

Dr. Korn, Director of Leadership Education at the Shalom Hartman Institute, teaches and does research in Jewish Thought.

TSELEM ELOKIM AND THE DIALECTIC OF JEWISH MORALITY

“There were once twin brothers who were identical in appearance. One was appointed king, while the other became a brigand and was hanged. When people passed by and saw the brigand hanging they exclaimed, ‘The King is hanging’” (*Midrash Tannaim on Deuteronomy 21:23*).

I

In the last two decades of the twentieth century, we have witnessed a global renaissance of religious passion and commitment. Faith, once considered “the opiate of the masses,” destined to be left behind by modern scientific culture, has burst forth as a powerful force in the politics, sociology, and philosophy of contemporary events. Although evolving from different causes, the phenomena of resurgent Christianity in the United States, the widespread growth of Islamic fundamentalism in Africa and the Middle East, and the unpredicted success of an Orthodox Judaism in America and Israel all testify to the potency with which the quest for God has recently captured the hearts of individuals, communities and even entire countries.

For religious Jews, the re-entry of God into human affairs should be cause for celebration. The Torah tells us that the mission of the Jewish people is to sanctify God in the world by testifying to His presence and sovereignty before all His creatures.¹ Indeed, that is the meaning of Israel’s election. Maimonides teaches that, like the return of Jews to mitzvot, even the strengthening of Christian and Islamic belief is a step towards the realization of our dream of ultimate redemption, when “the earth will be filled with the knowledge of God as the waters cover the sea.”²

Yet, sadly, we must note that modern religious passions do not

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seem to have brought the world closer to our messianic vision of a world free of hunger, war, hatred, or misery.³ On the contrary, they sometimes motivate extremists and justify their heinous acts: the murder of doctors practicing abortion in the United States, mass suicides in Guyana, bombings by suicidal ‘martyrs’ on Israeli buses, and holy wars that slaughter thousands in the name of Allah, to name but a few.

Historically, Jews have rarely engaged in such extremism. We have refrained from violence not because we have lacked the means, but because our Torah has given us a vision of being a holy people. This remains true today for the overwhelming majority of Jews who are committed to the mitzvot of the Torah. Yet the combination of active political Zionism and uncritical religious fervor has led a few to grievously depart from this moral standard. Of late, we have witnessed the emergence of a Jewish underground, an organization formed by a rabbi that was dedicated to violence and racism, and the murder of Arabs engaged in prayer, all motivated by a misguided conception of God’s holy name. Most recently, this divine madness has turned inward and assassinated Yitzhak Rabin, *zikhrono le-vrakha*. In attempting to return to God, some religious Jews have become fanatics.

These extremist acts were carried out by isolated individuals who are not representative of God-fearing Jews. Yet with great pain we must admit that there are other “faithful” in our community who openly try to justify these acts, many who “wink” at them in covert sympathy, and hundreds more who tolerate them with no sense of moral revulsion. These signs should fill the hearts of all halakhic Jews with anguish. Surely, they are grave warning signals that there are inherent dangers to the spiritual life of our community.

Jewish religious life now stands at a fateful crossroads. Fanaticism is not merely a tragedy for the ethical humanist, but also a profound desecration of God’s name. According to Meiri, idolatry is a belief system that does not impose moral constraints on its believers.⁴ Thus, extremist religious fervor has brought some to the gates of Moloch’s temple. In response, we need to go beyond our sense of outrage and understand this aberrant problem at its roots. Above all, we must ensure that we, too, do not unwittingly sacrifice at the pagan altar, but rather maintain the faith of our fathers and continue to be a community in which the God of Israel is sanctified. The extremism of a few should give pause to the correct religious commitment of the many. It indicates that it is not sufficient to be *ma’aminim benei ma’aminim*, to sincerely believe. Holiness requires that we live out correct belief, coupling our faith with a fundamental commitment to the sanctity of human life and

the centrality of moral behavior within our spiritual world. Theologically, nothing so readily falsifies religious testimony as does the justification of fanaticism, with its denial of moral norms; and on the level of experience, nothing so effectively “pushes the *Shekhina* out of the world,” as does descent into violence.

