A “(Post-)Modern” Rabbinic Idea of Equality

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In current popular discourse, various parts of the political spectrum are internally rupturing as they struggle to ascertain whether all human beings are indistinguishably identical or irreconcilably different, failing in their lack of nuance to comprehend that both are simultaneously true. On the political left, ironically, the very same criticism raised by Foucault of the Panopticon wielding “invisible power” could be leveled against those pledging fealty to thinkers like him; in their ideological zeal, they have created a world in which the individual must “virtue signal” and not step outside the groupthink. Meanwhile, on the right, the same jingoism that has ever fostered tribalism and sectarian violence has resurged in recent years with renewed vigor. The Jewish world has not been immune to these changes, but consider how traditionally, Judaism allowed for plurality of thought, although not plurality of action, in order that the Torah not be made into two *torot*. However, as early as the sixteenth century, it became apparent that there are not two *torot*, but many hundreds of different *torot*, shattering the Jewish unity of practice.[1] In stark contrast to this plurality has been the growing constriction of “permissible” Jewish thought, whether that be the book burnings of Maimonides’ works, or the excommunication of Elia Benamozegh. Increasingly, those who express opinions outside the “accepted mainstream” are considered dangerous, disruptive, and deviant, often emitting that distinctive, imperceptible-to-the-layperson yet perceptible-by-the-great-rabbi “waft of heresy” that has been the cause of so many bans and censors. I would like to therefore present an idea of equality, which, I believe, stems from rabbinic ideas found in our classical texts. This notion of equality, which draws on modern ideas as well as some post-modern thought, permits one to recognize the difference between individuals, and yet not feel afraid or threatened by their divergence. On the contrary, there is much to be learned from those with whom we disagree.

To begin, the Torah presents a model of society without hierarchy. This is seen in enactments such as the cancellation of debt (which amounts to no permanent loans), the inability to permanently lose ancestral land, as well as how acts of *tzedaka* are enshrined in law to create a culture of support and generosity. Those relationships of subordination that do still exist, such as master/slave, are steered away from the harsh Ancient Near Eastern parallels and humanized. This horizontal model is produced by an absolute equality under the law of Israel; Judaism functions much more as a legal system than as a religion, and all are equal subjects under the *nomos*. For example, distinct from other Ancient Near Eastern societies is how the king is subject to the law. Deuteronomy 17:15–20 enumerates how the king is appointed at the behest of the people (not self-appointed by the power of his own might), has additional laws limiting his position, and must write a copy of the Torah to be with him at all times.[2] Further, in the Ancient Near East the king was frequently a manifestation of the divine, considered to be in the literal "image of God." In the Torah's presentation of creation, not the king but rather all human beings are described as being in God's image. Even more surprising than the king being bound to the law, is that God is likewise bound by the covenant of Torah God formed with Israel. The *Talmud Yerushalmi**[3]* quotes a Greek saying: "For the king, the law is not written." The Talmud contrasts the conduct of a human king, who does not fulfill his own decrees, with the conduct of God, who is first to fulfill his own decrees.[4] The completely infinite being who is utterly free has chosen to be bound in Its actions and relate to humans in a specific way, thus is a subject under the law. This covenant between God and Israel, through its bilateral nature, gives an unprecedented role to human beings in their relationship with the Sovereign Being.

God forms the covenant of Torah in much the same way as a sovereign king does with the representative of his suzerainty in the Late Bronze Age, usually the subordinate king.[5] However, this "treaty" with the subordinate king is formed not with Moses, the leader, nor with the group-entity Israel. It is formed with "the common man of Israel… every man in Israel is to view himself as having the status of a king conferred on him—a subordinate king who serves under the protection of, and in gratitude to, a divine sovereign."[6] The option for relationship with the divine sovereign is open and available to all, regardless of class or status. This is echoed in the following statement of our Sages:

> There are three crowns: The crown of Torah, ?the crown of priesthood, and the crown of kingship. The crown of priesthood—Aaron ?merited and took it. The crown of kingship—David merited and took it. The crown of ?Torah—behold, it is placed for [all] generations [to merit]; anyone who merits Torah, is ?as if he has merited all three [crowns], and anyone who does not merit Torah, is as if he ?has not merited a single one of them.[7]

What are ostensibly privileged classes of priests and royalty, are instantly undermined by the single authority for Jews—the Law. This democratization of the law was achieved even in biblical times. With the development of the alphabet, writing was removed from the sole province of the priests (hieroglyphs) or scribes (cuneiform), and instead transferred to the people, all of whom were charged with the writing of a scroll of the Law.

