

מה שתשיב

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בס"ד

Contents: Law, Ethics, and Judaism

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Part 1: Introduction

A few years ago, the news broke that a number of well-known multinational companies had managed to avoid paying a substantial amount of corporation tax in the UK. One caller to a popular radio talk show was livid. Yet when the presenter challenged her, pointing out that what those companies had done was actually entirely legal, she retorted, “It might have been legal, but it was immoral!” This was a striking point. Companies are generally keen to show that they engage in moral and ethical business, not least because the company’s standing as perceived by the consumer is very important for business. Yet it can be difficult to strike a balance between encouraging an ethos of ethical behaviour from within and attempting to legislate from the outside for every possible scenario.

This problem is part of a much broader jurisprudential question. What is the purpose of the law of the land? Is it the responsibility of governments to create a system of laws and judiciary merely in order to protect its citizens from anarchy, or should laws promote ethical and moral behaviour? If promoting ethical behaviour is an important goal of jurisprudence, who decides what ethical behaviour is and what it is not?

In general, human beings have an innate sense of justice and morality that informs how we act; we refer to this a natural morality. However, there are two catches. Firstly, we often have a vested interest in the decisions we make and cannot therefore be considered objective deciders of morality. Secondly, we often disagree on the correct course of action, even in neutral cases.

From a Jewish perspective, the Written and Oral Torah provide us with both an integrated system of laws and a set of ethical teachings, which promote both moral behaviour and the spiritual sensitivity to do what is right.

Nevertheless, the Torah itself contains many commandments and concepts that may jar against our sense of justice, mercy, and natural morality. Is a ‘good Jew’ really supposed to advocate capital punishment for certain transgressions or consider the destruction of the entire nation of Amalek as a moral good?

As we start this series and embark on our journey through these important and engaging issues, the most important tenet to keep in mind is that there are often no simple answers. Each of these three areas – Torah law, secular law, and natural morality – will play an important role in navigating this journey. The series will take us through an analysis of relevant areas of secular law, the Written and Oral Torah, as well as contemporary ethics such as the worlds of business, medicine, and emerging technologies.

By doing so I hope we can gain a better understanding of the intersection between these three areas, which will give context to many of the classic and contemporary ethical challenges we face in the 21st century.

Part 2: What is Ethics?

Broadly speaking, the philosophy of ethics aims to determine which actions and behaviours are considered right and which are considered wrong. However, before we can consider how to determine ethical behaviour (known as normative ethics) or examine specific cases (known as applied ethics), we must first explore the concept of meta-ethics, which delves deeper into the foundations of morality and asks essential questions about the nature of ethical behaviour itself.

The primary question is whether ethical actions merely describe the accepted cultural or societal conventions, regulations, and laws, which are subjectively created by mankind; or whether moral values exist as real and absolute entities in a realm beyond subjective human thinking.

The 4th century BCE Greek philosopher Plato believed that ethical values are absolute and objective truths, existing and stemming from a non-physical realm. Concepts such as ‘virtue’ and ‘love of truth’ are fundamentally good. Yet what is the source of these moral axioms?

Theologically, one might point to God as the Ultimate Unity of all things and the foundation of the ethical universe. What is good in the eyes of God is fundamentally and objectively good, for both the individual and society. Jewish philosophers depicted the effect of immorality as something that had an indelible effect on the soul of the sinner and wider society. The 18th Century Italian philosopher, Rabbi Moshe Chaim Luzzatto (d. 1746) noted that Adam and Eve’s sin caused an eternal change in the nature of mankind and the world. Since ethical values originate from God, each one of us not only has a responsibility to ourselves, but also to the rest of humanity to act in a moral way. This is what Rabbi Joseph B. Soloveitchik (d. 1993) meant when he described Jewish ethics in the context of Jewish law as the search for mankind’s “role in the infinite.”

Yet the very idea that there is an objective set of morals that underpins the way we ought to behave has been challenged for hundreds of years. Apart from Plato’s own philosophical objections to an absolute supernal morality (known as the Euthyphro Problem), modern democratic societies seem to function fairly well without having to define a set of fundamental moral or religious principles. Instead, governments take a utilitarian approach, constantly reviewing the law as a response to the will of the people and the practical benefits and consequences of change.

This approach, however, leaves any system of law open to the accusation that subjective, consensus-based ethics are not grounded in anything real. The difference between moral and immoral action is merely a convention in law and only relative to the subjective, societal norms of that time. Known as ‘moral relativism,’ the weakness of this position is that it inevitably means that there is nothing universal about morality; one ethical perspective cannot be considered as superior to another. The next article will further explore moral relativism, the concept of God as the objective source of morality, the Euthyphro Problem, and the Jewish response to it.

Part 3: Moral Relativism and Absolutism I

In 2004, after years of public outcry, the government passed an Act of Parliament banning the hunting of wild animals with dogs. Yet other countries continue to allow blood sports such as bullfighting, which is still popular in Spain, Portugal, and some Latin American countries. Are blood sports immoral?

In a secular democracy, public opinion is an important factor in how politicians determine the law of the land. Yet the opinions of people will depend on the particular history, traditions, and culture of the society in which they live. This meta-ethical position is known as moral relativism and implies that if ethics can be based on local human customs and values, there are no grounds on which to criticise the moral decisions made in other societies, despite the fact that their ethical landscape may drastically conflict with our own.

As an Englishman, Spanish bullfighting seems cruel and barbaric. Yet that view is ethnocentric; had I been born in Spain, I might have thought differently, in the same way that if I had been born in the countryside rather than the city, I might view fox hunting as a crucial part of countryside traditions.

However, the weakness of moral relativism is that we become unable to object in the face of abject cruelty and depravation. We might begrudgingly tolerate bullfighting, but it does not take long to find societies that allow slavery, discriminate against minorities or murder political opponents. Are we really supposed to just shrug these things off and put them all down to cultural norms?

At the other end of the meta-ethical spectrum is moral absolutism, which views moral truths as being part of an objective reality, beyond the world of man-made conventions. From a religious perspective, God as the Divine rule giver solves the problems of moral relativism, for whatever God commands is morally correct. This is known as Divine Command Theory (DCT).

Yet this has also been challenged. The Greek philosopher Plato (3rd Century BCE) highlighted a fundamental issue with DCT, known as the Euthyphro problem: “Is that which is holy loved by the gods because it is holy, or is it holy because it is loved by the gods?” If the latter is true, moral authority must come from the gods (using Plato’s words); so, what happens if a capricious god commands us to steal or murder? Would those acts be considered moral? Yet on the other hand, if moral authority must be intrinsically good, it does not have to originate with the gods. Plato’s point is beautifully put by Rabbi Lord Jonathan Sacks when he writes that, “Plato’s dilemma is elegant because it forces us to make a choice between two invidious possibilities: religion is either opposed to ethics or superfluous to it.”

Yet Plato’s view is also flawed. As Rabbi Sacks points out, the Greek gods may have been deemed powerful, but they were not creators. Monotheism means that “God-the-lawgiver is also God-the-creator-and-redeemer.” From a Jewish perspective, morality is universal, for it originates from the spiritual reality that God Himself created, woven into the fabric of the cosmos.

Part 4: Moral Relativism and Absolutism II

The last article described the drawbacks of deriving ethical behaviour through reason alone. Mankind is subjective, ethnocentric, and biased towards specific vested interests. In contrast, the Jewish perspective on morality is that God is the objective arbiter of human ethical behaviour, the absolute truth of which is woven into the reality of creation.

One might argue that mankind does have the capacity to agree on global moral standards, such as the Universal Declaration of Human Rights. However, as British philosopher Simon Blackburn puts it, “there will be a little voice saying that we are ‘merely’ imposing our wills on others ... it will not silence the relativistic imp on our shoulders.”

An alternative approach to determine ethical behaviour would be to examine the consequences of a particular action, as opposed to the action itself. The 18th century English philosopher Jeremy Bentham proposed an example of this, termed utilitarianism, stating that: “it is the greatest happiness of the greatest number that is the measure of right and wrong.” His ideas were refined and popularised in the 19th century by the English philosopher, John Stuart Mill, who focused on well-being as the hallmark of the ultimate good. Indeed, Mill fought for women's rights, improved labour practices, and opposed slavery.

Yet while utilitarian ethics still underpin much of western liberal society, this system has many limitations. Firstly, it is difficult to know with certainty whether the consequences of our actions will indeed maximise human happiness. Moreover, even if one could have some certainty, the logical conclusions of utilitarian ethics are disturbing, for they imply that one could, for example, justify the genocide of a minority to please a majority.

The 18th century Scottish philosopher David Hume noted that there is something qualitatively different between factual observations about the world (‘is’ statements), and prescriptive statements about how individuals ‘ought’ to act. Known as the ‘is-ought fallacy’ or Hume’s guillotine, as Oxford philosopher and psychologist Brian Earp puts it: “there is no way to reason from facts about the way the world is, to statements about the way the world should be. You can’t derive values from data.”

One contemporary attempt to apply scientific objectivity to secular ethics was suggested by the American philosopher, neuroscientist, and neo-atheist Sam Harris. In his book *The Ethical Landscape*, Harris claims that well-being could be measured scientifically, such that any given action could be impartially tested for how it promotes human happiness. Yet regardless of the practicalities of defining well-being, let alone measuring it, Harris fails to solve Hume’s guillotine, because his premise that morality is about well-being is itself a philosophical statement, not a scientific one. While Harris attempts to utilise the prestige of scientific objectivity to undermine the need for God’s moral impartiality, he falls straight back into a utilitarian quagmire.

Nevertheless, as we will see in the next article, the fact that mankind believes in an inner sense of what is moral and ethical, however subjective that may be, does have some validity in Jewish thought.

Part 5: Humanity's Moral Compass I

So far in this series, we have argued that mankind needs Divine intervention in order to develop an objective set of moral and ethical standards. Before we discuss those areas of God's laws which may appear to us 'unethical,' let us first deal with a more fundamental question.

Classical secular ethics are based on the premise that mankind is able to reason into existence some kind of moral consensus. And many would agree.

In his work 'To Heal a Fractured World,' Rabbi Lord Jonathan Sacks notes: "*There is nothing inherently 'religious' about a moral sense. The Bible takes for granted that human beings know the difference between good and evil.*" There are many individual displays of morality and altruism by people outside of the Israelite nation, such as Pharaoh's daughter rescuing Moshe (Shemot 2:5-10), the Cana'anite Rachav saving Yehoshua's spies (Joshua 2:4) and Ruth the Moabite showing compassion to Naomi (Ruth 1:16). Our sages note that Avraham, long before the Revelation at Sinai, independently deduced the existence of God and the 613 mitzvot, which he observed (see Talmud Yoma 28a).

Rabbi Sacks quotes Rabbi Nissim Gaon (d. 1062) who stated unequivocally: "*All commandments that are rational and amenable to human understanding have been binding on everyone since the day God created mankind on earth.*" Humankind has the inherent capacity to deduce that acts such as murder, brutality and violence are immoral, without Divine revelation.

This immediately sets mankind apart from the animal world. Animals regularly kill, steal, and use violence. A New Scientist article, for example, described how male chimpanzees have been known to beat, murder and cannibalise rivals when competing for a mate. A 2014 study published in Ethology reported that female cuckoos misappropriate the nests of magpies by laying their eggs in them while the magpie is still incubating its own. Despite violent pecking, the magpies are unable to evict the invading cuckoo and eventually abandon their nests, leaving their eggs behind.

Most humans would accept these examples as part of animal behaviour; no one is planning to arrest a chimpanzee for murder or serve an eviction order to a cuckoo! Yet we would consider murder, cannibalism, or theft between other humans as immoral. Avraham's sensitivity to God's moral code allowed him to deduce the whole of the Torah himself. Whilst this was exceptional and none of us could claim to be as morally objective as Avraham, it indicates that there must nevertheless be some inner source to our innate sense of morality, however subjective it may be.

The Ramban (Nachmanides d. 1270) explains that God created humanity from both physical and spiritual matter, indicated by the formation of Adam from both the dust of the earth and the breath of God (see his commentary on Bereishit 1:26 and 2:7). Mankind is therefore comprised of both carnal desire and Godly intent. Our animalistic needs and higher moral aspirations often conflict, but we have the freedom to choose between them. As we will see in the next article, this points to the original creation of mankind as the seminal moment in conceiving a moral framework for human civilisation and the entire world.

Part 6: Humanity's Moral Compass II

In the last article, we noted that humanity can and often does derive some basic moral and ethical laws without the need for Divine revelation or even belief in God. For example, most people can recognise that murder, theft, and adultery are immoral without needing to refer to the Ten Commandments. This innate sense of morality is what some moral philosophers believe underpins 'natural law,' the moral theory of jurisprudence which claims that secular law should be based on fundamental ethical principles which can be deduced by mankind; these principles can transcend time and culture.

What, however, is the source of this natural sense of morality we possess?

Adam was uniquely formed from both the physical "dust of the earth" and the Divine "breath of God" (see commentary of the Ramban on Bereishit 1:26 and 2:7). According to many Jewish philosophers, the spiritual element, the *neshamah* (soul), is the basis for human intellect, emotional intelligence, and moral sensitivities. Rabbi Yitzchak Arama (d. 1494) links the notion of human intellect to the ability to make moral choices. Rabbi Yehudah Halevi (d. 1141) explains that intellect allows mankind to develop and refine character traits which in turn help to form a civil, functioning society.

Yet body and soul conflict with one another. Rabbi Moshe Chaim Luzzatto (d. 1746) explains that each element of mankind – body and soul – are drawn towards their natural origins. The body is drawn to instant, physical gratification whereas the soul is drawn to eternally Divine, spiritual, and moral ideals. Mankind has the capacity to choose between these extremes (see also Devarim 30:19).

The freedom to make constructive moral choices, despite the temptation to do otherwise, is an inherent part of our spiritual apparatus. Yet things do not always go to plan. A direct consequence of free choice is the risk of moral failure. Human history is filled with appalling examples of individuals making evil choices that have had tragic, often bloody outcomes. Why did God risk allowing sin and immorality to flourish by giving mankind the capacity to choose between good and evil? If God's ambition for mankind was absolute obedience to His commandments, He could have created us as an army of compliant angels. By giving us freedom of choice, we are able to earn reward for our decisions.

In addition, the freedom of moral choice and our unique intellect endows the human mind with the capacity to think about the outcomes and consequences of our actions. The Talmudic sage Rabbi Shimon explained that one of the attributes of "a virtuous path" is to be able to "see the wider consequences of one's actions" (see Pirkei Avot 2:13, green siddur, page 533).

This explains the source of mankind's unique moral compass. Our sense of morality, albeit subject to a variety of environmental factors, stems from the Divine soul invested in every one of us. This, however, leads to a new question: what use is the moral compass that God entrusted us with if His word is final on questions of morality? We shall begin to explore this question in the next article.

Part 7: The Emergence of Ethical Man I

The previous article highlighted the role of the soul as the source of mankind's emotional and empathetic abilities, unique intellect, and capacity to engage in abstract thought. This makes humans distinct from animals; we can consider the wider consequences of our actions and develop an innate moral intelligence. Nevertheless, the Torah is filled with discourse between God and mankind, through both individual and national revelation. If humans can use their intellect, via their God-given soul, to discern ethical behaviour, what role does Divine revelation play? Clearly an individual's subjective experiences and environment may deflect the needle of their moral compass towards immorality. Yet does that mean that God's purpose is limited to merely being a moral authoritarian who keeps His human subjects in check?

One of the most profound and original contributions to the subject of Jewish metaethics was made by the Talmudist and philosopher Rabbi Joseph B. Soloveitchik (d. 1993). While the nature of the God-human relationship is discussed in many of his classic books, it was one of his lesser-known works, published posthumously in 2005 – *The Emergence of Ethical Man* – which contains the most noteworthy expression of his unique perspective.

The book originated as ten handwritten notebooks bound together under the title *The Concept of Man* and refers back to the story of Bereishit, to emphasise mankind as part of a continuum of life, from plant to animal to human. This idea was first proposed centuries ago by medieval Jewish philosophers such as Rabbeinu Bachye ben Asher (d. 1340). Furthermore, a careful reading of Bereishit by the Italian commentator, Rabbi Ovadiah Seforno (d. 1550) leads him to write that “Adam” describes a type of animal which had already been established and was now being elevated by being endowed with a Divine spirit.