II

“And Abraham arose early in the morning. . . .”

Jews have often been the victims of the religious fanaticism: holy wars, religious persecutions, and forced conversions among them. How could it happen that throughout history, so many men dedicated to making the world holy instead become the agents of bloodshed and hatred? Unfortunately, the potential for fanaticism is rooted in the logic of faith. It follows inexorably from the essential recognition God’s authority. God is infinite, *ein sof*; His will is perfect. Humans are His dependent creatures, whose knowledge is limited. Hence His authority over us is categorical, the obedience owed Him is unlimited. Because God’s authority is absolute, His will eclipses human volition, reason and obligations. Without this fundamental posture of radical submission to God, true worship is impossible. Thus the very form of human relationship to God requires that a religious person surrender himself to the Divine Word, disregarding practical concerns and conventional moral judgments.

Yet who is the fanatic if not the unreasonable person who ignores normal considerations and social constraints to pursue an ideal without limit? The religious fanatic is not someone with faulty reasoning. On the contrary, he is the perfectly consistent religious servant, unwilling to allow any personal interest or ethical constraint to interfere with his understanding of the divine command. Unconditional obedience seems to be built into the very fabric of human relation to God, and therefore fanatical extremism is a philosophical difficulty for all theologies and a potential ethical horror for all faith communities.⁵

Of course, it was Kierkegaard who most graphically portrayed this problem in religious life.⁶ He argued that when God commanded the sacrifice of Isaac, He trapped Abraham in a thicket of inescapable contradiction. To be loyal to God, Abraham had to agree to become a murderer in the eyes of society. Abraham chose to resign himself to God and to “teleologically suspend the ethical.” For his choice of reli-

gion over morality, Abraham earned the eternal blessing of becoming a father of a great people (*Genesis 22:16*). To Kierkegaard and much of Christianity, Abraham was a hero, the perfect ‘knight of faith.’ He became a religious role model precisely because he was a fanatic, refusing to allow logic, self-interest or morality to interfere with his obedience to God. In choosing the absurd, he became in their eyes the *homo religiosus par excellence*.

As will be explained in Part V, *Fear and Trembling* is a distinctly un-Jewish interpretation of *Akedat Yitshak*. Yet we must remember that the *Akeda* is, after all, a Jewish story: it is part of our Torah, we recite it daily in our liturgy, and *Avraham Avinu* is our genetic and spiritual forefather. Abraham was zealous in fulfilling God’s will. This is no less true of the imperative to slaughter Isaac than of the directive to leave his father’s home for *Erets Kena’an* or the commandment of circumcision. It is precisely because Abraham voiced no critical judgment and displayed no hesitation when faced with the unintelligible command to take Isaac’s life that we consider him to be the quintessential Jewish man of faith. The emulation of Abraham’s zeal to fulfill mitzvot, whatever they demand,⁷ has become a cardinal value of our religious life.

In our times of runaway assimilation, when modern culture idolizes personal autonomy, it is understandable why Abraham’s virtue of unlimited obedience has become a dominant motif in contemporary Orthodox teaching. Our thinkers celebrate it, our educators make it the primary objective of their mission, and our rabbis preach it to their faithful. So strong has this value become that ‘obligation’ seems to be the sole moment of our religious experience. Deontological ethics have at times become the exclusive way to live God’s Torah. Our ideal religious personality sometimes becomes the person who empties himself of any independent moral sense or critical judgment. We even view the introduction of independent reason, moral sensibilities or *a priori* values as indicators of weak commitment, ignorance, or rebellious antinomian impulses. Instead of developing the authentic “Halakhic Man,”⁸ we run the risk of producing persons who know only surrender and personal resignation, or alternatively, people devoid of conscience who feel neither a disparity between formal halakhic duty and moral responsibility nor a tension between their intellectual judgments and halakhic deduction.