No fewer than 36 times does the Torah enjoin the people of Israel not to oppress the stranger, let alone the plethora of prophetic passages dealing with this idea. What marks out the prophets of the Hebrew Bible is their increased sensitivity to, and consequent decrying of, social injustices, not cultic ones. As Heschel writes:

> We and the prophet have no language in common. To us the moral state of society, for all its stains and spots, seems fair and trim; to the prophet it is dreadful. So many deeds of charity are done, so much decency radiates day and night; yet to the prophet satiety of the conscience is prudery and flight from responsibility. Our standards are modest; our sense of injustice tolerable, timid; our moral indignation impermanent; yet human violence is interminable, unbearable, permanent… The prophet makes no concession to man's capacity. Exhibiting little understanding for human weakness, he seems unable to extenuate the culpability of man.[8]

What makes this so significant? Why is ill-treatment of the stranger so highly criticized, above all else? Perhaps because the stranger is the paradigm of the "other." Hebrew teaching has, since days of old, placed a premium on treatment of the ?stranger.? In II Samuel 21, we read of the famine in the land on account of Saul's mistreatment ?of the Gibeonites. The Talmud[9] greatly expands this story ? homiletically, portraying multiple points of interest. The story begins with a famine, brought about because of both the lack of honor given to ?Saul (he had not received proper burial) as well as Saul's negative actions toward the Gibeonites—?both are injustices that need to be addressed.? When the Gibeonites demand their savage appeasement price of seven of Saul's ?offspring to be publicly executed, David agrees.? The Talmud notes how David considers this request to be particularly ? merciless, rendering the Gibeonites unfit to be a part of the Israelite nation ?—and yet he still accedes! ? Finally, the text records how their bodies were left unburied, nailed atop the rock in Givat Shaul, exposed to the fowl and beasts. The Talmud challenges the idea that children can be put to death for the sin ?of the father, and that corpses can be left exposed overnight, based on ?verses in the Torah. To the first, the Talmud responds, "Better a letter of ?Torah be uprooted, than publicly desecrate God's name," and to the second, ??"Better a letter of Torah be uprooted, in order that God's name be publicly ?sanctified." The Talmud explains that passers-by would inquire about the ?bodies, and thereby come to know what had happened. Which, as Levinas ?puts it, was that "in Israel, princes die a horrible death because strangers ?were injured by the sovereign."[10] As we see, the treatment of the stranger is made equivalent to the sanctification of God's name, because God is the ultimate other. In fact, the human relationship with God is frequently modeled in regard of human relationships with other humans, and thus our ?treatment of the stranger is an index for our relationship with God.?

A *mishna* states: "A human being imprints one hundred imprints with a single seal, and all are similar to each other. But the King, King of kings, the holy One, blessed be He imprinted every human being with the seal of Adam the First, and yet not a single one of them is similar to his fellow."[11] The singular imprint of God is expressed in the very diversity of humanity. To truly begin to see the signification of God in creation, one must learn to appreciate the other. As José Faur observed, this idea of God as the ultimate "other" is captured by the Hebrew term ?*ot*.[12] This term can mean a "sign" as well as a "distinctive mark" (and therefore ?letter of the alphabet) but also thereby "absolutely distinct." *Ot* is thus used by the Talmud to refer to God as being an *ot* among His myriad angels,[13] i.e., absolutely distinct ?from them. Faur concludes, "As an *ot*, God is the absolute and unbounded difference." He cites ?Derrida's description: "Whether He is Being or is the master of beings, God himself is, and ?appears as what He is, within difference, that is to say, as difference and within dissimulation."[14]? As Sacks puts it:

> ?*We encounter God in the face of a stranger*. That, I believe, is the Hebrew Bible's single ? greatest and counterintuitive contribution to ethics. God creates difference; therefore it ?is in one-who-is-different that we meet God. Abraham encounters God when he invites ?three strangers into his tent. Jacob meets God when he wrestles with an unnamed ?adversary alone at night. The Book of Ruth, which tells the prehistory of David, Israel's ?greatest king, reaches its climax when Ruth says to Boaz (her "redeemer"), "Why have I ?found favour in your eyes such that you recognise me, though I am a stranger" (2:10). ?The human other is a trace of the Divine Other.?