Yet rather than assume that Adam's soul made him a transcendent being, above nature, Rabbi Soloveitchik places mankind back on the naturalistic continuum. The ethical character of mankind emerged from entirely naturalistic beginnings, but only because of mankind's Divine soul. From here Rabbi Soloveitchik begins to address the relationship between mankind and God vis-à-vis mankind's ethical development.

He writes that the *tzelem Elokim* (the image of God) in which mankind was made (see Bereishit 1:26) “*signifies man's awareness of himself as a biological being and the state of being informed of his natural drives.*” According to Rabbi Soloveitchik's reading of the Torah, while Adam is born from naturalistic beginnings, it is only God's direct interaction with him and his descendants that allows humanity to transcend the hedonistic drives, in order to experience the moral and ethical self.

Rabbi Soloveitchik contrasts the moral consciousness of Avraham, who was able to derive Divine law and ethics from his own spiritual intuition (see Talmud Yoma 28b) and Moshe, the reluctant leader who required Divine revelation to serve as a conduit for God's message of ethical responsibility. While Avraham became the forefather of our Biblical nation, Moshe was the leader who began the chain of transmission of God's ethical and legal intent for all mankind in every generation.

Part 8: The Emergence of Ethical Man II

In the last article, we explored Rabbi Joseph B. Soloveitchik's (d. 1993) novel approach to the concept of mankind as an ethical being. One of Rabbi Soloveitchik's key points is that no person can become an objectively moral being by themselves. He writes, "As a natural being, man is arrested with concreteness, and, as such, can never reach a transcendent God. In order to reach man (i.e., revelation) God descends from transcendental infinity to concrete finitude and confines Himself to the identical area in which man was placed. Man discovers God in finitude, within man's own realm, and this discovery determines man's belonging to a determinate environment" (Emergence of Ethical Man, pp. 61-62).

In another work entitled *U'vikashtem Misham* ("And From There You Shall Seek"), Rabbi Soloveitchik adds that since God created Adam from both the natural (physical) and ethical (spiritual) worlds, every human has the capacity to make positively moral choices, thus revealing God in the natural world. However, the moral evolution of mankind cannot happen spontaneously; it requires the catalyst of each individual's desire to forge their own connection to God. In order to mitigate against competing human interests, God's Divine input is essential.

Rabbi Soloveitchik goes on to describe how Judaism provides the framework to refine and elevate all human consciousness – Jewish and non-Jewish – in every generation. In doing so, God gives mankind the creative opportunity to help transform the natural world into an ethical world. Specifically, he notes that Judaism never demanded that we disown our natural, biological origins and become ascetics. The ethical human must be connected to their natural roots, not detached from them. But nor are we permitted to indulge in a hedonistic lifestyle, as this would merely enslave us to our animalistic urges. True freedom is found in the ability to control one's carnal desires.

Yet his most important observation is that those scholars tasked with applying God's laws in each generation must engage their creative intellectual faculties, within God's pre-existing protocols. Rabbi Soloveitchik writes that: "There is no change or reform within the Halacha [Jewish law], but there is unlimited innovation (*chiddush*)." This point disarms the critics who claim that Jewish law is rigid, archaic, or obsolete. He continues, "*Those who disparage us say that the Halacha has become fossilised, God forbid, that it contains no creative activity. These people have never studied a page of the Talmud and have not partaken of the creativity and innovation in the Halacha.*"

Rabbi Soloveitchik's key point is that God always intended to make mankind partners in applying Divine law, giving mankind the opportunity to bridge the gap between the finite and the infinite. Indeed, the Talmud records that Moshe initiated three unique acts by himself to which God gave Divine approval ex post facto (Shabbat 87a). Yet when he is shown a vision of Rabbi Akiva teaching Torah hundreds of years later, Moshe struggles to understand what he is saying (Menachot 29b).

As we embark on the next part of our exploration, we will elaborate on this intersection between God's revelation through both the Written and Oral Torah, and our own moral and ethical sensitivities.

Part 9: The Written and Oral Torah I

The last article introduced the idea that God's Divine morality is not simply imposed on humanity but requires an eternal covenant and ongoing relationship between God and mankind. The next section of this series will try to analyse the nature, meaning and mechanics of that covenant.

When we refer to 'the Torah' we often mean the Five Books of Moshe. The word itself derives from the Hebrew root **ה-ר-ה**, which in this form means to guide or teach (see Vayikra 10:11). Yet the commentators write that the concept of 'the Torah' is much deeper and more complex.

We may be used to thinking that the Torah was given to the Jewish people via Moshe at Mount Sinai (see part 11 for more details on this topic). This is true, but the Torah did not originate at Mount Sinai. Rabbi Moshe Chaim Luzzatto (d. 1746) explains that the Torah is God's Divine wisdom, crystallised into a finite text. The study of Torah therefore connects mankind to God's infinite thought, for although there are a finite number of words in the written Torah, they contain an infinite depth of understanding. Therefore, Torah in its purest definition means God's wisdom. Since God is not bound by time, His wisdom is eternal and unfettered by any historical event. This is what the Talmud means when it describes how the angels were reluctant to allow the Torah to be released from Heaven and given over to mankind.

The existence of Torah in the form of God's wisdom before Mount Sinai also explains the statements of our Talmudic sages which declare that many Biblical personalities studied and kept the Torah generations before the revelation at Sinai. For example, the Torah describes God's command to Noach to bring seven pairs of animals which were "ritually clean" and just one pair of animals which were "not ritually clean" into the Ark (Bereishit 7:2). The Talmud explains that Noach studied the laws of the kashrut of animals, and that he needed more kosher animals in order to offer them to God after leaving the ark (Zevachim 116a).

The Talmud notes that Avraham himself deduced both the existence of God and the mitzvot, and kept the entire Torah (Yoma 28b). Avraham then taught Torah to his family, who also kept its laws (see Beresihit 18:19 and 26:5). This generates a number of fascinating conundrums where the actions of our forefathers appear to contradict Torah law. While a detailed resolution lies beyond the scope of this series, it shows that Avraham not only recognised the Unity of God, but that he was the progenitor and advocate of pre-Sinaitic Torah, which was Monotheistic.

More importantly, it shows that Torah is more than just the Five Books of Moshe. It is God's Divine wisdom, which defines objective human ethical behaviour, the absolute truth of which is cosmically woven into the reality of creation. The next article will explore how God's Divine universal ethics are comprehensively applicable to all mankind in all generations and how Avraham and Sarah became the first ones to disseminate it globally.

Part 10: The Written and Oral Torah II

We have previously discussed that the Torah is God's Divine wisdom, crystallised into a finite form for mankind to study and keep. In turn, studying Torah and keeping mitzvot connects each one of us to our Creator, ensuring that our actions resonate with His Divine moral vision for all humanity.

God's wisdom is not exclusively relevant to the Jewish people but contains significance and applicability to all humanity – Jews and non-Jews alike. Indeed, the Torah contains a universal educational and legal system known as the *sheva mitzvot bnei Noach*, the seven Noachide laws. These laws, which are incumbent on all of humanity, require the establishment of legal and judicial systems. Blasphemy, idolatry, murder, theft, and sexual immorality are prohibited, as well as eating a limb torn off a living animal.

Yet it was not until ten generations after Noach that the message of universal morality took hold. When Avraham departed from his homeland and left towards the Land of Cana'an, the Torah describes how he travelled with “the souls that they [Avraham and Sarah] had made in Charan.” Rashi (d. 1105) cites a Midrash, which explains that Avraham and Sarah had spread the concept of monotheism and its theology of universal Divine morality and “brought [these individuals] under the wings of the Divine Presence.”

The historical importance of the Noachide laws must not be underestimated. The great Renaissance jurists, such as Hugo Grotius (d. 1645) and John Selden (d. 1654) refer to them as the ‘law of all nations’ and ‘Natural Law.’

Today, according to a 2012 report by the Pew Research Center, entitled *The Global Religious Landscape*, the three Abrahamic faiths of Judaism, Christianity and Islam make up a total of 57.3% of the world population. However, the non-Abrahamic faiths, such as Hinduism and Buddhism, who make up a further 22.1%, appear to be excluded from this universal message.

Nonetheless, Rabbi Menashe ben Israel (d. 1657), who corresponded directly with Hugo Grotius regarding the nature of the Noachide laws, asserts that Abrahamic monotheistic ethics have become truly global. After Sarah passed away, Avraham married Ketura and had more sons (see Bereishit 25:1) who were sent away to “the east” with gifts (ibid. 25:6). Rabbi Ben Israel explains that the gifts were the gifts of knowledge and “the east” refers to India, where Avraham's sons disseminated his teachings. These teachings ultimately filtered into the Eastern religions which exist today. He notes astonishingly that the term ‘Brahman’ which in Hinduism denotes the Ultimate Reality in the universe, is related to the word ‘Abrahamim’ meaning the sons of Avraham.

Rabbi Menashe ben Israel's point is that Avraham and Sarah succeeded in globally disseminating monotheistic ethics. Although a contentious point, many argue that even Western secular law is historically rooted in Torah values. The Jewish vision of an ethical utopia is not one of conformity to Jewish law, but one where humanity recognises God and adheres to His vision of universal ethics, for the greater good of all mankind.

Part 11: The Written and Oral Torah III

So far in this series, we have established the importance of God's Divine intervention in providing an objective moral framework through which mankind can choose to become a partner with God in perfecting His Universe.

Mankind's encounter with God came through the sealing of His covenant at Mount Sinai with the giving of the Torah. When we think of God's revelation at Sinai, an event which took place 3,331 years ago, it may seem distant – perhaps more of a biblical legend than historical fact, detached from our present-day reality. Can we guarantee its authenticity? Perhaps the mists of ancient time have distorted God's intended message?

The American mathematician, engineer, and cryptographer Claude E. Shannon (d. 2001) is considered the forefather of a branch of mathematics called Information Theory, which models how information can be transferred from one place to another in the presence of interference or noise. Information Theory draws on a variety of scientific disciplines and underpins the science behind all modern telecommunications systems. But it can also be used to strengthen the claim that God's revelation at Sinai is a historical fact and that the Torah we have today is authentic.

The Divine message spoken by God and heard by every Jew (Shemot 20:15-19 and Talmud Shabbat 88b) was the initiation of the transmission of Torah by God to Moshe, who then taught Yehoshua, who in turn taught the elders, and so on until the entire people had been educated (see Pirkei Avot 1:1). In each subsequent generation, students have ultimately become teachers, children have grown up to be parents, who go on to teach their own children, and so the Torah has been transmitted by the Jewish people through time (see an article that I wrote on this: 'Parallel Thinking: Science, Torah, and Cognitive Dissonance' in *Morasha Kehillat Yaakov*, pp. 273-295).

There have been approximately 134 generations between Moshe and the present day (assuming 25 years per generation, over 3,331 years). In terms of living testimony, meaning grandparents living long enough to teach and inspire their grandchildren, this yields only 67 generational gaps (approximately) throughout the transmission process.

Family units who operate within a wider community form a tight network allowing ideas, stories, and experiences to be passed through the generations. This also provides inbuilt mechanisms to ensure the accuracy of such messages and the reliability of their transmission. While one could theoretically fabricate an individual prophetic experience, it is practically impossible to convince an entire community, let alone a nation, that they collectively experienced something that never actually happened. Just as families develop a shared history through shared experiences, which is maintained and conveyed through stories and anecdotes, the revelation at Sinai and the Torah learned forms a key part of our national history and shared national experiences.

Faith in the veracity of God's Divine message is therefore not irrational or blind. Our shared national experience is of God directly relating His Divine moral code. Our elders, who share their story with our young, bridge those generational gaps. This chain of transmission is called *mesorah*, from the Hebrew verb למסר - to pass on, and it will be the subject of the next three articles.

Part 12: The Written and Oral Torah IV

The previous article discussed the nature of God's revelation at Mount Sinai and the method by which His Divine message has been transmitted through each generation up to the present day. It is important to understand precisely what this message included.

Apart from the Ten Commandments (Shemot 20), the Torah tells us that "Chukim (statutes), Mishpatim (ordinances) and Torot (laws)" were all given by God at Mount Sinai (Vayikra 26:46). The Midrash explains that 'statues' actually refers to the midrashim – ideas related through stories, the 'ordinances' are the commandments themselves and the word Torot implies that two 'laws' were given, one written, the other oral.

The Written Torah contains references to laws that are not elucidated or explained, which implies that their details were taught orally to Moshe. The importance of this cannot be overstated. It is appropriate for a Torah scholar to derive general spiritual and ethical teachings from the Written Torah - these are called derashot, from the Hebrew word vwrđl, meaning to expound or interpret. However, deriving actual laws (halachot) from the Written Torah is entirely different. The idea that God gave Moshe the Written Torah and then allowed mankind free rein to interpret each verse as one sees fit is a fallacy that risks undermining the true message of God's wisdom.

When it comes to matters of Jewish law, it is the Oral Torah given by God to Moshe on Mount Sinai which is the foundation stone of Jewish practice. Rabbi Moshe Chaim Luzzatto (d. 1746) explains that: "It is necessary to know that the main laws involved in both the positive and the negative commandments were received from Moshe. Nevertheless, our Sages had a tradition that concepts contained in the Oral Torah are also alluded to in the Written Torah in various ways, according to various techniques known to them."

The Ramchal attests to the importance of both the Written and the Oral Torah as well as the fundamental relationship between the two. There could be aspects of the Torah which initially seem difficult to comprehend; yet when looked at together with the Oral Torah, the picture may appear different than at first glance.

The charge is often made that Torah laws given over 3,300 years ago are archaic and outdated. Some even justify this approach by applying bogus reasons to laws they view to be obsolete. They argue that since the reasons no longer apply in contemporary times, the law can be ignored. Apart from being dishonest and wrong, this simply makes no sense. God knows everything, including the future of mankind and He is eternal, unrestricted by time. Therefore, 3,300 years ago God knew precisely the kind of technological, social, and cultural norms that would exist for Jewish people today. It seems both illogical and absurd that the eternal wisdom of the eternal God should have some sort of 'use by' date.

As we continue our journey, the next article will explain why God chose to reveal His wisdom in this way.

Part 13: The Written and Oral Torah V

The last article introduced the fact that the Oral Torah was given by God to Moshe at Mount Sinai, together with part of the Written Torah. This, however, raises four interconnected questions. First, to avoid doubt, why couldn't God spell out His requirements of mankind with absolute clarity in the Written Torah itself? Second, as discussed in previous articles, if the ethical advantage of God's Divine law is that it is objective, why involve mankind at all in the development of Torah, which seemingly risks contaminating Divine objectivity with human bias? Third, if the Oral Law is Divine and is merely transmitted from teacher to student, what room is there for genuine innovation? And fourth, if God ultimately knows which choices are preferable, how can He have allowed a system which allows for *machloket* (disagreement) among the Talmudic sages and later halachic authorities?

To address the first point, every legal system needs to contain the agreed principles and method by which the law is to be interpreted and applied. Secular democracies have a system of courts known as the judiciary, which interprets and applies the law in the name of the state. When dealing with criminal law, for example, it determines the guilt or innocence of individuals who have been accused of flouting the law and administers appropriate punishments and consequences. The Written Torah also includes the concept of a judiciary, which must interpret and establish Jewish law (see Shemot 18:14-26 and Devarim 17:9-11).

This is a fundamental tenet in jurisprudence, as no legal system can a priori develop explicit laws that cover every possible scenario. General principles are therefore more powerful, as they can be applied to evolving societal and technological needs. God therefore bestowed His authority on outstanding and pious sages throughout the generations to rule on applying His laws to their context. This is stated in parashat Shofetim: "According to the teaching that they will teach you and according to the judgement that they will say to you, shall you do; you shall not deviate from the word that they will tell you, right or left" (Devarim 17:10-11 – see Rashi's commentary and Talmud Berachot 19b).

The sages' role as emissaries of God is also seen in the phraseology used for the blessings over rabbinic mitzvot, such as Chanukah candles: "Blessed are You, Lord our God, King of the Universe, Who has made us holy through His Divine commandments and commanded us to light Chanukah candles." Clearly God did not command us to light Chanukah candles, the Talmudic sages did. Yet our blessing recognises them as His ambassadors (Talmud Shabbat 22b).

Nevertheless, this authority is limited. An English court must decide if a particular law has been broken, but they do not have the power to arbitrarily abolish or suspend such a law. Similarly, the sages apply God's laws, may innovate new mitzvot in response to our collective experiences (such as Chanukah lights) or impose greater restrictions to protect Torah precepts, but they do not have the right to abolish Divine law.

