence, it serves "as a constant reminder" to direct one's mind toward God (*Mishneh Torah*, Introduction, 1:21, Frankel edition, (Hotzaat Shabse Frankel, Jerusalem, 2001).[21]

Thus, circumcision is a prime example of Maimonides' halakhic instrumentalism. In contrast, the mystical tradition perceives it as transformative, making the Jew Jewish and ontically distinguishing him from the Gentile. As the *Zohar* states, "from the eighth day onward

[20] Gershom Scholem, *On the Mystical Shape of the Godhead*, trans. from the German by Joachim Neugroschel (New York: Schocken Books, 1991), p. 171

[21] On this see chapter 6 of Shaye Cohen's recent study *Why Aren't Jewish Women Circumcised: Gender and Covenant in Judaism* (Berkeley: Univ. of California Press, 2005) and Josef Stern, "Maimonides on Circumcision," in *The Midrashic Imagination,* ed., M. Fishbane (Albany: SUNY Press, 1993), pp.131-54. Stern concludes that circumcision is a natural sign that constitutes a relationship between people rather than between people and God (id., p. 142).

Israel cleave to His name…the [other] nations do not cleave to Him …the holy sign is removed from them and they cleave to the *sitra ahra* ['the other side,' a mystical term for the forces of evil], which is not holy" (3:91a-b).[22] Mystical circumcision is analogous to Christian baptism.

Maimonideans and the mystically inclined practice the same religion, but they subscribe to entirely different belief systems.

Its significance is reflected in Nahmanides' elation over the fortuitous timing of the divine command to Abraham regarding circumcision: it precedes Sarah's becoming pregnant "so that [Abraham's] seed could be holy" (Commentary to Gen. 17:4; Chavel, vol. 1, p. 100). Not only is circumcision transformative; it engenders an objective holiness that is programmed into the Jewish genetic code and biologically inherited. Many of the dichotomies discussed earlier—institutional vs. inherent holiness, Jewishness vs. gentileness, instrumentalism vs. essentialism, magic vs. utility, enlightenment vs. mystery—are crystallized in this *mitzvah* in a way that presents a Jew with a very elemental choice. The Maimonideans and the mystically inclined may normatively practice the same religion but philosophically they subscribe to entirely different belief systems.

Since the perfect book is as elusive as the perfect human being, any review would be remiss if it did not include a criticism or two. Acknowledging its rare combination of rigorous scholarship, accessible, lucid and readable style, and topical relevance, I offer these as suggestions only to improve an already superb work for what is certain to be a second edition. For good reason, Maimonides' arch-nemesis in this book is Halevi, but in view of Nahmanides' relevance for contemporary Orthodox Jewish thought and practice, it might have been more instructive and enticing to have portrayed him as the quintessential anti-Maimonidean paradigm.

Nahmanides' persona, especially within the *haredi* community where Halevi is virtually ignored, far overshadows Halevi's. Though historically postdating Maimonides, he is the one medieval Jewish thinker who can measure up to Maimonides' stature both in *halakhah* and theology, much of which was anticipated by Maimonides. Additionally, Kellner's afterword on "Contemporary Resistance to the Maimonidean Reform" could be expanded to encompass far more than its discussion of the doctrine of *da`at torah*. I suspect that Kellner has simply whetted our appetite on this score, paving the way for another deservedly full length treatment of a contemporary malaise. As Kellner formulates it, the choice is stark and fundamental: yours can be a Judaism of enchantment, in which you abdicate responsibility to rabbis and surrender thought to mystery, or a Judaism of empowerment

These minor suggestions for improvement in no way detract from my assessment that Kellner has contributed a study of great value not only for an academic audience but for lay and yeshivish audiences as well. The book is a welcome addition to the *samizdats* currently circulating within the underground yeshiva counter-culture.

[22] On circumcision as a physical inscription of the divine name, see Elliot Wolfson, "Circumcision and the Divine Name: A Study in the Transmission of an Esoteric Doctrine," *JQR* 78 (1987), pp.77-112.

Meorot
A Forum of Modern Orthodox Discourse

Women's Eligibility to Write *Sifrei Torah*

Jen Taylor Friedman

Abstract: This article explores the topic of women writing *sifrei Torah, tefillin,* and *mezuzot,* as found in the talmudic and post-talmudic halakhic canon. The question of a woman's eligibility to write a sefer Torah is discussed in detail, and a path of reasoning is described that would permit a woman to write a sefer Torah for use in the public Torah reading.

Biography: Jen Taylor Friedman studied at Machon Pardes and the Drisha Institute.

Meorot 6:2
Marḥeshvan 5768
© 2007

A Publication of
Yeshivat Chovevei Torah
Rabbinical School

Women's Eligibility to Write *Sifrei Torah*

Jen Taylor Friedman

A – Introduction

In the course of this exploration, we shall attempt to ascertain why a woman is considered ineligible to write a *sefer Torah*, looking first at the standards of production for *kitvei qodesh*, the sacred texts, and then at why women in particular are considered ineligible to write them. We will look closely at the differing functions of *kitvei qodesh*, the extent to which the aforementioned standards apply, and the degree to which there is consensus on the various positions we will encounter. We will explore several instances of discord, and show that they may be harmonized; one consequence of our harmonization will be that there exist circumstances in which women may be considered eligible to write *sifrei Torah*.

Let me emphasize that this is intended more as a theoretical exercise than as either *pesaq* or exhortation. The implications of permitting women to take part in any ritual activity from which they have traditionally refrained are far-reaching and have been discussed at length elsewhere by persons more qualified so to do. Whether a community should permit its women to write *sifrei Torah* is an entirely separate question, and I do not pretend to offer advice as to the merits or otherwise of such a decision, except to say that as with any communal decision it should be approached with care.

a1. Approaches to egalitarianism

The entire question of women's eligibility to write anything at all is irrelevant if one views *sofrut* (the scribal arts) from a completely egalitarian perspective. This paper does not aim to discuss the wider topic of egalitarianism in general. In brief, however, the egalitarian approaches are:

Summary dismissal of all considerations of gender. Here, there clearly would be no problem with a female *soferet* (scribe; the masculine form of the noun is *sofer*), but summary dismissal of halakhic texts is not generally considered a valid halakhic mechanism.

b) *Equation of acquired and from-birth obligations.* The contention here is that an acquired obligation, either voluntarily undertaken or assumed as a matter of cultural identity, is identical in nature to an obligation with which one was born. With this approach, one may say that a woman who commits herself to observance of the *mitsvah* of *tefillin* has a *de-orayeta* obligation (an obligation grounded in biblical, as distinct from rabbinic, law) just as does a normal adult male, and may therefore function as a scribe just as a man, since, as we shall see, women's halakhic exclusion from ritual writing stems entirely from their exemption from donning *tefillin*. The validity of this premise is questioned by many.

c) *Redefining the halakhic category of "woman."* The *halakhic* category "woman" is here redefined in such a way as to place contemporary women outside it, because of their altered social status, their performance of *mitzvot*, and so on. Any talmudic reference to "a woman" is then to be read as referencing these "other women," and is not necessarily applicable to "today's women," to whom quite different rules may apply. Again, the validity of this approach is questioned by many.

a2. *Kitvei qodesh* - the holy texts

Sifrei Torah are the most conspicuous specimens of the *sofer*'s craft, but ritualized writing is also mandated in various other situations. In the home, the verse "You shall bind them for a sign upon your hand, and they shall be for a sign between your eyes. And you shall write them on the doorposts of your house and on your gates" (Deut. 6:8-9) taken literally results in the wearing of sections of text in *tefillin*, and their display as *mezuzot*. The *megillah* (scroll) of Esther, read on Purim, is also a ritualized text that must be read from a halakhically valid scroll; some communities also read the other *megillot* (four other biblical books read at various times) and the *haftarot* from valid scrolls. All of the *kitvei qodesh* are written in accordance with essentially the same set of rules, a few leniencies and stringencies derived from *Torah* or hallowed by tradition being applicable in various instances.

B. Criteria for valid *kitvei qodesh*

b1 - Who may not write?

A list of persons ineligible to write *kitvei qodesh* appears at *Gittin* 45b, and this list is incorporated into most of the subsequent halakhic discussion of the topic. This crucial passage is cited here in its entirety.

Mishnah: One may not buy *sifrei Torah*, *tefillin* and *mezuzot* from non-Jews[1] for more than their fair price, for *tiqqun ha-olam*.

Gemara: Rav Budya said to Rav Ashi: One may not buy them when they are overpriced, but may buy them when they are at a fair price. Learn from this that a *sefer Torah* found in the possession of a non-Jew may be read from, or perhaps it should be buried. Rav Nahman said: We learn that a *sefer Torah* written by a heretic is burned and one written by a non-Jew is buried; if found in the possession of a heretic it is buried, if in the possession of a non-Jew, some say it should be buried and some say it may be read from. A *sefer Torah* written by a non-Jew: one *tanna* says burn it, one *tanna* says bury it, and one *tanna* says read from it! This is not a difficulty—the one who says burn it is Rabbi Eliezer, who said: A non-Jew may be presumed to direct his acts towards idolatry. The one who says bury it is the one who taught as Rav Hamnuna the son of Rava from Pashronia taught: *sifrei Torah*, *tefillin* and *mezuzot* written by (*some editions:* a heretic,) an informer, a non-Jew or a slave, a woman or a child, a Cuthean or an apostate Jew, are invalid, as it is said, [Deut 6:8-9] 'Bind them...write them'—anyone who is commanded to bind is commanded to write, and anyone who is not commanded to bind is not commanded to write. The one who says "read from it" is the one who taught: "One may buy *sefarim* from non-Jews in any place, provided they were written correctly."

The tannaim *are by no means unanimous as to the fate of a sefer Torah written by a non-Jew*

Opinions range from the most extreme to the most lenient. There is nothing here to say. The *tannaim* are by no means unanimous as to the fate of a *sefer Torah* written by a non-Jew; whether the positions other than Rav Hamnuna's would permit using a *sefer Torah* written by a woman, although given that the distinction between Jew and non-Jew tends to overshadow the distinction between male and female Jews, one might suppose that if a *sefer Torah* may be written by a non-Jew, it may certainly be written by a Jewish woman.

In any case, Rav Hamnuna is the most specific about persons other than non-Jews, and his reasoning is that only one who is obligated by the *mitsvah* to don *tefillin* may write *tefillin* or any other s*ifrei kodesh*.

[1] Some texts here have "*oved kokhavim*," idolater, which is a common censorship for "non-Jew." It is possible that an idolater could be halakhically Jewish, but a Jewish idolater would count as a heretic in this context, and the heretic is mentioned explicitly in the *gemara* independently of the *oved kokhavim*. Therefore here we may suppose "*oved kokhavim*" to indicate a non-Jew

The obvious objection concerns the heretic, informer, and apostate—those who are commanded to don *tefillin*, but are nevertheless disqualified from writing sacred scrolls. If the issue is simply one of obligation, should they not be eligible to write? We see, therefore, that there is another issue in play, namely one's commitment to the obligation. These three have all demonstrated contempt for rabbinic Judaism: the heretic denies the validity of the *mitsvot*; the betrayer by deliberately setting himself aside in some way from the community (opinions differ as to the precise nature of his betrayal[2] and the apostate by altogether abandoning performance of *mitsvot*. There is a presumption that if one has demonstrated disdain for the *mitsvot* [3] it is unlikely that he is writing with appropriate *kavannah* (sacred intention)[4]

The remaining people identified as ineligible are all discounted on the basis of their exemption from the *mitsvah* of *tefillin*; why exemption from donning *tefillin* should disqualify one from writing *sifrei Torah* is examined in greater detail below. The non-Jew and the minor[5] are exempt from all commandments of a ritual nature, and the slave and woman are exempt from having to perform time-bound positive commandments. *Tefillin* not being obligatory at night or on Shabbat or festivals, slaves and women are held to be exempt.[6]

The remaining people identified as ineligible are all discounted on the basis of their exemption from the mitsvah of tefillin*;*

Evidence of a different, possibly tannaitic, opinion is found in *Masekhet Soferim* (1:14):

> A *sefer Torah* written by a heretic, a non-Jew, a slave, a deaf-mute, one who is mentally impaired, or a child, is not read from. This is the principle: if one is eligible to discharge the obligation of the community, his writing may discharge the obligation of the community.

This list adds the deaf-mute and mentally incapacitated, who do not qualify to read Torah for the congregation, and omits the woman, the Cuthean and the apostate. These latter two are presumably not eligible to read —they are more or less synonymous with the

[2] The *Beit Yosef* summarizes the various opinions, cf *Orah Hayyim* 39 s.v. "*Tefillin*"

[3] The Cuthean is presumed to lack *kavannah* because Cutheans were a caste descended from persons who were thought to have converted to Judaism under duress, and they are therefore suspected to be not entirely committed to Jewish practice. Consequently, it is likely that if a Cuthean were to write a *sefer Torah*, his intent would not be fixed on the sanctity of the text, and we discount his work for this reason.

[4] A lack of *kavannah* can invalidate large amounts of writing and be extremely expensive to fix; only the *sofer* knows whether he in fact had *kavannah*, and the temptation to lie is strong. An indifferent attitude to *mitsvot* could strengthen that temptation beyond bearing, the immediate financial loss being far more compelling than the potential divine retribution.

[5] One view bars boys from writing until the age of eighteen: as a matter of biblical law, a thirteen-year-old boy remains a minor until physical maturity is also attained, and since delicacy precludes examination of thirteen-year-old boys, they are deemed ineligible until they reach an age at which physical maturity may be conclusively presumed. See *Pithei Teshuvah*, *Yoreh De`ah* 281. Minors who are mature enough to be educated are obligated by the *mitsvot*, but their obligation is not of the same nature as an adult's, and the difference is sufficient to exclude the educable minor from eligibility to write *sifrei qodesh*.

[6] *Pithei Teshuvah* (ibid) turns his attention to other people who are often excluded from ritual activity. Persons of indeterminable gender (*tumtum* and *androgynos*) are ruled ineligible to write since they may be women. The deaf-mute and the mentally incapacitated are generally classed with minors with regard to obligation in *mitsvot*, exempted on the grounds of impaired understanding, so why are they not mentioned in this *baraita*? He suggests in the name of the *Shivat Tsiyyon* that they are indeed exempt, but are not mentioned in the *baraita* because their writing such things is exceedingly unlikely—no one would ever think they would write, so there is no need to say that they can't. Alternatively, perhaps they are in fact obligated by the *mitsvah* of *tefillin*, and consequently if they were to write *sifrei qodesh*, they would be considered valid. The Mordekhai (*Hilkhot Matanot*, 14:3) also disqualifies a *mamzer* (the offspring of an adulterous or incestuous union, subject to various disqualifications).

non-Jew and the heretic, after all—but, by omission, the woman is qualified to write since she is qualified to read.[7]

Having seen that there are several different potential approaches to the question of who may and may not write *sifrei Torah*, we shall look in more detail at the idea that the obligation to don *tefillin* affects one's validity to write *sefrei Torah, tefillin* and *mezuzot*, a premise that is the basis for R. Hamnuna's list.

b2 – The effect of an obligation to don *tefillin* on one's eligibility to write *kitvei qodosh*

By its terms, the principle that one not obligated to fulfill a *mitsvah* cannot perform that *mitsvah* on behalf of one who is so obligated should pose no barrier to a non-obligated person writing *tefillin* fit for use, for the *mitsvah* is to wear the *tefillin* and not to write them (or, in the case of *mezuzah*, to attach it, not to write it). After all, women are exempt from hearing the *shofar* blown and may not blow it for a man, yet a woman may take a horn and make a *shofar*, and it is generally the case that one exempt from a commandment may make the used in fulfilling it. Yet, that seems not to be the case: In his *beraita,* Rav Hamnuna seems to think that writing is an integral part of donning *tefillin*, and therefore one exempt from donning *tefillin* may not write them on someone else's behalf.

We must now consider how and why the relationship among *tefillin, mezuzot* and *sifrei Torah* results in eligibility to write any of them being conditioned on the obligation to don *tefillin*. The three texts are closely associated in the halakhic canon, but we have not yet inquired as to why this should be. Rav Hamnuna asserts an exclusive correlation between those who don *tefillin* and those who may write not only *tefillin* but also *mezuzot* and *sifrei Torah*. The connection has to do with writing: Since *mezuzot* are referred to as being written as is a *sefer Torah*, we infer that essentially similar rules of writing apply to all three texts. The next section deals with this deduction in more detail.

b2i - Some link *tefillin* and *mezuzot* and thence infer information about *sifrei Torah*

The *mitzvot* of *tefillin* and *mezuzah* are derived from Deuteronomy 6:8-9:

> You shall bind them as a sign upon your hand, and they shall be as *totafot* between your eyes. You shall write them upon the doorposts of your house and upon your gates.

A straightforward reading tells us that *mezuzot* are to be written, and rabbinic logic infers that they are to be written according to the laws of sacred texts.[8] The juxtaposition of the verses commanding *tefillin* and *mezuzot* justifies extension to *tefillin* of the requirement that a *mezuzah* be "written"; and, in general, *tefillin* and *mezuzot* are to be approached in similar ways. Here too is the link between binding and writing to which *Gittin* referred; the *mitsvah* of binding is inextricably linked to the process of writing. Rosh (on *Gittin* 4:46), Ran (on *Gittin* 45, s.v. "*Sefer Torah*"), and Ritva (ibid.) accept this association, treating *tefillin* and *mezuzot* as a conceptual unit.

For Rosh, the association with the word "write" continues to the verse "*write this as a memorial in a book*" (Ex 17:14). This is taken to refer to the *Torah*, and so the conditions of manufacture are extended from *tefillin* and *mezuzot* to *sifrei Torah*. Ritva and Ran take a different approach: working from the premise that a *sefer Torah* is holier than either *tefillin* or

[7] Of course, if reading for the community is the issue, why is the child in the list of those who may not write? A child may read. Possibly the one source refers to children who are not old enough to understand and the other source refers to those who are – this is a slightly forced reading, but arguably no worse than the maneuvering we saw in the passage in *Gittin*.

[8] *Menahot* 32b infers this by *gezerah shavah* (verbal analogy) on the term "*ketav"* that a *mezuzah* is to be written like a "*sefer*" - since an instance of "*ketav"* elsewhere is in the specific context of "*sefer*", so too in this instance. Since in that context an injunction for "*ketav*" was apparently not significant and required the additional term "*sefer*," we infer that "*sefer*" implies a further degree of precision.

mezuzah, they reason that if an individual unfit, for whatever reason, to write *tefillin* or *mezuzot*, *a fortiori*[9] the individual is unfit to write a *sefer Torah*.

b2ii - Some link *tefillin* and *sifrei Torah* and thence infer information about *mezuzo*t

By contrast, *Tosafot Rid* (*ibid.*) starts from the premise that a woman may not write *tefillin* or a *sefer Torah* and derives the same rule for a *mezuzah*, on the grounds that writing a *mezuzah* is no less holy an act than writing *tefillin* or *sifrei Torah*. This is somewhat strained, since it is generally accepted that a *mezuzah* has rather less sanctity than either *tefillin* or *sifrei Torah*.[10] Be this as it may, *Tosafot* Rid is clearly deriving the rule for a *mezuzah* from the rule for *tefillin* and *sifrei Torah*.

Masekhet Soferim, as we saw above, appears to keep the case of a *sefer Torah* distinct from those of *tefillin* and *mezuzot*. However, neither *Masekhet Soferim* nor *masekhtot sefer Torah*, *tefillin* or *mezuzah* mention the corresponding question of who may write *tefillin* or *mezuzot*, so it is perhaps less surprising that the *baraita* in *Gittin*, bearing more information, is the position adopted as *halakhah*, despite the lack of apparent foundation for the major logical step of connecting donning with writing.

However the association is constructed, the three texts of *sifrei Torah*, *tefillin* and *mezuzot* form a conceptual triad, and it is generally assumed that the related *halakhot* are the same for all three unless otherwise discussed.

b3 - An obligation to place a *mezuzah* does not make one eligible to write a *mezuzah*

We have seen that writing and donning *tefillin* are, as it were, bound together, such that the writing is seen as a definitive part of the *mitsvah* rather than an unavoidable preliminary. This is not an intuitive step by any means: people are certainly not expected to write their own *tefillin* (compare the *sefer Torah*, which people are theoretically expected to write for themselves at least once). Given this, why should the writing be considered so closely linked to donning? Despite the association being decidedly unclear, it seems to be accepted without question by the major *rishonim* (scholars who lived between, roughly, the eleventh and sixteenth centuries); there is a good deal of discussion of the effects of the association, but apparently none regarding the validity of making the association in the first place. Without that association, however, all objections to women or anyone else's writing *tefillin* in a stroke is removed.

She is no more eligible to write mezuzot *than she is to write* tefillin.

Writing and binding being inextricably associated, it is reasonable that a woman, not obligated to don *tefillin*, could not write *tefillin* for a man subject to that obligation. By contrast, a woman is certainly obligated by the *mitsvah* of mezuzah, so it would seem perfectly logical that she might write one—yet this is not so: she is no more eligible to write *mezuzot* than she is to write *tefillin*. But if she is obligated by the *mitsvah* of *mezuzah*, why may she not write a *mezuzah*?

We have seen that the texts are generally treated as a unit: *tefillin* and *mezuzot* are commanded in such close proximity that those who cannot write *tefillin* also may not write *mezuzot*, and that this association extends to the third member of the triad. Specifically, considerations of obligation *vis-à-vis* *mezuzot*

[9] That is, since we know that a scribe for *tefillin* and *mezuzot* must meet certain standards, it would be absurd to suggest that lower standards apply to a scribe writing a holier object. Hence the heretic, the informer, the non-Jew, and so on may not write *sifrei Torah*, for they are ineligible to write *tefillin*..

[10] For example:

ש"ע י"ד רצ:א"ספר תורה או תפילין שבלו, אין עושין מהם מזוזה. ואין כותבין אותה על גליוני ספר תורה, לפי שאין מורידין מקדושה חמורה לקדושה קלה."

and *sifrei Torah* are entirely irrelevant. This seems counter-intuitive, but it is so. Although obligated to fulfill the *mitsvah* of *mezuzah*, a woman may not write one for herself or others. It is obligation or lack thereof with respect to the *mitsvah* of *tefillin* that determines eligibility to write *mezuzot* and *sifrei Torah*.

Rabbeinu Tam (*Gittin* 45b, s.v."*Kol*") drew from this ruling the rigorously logical conclusion that because women are not obligated by the *mitsvah* of *tsitsit*, they may not tie *tsitsit* for men; and since they are not obligated to take up a *lulav*, they may not bind together *lulavim* for men. This was rejected by the anonymous Tosafist, who cited *baraitot* in *Menahot* 42a and *Sukkah* 8b that permit women to tie *tsitsit* and build *sukkot*, despite being exempt from both. The general position is that one who is not obligated by a *mitsvah* may nevertheless validly produce the objects associated with the performance of that *mitsvah*, and *Tosafot* conclude that the case of *tefillin* (and its associates *sifrei Torah* and *mezuzot*) presents an anomalous exception to that rule.

C. Reading the *Torah* and Writing a *Sefer Torah*

c1 - The Role of the *Sefer Torah*

The *sefer Torah* has acquired a special significance in the Jewish tradition. No other ritual object is afforded such a degree of veneration—we stand as it is carried by and take on communal fasting if it suffers an indignity. This is not simply because the scroll contains the fundamental text of the religion; a printed *humash* is not afforded the same respect as a *sefer Torah*. In addition to the formal property of *qedushah* (sanctity) attained in its writing, the scroll itself carries tremendous symbolism, and as such is a focal point of any synagogue. Which *mitsvot*, then, is the *sefer Torah* used in fulfilling?

c1i – *Qeri`at ha-Torah*

The context in which we most frequently encounter the *Torah* scroll is the communal *Torah* reading, *qeri`at ha-Torah*, which occurs minimally four times a week. Most opinions hold that the communal *Torah* readings on Shabbat, festivals and certain weekdays were variously enacted by Moses and Ezra.[11] Moses instituted readings to give vigor to the faltering Israelites in the wilderness, who had been three days in the wilderness without water, and by associating one form of sustenance with another, we infer that after three days with no *Torah* the people were weary. Hence regular *Torah* readings were enacted in order that the people be continually nourished on their journey.[12]

The sefer Torah *is venerated as a representative not merely of the law but also of the revelation.*

Torah reading being such an invigorating experience is perhaps more comprehensible if we view the ritual as being, in some degree, a re-enactment of the revelation at Sinai. The *sefer Torah* is venerated as a representative not merely of the law but also of the revelation, and by reading from the *Torah* in the desert,

[11] תלמוד ירושלמי מגילה פרק ד הלכה א - 'משה התקין את ישראל שיהו קורין בתורה בשבתות ובימים טובים ובראשי חדשים ובחולו של מועד שנ' וידבר משה את מועדי יי' אל בני ישראל עזרה התקין לישראל שיהו קורין בתורה בשני ובחמישי ובשבת במנחה'
or:
'בבא קמא פב:א, דתניא: (שמות ט"ו) וילכו שלשת ימים במדבר ולא מצאו מים - דורשי רשומות אמרו: אין מים אלא תורה, שנאמר: (ישעיהו נ"ה) הוי כל צמא לכו למים, כיון שהלכו שלשת ימים בלא תורה נלאו, עמדו נביאים שביניהם ותיקנו להם שיהו קורין בשבת... וקורין בשני... וקורין בחמישי.'

[12] Another possible rationale is discussed in *Berakhot* 21a, which infers public Torah reading by a fortiori reasoning from the blessing after a meal. That blessing is biblically ordained, and Torah, having greater importance than food, should certainly be followed by a blessing as well. Accordingly, some occasion for that blessing must be ordained, for individual Torah study is of unlimited quantity and therefore does not lend itself to a concluding blessing. The public reading is of prescribed quantity and therefore has a definite end, following which the blessing may be said. This rather contrived derivation does not seem to represent a majority opinion.