[15]

Given that this is the case, the respect shown for the other is a yardstick of measuring the development (some would say morality) of a society. Further, it is thus impossible for an individual or community to have a genuine relationship with God, if that individual or society mistreats the other. One's relationship with God must be predicated on recognition of God's ultimate otherness, hence Maimonides' *via negativa* to remove all traces of one's self-projection onto God. If one's actions toward the stranger indicate that one is incapable of loving freely one who is different, then their relationship with God must also be called into question, for they must surely be incapable of loving one as supremely other as God. Instead, such a person has—consciously or unconsciously—recreated God in their own image, imputing to God the characteristics deemed positive in their subjective eyes.

Let us digress, for a moment, to the nature of existence. Thinkers from the kabbalistically inclined R' Zadok HaKohen Rabinowitz of Lublin[16] to the philosophical Gersonides[17] have described the world as a book, authored by God. This means that the world is subject to interpretation through different lenses, as is the text of a book. This idea is captured by the Eastern parable of The Blind Men and the Elephant, in which a group of blind men encounter an elephant, each one feeling a different part of it, and therefore describing it differently. If creation is a book, then some discussion of linguistics is in order. Consider Saussure's distinction between *langue* and *parole*. In the *parole*, or speech act, speakers draw on *langue*, a shared repository of a sign system with specific sign values. These sign values do not inherently contain "positive" value in the construction of sentences in an essentialist way, any more than individual phonemes do in the construction of words. Instead, the sign values are generated by the **difference** between the signs. Further, compare the sentences "I went to the bank of the river" and "I went to the bank near the river." Despite ultimately deriving from a shared etymological source, the two "banks" in these sentences have completely different values. The specific value in each sentence is created by its standing in syntagmatic opposition to the other parts of the sentence, most pointedly "of" and "near." Additionally, these sign-values can be exchanged for similar values without changing the meaning of the syntagm, and thus the specific sign chosen is not essential. For example, "I went to the bank near the brook/stream/flowing water" would all be acceptable, or even "I went to the bank near the post office" if the sign "river" serves only as a placeholder for a geographical indicator of proximity to the bank. A corollary of interpreting the world and existence as a book is that words in the book (by which I mean entities within creation) do not have inherent, essential value. Value derives only from standing in syntagmatic opposition to an other. There is no pre-existent, metaphysical self/other dichotomy in which *cogito ergo sum*, to the exclusion of all others. The presupposed metaphysical "I" does not exist. This idea, beyond Sartre's *regard* or George Hebert Mead's Symbolic Interactionism, postulates that the self is not just influenced, even formatively so, by the other, but that the very existence of a "self" is only created in its opposition to "other." Sacks argues this point from the creation of the first two human beings:

> God says about the first human, "It is not good for man to be alone." He then creates the first woman, and the man, waking and seeing her, says: "This is now bone of my bone, flesh of my flesh; she shall be called woman [*ishah*], because she was taken from man [*ish*]"… Biblical Hebrew has two words for man, *adam* and *ish*. *Adam* (meaning, taken from the Earth, *adama*) signifies man, the biological species. *Ish* means roughly the same as the English word, "person." The subtle point of the Biblical text is that this verse is the first in which the word *ish* appears. Adam must pronounce the name of his wife before he can pronounce his own. He must say "Thou" before he can say "I."[18]

Human beings, existing solely as products of intersubjectivity, stand in syntagmatic opposition to each other – they are all equally as essential to the syntagm of existence. In a sentence such as "Abi is talking to Sam," the value of "Sam" could arguably be substituted for another similar value, such as "Gideon," as they stand in paradigmatic opposition to each other. However, in "**I** am talking to **you**," the personal pronouns cannot be substituted for any similar term! There is no situation in which the unique dialectic interaction of "I" and "you" could be replicated by any others. This view of the world as a book gives unparalleled meaning to the existence of the other. It is not possible to have value or signification without the presence of the other, and the difference that emerges from the interaction between the self and the other.

Bearing this system in mind, Faur proposes a distinction between narcissistic love and selfless love.[19] Narcissistic love follows from the view that there is a metaphysical "I." Since I and all my qualities are good, then in order for me to love the other, the other must be similar to me, and then incorporated into the I. "For [persecuting societies], the Biblical commandment to love others as ourselves is implemented by imposing their ego on others. Those refusing to let themselves be narcissistically absorbed, as in the case of the Jews, or when deemed unworthy of absorption, as the Native Americans, are void of human qualities."[20] This love is also passive, where those who are the same are simply naturally part of the self and are absorbed. This type of love forms the basis of Sartre's pessimistic outlook, that "one must either transcend the Other or allow oneself to be transcended by him. The essence of the relations between consciousness is not the *Mitsein*; it is conflict."[21] Conversely, selfless love is offered from an "I" to a "you." It only exists when both parties are present, and is an active form of love, where the "I" recognises the otherness of the "you." In contrast to its fulfilment in persecuting societies, "The commandment to "love your fellow human as yourself" is grounded on the parallel *I-you*. Inter-subjectivity occurs when the "other" is accepted as a *you*—a fully autonomous person with his or her subjective perspective… *you* must be respected with the same intensity as the *I*."[22]