The ideal of absolute obedience is a major theme in the writings of two late seminal Orthodox thinkers, Yeshayahu Leibowitz in Israel and the Rav, Rabbi Joseph B. Soloveitchik, in America.⁹ Leibowitz considered the love of God to be the only true virtue for the religious Jew. It

is no accident that for him, *Akedat Yitshak* is the central text of authentic Judaism:

Christianity's highest symbol is the crucifixion and the sacrifice which God brings for man, whereas the highest symbol of faith in Judaism is the *Akedah*, where all man's values are canceled and cast aside for reverence and love of God.¹⁰

Leibowitz explicates "love of God" in clear, unequivocal terms: submitting to God's will by fulfilling mitsvot only because they are divine commands. Any thought of human purposes, interests or ethics undermines religious integrity. When we introduce utilitarian human judgments or values into our motivation, we contaminate our love of God, transforming our action into selfish, egocentric behavior (action *she-lo li-shma*):

Every reason given for the mitsvot which bases itself on human needs from any consideration of the concept 'need'—whether intellectual, ethical, social, national—voids the mitsvot from every religious meaning. If they are meant to benefit society or if they maintain the Jewish people, then he who performs them does not serve God but himself or society or his people. In any case, he does not serve God but uses the Torah of God for his benefit and as a means to satisfy his needs. The (sole) reason for mitsvot is the service of God.¹¹

In Leibowitz' eyes, authentic Jewish religious behavior is beyond any consideration of ethical values or moral judgment. Yet ironically, Leibowitz became the great moral critic of Israeli society. It is no accident that in order to apply his moral judgment to Israeli policies, he first denied any religious value whatever to the state. Cornered by his theological dogmatism, he was forced to adopt a Kantian stratagem: to make room for ethics, he limited God. Leibowitz could only utilize his moral faculties and stand obligated by the norms of human society after dividing reality into secular and religious domains, by "rendering unto Caesar what was Caesar's and unto God what was God's." Paradoxically, Leibowitz paid a heavy theological price for his halakhic absolutism. He ended up believing in a form of metaphysical dualism, a universe with two ontological orders: one of mitsvah, which was suffused with the presence of God, and another of social, political and moral behavior from which any trace of the divine was banished.

Self-negation and unlimited obedience to God's Word are also

major themes in the writings of Rav Soloveitchik. It is critical to note that unlike Leibowitz, Rav Soloveitchik's understanding of Judaism supports an important role for the human, ethical and intellectual moments in religious life. Differing sharply with Leibowitz, the Rav stresses that mitzvot serve human purposes and that the halakha requires a *balance* of submission with independent critical judgment through a dialectical religious ethic.¹² This explains why self-negation plays only a minor role in his description of the ideal halakhic personality in *Halakhic Man*. Nevertheless, submission and uncritical obedience appear as central motifs in a number of his other works. In his shorter essays, the Rav poetically illustrates how Judaism requires each person to accept defeat by surrendering to the dictates of the halakha on every level of his existential experience. Ultimately, a person is bidden to sacrifice his hedonistic, emotional and intellectual impulses to God. Rav Soloveitchik interprets the Torah's sexual prohibitions as the halakha's teaching us to surrender our passions to God's discipline. Only this principle of self-negation can explain the strict halakhic rules of conjugal separation:

Bride and bridegroom are young, physically strong and passionately in love with each other. Both have patiently waited for this rendezvous to take place. Just one more step and their love would have been fulfilled, a vision realized. [She says to him, 'I have seen a rose-red speck.'] Suddenly the bride and groom make a movement of recoil. He, gallantly, like a chivalrous knight, exhibits paradoxical defeat.¹³

In his intellectual life also, a religious person must allow the halakha to supersede his rational judgment:

Precisely because of the supremacy of the intellect in human life, the Torah requires, at times, the suspension of the authority of *logos*. . . . The Judaic concept of *Hok* represents human surrender and defeat. Man, an intellectual being, ignores the *logos* and burdens himself with laws whose rational motif he cannot grasp.¹⁴

On the emotional level, Aaron the high priest became a religious hero because he gave up his inalienable right as a parent to mourn for his sons. In doing so, he surrendered his deepest feelings to the dictates of the divine command:

The commitment or consecration of a priest to God is ultimate, all-demanding, and all-inclusive. Aaron belonged to no one, not even to

himself, but to God. Therefore he was not even free to give himself over to the grief precipitated by the loss of his two sons; he has no private world of his own. Even the heart of Aaron was divine property.