Moses was able to sustain the people's sense of divine commission.[13]

The public reading itself follows, more or less, the model of *haqhel* - the septennial reading of the *Torah*. According to the *Torah* itself, all Israel is to assemble once every seven years, and "read this *Torah* before all of Israel to their ears. Assemble the entire nation: men, women, and children, and the strangers who dwell within your gates, in order that they hear, and in order that they learn to fear the Lord their God and keep the words of this *Torah*. And their children, who do not know, will listen and will learn to fear the Lord your God, all the days that you live upon the land which you are crossing the Jordan to inherit." (Deut. 31:11-13).[14]

This message of eternal assurance is transmuted into the commandment of ketivat sefer Torah.

The purpose of *haqhel* is clearly educational—the nation is to hear the law read in order to observe its decrees. Equally clearly, its purpose is not merely—or even primarily—the propagation of the law. The reading has a spiritual purpose as well: to inspire awe in those who hear it, an awe that results in observance of the law. Through this means the Torah will be revealed to the children, who are as yet ignorant of the fear of God, and *haqhel* thus serves as a revelatory experience to each new generation. Maimonides[15] is quite clear that *haqhel* is to be a re-enactment of the original giving of the *Torah*—"strangers who do not understand must direct their hearts to understanding and their ears to comprehension, to listen in fear and joy and trembling, as on the day it was given at Sinai; even great sages who know all the *Torah* must listen very attentively, and one who is not able to listen must direct his heart to this reading, which was given to enhance the true law—he should view himself as being commanded in the law there and then, hearing it directly from God." That is to say, the function of this reading is not merely the communal propagation of the law, but the inspiration and renewal of spiritual ardor amongst the community.

Historically, *haqhel* in all its glory became impractical following the dispersal of the Jewish people. It has been reinstated in modern Israel, with the head of state replacing the king as reader. In a more modest form, the giving of the law is re-enacted in the synagogue during *Torah* reading. The reverence for the scroll translates into reverence for the divine revelation, culminating in the lifting of the scroll and the communal declaration "This is the *Torah*, which Moses put before the children of Israel, from the word of God."

c1ii. *Ketivat ha-Torah*

From a biblical perspective, it seems that periodic rehearsal of the *Torah* is insufficient; in addition to *haqhel*, the written law is to be propagated on an individual basis as well. At the end of Moses' lifetime, once he has communicated God's law to the people, he is commanded to ensure that Israel shall remember that they are part of a divine plan: "And now, write for yourselves this song and teach it to the children of Israel, put it in their mouths; in order that this song will be a testimony to me among the children of Israel" (Deut. 31:19). Certainly the law is to be studied by the individual and transmitted to his

[13] See, e.g., the *Bah* to *Orah Hayyim* 47

[14] The Sages interpret the *mitsvah* of *haqhel* as applying only while the Temple is standing. The modern state of Israel has revived the practice, but even in the Diaspora traces of the *mitsvah* remain—in public Torah reading, as we see, and in the celebration of *Simhat Torah*. On the ancient triennial cycle, it took three-and-a-half years to read the Torah. Two such cycles took seven years, and it made sense to complete the cycle at *Simhat Torah*.

[15] רמב"ם ה' חגיגה ג:ו "וגרים שאינן מכירין חייבין להכין לבם ולהקשיב אזנם לשמוע באימה ויראה וגילה ברעדה כיום שניתנה בו בסיני, אפילו חכמי גדולים שיודעים כל התורה כולה חייבין לשמוע בכוונה גדולה יתרה, ומי שאינו יכול לשמוע מכוין לבו לקריאה זו שלא קבעה הכתוב אלא לחזק דת האמת ויראה עצמו כאילו עתה נצטוה בה ומפי הגבורה שומעה, שהמלך שליח הוא להשמיע דברי האל. "

offspring, but he is also to obtain a tangible statement of God's involvement in his life.[16]

In the rabbinic tradition, this message of eternal assurance is transmuted into the commandment of *ketivat sefer Torah* (writing a *Torah* scroll). Each and every Jew is to have his own copy of the written law, a physical copy of God's communication for each Israelite. One might think from the verse that only the song is required, or perhaps a briefer message still—why the entire law and not just the song? The reasoning runs thus: Granted, the song is the only part requiring transcription, but writing down only parts of canonical texts is troublesome; books should only be written in complete form (*Gittin* 60a). The *Torah* consists of five books, so one might think it sufficient to write only the book containing the song; but the *Torah* was given at Sinai as a unit of five books in a scroll, and should therefore remain as five books in a scroll.[17]

It is possible that the scroll constitutes part of the requirement of *Torah* study (*talmud Torah*). Women are exempt from most aspects of *Torah* study—Maimonides rules that women are by no means obligated to learn *Torah* like men (*Mishneh Torah*, *Hilkhot Talmud Torah*, 1:13), although they may if they wish. He exempts women entirely from writing a scroll (*Sefer ha-Mitsvot,* pos. commandment 18, and in the summary of positive commandments), consistent with the idea that women's exemption from *Torah* study implies exemption as well from the scroll-writing aspect of *Torah* study.

The most extreme view of this relationship is found in the Rosh, whose basic premise is that writing a scroll is wholly and exclusively a means toward the end of *Torah* study.[18] In his *Tur* (Yoreh De`ah 270) the Rosh's son codifies his father's conclusions:

> My respected father the Rosh wrote that this was only said of the first generations, who would write *sifrei Torah* and learn from them. But nowadays, when we write *sifrei Torah* and place them in synagogues to read from at the public *Torah* reading, the commandment on every Israelite who is able is to write the five books of *Torah*, and *Mishnah*, and *Gemara*, and their commentaries, for him and his sons to peruse. This is the *mitsvah* of writing the *Torah*: to learn from it, as it is written "Teach the children of Israel, put it in their mouths," and from the Gemara and its explanation we know the meaning of the *mitsvot* and the laws clearly. Thus these are the books that one is commanded to write and may not sell, except to [use the proceeds to] learn *Torah* or to get married.

That is to say, in our day the *sefer Torah* has only a symbolic presence in the synagogue, and the learning that used to be done from it is now done from books. The focus of the *mitsvah* has shifted away from the scroll and into the codex, and accordingly the scroll is no longer relevant to its performance. There is no longer a requirement to write a *sefer Torah*, but rather to obtain a Jewish library and use it both for one's personal learning and for teaching one's children.[19]

In his *Beit Yosef* (*Yoreh De`ah* 270 s.v. "*U-ketav*"), R. Joseph Karo disagrees with this interpretation of the *mitsvah*; while the *sefer*

[16] The song seems to have been read alone as part of the temple services (*Rosh ha-Shanah* 31a), and Tigay's excurses on the JPS edition of Deuteronomy (*JPS Torah Commentary*, Jewish Publication Society 1996, Excursus 30, p. 513) mentions a Qumran scroll (4QDeut.) containing only the sone, presumably from a ritual context.

[17] See e.g. the *Beit Yosef* in *Yoreh De`ah* 270, s.v. "*Mitsvat aseh.*" Note further echoes of the revelatory theme.

[18] Discussions of women writing *sifrei Torah* often commence with the topic of women's obligation to study Torah. Given the tenuous link between the two, it is not entirely clear that this is the most productive approach

[19] According to the *Tur*, Rosh believes that in our days, *sifrei Torah* are housed in the synagogue and used for public reading; they are irrelevant to the *mitsvah* of writing a scroll because they are not used for learning. It follows that in the view of the Rosh, Torah reading is not within the rubric of learning.

Torah may not be the most relevant learning tool, he cannot go so far as to say that the *mitsvah* has been altered to such a degree. Here, the scroll itself is the essential component of the *mitsvah*, not the study of it. Even if the only purpose of writing a *sefer Torah* was to be able to study from it, the fact that nowadays we do not study from it should not be a basis for abandoning the *mitsvah*. On the contrary, if people are no longer observing the requirement to study in their *sifrei Torah*, we should emphasize that this is compulsory, not provide an alternative! Consequently, his ruling in the *Shulhan Arukh* is that one must write one's own *sefer Torah*, and the acquisition of a Jewish library is a meritorious, but distinct, act.

The focus of the mitsvah *has shifted away from the scroll and into the codex.*

R. Karo does not go so far as to make learning from one's *sefer Torah* compulsory. If the scroll is in some way related to *Torah* study, we might expect that one would be required to use it for studying—but this requirement does not seem to exist. Indeed, *Shakh* (ad. loc.) goes so far as to suggest that the scroll really should not be used for study at all since books are available for this relatively mundane task. The contents of the *Torah* are certainly to be passed from generation to generation, and a *sefer Torah* could be useful in doing so, but the scroll *qua* scroll is not essential to this process;[20] in fact, it is insufficient, since even if one inherited a *sefer Torah*, he is still required to write his own.[21] It seems that the scroll for the *mitsvah* has no ritual function beyond that of being created. While transmission through the generations of the oral *Torah* is a requirement, transmission through the generations of the written *Torah*, in the form of inheriting an already-written scroll, appears to be insufficient. Accordingly, writing a scroll is not related in this respect to *Torah* study.[22]

c2–An unfit (*pasul*) *Torah* scroll: Talmudic discussion

The *mitsvot* of reading and writing are distinct, as we have seen, and the differences between them affect the circumstances in which a *Torah* scroll will be considered unfit for use.

The people living in Galilee sent to R. Helbo, asking: May we read from a *humashim* in the synagogal *Torah* reading? He did not know. The question came to R. Isaac Nafha, and he did not know. The question came to the study hall, and they said the answer was clear from a statement of R. Samuel b. Nahmani in the name of R. Yohanan: "A *sefer Torah* that is missing one sheet may not be read from." But [the anonymous voice of the *gemara* objects], the case is not comparable! There it is missing a part, and here it is not missing a part! Rabbah and R. Joseph both said, "A *humash* may not be read from in the synagogue because it is demeaning to the congregation."

Let us first consider reading. If the only available scroll is discovered to be unfit (*pasul*) —perhaps the parchment becomes suspect or a scribal error is discovered on Shabbat when it cannot be remedied—must the community forgo its *Torah* reading? If the scroll is not fit for performance of the *mitsvah*, the community in which it is read from might not fulfill its obligation of *qeri'at ha-Torah*. Even worse, the blessings said over the reading might be *berakhot le-vattalah* (blessings said in vain), which must be avoided.

Gittin 60a addresses the case of a *homesh*, a

[20] In response to this apparent redundancy, R. Moses Feinstein requires one's scroll to be available to him for personal study should one wish it. (*Iggerot Mosheh*, *Yoreh De`ah* 163, s.v. '*Ve-ha-ta`am pashut*') Overall, he wants the owner of the scroll to have a certain amount of interaction with it– studying from it, for one, but also in the manner of its acquisition. He is not certain that one can fulfill the *mitsvah* by being given a *sefer Torah* as a gift, preferring that the individual invest in the *mitsvah* financially or by participation.

[21] בפרק ב' דסנהדרין (כא:) אמר רבא אע"פ שהניחו לו אבותיו לאדם ס"ת מצוה לכתוב משלו.

[22] See e.g. the *Pithei Teshuvah*, *Yoreh De`ah* 270:10

[23] See e.g. Mendel Shapiro's extensive discussion in "*Qeri'at ha-Torah* by Women: A Halakhic Analysis," *The Edah Journal*, vol.2, no. 1, 2001)

single book of the five, made like a *sefer Torah* but without the other four books (Rashi *ad loc*). At the public reading, may one read from a *homesh be-tsibbur*?

Although a *homesh* is by no means a kosher *sefer Torah*—though it is made like a *sefer Torah*, it lacks the other four books and is undoubtedly *pasul* as we understand the term—the only reason given for not reading from it is that it reflects badly on the community. No other potential and weightier problems are raised, suggesting that there are none. The question of whether a community may waive its dignity is too long to explore here; let us assume for the sake of argument that it may.[23] In that event, a

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Although a homesh *is by no means a kosher* sefer Torah, *the only reason given for not reading from it is that it reflects badly on the community.*

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community with a *homesh* that waived its own dignity would be able to read from that *homesh*, even though it is *pasul* according to our understanding, inasmuch as it is not a complete *Torah* scroll. It thus seems possible that some types of pentateuchal texts are fit to be read from (even in the first instance and not merely after-the-fact) even though unfit for purposes of fulfilling the commandment to write a *Torah* scroll.

c3 – The question of practice: reading from a complete but *pasul sefer Torah*

A *sefer Torah* is used to perform two distinct *mitsvot*. As we have seen, a *homesh*, being only one-fifth of the *Torah*, is not sufficient for one's obligation to write, but can sometimes be considered sufficient for one's obligation to read. May a scroll that is invalid in some other way be used for reading? Our interest lies ultimately with a *Torah* that is invalid by virtue of having been written by a woman, but we find more discussion concerning other types of invalid scrolls—specifically, those with missing or malformed letters. The case most commonly discussed is when a mistake in the text is discovered during the public reading. What is the status of the reading that has taken place to that point? Did it fulfill the *mitsvah* or not? And what is to be done subsequently?

c3i Rosh and Rashba – the reading is invalid

The most stringent opinion says that as soon as the mistake is found, one should stop and repeat the entire reading from the beginning in a kosher scroll. Rashba (*Teshuvot ha-Rashba*, 1:227) and Rosh (*Teshuvot ha-Rosh*, 3:11), for example, state that if a kosher scroll is not present, one has not fulfilled one's obligation, and the reading that has already taken place is completely void. Just as one cannot use an invalid *lulav* to fulfill one's obligation in that regard—and, having discovered that the lulav he used was invalid, must repeat the action using a kosher *lulav*—so too does reading from an invalid scroll fail to fulfill the *mitsvah*. The reading that preceded discovery of the flaw is deemed void, and the congregation must repeat the entire reading in a kosher scroll. The blessings made for the invalid reading were made in vain, unless we view the reading under the rubric of *Torah* study rather than public *Torah* reading (e.g. Rabbeinu Yeruham, *Toledot Adam ve-Havah*, 2:3).

c3ii Rashba permits reading the *maftir* from memory.

In *Yoma* 70a the subject is the Yom Kippur reading in the Temple. Two passages are read, one in Leviticus and one in Numbers (referred to as *humash ha-pequdim*, "the *humash* of the census"); the latter begins with the word *u-ve-`asor* ("on the tenth day"). Regarding that second passage, we find the following discussion:

[23] See e.g. Mendel Shapiro's extensive discussion in "*Qeri'at ha-Torah* by Women: A Halakhic Analysis," *The Edah Journal*, vol.2, no. 1, 2001).

> "On the tenth" in the *humash* of the census, he [the High Priest] recites from memory. But why?—surely they should roll it and read? R. Huna b. R. Joshua said in the name of R. Sheshet: because we do not roll a *Torah* scroll before the congregation, because of *kevod ha-tsibbur* [congregational dignity]. But then why do they not bring a second scroll and read? R. Huna b. Judah said: because the first would be impugned…... But who would say the first is impugned? Did not R. Isaac Nafha say: [On] *Rosh Hodesh Tevet* [which is also Hanukkah] which falls on Shabbat, they bring three *Torah* scrolls, and read the day's reading from one, the *Rosh Hodesh* reading from another, and the Hanukkah reading from another? - Three people reading from three scrolls does not impugn [any of them]; one person reading from two scrolls impugns [the first].

Faced with a situation such as a *Shabbat Rosh Hodesh* reading, where two *sifrei Torah* are required (or three, if Hanukkah is factored in as well), what should happen if only one kosher scroll is present? On the one hand, we want to read from a kosher scroll; on the other hand, rolling the *Torah* during the service has been prohibited. Mordekhai and Ritva are in favor of rolling the scroll (see *Beit Yosef*, *Orah Hayyim* 144, where he cites both), and *Magen Avraham* later distinguishes between the congregation in the Temple and those in synagogue congregations, suggesting the latter having the prerogative to waive their dignity in this regard (*Orah Hayyim* 144). Rashba, however (again quoted by the *Beit Yosef*), thinks that rather than roll the scroll and inconvenience the congregation, the precedent of *Yoma* 70a shows that the *maftir* may be recited even from memory and implies that it may be read from a printed *humash*.

c3iii - Mordekhai permits continuing if one had already started

During *Torah* reading, there are certain places in the text where it is considered appropriate to stop, and certain places where it is not. For instance, if one has read less than three verses, it is not appropriate to stop reading. (The obligation is not fulfilled with fewer than three *pesuqim*, and if one stops sooner, the preceding blessing was wasted). On *Rosh Hodesh*, we cannot stop in the middle of the fourth *aliyyah*, because we cannot add another *aliyyah* to the reading but we need to complete the section. If a flaw is identified in a scroll after reading has begun but at a point where stopping is inappropriate, what is to take precedence: the interest in not reading from an unfit scroll, or the interest in not pausing before an acceptably long portion has been read?[24]

R. Karo does not want to subject congregations to having the entire reading repeated; neither does he accept that one recites a blessing over an invalid scroll.

In the case where a mistake is found during the *Torah* reading, Mordekhai says that one should continue to a permitted stopping-place, recite the blessing that follows the reading and then continue from that stopping-place in a kosher scroll (*Megillah* 794). That one should continue in a kosher scroll is logical; it seems reasonable to say that, in the first instance, one ought not to read from an unfit scroll. What is odd, however, is knowingly reciting a blessing even after a disqualifying flaw has been found and one knows the scroll is invalid. If one thinks blessings ought not to be said over an invalid scroll, one should not recite this blessing. On the other hand, if the blessing may be recited even though the scroll has been invalidated, why is there a need to continue in a different scroll?

Yet this is Mordekhai's position: one should recite the final blessing over the invalid scroll despite knowing that it is invalid and then change to a kosher scroll. The reading need not be repeated from the beginning, implying that it was considered acceptable after-the-fact, even though not read from a kosher scroll.

[24] A full discussion the rules of Torah reading is beyond scope of this article.

c3iv. Attempts to harmonize the existing positions: *Shulḥan Arukh* and Rema

Mordekhai's position sits awkwardly with that of Rosh. R. Karo recognizes this tension: he does not want to subject congregations to having the entire reading repeated, that is to say declaring the reading entirely invalid; but neither does he want to accept Mordekhai's decision that one recites a blessing over an invalid scroll, since this would mean the scroll is sufficiently kosher to merit a blessing. Rather, the *Shulḥan Arukh* rules that upon finding a flaw, one should pause in the reading while a kosher scroll is brought and then continue from the point of the mistake as before, reciting no extra blessings, just as if only one scroll had been used throughout (*Oraḥ Ḥayyim* 143:4).

While the *Shulḥan Arukh* would agree that ideally one should repeat the entire reading in the kosher scroll, rabbinic discretion is again applied (to avoid undue burden on the community), and the reading from the invalid scroll declared acceptable after-the-fact. The blessing following the *aliyyah* in which the mistake was found is said over the kosher scroll, thus obviating concern about reciting a blessing over an invalid one. This procedure applies even if the passage to be read had been completed and all that remained was the final blessing; in that instance, a new scroll would be brought, and the blessing said over it.

Rema (*ibid.*) finds this problematic, wondering how a concluding blessing can be recited over a scroll that had not been read from. He therefore harmonizes two views: if they were not at a stopping-place, they should follow the *Shulḥan Arukh,* pause, switch to a new scroll, and continue as normal. If they were at a stopping-place, they should follow Mordechai, stop, recited the concluding blessing, and then bring out a new scroll.

Mishnah Berurah (143:19) asks why it is not necessary to recite a blessing over the replacement scroll before commencing to read from it. After all, if the *mitsvah* is to read from the scroll, a new scroll surely merits a new blessing By way of solution, he suggests that the initial blessing was said over the reading, not the scroll, and replacement of the scroll therefore does not require an additional blessing.

c3v – Maimonides rules permissively even in the first instance

The central figure who rules permissively is Maimonides; in his responsum *Pe'er ha-Dor*, 9, he rules that an invalid *Torah* scroll may be used for the entire reading just as a kosher one, blessings and all.

How is this accomplished?

Firstly, the reading itself is the subject of the *mitsvah* and the focus of the blessing. The case thus differs from taking an invalid lulav or dwelling in an invalid *sukkah*: there, the *mitsvah* is not fulfilled, and the associated blessing is recited in vain. Here, in contrast, "the *mitsvah* is the reading from a *Torah* scroll, whether kosher or invalid, and even if one reads from memory he blesses, because the reading itself is the *mitsvah*, and on it we bless. Do we not see that one who, in the morning before he prays, reads *Mishnah*, *Talmud*, *halakhah* or *midrash*, blesses, and after that reads or expounds? Learn then that reading from the *Torah* is the *mitsvah*, and on this we bless..."

By comparison with *Torah* study, where the focus of the blessing must be the commanded study, the focus of the blessings for public *Torah* reading is also the commanded reading. Since the blessing is over the reading, as long as a reading takes place, there is no problem with blessing even if no valid scroll is present (compare the *Mishnah Berurah* above, who held a similar position).

"...The proof of this is that we say we do not read from a *ḥomesh* because of congregational dignity. One could make an argument based on a *ḥomesh* being invalid; even if a *Torah* scroll

lacks one letter it is invalid, and all the more so a *homesh* [which is missing a great many letters], so why do we attribute the invalidity of the blessing to congregational dignity, when we could attribute it to the invalidity of [the *homesh*]?"

That is, had the *gemara* seen a more severe reason to forbid the reading, it would have used that reason, as we have already seen. A full *Torah* scroll is apparently not an integral part of the proceedings, from a strictly technical perspective.

Rashba was unconvinced that the scroll is incidental, seeing the presence of a scroll as the crucial difference between Torah *study and public* Torah *reading.*

Furthermore: "...the Sephardim used to read from a *Torah* scroll whose parchment had not been processed at all, and they blessed before and after it in the presence of wise people, such as Rabbeinu Joseph ha-Levi and Rabbeinu Isaac Alfasi and others like them, and they never protested, because all of them had great understanding and were very knowledgeable..."

Nevertheless, "...it is appropriate for each congregation to have a kosher scroll, and given the choice it is preferable to read from this in public, but if this is not possible for them, they may read even from an invalid scroll...." In other words, the *mitsvah* certainly ought to take place in the presence of a kosher scroll, but where this is simply not possible, it may be dispensed with.

c4 - Objections to Maimonides' permissive ruling

Rashba dissects this proof at length (cited fully in *Sefer Abudraham*, *dinei Qeri`at ha-Torah*, s.v. "*Ve-katuv bi-teshuvat ha-ge'onim*"), asserting its invalidity.

He commences by asking what it means to say that an invalid *Torah* scroll may be used for reading, for if one may always read from a *Torah* scroll whatever its condition, how can "invalid" have any meaning? "Invalid" (*pasul*) means "unfit for use," and the scroll is never unfit for use since it may always be read from, so the entire question is nonsense! He explains that the scroll is void in the first instance, (le-*khatehilah*), but in pressing circumstances the

Rashba was unconvinced that the scroll is incidental, seeing the presence of a scroll as the crucial difference between Torah *study and public* Torah *reading.*

rule may differ. The actual question, then, is "Do there exist circumstances in which an invalid *Torah* scroll may be used for public reading?" That is, "invalid" is shorthand for a scroll that fails to meet one or more specifications of Rambam's original list of criteria, rather than an adjective necessarily meaning "unfit for use."

Rashba continues:

> The Rav's [Maimonides'] central claim upon which he relies is that we bless upon the reading itself, even if recited from memory. I am incredulous at this, since the reading enacted to take place in the synagogue was not to take place from memory but from a *sefer Torah*—since if reading from memory had been enacted, why is reading from *homeshim* prohibited? Reading from *homeshim* is surely better than reading from memory... One who had already recited a blessing over reading [the *Torah*-study passages in the early morning service] and…afterward wanted simply to read or learn does not have to recite a [further] blessing. But if he read in the [reading of the] *Torah*, even immediately

> [after studying], he must recite a blessing on the *mitsvah* of *Torah* reading...and one who does not read in a scroll, a kosher scroll, does not bless, because he is not reading as per the enactment. The proof he brings from the *ge'onim* is even stranger to me; it seems to show precisely the opposite! [he quotes *Gittin* 60a] ...Even according to the opinion that we read from a *homesh*, we do not read from a deficient or invalid *Torah* scroll: *homeshim*, which are intact and not invalid, are better than a *sefer Torah* that is somehow invalid or deficient...

Maimonides asserted that the reading was the focus of the ceremony and of the blessings and that the scroll was incidental. Rashba was unconvinced that the scroll is incidental, seeing the presence of a scroll as the crucial difference between *Torah* study and public *Torah* reading. The blessings are essentially the same for both, but since one who has just recited the blessing for *Torah* study must nevertheless repeat it upon being called for public *Torah* reading, a blessing for the one purpose will not suffice for the other. We may conclude that the scroll must be a definitive element of public reading. This proof is questionable, however. In trying to show that the scroll is a central part of the ritual, he asserts that the ritual was enacted to take place over a scroll and declares that a kosher scroll is essential. That circular claim, however vigorously pressed, does not constitute proof.

Further, Rashba asks, if the reading were the only issue, why would the *gemara* not have permitted a *homesh*? A reading can be rendered from a *homesh* far better than from memory. Maimonides held that a *homesh* was theoretically permissible but not dignified; Rashba, on the other hand, reasons that forbidding the *homesh*, regardless of the reason, is sufficient to show that a complete and kosher scroll is always necessary.

Maimonides, in his final point, says that while public reading without a *sefer Torah* could be technically permissible, it would be far from ideal situation; for purposes of public perception, a *homesh* is really not sufficient, and a *Torah* scroll is necessary. Nevertheless, he prepared to allow the community to waive its dignity and use an alternative to the scroll. Not so Rashba: communal dignity may not be waived, and a kosher scroll is somehow an integral part of public *Torah* reading. Compare his ruling regarding *Rosh Hodesh* falling on Shabbat where only one *Torah* scroll is present: there, the presence of the one scroll satisfies the element of public display and preserves

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May a community lacking a sefer Torah *read from a* humash, *just as they would read from a scroll?*

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kevod ha-tsibbur by demonstrating that they own a scroll; since no loss of face is then involved in reading *maftir* from a *homesh*, he permits it rather than force the congregation to endure rolling the single scroll to the site of the second reading. Maimonides' essential point remains—the reading need not actually be conducted from a scroll—but Rashba seems to think that the effect given by a kosher scroll is essential, and he will not go so far as to allow reading without at least one kosher scroll being present.