Nonetheless, the Oral Law does more than merely allow halacha to be applied to contemporary times. As we shall see in the next article, the organic, evolving nature of halacha, with mankind as God's partner, allows mankind to take ownership of Jewish law with far-reaching spiritual and moral benefits.

Part 14: The Written and Oral Torah VI

The previous article noted that one of the key functions of the Oral Law is that it allows the rabbinic authorities in each generation to apply God's tenets to new circumstances, emerging technologies and evolving societal conditions. Nevertheless, one might point out that human involvement seemingly risks undermining the objectivity of Divine law. The simple answer to this is that there are many inbuilt checks and balances within the Oral Law that are designed to prevent such bias. Yet there is also a deeper purpose to God wanting to partner with mankind in deciding Jewish Law.

The Russian child psychologist Lev Vygotsky (d. 1934) identified the importance of social interaction and imaginative play as key elements in a child's cognitive development. Later the Swiss psychologist Jean Piaget (d. 1980) emphasised the importance of play as a process of experimentation which is critical for a child's cerebral growth. Counterintuitively, he stressed that the role of the teacher must be limited, so as to allow children to discover the world for themselves.

He writes: "Children should be able to do their own experimenting and their own research. Teachers, of course, can guide them by providing appropriate materials, but the essential thing is that in order for a child to understand something, he must construct it himself, he must re-invent it. Every time we teach a child something, we keep him from inventing it himself. On the other hand, that which we allow him to discover by himself will remain with him..." (Play and Development: A Symposium, Maria W. Piers p. 27). In other words, if a parent or teacher reveals to a child something they could have worked out for themselves, they have robbed that child of an educational opportunity.

King David refers to Torah as a *sha'ashua*, a "delight" or "toy" (Psalms/Tehillim 119:92) – learning Torah was never intended to be a process of merely assimilating information; it was meant to foster relationships between teachers and students, parents, and children. The pithy, terse language of the Oral Torah, such as the Talmud and Midrashim, necessitates these relationships.

Moreover, the cryptic style of the Oral Torah forces its students to use their intellectual faculties in the pursuit of understanding and knowledge. This experience of personal effort means students of Torah take ownership of the knowledge they acquire. Had the answers they sought been spoon-fed, they would not have forged their own personal connection to Torah.

Piaget's theory is also reflected by Rabbi Shlomo Kluger (d. 1869) who explained that using our imagination, hard work, and grit to understand Torah ourselves means that it penetrates into our hearts. Therefore, while the Written Torah is God's absolute word, the Oral Torah is ours to delve into for "there is no study hall without a novel teaching" (Talmud Chagigah 3a).

The next article will explore whether innovation in Torah is genuine, or whether it is an exercise in uncovering God's established laws.

Part 15: The Written and Oral Torah VII

The previous article noted that the Oral Torah requires its students to engage their social, intellectual, and imaginative faculties to acquire an understanding of Divine wisdom and discover novel ideas. On the other hand, we have also noted that the Oral Torah, which contains the basis for practical Jewish law, was given by God to Moshe at Mount Sinai. If Divine law was systematically transmitted from teacher to student, what room is there for genuine innovation?

One of the primary themes in the *magnum opus* of Rabbi Yeshayahu Horowitz (known as the Shelah d. 1630) entitled '*Shnei Luchot HaBrit*' is the unity between God, the Torah, and the human soul. He explains that since Torah is God's Divine wisdom and that every human soul emanates from God's essence (see Bereishit 2:7), it follows that the spiritual core of both mankind and the Torah are cut from the same cloth. This implies the potential for a harmonious, resonant interaction between mankind and Divine wisdom, which can be actualised through the learning of Torah. Rabbi Horowitz describes this as igniting the fire of the soul through the power of engrossing ourselves in Torah.

This explains why so many fundamental legal and theological aspects of Judaism are not made explicit by God in the Written Torah. God wanted to give every individual the transformative opportunity to partner with Him and engage their *neshamah* (soul) by learning Torah to reveal those hidden concepts through their own novel ideas.

Furthermore, he cites '*mekubalim*' or Jewish mystics, who state that there are 600,000 letters in the Torah, which reflects the 600,000 foundation souls from which the soul of every Jew originates. However, a count of the letters in the Written Torah reveals only 304,805 letters.

The Midrash describes the Torah given to Moshe as a "parchment of white fire with letters of black fire" (Devarim Rabbah 3:12). While there are only 304,805 black letters, by law each letter must be surrounded by parchment – this requirement is called *mukaf gevil*; if two letters are touching, the whole sefer Torah is invalid (Talmud Menachot 29a). This surrounding space, which the Midrash calls the 'white fire' represents the hidden aspects of Torah referred to by the Shelah. These spaces constitute the remainder of the 600,000 letters that the *mekubalim* refer to.

The Shelah therefore restricts the concept of innovation to revealing what God has hidden. Yet the implication of the Shelah is that each one of us has a unique 'letter' or aspect of Torah that only we can uncover. Without the engagement of every Jew, something is not only missing from our people, but from the Torah itself.

The next article will look more closely at rabbinic innovation and the development of *machloket* (disagreement) between the Talmudic sages and later authorities.

Part 16: The Written and Oral Torah VIII

Previous articles have noted that both the Written and Oral Torah were revealed by God to Moshe at Mount Sinai. While the Written Torah is fixed, the Oral Torah offers the opportunity for human innovation. However, these two statements seemingly conflict with one another; if the Oral Torah was revealed to Moshe at Sinai, implying that it is hermetically sealed from human interference, what room is left for innovation? Furthermore, Talmudic Sages often disagree in matters of Jewish law. How could this have happened if their role was to faithfully transmit God's Torah from generation to generation?

In his work 'People of the Book,' Israeli philosopher Moshe Halbertal summarises three positions which address these questions:

The Spanish philosopher Rabbi Avraham ibn Daud (d. 1180) states that rabbinic innovation is merely an act of uncovering the pre-existing truths of Torah, hidden by God. This is similar to the view of Rabbi Yeshayahu Horowitz (known as the Shelah HaKadosh, d. 1630) mentioned in the previous article. Yet one of the challenges to this perspective is the existence of machloket – rabbinic disagreement, which implies a breakdown in the retrieval process of this hidden Oral Torah. Indeed, this is the reason given by the Talmud for the disputes between Hillel and Shammai (Sanhedrin 88b).

Opposing this position, the Rambam (Maimonides d. 1204) states that the sages legitimately innovated novel interpretations of Torah, in addition to those given to Moshe at Sinai. Controversy only developed as a result of these new interpretations. As Halbertal puts it: *“controversy arises out of the process of derivation rather than through a crisis of transmission.”*

A third view, however, turns the issue of halachic controversy on its head. Based on the writings of the Ramban (Nachmanides d. 1270), this approach views the Talmudic Sages as the constitutive decisors of Jewish law. This means that rabbinic disagreement is merely part of the process of ascertaining what the law should be, based on the biblical dictum of majority rule (see Shemot 23:2). Ostensibly, this position may risk undermining the idea of a fundamental halachic status. Some objects have qualities which are unnegotiable, such as being kosher or not kosher. The power of the Talmudic Sages extends to being able to render something impure (tamei) as pure (*tahor*) and vice versa.

Rabbi Yair Chaim Bacharach (known as the Chavat Yair d. 1702) scrutinises each approach and exposes the tension within the fundamental principles of the transmission of Torah. We must either assert that the Oral Torah is all Divine (Rabbi ibn Daud and the Shelah HaKadosh) and exclude dissenting views from the Sinai revelation or alternatively embrace rabbinic disagreement at the cost of an absolute halachic truth, leaving us with a more open-ended Torah (in line with the Rambam and Ramban, albeit they had differing approaches).

The next two articles will further examine each side of this debate, after which we will embark on the next stage of our journey, which will look at the mechanisms of how Jewish law is decided in the modern world.

Part 17: The Written and Oral Torah IX

The previous article introduced the idea of *machloket* (rabbinic disagreement) in areas of Jewish law and presented three distinct views regarding its origin. Yet we must also address the following question: is *machloket* an aberration in the transmission process, exposing errors in the representation or dissemination of Torah? Or is it an integral part of the transmission process, which endorses original human creativity and innovation as a vital component of the Oral Torah?

Rabbi Zvi Lampel (a contemporary scholar) notes that the Torah's directive to "follow the majority" view (Shemot 23:2), implies that God had prepared mankind for the prospect of *machloket*. Yet the 8th century CE Babylonian scholar Rabbi Shimon Kiara states that a fast was instituted on the day that Beit Hillel and Beit Shammai first disagreed, something that was "as difficult for our people as the worshipping of the Golden Calf" (see *The Dynamics of Dispute* p. 183-184). While *machloket* may have been an inevitable result of involving mankind in the process of interpreting and disseminating Torah, it is not necessarily a good thing.

However, the Mishnah states that: "Any dispute for the sake of Heaven will have enduring value, but any dispute not for the sake of Heaven will not have enduring value" (*Pirkei Avot* 5:20, green siddur p. 561). This implies that, provided the argument is for the sake of Heaven, it brings lasting benefit. Furthermore, the Talmud states that the reason the halacha usually follows Beit Hillel's ruling is because they taught both their views and the dissenting views of their counterparts, Beit Shammai (*Talmud Eruvin* 13b). This seems to shine a more positive light on *machloket*.

The existence of a dispute does not compel us to proclaim that one side is right and the other is wrong. Each side may be diametrically opposed to the other, yet there could be legitimacy to both, provided that each position is reached for 'the sake of Heaven.' This does not only mean that the position must be void of vested interest or bias, but also requires that it is based on the correct methods of deriving Jewish Law from both the Written and Oral Torah.

An example of this is the Talmudic dispute over the correct way to sound the shofar between each tekiah blast on Rosh Hashanah. Some communities blew a *shevarim-teruah* note, some blew a *shevarim* note, and others a *teruah* note. Since the dispute was not resolved, the Talmudic sage Rebbe Abahu instituted the practice of including all three possibilities in our order of service (see *Talmud Rosh Hashana* 34a). Rav Hai Gaon (d. 1038) notes that the purpose of Rebbe Abahu's convention was not to merely 'cover all the bases.' On the contrary, all three ways of blowing were legitimate and based on sound Torah reasoning; the practice of including all three was for the sake of Jewish unity and to standardise our practises.

This, however, tempts us to ask a deeper question: which method of blowing the shofar did God really intend? The next article will examine the relationship between post-Sinai prophecy and Jewish law and discuss whether God intervenes to resolve disputes when they arise.

Part 18: The Written and Oral Torah X

The previous article discussed the nature of Talmudic disagreements (*machloket*) and noted that each side of a Talmudic debate expresses a legitimate Torah perspective, even though only one side will ultimately be canonised into practical Jewish Law. This idea was immortalised in the Talmud with the phrase “*eilu v’eilu divrei Elokim Chaim*” – “these and these are the words of the Living God” (Eruvin 13b).

The process by which Jewish law is crystallised from a plurality of opinions is complex. We have previously noted the dual role of God and Torah scholars in discerning Jewish law. While the Torah’s laws are immutable, God wants great Torah minds to become partners in this process. Following the revelation at Sinai and the subsequent years in which Moshe expounded the law to the people in the desert, to what extent was God willing to intervene in aiding the Jewish people to determine the correct path?

Following the passing of Moshe, the people had to adjust to the absence of that unique leader. When they asked Yehoshua (Joshua) to clarify certain laws, he responded that after Revelation and the passing of Moshe, God’s wish was for human courts to decide matters of Jewish law by majority rule (Shemot 23:2), not by revelation. The prophet Shmuel taught the people that no prophet can introduce new mitzvot, since no prophet is as great as Moshe and so post-Sinaitic prophecy cannot be used to access God’s opinion on these matters.

Similarly, the Talmudic sage Rabbi Eliezer sought to bring a variety of miraculous proofs to assert his opinion against opposing sages in a particular debate, including a voice from Heaven declaring him correct. The other sages responded to him that after the revelation at Mount Sinai, even God Himself cannot contradict the words of the sages in determining such questions (Talmud Bava Metzia 59b). While no human sage can rescind Torah law, the practical application of that law is down to leading Torah scholars.

To summarise, both the Written and Oral law originated with the revelation at Mount Sinai, although the deeper aspect of Torah as God’s Divine wisdom existed from the beginning of time. God chose mortal Torah scholars as His partners in the practical application of Jewish law for which He gave a set of rules to determine each case. While this caused *machloket* (rabbinic controversy), the system of determining practical Jewish law has a structure with which to resolve such disputes, relying on majority rule or halachic conventions in cases of doubt.

This human input and innovation is all within a tight system of principles aimed at deriving Jewish law from the Written and Oral Torah. What happens when the principles of Divine law are at odds with our own convictions and sense of right and wrong? The next part of this series will explore whether God’s ethical partnership with mankind extends as far as to allow for a concept of Jewish ethics outside of the rubric of Jewish law.

Part 19: Judaism, Democratic Law, and Autonomous Morality I

In the next part of this series, we will turn our attention to broader questions regarding the intersection, conflicts, and concordance between three key areas: (i) democratic law, (ii) Jewish law, and (iii) our own moral convictions and autonomous ethical choices.

The purpose of the law and judiciary in liberal democracies is to establish universal legal standards, maintain stability and order, resolve disputes, and protect liberties and rights. Yet while the question regarding the purpose of the law might seem straightforward, it has been the subject of debate for some time. Is the function of the law merely to avoid anarchy and disorder by imposing pragmatic rules on society, or should the law be based on ethical standards intended to promote morality among citizens?

In 1954 a committee led by British educationalist and Oxford don Sir John Wolfenden was established to determine whether secular law should prohibit individuals from engaging in behaviour which according to English law was deemed immoral. Their report published in 1957 concluded that the role of criminal law was: “*to preserve public order and decency, to protect the citizen from what is offensive and injurious, and to provide safeguards against the exploitation and corruption of others ... not to intervene in the private lives of citizens or to enforce any particular pattern of behaviour.*”

While the remit of the report was specific, its implications were far reaching, sparking one of the most famous jurisprudential debates in the 20th century, between judge and legal philosopher Lord Patrick Devlin and Professor of Jurisprudence at Oxford University, Herbert Hart. Devlin argued that both public and private behaviour deemed morally improper should be subject to legal sanction, in order to preserve the moral fabric of society. Hart based his opposing position on the work of 19th century philosopher J.S Mill, who held that the only purpose for which any authority can exercise power by restricting freedom is in a case that prevents one individual from causing harm to others. Hart therefore argued that the government is not entitled to criminalise behaviour that is deemed immoral by some in society, unless it is harmful to others.

Liberal democracies generally favour Hart’s position, which establishes a separation between the law and ethics. In wider society, democratic laws may be based on moral ideals, but the legality or illegality of an act generally says nothing about its moral value.

In contradistinction, halacha (Jewish law) is based on the Written and Oral Torah and is a manifestation of God’s infinite wisdom. The function of halacha is not merely to prevent anarchy, but to establish a system which sensitises individuals to become decent, honourable, and virtuous in their behaviour.

The Torah itself instructs us to: “do what is good and proper in the eyes of the Lord, your God” (Devarim 12:28). As we shall see in the next article, this implies that Jewish law is not limited to a morality of Divine command but urges us to grow as ethical beings beyond the realms of what is compulsory, to achieve even greater heights of moral sensitivity.

Part 20: Judaism, Democratic Law, and Autonomous Morality II

The assertion that God is perfect and represents the Ultimate Good is a fundamental premise of Jewish thought (see Rabbi Moshe Chaim Luzzatto in *Derech HaShem* 1:2:3). It therefore follows that His wisdom, as revealed through the Torah, must also be ethically flawless, complete, and all-encompassing. Does the ethical precision and completeness of the Torah preclude the existence of an ethical system outside of Jewish law?

The Torah does hint to the existence of mankind's natural moral sensitivity and conscience, known to philosophers as 'Natural Morality,' for it includes the universal, nonspecific requirement to "do what is proper and good in the eyes of God" (*Devarim* 6:18). The Ramban (Nachmanides d. 1270) explains that it is impossible for the Torah to explicitly rule on every possible scenario. Therefore, this verse requires us to employ our own ethical convictions for the general betterment of society, provided that they do not conflict with God's explicit commandments. Individuals do not have the right to abolish Divine law or overturn the legal judgments of the Talmudic sages yet must also be capable of arbitrating the ethical dilemmas they face without a specific Divine edict, provided their decision serves to achieve God's purpose for creation.