What does this all mean in psychological terms? God wanted Aaron to disown the strongest emotion in man—the love for a child.¹⁵

In short, the Rav recognizes absolute commitment to God's law to be an essential religious posture that is at the heart of religious life. In his own words,

God lays unrestricted claim not to a part but to the whole of the human personality. Existence *in toto*, in its external and inward manifestations, is consecrated to God. . . . Once man enters the service of God, be it as high priest, be it as an ordinary humble person, his commitment is not partial; it is total.¹⁶

It seems, then, that Judaism's ideal religious personality is no less fanatical than Kierkegaard's "knight of faith." He is not the reasonable man of society, nor the person mindful of human norms. He recognizes only the absolute principle of divine service. In obvious allusion to the Danish existentialist's portrait of Abraham, Rav Soloveitchik writes:

The man of faith animated by his great experience is able to reach a point at which not only his logic of the mind but even his logic of the heart and of the will, everything—even his own "I" awareness—has to give in to an "absurd" commitment. The man of faith is "insanely" committed to and "madly" in love with God.¹⁷

III

"So God created Adam in His own image. . . ."

The history of religious passions attests to how this divine madness often became blind Dionysian fury, wreaking havoc on human life and ravaging all that is holy in its path. But man is a dialectical being, moving between two antithetical poles of human existence. For Rav Soloveitchik, this constant oscillation is the source of religious depth and human creativity. It is also what redeems our religious life from insensitivity and destructiveness.¹⁸ Similarly for us, the ground of religious sanity offering spiritual protection from fanaticism is a dialectic of specific

religious content and form, a dedication to humane life-affirming values that stands together with the formalistic commitment to halakhic obedience. To paraphrase Kant, “Values without obligation are empty, but obedience without values is blind.” Our deontological religious moment must also include a halakhic commitment to substantive moral values. In a word, religious persons must also become responsible ethical personalities.

It must be emphasized at the outset that the insistence on ‘moral’ or ‘humane’ values does not equate with ethical humanism. These values are theocentric at their core: they are the content of God’s Word found in our Written and Oral *Torot*. As such, they demand no less an unconditional commitment from us than does our *a priori* obedience to the halakha.¹⁹ The fount of these moral values is the Torah’s doctrine that each person is created in God’s image, *be-tselem Elokim*. This doctrine means that a person can somehow can reflect God Himself. Like *tselem Elokim*, the ethical values which flow from it have a theological source, but their application is anthropocentric, focusing on human interaction, protecting human dignity and welfare. Their *telos* is also human-centered: to develop every person’s highest and most humane qualities—a purpose, the *midrash* tells us, that is fundamental to that of mitzvot themselves.²⁰

After the assassination of Yitshak Rabin, numerous rabbis explained in the media that the assassin had erred because he misunderstood the halakhic category of *rodef* (pursuer). Indeed, that was the case, but hardly relevant to the tragedy. Our religious problem is neither that Yigal Amir was flawed in his talmudic logic, nor that his supporters were ignorant of this or that rabbinic text. Rather, our religious shortcoming is that every religious person does not instinctively recoil in horror at murder, at the destruction of one of our central religious values: the immanent presence of God found in the *tselem Elokim* of each human being. Unfortunately, we have not yet cultivated in all religious Jews moral sensibilities that reject *a priori* such an act. Murder should be as emotionally and intellectually repugnant to all God-fearing Jews as the very denial of God. Indeed, because humans are created in His image, the Torah equates bloodshed with the destruction of God Himself.²¹ If we allow the moral values of Torah to be eclipsed by blind obedience, we may inadvertently build a religious *weltanschauung* that celebrates property over persons and ritual over reason.