As an aside, this distinction between subsuming the other within the self and the self and other standing in opposition to generate difference, is also present in the difference between Greek and Hebrew "logical" analysis. The Classical Greek syllogism seeks to identify X with Y:

All men (A) are (=) mortal (X)

Socrates (B) is (=) a man (A)
Therefore Socrates (B) IS (=) mortal (X).

In broader terms, all A have quality X. B = A, therefore B also has quality X. "[The syllogism] depend[s] on a *subject-predicate* relation between two terms… wherein one tries to show that the predicate is included in the subject… Aristotle argues that all valid arguments involve syllogistic reasoning, and the syllogism is for him the ideal model of logic and thought."[23] In contrast, rabbinic thought is much more focused on similarities and generated differences that exist between A and B when stood in opposition to each other. In the model of the *kal vah?omer* (*a fortiori* argument), for example, the similarities between two things are used to imply that there should be a shared characteristic. When Moses is told again by God to request of Pharaoh that he let the Israelites free, he responds: If the children of Israel (A) [who lack good reason to ignore me (-X)] will not listen to me (Y), then Pharaoh (B) [who has good reason to ignore me (X)] will certainly not listen to me (Y)! Since A, which lacks X, has Y, then B, which has X, will certainly have Y. This form of reasoning "is relational rather than ontological,[24] dealing with propositions rather than predicates."[25] "[It]

depends on an *if*, not an *is*, and therefore conclusions are always relative and are subject to further interpretation and application… the coexisting predicates retain their independence and do not cancel each other out."[26] Rabbinic thought never sought to collapse the distinctions between two entities when assessing their comparative similarities and differences.

Faur briefly mentions the connection between narcissistic love, in which the other is absorbed into the self, and Christianity, in which the good Christian is absorbed into the *corpus Christi*. However, there are additional points of connection. For example, when Jesus is asked the famous question regarding the so-called "Great Commandment," the New Testament reports:

> And one of them, a lawyer, asked him a question to test him. "Teacher, which commandment in the law is the greatest?" He said to him, "'You shall love the Lord your God with all your heart, and with all your soul, and with all your mind.'" This is the greatest and first commandment. And a second is like it: "You shall love your neighbor as yourself." On these two commandments hang all the law and the prophets."[27]

And in Jesus' interpretation of the second commandment, he instructs: "In everything, do unto others as you would have them do unto you; for this is the law and the prophets."[28] Firstly, in this presentation, Jesus proposes a theocentric purpose to the fulfillment of the commandments. He does this by prioritizing a certain category of commandments between humans and God, over and above those that are between humans. Ultimately this means sacrificing the other in favor of divine worship—something unfathomable to rabbinic Judaism. Consider the *mishnayot* that caution against trying to deduce which commandments have greater weight than others,[29] or that teach that with whomever people are pleased, God is pleased, and with whomever people are not pleased, God is not pleased.[30] Additionally, consider the words of Maimonides: "[There are commandments which] they call "between man and God," even though **in reality** they move [a person] toward matters that are between man and man."[31] This clearly posits an anthropocentric focus to the commandments, which are intended to bring social cohesion and serve a societal function. Secondly, Hillel also reformulated the commandment to "Love thy neighbor as thyself." However, his reformulation is markedly different: "That which is hateful to you, do not do to your fellow."[32] This negative reformulation is essential to the discussion at hand. Jesus' command necessitates **projection** of oneself onto the other. "Do unto others as you would have them do unto you" makes the assumption that what the self enjoys and wants, the other must also enjoy and want. One projects themselves onto the other in order to express this kind of love, narcissistically incorporating that other—whose desires are your desires—into the self. This implicitly relies on the following syllogism: I like X, you are like me, therefore you like X. As discussed above, like all classical syllogisms, this collapses the distinction and difference between two subjective entities in a stifling "love." Conversely, Hillel does not make this projection. He only goes so far as asserting that something the self hates, may be hateful to the other, and so should not be perpetrated against the other. There is no scope to assume anything beyond that, as further assumptions require an active projection onto the other, rather than passive abstention from potentially hateful activities. This again returns to the idea of God as other. As mentioned above, one must remove all projections of the self onto God, the ultimate other. We can now see that the model to achieve this relationship with God is the removal of projections onto the human other, in order to engage in authentic intersubjectivity.