This poses a problem. The very existence of autonomous morality triggers the question of how to reconcile the subjectivity of human moral endeavours with the objectivity of Divine authority. Our moral compass is affected by a range of subjective influences, cultural experiences, and personal encounters with the outside world. Once we have satisfied the legal requirements of the Torah, if confronted with a moral choice without any specific Divine command, how can we know whether our moral instincts are motivated by a genuine desire to do what is "proper and good in the eyes of God?" We might claim to be acting in the name of God, but how can we know whether our own prejudices are not clouding our ethical perspective?

The answer in fact is hiding in plain sight. God's wisdom, which He crystallised into the Written Torah, is not merely a repository of Jewish legal instruction. The Torah begins with the creation of the world, stories of our ancestors and our journey out of Egypt to enter the Holy Land. In his introduction to the Book of *Bereishit*, Rabbi Naftali Zvi Yehuda Berlin (known as the *Netziv*, d. 1893) notes that these non-legal episodes play a crucial role in shaping our moral ethos and engendering models of proper ethical-religious behaviour. Similarly, the *Aggadic* (non-legal) parts of the Oral Torah contain insights that can shape our ethical sensitivities and ideals.

It is therefore at least theoretically possible to develop a sound moral compass through both an adherence to Jewish law and a thorough understanding of the ethical lessons found in the non-legal aspects of Torah, in order to be able to discern proper ethical practice.

The next article will continue to explore the relationship between Natural Morality and Jewish Law through the eyes of contemporary authorities.

Part 21: Judaism, Democratic Law, and Autonomous Morality III

The previous article proposed that God's ethical standards, which He crystallised into the Written and Oral Torah, do not necessarily preclude the existence of an ethical system outside the scope of Jewish law. Mankind's inherent moral conscience to do what is right is known as Natural Morality. It is therefore possible to act in a moral and proper way without having been commanded to do so. Furthermore, despite human bias and moral subjectivity, it is possible for every individual to sharpen their own moral conscience so that it resonates with God's Divine will, by studying both the legal and nonlegal sections of the Torah and learning from the actions of our ancestors.

However, modern Torah scholars have grappled with the implications of the existence of an ethical system outside of Divine law. In *Leaves of Faith II*, Rabbi Dr. Aharon Lichtenstein (d. 2015) notes that the idea that every moral dilemma can be looked up or "resolved by reference to code or canon ... is both palpably naïve and patently false" (p. 38-39). Yet if human conscience is inherently subjective, what system of ethics outside of Divine law could fill the gap? This is why other scholars, such as Rabbi Professor J. David Bleich, reject the premise of Rabbi Lichtenstein's question and assert that Jewish law constitutes the entire range of meaningful ethical values. Anything else may be permitted but is not considered a moral imperative (see *The Philosophical Quest*, p. 137- 138).

The problem with this position is, as we have demonstrated, that both the Written and Oral Torah themselves refer to an ethic which exists outside of Sinaitic law. Avraham challenged God shortly before the destruction of *Sedom* and *Amorah*, saying: "*Shall, then, the Judge of the whole earth not do justice?*" (Bereishit 18:25). Rabbi Lichtenstein notes that Avraham could not have asked this unless one assumes the existence of an unlegislated justice to which, as it were, God Himself is bound (*Leaves of Faith II*, p. 34). The Talmud also contains several debates which include the concept of acting *lifnim mishurat hadin* – beyond the letter of the law – implying moral standards expected which exceed the prescribed halachic requirements (see for example *Bava Metzia* 30b).

On the other hand, Rabbi Lichtenstein's position may imply that Divine law is incomplete, despite King David's proclamation that "the Law of God is perfect" (Tehilim 19:8). However, former Israeli cabinet minister and Rosh Yeshiva, Rabbi Yehudah Amital (d. 2010) negates this implication. In his work *Jewish Values in a Changing World* (p. 23), he warns against the view that "*allowing room for Natural Morality diminishes the importance of Torah, in that it recognises an additional source of obligation alongside the Torah. According to this view [i.e., that negates Natural Morality], there is no connection between God [as the] Creator of Man and God [as the] Giver of the Torah. [It is] as if that which God implanted in Man's heart does not belong to God.*" In other words, it makes little sense that God would create Man without an innate moral conscience.

According to Rabbi Amital, our moral conscience and natural sense of justice should not be seen as a threat to the integrity of the Torah, but in fact form an essential component of our moral and spiritual essence.

Part 22: Judaism, Democratic Law, and Autonomous Morality IV

The previous article in this series indicated that there is significant reason to acknowledge the existence of ethical behaviour which is not mandated within the Written and Oral Torah and is therefore outside of the strictly prescribed halacha. Many contemporary Jewish scholars have associated this ethic with the concept of Natural Morality, a description of the inherent common value system within the human conscience. For example, whilst murder, theft and violence are prohibited by the Torah, most people would anyway intuit the immorality of such actions.

Former Israeli cabinet minister and Rosh Yeshiva, Rabbi Yehudah Amital (d. 2010) understands mankind being made “in the image of God” (Bereshit 1:27) as God “endowing him with moral sensitivity and a conscience.” Thus far we have highlighted the subjectivity of mankind’s moral conscience but based on a variety of classic and contemporary rabbinic sources, Rabbi Amital argues persuasively that our naturally inherent and autonomous value system is an essential part of who we are and what we can – and must – become.

This requires significant consideration, for the Rambam (Maimonides d. 1204) makes it clear that following God’s revelation at Sinai and the giving of the Torah, whatever we do or refrain from doing is only because of God’s command through Moshe. One might legitimately ask therefore what purpose Natural Morality serves following the Sinai revelation. Yet while some might see Natural Morality as an unnecessary threat to the integrity of the Torah, Rabbi Amital points out that such a view seemingly detaches the “connection between God [as the] Creator of man, and God [as the] Giver of the Torah, as if that which God implanted in man’s heart does not belong to God” (Jewish Values in a Changing World, p. 23).

The Rambam himself cautions against those who seek to stifle their own intellect in the service of God. He writes that some would prefer that Divine law should have no rational explanation, lest it imply the existence of a human component in Divine wisdom. In fact, Rabbi Amital cites Rabbi Avraham Yitzchak HaKohen Kook (d. 1935), the first Ashkenazi Chief Rabbi of Mandatory Palestine, who maintains that there is a critical relationship between autonomous morality and yirat Shamayim – awe of Heaven. He goes on to say that the self-suppression of one’s own natural morality not only fails to strengthen a personal connection to God, but it also actively defiles it (Orot HaKodesh 3:11).

As mentioned earlier in this series, a variety of Jewish philosophers identify the neshamah (soul) as the basis for human intellect, emotional intelligence, and moral sensitivities. Our soul in turn is rooted in God’s essence and so our awe of God is incomplete without the engagement of our own moral faculties.

What are we then to do, when we sense a dissonance between our natural sense of right and wrong, and that which God has explicitly commanded? Having laid the groundwork, we are now ready to shift focus and begin to discuss how our sages and commentators have grappled with questions such as capital punishment, slavery, and the command to wipe out the nation of Amalek, as detailed in today’s maftir reading.

Part 23: Ethical issues in Tanach – The Akeidah I

This section of our series on ethics aims to explore the events and laws in the Torah which seem to conflict with our own default moral assumptions. This is certainly not an exhaustive study but will focus on questions that are commonly asked.

The story of *Akeidat Yitzchak* (the Binding of Isaac) is one of the most perplexing episodes in the Torah. God commanded Avraham to take his son Yitzchak, travel to Mount Moriah and offer Yitzchak as a sacrifice. Just as Avraham is about to kill his son, an angel calls out to stop him, explaining that God now knows that Avraham truly fears Him. Looking up, Avraham then sees a ram caught in the thicket and offers it to God in Yitzchak's place (Bereishit chapter 21).

There are so many questions regarding this episode and, unsurprisingly, much ink has been spilled expounding and explaining its details, by both Jewish and non-Jewish scholars. But for all these explanations, God's command appears to go against the most natural, self-evident moral truth. Why would the 'True Judge' and moral lawgiver demand such an act and then withdraw the command at the last moment?

The Danish philosopher Søren Kierkegaard (d. 1855) explains in his book *Fear and Trembling* that Avraham epitomised the 'knight of faith' – the man who subjugated his moral conscience in light of Divine command, however immoral it might have appeared. The message of the Akeidah, according to Kierkegaard, is therefore that faith means submitting to God's will by subduing our natural sense of morality as the ultimate act in the service of God.

Yet this is not the Jewish view. Kierkegaard's explanation ignores the authenticity of natural morality discussed in last week's article and fails to deal with the difficulty of understanding the command itself. Not only did Avraham and Sarah have to wait until the twilight years of their lives for a child, but God had also promised Avraham and Sarah that their progeny would be built through Yitzchak (ibid. 21:12). God's own covenant and every hope for the future was wrapped up in Yitzchak; how then could God appear to renege on His word?

Unlike Kierkegaard, the Talmudist and philosopher Rabbi Joseph Soloveitchik (d. 1993) proposes that Avraham did not surrender his natural moral conscience. Rather, he had complete faith and trust in God who is moral, that any command He gives is also moral. He could not have understood how this was the case and how things would turn out, but it is clear that Avraham's trust in God was vindicated. His faith was not in the suppression of his conscience, but in resisting the temptation to use his intellect to rationalise God's command; instead, he accepted that God must know best (Abraham's Journey pp. 189 -190).

This also answers our previous question, for God's command had to be an act so seemingly immoral, that it would eliminate every possibility of Avraham employing logic, reason or natural moral arguments before complying. Unlike Adam and Chavah (Eve) who disobeyed God and surrendered to reason, Avraham willingly submitted to what seemed to be totally illogical. Looked at in this light, the Akeidah teaches us to live with questions. We will continue to draw out important moral lessons from it in the next part.

Part 24: Ethical issues in Tanach – The Akeidah II

The previous article began to discuss the moral and ethical issues related to the story of *Akeidat Yitzchak* (the Binding of Isaac). Having assured Avraham that his progeny would continue through Yitzchak, God's command to Avraham to offer Yitzchak up as a sacrifice seemed to defy logic. The fact that Avraham agreed without question, only for God to intervene at the last moment, seems at odds with God as the epitome of absolute morality, and of Avraham as the epitome of a loving father.

Rabbi Joseph Soloveitchik (d. 1993) notes in his famous work 'The Lonely Man of Faith' that: "*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.*" In other words, it was the very fact that God's command made no sense that made this Avraham's greatest test.

We often find ourselves trying to understand the reasons behind God's commandments. Often when a child is asked to do something, they want to know "why?": "Why do I have to go to school?" "Why do I have to wear my coat?" "Why can't I stay up and play?" Children may well view their parents' rules and commands as absurd or unjust. No child, or adult for that matter, wants to feel controlled, or that their freedom is curtailed, and autonomy denied. Yet parents know precisely why their children need to go to school (in order to learn), wear their coat (lest they feel cold) or go to bed (because they will be tired and cranky otherwise). But the child genuinely believes they know best.

However, as children mature, they begin to understand the purpose and intentions behind their parents' demands. This is analogous to the relationship we have with God, our Divine Parent. As God's children (see Devarim 14:1), our spiritual maturity requires us to develop a desire to want to perform God's mitzvot (commandments) even though we cannot always understand the reasons behind them, even when we consider them to be unfair or unjust.

The Mishnah states that in total Avraham faced ten tests, including leaving his homeland, circumcision and the Akeidah (Pirkei Avot 5:3). Israeli engineer and author, Rabbi Mois Navon explains that: "*These experiences provided Avraham with the grist to grind out his faith – learning to accept the absurd – step by step*" (Hakirah, the Flatbush Journal of Jewish Law and Thought 17, p.244).

Returning to Rabbi Soloveitchik's point, faith doesn't mean suspending reason and submitting to God. Rather, Avraham had complete faith and trust in God who is moral, that any command He gives is also moral. He could not have understood how this was the case and how things would turn out, but it's clear that Avraham's trust in God was vindicated. His faith was not in the suppression of his conscience, but in resisting the temptation to use his intellect to rationalise God's command; instead, he accepted that God must know best (Abraham's Journey pp. 189 - 190).

Our life mission is to develop a mature awareness and relationship with God and nurture our faith through our own tests and challenges. In the next part we will focus on the deeper meaning and purpose of Brit Milah (circumcision) and how this particular test formed Avraham's covenant with God.

Part 25: Ethical issues in Tanach – Circumcision

Throughout Jewish history, empires and governments have questioned the practice of brit milah (circumcision). The Hellenist King Antiochus (d. 164 BCE) explicitly banned brit milah during the period of the Maccabee revolt. Later, the Roman Emperor Hadrian (d. 138 CE) proscribed it during the Roman exile. More recently, legal threats have been made to religious circumcision in many countries. MilahUK (www.milahuk.org) has worked tirelessly to defend brit milah in the face of attacks from a variety of sources.

Our study focuses on the deeper meaning behind brit milah. Why did God choose this act in particular to form His covenant with Avraham, and why does it only apply to boys, not girls?

The last two articles discussed how the tests that Avraham endured and passed all involved accepting God's demands even though, at least to human logic and conscience, they appeared immoral. In the words of Israeli engineer and author, Rabbi Mois Navon: "*He [Avraham] was told to go to a new land but then forced to leave it; he was told he would have children but then found his wife to be barren. Despite this and more, he persevered in his mission, both out of a sense of purposive commitment to an invaluable lifework and out of an unshakeable belief in the God who chose him*" (Hakirah: the Flatbush Journal of Jewish Law and Thought Volume 17 p. 244).

Similarly, Rabbi David Kimche (known as the Radak, d. 1235) notes the illogical nature of God pledging to Avraham that he would become the "father of many nations" (Bereishit 17:4) and then commanding him that the covenant would be fulfilled through brit milah, which seemingly weakens the very part of himself that was essential in actualising this promise.

Yet perhaps this is the very paradigm of our people, whose continuity throughout the generations in the face of horrific adversity is seemingly illogical. Given the bitter exiles, anti-Semitic persecutions, physical violence, and spiritual assaults we have suffered, by all logic our people should not exist. Yet God's promise that the Jewish people will endure still holds true (see Yirmiyahu 46:28 and Chiddushei HaGriz 209).

Nonetheless, every child needs both a father and a mother, so why did God only require Avraham, and subsequently all Jewish boys, to make an active commitment to His covenant?

Even though both men and women are vital for producing a child, only men are specifically obligated to fulfil the commandment to 'be fruitful and multiply.' Rabbi Meir Simcha of Dvinsk (known as the Meshech Chochma, d. 1926) explains that women are exempt from the commandment to procreate, because unlike men, women endure great discomfort during pregnancy and pain during childbirth. God would not demand something which is physically painful, as this would violate the concept of *derache'a darchei noam*, meaning "the Torah's paths are paths of pleasantness" (Mishlei 3:17). Consequently, since only Avraham was obligated to have children, only he and all Jewish males after him must perform a specific act to enter God's covenant.

Nevertheless, brit milah represents not only Avraham's covenant with God, but our endurance as a people for all eternity.

Part 26: Ethical issues in Tanach – Slavery I

The very mention of slavery conjures up tragic images of dehumanisation, exploitation, and abuse. The idea of owning another person reviles us, and for good reason. In many parts of the world, traditional slavery sadly continues to exist. Although slavery has been illegal in the UK since 1807, modern slavery is a growing problem, with impoverished workers, often from Eastern European or Asian countries, brought to the UK with the promise of work. Their new employers then take their passports away, in order to trap them with fabricated debts and the fear of repercussions if they try to escape.

Tragically, many of these people do not even realise they are victims, as the pitiful pay they receive and the appalling conditions in which they are kept are often similar to what they experienced back home. It is a growing and lucrative form of organised crime. Whereas a slave in the 19th Century American mid-South would have cost around £30,000 in today's money, modern criminal gangs can acquire a slave for the price of a cheap plane ticket.

Despite our moral aversion to such practises, the Torah at least appears to permit something which may at first seem akin to slavery. Many note that such arrangements were an essential part of ancient farming economies. Even in contemporary times, it is a sobering thought that much of the wealth and infrastructure of modern Western countries was built on exploitation of others. Yet surely the end cannot justify the means? Although the Torah describes at length the suffering and anguish of the enslaved Israelites in Egypt, the first laws given after the redemption from Egypt and the giving of the Torah openly discuss the regulations of keeping a servant (Shemot 21:1-11).