Such an imbalance of religious values has a precedent in Jewish history. The Talmud tells us that the religious leaders in the Second Temple era valued ritual purity over human life (*Yoma* 23a-b) and that

Jews maintained the strict letter of the halakha rather than act *li-fnim mi-shurat ha-din* to realize the Torah's ethical values (*Bava Metsia* 30b). This is no mere pious moralizing. Because of these axiological distortions, Jerusalem drowned in blood from one end to the other, our Temple was destroyed, and the Jewish people went into exile for 1900 years.

The Torah doctrine that every human being is created in the image of God is the conceptual key to a religious morality with humanitarian values. Unfortunately, history awaits a systematic philosophic explication of this idea. A comprehensive analysis of *tselem Elokim* is critically important to Jewish thought and our understanding of Torah, but it must suffice now simply to mention a few interpretations and their implications for religious morality. Rambam identifies *tselem Elokim* with a person's conceptual capacity, *i.e.*, his highest rational faculties.²² Human beings are distinguished from other species in nature only because their intellect is categorically superior. By virtue of *tselem Elokim*, humans have a notion of truth, law, goodness, and obligation, and can even attain a partial knowledge of the ultimate reality—God. So powerful is *tselem Elokim* that it enables our intellect to comprehend God's voice through prophetic revelation. Prophecy is a natural category for mankind because all human beings are endowed with *tselem Elokim*. For Rambam, the human mind can contact and give expression to divinity itself.

Important ethical implications flow from this interpretation. Since human thought can reflect divine truth, religious persons seeking God should listen to, respect, and study carefully all serious human intellectual enterprises that do not in turn suppress other opinions or do not violate the *tselem Elokim* of others. In our day, political suppression of dissenting opinions diminishes the potential presence of God in the world and the possibilities for hearing His voice.²³

*Meshekh Hokhma*²⁴ locates *tselem Elokim* in human metaphysical freedom. A person is singular in God's creation because the laws of causality do not determine his actions or his future. When *tselem Elokim* is found in human freedom, religious persons have the moral obligation to act toward all persons in a way that maximizes that freedom. Coercion or manipulation of others for ideological, political, or personal reasons becomes morally prohibited and theologically wrong. Since human freedom is divine, political and individual liberties become sacred and inalienable rights, not accidental products of political sufferance.

Some early rabbinic sources understand *tselem Elokim* in a physical sense and associate it with the human body.²⁵ On the simplest level, this

implies that we are morally prohibited from not only assaulting, torturing and physically mutilating another, but also from inflicting pain or tolerating the humiliation of another person. Even embarrassment, false accusation, name calling, or damaging another's reputation is likened to bloodshed (*Bava Metsia* 58b) and thus constitutes an assault on a person's *tselem Elokim*. On a different level, it insures that the sanctity of each person that derives from *tselem Elokim* is intrinsic to and inseparable from that person. Because no one can leave his body, the value accorded to each person can never be vitiated. Hence, we are morally obligated to accord dignity to every person even after his death—not merely the righteous, but even the loathsome criminal guilty of a capital offense.²⁷

Tselem Elokim is analytically tied to the imperative of *ve-halakhta bi-drakhav*—*imitatio Dei*. Our rabbis were puzzled by this mitzvah: “Who can walk after God? Is He not a consuming fire?” (*Sota* 14a) How can a mortal human being emulate the Perfect and Wholly Other? Philosophically and theologically, *imitatio Dei* makes no sense unless a person shares something in common with God, unless a human possesses *imago Dei*. Rambam understood that *imitatio Dei* presupposes *tselem Elokim*. This is hinted at by the fact that *Hilkhot Yesodei haTorah* (4:8), which mentions *tselem Elokim*, precedes *Hilkhot De'ot*, which codifies *ve-halakhta bi-drakhav* (1:5). What religious obligations do the rabbis derive from the power of divine emulation within human grasp? The ethical imperatives to clothe the naked, feed the poor, attend to the sick, comfort those in pain, extend mercy and compassion to those in need, and perform acts of *hesed*.²⁷