The most central problem is Maimonides' apparent dismissal of a large body of halakhic precedent. *Masekhet Soferim* is replete with statements that if a scroll is invalidated, it is not to be read from. Maimonides himself stated this later, but even if he changed his mind during his lifetime, how did he justify ignoring all the existing precedent? Rashba asks this rhetorically, and thus concludes his refutation. We suggest an alternative answer below.

We shall return to the analysis of Maimonides' positions after considering how this responsum in its raw form bears on the question of women writing *Torah* scrolls.

c5 - Permitting female scribes to write *Torah* scrolls on the basis of Maimonides' responsum

If one wanted to adopt Maimonides' ruling outright for all circumstances, one might say at this point that reading from an invalid *Torah* scroll is permissible even *ab initio,* and that Maimonides' admonition that ideally congregations should have a kosher scroll available may be attributed largely to *kevod ha-tsibbur*. Accordingly, if having a woman write one's *Torah* scroll is not shameful, there should be no impediment to anyone's reading from that scroll. If barring women from the scribal arts were considered to be a slur of sufficient proportions on communal dignity, a community could choose to waive the dignity attached to a kosher scroll in this respect only, and read from an otherwise valid scroll that is arguably invalid only by reason of having been written by a woman. The problem with this approach is that Maimonides' ruling is not widely accepted as first-instance (*le-khatte<u>h</u>ilah*) *halakhah*, and we don't adopt radically different practices on the basis of minority opinions unless there is strong pressure so to do. Were the times sufficiently pressing, we might do this, but there is not at present the social impetus.

c6 - Writing *Torah* scrolls as a rabbinical commandment

Kol bo (*Siman* 20, s.v. "*Ve-z<u>o</u>t ha-teshuvah*"), permitting reading from an invalid scroll, cites Maimonides as the main support for his position and offers a further proof: We no longer know the technique of proper parchment production as ordained by Moses at Sinai, but we continue to make scrolls approximating the scrolls of old, so that public *Torah* reading not be forgotten. Just as the prohibition against committing the Oral *Torah* to writing was lifted when its oral transmission became imperiled, so, too, may a community lacking a *sefer Torah* read from a *humash* just as they would read from a scroll, lest the community come lose the connection with the experience of hearing the *Torah* read?

The only potential problem, he says, is *kevod ha-tsibbur*, and in the opinion of *Kol Bo* a community may waive its dignity in pressing circumstances. If there are two scheduled readings but only one scroll, for instance, he permits rolling from one place to another; although rolling the scroll while the congregation waits is generally forbidden as also demeaning, given a choice between forgoing the second reading and rolling the scroll, we choose to waive our collective dignity and roll the scroll. Similarly, even though reading from an improperly produced scroll is considered demeaning, we may waive our dignity and use that scroll rather than forgo the entire reading. Recall that Rashba permitted the *maftir* portion for *Shabbat Rosh <u>H</u>odesh* to be read from a *<u>h</u>umash* (which he absolutely forbade in ordinary circumstances) to avoid the need to roll the scroll.

Sha'agat Aryeh (§35) reaches the same conclusion as the *Kol Bo* by observing that we no longer know the rules governing *plene* and defective spellings in the *Torah*. The implication is the same: since the obligation is now rabbinic rather than biblical (because we no longer know how to fulfill the commandment as biblically prescribed), the rules may be altered. *Kol Bo* alters the rules to permit congregational reading from an invalid scroll; *Sha'agat Aryeh* alters the rules to exempt women altogether from the *mitsvah* of writing.[25]

[25] In brief, *Sha'agat Aryeh* notes that Maimonides exempts women from the commandment to write a Torah scroll, apparently without reason, as no previous source considers gender in the context of this *mitsvah*. He then offers three possible justifications for Maimonides' position but rejects all of them. Still wishing to demonstrate that women are exempt from the *mitsvah* (one suspects that the women of his community were not in the habit of performing it), he does so by demonstrating that the *mitsvah* of writing in our day is not of a biblical status, and therefore people (such as women) may be exempted from it by rabbinic decree.

R. Moses Feinstein (*Iggerot Mosheh*, *Yoreh De`ah* 1:163) dismisses this rationale, since even though it seems likely that we have lost the correct method of producing the *Torah* scroll, it remains possible that the method we are using is the correct one. In a case of doubt concerning a biblical commandment, he is inclined to stringency, and therefore says we should assume that this is the correct method of fulfilling the *mitsvah* even though the probability is small, rather than discard the possibility altogether. This precludes any possibility of bending the rules on account of the *mitsvah* being "only rabbinic" as was suggested above; making a deliberate change is certain to cause incorrect performance of the *mitsvah*, whilst maintaining the *status quo* retains the possibility that it is now being correctly performed.

A claim made on the basis that leniency is permissible for rabbinical commandments is only justified when there was communal pressure in that direction.

In any case, a claim made on the basis that leniency is permissible for rabbinical commandments would only be justified when there was communal pressure in that direction. Although some communities choose to read from invalid scrolls rather than never read at all, most would rather forgo their reading altogether than use an invalid *sefer Torah*, in order to maintain the delineation between kosher and invalid scrolls; accordingly, *Kol Bo*'s rationale remains a minority opinion. Insofar as women's obligation to fulfill the *mitsvah* of writing is ever discussed, *Sha'agat Aryeh*'s approach means to provide a justification for women who do not fulfill it (an example of a ruling driven by communal pressure, one suspects), by declaring leniency possible for rabbinical commandments and exempting women, although it seems unlikely that this is the rationale adopted by those women *ab initio*.

c7 - Maimonides both forbids and permits reading from an invalid scroll *ab initio*

It is widely accepted that, after-the-fact, a reading from an invalid scroll is considered acceptable; few if any congregations today will repeat a whole reading if a mistake is found. The rationale relies on the minority opinions that base themselves on Maimonides, which are invoked to spare people from having to listen to the reading again. Minority opinions are often accepted after-the-fact, when rectifying a mistake would be unduly expensive or time-consuming. In this case, we might question whether having to repeat a couple of passages is really sufficient reason for invoking a minority opinion, except that centuries of tradition have decided that it most certainly is. We therefore accept Maimonides' responsum in order to be able to continue with our reading after finding a mistake.[26]

In his *Mishneh Torah*, Maimonides seems to cast doubt on whether he himself accepts his own responsum. When describing what makes a scroll kosher, he characterizes a deficient scroll as resembling a children's primer, certainly not to be used in public reading (*Mishneh Torah*, *Hilkhot Tefillin* 10:1). On the other hand, as we have just seen, he states emphatically in his responsum that the scroll itself is not the issue; not only may one read from an invalid scroll, but it was the common practice of various *gedolim*, highly-respected figures, of his time.

What is one to make of this?

Rashba (in the responsum cited above) explains that the rulings are not contradictory

[26] Again, we might stop here and say that if saving ten minutes of the congregation's time is sufficient reason to rely upon a minority opinion, giving women a sense of religious fulfillment by permitting them to write *sifrei Torah* is surely sufficient reason also. But wanting to escape ten extra minutes of hearing the Torah read (recall that hearing the Torah read is, like *haqhel*, supposed to be an immensely spiritual experience) is a well-established, widely-accepted Jewish value, so relying on a minority opinion is permitted. Giving women religious fulfillment by allowing them to extend their spheres of practice, *nahat ruah le-nashim* notwithstanding, is a rather less developed Jewish value, so such reliance on a minority opinion is much less likely to be acceptable.

because they were never applied at the same time. Maimonides wrote the responsum in his youth but later changed his mind, coming to realize that reading from an invalid scroll was, in fact, impermissible. This would explain the more stringent ruling in the *Mishneh Torah*, written in his older age. But *Beit Yosef* (*Yoreh De`ah* 279) points out that even if this is the case, Maimonides mentioned that reading from an invalid scroll was a widespread practice among the great halakhic figures of his era; and even if Maimonides changed his mind, presumably the *gedolim* he mentions also thought it was a legitimate practice. Moreover, if we suggest that Maimonides changed his mind, this would imply that those *gedolim* were wrong.

Having to conclude that great authorities acted in error is never a comfortable situation, and it would be more satisfactory if we could attribute legitimate paths of reasoning to both. That is, to demonstrate that Maimonides' two statements can co-exist, despite seeming mutually exclusive, is a more elegant result than simply rejecting one statement outright.

c8 - A potential solution

We should clarify that the term "invalid" (*pasul*) as applied to a *sefer Torah* has different meanings depending on context: in one sense it is absolute; in another, it is relative. In the absolute sense, "*pasul*" refers to the list of production criteria—for example, Maimonides' list of twenty or those derived from it. A *Torah* scroll failing to meet any one criterion has the shorthand term "*pasul*" applied to it. This, however does not necessarily reflect its fitness for use; "*pasul*" as a relative term may or may not be applicable. A *humash* (that is, a *sefer Torah* missing four of the five books), though obviously *pasul* in the absolute sense, is nevertheless fit—kosher—for use in congregational reading, as long as the congregation waives its dignity.

Formalizing this idea, the next suggestion demonstrates the existence of two classes of *Torah* scrolls. One class of Torah will be shown to be neither "relatively" nor "absolutely" invalid; it is made exactly according to specification and is kosher for both public reading and for the commandment of writing. The other class of *Torah*, we will see, is invalid in relative terms, and while it is not fit for fulfillment of the commandment to write a scroll, it may potentially be used for reading.

D - Evidence for two types of *sefrei Torah*

Proposing the formal existence of two different types of *sefer Torah* solves several problems.

d1 – Resolving Maimonides' self-contradiction

As noted, Maimonides appeared to contradict himself, on the one hand writing a responsum permitting reading from an invalid scroll even *ab initio* and, on the other hand, codifying a law forbidding it. Let us suppose that in the responsum, "*pasul*" is to be taken in the absolute sense—the scroll is not produced in full compliance with the list of criteria. Whilst invalid in the absolute sense, it is still fit for public reading. Let us further suppose that the subject of the *Mishneh Torah* is scrolls to be used for fulfilling the commandment to write a *Torah* scroll; such a scroll is not fit for that purpose.

If this is so, one would expect that if a sefer were written with the commandment of writing in mind but happened to be missing a letter, it could still be used for reading. However, the *Mishneh Torah* specifies that such a scroll *cannot* still be used for reading. Why, if according to the responsum one may read from scroll missing a letter? A possible answer is that the two classes of scrolls are completely distinct; a scroll for reading is not merely a failed scroll for writing but was conceived thus at the outset.[27] This answer continues below, when we consider the *Beit Yosef* on the subject.

[27] *Ipso facto*, a scroll in the class "for writing" that became damaged could never, even after the fact (*be-di-`avad*), be used for reading. A scroll in the class "for writing" that became damaged, on the other hand, could still be used. R. Feinstein discusses ways in which a scroll can acquire one status or another.

d2 – Resolving a conflict between two *baraitot*

Earlier, we compared two *baraitot*—one (R. Hamnuna's) in the Babylonian Talmud and one in *Masekhet Soferim*—that appeared to be mutually contradictory, most notably on the question of women writing *sifrei Torah*. The *Masekhet Soferim* source is rejected and R. Hamnuma's *baraita* is cited as the *halakhah*, the *Bavli* having greater authority in such cases.

Recall, however, that R. Hamnuna's *baraita* referred to the triad of *sifrei Torah*, *tefillin* and *mezuzot*, whereas the *baraita* in *Masekhet Soferim* referred to *sifrei Torah* only, and then cited a general rule referring to communal obligation. If our concept of two classes of *sefrei Torah* is valid, we could interpret the more permissive *baraita* from *Soferim* as pertaining to scrolls intended for communal reading, while R. Hamnuna's more restrictive *baraita* pertains to a *Torah* scroll meant to fulfill the writing requirement, consistent with its grouping in the ritual triad of *sifrei Torah*, *tefillin* and *mezuzot*.[28]

From a tannaitic perspective, a woman may technically read Torah *for the congregation; so it would follow that technically she may write the* Torah *that is to be read from.*

Masekhet Soferim states: "This is the principle: if one is eligible to discharge the obligation of the community, his writing may discharge the obligation of the community." Since the subject of the *baraita* is specifically *Torah* scrolls—not *tefillin* or *mezuzot*—the obligation is presumably the obligation of the community to read *Torah*. We know that from a tannaitic perspective, a woman may technically read the *Torah* for the congregation[29] and so it would follow that technically she may write the *Torah* that is to be read from.[30]d3 - Ran and invalid *Torah* scrolls

Explicit support for the idea of two types of *sifrei Torah* is found in Ran's commentary to *Megillah* (*dapei ha-Rif 5b,* s.v. "*u-khetav*").

In *Megillah* 18b, the *gemara* discusses the case of a *megillah* (Book of Esther scroll) from which letters or verses were omitted. The *mishnah* (on 17a) had already taught that a *megillah* reading rendered from memory does not fulfill one's obligation; nevertheless, an anonymous *baraita* taught that if the reader from the defective scroll supplies the missing letters or verses from memory, the reading is valid. But, the voice of the *gemara* objects, we have learned that illegible letters invalidate a scroll! A harmonization is reached: if a *megillah* is mostly intact, the remainder may be supplied from memory, but if most of the *megillah* is damaged, the reading is not valid.

Ramban (to *Megillah* 17a) takes pains to point out that this leniency is only applicable to *megillot*. A *Torah* scroll is quite different, and can be invalidated by omission of a single letter. Ran agrees that production of a *megillah* is generally governed by a set of rules different from those applicable to *sifrei Torah*, *tefillin* and *mezuzot*—that is, one may do certain things in

[28] The *sefer Torah* for *haqhel* would fall into the category of "communal reading." The division is not made along rabbinical/biblical lines, but rather functional ones: writing (the triad of *Torah* scrolls meant to be written, *tefillin*, and *mezuzot*) on the one hand, communal reading on the other. It follows that even if the weekly reading is modeled after *haqhel* halakhically as well as spiritually, so that it is governed by the principle of *kol de-tiqqun rabbanan ke-`ein de-'oraita tiqqun* (a rabbinical enactment should be treated like a biblical statute), the presence of biblical-decree level requirements does not necessarily invalidate our suggestion.

[29] Our rabbis taught: All may be numbered among the seven [who are called to the *Torah* on *Shabbat*], even a minor and even a woman, but the Sages said: a woman is not to read from the *Torah* on account of the congregation's dignity" (Megillah 23a).

[30] If this is so, one may ask, why is a minor's writing unacceptable even though the minor may read Torah for the congregation? The answer appears to be that *Masekhet Soferim* included the minor in the context of deaf-mutes and the mentally impaired, who are not normally considered capable of coherent thought; the minor's inclusion as part of this triad may indicate that he is not considered capable of the required intention, and since intention is essential to imbue the scroll with sanctity, the minor's writing will not have sanctity and therefore will be unfit for ritual reading.

writing a *megillah* that would invalidate *sifrei Torah*, *tefillin* and *mezuzot*. He does not agree, however, that omission of a single letter always renders a *Torah* scroll invalid, and he permits reading from a *Torah* scroll missing some letters.

Recall that *sifrei Torah*, *tefillin* and *mezuzot* are generally treated as a unit, the same rules applying to each, unless we are taught otherwise. Ran stresses an aspect in which *sifrei Torah* differ from *tefillin* and *mezuzot*. *Tefillin* and *mezuzot*, he observes, are not scrolls that are used *qua* scrolls. One is required to affix the *mezuzah* to the doorframe, and one is required to wear the *tefillin*, but neither scroll is to be read from. Similarly, each Jew is required to write a *sefer Torah* for himself, but he is not actually required to read it. And that *sefer Torah*, says Ran, indeed is subject to the same requirements as are *tefillin* and *mezuzot*; it is invalidated by omission of a single letter:

> Why should a *sefer Torah* be equal in this [requirement] to *tefillin* and *mezuzot*? *Tefillin* and *mezuzot* are not items from which one reads; rather, everyone is obligated to affix a *mezuzah* and to don *tefillin*. Similarly, everyone is obligated to write a *sefer Torah* for himself, and in this *mitsvah*, just as one letter invalidates *tefillin* and *mezuzot*, so too one letter invalidates the *sefer Torah*, and the *mitsvah* is not fulfilled until it is fixed. But with regard to *Torah* reading, which was instituted by the prophets, we do not infer the rules governing the *Torah* scroll from those applicable to *tefillin* and *mezuzah*.

It follows for Ran that rules concerning a *Torah* scroll used for public reading cannot be derived from the *tefillin* and *mezuzah*; the cases are simply not comparable. One may say that from the perspective of public *Torah* reading, a *sefer Torah* with missing letters functions very much like a *megillah* with missing letters— even missing verses may be supplied by the reader from memory, and the reading remains valid. Hence, there are two types of *sefer Torah*—one valid both for reading and for fulfilling the requirement to write; one valid only for reading.[31]

d4 – The *Tur* and the *Drishah*; a mysterious lacuna and its absent explanation

The Tur's list of people who may write *sifrei Torah* is marked by a curious omission. In *Orah Hayyim* 39, in the codification of the laws of *tefillin*, both the *Tur* and the *Shulhan Arukh* cite R. Hamnuna's list of people who are ineligible to write *tefillin*.

In *Yoreh De`ah* 281, when codifying the laws relating to *sifrei Torah*, the *Shulhan Arukh* follows the order of the *gemara*. It first discusses *sifrei Torah* written by heretics or found with non-Jews—"a *Torah* scroll written by a heretic is burned; by a non-Jew, buried" —and then reports R. Hamnuna's *baraita* in full. The *Tur* similarly begins by disqualifying *sifrei Torah* written by heretics or found with non-Jews, but it then moves on to different topics, entirely omitting R. Hamnuna's *baraita*.

In *Yoreh De`ah*, the *Shulhan Arukh* reads: "*Torah* scrolls written by an informer, a slave, a woman, a minor, a Cuthean, or an apostate Jew, are invalid." (The non-Jew has at this point already been dealt with by the *Shulhan Arukh*; his omission here is not significant).

The *Tur*, however, reads simply: "A *sefer Torah* written by a non-Jew is buried." It makes no reference at all to the slave, the minor, the woman, the Cuthean, the informer, and the apostate. We have seen that *Masekhet Soferim* omitted the Cuthean and the apostate as more or less repetitions of the non-Jew and the heretic, and there is no reason the *Tur* should not have followed this pattern as well. But that

[31] It is worth noting that when Ran talks about finding a mistake during reading, he introduces a new concept—that if there is a mistake in one *homesh*, the other *homeshim* may be read from. This does not contradict the point just made: it's true he could have suggested that a mistake in one *homesh* doesn't affect the *sefer* as a whole, but since the discussion of finding a mistake during reading appears in the context of a scroll for which it is actually a problem, it's fair to say that his reference there is to a writing-class Torah being used for reading.

still leaves the slave, minor, woman and informer. Why did the *Tur* not forbid explicitly the *sifrei Torah* written by these people?

The commentary of the *Drishah* asserts that the *Tur*'s omission of these people was deliberate—that is, the *Tur* thinks that slaves, women and the like *are* in fact eligible to write Torah scrolls. Perhaps, *Drishah* suggests, the *Tur* left them out because the subject under discussion was scrolls that ought to be burned or buried. Since a *sefer Torah* written by one of the ineligible Jews may be used for study and need not be buried (unlike the scroll written by the heretic, which *must* be burned), the Tur may have left them out on that account.

This explanation is somewhat strained, however, and the *Drishah* rejects it accordingly. After all, it says, a *sefer Torah* written by a non-Jew could surely be used for study just as well as a *sefer Torah* written by a slave, so why disqualify the non-Jew but not the slave? In any case, "buried" and "may be retained for study" have been more or less synonymous in the development of the subject hitherto; there is no particular reason the *Tur* should suddenly choose to be precise about the difference. For this reason, and from context, it is much more likely that the *Tur* is talking about factors that make a *Torah* scroll kosher or invalid, and not only about scrolls that should be burned or buried.

The *Drishah* states that "the Rif and the Rosh were also silent on this matter." Indeed, the Rif and the Rosh make the same distinction as does the *Tur*; compare *Hilkhot Tefillin* 3 with *Hilkhot sefer Torah* 20 in the Rosh, and *Tefillin* 7a with *Sefer Torah* 4b in the Rif. Both have the same wording as the *Tur*, all three leaving untreated the question of *mezuzot* and *sifrei Torah*. From this, *Drishah* suggests that the *Tur* believes, justifiably, that women, children and slaves, at any rate, are eligible to write a *sefer Torah*.

No proof is offered here by the *Drishah*; he refers the reader to a responsum that has not survived.[32] But emphasizing the differences between two types of scrolls gives us a way to justify his conclusion: perhaps the scroll need only be one suitable for reading, not necessarily for anything else. In the view of Rosh, a *sefer Torah* is suitable only for *Torah* reading, never for the requirement of writing; perhaps the *Tur* is influenced by this to the point that his context is essentially *Torah* scrolls that are to be read from. Granted, he begins this section by reintroducing the *sefer Torah* to the *mitsvah* of writing against his father's limiting the *mitsvah* to books, indicating that he recognizes *sifrei Torah* as suitable for purposes other than *Torah* reading, but he still may see a *sefer Torah* as primarily a vehicle for *Torah* reading. Recall that Ran demonstrated a strong association among *Torah* scrolls for the *mitsvah* of writing, *tefillin*, and *mezuzot*, and was

Having two classes of sefrei Torah *helps us explain why* Tur *used such apparently strange wording that leaves women eligible to write* sifrei Torah *in a reading-only context.*

at pains to show that this association did not extend to other types of scrolls: a *baraita* applicable to the *sefer Torah*, *tefillin*, *mezuzah* triad is not necessarily applicable to *Torah* scrolls used for reading. That is to say, when R. Hamnuna refers to *sifrei Torah*, his referent is *sifrei Torah* for the *mitsvah* of writing, rules for which are linked to *mezuzot* and *tefillin*; hence *Tur*'s citation of R. Hamnuna's *baraita* regarding the laws of *tefillin*. But R. Hamnuna was not referring to scrolls used for reading, and his *baraita* is inapplicable in that context. Its prohibitions do not extend to scrolls for reading, and *Tur* sensibly omitted it from the laws of reading as irrelevant. The expected list

[32] The *Shakh* (ibid.) mentions this responsum, saying that one cannot give it great weight as the proof is missing. Even so, this suggests that the *Shakh* thinks the idea is not of itself risible.

of ineligible scribes is truncated precisely because the list of those disqualified from writing scrolls to be read from is shorter than the list of those disqualified to write scrolls to fulfill the *mitsvah* of writing.

Thus, having two classes of *sefrei Torah* gives us a hypothetical rationale for *Drishah*, and helps us explain why *Tur* used such apparently strange wording, wording that leaves women eligible to write *sifrei Torah* in a reading-only context.

d5 - Support from the *Beit Yosef*

We proposed two classes of *sefrei Torah* as a possible way to resolve Maimonides' seeming self-contradiction: when he says a mistake invalidates a scroll, he is referring to writing; when he says it does not invalidate it (in pressing circumstances), he is referring to reading.

Beit Yosef (*Yoreh De`ah* 279) offers a similar explanation:

> [if one found a mistake during reading...] since Maimonides wrote in his responsum that the reading was kosher, we do not require reading again from the beginning; and we must say that the ruling in the *Mishneh Torah* is not applicable to reading the *Torah*, but only to the positive commandment incumbent on everyone to write a *sefer Torah*. A mistake in the scroll does not invalidate the *Torah* reading; therefore, after-the-fact, we can rely on [Maimonides' leniency].

Beit Yosef cites arguments both for and against this position, including the Ran's comment that we have seen. Further, he himself supports it, integrating it into the *Shulḥan Arukh*, as we saw above: if a mistake is found, the reading up to that point need not be repeated.

The context of the foregoing citation is another apparently strange choice of words by the *Tur*, which is noteworthy in that the solution proposed by *Beit Yosef* involves positing that a scroll may be kosher for reading though not for the requirement of writing and stating that a prohibition is applicable to some, but not all, scrolls—the same mechanism used earlier, to explain the *Tur*'s phrasing of §281.

In detail, the situation is this: In *Yoreh De`ah* 279, the *Tur* rules that a damaged *sefer Torah* must be mended within thirty days.[33] After that time, a reading from that scroll is invalid even after-the-fact and must be repeated entirely. Now, why should the *Tur* say that "even after-the-fact the reading was invalid" only in this case? The implication seems to be that during the initial thirty days, the reading is accepted after-the-fact. But how can a reading from an invalid *Torah* scroll be accepted even after-the-fact? After all, Rosh ruled that one must repeat the entire reading if a scroll was deficient in any way at all. By showing that it can be accepted after-the-fact if one posits two differing interpretations of "invalid scroll" and assumes *Tur*'s referent to be the less exacting of the two, Beit Yosef justifies Tur's position.

He is more explicit still: "since it does not fulfill the commandment, it is not suitable that they read from it, but if one had fulfilled the commandment with another scroll, there is no impediment to his reading from it in public, and this is the case if it is communally owned."

That is to say, if a scroll that had been used to fulfill the commandment to write a *sefer Torah* no longer met its original criteria, it was no longer fit for the that purpose, and was therefore unfit also for the reading as well. If, however, it had not previously been used for writing, the reading from it would have been acceptable (although it would be more meritorious to start from the beginning, as observed above).

[33] This is specifically with reference to the letters; manuscripts are not to be left in a damaged state lest they be mistaken for correct versions. *Beit Yosef* summarizes various positions on the point.

If R. Karo really thought that the idea of two categories of *sefer Torah* could solve practical problems, why did he not codify it explicitly? The *Shulḥan Arukh* contains not a hint that there might be more than one interpretation of "invalid *Torah* scroll."

The most obvious answer is that in a synagogue context, there is no universally reliable way to tell what kind of *sefer Torah* one has, and it is statistically very likely that it was written for the sake of writing it. It hardly ever happens that someone writes a *Torah* to fulfill the commandment to write and then has another one produced for synagogal reading. Much more common (today as in the time of the Rosh) are scrolls written for the sake of writing and then loaned to the synagogue for reading. Given this, the *Shulḥan Arukh* is sensibly cautious, ruling on the safe side that a blessing should not be recited over the reading when a scroll is damaged, especially since there are very few cases when the distinction would be of major significance.

A scroll written by a woman would be invalid for the former purpose but potentially kosher for the latter.