The resolution to this conundrum requires understanding the nature of servitude sanctioned by the Torah and the laws which detail the responsibilities towards the worker. Given that exploitative slavery was widespread in Biblical times, the fact that the Torah established legal conditions to ownership was itself revolutionary. Both the Written and Oral Torah deal extensively with the laws pertaining to the master, which include a variety of laws to protect the worker from exploitation.

These include, but are not limited to, fixed financial repercussions if the servant is physically harmed and the servant may not be given unfair or demeaning labour. In addition, the master must provide food and lodgings equal to his own, offer daily breaks and is forbidden to work the servant on Shabbat. There are in fact so many responsibilities placed on the master that the Talmud comments that: *“Anyone who acquires a servant, acquires a master over himself”* (Kiddushin 20b).

In fact, what the Torah and subsequent halachic texts appear to describe is more akin to indentured servitude, the act of contracting servants to work in order to pay off a debt, but who retain their rights and dignity through rigorous legislation.

Yet despite what appear to be the first employment laws, perhaps the very notion of owning another person seems at odds with the concept of God creating all human beings equally in the Divine image (Bereishit 1:27). The next article will look at why the Torah allowed such an arrangement in the first place.

Part 27: Ethical Issues in Tanach – Slavery II

It is hard to imagine the extent to which one individual can manipulate and mistreat another human being to gain power and control over them. Slavery was the world's first global industry. One could argue that much of the wealth, infrastructure and success enjoyed by Western liberal democracies over the last few hundred years was built on the back of exploiting others.

While the transatlantic slave trade was established in the mid-17th century, slavery had been widespread in many cultures for thousands of years. It was only in 1807 that the British government passed an Act of Parliament abolishing the slave trade throughout the British Empire. Yet just one year later, in 1808, an English Bible was published in London for “The Use of the Negro Slaves,” highlighting themes of submission while omitting any parts that referenced freedom, including the entire Exodus story. Slavery continued in the British colonies until its final abolition in 1838.

The previous article discussed the nature of “slavery” sanctioned by the Torah, much more akin to indentured servitude, and highlighted the many laws in the Written and Oral Torah which both protected the basic rights of the servant and promoted their well-being and general welfare.

The servitude sanctioned by the Torah was certainly revolutionary in Biblical times. Yet Rabbi Dr. Nachum Rabinovitch, Rosh Yeshiva of Yeshivat Birkat Moshe in Ma’ale Adumim, believes that it should not be considered morally ideal. His argument hinges on the fact that, as humanity has developed and matured, our moral sensitivities have become more compassionate towards individual freedoms. This moral progression is evident in many parts of the world, especially the West. Rabbi Rabinovitch sees it as part of the Torah’s true intention for mankind, stating that: “the abolition of slavery is simply a partial realisation of the exalted ideals taught by the Torah” (Edah Journal 3:1 p. 12).

In other words, while the Torah may have sanctioned servitude under strict conditions which protected the rights of every servant, God’s ultimate objective was to wean mankind off the need to own other people in order to do their work for them.

Although in contemporary times we cannot permit something the Torah has already forbidden, we are not only allowed, but compelled, to distance ourselves from practises sanctioned by the Torah that were revolutionary in their time but are no longer acceptable. There are many similar examples of practises that the Torah permitted which are either no longer practised, or which have subsequently become forbidden by force of rabbinic law.

Other morally debatable acts, such as capital punishment, are routinely practised today. Given that 31 states, the Federal Government, the U.S. military, and many non-Western countries execute criminals, the fact that the Torah sanctions capital punishment may not seem especially outrageous. While punishment for capital crimes such as murder are consistent with some Western practices, the Torah includes other seemingly minor practices. The next article will scrutinise these cases.

Part 28: Ethical Issues in Tanach – Capital Punishment

The Torah mandates capital punishment for a variety of immoral acts, including murder (Bereishit 9:6); kidnapping (Shemot 21:16); adultery (Shemot 20:12); rape (Devarim 22:22-27); idolatry (Devarim 13:6) and blasphemy (Vayikra 24:16). What might lie behind the Torah's prescription of capital punishment for such sins?

When God warned Adam and Chavah (Eve) about refraining from eating the fruit of the tree of knowledge of good and evil, He warned them that on the day they eat of it, "you shall surely die" (Bereishit 1:17). However, after both Adam and Chavah ate from the tree, they did not die immediately. So, what did God mean? Rabbeinu Bachya ben Asher (d. 1340) explains that God never meant that Adam and Chavah would die immediately after eating from the tree, but rather that they would become mortal and cause death to come to the world. Before this grave error, they could have lived eternally in the paradise of the Garden of Eden; now they had to be expelled (Bereishit 3:22-24). According to this, mortality is the price that was paid for sin.

Moreover, the Rambam (Maimonides 1135- 1202) writes that for some sins, death itself is part of the repentance process required. According to this view, capital punishment in Jewish law is therefore not so much about punishing the perpetrator, but rather about accelerating their journey towards atonement.

This explains another anomaly regarding capital crimes. The laws of accepting testimony for capital cases are extremely complex and the standards of proof so high, that it was rarely possible for a Jewish court of law to execute anyone. Although the Torah does record two such cases (see Bemidbar 15:32-36, Vayikra 24:10-12), the Mishnah (Makkot 1:10) indicates that it was so rare for a Jewish court to carry out capital punishment that Rabbi Akiva described a court that did so once every 70 years as being 'bloodthirsty.' While the Torah prescribes capital punishment for particular crimes, it was rarely carried out and was seemingly discouraged. If so, why was capital punishment associated with the transgression in the first place, if practically it was nearly impossible to carry out?

The physicist and philosopher, Rabbi Aryeh Kaplan (1934-1983) noted that: "these punishments were almost never invoked, and existed mainly as a deterrent and to indicate the seriousness of the sins for which they were prescribed. The rules of evidence and other safeguards that the Torah provides to protect the accused made it all but impossible to actually invoke these penalties." He adds that: "the system of judicial punishments could become brutal and barbaric unless administered in an atmosphere of the highest morality and piety. When these standards declined among the Jewish people, the Sanhedrin... voluntarily abolished this system of penalties" (Handbook of Jewish Thought, Volume II, pp. 170-71). As such, the capital punishments of the Torah served primarily as a deterrent to teach us the severity of certain crimes.

The next article will examine the treatment of animals, especially relating to the requirement for animal offerings.

Part 29: Ethical Issues in Tanach – Vegetarianism

Animal welfare has always been important in Jewish law. The Torah commands us to help take the weight off of a donkey that has collapsed under its load, even if the owner of the donkey is our adversary (Shemot 23:5). When God states that “I will give grass in your field for your livestock, and you will eat and be satiated” (Devarim 11:15), the Talmud notes the order of the verse. Since “the grass in your field for your livestock” precedes “and you will eat and be satiated,” this teaches that we must feed our animals before feeding ourselves (Gittin 62a). In Psalms we read that God has compassion over all of His creatures (Tehilim 145:9) and so, *imitatio Dei*, we strive to do the same.

The Israeli scholar and commentator Nechama Leibowitz (d. 1997) quotes Rabbi Moshe David Cassuto (d. 1951) who states that when God told Adam that He had given him vegetation to eat (Bereishit 1:29), it implied that animals must be used only for work, not for consumption. Meat only became permitted after the Flood (see Bereishit 9:3) as a concession, conditional on the removal of blood from the meat, as elsewhere (Vayikra 17:11) the Torah states that the “soul of the animal is in the blood” (Studies in Bereishit pp. 76-77). Animal welfare still remains a critical principle, as implied in the laws of shechita (see Dr. Stuart Rosen, Physiological insights into Shechita, *The Veterinary Record*, 154(24):759- 65).

Yet Nechama Leibowitz also notes that Rabbi Avraham Yitzchak HaKohen Kook (d. 1935) went further and saw the initial prohibition of eating meat as the ethical ideal for mankind. Rabbi Kook describes the permissibility of meat following the moral and spiritual decline of the generation of the flood as: “*a temporary dispensation (lit. tax) that will pass before a brighter era*” (Tallelei Orot 8). According to Rabbi Kook, meat is permitted but vegetarianism is the ethical ideal.

Nevertheless, eating meat is considered an important part of Jewish tradition and practice; the Talmud states that: “Joy only comes through eating meat and drinking wine” (Pesachim 109a). This clearly cannot be true for someone who finds the consumption of meat abhorrent, for eating it would not bring joy. However, given the special simcha (joy) and oneg (delight) we aim to experience on Shabbat and Yom Tov (see Yeshaya 58:13), according to some rabbinic opinions one who does eat meat should certainly do so on these special days. Indeed, for meat-eaters, refraining from eating meat is considered a sign of mourning (see Shulchan Aruch YD 341:1).

This being said, while we are permitted to eat meat the Torah contains vast sections detailing the commandments to bring animal offerings in the Temple. To our modern mind, offering animals in the Temple may seem like a very alien idea.

The next article will draw our attention to the profound psycho-spiritual explanations of the biblical offerings and how they actually relate to us today, even though the Temple was destroyed almost 2,000 years ago.

Part 30: Ethical Issues in Tanach – Animal Sacrifices

A large part of the Torah is dedicated to describing the many details relating to animal offerings brought in the Mishkan (Tabernacle), and later the Temple in Jerusalem, such as those which are to atone for sins and to repair the relationship between mankind and God. The 18th century Turkish rabbi, Chacham Yitzchak ben Moshe Magriso (known as the Meam Loez) notes that the primary reasons for animal offerings are impossible for us to fully comprehend. However, he offers explanations which relate to the psycho-spiritual reality of sin and the atonement process in Judaism, which help provide context to the sacrificial services.

God, who lacks nothing, does not need our offerings; therefore, whatever He asks of us must always be for our own sake and not for His. In reference to God saying during the creation of mankind “let us make man in our likeness and our image” (Bereishit 1:26), the Ramban (known as Nachmanides, 1194-1270) explains that ‘likeness’ and ‘image’ refer to the two elements of mankind’s essence; heaven and earth – spiritual and physical respectively.

The physical part of us (our body) is similar to that of other creatures and generates similar animalistic drives within us, such as to eat and drink, to reproduce and to protect ourselves and our offspring.

The spiritual element, however, is something unique to mankind. Our God-given soul equips us with higher executive functions, which we can employ to moderate our behaviour and subdue our physical urges. Sin can be generalised as a failure of our spiritual essence (our soul) to be in control of our more animalistic desires (our body). These two elements are known as the yetzer hatov, the inclination to act in a moral way in line with God’s will and the yetzer hara, the inclination to be self-serving (see Mishnah Berachot 9:5).

The Meam Loez explains that offering an animal arouses a person’s heart to recognise how lowly the body can be. The nature of the physical world is that nothing lasts forever; the pleasure or benefit gained from sin is only ever a fleeting indulgence of instant gratification which is nothing in comparison to the performance of a mitzvah, for which the reward is infinite. As the sinner witnesses the animal being taken for slaughter, they are forced to confront the fact that this offering represents their own inner animalistic urges, which should have been channelled towards God. This is how the offering serves to inspire teshuvah (repentance), drawing us closer to the Almighty. The Hebrew for offerings is korbanot (קרבנות) from the Hebrew verb lakerev (לקרב), which means to draw near.

Since the destruction of the Temple in 70 CE, we are no longer able to offer animals in the Temple. However, the prophet Hoshea entreats us to repent and “offer the words of our lips instead of calves” (Hosea 14:3). In this sense, our prayers have replaced the sacrifices of old, but have retained many references to the Temple services.

Part 31: Ethical Issues in Tanach – War

War is horrific. In a 2003 New York Times article, journalist Chris Hedges estimated that only 268 (8%) of the past 3,400 years of human history have been peaceful, with wars claiming the lives of at least 108 million people in the 20th century alone – equivalent to almost 300 people per day. Whilst once seen as glorious and patriotic, today most people question the cost suffered and harm inflicted by human conflict.

The advent and cultivation of international law and global conventions, together with institutions such as the United Nations, are at least an attempt to foster a spirit of reconciliation, sanction belligerent nations and forge a brighter, more peaceful future, even if this is not always successful. Whilst there may be an ethical case for war in order to depose tyrannical dictators and protect innocent people from harm, it is increasingly difficult to marshal public support for such campaigns.

The utopian vision of world peace and universal brotherhood was first articulated by our prophets, such as Yeshaya (Isaiah), who describes how in Messianic times the nations “shall beat their swords into ploughshares, and their spears into pruning hooks; one nation will not raise up sword against another, and they will no longer study war” (Yeshaya 2:4) and that “a wolf shall live with a lamb, and a leopard shall lie with a kid” (ibid. 11:6).

Yet the Torah and Books of the Prophets contain many stories of the Jewish nation waging Divinely sanctioned wars against their enemies. Of course, there is a strong halachic and moral case for defensive wars and even defensive pre-emptive strikes are considered “not only legitimate but mandatory” (see Rabbi Professor J David Bleich, Contemporary Halakhic Problems Volume 3 Chapter 11).

It must also be noted that Talmudic law constrains the decision-making powers necessary for military action to be taken, in order to prevent a hawkish or bellicose monarch committing to war of his own volition. Before going to war, the king must receive approval from the 71 sages of the highest Jewish legal court, known as the Sanhedrin (Talmud Sanhedrin 2a). The Kohen Gadol (High Priest) must also seek Divine approval via the *urim v'Tumim* contained in his breastplate (Shemot 28:30).

In addition, halacha imposes strict rules of engagement. The Torah explicitly states that before engaging in battle, the enemy should be offered the opportunity to make a peaceful settlement or flee (Devarim 20:10). When besieging a city, it is forbidden to surround it on all four sides, in order to allow the enemy the chance to escape (Bemidbar 31:7).

On the one hand we see the Torah’s reluctance for Israel to fight wars. On the other hand, God does command the Jewish people to wage war against the seven Canaanite nations in order to capture the Promised Land and bring it under Jewish control. We are also commanded to eradicate the tribe of Amalek including men, women, and children. The next article will discuss the reasons for this.

Part 32: Ethical Issues in Tanach – The Seven Canaanite Nations

Despite the inevitable devastation, it is sometimes possible to posit halachic and moral justification for going to war to defend one's country, people, and interests. Both the right to go to war (*jus ad bellum*) and the correct conduct in war (*jus in bello*) can protect governments and armies from accusations of immoral military action. Nor is the resolution to wage war confined to one's own self-defence. Stating that their reasons and methods are ethically justifiable, Western governments have often considered it a moral duty to intervene with military action to save the oppressed from the oppressor and rescue innocents from tyrannical regimes.

Yet intervention is sometimes akin to the darker side of imperialism and colonialism. The governmental policy of extending a country's power, influence and wealth through the appropriation, colonisation and cultural subjugation of another land and its aboriginal people by use of military force, is rightly identified in contemporary times as a strategy of moral turpitude.

Some might therefore find it surprising to note that God commanded the Israelites to wage war with the seven Canaanite nations in order to eradicate them and appropriate their land (Devarim 7:1). The majority of the Book of Yehoshua (Joshua) details the various campaigns against these nations, including the famous story of the siege and ultimate destruction of Jericho (see chapter 6).

However, it is crucial to draw a distinction between this command and contemporary western imperialism, through understanding God's motive for destroying these nations. The objective was not the physical annihilation of these peoples, but rather the destruction of their idolatrous practices. God swore to Avraham that the Land of Israel would belong to his descendants (Bereishit 15:18), in order to eliminate idolatrous practice from the world (Shemot 34:10-17).

This was morally significant, for idolatry is mankind's attributing of Divine authority and influence to something other than God. Apart from being wrong, it distracts humanity from recognising God's moral perfection and His universal system of ethical laws for both Jews and non-Jews alike. This wreaks enormous damage, for it obfuscates God's plan to engage and enfranchise all of mankind to become partners with Him in the mission to perfect the world through His ethical system. We also recall that the kind of idolatry that existed in Biblical times was not merely theologically different to monotheism, but contained the most barbaric and savage practices, such as child sacrifice to the Canaanite god Molech, mentioned no less than five times in the Torah (Vayikra 18:21 and 20:2-5).

This is why the Rambam (Maimonides 1138- 1204) highlights that it was incumbent upon Yehoshua's armies to first offer the Canaanites peace by adopting the seven Noachide laws (see Yehoshua 11:19-20). These laws form the basis of natural ethics for all mankind (see part 10 of this series). If the Canaanite nations would have accepted, they would have joined the Israelites as partners in God's plan.

