

Jewish Ethics and the Aseret Hadibrot¹

Rabbi Yosef Dov Soloveitchik
Organized by Dr. Arnold Lustiger²

The Ten Commandments are introduced in the book of Exodus by the words:

"Vayedaber Elokim et kol hadvarim ha'eleh **laimor**." (Shmot 20:1)
"And Elokim spoke all these words **saying**."

Use of the word "laimor" generally means "to be repeated". For example the ubiquitous biblical phrase "Vayedaber Hashem el Moshe laimor" indicates that Hashem's words to Moshe were subsequently to be repeated by Moshe to B'nai Yisrael. Yet, on the basis of this explanation, use of the word "laimor" would seem puzzling in the context of the Ten Commandments, since Moshe was not in this case an intermediary: the Ten Commandments were given directly by Hashem to B'nai Yisrael. Faced with this anomaly, the Mechilta implies that in this context "laimor" means verbal acceptance by the entire nation³.

The precise nature of this communal response is the subject of a dispute between Rabbi Yishmael and Rabbi Akiva as quoted in the Mechilta on the above verse⁴:

"Laimor: 'Melamdim shehayu omrim al hen hen v'al lav lav'—divrei Rabbi Yishmael.
Rabbi Akiva omer: 'al hen hen v'al lav hen'"

Rabbi Yishmael was of the view that B'nai Yisrael responded to each positive commandment with a positive affirmation ("yea"), and responded to each negative commandment with a "nay". For example:

Anochi Hashem Elokecha (I am the L-rd your G-d)—hen' ("yea") Lo Tignov (You shall not steal) ---'lav' ("no")

Rabbi Akiva, however, disagreed. He said that just as the positive commandments were received by a "yea", so too the negative commandments. For example:

Anochi Hashem Elokecha---'hen' Lo Tignov---'hen'

1 The following is a summary of one portion of a lecture presented to the Rabbinical Council of America by Rabbi Yosef Ber Soloveitchik on June 22, 1972.

2 I would like to thank Henry Lerner and Rabbi Dov Green for their careful review of this article.
Please send any comments/corrections/opinions to: Arnie Lustiger alustig@erenj.com

3 [Editor's note: See Vayikra 10:16, where Moshe reproaches Aharon's sons for not eating the chatat offering after the Nadav-Avihu incident. The verse ends with the words: "...vayikzof al Elazar v'al Itamar b'nei Aharon hanotarim **laimor**". The word "**laimor**", according to Rashi, signifies that Moshe had demanded a response to his words.]

4 Rashi's commentary on the above verse only quotes Rabbi Yishmael's opinion

Two great rabbis have disagreed. What is the gist of this controversy, a disagreement which at first glance would seem trivial?

To render the dispute understandable, the Rav used the following example. If he were to address himself to his grandson and say: "Moshe, don't associate with Johnny, he's a bad boy", his grandson's assent might be expressed in one of two ways. He could answer: "No, Zaidy, I shall not play with him" or "Yes, Zaidy, I shall not play with him". The difference between these two answers is one of motivation. If his response is "No Zaidy, I shall not play with him", Moshe means to say that he agrees with his grandfather's assessment of Johnny. He has no intention of playing with him because, indeed, Johnny is a bad boy. However, the affirmative response means "I accept your judgment even though I disagree with you: I myself do not see any harm in fraternizing with Johnny, but your order will be carried out".

What motivation should prompt one's Mitzvah performance? Should the motivation be solely obedience, i.e. acting in accordance with the law because one experiences normative pressure under the impact of G-d's word? Or should the motivation be existential: i.e. one performs Mitzvot because due to training, discipline, education, and the unique bent in one's mentality, one develops an inner urge to act in harmony with the moral and religious norm. In such a case, it is not the impact of the imperative that motivates, but rather the inner need, the urge, the drive, the yearning. Mitzvah performance is the ambition and the quest in which one finds fulfillment and self realization.

To amplify this latter concept, the Rav provided the following personal example:

"When I fast on Yom Kippur, I am completely unaware of the precept and commandment "te'aneh es nefshoseichem" [the obligation to fast]. I say it in tefilat zaka, but I'm not conscious of it the whole day. I do it [fast] not because of normative pressure or imperativistic coercion. I simply love it: I find delight, joy and happiness in cleansing myself, in being close to the Ribono Shel Olam. I would be the most miserable, the most unhappy person in the world if the great privilege of "teaneh es nafshoseichem", of offering the small sacrifice, be denied to me. And, you know, people have many phobias. As I get older, I have an inner fright that chas veshalom [G-d forbid], I will be forced to break the taanis [fast] because of reasons of health. Such a traumatic experience would be rachmana litzlan [G-d forbid], as far as I'm concerned, tragic, even fatal. I pray to G-d that it will never happen."