This leaves us with two categories of *sefer Torah*, the production of which is governed by different rules: those intended for fulfillment of the commandment to write a *sefer Torah* and those intended for use in public *Torah* reading. In context, a scroll written by a woman would be invalid for the former purpose but potentially kosher for the latter. Even were that so, however, the scroll must not be owned by one who has not already fulfilled the commandment of writing, and reading from it may be valid only after-the-fact.

d6 - Comparison between *sifrei Torah* and *megillot*

Assuming a *Torah* scroll is owned by one who has fulfilled his obligation to write a scroll, we know that if it is damaged, a reading from it is acceptable only after-the-fact. But if was written by a woman, may it be read even in the first instance? The scroll of Esther poses a comparable case.

Ran originally claimed that *Torah* scrolls for reading and *megillot* function similarly, and we have used this claim to support a distinction between "invalid" (*pasul*) as applied to scrolls for reading and "invalid" as applied to those meant to fulfill the requirement of wirting. To what extent are they similar?

d6a - Some comparison exists

Mordekhai is sufficiently convinced of their similarity that he derives rules regarding a *sefer Torah* from rules established for a *megillah*. He does this in the case we saw above – the procedure upon finding a mistake during reading. He ruled that one should there render the omission from memory, proceed to a suitable stopping-point, and recite the concluding blessing. This position seemed curious, since *devarim she-bikhtav i attah rashai le-omram al peh*, one may not recite written texts from memory. Moreover, reciting a blessing over an invalid *Torah* scroll is at the root of our entire discussion, yet it seems not to bother Mordekhai at all!

Mordekhai reasons from the example of the *megillah*. The invalidity of a *megillah* affects one's ability to use it in fulfilling the commandment to read it, and the prohibition on reading from memory applies. Nevertheless, if a mistake is found in the course of reading, the omission may be supplied from memory, and the reading is considered valid. Recall that if a lesser portion were omitted, a *sefer Torah* would be fit for use, and only where a greater portion is flawed must the reading be repeated. Mordekhai, commenting on this (*Megillah* 792-3), says:

> If 'the lesser part' [is invalid], [but the *megillah* as a whole] is still written according to the enactment of the rabbis, it therefore is kosher and reading from it is reading

> from a scroll; the prohibition on reciting written texts from memory does not apply. From this we may learn that [if] a *sefer Torah* lacks letters or words or a verse, there is no need to break to bring another *sefer Torah*, but it is read from memory.

Mordekhai is inferring a rule applicable to a *sefer Torah* from a rule applicable to a *megillah*: since one may fill in small gaps in the *megillah* by reciting from memory, one may do so in *Torah* reading as well and need not replace the scroll. This is noteworthy, since a *megillah* is generally subject to fewer stringencies than a *sefer Torah*, and we do not usually derive rules for a situation entailing greater stringency from one requiring less.

If, however, we read Mordekhai as referring only to *sifrei Torah* meant for reading, and relying in some way on their similarity to *megillot*, the *sefer Torah* is not necessarily subject to more stringencies and the cases are comparable. On this view, Mordekhai can infer rules for a *Torah* scroll from those for a *megillah* without violating canons of halakhic reasoning.

d6b - If *sifrei Torah* and *megillot* are comparable...

If *sifrei Torah* for reading and *megillot* are generally comparable, we may reason from a woman writing a *megillah* to a woman writing a *Torah* scroll for reading. If women may write the *megillah*, it would follow that women could write *sifrei Torah* to be read.

Since *megillot* are not included in R. Hamnuna's *baraita*, there is no clear prohibition on women writing them. Whether the *baraita* in fact applies to a *megillah* is a point of dispute.

A *sefer Torah* and a *megillah* differ in that the *megillah* is described both as *sefer* (scroll) and *iggeret* (epistle), while a *sefer Torah* is solely a *sefer*. The difference is discussed in the context of the parchment to be used: must the parchment for a *megillah* be processed *li-shemah* (with the specific intention that it be used in writing a *megillah*) as is the case with respect to a *sefer Torah*? Rabbeinu Tam held that a *megillah* was essentially the same as a *sefer Torah* unless specific guidance to the contrary was available; its parchment therefore required processing *li-shemah*. The *Maggid Mishneh*, on the other hand, took "*iggeret*" as the dominant characteristic, stating (*Hilkhot Megillah*, 2:9) that a *megillah* did not resemble a *sefer Torah* unless specific guidance to that effect was available. Like Maimonides, he therefore permitted the use of ordinary parchment.

A respectable body of aharonim *reason that since a woman can fulfill the communal obligation of reading the* megillah *she may write the* megillah.

To state it differently, on the Maggid Mishneh's view, R. Hamnuna's *baraita* does not apply to *megillot*; on Rabbeinu Tam's view, it does.

We hear of this opinion of Rabbeinu Tam from its citation in Mordekhai (*Megillah* 795), in the context of communal reading. Let us suppose that Rabbeinu Tam's context is limited to communal reading, in which case Rabbeinu Tam and the *Maggid Mishneh* could concur that a scroll meant to meet the requirement of writing is essentially dissimilar to *megillah*. Further, if the *Maggid Mishneh* recognized a difference between a scroll for writing and one for reading (as Maimonides apparently did), he could agree with Rabbeinu Tam that the one for reading broadly resembles a *megillah*. Positing two types of *sefer Torah* thus allows us to harmonize the two opinions. [34]

[34] The requirement that the parchment be processed *li-shemah* must then be inferred for both types of *sefer* from elsewhere. Conceptually, it is logical that a *sefer* for any kind of ritual use should be processed *li-shemah*; the sources (*baraitot* in *Gittin* 45b and 54a) could be applicable to both types of *sefer Torah*.

It follows that *Torah* scrolls for reading, along with *megillot*, are subject to the same rules as *Torah* scrolls for writing, *tefillin* and *mezuzot* only when guidance to that effect is available. As we have already seen, the disqualification of women from writing the triad of *sifrei Torah*, *tefillin* and *mezuzot* is an unexpected position, and the balance of opinion is that the anomalous restriction is applicable only to that triad. It follows that the *baraita* applies neither to *megillot* nor to *Torah* scrolls for reading.

We saw above, in *Masekhet Soferim*: "This is the principle: if one is eligible to discharge the obligation of the community, his writing may discharge the obligation of the community." With respect to the *megillah*, a respectable body of *aharonim* (later authorities) reason that since a woman can fulfill the communal obligation of reading the *megillah* she may therefore write the *megillah*.[35] Once comparison between *Torah* scrolls for reading and *megillot* is permitted, it follows that if a woman may read the *Torah* for the community, she could in principle write a *sefer Torah* for communal reading.

Whether a woman may read *Torah* for the community is the subject of Mendel Shapiro's extensive article "*Qeri'at ha-Torah* by Women: A Halakhic Analysis," *The Edah Journal* 1:2. Shapiro summarizes his conclusions as follows; the reader is referred to the article for further detail and analysis:

> In my opinion, where a man reads the *Torah*, there should be no *halakhic* impediment to calling women to the *Torah* for at least some of the *aliyyot*. In impromptu services held outside the synagogue, or in synagogues where there is consensus that a woman's *Torah* reading does not violate community standards of dignity, women may be permitted to read the *Torah* (or at least portions of it) as well. Finally, I argue that a critical analysis of the role of *minhag* (custom) in determining religious practice shows that women's *aliyyot* and *Torah* reading in the circumstances I described may not be attacked on the grounds that they violate binding *minhag*.

If a woman may read *Torah* for the community without restriction, we reach the end of a line of reasoning that permits women to write *sifrei Torah* for reading[36] But the proposition that women may read "at least portions" of the *Torah* affects our question. We wish to show that a woman can fulfill the communal obligation of *Torah* reading; must she be able to fulfill it in its entirety? Does ability to participate in the *mitsvah* only partially mean that a scroll written by a woman is invalid?

There are two aspects of minhag *that affect women's writing* Torah *scrolls: a visceral reaction to violation of the status quo, and a cautionary measure employed to prevent potential transgressions.*

The limitation on women's participation stems from *Tosefta Megillah* 3:11, which some have read to mean that the ritual of public *Torah* reading requires the participation of men and is meaningless without it; even though women may participate, they may not be the sole participant. Again, a respectable body of

[35] Those who rule that a woman's obligation is to hear the *megillah* rather than to read it also rule that a woman may not write the *megillah*. See R. Singer's article "Women and Writing the Megillah" [*The Edah Journal* 4:2/*Kislev* 5765] for a detailed discussion of the opinions involved.

[36] One could very easily extend this to permit a child to write *sifrei Torah* as well, though congregations that permit women to read generally do not permit children to read. Some congregations place (male) children before women in the ritual hierarchy; congregations that accord women and men equal levels of communal recognition tend not to place children of either sex on the same level as adults. There is a social trend towards permitting women to read Torah with men; there is no such social trend towards permitting children to do so. Likewise, there may be communities that would be comfortable permitting women to write their *sifrei Torah*; I doubt there are many communities that would be comfortable having children participate on this level. This is genuinely a question of *kevod ha-tsibbur*: do social circumstances suggest elevating children to the same levels as adult men and women? In our times, almost certainly not.

aḥaronim differ, prohibiting women only on the grounds of *kevod ha-tsibbur* and making no claims about the inherent indispensability of males. *Magen Avraham* (*Yoreh De`ah* 282) goes so far as to suggest that since public *Torah* reading is a small-scale version of *haqhel*, in which women are obligated, it is possible that women are similarly obligated with respect to public *Torah* reading and may even be counted towards the requisite ten. The issue is left unresolved there, but the public nature of the reading is clearly a factor; the presence of the congregation is itself an essential element of public *Torah* reading, and women are potentially part of the congregation in this respect.

We need not go so far as to assert that women must be counted in the *minyan*; we could say that there is no restriction on which parts of the reading a woman may do, and therefore no restriction on which parts of the *Torah* scroll she may write. The only restriction is temporal; she may not perform the whole of a reading at any one time. Alternatively we might say that women are part of the community to the point that it is plausible to follow those *aḥaronim* who agree that a woman may perform the whole reading for the congregation. This puts *Torah* reading on the same plane as reading the Scroll of Esther with respect to women's ability to fulfill the obligation of others, and so by comparison with the *megillah*, she may write the scroll as well—provided that her participation in reading is not seen as a slur on the collective dignity of the congregation.

d7 - Difference between a damaged scroll and one written by women

We have seen that a *Torah* scroll for reading having a damaged letter falls into the same category as a *megillah* with a damaged letter: after-the-fact, the reading is acceptable, and if there is no other scroll available, the damaged one may be used in the first instance, rather than forgo the reading. It is clear, however, that such a scroll is decidedly sub-optimal.

Let me emphasize the difference between such a scroll and a scroll written by a woman. It is clear that a damaged letter makes a *megillah* sub-standard, but it is equally clear—assuming one accepts the idea of a woman writing a *megillah*—that such a *megillah* would not be halakhically sub-standard.[37] And just as a *megillah* written by a woman is kosher in the first instance because she may read *megillah* for the congregation, so too is a *Torah* scroll (in the for-reading category) that is written by a woman kosher in the first instance because she may read for the congregation. Just as a reading from a woman's Megillah is not viewed as a concession, analogous to permitting reading from an invalid *megillah*, so too a reading from a woman's *sefer Torah* should not be viewed as a concession; it is reading from a fully kosher scroll. In the context of reading, a *Torah* scroll written by a woman is neither invalid in the first instance nor in any way sub-standard.

E - Summary: customs and precautions

We have shown that there exists a position, described and endorsed by such authorities as Ran, Maimonides, and *Beit Yosef*, that could permit women, *ab initio* and with no conditions other than those applicable to men, to write *sifrei Torah* to be used for the public reading, *qeri'at ha-Torah*.

The sight of women reading *Torah* in the congregation has raised hackles, and violation of *minhag* (practice; custom) is not to be taken

[37] The only way it might be described as sub-standard is that there exist authorities who forbid it, and depending on one's approach to halakhic philosophy, this may make a woman's *megillah* less than ideal. But if one wishes to permit something, it is generally necessary to reject the views of those who forbid it, and the fact that there exists a dissenting position does not necessarily make one's own position less valid. Women writing the *megillah* is perfectly permissible according to many authorities, and if one accepts their view and agrees to disagree with those who rule otherwise, there is no reason for women to abstain. If one's approach to *halakhah* dictates that it is always better to comply with as many authorities as possible, then certainly a *megillah* written by a woman is out of the question; this approach is valid, but perhaps unduly restrictive.

lightly. There is some small evidence of women having served as scribes for various Jewish communities in the past, and it seems that in their communities they were, by and large, accepted. However, it is undeniably true that the vast majority of scribes are men, and many could prefer it to remain so.

Excellent discussions of the role of *minhag* in halakhic development may be found elsewhere; R. Shapiro examines *minhag* in the context of *aliyyot* for women, and many of the general comments he makes are applicable in this case also. There are two aspects of *minhag* that affect women's writing Torah scrolls; the first, a visceral reaction to violation of the status quo, and the second, a cautionary measure that may not strictly speaking be necessary but that is employed to prevent potential transgressions.

The visceral reaction, voiced in advance of any halakhic analysis, objects to female scribes on the basis of a perception that writing holy texts is a man's job and it is simply wrong for a woman to participate.[38]

But while change to the status quo may be uncomfortable for many, increased women's participation in all aspects of ritual life is more or less inevitable**.** The acceptance of female scribes may be seen as part of a greater trend, the merits and demerits of which are not our current focus. Suffice it to say that women continue to do jobs in traditionally male spheres despite protests that such a change is wrong.

The cautionary measure is worthy of more discussion. The difference between a scroll meant for public reading and one meant to fulfill the commandment to write is theoretically subtle and physically nil. We have already suggested that R. Karo may have been aware of the distinction but chose not to codify it, for the benefits of noting the distinction are minimal and the potential problems significant. Again, this is a judgment a community must make for itself, pitting the status quo against allowing its women to take a greater part in one more ritual event, albeit a significant one. The community's response will be influenced by the degree to which it deems its ability to handle the inherent risks to be greater than its desire to alter the status of its women.

While change to the status quo may be uncomfortable for many, increased women's participation in ritual life is inevitable.

Given the mobile nature of *Torah* scrolls, any congregation's decision is likely to affect the wider community. A *sefer Torah* written by a woman is essentially indistinguishable from one written by a man, and a woman's *sefer Torah* might make its way into a synagogue that would consider such a thing an appalling affront; that might argue for congregations taking account of the greater good in deciding whether to permit its women to write. On the other hand, it is already wise (many would say essential) for a buyer to investigate the provenance of any *sefer Torah*, since the market is riddled with scrolls that are invalid in one way or another—written by non-Jews or minors, for example, or passed as kosher without adequate checking and in fact containing a vast number of errors. I see no reason to think that the market will purify itself over time, the temptations of business practice having remained more or less the same over a couple of millennia, and *caveat emptor* will continue as the byword. Adding scrolls written by women to the market would not make the issue any worse, and, in fact, could be beneficial: since opposition to women's *sifrei Torah* is a great deal stronger and more politicized than opposition to *sifrei Torah* with a few flawed letters, congregations might well become more inclined to check the origins and *kashrut* of their scrolls.

Practically, there is already the means in place to accomplish this. It is possible to identify *sifrei Torah* uniquely, based on certain

[38] Although the reaction is not authoritatively documented, I have experienced it personally.

measurements and characteristics of script; there is an international register of *sifrei Torah* (coordinated by Machon Ot) that attempts to guard against theft by holding details of ownership (a stolen scroll can be identified as such to a potential purchaser), and a register that holds information about a scroll's owners can also hold information about its scribe. Thus any registered *sefer Torah* can have its *kashrut* reliably identified. Visceral reaction to a *Torah*'s having been written by a woman seems to be a great deal stronger than a *Torah*'s having been stolen, and if precautions against the former resolve themselves by means of precautions against the latter, the entire Jewish world, not merely the egalitarian-inclined portion of it, benefits.

In conclusion, while there are real social considerations to be taken into account, and various halakhic conditions that must be met, there exist circumstances in which a woman may write a *sefer Torah* quite as valid as one written by a man.

A Response to "Women's Eligibility to Write *Sifrei Torah*"

Rabbi Dov Linzer

Jen Taylor Friedman has written an engaging article that argues that a *sefer Torah* written by a woman with the purpose of using it for the sake of *qeri'at ha-Torah* should be deemed as kosher *le-khathilah*, that is, valid for use, *ab initio*. Although the Talmud *Gittin* (45b) records the position of Rav Hamnuna that a *sefer Torah* written by a woman is invalid, and this position is treated as authoritative by the *rishonim*, Rambam, and *Shulhan Arukh*, the author sets this passage in opposition to one from *Masekhet Soferim* (1:14) which does not explicitly exclude women. She argues that women are implicitly included as eligible to write a valid *sefer Torah*, according to *Masekhet Soferim*, and to reconcile this contradiction, the author posits a distinction, based on Ran, between two classes of *sifrei Torah*: one that is written for the sake of fulfilling the *mitsvah* of *ketivat sefer Torah* (writing a *sefer Torah*) and one that is written expressly for the purpose of reading in a synagogue. A *sefer Torah* written by a woman, she argues, is invalid for the first category but valid for the second category.

I can strongly sympathize with Taylor Friedman's desire to find a halakhic basis that will allow her and other women to fully participate in the field of *safrut,* and she has invested a great degree of effort and learning in attempting to find such a basis. However, while this resolution may be elegant as a *hiddush Torah*, it fails as a halakhic argument both because the textual evidence does not support this reading of *Masekhet Soferim* and because we do not rule in accord with the Ran's distinction, and certainly not as applied to a *sefer Torah* written by a woman. The bulk of my response will elaborate on these points and demonstrate that *le-khathilah*, such *sifrei Torah* are invalid for use.

The author argues, further, that even if such a *sefer Torah* were invalid, we may be able to use it regardless. Rambam rules in a responsum that one can use an invalid *sefer Torah* if no valid one is available; and we rely, *le-halakhah*, on this ruling when we discover that we have read from an invalid Torah and consider ourselves nevertheless to have fulfilled the *mitsvah be-di-`avad* (as a practical matter, after the fact). Hence, we should allow congregations to use such an invalid *sefer Torah*, because recognizing women in the role of scribes would constitute a reasonable measure in a time of exigency (*she`at ha-dehaq*) situation. In my conclusion, I will address this argument, as well as other considerations regarding this phenomenon.

1. *Mesekhet Soferim*

Much of the author's argument rests on *Mesekhet Soferim*'s supposed validation of *sifrei Torah* written by women. Let us look at this text:

> A *sefer Torah* written by a heretic, a non-Jew, a slave, a deaf-mute, one who is mentally impaired, or a child is not read from. This is the principle: if one is eligible to discharge the obligation of the community, his writing may discharge the obligation of the community. (*Masekhet Soferim* 1:14).

Inasmuch as the text does not mention women and women can discharge the communal obligation since they can—in principle—receive *aliyyot,* it is argued that this text implicitly permits women to write *sifrei Torah*.

Let me raise a number of objections. First, the marginal notes on *Masekhet Soferim* attest to a number of manuscripts that explicitly include "a woman" in the list of those who cannot write a *sefer Torah*. The author should have addressed this issue of textual variants and established the correct manuscript before making her argument.[1]

In terms of the argument itself, an argument from silence is always tricky, as there is no reason to assume that a list is exhaustive; there is always the possibility, as the gemara puts it, of *tanna ve-shiyyer* (some items on the list were mentioned; others were not). There could be many reasons why a particular person is not included in the list, not least of which is that it may have just been considered obvious.

However, the argument is not just that women are not explicitly invalidated, but that the principle given—"if one is eligible to discharge the obligation of the community, his writing may discharge the obligation of the community"—would include women. Is this the case? To argue such, one has to assume to that women may, in principle, receive *aliyyot* and as such are in the same category as men when it comes to discharging the obligation of the community. However, this is far from clear. First, while the *gemara Megillah* 23a excludes women from being called to the Torah only on the basis of *kevod ha-tsibbur* (dignity of the congregation), the *tosefta Megillah* (3:11), after stating that a woman may be *olah le-minyan shevah*, count towards the seven people called to the Torah on Shabbat, goes on to say that "a woman may not be brought to read from the Torah in public," which sounds like a more fundamental exclusion.

How to reconcile this with the principle of *ha-kol olin* (all may be called to the Torah) is unclear. It is possible that the exclusion came chronologically later than the inclusive principle, in which case, the rabbinic ruling might *prohibit* a woman from reading, either totally or at least *ab initio*. Alternatively, it is possible that this exclusionary language refers to a woman's ineligibility to discharge the community *its fundamental obligation* of Torah reading; she can be called up only after the fundamental requirement of Torah reading has been met by calling men for the first *aliyyah* or the first three *aliyyo*t. This is the position adopted by some *rishonim* and many of the *geonim*, and is the reading that R. Saul Lieberman prefers in his commentary on this statement in the *Tosefta* (pp. 1176).[2] According to either of these readings, it is clear that one could not say that a woman could discharge the community's obligation with respect to Torah reading.[3]

Given the *Tosefta*'s exclusionary language, in contrast to the *baraita* quoted by *gemara* in *Megillah*, it can by no means be taken for granted that *Masekhet Soferim* assumes that women can discharge the fundamental obligation of *qeri'at ha-Torah*. And, in fact, *Masekhet Soferim* does address itself to the question of who can read from the Torah:

> A minor may read from the Torah, but he may not lead the *shema*… (14:12).

A minor is explicitly included, but there is no mention made of a woman. Women are, however, mentioned in another context regarding the reading of the Torah:

[1] It is worth noting that the Vilna Gaon in his marginal notes to *Masekhet Soferim* (printed in the Vilna *Shas*) emends the text to include women in the list of those who are invalid, presumably to conform to the text in *Gittin*. R. Eliezer Waldenberg (*Tzitz Eliezer,* 14:19) likewise, quotes *Masekhet Soferim* as including women in the list.

[2] It is disconcerting that while the author clearly is aware of these positions, she chooses to ignore this possibility and simply assumes that *Mesekhet Sofrim* adopts the most inclusive reading of the principle that all may be counted toward the seven..

[3] These texts and the halakhic issues that surround women's *aliyyot* are discussed at length in Mendel Shapiro's article and Yehuda Herzl Henkin's response in *The Edah Journal* 1:2 (*Sivan* 5761). It is not my focus here is to discuss the halakhic issue of *aliyyot* for women. Regardless of how one might rule on this issue, it is necessary to assess the positions of the tannaitic sources and *Masekhet Soferim* on the issue of a woman writing a *sefer Torah* so that Taylor Friedman's reading of *Soferim* may be determined. For that purpose, I am also not distinguishing between receiving an *aliyyah* and the actual reading, as these functions were collapsed in the tannaitic period.

…. And he translates the Torah passage so that the entire congregation (lit., the remainder of the people) can understand it, and the women, and the infants (sic), because women are responsible to hear the reading of the Torah as men, and certainly men are obligated, and they (women) are also obligated in the recitation of the *shema*, in prayer, in blessing after meals, and in *mezuzah*… (18:5)

Masekhet Soferim then, takes explicit notice of women's presence during the reading of the Torah, and explicitly obligates them to *hear* the reading, but when it comes to the act of reading itself, *Masekhet Soferim* only addresses itself to the minor. Even if we were generally reluctant to accept arguments from silence, in this case it is quite reasonable to conclude that according to *Masekhet Soferim* a woman may not read from the Torah. Thus, the principle of "whoever can discharge… is eligible to write" would serve to *exclude* women, and the absence of women from the list of those ineligible to write a *sefer Torah* is no different from the absence of their mention in the ruling of who can read from the Torah—they are just assumed to be excluded from both.

Thus, the argument from *Soferim* fails on one of its fundamental assumptions. But the argument is more problematic, still. Consider the case of the minor. Why is he excluded? As we have seen, *Masekhet Soferim* is explicit that he may read from the Torah, but states that he may not write the Torah. Consider the irony: this list does not explicitly exclude women, although *Soferim* nowhere says explicitly that they can read from the Torah. At the same time the list explicitly excludes minors, although *Soferim* says elsewhere that they *can* read from the Torah. Does this not show that either this passage is corrupt, or that we have not understood it in some fundamental way?

Rather than admit to this, however, the author argues that the minor that is being excluded is a minor who cannot understand what he is reading, but who presumably has the skill to write a *sefer Torah*, a rare case indeed![4] It stretches credulity to assume that *Masekhet Soferim* would use the term minor to refer to one who cannot read, when it elsewhere (14:12) uses it to refer to one who can read and whose reading is valid. Moreover, it is unreasonable to assume that *Soferim* would misleadingly invalidate a minor without qualification if it were referring only this very small group.[5]

The problematic nature of the list does not end with the case of the minor, for the full list was not actually quoted by the author. In both available editions of *Masekhet Soferim* (Vilna and Higger), the list includes among those who are ineligible "the convert." There is no good reason to assume that a convert should be excluded, and certainly not on the principle of excluding one who cannot discharge the community's obligations. Either we are to assume that the "the convert" means something else (*Or Zaru`a* interprets it to mean a *ger toshav*, a resident alien), or that the text is corrupt, or that the list is not actually a reflection of the general principle of the ability to discharge the community's obligation.

Finally, we have the case of the slaves, who also appear on this list and which the author omits from any discussion. Slaves, as we know, are generally assumed to have the same halakhic status as women. If slaves are ineligible, would it not follow that women are also ineligible? Perhaps it will be countered that slaves are excluded from reading the Torah publicly, but women are not. The evidence, however, is to the contrary. *Yerushalmi Ketubbot* 2:10 states:

[4] It may also be noted that *Soferim* already addressed such a case of a minor who cannot read in the immediately previous law "And one may not write if he is unable to read" (*Soferim* 1:13). Hence, the ruling in (1:14) that excludes a minor is clearly referring to a different case.

[5] Elsewhere the author tries to explain away the case of the minor by attributing his ineligibility to his inability to have the proper intent. If this were the case, the same would also be true of the deaf-mute and the mentally impaired, and then the principle of the list that one must be able to discharge the community's obligation to read in order to be eligible to write would not be describing *anyone* on the list of exclusions.