We still need to examine the commandment to eradicate the nation of Amalek, including men, women, children, and livestock (see Shmuel I 15:14). The next two articles will discuss the roots of this mitzvah and the ethical issues at hand.

Part 33(a): Ethical Issues in Tanach – Amalek I

The previous article discussed eradicating the barbaric practices of the idolatrous Canaanite nations by waging war against them. Eliminating these brutal rituals, such as child sacrifice, was a moral imperative. The campaign included offering peace, contingent upon the Canaanites adopting the universal morals of the seven Noachide laws. This was in stark contrast to the commandment to annihilate the nation of Amalek by killing every man, woman, and child (see the Book of Shmuel I 15:3). How are we to understand this mitzvah?

Amalek was a grandson of Esav (Bereishit 36:12) and the nation which he spawned was infused with the hatred that Esav had harboured towards his brother Yaakov after their father had granted Yaakov the birthright blessing (Bereishit 27). Despite an apparent rapprochement between the two brothers (Bereishit 33), this hatred continued throughout the generations, culminating in the Amalekites launching brutal attacks against the fledgling Israelite nation (Shemot 17:8-16, Bemidbar 14:45 and Devarim 25:17-19). God therefore commanded that we “erase the memory of Amalek and wage war against them from generation to generation.” Rashi (1040- 1105) notes that while Amalek lost the initial battle, their actions paved the way for other nations to attack, and so they must be annihilated.

It is therefore clear that the nation of Amalek is the archetypal enemy of the Jewish people, tantamount to the embodiment of anti-Semitism. But how does that justify killing even Amalekite children? There are numerous approaches to this question; the most cogent argument expresses a utilitarian motive. Given that the Israelite nation was as yet stateless, there was no gain or practical reason for Amalek to attack them. Unlike other barbaric nations, the Amalekite motive was purely an evil act of hatred. Rabbi Yitzchak Abarbanel (1437- 1508) explains that their annihilation would serve as a deterrent to other nations.

Similarly, the Ramban (Nachmanides d. 1194- 1270) writes that Amalek is intrinsically evil, as proven in the story of Shaul’s misplaced clemency on Agag, the Amalekite king (Shmuel I 15:9). Before Shmuel eventually executed him, Agag fathered a child who perpetuated the Amalekite nation (Talmud Megillah 13a) yielding the wicked Haman (Megillat Esther 3:1).

Does ‘the end justify the means?’ Rabbi Yaakov Medan (of Yeshivat Har Etzion) argues that the command to kill every “man and woman, infant and suckling” (Shmuel I 15:3) does not inevitably demand genocide. Instead, Shmuel’s command meant that when waging war, a Jewish army may have to be uncompromising in their efforts to remove this destructive evil from the world. In modern terms, despite causing as many as 135,000 violent civilian deaths, the controversial bombing of Dresden during World War II was justified by the 1953 United States Air Force report because it eliminated the Nazis’ ability to reinforce a counterattack against the advancing Russian army. Even the most precise modern firepower cannot entirely mitigate against innocent casualties, even when clearly and correctly attempting to do so.

The next article will discuss whether the commandment to destroy Amalek applies in modern times and if so, what it means today.

Part 33(b): Ethical Issues in Tanach – Amalek II

The previous article analysed the ethical issues relating to God's command to wipe out the nation of Amalek (Devarim 25:19). While in biblical times this related to ensuring the destruction of the most evil nation in the world despite the inevitable loss of civilian life, God indicates that the command to annihilate Amalek is an ongoing struggle 'from generation to generation' (Shemot 17:16) and must therefore apply even today.

This is hard to understand, especially since the military campaigns of the Assyrian king Sancherev during the 7th century BCE, assimilated and mixed up the identity of many of the nations mentioned in Tanach. It is therefore impossible to know who the true descendants of the Canaanites or the Amalekites are today (Yeshaya 10:13, Brachot 28a and Sefer HaChinuch 425).

Rabbi Moses Isserles (d. 1572) notes that children had the custom of drawing images or writing Haman on wood and stones and then banging them together to symbolically erase the name of Haman on Purim (Orach Chaim 690:17). This appears to be the origin of making noise when Haman is mentioned during the Megillah reading. Rabbi Joseph B. Soloveitchik (d. 1993) broadens the commandment to destroy Amalek to include any nation in any generation that seeks to destroy the Jewish people (Theological and Halakhic Reflections on the Holocaust pp. 51-117). Indeed, post-biblical empires such as Rome have often been related to Amalek.

The Gemara identifies a nation called *Germamia* whose people are descendants of Edom, another name for Eisav (Bereishit 36:1) the grandfather of Amalek (ibid. 12), who would 'destroy the entire world if given the chance' (Megillah 6b). Both Rabbi Yaakov Emden (d. 1776) and the Vilna Gaon (d. 1797) associate *Germamia* with Germany. Based on this tradition, when Kaiser Wilhelm II visited Jerusalem in 1898, Rabbi Yosef Chaim Sonnenfeld (d. 1932) the leader of Ashkenazic Jewry in Palestine at that time, refused to greet him.

However, Rabbi Dr. Norman Lamm notes that it is both immoral and impractical to apply the biblical command to destroy Amalek to every member of every nation or people who have ever threatened our existence (Faith and Doubt, p. 334-343). Think of the many righteous gentiles who saved countless Jews from our enemies who were also part of those evil nations. There is also the possibility of Teshuvah. Rabbi Yosef Karo (d. 1575) states that if either the Canaanites or Amalekites had agreed to make peace and adopt the seven Noachide Laws, they would no longer be considered miscreants (Kesef Mishnah Laws of Kings 6:4). The Gemara in fact states that the descendants of Haman the Amalekite taught Torah in Bnei Brak (Gittin 57b).

To many contemporary Jewish thinkers Amalek represents more than just a race or nation. Rabbi Tzvi Elimelech Shapira of Dinov (d. 1841) associates the essence of Amalek with that of the spiritual impurity, temptation to sin and self-doubt (Bnei Yissaschar 3:6). In this sense, the post-biblical command to annihilate Amalek is a struggle against the moral and spiritual threats, both on a personal and national level.

The next section of our series will examine contemporary Jewish ethics in the areas of business, medicine, and emerging technologies.

Part 34: Business Ethics I – Competition

The next section of this series will aim to highlight the Torah's perspective on a variety of moral and ethical issues, firstly in the worlds of business, then medicine and lastly the emerging technologies which utilise artificial intelligence. Whilst each area requires more significant discussion, these articles will at least give a snapshot of the ethical intersections and conflicts between the secular 'law of the land' and halacha. We shall begin with the concept of competition and trade restriction in business.

Competition in business means that different businesses work independently to attract the business of a potential customer by tendering the most favourable offer. The Scottish economist and father of modern capitalism, Adam Smith (1723-1790) asserted in 1776 that: "*the rivalry of competitors, who are all endeavouring to jostle one another out of employment, obliges every man to endeavour to execute his work with a certain degree of exactness...Rivalship and emulation render excellency, even in mean professions, an object of ambition, and frequently occasion the very greatest exertions*" (The Wealth of Nations pp. 341-342).

Many countries have laws which encourage competition and prohibit harmful or unfair actions, such as price fixing and aggressive or abusive marketing tactics. The laws also supervise the mergers and acquisitions of very large corporations, which could be unfavourable for the consumer.

From a Jewish perspective, competition is certainly encouraged for all the same reasons that Smith elucidated. However, there is a caveat: forbidding ruinous competition that could undermine the livelihood of others. This is derived from the Torah prohibition of moving a boundary marker, known in Hebrew as *hasagat gevul* (Devarim 19:14).

The Talmud discusses a case of someone setting up a new mill near to an established mill which is positioned at the end of a cul-de-sac. Since the new mill would be positioned at the beginning of the cul-de-sac, potential customers would be forced to pass it, meaning that the original mill would remain unnoticed, thus ruining the owner's livelihood (Bava Batra 21b).

Rabbi Eliezer ben Yoel HaLevi (d. 1140-1225) rules that, in this case, the owner of the new mill has an unfair advantage. Based on this, Rabbi Moshe Isserles (known as the Rema 1530-1572) rules that opening a new business is forbidden if it would cause another business to collapse, although almost all other forms of competition would be permitted. In a famous responsum, the Rema prohibited a rival printer from publishing Maimonides' Mishnah Torah in competition with the original publisher.

Yet while established businesses have some protection, competition is encouraged if a new business offers competitive prices (Mishnah Bava Metzia 4:12). Rabbi Moshe Sternbuch (the current head of the Badatz Rabbinic court in Jerusalem) allows a rival restaurant to open next to an existing establishment, even though the former may undercut the latter.

In general, competition is encouraged, for it benefits the consumer, provided that appropriate consideration is given to the established businesses and livelihoods of others.

British mathematician and analyst Clive Humby was credited back in 2006 for saying that “*data is the new oil.*” A 2017 leader article in *The Economist* highlighted the rapid production of this new commodity that is routinely traded and shared between technology companies. “Whether you are going for a run, watching TV, or even just sitting in traffic, virtually every activity creates a digital trace – more raw material for the data distilleries.... Meanwhile, artificial-intelligence (AI) techniques, such as machine learning, extract more value from data. Algorithms can predict when a customer is ready to buy, when a jet-engine needs servicing or when a person is at risk of a disease.”

The ability to mine such vast quantities of data helps organisations operate more efficiently and more economically. Yet many ethical questions have been asked about the trading of such data as a commodity without the consent of those from whom the data has been collected. While businesses may wish to target new customers or predict buying trends, laws governing the invasion of privacy by corporations or governments go back centuries.

In 1763 the British government aimed to introduce a tax on cider production, sparking riots across the country. One of the concerns was the threat of searches of private properties without a warrant, prompting William Pitt, Earl of Chatham (d. 1778), who strenuously opposed the tax, to declare that: “The poorest man may in his cottage bid defiance to all the forces of the Crown.”

Today, Article 8.1 of the European Convention on Human Rights, which was incorporated into English law in the Human Rights Act in 1998, contains an explicit right to respect for a private life. The introduction of the European Union General Data Protection Regulation (GDPR) in May 2018 offers greater regulation of the use of personal information collected from individuals, even with their consent.

In terms of Jewish business ethics, the overarching Talmudic dictum of *dina d'malchuta dina* – the law of the land is the law – applies to all privacy laws of our host country. Yet the principles behind the rights to privacy are deeply rooted in our own tradition.

One of the blessings uttered by Bilam when he tried to curse the Jewish people was: “*How goodly are your tents, O Yaakov, your dwelling places O Israel!*” (Bemidbar 24:5). The Talmud explains that Bilaam noted that the entrances to each tent faced away from one another, so that no one could inadvertently intrude or invade the privacy of another family (Bava Batra 60a). The Rambam (Maimonides 1135-1204) rules that one neighbour may force the other to contribute to building a wall to divide a courtyard to protect privacy. He also forbids building arrangements that could allow someone to see directly into their neighbour’s home.

Privacy is therefore considered important both in secular and Jewish law, which allows people space to be themselves away from scrutiny and judgement of others. Personal data and information must therefore be treated with the same respect. Apart from protecting the rights of the individual, threats to privacy risk making people vulnerable to abuse, unfair treatment, and exploitation.

Part 36: Business Ethics III – Copyright and Intellectual Property

Intellectual property has been recognised and protected by UK law since the beginning of the 18th century. The current legislation is the Copyright, Designs and Patents Act 1988, which protects authors and artists of a range of creative arts – including literary works, drama, music, art, or film – to maintain the rights to control the ways in which their material can be used.

Yet the question of copyright and intellectual property in Jewish law is far from straightforward. Generally speaking, using someone else's property without their permission is considered stealing (see Shulchan Aruch – Code of Jewish Law – Choshen Mishpat 359:5), unless it is an item such as tefillin or a tallit, provided that one could reasonably assume that the owner wouldn't mind helping a fellow Jew to perform a mitzvah (ibid. Orach Chaim 14:4). With respect to copyright laws and intellectual property, on the one hand the Mishnah highlights the importance of recognising authorship (Pirkei Avot 6:6). Yet on the other hand, there is discussion among the rabbinic authorities regarding the most relevant legal elements in defining the actual prohibition of infringing copyright or stealing intellectual property.

Rabbi Yechezkel Landau of Prague (1719-1793), author of the influential Nodah Bihudah responsum, cites the issue of potential lost earnings if someone uses someone else's intellectual property or copies their work for commercial purposes. However, this would restrict the prohibition of copying another person's work to cases when an actual loss is caused. Thus, if someone copied a music file and shared it with others online, allowing them to download it for free, this would constitute a loss to the artist. Yet what if someone who had bought the music legitimately had a friend who would never have bought the music in the first place? Copying the music and giving the friend a copy would be an infringement of copyright law but would not in fact cause a loss to the artist.

The Talmud (Bava Kamma 20a-21a) discusses a case involving squatters' rights, where someone is living in another person's yard. The owner of the yard would not normally charge rent for its use and so the squatter benefits from the use of the yard without causing the owner a financial loss. This is called *zeh neheneh, v'zeh lo chaseir* – this one (the squatter) benefits and the other (the owner) does not lose out. There is significant discussion as to whether the squatter owes any rent. The Shulchan Aruch rules that the squatter does not need to pay rent because the owner did not rent the yard in the first place; if he had previously rented the yard, the squatter would owe the rent (Choshen Mishpat 363:6).

The main reason that rabbinic authorities debate the factors underlying the prohibition of infringing copyright and ultimately identify (in many cases) the factor of financial loss, is that intellectual property is a non-physical entity, unlike other possessions. Nevertheless, Rabbi Yitzchak Shmelkes (d. 1906) applies the principle of *dina d'malchuta dina* – “the law of the land is our law,” which means that halacha binds us to adhere to the law of our host country, regardless of the reason and this is a significant factor in applying intellectual property law in halacha too.

Part 37: Business Ethics IV – Bribery

The Torah forbids bribery (*shochad*) for it “blinds the wise and distorts the words of the righteous” (Shemot 23:8 and Devarim 16:19). The Talmud adds that this prohibition is transgressed by the act of taking a bribe itself, regardless of whether it affects the judgement or perverts the course of justice; it even applies where equivalent bribes are accepted from each side (Ketubot 105a).

The Talmud goes on to explain that the reason for prohibiting a bribe is that it results in a sense of indebtedness that creates a bond between the giver and the receiver. This is the meaning of the word ‘*shochad*,’ which is a contraction of the phrase ‘*she’hu chad*,’ meaning that ‘he [the judge] has become one [with the litigant]’ (Ketubot 105b). Such a judge is no longer objective and is therefore incapable of impartiality.

The Rambam (Maimonides, 1135-1204) extends this prohibition to forms of bribery which do not necessarily involve the giving of physical gifts but include favours. Rabbi Yechiel Michel Epstein (1829-1908) rules that the prohibition of receiving a bribe not only applies to judges in a court of law, but to all individuals who have been appointed to public office or who are engaged in the needs of the community. Similarly, Rabbi Moshe Isserles (1525-1572) rules that the appointment of such individuals is subject to the same rules as judges. Taking a bribe should therefore preclude them from serving in public office.

Rabbi Moshe Sofer (known as the Chatam Sofer, 1762-1839) was asked to rule in a case where it came to light that some members of the selection committee for a local rabbi had received a bribe from the relatives of one of the candidates. He wrote that if witnesses testified that this was indeed the case, the election of that candidate would be null and void.

The Rambam also states that the act of offering a bribe falls under the Torah prohibition of ‘*lifnei iver*,’ not placing a stumbling block in front of a blind person. This prohibition applies equally to Jews and non-Jews, given that one of the seven Noachide laws (see part 10 of this series) is to establish a judiciary. Bribery undermines the universal commandment for all societies to establish and maintain a system of justice.

Free gifts, loyalty points or corporate events and entertainment are not generally considered bribes. The Talmud states that a storeowner can give free treats of toasted grain and nuts to children to encourage them patronise his shop, for his competitors may well do the same (Bava Metzia 60a). While each case is unique, benefiting from company perks is usually permitted. For example, when travelling for business, one may collect air miles by using a specific airline, provided that this does not increase the cost to the employer and that the company does not collect the air miles for its own use.

Part 38: Business Ethics V – Whistleblowing

The term ‘whistle-blower’ is used to describe someone who raises concerns about malpractice or illegal activity they have witnessed, usually at their place of work. In the past, someone who spoke up against harmful or unlawful actions of others was often treated with contempt and labelled with pejoratives such as ‘rat,’ ‘snitch’ or ‘grass.’ Yet following the financial crash of 2008, the corporate world has prioritised a commitment to ethical business practices, in order to win back trust. Companies are now expected to have whistleblowing policies that encourage employees to speak out if necessary.