The philosophical question, however, remains: should performance of a mitzvah result from an extraneous norm imposed upon finite man by the infinite inscrutable will of G-d, or should this performance result from an inner urge whose realization enhances life and exalts the personality? This dichotomy is central to understanding the issue of "metzuveh ve'oseh"⁵, whether reward is greater for one who performs a mitzvah as a result of an imperative as opposed to mitzvah performance resulting from personal initiative.

Rabbi Yishmael's Opinion: "Al lav lav"

Most of our sages distinguished between chukim and mishpatim. They declared the compliance with

5 Baba Kama 38a, Kiddushin 31a

chukim to be a gesture of pure obedience and subordination to G-d. Conversely, adherence to mishpatim is a result of an inner moral need that G-d implanted in man when the latter was created in His image. The mere fact that man carries G-d's image within himself suggests that morality is characteristic of human nature, and that doing good is an indispensable necessity no less than food or air.

This understanding of the dichotomy between chukim and mishpatim forms the basis for the opinion of Maimonides, who states in unequivocal terms⁶ (4), that one is not allowed to say "Ee Efshi bebasar chazir", "I don't eat pork because I don't like the taste of it", but should rather say: "I would rather enjoy eating pork, but it is forbidden". The act of abstention is due to obedience, surrender and to normative pressure. In contrast, with regard to mishpatim a similar statement would seem absurd. Could one possibly maintain: "I would like to commit murder, but I abstain because the Torah forbade it" ? One complies with chukim out of obedience, complete surrender and subordination to the divine word. Conversely, Hashem also expects man to act with dignity and to reject sin, injustice and cruelty because they are abominable and repugnant to man. This rejection must of course comply with the rule of Hashem, but the motivating criterion should be human dignity, and there is therefore no need for external normative pressure.

This distinction is the reason why blessings are recited for mitzvot "bein adam lamakom" (between man and G-d) and not "bein adam lechaveiro" (between man and man). The purpose of the blessing is to emphasize our actions in deference and submission to the Divine Will. The key phrase in the blessing is asher kidshanu bemitzvotov *vetzivanu*. The motivation for performing the mitzvah for which a blessing is recited is the divine imperative (5).

If left to ourselves, we could not conceive mitzvot such as shofar, lulav, succa, or tefilin, for their rationale is unknown to us. Human reason cannot grasp their purpose, central motif or objective. In contrast, mitzvot "bein adam lechaveiro", which are subsumed under mishpatim, contain an easily understood rationale and therefore their implementation is motivated not by normative coercion but by the existential need of lonely man created in the image of Infinity to do mitzvot. By practicing morality, man feels that he will come nearer to his creator. Since the mitzvah performance is spontaneous and not coerced, we do not offer a blessing.

This basic premise forms the opinion of Rabbi Yishmael "she'omrim al hen hen v'al lav lav ". "Al lav lav" means that in response to the command, 'Thou shalt not murder' the people respond -- "no: on our own we reject murder, for we hate to extinguish life". To 'Thou shalt not steal' the people respond --"no, we ourselves reject embezzlement and thievery". 'Thou shalt not commit adultery' --"no, on our own we reject sexual promiscuity". 'Thou shalt not bear false witness'-- "no, on our own we understand how abominable perjury is". 'Thou shalt not covet'-- "no, on our own we understand how reprehensible coveting is".

6 Rambam's introduction to Pirkei Avot ("Shmoneh Prakim")- chapter 6 5) Although according to Rabbeinu Tam (Tosfot on Kiddushin 38b, d'h d'lo), women may pronounce a blessing on "mitzvot aseh shehazman grama" despite the optional nature of such mitzvah performance by women, the Rambam (Hilchot Tzitzit 3:9) in fact holds that women do not pronounce such a blessing, because the normative element is absent. The blessing is inseparably related to the imperative, not to the act per se. The accent is on the word "vetzivanu"

Rabbi Akiva's Opinion: "Al lav hen"

Rabbi Akiva, however, approached this issue differently. He maintained that B'nei Yisrael's response was yes to all pronouncements, including the negative ones. In other words, they said 'yes' to all the commandments. In other words, their response was, "we surrender to Your will, we accept the norm, we shall comply with it". Rabbi Akiva apparently insisted upon normative motivation for mishpatim as well as chukim. Even though the negative precepts are acceptable to and sanctioned by any civilized society, they still require commitment and surrender to G-d.