> Did not R. Zeira say in the name of R. Yirmiyah: "The slave is counted amongst the seven readings"?

In almost identical language to that used in regards to women—all may be counted among the seven, including women—we are told that a slave can receive an *aliyyah*.[6] Thus, if a slave is nevertheless invalid to write a *sefer Torah*, it must be either because: (a) *Masekhet Soferim* would rule that slaves could not receive *aliyyot*, or (b) the although slaves could receive *aliyyot,* they cannot receive the initial ones, and hence cannot be said to be able to discharge the community's obligation or (c) the principle that "anyone who can discharge…" is not what is actually operative in this list. For whatever reason a slave is ineligible, however, we should assume that women would be ineligible as well: for without evidence to the contrary, *halakhah* assumes that the same laws pertain to both. And, as we have seen, *halakhah* does not recognize a difference between them with regard to their eligibility to receive *aliyyot*.

To sum up, we have a reading of a passage in *Masekhet Soferim* which (a) may not be based on the correct text, (b) makes assumptions about women's eligibility to read the Torah according to *Soferim* that are unfounded and quite possibly demonstrably incorrect, (c) ignores the case of the convert and (d) ignores or radically reinterprets the directly relevant yet contradictory cases of the slave and the minor in order to sustain the reading.

All of this goes to the issue of the validity of the author's reading of the text. Regarding the question of *halakhah le-ma`aseh,* there are two points that need to be made. First—and obviously given the foregoing—an innovative reading that is seriously suspect and problematic cannot serve as a basis for a ruling. Second, this list from *Soferim*, or at very least the omission of women from it, was completely ignored by the *rishonim*. Almost no *rishon* quote this list, and thus its halakhic weight therefore must be considered minimal at best. The only weight given to it can be said to derive from the fact that *Or Zaru`a* (*Hilkhot Tefillin* 555, quoted in Mordekhai, end of *Halakhot Qetanot*) quotes it and discusses its halakhic significance.[7]

Or Zaru`a* focuses on the exclusion of the convert and the *mamzer* (which was in his text), and discusses the implications of this at length; these discussions are reflected in the rulings of the *Shulhan Arukh* (*Yoreh De`ah 281:4). At the same time, *Or Zaru`a* completely ignores the absence of "woman" from the list, although he had just ruled above that women, among others, cannot write a *sefer Torah*. Either we are to believe that he assumed the reconciliation developed at length in the author's article, and that this was so obvious that it required no discussion or analysis, or the much simpler proposition—that he did not see the absence of "woman" from the list as indicative of their intended inclusion. Additionally, it is possible that *Or Zaru`a* was only willing to consider this list as having halakhic weight *le-humra*, that is to rule strictly and add to the *gemara*'s list of disqualifications. What *Or Zaru'a* is unwilling to do is to be lenient against the *gemara* and to compromise on the basis of a passage from *Masekhet Soferim* that is not even explicit, the *gemara*'s simple ruling that women are ineligible.

In summary, the author's attempt to read the passage in *Masekhet Soferim* as inclusive of women is not tenable in its own right for all the reasons discussed above. In addition, to the degree that the passage has any halakhic weight at all, it has not been understood to in any way to challenge or qualify the conclusion of the *Bavli* that women are ineligible to write a *sefer Torah*.

2. The Halakhic Argument based on Ran

Leaving aside the prooftext in *Soferim*, the author may still argue her position based on Ran on *Megillah* 5b, (s.v. *ve-katav*), namely that there are two types of *sifrei Torah*, one type that is valid for fulfilling the *mitsvah* to write a *sefer Torah* and one type that is valid for reading in

[6] This position is later reflected in *Haghot Maymoniyot* (on Rambam *Hilkhot Tefillah* 12:17, letter *samekh*), and in the Vilna Gaon's commentary *to Shulhan Arukh* 282:3.

[7] To the best of my knowledge, the only other *rishon* to quote the list is *Mahzor Vitri* (*Siman* 524). This citation is not meaningful, as it is part of a complete transcription of *Soferim,* with no associated halakhic discussion.

the synagogue. Based on conflicting textual evidence regarding whether a *sefer Torah* that was missing some words was or was not kosher, Ran posited that such a *sefer* could be used for synagogue reading but not for the *mitsvah* of writing. Why not, then, say the same for a *sefer Torah* written by a woman, that it would at least be valid for synagogue reading, inasmuch as a woman can discharge the community its obligation to read the Torah, and the purpose of this type of Torah is only for such a *mitsvah*. To make this argument, we would have to assume the following points:

1) Ran's ruling is extendable to cases where there is no textual support for it.

2) Women may indeed discharge the community's obligation with respect to Torah reading.

3) We rule, in practice, in accordance with the Ran.

Of these three assumptions, it can be demonstrated that the first two are questionable, and the third is incorrect. Regarding the first assumption, there is no basis on which to assume that Ran would extend his concept to cases where there was not already strong textual evidence for their validity. Consider the case that Ran was addressing, that of small number of missing words. Other *rishonim* also ruled that such a *sefer Torah* was kosher (see, for example, *Tosafot* to *Megillah* 9a (s.v., *Bi-shleima*), *Tosafot ha-Rosh*, *ad. loc.,* Ritva on 18b (s.v., *Minah hanei milei*) and 9a (s.v., *Targum*)), although not on the basis of Ran's principle. The key, however, is that Ran was explaining a ruling based on a text; he was not creating a principle to allow for recognizing the validity of cases lacking textual support. Such a qualification is almost necessary in this case, for how else are we to know which shortcomings are acceptable in a Torah that is to be used for synagogue reading, if not on the basis of textual evidence? There must be proof that a certain known flaw does not invalidate a scroll for synagogue reading, and only then can Ran's distinction be used to explain this anomaly.

Regarding the second assumption—that women can discharge men's obligation with respect to Torah reading—we have already discussed above that there is a basis in the *Tosefta Megillah*, and it is the opinion of some *rishonim* and a number of *geonim*, that even if considerations of congregational dignity are disregarded, a woman cannot read the first one or the first three *aliyyot* because she cannot discharge a man's fundamental obligation regarding Torah reading.

This brings us to the third question, that of whether we rule in accordance with Ran as a practical matter. There is no evidence that *Shulḥan Arukh* ever considers Ran's categories as operative. In the case of missing words, *Shulḥan Arukh* rules against Ran (and *Tosafot*, *et. al.*) and states that a *sefer Torah* is *pasul* (invalid) if there are errors or words are missing (*Yoreh De'ah* 279:2, and *Beit Yosef*, *ad. loc.*). He does rule, as the author discussed at length, that *post facto* one can rely on Rambam that the community fulfils its obligations with an invalid *sefer Torah*, but he rules that it is invalid nonetheless. The author, however, would have us make a couple of new assumptions in order to salvage Ran as a matter of practical *halakhah*, namely:

a) *Shulḥan Arukh* actually rules in accordance with Ran.

b) There is a twist to Ran's two categories, namely, that the purpose for which a *sefer Torah* was written—for the *mitsvah* or writing or for use in the synagogue—defines its identity. Hence, if it were written for the sake of the *mitsvah* of writing and was missing words or contained errors, it cannot be used for reading in the synagogue. An identical *sefer* with such errors that was written for the purpose of synagogue reading, however, can be used in the synagogue.

c) The reason *Shulḥan Arukh* invalidates a *sefer Torah* with missing letters is because it talking only about a *sefer Torah* that was written for the sake of the *mitsvah* of writing.

It is hard to take these arguments seriously. There is no evidence, nor any reason to think that Ran would distinguish between the purposes for which the Torah was written. Ran simply states that certain criteria must be met if a scroll is deemed to satisfy the obligation to write one, while fewer criteria must be met if it is to be used in the synagogue. The author's introduction of the purpose for which the Torah was written as determinative of its status has far-reaching implications, and if Ran took that position, he most certainly would have said so. To now take this novel idea, read it into Ran, and then posit that *Shulḥan Arukh* affirms it, all without any supporting evidence, and in the face of the simple ruling of the *Shulḥan Arukh* to the contrary, cannot be maintained. Occam's razor must be applied here, and we must assume that the *Shulḥan Arukh* rules against Ran, and that a Torah with missing letters or with mistakes is invalid.

We should be clear that while the author of the *Shulḥan Arukh* rules against Ran, it is true that he accepts a Torah reading from a *sefer* with mistakes as valid *post facto*, in accordance with Rambam's responsum. In such a *post facto* situation, he uses Ran's position for support:

> ואע"פ שרב שלמה בר רשב"ץ השיב שם על דברי הר"ן מורי הרב הנזכר היה תופס דברי הר"ן עיקר וקרוב לשמוע כדי ליישב דברי הרמב"ם בתשובה עם דבריו בחיבור וכך אנו נוהגים אחריו
>
> And although R. Shlomo bar Rashbatz responded to [i.e., critiqued] the words of Ran, my teacher, the aforesaid rabbi [Rav Yaakov bei Rav] affirmed the words of Ran as fundamental and persuasive, in order to reconcile the position of Rambam in his responsum with his position in his treatise (*Mishneh Torah*) and so our practice follows him. (*Beit Yosef*, *Yoreh De`ah* 279).

That is to say, Ran's explanation can be used to explain why Rambam would rule that a *sefer Torah* with errors was both invalid and yet could be used in the Torah reading, i.e., that it was invalid for the *mitsvah* of writing, but valid for synagogue use. However—and this is the key point—*Shulḥan Arukh* relies on this only *post facto*. When a mistake is found, the reading does not have to be done over, but one must immediately switch to a valid *sefer Torah*. Ran, like Rambam's responsum, is relied upon *be-di-`aved*, never *le-khatḥilah*, and even then only in case of missing words or mistakes.

In fact, *Avnei Nezer* (Rabbi Abraham Bornstein, the *Av Bet Din* of Sochaczew, 1839-1910) already dealt with the question of the relevance of Ran's categories in a responsum dealing with the validity of a *megillah* written by a minor, and his words on this issue deserve to be quoted in full:

> ט) והנה יש מקום להכשיר בספר תורה שכתבו קטן שהגיע לחינוך לשיטת הר"ן בפרק ב' דמגילה שהכשיר ספר תורה שהשמיט בה הסופר אותיות... דהתם לענין קריאתו שהוא מתקנת עזרא לבד אין לנו עיין שם. הרי דאף שאין בו קדושת ספר תורה כשר מן התורה אף על פי כן יוצא בו ידי תקנת עזרא. והכי נמי יש לומר בנידון דידן בכתבו קטן שהגיע לחינוך:
>
> י) אולם באמת אין מדברי הר"ן ראי'. שהוא הכשיר רק מדאיתא בגיטין (דף ס' ע"א) ספר תורה שחסר יריעה אין קורין בו משמע הא פחות מיריעה קורין בו. הא בשאר דברים אין לנו. ופשיטא שאין ללמוד משם. דהתם מכל מקום מה שכתוב קדושת ספר עליו ומגילה שנשתיירה בה פ"ה אותיות ... מטמא הידים מה שאין כן בשכתבו כולו מי שאינו בר חיוב בתפילין מן התורה. גם לא קיימא לן שם כהר"ן:
>
> 9. Behold, there would be the possibility to validate a *sefer Torah* written by a minor who had reached the age of instruction (*ḥinukh*), according to the position of Ran in the second chapter of *Megillah*, who validated a *sefer Torah* which was missing some letters. … For regarding the issue of reading from it, which is only an institution of Ezra, we need not assume that it is invalid; see

there. Behold, although it does not biblically have the sanctity of a kosher *sefer Torah*, nevertheless, one fulfils the obligation of the institution of Ezra (i.e., synagogue reading). And we can thus make a similar argument here regarding a case when it is written by a minor who has reached the age of instruction.

10. But, in truth, there is no proof from the words of Ran. For he validated [his case] based only on what was stated in *Gittin* 60a, that a *sefer Torah* that was missing one parchment cannot be read from, which implies that if it is missing less than a parchment, that it may be read from. But regarding anything else [i.e., any other invalidities] we have no basis (to assume Ran would allow them for reading). And it is obvious that one cannot learn from Ran's case [to others]. For in that case, [although some parts were missing] what was actually written still had the sanctity of the *sefer*, and a scroll [of Esther] that has 85 letters remaining… renders the hands impure [that is, has the sanctity of holy Scripture], which is not the case when it is written by someone who is not biblically obligated to don *tefillin*. Moreover, we do not rule in accordance with Ran.
(Resp. *Avnei Nezer, Orah Hayyim*, no. 516)

The comments of *Avnei Nezer* are directly relevant to our case. Ran's ruling was issued only with respect to the case of missing words. It would not be applicable to a Torah written by a woman, for the validity of which there is no prior textual basis that it is valid, and which would not have the sanctity of a *sefer Torah*, for a woman is among those declared ineligible by *Gittin* 45b, inasmuch as she is not obligated to don *tefillin*. And, finally, we don't rule in accord with Ran.

Let us examine the *Avenei Nezer*'s point regarding the sanctity of the *sefer Torah* and how it bears on the article under review here. The author, throughout the article, tries to take the sting out of the word "*pasul,*" ("invalid") as applied to a *sefer Torah* written by a woman, claiming it means merely that it cannot be used for Torah reading, but that it is valid *ab initio* for public reading. We should not be fooled by such semantics. If a *sefer Torah* is *pasul*, that means that it is invalid, and Rambam is actually quite clear on the matter:

נמצאת למד שעשרים דברים הן שבכל אחד מהן פוסל ספר תורה, ואם נעשה בו אחד מהן הרי הוא כחומש מן החומשין שמלמדין בהן התינוקות ואין בו קדושת ספר תורה ואין קורין בו ברבים, ואלו הן... (י) שכתבו אפיקורוס או כיוצא בו משאר פסולין,

You may thus learn that there are twenty things each of which invalidates a *sefer Torah*, and if it was made with one of these flaws, behold it is like one of the *humashim* used to teach infants, but it has no sanctity of a *sefer Torah*, and it may not be read in public, and these are they… (10) that it was written by a heretic, or anyone of the other people who are disqualified [from writing].
(Rambam, *Mishneh Torah*, *Hilkhot Sefer Torah*, 10:1)

It is possible, in line with the *Beit Yosef* and on the basis of Rambam's responsum, to limit Rambam's declaration that it cannot be used for public reading to cases of *le-khatahilah,* such as when others are available, or it has not yet been read from. What is not possible, however, is to avoid Rambam's clear statement that such a *sefer* does not have the sanctity of a *sefer Torah*.[8] This is why *Avnei Nezer* states that one cannot extrapolate from the case of missing letters to a *sefer* written by one of the people categorically excluded by *Gittin* 45b. In the latter case, the *sefer* would not have sanctity of a *sefer Torah*, and there is no reason to think that such a *sefer* would be valid for the purpose of reading in the

[8] Again, I am not willing to give serious consideration to the author's contention that this Rambam, like similar texts in the *Shulhan Arukh,* and all other texts that contradict her position, is referring only to a *sefer Torah* that was written to fulfill the *mitsvah* of writing, and that a *sefer Torah* written for synagogue reading would have a different status. This is an imagined distinction, with no logical basis, and it is absurd to read it into all these texts.

synagogue. If Rambam would allow reading from such a *sefer*, as he does in his responsum, it is only because he allows, *post facto*, a reading done from an invalid *sefer Torah*.

Beyond the question of such a *sefer*'s fitness for use *le-khathilah*, one must ask whether the author has considered the implications of arguing for the use of such a *sefer* that lacks *qedushat sefer Torah*. Even if such a *sefer* were valid, which it is not, it would merely be an object used to do the *mitsvah* of reading in the synagogue and would not merit being treated with the special veneration of a *sefer Torah*, as described so well by the author: "No other ritual object is afforded such a degree of veneration—we stand as it is carried by and take on communal fasting if it suffers an indignity…. [T]he scroll itself carries tremendous symbolism, and as such is a focal point of the synagogue." The author is asking us to consider purchasing, owning, and using a Torah that would have no *qedushat sefer Torah* and would warrant none of this veneration.

Thus, Ran cannot be used as a halakhic basis to validate a *sefer Torah* written by a woman, a Torah which anyway would at most only be able to be used for synagogue reading, but would lack *qedushat sefer Torah*.

The other proofs that the author offers in this vein are equally without basis. We have already demonstrated at lengths the problems of relying on the *Maskhet Soferim* text. We will add here that to claim that Rav Hamnuna's statement, in contrast to that of *Soferim*, is referring only to the *mitsvah* of writing and not to the *mitsvah* of reading, is to ignore the context of *Gittin* 45b, which introduces Rav Hamnuna into a discussion of *sifrei Torah* written by non-Jews. The *gemara* quotes three opinions about such *sifrei Torah*: they must be burned, they must be buried, or they may be read from. Clearly, the context is not fulfilling the *mitsvah* of writing, but the use of such *sifrei Torah* in a synagogue context. Even the phrase "they must be buried" is understood to mean that they cannot be used in a synagogue (see, for example, *Shah, Taz* and *Arukh ha-Shulhan* on *Yoreh De`ah* 281:1). The context, then, is the use of such *sifrei Torah* in the synagogue, and it is in this context that Rav Hamnuna is quoted.

Regarding the *Tur*'s position, *Drishah* already noted the absence of "woman" from the Tur's list of those who are ineligible to write a *sefer Torah*. We do not know how *Drishah* would have argued for validating scrolls written by women; his responsum is lost to us. Perhaps he would have argued against ruling in accordance with Rav Hamnuna. Be that as it may, there is no basis to use Rif, Rosh, and *Tur* to support the author's arguments.[9] While these three do not mention the invalidity of women in their laws of *sefer Torah*, Rif and Rosh quote Rav Hamnuna's statement invalidating women for writing a *sefer Torah* in their laws of *tefillin*. The author's claim is that this refers only to the *mitsvah* of writing, and that when Rif, Rosh, and *Tur* dealt with a Torah for reading, they did not explicitly exclude women and would have validated women as scribes. But in the *hilkhot sefer Torah* of each of these three *rishonim*, where they do not explicitly exclude women, the context is not that of reading from a *sefer Torah*, but rather the *mitsvah* of *writing* a *sefer Torah*:

> R. Yehoshua bar Abba says in the name of Rav Gidal in the name of Rav: One who purchases a *sefer Torah* from the marketplace is like one who stole a *mitsvah* from the marketplace. If he wrote it, it is as if he received it from Mount Sinai….
>
> (Rif, opening of *Hilkhot Sefer Torah*, paralleled in Rosh, *Hilkhot Sefer Torah*, 1:1)
>
> It is a positive *mitsvah* on every Jewish person to write for himself a *sefer Torah*, and one must pursue this greatly, for R. Yehoshua ben Levi said, "One who purchases a *sefer Torah*…
>
> (*Tur*, *Yoreh De`ah*, 270, opening of *Hilkhot Sefer Torah*)

[9] It is also questionable in this case whether to consider this three positions or one, inasmuch as Rosh's *Hilkhot Sefer Torah* are patterned after, and in some way a commentary on, those of Rif, and *Tur*, in turn, is following his father's (Rosh's) work.

> It is later in these very sections that Rif, Rosh and *Tur* discuss the disqualification of a non-Jew without explicitly mentioning the disqualification of women. If their silence is intended to include women, then it can only be understood to include women even for the *mitsvah* of writing a *sefer Torah*, a contention that even the author is not prepared to make.

Finally, the author's attempt to find support for Ran's position in *Beit Yosef* relies on a faulty reading of *Tur* and a tortuous explanation of the *Beit Yosef*. *Tur* in *Yoreh De`ah* 279 understood correctly states that if one reads from an uncorrected *sefer* at any time, one does not fulfill the obligation, not—as the author would have it—only in the case when it is read from after 30 days. Similarly, the author misunderstood the comments of the *Beit Yosef* in the *Bedeq ha-Bayit* as commenting on this line in *Tur*, when they were really a postscript to his later discussion of Rambam's position, as is made clear in the notes in the new edition of *Tur*. And, as we already discussed, the attempt to read in the position of Ran and to posit a distinction of *sifrei Torah* based on the purpose for which they were written, is all without foundation.

In summary, it is impossible to consider the author's contention that a *sefer Torah* written by a woman could be valid. To do so would be to read sources in convoluted ways with no justification; to make certain debatable assumptions about a woman's ability to discharge a man's obligation with respect to Torah reading; to assume that we rule in accord with Ran when we do not; to extend Ran to cases in which there is no textual basis and where logic dictates otherwise; and to consider using a *sefer Torah* which has no *qedushat sefer Torah*. A halakhic innovation on any issue, let alone one as important as this, cannot be based on such a series of doubtful propositions, and all the more so when some of the assumptions can be shown to be incorrect. We must definitively conclude that there is no halakhic basis on which to validate a *sefer Torah* written by a woman for reading in the synagogue.

3. Rambam's Position

We are left with Rambam's position in his responsum that the use of invalid *sifrei Torah* is only a problem of *kevod ha-tsibbur* (the dignity of the congregation), and they can therefore be used if there are no alternatives. Although we do not rule in accord with Rambam, we rely on him *be-di-`avad* (*post facto*)—when a Torah scroll has already been read from and an invalidating flaw is found, we do not require that the reading be repeated. Why, the author wonders, can we not say that the need to be inclusive of women as scribes is the equivalent of cases of when the invalid scroll has already been read from: "Again, we may stop here and say that if saving ten minutes of the congregation's time is sufficient reason to rely upon a minority opinion, giving women a sense of religious fulfillment by permitting them to write *sifrei Torah* is surely sufficient reason also." (footnote 26).

The first issue to consider here is not whether giving women greater religious fulfillment carries at least the same weight as saving ten minutes of time, which it certainly does, but whether in the case of an invalid *sefer Torah* we consider extenuating circumstances (*she`at ha-dehaq*) situations as equivalent to *be-di-`avad*. While there is a general principle that equates the two, the question is whether such a principle applies in this case. On a general level, R. Jacob Jehiel Weinberg made the point that a extenuating circumstances should have the status of *post facto* only when the extenuating circumstances are an exceptional case, and we are being lenient only because of a chance event. But we would not apply the principle to consider an ongoing situation as extenuating and to be lenient on that basis as a general rule:

> אך מכל המקומות שהביאו דשעת הדחק כדיעבד דמי נראה רק במקרה כשאירע כן בשעת הדחק... אבל לא לעשות לכתחלה לדבר חוק והסתדרות בכל פעם.
>
> But wherever they [decisors—*poseqim*] have cited the principle *she`at ha-dehaq* is

> considered to be the same as a *be-di`avad*, it appears to have been a case where an event occurs that makes this a *sh``at ha-dehaq*…but not that *ab initio* we should establish the [permissive] ruling as a matter of law and fixed policy for all cases. (Resp. *Seridei Aish*, 2:6).

More specifically, in this particular case of relying on Rambam's ruling, the *Shulhan Arukh* itself makes clear that extenuating circumstances are not equivalent to a *post facto* situation. Although R. Karo rules that one need not repeat a reading that was done from what was later discovered to be an invalid *sefer Torah* (*Orah Hayyim* 143:4), he rules in the previous section, *Orah Hayyim* 143:3 that:

> In the villages where there is no valid *sefer Torah*, they should not make blessings on it [i.e. an invalid *sefer*].

That is, according to *Shulhan Arukh*, *she`at ha-dehaq* is not to be considered the same as a *be-di-avad*, and the reading must be forgone, rather than done from an invalid *sefer Torah*. Rema quotes two opinions on this matter and in 143:4 states:

> In a *she`at ha-dehaq*, where the congregation has only an invalid *sefer Torah*, and no one is available to fix it, there are those who say that it may be read from in the congregation and blessings may be said over it, and there are those who invalidate it.

As a rule, we would assume that the practice is in accordance with the last opinion of Rema (especially considering that his next ruling assumes the strict approach), and thus we find that *Mishneh Berurah* states that all the *aharonim* have ruled that one should not use such a *sefer Torah*, even if no other one is available. At most what should be done is that there should be a reading without the blessings (*Mishneh Berurah* 143:29 and 9).

Given that we do not use an invalid *sefer Torah* even if there are no alternatives, there is no way to argue that we should use a *sefer Torah* written by a woman, which is thereby invalid regardless of the degree of need.

One final comment, however, is in place. I certainly sympathize with the author's felt exclusion and desire to have a greater sense of religious fulfillment. This, however, cannot constitute a *sh`at he-dehaq* if the way to address it is by pretending that an invalid *sefer Torah* is valid. Although I may be wrong, it seems to me that the author is asking us to give women *sofrot* a greater sense of inclusion not merely by using their *sifrei Torah* while clearly recognizing and identifying them as invalid, but by using their *sifrei Torah* as if they were valid. To me it is incomprehensible that we should consider the desire to blur halakhic categories, to present something as it is not, as a legitimate *she`at ha-dehaq* that would then warrant halakhic leniencies. If what is being asked for is to have such a *sefer* clearly identified as *pasul*, but used anyway, that is a different matter; but, as I have shown above, there is no halakhic basis for allowing invalid *sifrei Torah ab initio*, regardless of the extenuating circumstances.

4. Conclusion

In summation, there is certainly no basis to allow a *sefer Torah* written by a woman as valid either *le-khathilah*, or, in reliance on Rambam, *bi-she`at ha-dehaq*. The most that can be said is that if one does read from such a Torah, it is no worse than reading from *sifrei Torah* with other disqualifying flaws, and such a person fulfills his obligation *be-di-`avad*. The author, at the end of her article, wishes to argue that one should not object to the production of such *sifrei Torah*. Although such *sifrei Torah* are indistinguishable from those written by men, and a congregation may unwittingly use such a *sefer Torah*, this should not be the concern of the *soferet*. Rather congregations must make this their responsibility and refer to an international register to ascertain who is the scribe of a given *sefer*. This policy recommendation is against *halakhah*. It is unrealistic and irresponsible to assume that congregations will actually do such checking. Placing a *mikhshol* (a stumbling block)

before a person and thereby leading him or her to unwitting transgression, is at times a rabbinic and at times a biblical prohibition, depending on the particulars of the case. Yes, people are responsible to look out for themselves and not stumble over such stumbling blocks, but we are equally enjoined not to place such blocks in their way. And in the case of the invalid *sefer Torah* itself, we have an explicit ruling of *Shulḥan Arukh* that a *sefer Torah* with errors must be repaired or put in *genizah* (*Yoreh De`ah* 279:1) and that one that is written by a non-Jew must likewise be put in *genizah* (*Yoreh De`ah* 281:1). *Taz* (281:1) takes this statement literally, and states that a *sefer Torah* whose invalidity is not visible cannot be used even in private, out of concern that it might eventually be used for public Torah reading. *Shaḥ* (*Nequdot ha-Kesef*, *ad. loc.)* allows it to be used in private, because it is obvious from the fact that it is kept in private that it is invalid for public use. Both agree, however, that one cannot allow it to circulate if its invalid status is not clear to all. Thus, if a woman who is committed to *halakhah* intends to write *sifrei Torah*, it would be incumbent upon her to ensure that such a Torah could not reasonably find its way to a halakhic congregation, or that she made obvious the fact that it was written by a woman, say, by writing on the back of each parchment panel: *נכתב על ידי הסופרת פלונית אלמונית* (written by the woman scribe____).