There is another significant way in which *tselem Elokim* relates to our moral life. The Torah commands us to “Do what is right and what is good in the eyes of God” (*Deuteronomy* 6:18). We can do this only if we share His ethical judgment, if our knowledge of the right and the good can match God's understanding of these values. The presence of *tselem Elokim* can give us this potential knowledge and permits us to conclude, as did R. Akiva, that what is right in the eyes of man corresponds to what is good in the eyes of God.²⁸ The Torah tells us that because we share moral knowledge with God, we are obligated to protect the innocent and fight for what our moral sense tells us is just, as Abraham did for Sodom, as well as to conduct business with scrupulous honesty and fairness.²⁹

For Rav Soloveitchik, *imitatio Dei* means that a religious person is obligated to emulate the Creator of the universe (*Halakhic Man*, Part II). So important is this creative imperative that if a person is not a cre-

ator of new worlds, he can never attain holiness (p. 108). Under this interpretation, *tselem Elokim* provides the key for people to build a pragmatic society that protects human interests, to erect conceptual structures that enable them to perceive truth, and most importantly, to recreate themselves via *teshuva*. It is only repentance that can rid people of their sense of moral failure and allows them to be optimistic regarding their future. In a word, it is what saves us from nihilistic gloom and gives us the strength to aspire realistically to ethical achievement.

Finally, the doctrine of *tselem Elokim* entails that religious Jews have a moral and spiritual connection with all mankind. Every person is created *be-tselem*, and therefore both our morality and religious life must have a universal dimension. *Tselem Elokim* is our window to humanity at large, protecting our ethics from narrow parochialism or vulgar tribalism.

Each of these different interpretations of *tselem Elokim* shares one fundamental concept: created in the image of God, every human being is a potential source of holiness in the world. As such, each person possesses intrinsic value that requires each of us to protect, dignify, respect, and not abuse another—both physically and personally. So strong is the connection between *tselem* and these moral imperatives that Rav Soloveitchik maintains the halakhic concept of human dignity (*kevod ha-beriot*) represents nothing other than the rabbinic formulation of the Biblical doctrine of *tselem Elokim*.³⁰ If we are prohibited from exploiting God for our own purposes, then we are forbidden to exploit His image in any way.

IV

“Derekh Erets Kadma laTorah”

Let us be clear about what an *a priori* commitment to *tselem Elokim* values means. When we confront religious texts, halakhic rulings, and voices of religious authority, we must bring to the encounter a strong and healthy moral sense built on the Torah values implicit in *tselem Elokim*. This is a difficult task, for at times we find that our initial understanding of these texts, rulings, or voices is inconsistent with our *tselem* sensibilities. Nevertheless, as Rav Avraham haKohen Kook understood, accepting any interpretation of halakha that violates our moral sense leads us only to religious error:

It is forbidden for religious behavior to compromise a person's natural moral sensibility. If it does, then our *yivat shamayim* is no longer pure. An indication of its purity is that our natural moral sense becomes more exalted as a consequence of religious inspiration. But if the opposite occurs, and the moral character of an individual or a group is diminished by our religious observance, then we are certainly mistaken in our path. This type of supposed 'fear of heaven' is incorrect (*pesula*).³¹