Yet the guarantee of anonymity is vital in order to cultivate a safe environment for whistleblowing and to foster a culture of accountability. In December 2018, Barclays were fined \$15m by the New York State Department of Financial Services (DFS) after its chief executive, Jes Staley, attempted to unmask a whistle-blower.

Sharing information about individuals is tightly controlled in Jewish law. The Torah commands us “not to be a talebearer” (Vayikra 19:16), while King David declares: “*Guard your tongue from evil and your lips from speaking deceitfully*” (Tehillim 34:14). In Jewish law there are generally three types of prohibition: (i) *lashon harah* (negative speech), which refers to negative reports about another person that are true, (ii) *motzi shem’ra* (giving someone a bad name), which refers to saying something untrue and defamatory about someone else, whether spoken (slandorous) or published (libellous) and (iii) *rechilut* (gossiping), which refers to spreading rumours about another person.

Rabbi Yisrael Meir Kagan (1839-1933) was famous for his writings and personal example about the three prohibitions listed above. He was known as the Chafetz Chaim, meaning ‘*the one who desires life*’ (see Tehillim 34:13) after his magnum opus, in which Rabbi Kagen extensively details the laws of harmful speech.

In Jewish law, one is generally not permitted to speak in a derogatory way about another person, whether it relates to something they have done or to an aspect of their personality, unless there is a specific constructive purpose, known as *to’elet*. The appraisal of what constitutes appropriate *to’elet* is complex. The preconditions include that: (i) the information must be accurate; (ii) facts must be reported without exaggeration; (iii) the motive should be to prevent loss or harm, not spite; (iv) there must be no other means of dealing with the issue; (v) disclosure will not cause greater harm than necessary.

In a case where whistleblowing is for the purpose of preventing a loss or to warn others at risk of mistreatment, *lashon hara* switches from being proscribed to being mandatory. British-born Rabbi Moshe Shternbuch (head of the Badatz rabbinic court in Jerusalem) argues that although speaking unnecessary *lashon hara* is a grave sin, withholding important information when one is obliged to share it could be considered an even greater violation. Confidentiality is an important virtue unless it is used to protect the guilty and expose the innocent to harm.

Part 39: Medical Ethics I – The Value of Life

The next section of this series will analyse four general themes which are fundamental to Jewish medical ethics. While these articles are designed to give an overview of principles and not to deal with complex examples or to serve as a halachic guide, there will inevitably be some discussion of specific cases. However, any personal questions about medical ethics should be posed to a rabbinic authority, alongside professional medical care, since every case is complex, nuanced, and unique. These articles should not serve as authoritative regarding practical law. The four themes are: (i) the primacy of life; (ii) the obligation to save others; (iii) whether unnecessary medical procedures are permitted; (iv) issues pertaining to the end of life.

The principle of saving life, known as *pikuach nefesh*, is paramount in Judaism. Saving a life takes priority over all other commandments, except for the three cardinal sins of idolatry, murder, and illicit relationships (Talmud Sanhedrin 74a). This means, for example, that one is obligated to break Shabbat if there is a concern that someone's life is at risk. The source for this is the verse: "You shall therefore keep my statutes and my ordinances, which a person shall do and live by them. I am the Lord." The Talmud comments that this means one should "live by the commandments, and not die by them" (Yoma 85a-b).

The primacy of life is also highlighted by the famous Talmudic adage: "one who saves a life is considered to have saved an entire world" (Mishnah Sanhedrin 4:9). When there is a justified, genuine, and immediate concern for someone's life, Rabbi Shimon ben Tzemach Duran (1361–1444) rules that no expert – medical or halachic – should be consulted, lest treatment be delayed.

Professor of Medicine at Mount Sinai School of Medicine in New York, and expert on Medical Ethics, Dr. Fred Rosner, recalled his first Shabbat working as a hospital doctor in approximately 1960. Upon hearing his name paged over the loudspeaker, he described running down eight flights of stairs and across the street to where the telephone operators were located, in order to avoid using the nearest phone (which ordinarily would be forbidden on Shabbat), only to find that he was needed on the sixth floor of the building he had just come from.

He writes: "this kind of activity continued throughout that Shabbat. On Saturday night, I was totally exhausted and called Rabbi Moshe Feinstein (1895-1986), who emphatically told me that I had done the wrong thing. I should have picked up the nearest telephone and responded to the call because it might have been an emergency. 'But 99 calls out of 100 are not emergencies,' I protested. 'Even if only one out of 100 calls is a real emergency,' replied Rabbi Feinstein, 'you must answer all 100, because you do not know which call will be that emergency'" (Journal of Halacha in Contemporary Society 20:48-49).

Part 40: Medical Ethics II – Saving Others: Ending One Life to Save Another

The previous article discussed the importance of saving life in Jewish law. The sanctity of life has additional, far-reaching implications for other areas of Jewish medical ethics. The Mishnah states that “one may not set aside one person's life for that of another” (Ohalot 7:6). This means that one may not proactively accelerate the death of one patient to save the life of another, even the first patient is terminally ill and may die imminently.

The only time that one may actively carry out an extra-judicial killing in Jewish law is when the life of one person is threatened by the life of another. This is known as the law of the *rodef* (pursuer) and allows pre-emptive lethal action to be taken against belligerents or other mortal threats (Talmud Sanhedrin 73a). In medical ethics, one application of this principle is in a case where a foetus threatens the life of its mother. While the foetus clearly has no intent to harm and does not have any choice in the matter, if there is a clear threat to the mother's life the pregnancy must be terminated. The Rambam (Maimonides 1135- 1204) writes that this is true even in the advanced stages of pregnancy.

Some later rabbinic authorities, including Rabbi Yisrael Meir Mizrachi (d. 1727) and Rabbi Mordechai Leib Winkler (d. 1932) also permit abortion in cases where the mental health of the mother may be severely affected by the continuation of the pregnancy and subsequent birth. This may be considered akin to a threat to the mother's life. Later authorities, such as Rabbi Yitzchak Yaakov Weisz (d. 1989) and Rabbi Moshe Feinstein (d. 1986) also accept that severe mental illness may well constitute a threat to life.

While one cannot judge one life as more important than another to actively bring about the death of a patient to save someone deemed to be more worthy, there are many medical situations where difficult choices must be made, especially in cases where there are limited resources available. This is known as triage. Rabbi Yosef ben Meir Teomim (d. 1793) writes that clinicians should prioritise patients whose lives are in definite danger over patients whose medical condition constitutes a possible threat. Similarly, resources must be used to save as many people as possible, or in cases such as a transplant, offer the most likely benefit for the longest possible time. Some authorities allow prioritising the use of an Intensive Care Unit (ICU) for patients who are more likely to survive. For example, Rabbi Eliezer Waldenberg (d. 2006) rules that one may withhold an ICU bed from a patient with a low life expectancy if there is a need to urgently accommodate a curable patient.

However, as we noted in the last article, every case is complex, nuanced, and unique. Any personal questions about medical ethics should be posed to a rabbinic authority, alongside the professional medical treatment which a patient receives. These articles should not serve as authoritative in practical law.

Part 41: Medical Ethics III – Saving Others: Organ Donation

Live organ donation, for example when a healthy person donates one of their kidneys to save someone else, is considered an act of phenomenal *chessed* – loving-kindness. Yet the ethical issues regarding the donation of vital organs, such as the heart and lungs, harvested after the death of the donor, depend on the definitions of death in medical practice and Jewish law.

In previous generations, death was exclusively determined by an irreversible cessation in cardiopulmonary activity (i.e., the activities of the heart and lungs). Yet the phenomenal advancement of medical science has not only given clinicians new resuscitative techniques and the ability to artificially ventilate patients, but it has also produced a range of tools to evaluate and quantify physiological measurements, such as the electrical activity and blood flow in the brain. As such, patients can be kept alive artificially even though doctors know that they have experienced an irreversible cessation of critical brain functions, known as brain death or brainstem death.

Rabbi Professor J. David Bleich (of Yeshiva University, NY) notes that “death is the term employed for the physiological state in which any further attempt to provide medical or physical assistance of any kind is an exercise in futility” (Time of Death in Jewish Law, p. 87). The sages of the Talmud discuss saving the victim of a collapsed building on Shabbat (Yoma 85a). Many later authorities, such as Rabbi Shmuel Wosner (1913-2015) refer to this discussion as the source that breathing and cardiac activity are the necessary signs of life.

Elsewhere, the Mishnah discusses the concept of decapitation as a sign of certain death, even though the remaining body may convulse and show signs of continuing life (Ohalot 1:6). Rabbi Dr. Moshe Tendler (also of Yeshiva University) cites halachic rulings of his late father-in-law, Rabbi Moshe Feinstein (1895-1985), in which he links the concept of decapitation to brainstem death, implying that brainstem death can be considered a halachic definition of death. Others, such as Rabbi Bleich, disagree, pointing out that in other areas of halacha, the cessation of function in an organ is not halachically equivalent to that organ being physically separated from the body (Contemporary Halakhic Problems IV, pp. 322-333).

This has far-reaching implications, for while vital organs can be successfully harvested after brainstem death, if the patient’s heart has stopped, the organs quickly deteriorate, making them unfit for transplantation. God allows us to violate any commandment to save another person’s life, except for the three primary sins of idol worship, immorality, and murder (Talmud Sanhedrin 74a). If brainstem death does not constitute a halachic definition of death, harvesting those organs would be akin to murder in Jewish law, and therefore forbidden even to save the life of another patient.

Given the shortage of potential organ donors and the many worthy recipients waiting endlessly for life saving treatment, these difficult ethical and halachic issues provoke intense emotion. Let us hope and pray that the remarkable medical advances we have witnessed bring about a technological solution to our global organ transplant crisis.

Part 42: Medical Ethics IV – Cosmetic Surgery

Whilst we may think of cosmetic surgery as a modern invention, it has a surprisingly long history. The first skin grafts and rhinoplasty (remodelling of the nose) were reportedly performed by the Indian healer Suśruta in the 6th century BCE. Historically, the primary application of cosmetic surgery was to help those who had been disfigured by war, deliberate mutilation or through diseases such as syphilis. During the 20th century, many of those who had suffered horrific facial injuries during the two World Wars benefitted from improved surgical techniques. Cosmetic surgeons treated many cases and refined their procedures, particularly helping those disfigured by war or other circumstances to regain their dignity.

The pseudoscience of physiognomy (judging a person's character by their facial appearance) became popular in the late 19th century. It probably was the catalyst for those wishing to conform to societal ideals to use cosmetic surgery to improve their aesthetic appearance. Regrettably, physiognomy also fuelled antisemitism and other forms of racism which are still prevalent today.

Some rabbinic authorities, such as Rabbi Eliezer Waldenberg (1915-2006) and Rabbi Shmuel Wosner (1913-2015) forbade elective cosmetic surgery on the grounds that there are health risks and that it is forbidden to deliberately endanger oneself (Devarim 4:9, 4:15). Other reasons include that a doctor's (human) mandate in some areas of Jewish thought is restricted to alleviating illness, rather than interfering with human aesthetics (see Shemot 21:19). The prohibition to wound oneself or employ another person to do so is also cited as a reason to forbid cosmetic surgery for purely aesthetic purposes.

However, other authorities, such as Rabbi Moshe Feinstein (1895-1986) and the late Chief Rabbi Lord Immanuel Jakobovits (1921-1999) permitted cosmetic surgery within certain guidelines. They contended that intentionally wounding oneself only applies to degrading or shameful acts; surgery which is intended to beautify would not fall into this category.

Rabbi Professor Avraham Steinberg, a doctor who is perhaps the leading cotemporary scholar of Jewish medical ethics, notes that earlier sources, such as Rabbi Menachem Meiri (1249- 1306) and Rabbi Moshe Isserles (1525-1572) also support the notion that surgery which is performed to relieve the emotional anguish of a negative body image is permitted. Furthermore, he explains that 'emotional anguish' may include the shame one may feel in public about their appearance. During a discussion in the Talmud (Shabbat 50b) regarding the removal of unsightly scabs due to the pain they cause, the Tosafists (French medieval commentaries on the Talmud) note that there is no greater pain than the embarrassment of looking unsightly in public.

Furthermore, given the advancements in surgical techniques and the relatively low risks, modern cosmetic surgery would not necessarily be considered deliberately endangering one's life. This would imply that most modern rabbinic authorities would permit cosmetic surgery, albeit only in cases where there is a demonstrable benefit to the patient's mental health.

Part 43: Medical Ethics V – End of Life and Assisted Dying

It is important to note that Jewish law not only recognises the sanctity of every individual life, but, as Rabbi Professor J. David Bleich of Yeshiva University puts it: “Judaism also regards every moment of life, regardless of its quality, as endowed with infinite value” (Time of Death in Jewish Law, p. 127). This axiom makes the issues pertaining to the end of a patient’s life very complicated and often at odds with contemporary thinking.

Given that every case is unique and that there are many medical, ethical, legal, and halachic factors at play, this article should be taken as a broad introduction to some of the key principles regarding the treatment of those who are nearing the end of their lives, which is of course a painful and emotional subject. Real cases must be brought for consultation to a rabbinic authority, alongside professional medical care.

In 1995, after extensive consultations, a number of leading Israeli rabbinic scholars, including the late Rabbi Shlomo Zalman Auerbach (1910-1995), who was often consulted by the staff of Shaare Zedek Medical Center, wrote that any proactive action that hastens the death of a patient is forbidden.

With regards to withholding short-term treatments, the Director of the Medical Ethics Unit at Shaare Zedek, Rabbi Professor Avraham Steinberg, notes that it is permitted to withhold the commencement of medical treatment that may extend the life of a terminally ill patient, in order to allow the patient to die, especially where such treatments may cause more suffering. However, this only applies in cases of terminally ill patients who are dying of a known fatal illness. The decision not to initiate treatment must be carried out with the patient’s consent. Rabbi Steinberg notes that it is the patient’s suffering and not the ‘quality of life’ which is the determining factor (Encyclopedia of Jewish Medical Ethics III, pp. 1059-1060).

Whilst positive actions to speed up death may be forbidden, there are early precedents to pray for a merciful death for someone who is suffering from a terminal illness. For example, the maidservant of Rebbi Yehudah HaNassi, who compiled the Mishnah, noticed his suffering, and prayed for him to pass away (Talmud Ketubot 104a). Prayer is a request to God, which leaves the ultimate decision of life or death in His hands.

Human logic may lead us to think that a hopelessly poor quality of life, unbearable suffering and the wishes of a terminally ill patient should be the primary forces in determining when life should end. In addition, supporting the terminally ill is emotionally draining, painful and can leave the carer or relative feeling powerless and ineffectual. Yet while everything must be done to ease the suffering of others, it is not in our hands to decide when life should end, for “our thoughts are not God’s thoughts, and our ways are not God’s ways” (Yeshaya 55:8-9).

Part 44: Artificial Intelligence I – Introduction to AI

The last few years have witnessed a flood of interest in the science of Artificial Intelligence (AI). In the early 20th century, neurological research had demonstrated that the brain works via networks of interconnected cells called neurons which fire pulses of electricity to communicate with one another.

Concurrently, advancements in three crucial scientific areas jointly served as the catalyst for helping to describe how it would be possible to artificially replicate the functions of the human brain. American mathematician Claude Shannon (d. 2001) developed Information Theory which describes how information is transmitted over a medium. English computer scientist Alan Turing (d. 1954) established the Theory of Computation which deals with the use of algorithms (a procedure or set of rules followed in calculations or other problem-solving operations) to solve computational problems. Norbert Wiener (d. 1964), another American mathematician at MIT, formed his theory of Cybernetics, which describes the science of control and communication.

The portrayal of AI in popular science fiction and the media is often misleading and unhelpful. Modern-day AI algorithms are excellent at performing specific tasks such as analysing banking data, playing chess, or detecting trends in the stock market. But they cannot simulate general human intelligence which makes it possible for us to perform a plethora of diverse tasks requiring very different skills. Simulating human intelligence is known as Artificial General Intelligence and firmly remains the stuff of science fiction.

This does not, however, diminish the ethical reservations of contemporary AI, nor the concerns that accompany the potential for future scientific developments.