I empathize with the author and others like her who want to participate fully in the field of *safrut*. I do not know what I can say to them, other than that this is one of many sacrifices that must be made for the sake of *halakhah*. While it is necessary for us to explore opportunities to allow for greater inclusion of women in areas of ritual, we cannot allow such an impulse to compromise a rigorous approach to *halakhah* and the halakhic process. If we rightfully take offense when *halakhah* is misread to exclude women's participation when such a conclusion is not warranted, then we must be extremely careful ourselves not to misread *halakhah* to include women's participation when the sources do not allow for such a reading. Only if we fully internalize our absolute need to be true to *halakhah* can we be responsibly responsive and inclusive.

Meorot
A Forum of Modern Orthodox Discourse

Authority and Validity: Why *Tanakh* Requires Interpretation, and What Makes an Interpretation Legitimate?

Moshe Sokolow

Abstract: The Bible requires interpretation (exegesis), but not all interpretation offered to the Bible is valid. The first half of this paper examines the criteria for authority and validity in Biblical exegesis, comparing the major schools of traditional, historical-philological, and literary interpretation. The second part comprises an attempt to compose a modern Orthodox commentary on Genesis 18, which, while rooted in traditional exegesis (*parshanut*), is yet responsive to the requirements of historical-philology and literary analysis.

Biography: Dr. Moshe Sokolow is Fanya Gottesfeld Heller Professor of Jewish Education and Associate Dean, Azrieli Graduate School of Jewish Education and Administration of Yeshiva University.

Meorot 6:2
Marḥeshvan 5768
© 2007

A Publication of
Yeshivat Chovevei Torah
Rabbinical School

Authority and Validity: Why *Tanakh* Requires Interpretation, and What Makes an Interpretation Legitimate?

Moshe Sokolow

Introduction

Simon Rawidowicz has written that interpretation "bridges the gap between past and present,"[1] and Gershom Scholem has called it "true growth and unfolding from within.[2]

The contemporary Jewish student of the Bible cannot but feel some degree of alienation from a text which, whatever his proficiency in Hebrew, often reads like what the prophet Isaiah called "a tongue of mumblers"[3]

The Bible Requires Interpretation

The first difficulty the interpretation of the Bible must confront and overcome is its own justification. In other words: Why interpret? Why not presume that the Bible, as the literary embodiment of God's design to communicate with man, says its piece bluntly and literally?

This question of the "nature of exegetical authority" is a prelude to the equally complex and challenging issue of "validity in interpretation." That is, if we accept the premise that interpretation (which we shall also call "exegesis" or *parshanut*) is indeed in order, then what are the criteria according to which we can distinguish between valid and invalid interpretations, let alone recommend one particular interpretation over another?

What are the criteria according to which we can distinguish between valid and invalid interpretations?

There are two approaches to the questions of authority and validity in interpretation. The first is based on the principles which underlie medieval Jewish biblical exegesis—for which there are also striking correspondences in the thinking of some contemporary hermeneuticists—and we have categorized these views as "traditional." They stand in sharp contrast to the critical, philologically centered approach we have labeled "historical."

Why Interpret? The Traditional Response

Interpretation is a fact of linguistic and literary life. Sa`adiah Gaon (882-942) wrote: "It is the nature of language to have multiple meanings. Likewise the Torah, which was given in a human language."[4] And in the contemporary words of Paul Ricoeur: "There is interpretation whenever there is multiple meaning"[5]

[1] Simon Rawidowicz, "On Interpretation," *P.A.A.J.R.* 26 (1957), 116.
[2] Gershom Scholem, "Tradition and Commentary as Religious Categories in Judaism," *Judaism* 15, 1 (1966), 28.
[3] Isaiah 32:4.
[4] M. Zucker, ed., *Saadiah Gaon: The Commentary on Genesis* (Hebrew and Arabic) (Jerusalem: Jewish Theological Seminary, 1984), translated from the Arabic Prolegomenon by the author.
[5] Paul Ricoeur, "Existence and Hermeneutics," in *The Conflict of Interpretation* (Evanston: Northwestern Univ. Press, 1974), 13.

The alternative to interpretation, that is, taking everything literally, is expressly rejected in the Talmud. A *tanna* of the school of Rabbi Ishmael says: "Just as the rock is splintered by the hammer, so every divine utterance is divisible into seventy interpretations."[6] Similarly the *amora* Abayye says: "'God speaks but once yet I hear two messages' [cf. Ps. 62:12]. Every biblical verse allows several meanings, and no two (different) verses will ever have the identical meaning."[7] Rabbi Judah goes further still, declaring that "Whosoever translates only according to the literal meaning of a verse is a charlatan."[8]

Just as the rock is splintered by the hammer, so every divine utterance is divisible into seventy interpretations.

Medieval biblical exegesis took its cue from the Talmud. As we have already noted, Sa`adiah was an early advocate of the recognition of the Torah's inherent multiplicity of meaning. So was his successor, Samuel ben Hofni, who cautioned would-be exegetes against confusing univocal and equivocal passages.[9] Rashi, too, in his Introduction to Song of Songs, addresses the question of single and multiple meanings. Writing about the seeming contradiction between the Talmudic principle "that Scripture cannot be purged of its literal sense,"[10] on the one hand, and the self-evident witness of prophetic allegory, on the other, he declares that the exegete "must interpret the allegory in consonance with the established meaning of the verse in context."[11] In other words, even the allegorical component of Scripture—according to this view—is dependent upon a passage's literal meaning.

Multiple meanings clearly coexist. Traditional exegesis is aware of this polyvalence and labors to determine which meaning, in which circumstance, has greater validity. It does not consider the literal sense of a verse an adequate guide to interpretation in all circumstances.

What Confers Validity?

Ricoeur writes that "Every reading of a text always takes place within a community, a tradition, or a living current of thought."[12] Tradition, as an arbiter of validity in interpretation, is another hallmark of medieval Jewish exegesis. Sa`adiah Gaon cautions the exegete that:

It is ever incumbent upon the rationalist to grasp the Torah according to the meaning most widespread and prevalent amongst the speakers of its language — for the purpose of every book is to deliver its message clearly to its reader — except for those places where sensory perception or rational inquiry contradict that prevalent meaning, or in the case that it contradicts another verse of unambiguous intent, or one of the prophetically inspired traditions.[13]

Rashi, similarly cognizant of the equivocal nature of Scripture, also uses tradition as the yardstick of interpretation. Rabbi Judah, after condemning

[6] מה פטיש זה.נחלק לכמה ניצוצות, אף כל דבור ודבור שיצא מפי הקב"ה נחלק לשבעים לשונות (*Shabbat* 88b).

[7] אחת דבר אלקים שתים זו שמעתי
מקרא אחד יוצא לכמה טעמים, ואין טעם אחד יוצא מכמה מקראות (*Sanhedrin* 34a)

[8] המתרגם פסוק כצורתו הרי זה בדאי, והמוסיף עליו הרי זה מחרף ומגדף
Qiddushin 49a (see n. 14 below). The translation of כצורתו as "the literal meaning" is based on *Tosafot* ad. loc., which renders it as: כמשמעותו.

[9] Zucker, *Saadiah Gaon,* 28.

[10] אין מקרא יוצא מידי פשוטו

[11] On the term דוגמא in Rashi's commentary on Song of Songs, see Sarah Kamin, *Tarbiz* 62 (1983), 41-58.)

[12] Paul Ricoeur, "Existence and Hermeneutics," 3.

[13] M. Zucker, *On Saadiah's Translation of the Torah* (New York: Feldheim, 1954), 231, translated from the Arabic by the author.

[14] See note 9 above. המתרגם פסוק כצורתו הרי זה בדאי, והמוסיף עליו הרי זה מחרף ומגדף

literal translation, added: "But whosoever would add to [the literal sense] reviles and blasphemes."[14]

Rashi comments on the seeming contradiction: "'Whosoever would add to it'— saying: since permission has been granted to add, I too shall add wherever I choose; 'reviles and blasphemes'—disgracing God, altering His words."[15]

In other words, someone who takes Scripture's multiplicity of meaning as an opportunity to invent new interpretations at will is not merely a charlatan but a blasphemer, a religious reprobate, because his sin is not committed against the language, per se, but against the way tradition has treated the language. And lest one protest: "But the 'authorized' *targum* [Aramaic translation] of Onqelos has precisely such proscribed 'additions,'" Rashi hastens to add: "Onqelos, however, did not add of his own accord, rather [the substance of his additions] was revealed at Sinai and subsequently forgotten until he reestablished it."[16] That is to say, tradition granted permission to Onqelos to effect other-than-literal translations, and without such authority his *targum* would be invalid.

Exegesis is authorized by the inherent polyvalence of the biblical text; validity is conferred through consonance with tradition.

In citing the Talmudic adage "it was forgotten and re-established,"[17] Rashi was appealing for the recognition of the unity within tradition of the text and its interpretation. Scholem describes this doctrine as follows: "Revelation comprises within it everything that will ever be legitimately offered to interpret its meaning,"[18] and Rawidowicz observes that "equality of origin and time for the *Perush* with the text means absolute equality of value ... [which] is bound to lend the *Perush* an autonomy, a self-sufficiency *sui generis*."[19]

According to the traditional method, then, exegesis is authorized by the inherent polyvalence of the biblical text, and validity is conferred through consonance with tradition, which is seen as coeval with revelation itself. As Sandra Schneiders writes: "What constitutes the criterion of validity in exegesis? …The exegete remains always under the judgment of the text and of the faith tradition ... It is possible for anyone of normal intelligence who operates within the structures of understanding of the faith community, and his or her own life experience, to grasp at least the basic meaning of the biblical text."[20]

Authority and Validity: Historical Method

The historical method has been epitomized by Moshe Greenberg, albeit with serious reservations, as follows:

> To date, Bible scholars see their principal task as penetrating beyond the text to its first form. The historical philological question is: 'How did the text evolve?' and the desired objective is to describe the process of its evolution .., in the wake of the conclusions of the method, exegesis follows. The exegete (sometimes the textual scholar himself) interprets primarily the sifted original text, while what he has judged as an addition tends to be shunted off into a marginal note or, at best, dealt with in a section entitled: 'Additions by students and copyists'. In any event, these 'additions' are not required for the interpretation of the

[15] והמוסיף עליו—שבא לומר: הואיל וניתן רשות להוסיף, אוסיף גם אני בכל מקום שארצה. הרי זה מחרף—מבזה את המקום, משנה את דבריו.

[16] ואונקלוס כשהוסיף—לא מדעתו הוסיף, שהרי בסיני ניתן. אלא נשתכח וחזר ויסדו

[17] שכחום וחזרו ויסדום

[18] Scholem, "Tradition and Commentary," 18.

[19] Simon Rawidowicz, "On Interpretation," 92.

[20] Sandra Schneiders, "Faith, Hermeneutics, and the Literal Sense of Scripture," *Theological Studies,* 39 (1978), 732.

[21] Moshe Greenberg, "Biblical Scholarship and Israeli Reality" (Hebrew), in Uriel Simon, ed., *Ha-miqra va-anaḥnu* (Tel Aviv: Am Oved, 1979), 71.

> message of the work, and by this means the character of the interpreted unit changes more or less.[21]

Historical philology, then, believes that if one (1) reconstructs an original Biblical text, (2) identifies its author(s), and (3) circumscribes the linguistic, literary, and cultural contexts, then one has determined the text's "original intent," and **that** is its interpretation. Anything else, according to this method, is not the recovery of original intent, but "superimposed interpretation"; that is, not *exegesis* (literally: reading out of a text) but *eisegesis* (literally: reading into a text). As E.A. Speiser put it:

> Far more problematic than the integrity of the text is the accuracy of the transmitted meaning ... in course of time the content of the Bible became enveloped in layer after layer of superimposed interpretation; interpretations bequeathed by scribes and rabbis, ancient versions, the vocalizers of the standard (Masoretic) text, and—not the least formidable of all—the first standard version in the given Western tongue. Each of these accretions has served as a safeguard in some ways, but as a barrier in others, a barrier to the recovery of the original context.[22]

Notice, particularly, how the treatment of Scripture by the faith community, that very factor which validates interpretation according to the traditional method, is here denigrated as a "barrier." Nowhere, indeed, is the contrast between these two methods greater than in the issue of the so-called "original" intent, as opposed to that called "superimposed."

The Contrast

Two questions present themselves given this contrast: (1) Which method can lay claim to greater validity? and (2) Which method offers greater promise for religious education?

The first question can be rephrased, focusing on the aforementioned contrast, as: Does the biblical text have one original and recoverable intent, or is it necessarily multi-intentioned and dependent upon what has been called "the subsequent tradition of the believing community which created the book as Bible?[23] Tradition would argue that even were we to presume that the author of any work of literature had one precise intention, the text, by itself, does not suffice for its retrieval. As I.A. Richards cautioned: "We have to remember... that what the writer meant is not to be simply equated with what he wrote."[24] With respect to biblical literature, moreover, the nature of its prophetic revelation orders us to contend with intentions other than those of the author.

Nowhere is the contrast greater than in the issue of "original" intent, as opposed to that called "superimposed."

Rabbi Abraham Isaiah Karelitz, the *Hazon Ish,* believed that:

> The prophet often received the intent alone, and often the words as well. However, his understanding of both the words and the intent was often only of the kind available to any scholar of the Torah, and was not uniquely prophetic. Thus it is conceivable that in the transmitted words there were additional intentions unrecognized even by the prophet himself.[25]

This is similar to the doctrine of the *sensus plenior,* or fuller sense of Scripture, which R.E. Brown defines as "that additional deeper meaning intended by God, but not clearly intended by the human author."[26] William

[22] E.A. Speiser, *Genesis* (New York: Anchor Bible, 1964), lxiv.
[23] R.A.F. McKenzie, cited by Schneiders, "Faith, Hermeneutics," 728.
[24] I.A. Richards, *Interpretation in Teaching* (London: Routledge and Kegan Paul, n.d.), 29.
[25] Cited by Yizhaq Klein, *Nevi'ei emet* (Benei Beraq, 1969), 158.
[26] R. E. Brown, *The Sensus Plenior of Sacred Scripture* (Baltimore: St. Mary's Univ. Press, 1955), 92,

Braude, too, has taken note of this distinction, remarking that "Traditional interpreters [of *midrash*] deny the mathematico-mechanical outlook, because they believe in revelation, and hence in the polyphony of a text."[27]

Braude, in fact, calls the result of the historical method "unilinear *peshat*" and attributes it to three false premises:

False premise No. 1: We moderns really know Hebrew—in any event we know it better than [the Sages]. False premise No. 2: We have the means to recover the intent of the writer of Scripture. False premise No. 3: A great text such as Scripture, which even those who do not believe in revelation will admit that it indeed is, has one meaning, and one meaning only?[28]

Once the safety of objectively defined meaning is abandoned, what controls remain over subjectivity?

The historical-philological rebuttal is easily anticipated and approximated. Once the safety of objectively defined meaning is abandoned, what controls remain to be exercised over the ensuing subjectivity which passes for interpretation? The ancients and medievals, to their credit, did the best which could be expected of anyone lacking the tools of historical-philological investigation. For instance, in the absence of comparative Semitics they imagined that they could exchange rabbinic Hebrew with its biblical predecessor and, bereft of a tangible basis for cross-cultural contrast, they employed the literary fiction of *midrash*. Speiser chides,

> Later Hebrew is by no means identical with early biblical usage. Yet successive interpreters would tend to make the secondary usage retroactive. And because the Bible had become sacred Scripture, such anachronistic interpretations acquired a normative bearing of their own.[29]

On the other hand, with the expansion of our contemporary knowledge of biblical Hebrew—through the recovery of Hebrew texts and inscriptions of the biblical period, and through comparisons with related Semitic languages—and with the intensification of our current acquaintance with the cultural contexts of biblical civilization via comparative literature and archaeology, we are uniquely situated to perform the labor of historical interpretation denied to our predecessors.

Historical inquiry, then, posits the existence, for each biblical text, of a single original intention which can be retrieved via the proper implementation of archaeology and linguistics. Traditional inquiry, however, rejects the notion of a single original intention as inapplicable to the literature of prophetic revelation, due to the combined factors of its inherent multiplicity of meaning and its "fuller sense."[30] Historical inquiry, in a word, seeks the "objective" meaning of Scripture via a method decried by its detractors as "mathematico-mechanical,"[31] while traditional inquiry seeks the "subjective" meaning disparaged by its deprecators as "anachronistic."[32]

[27] William Braude, "Midrash as Deep Peshat," in Sheldon R. Brunswick, et al., eds., *Studies in Judaica, Karaitica & Islamica, in honor of Leon Nemoy* (Ramat Gan: Bar Ilan Univ. Press, 1982), 32 ff.
[28] Ibid.
[29] Speiser, *Genesis*.
[30] R.E. Brown, *The Sensus Plenior*: "Thus, the continuity of the 'fuller sense' with the meaning of the human author and with the whole of tradition, constitutes a kind of criterion for validity in interpretation."
[31] So Braude, *Midrash*. Cf. Rawidowicz, "On Interpretation" (109): "Spinoza, whose preference of *peshat* is stimulated not only by his reaction against the Jewish tradition of interpretation, but also—and decisively—by the new mathematico-mechanical outlook which was the basis for his philosophy at large.
[32] The clash of "objective" and "subjective" meanings brings to mind the following comment by Stanley Fish: "William Wimsatt and Monroe Beardsley's essays on the affective and intentional fallacies (so called) ... plead a successful case for [the centrality of] the text by arguing, on the one hand, that the intentions of the author were unavailable and, on the other, that the responses of the reader were too variable. Only the text was both indisputably there and stable....The outcome of either fallacy ... is that [the text]

The Need for Synthesis

Each approach, in its own way, is capable of alienating the contemporary religious reader from the Biblical text. Historical inquiry does so by overly emphasizing the text's remote origins; traditional inquiry does so by overly emphasizing its classical and medieval exegesis. A brief sampling of some modern thought on this subject highlights the respective problematics. Yehuda Elitzur, in an essay entitled "Faith and Science in Biblical Exegesis," offers the following critique:

> A contemporary exegete is required, of course, to examine things in the light of contemporary knowledge.…If he does so, then he is following in the footsteps of the ancients even if he disagrees with them in a thousand details. However, one who only copies the ancients, shutting his eyes to newly discovered facts and knowledge, is abandoning the ways of the ancients and is rebelling against them.[33]

Other scholars have been sharply critical of contemporary historical inquiry. Marvin Fox has decried "a kind of secularist fundamentalism that is equally insensitive to the fact that we are always dependent on and involved in processes of interpretation,"[34] and Brevard Childs has written that:

> An almost insurmountable gap has arisen between the historical sense of the text, now fully anchored in the historical past, and the search for its present relevance for the modern age.[35] …I am now convinced that the relation between the historical-critical study of the Bible, and its theological use as a religious literature within a community of faith and practice, needs to be completely rethought.[36]

Without an established text, we interpret a will-o'-the-wisp. Without studying its linguistic and cultural background, we are wont to commit either gross anachronisms, or the kind of allegorical mayhem against which Rashi warned in his introduction to Song of Songs. To limit interpretation to that which the original author intended to convey to his original audience, however, is to ignore two fundamental characteristics of the Bible as Scripture: (1) that it exceeds the sum of its avowed prophetic intentions, and (2) that this "fuller sense" can be reconstituted only through the medium of tradition in its function as the faith community's indigenous and authentic "development in the understanding of revelation."[37]

As Moshe Greenberg has acknowledged:

> We must hope that just as it is unimaginable to have a Bible scholar bereft of a fundamental knowledge of the ancient Near East, so it would be unimaginable to have a Bible scholar fundamentally ignorant of the 'Oral Law.' The knowledge of the ancient Near East is requisite to evaluate the place of the Bible in its cultural framework...while a knowledge of the Oral Law and of exegesis—apart from their value in deciphering the meanings of Scripture—is necessary for the evaluation of Biblical values.[38]

Must every exegete be a believer? There are both minimalist and maximalist positions.

itself, as an object of specifically critical judgment, tends to disappear." (*Is There* a *Text in This Class?* Cambridge: Harvard Univ. Press, 1980, 1). The centrality of the text is likewise championed by Meir Weiss who asks, succinctly, "as between the words of scholars and the words of the psalm, which shall we heed?" דברי החוקרים ודברי המזמור—דברי מי שומעים? (*המקרא כדמותו* Jerusalem, 1967), 45, or English translation, *The Bible From Within: The Method of Total Interpretation,* Magnes Press 1984.

[33] Y. Elitzur, *Emet, dat u-madda* (Jerusalem: Ministry of Education and Culture, 1966), 132-133.

[34] Marvin Fox, "Judaism, Secularism, and Textual Interpretation," in *Modern Jewish Ethics* (Ohio: Ohio State Univ. Press, 1975), 5.

[35] Brevard Childs, "The Sensus Literalis of Scripture," in Herbert Donner, et al., eds., *Beiträge zur alttestamentlichen Theologie: Festschrift für Walther Zimmerli zum 70. Geburtstag* (Göttingen: Vandenhoeck und Ruprecht, 1977), 91-92.

[36] Brevard Childs, *Introduction to the Old Testament as Scripture* (Philadelphia: Fortress Press, 1982 *[NOTE: LOC catalogue says 1979]*), 15.

[37] R.E. Brown, *The Sensus Plenior*, 92.

[38] Moshe Greenberg, "Biblical Scholarship and Israeli Reality," 84.

According to Greenberg, "the basic requirement… is not faith, but understanding; not assent, but recognition of the profound issues which the Bible treats."[39] Sandra Schneiders, however, analogizes that "Faith plays a role in biblical hermeneutics not unlike that of talent and training in the listening to or performing of music. A fundamentally positive attitude is necessary if one is to enjoy the music at all; but the more musical one is, the greater the possibility of enjoyment."[40]

Must every exegete be a believer?

Must the exegete be an accomplished literary critic? Not necessarily. Schneiders writes that "anyone of normal intelligence can interpret Scripture, by combining his own life experience with tradition."[41] J. P. Fokkelman has said similarly, that if the Bible indeed speaks in human terms, it can speak to any good close reader who trusts the conjunction of his empathy with the text and his own experience.[42]

Among those experiences, the Bible exegete must count the unmediated encounter with the text. Edward Greenstein argues for "familiarity with the aesthetics of the Bible," which he describes as "training in experiencing of the text, so that the reader will become sensitive enough, on his or her own, to directly encounter it."[43] The Bible has been cherished by religionists as an inspired source of truth, and by students of the past as a primary historical source. Both positions are valid, but there is something more to the Bible than this …Far be it from me to say not to analyze the Bible. But in the long run, more is required of the religious person and the religious scholar.[44]

Involvement

The key to the "direct encounter" is involvement. Greenstein writes:

> When you are waiting for something to happen, when you have this expectation, you are involved in what is going on. You're constantly being enlisted in the creative process, because you, yourself are, in a sense, subconsciously creating together with the artist.…This participation is a source of pleasure.[45]

Joseph Schwab, describing what he calls "rhetorical analysis," writes:

> If a reader could have access to the alternatives from which an author thus chooses his key words, the structure of his key sentences, and his organization, he would have at hand a remarkable aid to interpretation.…By bringing to bear on symbols and meanings the process of comparison.…the reader could participate in a part of the act of authorship.[46]

In his study of Talmud *"learnen"* (study groups), Samuel Heilman makes the same observation: The excitement in such study is to uncover for

[39] Moshe Greenberg, "On Teaching the Bible in Religious Schools," in *Modern Jewish Educational Thought,* ed. D. Weinstein and M. Yizhar (Chicago: College of Jewish Studies, 1964), 79.
[40] Schneiders, "Faith, Hermeneutics," 732.
[41] *Ibid*
[42] J. P. Fokkelman, in personal conversation with the author, referring to the Talmudic adage *dibberah torah ki-leshon benei adam* ("the Torah speaks in human terms").
[43] Edward Greenstein, "Against Interpreting the Bible," *Ikka D'Amrei* (A Student Journal of JTSA), IV (1982), 30.
[44] *Ibid*, 27, 31.
[45] *Ibid.,* 36. In conclusion Greenstein writes: "What I've tried to show you, or argue, is that the reading experience, or the hearing experience, cannot be reduced to a message or a particular set of data. The experience is the total and cumulative effect of what happens to you, what goes through your head, during the entire course of reading or listening." (*Ibid.,* 38).
[46] Joseph J. Schwab, "Enquiry and Reading Process," in *Science, Curriculum and Liberal Education* (Chicago: Univ. of Chicago Press, 1978), 154.

oneself the old truths…to feel as if one is oneself the pioneer. The traditional learner is by no means simply mimicking or mouthing the words of the past…he is dramatically possessed by the text and its world; yet to him its words and reasoning seem to be his own.[47]

Epilogue:

With these last few words, we have closed the hermeneutic circle begun in the Prologue in praise of interpretation. We would like to close with Leon Roth's particularly felicitous definition of the interpretive process:

It is ultimately the determining of an ideal of life, the establishing of a preference among possible ends. It is the ordering of types of action in an ascending and descending scale of better and worse, an ordering which shapes the kind of life we choose to live…Interpretation thus becomes the gateway to life, and in this wide sense is synonymous with education.[48]

47 Samuel Heilman: *The People of the Book* (Chicago: Univ. of Chicago Press, 1984), 65
48 Leon Roth, "Some Reflections on the Interpretation of Scripture," *The Montefiore Lectures* (London, 1956), 20-21.