In situations where our initial understanding of halakha conflicts with *tselem Elokim* values, we should strive to deepen our comprehension and resolve the tension. We should ponder the texts, discuss them with others, and seek out wiser and more sensitive people to guide us in solving the problem. As long as our *tselem Elokim* sensibility remains violated, we cannot rest, but must say, as did the rabbinic interpretive community throughout the centuries, "The simple interpretation is not the correct interpretation," or "This halakha is normative, but perhaps does not apply in the present circumstances," or "I do not understand this authority correctly." These responses are thoroughly traditional, adopted by ancient and modern *posekim*, by halakhic conservatives and liberals alike.³² In addition to our commitment to halakha's claim on us, we must maintain unshakable faith in the halakha's moral character. The operative faith of a morally sensitive halakhic Jew is just this: in any given situation, there exists a legitimate interpretation of halakha consistent with *tselem Elokim* values. This belief obligates us to "turn over, turn over" our sources until we find that interpretation. By definition, the unethical imperative can never be normative. Even if God Himself appears to visit us at night and whisper in our ears to commit an immoral act, it is not God talking, but Moloch. Perhaps the lesson of the Jewish people's dark historical experience as victims of religious fanaticism and its awareness of contemporary extremism is that it is never an acceptable option to teleologically suspend the ethical.

Are we indeed permitted by Jewish tradition to allow our *tselem Elokim* moral sensibility to influence our understanding of God's Torah and His halakha? Do we not run the dual risks of substituting our own human values for God's law and allowing our subjective impulses to rule our behavior, which can lead to equally horrible results?³³

In response to the first question, it is not only permissible but necessary—both epistemologically and to be faithful to our Oral Torah—for us to interpret God's word. It is obvious that our individual consciousness always plays a role in our understanding of religious phenomena. No text has a voice: we are forced to understand every word

we read through our critical faculties. In the end, it is human authorities who must always judge if a particular halakhic rule applies to a specific set of circumstances.

Moreover, our commitment to normative rabbinic tradition prohibits us from simplistic or fundamentalist interpretation. The Torah of the Jewish people was not left in heaven. At Sinai, it became a holy partnership of God's voice and human interpretation. *Torah she-ba'al pe* always allowed for a varying, albeit finite, number of interpretations and legal conclusions. If this is so, then each person must make a personal autonomous choice to follow one *posek* on a principled basis from amongst many, and therefore to be obligated by one *pesak* from amongst a variety of opinions.

Rav Aharon Lichtenstein has discussed the related consideration of whether the Torah recognizes ethical values independent of the corpus of halakhic imperatives, *i.e.*, strict *din*.³⁴ Although there is a popular conception that codified halakha is completely self-sufficient for the ideal religious life, even a cursory analysis of talmudic and rabbinic literature proves otherwise. The *Mishna* distinguishes between Torah (law) and *derekh erets*—what Rav Lichtenstein identifies as “traditions of civility” and what Maharal defines as “all ethical matters, both those found and those not found in the Talmud; and the failure to pursue some of its elements constitutes a sin and a great transgression.”³⁵ “Without Torah there is no *derekh erets*; without *derekh erets* there is no Torah” (*Avot* 3:17). Evidently, by eliminating the consideration of ethical values, we make a correct interpretation of halakha impossible. The *Midrash (Leviticus Rabba* 9:3) interprets this to mean that *derekh erets* precedes *din*, perhaps even axiologically. In this view, the only way we can correctly derive *halakhot* is if we approach halakhic material with values that are antecedent to it.

The concept of *li-fnim mi-shurat ha-din* expresses a similar idea. It demands a recognition that what is religiously correct stems from an ethical sensibility independent of *din*. The Talmud clearly maintains that we are held culpable even after we discharge our formal legal responsibilities (*Bava Metsia* 30b). Further still, it teaches that in consideration of *li-fnim mi-shurat ha-din*, we are required at times to follow the dictates of ethical fairness even when it is at odds with a strict application of normative halakhic categories (*Bava Metsia* 83a). Such action constitutes what is “right and good in God's eyes.”