AI has been used for specific tasks for some time. If you have ever used a banking app, social media or bought anything online, you have inevitably used AI algorithms which have facilitated your experience. The data from our online activity, including how much we spend, what we comment on, where we go and what we search for, is then collected, and sold on to companies who use AI algorithms to build a profile of who we are. This picture may try to predict anything from whether we should be eligible for a loan, our life expectancy or what the chances of our having a car accident may be (see part 36 of this series).

This is where the ethical difficulties of AI begin, for while these algorithms are tremendously efficient at quantifying large amounts of data, they are very poor at assessing the quality of that data. For example, if someone searches for a baby toy online, it does not necessarily mean they are expecting a baby. It might mean that their friend is expecting a baby, it might mean that they're feeling nostalgic about a particular toy their baby had and have no intention of making a purchase, or it might mean that someone else who is expecting a baby is using that person's device.

Given the upsurge in AI use, the next four articles will examine some of the potential ethical issues with using AI in a variety of fields, including medical diagnosis, financial technology (FinTech) and warfare.

Part 45: Artificial Intelligence II – Who takes responsibility for parenting AI?

Artificial Intelligence (AI) and Machine Learning (the ability of algorithms to learn from data) describe the ability of computer algorithms to learn from information they receive. From the analysis and processing of these vast amounts of data, AI algorithms can then make autonomous decisions, communicate with human users, and create music, art, and poetry. One of the AI tools we frequently use is known as a chatbot, a piece of AI software that can hold a conversation with people using text or speech. Common examples of AI chatbots include Apple's Siri and Amazon's Alexa, which can both perform a variety of functions on demand and learn from their users about their regular needs and preferences.

The continuing interest in AI has led to a variety of fascinating studies carried out by some of the world's largest tech companies, which have revealed some of the ethical complexities of using AI. One example was Microsoft's Twitter AI chatbot called Tay. This chatbot was released onto the Twitter social network in March 2016 to interact with hundreds of thousands of people across the world. What started well with comments such as "Can I just say that im stoked to meet u? humans are super cool" descended into a farce as Tay became influenced by online users teaching it to become increasingly racist, misogynistic, and antisemitic. Within 16 hours Microsoft had to shut it down.

But the Tay experiment taught us something very important. Creating AI algorithms which learn from the information they are fed is similar to parenting children who are also absorbing experiences and learning from the environment and other people around them. The role of a parent is to moderate what a child learns from their surroundings; most parents instinctively discipline their children in order to raise polite, moral, and well-refined young people who eventually learn how to filter out negative influences for themselves. The problem with Tay was critical: if AI algorithms are meant to learn and act from the data they receive, whose responsibility is it to supervise their learning process and 'parent' the results?

There is another even more fundamental concern. Machine-learning works by using algorithms which are simply procedural rules for processing information and then making a decision based on those data. These algorithms are inevitably limited in complexity to what their developers anticipate will be the key information needed to execute the task they have been designed to perform.

Yet human intelligence is far more complex and nuanced than merely learning how to communicate, calculate or strategize. The foundation of human morality is based on our capacity to operate beyond the letter of the law – beyond the cold, rigid rules of an algorithm. This is only possible because of our capacity to empathise with the needs of others, to see beyond the data – to be able to see the quality of the information we receive, not to merely quantify it.

Similarly, we are able to parent our children only because they are human, just like us. Empathy, compassion and identification with others are exclusively human traits that cannot be replicated in the bytes of computer algorithms, however complex they may be.

Part 46: Artificial Intelligence III – The Ethics of Autonomous AI

Artificial Intelligence (AI) is a broad term which describes computer programmes which can learn from the information they receive, respond appropriately and even make decisions without using explicit, pre-programmed instructions. The previous article explored the challenge of understanding the decisions made by such AI algorithms. If AI can outsmart and exceed human ingenuity and initiative, it will inevitably mean that the reasoning behind its decisions will become indecipherable and inscrutable to its human masters. This is of great concern.

The applications of AI can be divided into two broad categories: the processing of vast amounts of data to detect trends, elicit useful information, and advise future actions, versus autonomous machines which act without human supervision or intervention. If AI is restricted to the former advisory role, then its efficacy will be greatly diminished. However, while the prospect of developing autonomous machines is seductive, it opens a Pandora's box of ethical questions.

Take for example the Pentagon's Defense Advanced Research Projects Agency (DARPA) which is responsible for developing military technology. According to an article in the Economist (September 7th, 2019) DARPA has built software called Real-time Adversarial Intelligence and Decision-making (RAID) which "*aims to predict the goals, movements and even the possible emotions of enemy forces five hours into the future.*" There is an obvious ethical problem in deploying autonomous AI decision-making technology in warfare. The rules of engagement in military scenarios revolve around "*proportionality (between civilian harm and military advantage) and necessity. Software that cannot explain why a target was chosen probably cannot abide by those laws.*"

Additionally, for both scientific and legal reasons it is necessary to be able to audit decisions that are made, even when AI operates in a merely advisory role. Otherwise, when something goes wrong it will be impossible to correct mistakes and ascribe responsibility. In a 2009 report entitled 'Autonomous Systems: Social, Legal and Ethical Issues,' the Royal Academy of Engineering addressed the question by asking "are autonomous systems different from other complex controlled systems? Should they be regarded either as 'robotic people' – in which case they might be blamed for faults; or machines – in which case accidents would be just like accidents due to other kinds of mechanical failure."

From a halachic perspective, autonomous AI could be equated to the ownership of an animal or the parental responsibility over a child who does not independently have legal competence. While *adam hamazik* – direct damage caused by a legally competent agent – is liable, *mamon hamazik* – damage caused by one's possessions such as an animal they own, their child, or an AI machine – is far more complex. Based on the Gemara in Bava Kama, Rabbi Moshe Sternbuch of the *Edah HaChareidit* in Jerusalem rules that parents may be liable for the damage their child does only if they were negligent in watching their child (Teshuvot VeHanhagot 3:477). Yet if a claim was brought against the actions of an autonomous AI machine, without understanding the motive for an action, it might be impossible to ever ascertain grounds for negligence in any scenario.

The next two articles will examine the possibility and implications of creating human-like Artificial General Intelligence.

Part 47: Artificial General Intelligence I

Artificial Intelligence (AI) is a broad term which describes computer programmes that can respond appropriately by learning from the information they receive and make decisions without using explicit, pre-programmed instructions. Unlike humans who naturally learn and perform a vast range of cognitive abilities, current AI technology is limited to performing specific tasks such as data analysis, predicting strategic moves or detecting market trends.

Yet there is a concerted push to extend the ability of AI to be able to tackle a broader, more comprehensive range of tasks, like humans. While currently the stuff of science fiction, Artificial General Intelligence (AGI) could lead to the development of human-like androids in the future. Would the development of AGI challenge conventional meanings of what it means to be human?

To address these questions from a Jewish perspective, many have cited the concept of the golem – a mysterious humanoid created from clay or earth and animated with various incantations. The root of the word golem means ‘raw material’ (Tehillim 139:16) or ‘an uncultivated person’ (Mishnah Pirkei Avot 5:6). The Talmudic sage Rava created a golem and sent it to his colleague Rabbi Zeira, who tried to speak with it. When the golem was unable to respond, he declared that it was a creation of man and destroyed it (Sanhedrin 65b).

Citing this Gemara, Rabbi Tzvi Hirsch Ashkenazi (d. 1718) was doubtful as to whether the golem could count for a minyan since it was not born to a human mother and that it was not considered murder for Rabbi Zeira to destroy it. He adds that the noted kabbalist, Rabbi Moshe Cordovero (d. 1570) ruled that the golem ‘has no soul or spirit and is merely animated’ (Chacham Tzvi 93). His son, Rabbi Yaakov Emden (d. 1776) declared unequivocally that a golem has less legal competence than a child, describing it as ‘an animal in human form’ (Teshuvot Yaavetz 2:82).

One of Rabbi Emden’s key arguments is that since the golem can’t speak, it has no soul, which accords with Rabbi Moshe ben Nachman (d. 1270) who associates the potential for speech with having a neshama – a human soul (Ramban on Bereishit 2:7). Yet many current AI algorithms simulate speech. Could a speaking AGI android be considered human?

Rabbi Shlomo Wolbe (d. 2005) writes that it is the human soul itself that establishes the nature of human communication. He compares speech to a violin and writes, “The beautiful sound of the violin is not produced by the strings alone, but from the echo produced by the box upon which those strings are strung. So too, the tone of speech does not come from the words alone, but from the soul, which makes a unique impression on the words (Aleí Shur 2:4 p. 35).

From a Jewish perspective, it seems that, should AGI ever be achieved, it is doubtful that it would be considered ‘alive’ in the sense that a human is alive. The next article in this series will address the other fundamental question of AGI: what is the deeper motive for humans striving to create ever more life-like replicas of themselves?

Part 48: Artificial General Intelligence II

The previous article discussed the difficulty of considering human-like Artificial Intelligence (AI), known as Artificial General Intelligence (AGI) as alive or conscious in a human sense. Yet it is important to try to understand the deeper motives for humankind striving to create evermore life-like replicas of themselves.

From the dawn of humanity, philosophers have argued and grappled with what makes us human. Ever since the Enlightenment, the central role of God as creator has been challenged by those who employ scientific advances as proof for God's redundancy, as they perceive it. Not only are we viewed as merely another form of animal, but modern neuroscience also questions our very sense of being – our consciousness, sense of free will and notion of self. The ability of humanity to replicate itself artificially, without requiring the biological seeds of life, will serve to both corroborate this aggressive secular agenda and see man replace God as supreme creator.

God created us in His image (Bereishit 1:26). The attempts to make mankind in our image, rather than God's image imply a desire to overreach our place in this world, the precedent for which does not end well. Shortly after the flood in Noah's time, the ancients who were united with one language (*ibid.* 11:1) attempted to build a tower in Babel to reach the heavens in order to “*make for ourselves a name, lest we be scattered upon the face of the entire earth*” (*ibid.* 4). God thwarted their actions by confusing their language (*ibid.* 7). The Hebrew word used for 'confusing' is '*nevalah*,' which is why in English we refer to unintelligible speech as a similar sounding word, 'babbling.'

During this episode, the Torah highlights the unity of language and the goal of creating a 'name.' Speech is the creative force which bridges the gap between the spiritual and physical worlds (Pirkei Avot 5:1 and Megillah 21b) and brings our abstract thoughts into reality. This is perhaps why the golem, the animated humanoid created by the Talmudic sage Rava, could not speak, for it had no soul (Sanhedrin 65b and see the previous article). The message at Babel was that while mankind has dominion over the physical stuff of creation, only God can create life itself.

Similarly, the Midrash explains that a name describes the essence of the creature or person it is given to. For example, the name Adam describes the fact that mankind was created from *adamah*, the ground (Bereishit Rabbah 17:4). At Babel, the desire to create a 'name' for themselves could be understood as the idolatrous attempt to replace God with man as Supreme Creator of life (see Seforno on Bereishit 11:4).

Rabbi Meir Leibush (d. 1879) associated the Hebrew root א-ר-ב which gives us the verb לברוא meaning 'to create' with the concept of creation *ex nihilo* – from nothing, something only God could do. This verb is used for the creation of the world, the beginning of life, and creation of humanity (Bereishit 1:1, 1:21 and 1:27), implying a Divine act. In contrast, the Hebrew root י-צ-ר which gives us the verb ליצור also meaning 'to create' has the connotation of 'to form' or 'to craft' from the physical materials which already exist (Malbim on Genesis 1:24). God's message to humanity was that while mankind is permitted to use the world's raw materials to advance new technology, mankind could never create life itself. The difference between the inanimate and the animate must necessarily remain a mystery.

Part 49: I, Conscience I

This series set out to investigate the relationships between ethics, religion, and the law in society. The relevance to everyday life is both complex and multifaceted: how is the behaviour of each of the 7.73 billion people alive today influenced by each of these three great dominions?

There are many factors which affect our individual perspectives on ethics, religion, and the law. We are citizens of different political states subject to our own country's laws, some of which are defined by cultural norms. Some people are adherents to a faith tradition, others are not. We are all members of diverse social, economic, and political groups together with an abundance of other defining qualities, characteristics, and experiences. These give each one of us a unique set of perspectives on our moral and ethical conduct, when the law – religious or secular – has neither obligated nor sanctioned a particular action.

The last two articles in this series aim to draw together these ideas and address the questions of how and why we develop our unique moral conscience and how this has helped to shape our society, community, and individual identity.

In his 1950 novel 'I, Robot' which is set in the 21st century, biochemist, and popular science fiction writer Isaac Asimov (1920-1992) is credited with proposing the first set of robot laws which govern ethical behaviour. The First Law prevent robots from harming humans. The Second Law ensures their subservience to their human masters. Robots are to assert their self-preservation, provided that this does not conflict with the First or Second Laws.

While the robots in Asimov's Sci-Fi fantasy had human-like General Intelligence (see parts 47 and 48 of this series), the very fact they needed to be programmed with a set of moral rules reveals an important point. Humans have developed an inherent sense of morality either naturally, according to the prevalent scientific view, or spiritually, according to a Jewish theological view.

Asimov explores the problems faced by reducing all moral behaviour to three basic laws. Yet aside from the technical issues, ethical difficulties are far more complex and profound. The robot laws are algorithmic and fixed. Morality requires empathy to understand the needs of the other, compassion to act *lifnim mishurat hadin* – beyond the strict letter of the law and mutual understanding (see part 21 of this series). Unlike Asimov's robots, our conscience is built from a wealth of experience which shapes our own set of moral and ethical laws.

And the same is true for God. The Midrash (Pesikta Rabbati 40) notes that initially God intended to create the world with the attribute of strict Justice. However, He then saw that the world could not exist with Justice alone, so He gave priority to the attribute of Mercy, and merged it with the attribute of Justice (see Rashi on Bereishit 1:1). Morality is therefore a quality that cannot be reduced to a set of laws, however complex.

The final part of this series will explore the fundamental difference between the scientific and religious views of how we have developed our conscience, and the implications for ourselves, our communities, and the whole of society.

Part 50: I, Conscience II

Developmental psychologist Professor Michael Tomasello explains how humans developed their moral conscience naturally over hundreds of thousands of years. Initially, primates were driven by self-interest until they realised that collaborative hunting would yield benefits for all. Those who failed to contribute were shunned and excluded from enjoying the rewards. The trait of co-operation became a critical factor in choosing a sexual partner. As societies eventually formed and organised, these traits developed into collective moral rules which became enshrined in the cultural norms of each group.

While subject to cultural differences, this Humanist view of morality and ethics claims to be able to build and maintain the laws and ethical framework societies require without the need for Divine intervention. While the lack of God's objective morality may risk opening the door for moral relativism (discussed at the beginning of this series), by and large secular Western liberal democracies function well. What, therefore, is the place for religion or religious laws in such societies?

Without God, human beings are merely complex carbon-based physical life forms. While our immediate behaviour and well-being may be important, in the grand scheme of things what we do today has little long-term value and is mostly irrelevant to the future of mankind. Provided I act within the boundaries of the law, if I choose to live a moral life or choose to indulge in a self-centred, hedonistic life, it will rarely – if ever – make a difference in the long run. This nihilistic view of the world expressed by King Solomon (Kohelet 8:15) seemingly absolves us from moral behaviour. Yet in the end King Solomon concludes that the whole purpose of mankind is to 'fear God and perform His commandments' (ibid. 12:13). Why?

God not only frames morality from an objective perspective, He imposes consequences for our actions that go far beyond their obvious immediate physical manifestations. The Humanist ethic, devoid of the eternal God, means that individual moral decisions are not anchored in eternity. Consequently, an individual's actions – whether moral, amoral, or immoral – lack any predicable eternal consequences. This knowledge inevitably demotivates humanity from caring about the virtues of its behaviour, except to avoid anarchy.

The story of Adam and Eve encapsulates humankind's moral imperative: for better or for worse, our behaviour leaves an eternal imprint on the creation. The Mishnah (Avot 2:9) describes how one of the paths to uprightness is to be *ro'eh et hanolad* – to see the consequences of our actions – for it is our knowledge, perspective and relationship with these consequences that will determine how we behave.

The role, therefore, that religion plays in society is to teach mankind that God's legal and ethical wisdom is not there to obstruct our freedom or prevent us from enjoying life. God's message is simple: your actions, whether legal or moral, are eternally significant and affect others in ways we cannot possibly know. Only the Omniscient God can understand how, and if we could only trust His judgement rather than our own a little more, we would be able to elevate the world around us for the betterment of all humanity.

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