Genesis 18
Tidings: Glad and Disconcerting

Preview

"And Lot, also, who went with Avram…":

The episode concerning Abraham and the glad tiding of impending birth is a pivotal link in the chain of circumstances initiated when God promised that his descendants will inherit the Promised Land (12:7). At the same time, the disconcerting tiding of imminent doom brings to denouement the story that began when Lot settled in Sodom (13:12).

The concurrence of these contrasting tidings is both propitious and ominous. Until he was vouchsafed the birth of a son to Sarah, Abraham's closest kin was Lot. They refer to one another as "brothers" (13:8) and Abraham is moved by Lot's capture (14:14) to risk his own life in his rescue. Were he to remain childless, to whom would the Promised Land revert? Could it, perhaps, revert to Lot?

Abraham's commitment to Lot understandably is diminished with the birth of Ishmael and may have dissipated entirely with the subsequent tiding that he will soon have a son of his own. When informed shortly thereafter of Sodom's impending destruction--and Lot's implicit demise-- Abraham confronted a dilemma: Should he advocate for Lot? On the one hand, Lot had made his bed in Sodom and now would have to lie on it. On the other hand, he was kin. On the one hand, he was no longer indispensable for the fulfillment of the divine plan. On the other hand, he was, relatively speaking, a righteous man.

Abraham's advocacy (cf. *infra*., v. 23 ff.) for Lot and for the hypothetical righteous of Sodom distinguishes him in the realm of relationships with people (*bein adam le-ḥaveiro).*

A Guest is a Jewel on the Cushion of Hospitality

Whether Abraham's three guests were literal or allegorical is a matter of celebrated controversy (see our commentary to vs. 1, 2).

Whichever the case, Abraham's reaction to their appearance is startling: He extends his hospitality even at the expense of intruding upon his earlier divine visitor! No less startling is God's reaction to the interruption: Rather than the comeuppance we might have anticipated, He patiently awaits Abraham's conclusion of his convivial obligations before resuming conversation with him (see our commentary to v. 22, "and Avram yet stood before the Lord").

Abraham's reaction to the appearance of his guests distinguishes him in the realm of relationships with God (*bein adam la-maqom*).

Translating the Text

We move now to the text, beginning with an independent translation.

Following the illuminating precedent of the Tafsir (Arabic translation) of Sa`adiah Gaon, we shall translate the Torah literally unless the literal sense falls afoul of any one of four conditions:

1. sense perception
2. reason
3. the literal sense of another passage
4. reliable tradition*****

***** Historically, the first three of these conditions had already been set by Muslim exegetes in their expositions of the Qur'an. The fourth was set by Sa`adiah himself and played a crucial role in his ongoing polemic against the Karaites, who rejected Talmudic-Rabbinic tradition, which they derided as "artificial" (מצות אנשים לומדה).

[For a rationale of tradition as a decisive factor in interpretation, see previous essay, "Authority and Validity."]

As the case was with the Sharkh (Arabic commentary) of Sa`adiah, the commentary serves primarily to justify and clarify the translation.

Scene One:

The Arrival and Welcome of the Guests

1 God appeared to him at Elonei Mamre' while he was seated at the entrance to his tent at the heat of day. 2 He observed three men standing opposite him; he espied them and ran towards them from the tent entrance, prostrating himself to the ground. 3 He said: 'Please, my lord; if I have found favor in your eyes do not pass me by. 4 Let some water be taken to wash your feet and recline beneath the tree. 5 I shall take a bit of bread for your satiation before you move on since you have, in any case, dropped in on your servant'. They replied: 'Do as you have promised.'6 Abraham hurried to the tent, to Sarah, and said: 'Quickly! Take three measures of fine flour; knead it and bake loaves.' 7Abraham then ran to the cattle, took a fine, tender calf and gave it to the serving-lad who hastened to prepare it. 8He took cream, milk, and the calf he had prepared, placed it before them and stood over them beneath the tree while they ate.

Commentary

Verse 1

God appeared to him…alternatively: 'God was seen by him' (Fox). The exact meaning of this verse is crucial to the controversy between Maimonides and Nahmanides surrounding the nature of Abraham's visitors. Maimonides (Guide 2:42) considers this phrase a typical introduction to a prophetic visionary experience, in which case verses 2 ff. are details of the vision that was initiated by God's appearance. Ergo, the "men" whom Abraham saw, fed and with whom he spoke, existed only in his prophetic imagination. Nahmanides considers the wealth of mundane detail too great to support a visionary experience. According to his interpretation, these celestial visitors assumed mortal form ("they gave the appearance of eating"), arguably in order to make their presence less formidable. Bekhor Shor, while accepting the Maimonidean view, insists that God appeared to him only after the three guests.

Elsewhere in traditional exegesis (cited ad. loc. by Rashi), God's appearance here is attributed to the immediately previous episode. By visiting Abraham while he was recovering from his circumcision, God, as it were, was engaging in the act of *biqur holim*; tending to inquiring after the well-being of the ill.

at Elonei Mamre'…literally, the oaks (OJPS and NJPS: terebinths) of Mamre'. Abraham already resided among the Amorite clans of Mamre' when Lot was taken captive by the Mesopotamian marauders (14:13). These were the "confederates" (*ba`alei berit*) who accompanied him on his rescue mission and for whom he retained a share of the spoils. In a sort of déjà vu, it is at the same location that Abraham will shortly hear of Lot's latest predicament and, again, attempt his rescue.

while he was seated at the entrance to his tent…in light of the traditional assumption (above) that Abraham was recovering from circumcision, the urge to proffer hospitality brought him from the recesses of his tent to the entrance. Elsewhere, Abraham's tent is depicted in the aggadah as having an entrance facing each of the four cardinal directions. It would be specious to argue at which of those ostensible entrances he was seated at this juncture.

at the heat of day…Qimhi, whose approach to Scripture is heavily influenced by Maimonides, suggests that the heat caused Abraham to fall asleep—a precondition for a prophetic vision. According to the traditional view, the urge to proffer hospitality was greater than the inconvenience created by sitting out in the sun (a condition exacerbated, according to this approach, by his recent circumcision!). Bekhor Shor, in this fashion, suggests that high noon was the time at which wayfarers would stop to eat.

Verse 2

He observed …literally: he raised his eyes and saw; this ubiquitous metaphor for observation belongs to a class of Biblical phrases known by the Latin term, hendiadys. From the Greek meaning 'one by two', it signifies the expression of one idea through the use of two words connected by a conjunction. It appears most frequently with nouns, such as *ger ve-toshav* (a resident alien) and *hesed ve-emet* (a true favor), somewhat comparable, in English, to the use of 'nice and warm' instead of 'nicely warm'.

three men… While they are called 'men' ('*anashim*) throughout this episode (18:16, 22; 19:5, 8, 10, 12, 16), they are twice called *mal'akhim* (19:1, 15), often translated 'angels', giving substance to the assumption of Nahmanides, inter. alia, that they were celestial beings.

In truth, however, 'angels' is a misnomer since it has taken on, in English, an almost compulsory sense of a celestial being equipped with wings, halo and harp. The Hebrew *mal'akh* derives from the (presumed) verbal root l'k, which also produces the noun *mela'khah,* work or enterprise, and designates one who performs work (on another's behalf), i.e., a messenger, which is quite the definition of the Greek *angelos*, with which the Septuagint translates *mal'akh*. A key to distinguishing throughout the Torah between mortal and celestial messengers is provided by Targum Onqelos distinguishes throughout the Torah between mortal and celestial messengers. Whenever *mal'akh* can mean 'angel', it is rendered *mal'akha;* whenever it only designates a messenger, it is rendered *izgeda*.

Bekhor Shor, one of whose tendencies is polemical, emphasizes the mortality of the messengers as a way to counter Christian Biblical exegesis, which associated the three with the trinity. He (like Qimhi) also cites a midrashic adage explaining that they appeared to Abraham, who was himself a prophet, they appeared as 'men', whereas to Lot, who was unaccustomed to prophecy, they appeared to be 'angels'.

Rashi (v. 4) identifies them (i.e., their mortal appearance) as Arabs (see *infra.*).

standing opposite him…alternately: positioned above him. Qimhi and Ibn Caspi cite 1 Samuel 22:7 to illustrate the use of this idiom to indicate relative positions (see also Genesis 28:13, referring to God's position on the ladder relative to Jacob).

he espied them and ran towards them from the tent entrance… Following the traditional mode, this magnifies Abraham's devotion to hospitality. He is 99 years old, recuperating from circumcision, and it is the heat of the day. He would have had to be extremely motivated in order to run.

prostrating himself to the ground…alternately: bowing. Why the subordination implicit in the prostration? The consensus of traditional exegesis is that he did

so in recognition of their elevated station and in order to persuade them to accept his hospitality.

Verse 3:

He said: 'Please, my lord…alt: my lords; alt: my Lord. The ambiguity inherent in this form of address sustains the earlier ambiguity regarding the specific nature of the guests and just how much Abraham knew—or surmised—about them. In light of the plural form of address in the first part of the sentence (*adonay*) as opposed to the singular forms of the continuation and the close (*`einekha, ta`avor, `avdekha*), three interpretations avail themselves:

He was addressing them all as mortals and "my lords" is an honorific consistent with his earlier attempt to secure their visit by running towards them and prostrating himself before them (see supra.).

He was addressing but one of them (Rashi: the most senior one), and it remains an honorific and consistent with the theme of hospitality.

He was addressing The LORD, consistent with the view that this episode began with a prophetic vision.

if I have found favor in your eyes do not pass me by… Our understanding of Abraham's request depends upon our choice of among the three aforementioned possibilities. If addressing the guests (either as mortals or angels), he is requesting them to accept his hospitality rather than continue on their way. If addressing God, he is asking Him—as it were—to tarry while he extends his hospitality to the men, rather than departing from him anon.

Rabbinic tradition takes the address and request in the last-mentioned sense, concluding thereby that "extending hospitality is greater even than receiving the divine presence" (*Shabbat* 127a). [To sustain this interpretation, however, one is obliged to engage in some homiletical legerdemain, to which we shall refer *infra*, v. 22.]

Verse 4:

Let some water be taken to wash your feet…Two anomalous features in this verse are the passive form "be taken," and the intimation that only the feet would be washed. The passive indicates that it was not Abraham's intention to draw the water himself; otherwise he would have said "I will take some water." As for singling out the feet for washing, Rashi explains that Abraham perceived the three angels as "Arabs who worshipped the dust on their feet" and he wanted them to cleanse themselves of this idolatry before eating.

and recline beneath the tree…alt: beneath a tree. Since the episode begins with Abraham situated in "the oaks" (*'elonei)* of Mamre', he could have been referring to a specific tree or to the trees in general. Either way, it is noteworthy that he pointedly does not invite then into the tent itself, probably because that was Sarah's private domain (see, infra. v. 9).

Verse 5:

I shall take a bit of bread for your satiation before you move on…While Abraham only offers bread, a staple, he also prepares veal, a delicacy, leading our Sages to proclaim him to be a man "who spoke but a little yet performed a lot" (*Avot de-'Rabbi Natan* 1:13).

since you have, in any case, dropped in on your servant… Completing his case for hospitality, Avraham works the "serendipity" angle: As long as they are already present, what harm could there be in abiding?

They replied: 'Do as you have promised'…literally: as you have spoken. The stem d-b-r, to speak, often has the connotation of "giving one's word" (see Numbers 23:19).

Verse 6:

Abraham hurried to the tent, to Sarah and said: …One might have anticipated the reverse sequence, placing Sarah before the tent. If our

earlier surmise (see end of v. 4) is correct, however, the tent and Sarah become somewhat interchangeable. We shall have more to say on this apropos of v. 9.

'Quickly! Take three measures of fine flour; knead it and bake loaves'…By indicating the amount of flour, Abraham conveys to Sarah the number of guests for whom provision was to be made.

Verse 7:

Abraham then ran to the cattle…This is the second time Avraham is described as running (see v. 2). Two possibilities suggest themselves: One, that he was anxious lest the guests change their minds and depart. Two, that he always performed hospitality with alacrity.

took a fine, tender calf…With all the archaeology and ancient literature available, it is still difficult to determine whether the choice of veal signaled the rule of hospitality or an exception.

and gave it to the serving-lad who hastened to prepare it… The transfer of the responsibility for the actual preparation of the meat is no different from that of the bread. Abraham was the host and neither chef nor baker. The identity of "the serving lad" (*na`ar*) is a tease. Simple, straightforward exegesis (called *peshat*) dictates that his anonymity implies insignificance. The *aggadah*—never forestalled by simplicity—presumes to know his precise identity: Yishmael. This pseudo-identification returns (to either enlighten or perplex us) at the close of this *parashah* when Abraham is accompanied to the binding of Isaac (*`Akeidah*) by two equally anonymous serving-lads (22: 3).

Verse 8:

He took cream, milk, and the calf he had prepared, **placed it before them** …The dissonance between this menu and traditional Jewish religious practice—forbidding dairy and meat at the same meal—poses an obvious question. Two explanations predominate among the commentators. One: Before the revelation of the Torah at Sinai, such practices were not prohibited. The problem with this interpretation, however, is the traditional insistence that Abraham nevertheless observed the entire law, including even some of its rabbinical strictures (see Rashi on 26:5). Two: The menu was intended for his guests whom—as we indicated earlier (v. 4)—he mistook for Arabs. The problem with this interpretation, however, is that a strict application of Jewish law prohibits not only the consumption of dairy and meat together, but even the derivation of any benefit from such an admixture. Abraham, therefore, would have been constrained from serving it as well as from partaking of it.

Another, simpler, explanation exists: On the syntactically reasonable assumption that the subject of "he took" is the same as the subject of "he had prepared," the entire problem evaporates. It was the serving-lad who was entrusted with preparing the meat (see the previous verse), and it must have been that selfsame serving-lad who took the milk and cream—quite possibly without Abraham's foreknowledge—and placed it before the guests.

and stood over them beneath the tree while they ate…Who stood over them? While the context implies that it was Abraham, the syntax—as just explained—indicates that it was the serving-lad. The resolution can be obtained by a closer examination of the phraseology. Whereas in v. 2 the relative position of Abraham and the guests was conveyed by the phrase "standing opposite" (*nitzavim `alav*)., the text here utilizes the phrase "stood over" (*`omeid `aleihem*), which often conveys a distinct hint of standing in service (see 24:30).

Meorot
A Forum of Modern Orthodox Discourse

REVIEW ESSAY

Maimonides Contra Kabbalah: *Maimonides' Confrontation with Mysticism* by Menachem Kellner

Reviewed by James A. Diamond

Biography: James A. Diamond is the Joseph and Wolf Lebovic Chair of Jewish Studies at the University of Waterloo and director of the university's Friedberg Genizah Project. He is is the author of *Maimonides and the Hermeneutics of Concealment* (SUNY Press, 2002) and the forthcoming *Converts, Heretics and Lepers: Maimonides and the Outsider* (University of Notre Dame Press, expected Fall 2007)

Meorot 6:2
Marheshvan 5768
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A Publication of
Yeshivat Chovevei Torah
Rabbinical School

Maimonides Contra Kabbalah: *Maimonides' Confrontation With Mysticism* by Menachem Kellner (Portland, Oregon, Littman Library of Jewish Civilization, 2006, 343 pp.)

By James A. Diamond

Menachem Kellner's latest book might be considered a mirror-image sequel to his previous provocative study, *Must a Jew Believe in Anything*.[1] *Must a Jew* faulted Maimonides for introducing into Jewish thought and *halakhah* a foreign theology of creed and doctrine—matters with which, Kellner claimed, normative Judaism never concerned itself. He thereby charged Maimonides with opening the door to the kind of religious schism and fragmentation that is the current malady of Jewish orthodoxy, where belief is dogmatized and *imposed* and insurmountable barriers are thereby erected between insiders and outsiders. The introduction of halakhically mandated beliefs allows for sharp lines of separation between those who defer to *ex cathedra*-like theological pronouncements of halakhic sages[2] and those who, though supported by ample sources in the variegated course of Jewish intellectual history, might veer from the official doctrine of the day. On the other hand, *Maimonides' Confrontation* is an ode to the same Great Eagle, who laid down the gauntlet against a regnant rabbinic and popular theology, systematically arguing for what a Jew must decidedly *not* believe. As a foil to Kellner's previous work, *Confrontation* could have easily been entitled, *What a Jew Must Not Believe*. In what follows I will attempt to go beyond mere review and both engage and bolster an intriguingly compelling argument whose implications extend from the academy to the yeshiva and radiate out to the religious community at large.

If there is an archenemy, it is Judah Halevi.

Kellner's thesis is that Maimonides' intellectual and halakhic oeuvre is distinguished by a systematic purging from Judaism of the proto-kabbalistic features that had seeped into and permeated its culture. If there is an archenemy in this book it is Judah Halevi (d. 1141), whose "mystical" weltanschauung Maimonides exerted every effort to suppress.

This phenomenon threatened what he considered to be the purpose for which the entire Jewish normative edifice had originally been constructed—preserving the unity and absolute transcendence of God. Maimonides' conception of many of the mainstays of Jewish thought and law such as "holiness" (*qedushah)* and ritual states of purity and impurity (*tahorah, tume`ah*) profoundly challenged then current perceptions of these categories as somehow essential or

[1] M. Kellner, *Must a Jew Believe in Anything* (Portland OR: Littman Library of Jewish Civilization, 2nd ed., 2006)

[2] Resorting to such notions as *da`at torah* in *halakhic* decision making breaks down an essential distinction between Judaism and Christianity. A. Altmann nicely captures this distinction in terms of the *Sanhedrin* in contrast to the Church: "The *Sanhedrin* is not a 'sacral authority' like the church…It is rather…*halakhic* agency, receiving its sanction only through the single fact of being appointed by the Torah, but not through an actual pneumatic relation to the word of God." See *"What is Jewish Tehology?" in The Meaning of Jewish Existence: Theological Essays*, 1930-1939 (Hanover NH: Brandeis Univ. Press, 1992), pp. 46-56; quotation from p. 46).

ontological states of reality. Kellner demonstrates methodically and convincingly that these categories do not describe existing reality, as suggested by a mystically inclined worldview. Rather, they constitute a social reality (p. 13). They are conventional and in many cases even arbitrary institutional constructs intended to assist Jews in perfecting their humanity, something we shall see Jews share in common with all other human beings.

By juxtaposing Maimonides' view with an antithetical approach that would be familiar to many of *Meorot*'s readers, we can bring Maimonides' project into sharper focus. A prime contemporary proponent of such an approach is R. Joseph B. Soloveitchik (d. 1993), who views the Jewish command structure as an *a priori* system through which the "man of *halakhah*" approaches and comprehends the empirical world much like a mathematician.[3]

R. Soloveitchik's construct of "halakhic man" can be taken as a frontal assault on what he himself already understood as Maimonides' "religious instrumentalism."[4] The socio-anthropological rationale for the *mitsvot* that Maimonides offers in Part III of the *Guide* views them as historically contingent and, therefore, potentially subject to alternative formulation had circumstances been different—or even the same. R. Soloveitchik's *a priori* model of *halakhah* as something transcending science, history and sociology admits of no such possibility. The Sinaitic normative legacy could not be any other way. Although R. Soloveitchik attempts to salvage some of Maimonides for his own theology by bringing to bear the very different Rambam of the *Mishneh Torah*, which is more accommodating of the *ish ha-halakhah,* Kellner demonstrates that Maimonides' "instrumentalism" is thoroughgoing and that the *Guide* and the *Mishneh Torah* are consistently aligned. Although not without its own problems, this approach is far more fruitful than attributing all inconsistencies between the juridical Rambam and the philosophical Maimonides to a kind of split personality.

For Maimonides, all those religious notions must be jettisoned in order to safeguard God's existence and unity.

In a sense one can say that for Maimonides all those religious notions that were traditionally accepted as inherent in the world, and that continue to be thought of as such in contemporary Jewish religious culture, must in fact be jettisoned in order to safeguard God's existence and unity. It may come as a shock to all who subscribe to Maimonides' thirteen principles of faith that their credo is belied by belief in a divine presence (*shekhinah)* or glory (*kavod)* having spatio-temporal dimensions and not regarded simply as practically oriented metaphors. The concretization, however limited, of an utterly transcendent, ontologically unique, unknowable, and indescribable Being is tantamount to what Maimonides would consider *kefirah* (heresy).

A prime example of Maimonidean iconoclasm pertains to the sense in which we are to understand the Hebrew language as "holy" (*leshon ha-qodesh).* If *qedushah* is a quality that inheres in something, then Hebrew defies any linguistic commonality with other languages. Each stage of creation is initiated by divine words spoken in Hebrew such as *Let there be* or *And He called.* Animal life emerges as a consequence of a divine command *Let the earth bring forth.* If the beginning of Genesis is taken literally, Hebrew is God's native tongue, must therefore pre-exist the world, and is the tool by which the creation materializes.

[3] *Ish ha-Halakhah*" (Heb.), Talpiot 1:3-4 (1944) pp.651-735 at pp.663-64; English trans. by L. Kaplan, *Halakhic Man* (Philadelphia: Jewish Pub. Soc. of America, 1983). *Halakhic Man*, "draws near the world with an a priori relation. His approach begins with an ideal world and concludes with a real one" (id., p. 19). Ultra-orthodox antagonism toward the *Rav* has always puzzled me. If that world had actually bothered to examine his *Ish ha-Halakhah* or other essays that develop his philosophy of *halakhah*, they would be made mandatory reading in every *yeshiva.* His views on *halakhah* are far from "progressive" or "liberal." Perhaps their mistake is an assumption that literacy is somehow incompatible with *frumkeit.*

[4] *The Halakhic Mind: An Essay on Jewish Tradition and Modern Thought* (Ardmore PA: Seth Press, 1986), p. 93.

God's declaration "Let there be light" effectuates light's existence, lending the language some innate creative power. For Maimonides, however, Hebrew's "sanctity" lies in its lack of sexually explicit terms for genitalia or coital acts. It is lofty, in other words, because it is a prudishly expurgated language that resorts to euphemism for anything that smacks of eroticism (*Guide,* III:8; Pines pp. 435-6). A fundamental principle that underlies much of Maimonides' *Guide* and, particularly, the first section with its lexicon of Hebrew terms and their meanings, is the conventionality of Hebrew; like any language, it evolves and reflects the particular socio-cultural milieu in which it is spoken. In one fell swoop, as was most probably his intent, Maimonides undermines a core legacy of the mystical— or, in his view, superstitious—tradition that reifies Hebrew.

Maimonides undermines a core legacy of the mystical— or, in his view, superstitious— tradition that reifies Hebrew.

The point has many important implications for current Jewish belief; I will confine myself to three of them. First, Hebrew, and, consequently, the Torah, lose the kabbalistic hyper-significance that reduces sentences to a string of characters and allows meaning to be teased out of individual words, letters, numerical values of letters (*gematria*), shapes of letters, and even blank spaces.[5] Secondly, Hebrew divine names (*sheimot)* merely reflect the types of heavenly governance that are observable in the world. In other words they are derivative of the world and do not capture any divine essence (*Guide,* I:61; Pines, p. 149); one would not find a *kami`a* (amulet inscribed with divine names) in Maimonides' synagogue.

Thirdly, books belonging to the mystical sacred canon such as *Sefer Yetsirah,* a treatise traditionally attributed to Abraham and conspicuously ignored by Maimonides, would be included in any Maimonidean list of banned books. Its notion of Hebrew characters as both generative forces and building blocks of the very structure of the cosmos[6] flies in the face of a linguistic theory of Hebrew as conventional; it regards Hebrew not simply as a mode of communication but as a supernaturally imbued force and transforms the Torah from a teaching conveyed through its language to a conjurer's tool that resonates with magical powers. Had R. Joseph Karo, halakhist supreme *cum* mystic, been open to the Maimonidean perspective, he would never have been perplexed by Maimonides' failure to quote a *baraita* (*Sanhedrin* 21b) that speaks of the king being required to hang his exclusively mandated second Torah scroll around his neck "like an amulet" (*Kesef Mishneh*, MT, *Hilkhot Tefillin u-Mezuzah*, 7:2). According to Maimonides, the king's extra Torah scroll acts as a reminder of its content, not as a magical protective shield.

Maimonides' demystification of Hebrew ties into his essential understanding of the nature of God and the Torah's content. How would Maimonides respond to the biblical account of divine speech as a creative force and therefore of Hebrew as somehow innately potent? As with all anthropomorphisms, the operative rule here the Talmudic rubric, "the Torah speaks in the language of human beings" (e.g., *Nedarim* 3a-b; Maimonides, *Mishneh Torah*, *Hilkhot Yesodei ha-Torah* 1:12; *Guide* I:26), which demands that any attribution to God of human characteristics be taken metaphorically. God does not possess a mouth, lips or vocal chords and His sole activity is thought; accordingly, He did not speak. Maimonides leaves no doubt whatsoever about the equivocal sense of Divine speech in the first chapters of Genesis as a metaphor for "will" (*Guide* I;65, Pines, p. 159). As a result all magical or theurgic use of Hebrew is preempted. One can

[5] As Bernard Septimus notes kabbalistic critics fought Maimonides vigorously to restore "the centrality of the Sacred Tongue to the fundamental order of all things, terrestrial and divine, "in his "Maimonides on Language," in *The Heritage of the Jews of Spain, ed.,* Aviva Doron (Tel Aviv, Levinsky College of Education, 1994) pp.35-54 at p.54. The most prominent of those critics was Nahmanides who caustically argues that if Maimonides were correct *hazal* should have called it a "modest language" rather than a holy one (Commentary, Exod.30:13, Chavel, 1:519)

[6] On this see Moshe Idel, "Reification of Language in Jewish Mysticism," in *Mysticism and Language*, ed., Steven Katz (NY, Oxford Univ. Press, 1992) pp.42-79.

master Hebrew and combine letters in any way one wishes in an effort to gain mastery of nature, and possibly even of God. However; the effort will be for naught, since God's primal will is inscrutable.