The Rav indicated that if in this dispute the choice were his, he would be guided by the rule: "Halacha keRebbe Akiva", and would accept Akiva's interpretation. Surrender and obedience are most necessary, not only for chukim but for mishpatim as well. Rabbi Akiva's opinion is based on the fact that a clearly defined distinction between chukim and mishpatim is practically nonexistent. The central conception of mishpatim is illumined by a rationale, can be developed by human reason, and is therefore accessible to the logos. However, one's conscience is sensitive to the mishpatim only as far as the central area of mishpatim is concerned. The peripheral territories are as strange and alien to reason as the most mysterious chukim. Along the periphery, the cultivated, friendly and attractive scenery of mishpatim suddenly turns into a dark jungle.

As an example of a mishpat's "periphery", the Rav discussed the law against theft. Every sensitive individual would confirm and abide by such a law. The thief is held in contempt: the embezzler despised by society. The rationale is simple and self-evident. Only a psychopath would approve of stealing candy from a child or money from the box of a blind beggar.

Yet, what about the sort of theft depicted so often in literature, particularly by Victor Hugo, in *Les Miserables*. A poor man just released from prison with no prospects of earning money steals a loaf of bread from a bakery to sustain his life. The proprietor of the bakery wishes to prosecute even though the loss incurred is very small. Is the poor starving man deserving of punishment? Has a crime been committed or not? If human conscience is the authority judging the validity of the mishpat, then we could conclude that there was no transgression, that the action of stealing the loaf of bread was justifiable and quite possibly heroic.

There is only a single response to this dilemma: stealing is forbidden by the Almighty, and at Sinai we gave our assent, the hen. We will abide by Your will, whether we understand or not.

A similar example cited by the Rav was in regard to the sin of murder. Man, no matter what persuasion, faith or ideology indignantly condemns the murderer and the act of murder. Yet, what about a situation which Dostoevsky portrayed so vividly in *Crime and Punishment*? The book depicts a cruel, miserly old woman who is a loan shark sucking the blood of those unfortunates caught in her web; a person who evicts the old and frail on a winter day in below zero temperatures. In sharp contrast, also depicted is a brilliant young student who cannot afford to continue his medical studies and who hopelessly watches his sister being sold into white slavery and exiled to some oriental country. A loan of a few hundred rubles could have remedied his problems, yet the old woman refused to lend him the money. In a moment of despair the student kills the miser. Do we have the

right to condemn the student? Should we consider such a murder a crime? Again the answer is Rabbi Akiva's 'hen'; the Almighty has forbidden murder, whatever the motive.

If the sinfulness of murder were solely a result of human moral judgement, then why not permit abortion? According to Jewish Law, abortion is murder. The fertilized ovum, particularly after 40-50 days is a living organism: potentially it has all talents and capabilities of the human being. If human conscience is the judge, inconvenience to the mother would take precedence over the extinction of life. However if the Almighty is the judge, if the response to 'Thou shalt not murder' is "yea", not "nay", then abortion truly is morally equivalent to murder. If the human psyche does not find the killing of an unborn child repugnant, if murder is permitted based solely on moral reasonableness and sensitivity, then why not allow euthanasia? Furthermore, if the prohibition against murder is only nurtured by our sensitivity, then a doctor may kill an older person for the sake of obtaining a heart to transplant to a younger person. A doctor in England has gone so far as to express the opinion that hospitals should withhold resources in treating those above the age of 70, since these old people will soon die in any case.

Rabbi Akiva therefore maintained that morality must not rely solely on man's cognitive abilities, even in regard to mishpatim, since certain domains are inaccessible to human moral exploration and illumination. Yet, the entire structure of morality would collapse should society actually permit their violation.

Chukotai Ve'et Mishpatai

"Ushmartem atem et chukotai v'et mishpatai v'lo taasu kechol hatoevot ha'eleh" (Vayikra 18:26)

"And you shall observe my chukim and my mishpatim, and you shall not do all these abominations".

In order to meticulously observe the mishpatim which form the very foundation upon which civilized society rests, and to avoid the abominations accepted and practiced by the Canaanites, the community must be trained to observe the chukim as well. "Ushmartem et chukotai", and then "ve'et mishpatai". In this way alone can one guarantee: "v'lo taasu kechol hatoavot ha'eleh". One must teach the people how to surrender their intellectual pride and arrogance, and commit themselves to the Almighty, even though man's reason is unable to comprehend the moral necessity and practical utility of the chok. Secular ethics have failed because the element of chok is not comprehensible to secular man. If the integrity of the moral law is to be preserved, then one must accept the chukim, to abstain from the act which holds great promise and conversely, to act in ways which sometimes seem illogical and even painful: 'al hen hen v'al lav hen'.