We cannot claim that the concepts of *li-fnim mi-shurat ha-din* or *ha-yashar ve-ha-tov* are themselves subsumed under the category of *din*. Their form is too generic to be fully defined by crystallized legal direc-

tive, and their content is clearly distinct from normative halakhic ruling.³⁶ We do well to understand Nahmanides' interpretation of the Biblical directives, "Thou shall be holy" (*Leviticus* 19:2) and "Thou shall do what is right and good in God's eyes" (*Deuteronomy* 6:17). Ramban teaches that there exists an entire cluster of Torah values, such as holiness, the right and the good, *imitatio Dei*, loving one's neighbor, and equity that are different from standard mitzvot because they are general in form and contextual in application. They extend beyond the requirements of halakhic obligation *per se* and are directed toward promoting human welfare, improving interpersonal relations, and protecting individual interests fairly. They constitute the Torah's overarching goals, towards which specific *halakhot* are means. Since no legal code, no matter how extensive, can cover all situations that confront us, they are necessary guides to our quest for ideal religious action. The general nature of these directives requires that we use our judgment according to the specific contexts in which we find ourselves and consistent with the moral aspirations that the Torah has delineated for us.

It is also instructive to consider how rabbinic tradition understood the role of positive human relations within the system of halakha. According to Abaye, the purpose of the entire Torah is to promote the value of peaceful human relations (*Gittin* 59b). Maimonides (*Hilkhot Hanukka* 4:14) also accepts peace as a central *telos* of mitzvot and locates its Torah warrant in the verse, "Her ways are ways of pleasantness, and all her paths are peace" (*Proverbs* 3:17).³⁷ This clearly implies an independent and antecedent value of peace. According to *Maharsha* (end of *Yevamot*), the rabbis are obligated at times to suspend the normative application of halakhic requirements (*e.g.*, two witnesses to constitute legally efficacious testimony) in order to achieve peace and the "ways of pleasantness." Many talmudic tractates end their halakhic discussions with the phrase, "Talmudic scholars increase peace in the world," to teach us that the function of Torah sages is to maximize both peace and *darkhei no'am*, and therefore they have a responsibility to interpret halakha towards those ends.

Some people understand the process of determining ideal Jewish action to be totally objective, similar to computer processing. All we need to do is store a comprehensive database of halakhic rulings, input religious questions to the mechanical halakhic processor, and accept the output as objective truth that defines what God desires of us. This simplistic notion of a self-sufficient, pristine halakhic system free of all human judgment and external values is hard to find in the Oral Torah and normative rabbinic tradition. As Rav Lichtenstein notes, it is a fan-

tasy is that is both humanly impossible and religiously undesirable:

If we equate Halakha with the *din*, if we mean that everything can be looked up, every moral dilemma resolved by reference to code or canon, the notion [of the self-sufficiency of Halakha] is both palpably naive and patently false.³⁸

The second question, whether we are substituting a morally dangerous subjective human ethic for God's law when we approach our texts with a *tselem* sensibility, is rooted in confusion. As should be apparent by now, an ethical sense built upon the doctrine of *tselem Elokim* and nourished by the Torah values of *derekh erets*, *li-fnim mi-shurat ha-din*, the "right and the good," *imitatio Dei*, "ways of pleasantness," peace, and equity is neither a departure from God's word nor a flight into unrestrained subjectivity. While more personal and less objectifiable than specific halakhic rulings, this moral sensibility is molded by Torah itself. Its grounding in Jewish values, together with our commitment to the fundamental halakhic principle of the sanctity of human life, are the best safeguards we have against its leading to a brutal and subjective extremism.

V

"Shall the Judge of all the earth not act justly?"

If we are to ensure moral integrity in the face of our ultimate theological commitments and prevent religious Jews from becoming fanatics, we must restore to the center of our religious life the humane ethical values rooted in *tselem Elokim*. Our religious personalities must have balanced moral judgment and be able to think clearly about the role of ethical values within halakha. To make murder and violence unthinkable to religious Jews, we must carefully nurture ethical personalities with healthy *tselem* sensibilities.

Philosophical analyses of *tselem Elokim* or pronouncements about the identity of Judaic values and morality by themselves will not achieve these objectives. We must also rethink our educational methods and goals and reform our religious curricula. We should adopt a wider vocabulary and learn to complement our pedagogic language of halakhic duty with that of *tselem Elokim* values. In addition to teaching the Talmudic logic of *hiyyuv u-petur* (obligation and exemption) and *issur*