In this instance, as in others in the book, what Maimonides challenged has become so commonplace in current Jewish Orthodoxy that it would now be considered integral to mainstream Judaism rather than a mystical quirk. To take but one example, no less a brilliant twentieth century *poseq* than R. Moses Feinstein (d. 1986), when canvassing the complexities of a law dealing with oaths (*nedarim),* takes it as a given that Hebrew is wholly distinct from other languages in its being "the essence of speech, not a product of human convention, as through it was the world created and the Torah given."[7] Since this is an integral part of his legal rationale, it has normative implications, bearing on our understanding of both a biblical prescription dealing with oaths and its Talmudic overlay.

Another fundamental of mystical theurgy and, *ipso facto*, of popular folk religion that Maimonides saw a need to address involves angels**.** Alongside God's names on the *kami`ot* that adorn many synagogues to this day are those of a myriad of angels. There would be no sense in appealing to or calling on figments of the imagination. For Maimonides this would make even less sense, since they are the boorish fantasies of ignorant minds. Maimonides' world is indeed populated by "angels" because they are metaphorically representative of all causal forces in nature. Since the Hebrew term *mal'akh* simply means "messenger," all of nature can be said to operate via angels since nature was initially activated by God and therefore is ultimately an expression of God's will. Angels are the elements, what propels animals, the catalysts for all physical functions, the inspiration of mental activity, and indeed "all forces are angels." (*Guide* II:6; Pines, pp.262-3). By having angels represent everything, they represent nothing, so thoroughly subverting the term as to drain it of all meaning. Angelology is much more attractive for public consumption than science because it relieves human beings of the rigorous intellectual undertaking required to truly understand the world. Angels reassuringly qualify everyone as a scientist, when in fact such a worldview amounts to surrender to "the blindness of ignorance" (*Guide* II:, Pines, p. 263).

This "confrontation" has sweeping consequences theologically, halakhically and exegetically. For Maimonides, the ultimate goal in life is to know God, and the sole means by which one can do so is through knowledge of His creation. In fact, the very pinnacle of human knowledge—and, consequently of perfection—is typified by Moses at the top of the mountain; Moses' glimpse of God's "back" constitutes an all encompassing apprehension of what "follows necessarily from My will- that is, all the things created by Me." (*Guide* I:38; Pines, p. 87). This comprehension entails the mutual connections among all existing things (I:54, p. 124) and can emerge only from the painstaking curriculum of what today would be termed the "outside" knowledge Maimonides expected of his true disciples (*Guide*, Epistle Dedicatory; I;34; Pines, pp. 3, 73-77).

Every replacement of natural causality with an angelic entity is a step further away from God and human perfection.

Theologically, every replacement of natural causality with an angelic entity is a step further away from God and human perfection, since it egregiously misperceives the creation, the singular route toward knowledge of God and, thereby, intimacy with Him.[8]

[7] *Iggerot Mosheh, Yoreh De`ah* vol. 5, ed. S. Rappoport (Jerusalem, 1996), p. 209.

[8] The first four *mitsvot*, as formulated in the *Mishneh Torah*—to know God's existence and His unity, to fear Him, and to love Him—are grounded in "knowledge" and "understanding" of the world, which virtually mandates the study of science and philosophy for their fulfillment. See *Mishneh Torah*, *Hilkhot Yesodei Hatorah* 1:6, 7; 2:2; 4:13; *Hilkhot Teshuvah* 10:6; *Hilkhot Talmud Torah* 1:11,12. On this see Herbert Davidson, "The Study of Philosophy as a Religious Obligation," in *Religion in a Religious Age*, ed. S.D. Goitein, (Cambridge, MA: Association for Jewish Studies, 1974), pp. 53-68.

Belief in angels can also seriously undermine halakhic observance. The widespread practice of inserting angelic names in *mezuzot* was harshly condemned by Maimonides in his *Mishneh Torah*. His criticism is instructive, for it reflects an overarching conception of *mitsvot* that courses through all the subjects in Kellner's book. More than simply a useless gesture to fictitious entities, inserting angelic names expresses a self-centered degradation by "asinine" people (*tipshim*) of a "paramount mitzvah geared toward the unity of God and the love and worship of Him" into "an amulet (*kami`a)* for self-gratification" (*Mishneh Torah*, *Hilkhot Tefillin u-Mezuzah,* 5:4). An apotropaic view of *mezuzah* as a kind of religious house and health insurance is far worse than simply nonsense; it transforms a God-directed action into one of narcissism. As Kellner notes, the holiness of *mezuzah* (as well as of *tefillin* and *tsitsit*) lies in its religious *utility,* not its *ontology* (p. 120). Maimonides' theology would preclude any attempt to blame human fortune and misfortune on the *kashrut* of a *mezuzah*, regarding the effort as defeating the very raison d'etre of the *mitsvah*.

The only divine plan is that which allows humankind to shape its own destiny.

Hilkhot Tefillin u-Mezuzah then concludes with a characteristic demystification of a talmudic text (*Menahot* 43b) that can be and has been taken to endow these ritual objects with a power to generate angels. Here is a prime example of the symbiotic relationship between the *Guide* and the *Mishneh Torah,* belying the view of those who prefer a diagnosis of schizophrenia. In a manner perfectly consistent with the naturalization of angels espoused by the *Guide*, these prescribed items are seen in the *Mishneh Torah* as instrumental in their role as "reminders" for correct thought and conduct; thus, "*these* are the angels which save him from sinning" (6:13). Note the telltale referent of "these." In Maimonidean language this means that the ritual objects serve as reminders that instigate physical and psychological impulses which in turn trigger movements and thoughts that result in moral behavior and theological integrity. The strength of the mystical tide against which Maimonides swam is evidenced by the tortuous homiletics resorted to from medieval times to today to reconcile him with some essentialist notion of the *mezuzah*'s intrinsic protective powers.[9]

Maimonides' view here extends to biblical exegesis and can critically reinvent popularly understood *midrashim.* The *midrash* portrays Judah's solicitation of Tamar (whom he thought to be a prostitute; see Genesis 38) as having been compelled by "an angel in charge of lust" whom God had commissioned to overcome Judah's natural inclination to pass by (*Bereshit Rabbah* 85). Maimonides, however, understands that same angel as a metaphor for the physical forces of sexual excitement (*Guide*, II:6; Pines, p. 264). And Maimonides' reinterpretation has important substantive implications. The *midrash* interposes an angelic force into this drama in order to absolve a saintly biblical personage of unseemly conduct, transforming his behavior into a positive act in the unfolding of a divine plan. However, by naturalizing this angel, Maimonides accomplishes the very opposite, saddling Judah with personal responsibility for this incident as a result of his inability to control his sexual urges.

More importantly, Maimonides' reinterpretation makes this biblical episode emblematic not of divine intervention but of the overall course of natural history, whose operative principle is *olam ke-minhago noheg* ("the world goes forward in its usual manner"). In a world governed by angels that are no more than symbols of natural causation, Judah is accountable for his actions. Perhaps the allure of a world populated by angelic and demonic entities that Maimonides sought to suppress is precisely in its offer of relief from individual responsibility. For Maimonides, the only divine plan is that which allows humankind to shape its own destiny**.**

[9] See, for example, *Iggerot Mosheh, Yoreh De`ah*, vol.2, p. 239. See also Joseph Kafih's comments in his edition of the *Mishneh Torah*, *Sefer Ahavah*, p. 370; Kafih categorically dismisses the possibility that Maimonides attributed any apotropaic dimensions to the *mezuzah*.

In the first chapter of *Mishneh Torah*, *Hilkhot Avodah Zarah*, Maimonides portrays Abraham's discovery (more accurately, recovery) of monotheism and "true religion," and it is there, more than anywhere else in his intellectual and legal corpus, that he draws an incisive line in the sand between his theology and that which he opposed. In Kellner's apt formulation, Maimonides stands the traditional notion of divine election on its head by having Abraham choose God rather than vice versa. Maimonides stands the traditional notion of divine election on its head by having Abraham choose God rather than vice versa.

Maimonides stands the traditional notion of divine election on its head by having Abraham choose God.

God plays no active role whatsoever in Abraham's forging of a relationship with Him. That relationship is the natural outcome of decades of intellectual angst, inquiry, search and investigation leading to Abraham's rejection, at the age of forty, of everything he had grown up with in favor of a single Creator-God. Maimonides' Abraham then assumes the Socratic mantle as a purveyor of truth at any cost, including his own personal safety, by "sowing doubt," "engaging in debate," "informing," "overpowering with demonstration," "accumulating a following," informing each follower "in accordance with his capacity," and ultimately leaving a textual legacy by "authoring treatises."[10] At its very inception Judaism is rooted in enlightenment rather than mystery, in the demonstrable grasp of universal truths over esoteric parochial traditions, in the primacy of self development over submission to authority, and in reason over magic.

Although Kellner notes it only parenthetically (p. 79, n.114), it is worthwhile exploring a seemingly trivial point of contention raised against this Abrahamic by Maimonides' most prominent medieval halakhic critic, Ra'abad of Posquieres (d. 1198). Ra'abad takes him to task for diverging from a midrashic tradition (*Nedarim* 32a) that calculates Abraham's age of discovery as three. What is so contentious about this minor detail as to draw Ra'abad's ire, especially when there are other midrashic sources perfectly consistent with Maimonides' characterization?[11] For Ra'abad—himself mystically inclined and the father of R. Isaac the Blind, a seminal thirteenth-century kabbalistic exponent—this minor detail underpins a profound disagreement between the kabbalistic and the rationalistic theological schools. What for Maimonides is a purely natural if painstaking process of maturation and intellectual discovery is for Ra'abad something divinely orchestrated and revelatory. Ra'abad's model is akin to that of Christianity and Islam, which trace their origins to miraculous intrusions into the course of history. Whether it is a man's aid to be born of a virgin (Jesus), an illiterate said to have been the medium for the most exquisite literary masterpiece known to man (Mohammad), or a toddler who independently achieved revelation (Abraham), the founding fathers of their respective faiths are essentially unique human beings and therefore inimitable. Maimonides, on the other hand, anchors his Judaism in a philosophic quest sustained by natural human endeavor**,** something that can be feasibly replicated.[12] One can aspire to be an exceptional human being but not to an ontologically distinct one. A relevant model toward which one can aim interests Maimonides far more than an unattainable myth.

Abraham paves the way, not for Judaism, but for a "nation that knows God" (*ummah she-hi yoda`at et ha-shem.)* Whereas Halevi's nation is distinguished by some inherent godly gene called the "divine thing" (*inyan elohi*), Maimonides' coheres through knowledge. As a result, Halevian—and, later, Zoharic—humankind is stratified by a genetic

[10] *Mishneh Torah, Hilkhot Avodat Kokhavim*, 1:3. For a parallel passage in the Guide see II:39, Pines, p. 379, where Abraham is described as having "assembled the people and called them by way of teaching and instruction to adhere to the truth that he had grasped…attracting them by means of eloquent speeches and by means of the benefits he conferred upon them."

[11] *Bereshit Rabbah* 30:8; 46:2

[12] Joseph Karo, firmly within the mystical camp and yet a staunch defender of Maimonides against Ra'abad's onslaught,steers a brilliant compromise between the two positions: Abraham's his intellectual journey began when he was three but culminated at the age of forty. (*Kesef Mishneh, Hilkhot Avodah Zarah* 1:3)

JQR (1990) 81, 75-91.

hierarchy that resists even conversion.[13] In contrast, I would go as far as to argue, Maimonides' letter to Obadiah the proselyte establishes the convert as the *only* authentic Jew: "While we [native-born Jews] are the descendants of Abraham, Isaac, and Jacob, you [Obadiah the proselyte] derive from Him through whose word the world was created."[14] The convert's motivations like those of his archetypical predecessor, Abraham, are not subject to challenge since he arrived at the essential truths of Judaism by reason. Tradition and upbringing played no role in his acquisition of the truth of God's existence and oneness. Therefore his relation to God is direct and free of extraneous cultural and social factors. In stark contradiction to the kabbalistic tradition that has informed Jewish religious culture to this day, Maimonides regarded the lack of ethnic pedigree as actually superior to its presence. Only the convert who arrives at the ultimate truth in spite of his tradition rather than because of it truly emulates Judaism's founding father, Abraham.

The natural-born Jew's faith is always suspect since one can never be certain whether adherence to the faith is not somehow motivated by familial allegiances.[15] The *Mishneh Torah*, to be sure, preserves legal rulings that discriminate against the convert, but none are grounded in an essentialist view of the non-Jew as inferior to the biological one.[16]

Maimonides' wholehearted embrace of the convert is a function of his universalism, which is blind to race and color but not to creed. Throughout his philosophical works, he considers the nature of man and human perfection in terms of the human being qua human being, not of Jews vs. gentiles. Simply put, what distinguishes

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Only the convert who arrives at the ultimate truth emulates Abraham, Judaism's founder.

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humankind from the animal kingdom is intellect, and perfection lies in its realization (e.g., *Eight Chapters,* 1; *Guide* II:4; III:27, 54). Ultimate *imitatio dei* consists of exercising the mind, which is the only faculty we have even remotely in common with God (I:1). A realized intellect is the only thing that survives the body. There is no specifically Jewish intellect and consequently no such thing as what later came to be termed a "*goyishe kop*" (a disparaging Yiddish term for supposedly inferior gentile intellect). For Halevi, however, and for the later Zoharic and kabbalistic traditions, Jews are inherently distinct from and spiritually superior to gentiles.[17] This concept is virtually endemic to all the various strands of Hasidism, the popular avatar of the mystical tradition.[18] For Maimonides, knowledge is the only criterion for calibrating human spirituality:

[13] Halevi makes it quite clear in his *Kuzari*, XX I:27: "Anyone from the nations of the world who accompanies us and converts, may the Lord be gracious to him as He is to us, is not brought to our level." It is on this basis that Halevi disqualifies the convert from ever achieving prophecy, since "…he is not comparable to an Israelite from birth. For only an Israelite by birth is eligible to become a prophet" (I:115). For a discussion of the opposing schools, see Baruch Frydman-Kohl, "Covenant, Conversion and Chosenness: Maimonides and Halevi on 'Who is A Jew?'" *Judaism* 41/1, 64-79 (1992). For Halevi's position in particular see Daniel Lasker, "Proselyte Judaism, Christianity, and Islam in the Thought of Judah Halevi."

[14] Maimonides, "Letter to Obadiah the Proselyte," trans. in *A Maimonides Reader*, ed. Isadore Twersky (West Orange NJ: Behrman House, 1972), p. 476.

[15] See my "Maimonides and the Convert: A Philosophical and Juridical Embrace of the Outsider," *Medieval Philosophy and Theology 11* (2003)pp. 125-146.

[16] See e.g., *Mishneh Torah, Hilkhot Ma`aser Sheini* 11:17; *Hilkhot Issurei Bi'ah* 12:17, 15:7; *Hilkhot Mattenot Aniyim* 8:17-18; *Hilkhot Melakhim* 1:4.

[17] This offensive mode of thought pervades the mystical tradition. For a full treatment, see Elliot Wolfson, *Venturing Beyond: Law and Morality in Kabbalistic Mysticism* (Oxford: Oxford Univ. Press, 2006) esp. chapters 1 and 2.

[18] Out of countless examples I cite one from a *hasidic* master particularly known for love of his fellow man, R. Levi Yitshaq of Berditchev: "…and God forbid that a Jew should associate with a gentile or converse with him about mundane affairs for the gentile is in truth disgusting, despicable and impure" (translation and emphasis mine. *Qedushat Levi* (Jerusalem, 2001) p. 289 (discourse for *Shavuot).* His love for his fellow man extends only to his fellow Jew; in his reputation for "love of Israel," the operative word is Israel.

"for His favor and wrath, His nearness and remoteness, correspond to the extent of a man's "for His favor and wrath, His nearness and reomoteness, correspond to the extent of a man's knowledge or ignorance" (*Guide* I:54; Pines, p. 124). The difference becomes readily apparent if we juxtapose a statement that typifies much of mystical theology and one that does so for Maimonidean theology:

Zohar 1:46b-47a

"*Let the earth bring forth every kind of souls of the living being (nefesh hayah): (*Gen. 1:24). The 'living being' (*nefesh hayah*) refers to Israel, who are the souls of the supernal, holy living being; Cattle, crawling things and living creatures of the earth-[are the other nations who are not souls of the living being, but rather foreskin [demonic]."[19]

Mishneh Torah, Hilkhot Shemittah ve-Yovel, 13:13

"Not only the tribe of Levi but every single individual from the world's inhabitants whose spirit moved him and whose intelligence gave him the understanding to withdraw from the world in order to stand before God and minister to Him, to know God…is consecrated as 'holy of holies' and God will be his portion and inheritance forever."

Another corollary of Maimonides' confrontation with mysticism is the notion of ritual purity and impurity (*tahorah* and *tume`ah)* to which Kellner devotes a chapter. Here again Kellner demonstrates that Maimonides made a conscious choice to reject the current in Jewish tradition that views these terms as denoting a real force ontologically inherent in the objects or people characterized by them. In his conception, they denote purely utilitarian legal categories that were ordained to accomplish certain moral and intellectual ends. For Maimonides, the halakhic status of ritual purity is relevant only vis-à-vis access to the Temple. From an ethical point of view, the entire regime of *tahorah* and *tume`ah* is orchestrated to curtail access to the Temple so severely as to instill fear and humility (*Guide* III:47; Pines, p. 594). *Fear* of the Temple constitutes a formal positive commandment; but Maimonides is emphatic, both in his *Sefer ha-Mitsvot* (*Book of Commandments*) and in the *Mishneh Torah,* that the object of that *fear* is not the Temple space or location but rather "Him who commanded that we fear it."(*Mishneh Torah*, *Hilkhot Bet Ha-Behirah* 7:1; *Sefer ha-Mitsvot* positive commandment #21) The Herculean efforts needed to meet the demands of purity required by *holiness* are all aimed at directing the mind toward the metaphysical truth that the Temple represents.

Purity and impurity denote purely utilitarian legal categories ordained to accomplish moral and intellectual ends.

Intellectually, ritual purity is bound up with Maimonides' highly controversial rationale for the sacrificial cult. In short, sacrifice and Temple are concessions to human nature, whose well-being requires that change be gradual rather than abrupt and drastic. The ancient Israelite transition from idolatry to monotheism required the adoption of familiar idolatrous modes of worship (including animal sacrifice) and their subversion from within. For example, animals must be sacrifice upon an altar, but the altar must be built out of earth and not hewn stone since "the idolaters used to build altars with hewn stones" (*Guide,* III:45; Pines, p. 378).

For Maimonides, the entire regulatory edifice of sacrifice and Temple is geared toward restricting it to its bare minimum, in much the same way a drug addict is weaned off his addiction by gradual withdrawal facilitated by the use of another drug. The cult's confinement to one particular location, one building and one officiating family (the *kohanim* [priests]) is part of an abolitionist strategy. The sacrifice is a remedial reaction, not an innovation. Though Kellner doesn't formulate it this way, I would suggest that a ritual purity regime so all-pervasive as to render all but a handful of rare exceptions impure (*Guide*, III: 47; Pines, p. 594) is an essential part of the plan of

[19]Translation by Daniel Matt, *The Zohar: Pritzker Edition*, (Stanford Univ. Press, Stanford, Ca, 2004) vol.1, p.252

abolition. It serves to minimize rather than promote access and pilgrimage to the Temple, thus downplaying its significance in a manner consistent with its status as a divine accommodation of human needs. Temple, sacrifice, and ritual purity are all means toward realizing the objective of divine unity. To perceive *tume`ah* as an ontological state or sacrifice as an intrinsically effective spiritual medium is to confuse means with ends, for both are purely utilitarian tactics for the eradication of idolatry.

Finally, Maimonides mounted a programmatic assault against the kabbalistic notion that the terms *kavod* (divine glory) and *shekhinah* (divine presence) connote a palpable spatial presence. For Halevi, Nahmanides (d. circa 1270), and their kabbalistic successors, these are visually perceptible divine manifestations or—as Gershom Scholem formulated it—"a mythical hypostasis of divine immanence in the world."[20]

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Maimonides' methodical dismantling of these "hypostases" begins by vacating any literal connotations of *maqom* (place) when referencing God in favor of an exclusively metaphorical sense (*Guide*, I:8; Pines, p. 33). It continues by interpreting a verse such as "the whole earth is full of His glory" (Isa. 6:3) as "the whole earth bears witness to His perfection" (*Guide*, I:19; Pines, p. 46). This plugs back into the notion that the sole means of knowing God is by understanding His creation. Since every aspect of that creation reflects on its creator, Maimonides is saying here that every advance in probing the world and its structure metaphorically enhances God's "glory." God's presence, whether as *kavod* or as *shekhinah*, inheres in humankind's endeavors to understand His world, "for the true way of honoring Him consists in apprehending His greatness." (*Guide,* I:64; Pines, p. 157), and not in some geographical location. In an exquisite subversion of an all- pervasive misconception that something godly inhabits the Temple, Maimonides analogizes the meaning of "And the glory of the Lord filled the Tabernacle" (Exod. 40:34) to that of "the whole earth is full of His glory" (Isa. 6:3): just as every aspect of the world reveals, once understood, God's greatness, so does the Sanctuary (*miqdash*) serve as a spatial focus for contemplating that greatness. The *miqdash* does not house; it prompts and stimulates. One need only consider the contemporary treatment of the Western Wall in Jerusalem—a place for delivering mail to God, a place to which prayer is directed, a place whose stones are kissed and demand prostration—to appreciate what Maimonides was trying to avert and to lament the failure of his project.

To graphically illustrate Kellner's thesis, let me offer here the commandment of circumcision as but one out of a myriad of examples in which the Maimonidean-Kabbalistic divide can be clearly discerned. For Maimonides, the commandment is neither transformative nor does it create any special bond between the Jew and God. Its purpose is to physically diminish sexual pleasure and desire, initiate membership in a faith community, and signify commitment to a belief in the universal truth of divine unity (*Guide,* III:49, Pines pp. 609-11). It is a purely functional means for strengthening character, social cohesion, and ideological commitment; indeed, it is one that Jews bear in common with the descendants of Ishmael (*Mishneh Torah*, *Hilkhot Melakhim* 10:8). Its legal classification under the rubric of the "Book of Love (*Sefer Ahavah*)" considers it of a kind with

[20] Gershom Scholem, *On the Mystical Shape of the Godhead*, trans. from the German by Joachim Neugroschel (New York: Schocken Books, 1991), p. 171

[21] On this see chapter 6 of Shaye Cohen's recent study *Why Aren't Jewish Women Circumcised: Gender and Covenant in Judaism* (Berkeley: Univ. of California Press, 2005) and Josef Stern, "Maimonides on Circumcision," in *The Midrashic Imagination,* ed., M. Fishbane (Albany: SUNY Press, 1993), pp.131-54. Stern concludes that circumcision is a natural sign that constitutes a relationship between people rather than between people and God (id., p. 142).

tefillin, *tsitsit* and *mezuzah*; in their absence, it serves "as a constant reminder" to direct one's mind toward God (*Mishneh Torah*, Introduction, 1:21, Frankel edition, (Hotza'at Shabse Frankel, Jerusalem, 2001).[21]

Thus, circumcision is a prime example of Maimonides' halakhic instrumentalism. In contrast, the mystical tradition perceives it as transformative, making the Jew Jewish and ontically distinguishing him from the Gentile. As the *Zohar* states, "from the eighth day onward Israel cleave to His name…the [other] nations do not cleave to Him …the holy sign is removed from them and they cleave to the *sitra a<u>h</u>ra* ['the other side,' a mystical term for the forces of evil], which is not holy" (3:91a-b).[22] Mystical circumcision is analogous to Christian baptism.

Maimonideans and the mystically inclined practice the same religion, but they subscribe to entirely different belief systems.

Its significance is reflected in Na<u>h</u>manides' elation over the fortuitous timing of the divine command to Abraham regarding circumcision: it precedes Sarah's becoming pregnant "so that [Abraham's] seed could be holy" (Commentary to Gen. 17:4; Chavel, vol. 1, p. 100). Not only is circumcision transformative; it engenders an objective holiness that is programmed into the Jewish genetic code and biologically inherited. Many of the dichotomies discussed earlier—institutional vs. inherent holiness, Jewishness vs. gentileness, instrumentalism vs. essentialism, magic vs. utility, enlightenment vs. mystery—are crystallized in this *mitzvah* in a way that presents a Jew with a very elemental choice. The Maimonideans and the mystically inclined may normatively practice the same religion but philosophically they subscribe to entirely different belief systems.

Since the perfect book is as elusive as the perfect human being, any review would be remiss if it did not include a criticism or two. Acknowledging its rare combination of rigorous scholarship, accessible, lucid and readable style, and topical relevance, I offer these as suggestions only to improve an already superb work for what is certain to be a second edition. For good reason, Maimonides' arch-nemesis in this book is Halevi, but in view of Na<u>h</u>manides' relevance for contemporary Orthodox Jewish thought and practice, it might have been more instructive and enticing to have portrayed him as the quintessential anti-Maimonidean paradigm.

Na<u>h</u>manides' persona, especially within the *<u>h</u>aredi* community where Halevi is virtually ignored, far overshadows Halevi's. Though historically postdating Maimonides, he is the one medieval Jewish thinker who can measure up to Maimonides' stature both in *halakhah* and theology, much of which was anticipated by Maimonides. Additionally, Kellner's afterword on "Contemporary Resistance to the Maimonidean Reform" could be expanded to encompass far more than its discussion of the doctrine of *da`at torah*. I suspect that Kellner has simply whetted our appetite on this score, paving the way for another deservedly full length treatment of a contemporary malaise. As Kellner formulates it, the choice is stark and fundamental: yours can be a Judaism of enchantment, in which you abdicate responsibility to rabbis and surrender thought to mystery, or a Judaism of empowerment

These minor suggestions for improvement in no way detract from my assessment that Kellner has contributed a study of great value not only for an academic audience but for lay and yeshivish audiences as well. The book is a welcome addition to the *samizdats* currently circulating within the underground yeshiva counter-culture.

[22] On circumcision as a physical inscription of the divine name, see Elliot Wolfson, "Circumcision and the Divine Name: A Study in the Transmission of an Esoteric Doctrine," *JQR* 78 (1987), pp.77-112.