We have thus established that there is absolute equality under the *nomos* of Israel, that every member of the polity forms a covenant with God and is invited to relationship with the divine. The stranger is also entitled to protection under the law, and ultimately the stranger who is different from us

is where we may encounter the divine. In fact, the other is essential to the very existence of the self. Let us conclude with a few remarks regarding the relation between Judaism and other ways of life. The Torah is not universalist, in the sense that it is not intended to be kept by every member of humanity. It is thus not exclusivist—there is no claim that following the Torah is the "only way to achieve salvation," whatever that may look like. The Torah is intended for the Jewish nation, in its homeland of Israel.

> [Maimonides] refrained from defining "pious"… or what constitutes a "sin" for a gentile; cf. *MT Teshuba* 3:2. He defined a pious gentile in terms of the seven Noahide *mis?vot* in the section about Jewish governance and territory, concerning the status of non-Jewish residents in the Holy Land (*MT Melakhim* 9:2). The sense is obvious. An alien residing in Israel must respect Jewish standards and regulations as it would be expected from every alien to respect the laws and regulations of the host country.[33]

There is a tendency in interfaith settings to place the emphasis "on similarities and commonalities, as if the differences between faiths were superficial and trivial."[34] However, not only does this greatly undermine the role of *difference* discussed heretofore, it is also insufficient for effectively living with those who are different from ourselves. "There is nothing so slight that it cannot, under pressure, be turned into a marker of identity and thus of mutual estrangement. We need, in other words, not only a theology of commonality… but also a theology of difference… why it represents the will of God."[35] "We don't rush… to simply contrast another religion with our own or to declare that its adherents are unknowingly our own coreligionists; instead we honor both the commonalities of another religion with our own and its differences."[36] Sacks' call is as relevant now as it was then, over twenty years ago: "Can I, a Jew, hear the echoes of God's voice in that of a Hindu or Sikh or Christian or Muslim or in the words of an Eskimo from Greenland speaking about a melting glacier? Can I do so and feel not diminished but enlarged?"[37]

Notes

[1] See the comments of Maharshal, Introduction to *Yam Shel Shelomo* on *Baba Kamma*.

[2] See Ralbag ad loc., s.v. *vehaya k'shibhto*: '…the king was commanded in this in order that he watch diligently over the law, and that his entire conduct be according to the law.'

[3] *yRosh HaShana* 1:3 (57b).

[4] On this, see Saul Lieberman, *Greek in Jewish Palestine* (New York: Jewish Theological Seminary of America, 1942), 37–38.

[5] Joshua A. Berman, *Created Equal: How the Bible Broke with Ancient Political Thought* (New York: Oxford University Press, 2008), 28–40.

[6] *Ibid*. 41. On the use of the term *man*, see *ibid*. 13–14.

[7] *Kohelet Rabba* 7:1, 2 *inter alia*, each with slight ?variations.

[8] Abraham J. Heschel, *The Prophets* (New York: Jewish Publication Society of America, 1962), 9.

[9] *bYevamot* 78b–79a.

[10] Emmanuel Levinas, *Nine Talmudic Readings*, trans. Annette Aronowicz (Bloomington: Indiana University Press, 1994), 27. Levinas takes this idea in a specific direction that I do not wish to follow, referring to the "search for the spirit beyond the letter," a notion that raises its own problems.

[11] *mSanhedrin* 4:13, Kaufmann Ms. Or, to quote Edmond Jabés, "Tous les visages sont le Sien ; c'est pourquoi Il n'a pas de visage."

[12] José Faur, *Golden Doves with Silver Dots: Semiotics and Textuality in Rabbinic Tradition* (Bloomington: Indiana University Press, 1986), 83.

[13] *b??H?agiga* 16a.

[14] Jacques Derrida, “Edmond Jabés and the Question of the Book” in *Writing and Difference* trans. Alan Bass (Chicago: University of Chicago Press, 1978), 74 (90 in the Routledge Edition).

[15] Sacks, *Dignity of Difference*, 59–60.

[16] In *Tzidkat Hatzaddik* 216.

[17] Ralbag in his commentary to *Shemot* 32:32.

[18] Sacks, *Dignity of Difference*, 150–151. See also Faur’s reformulation of *cogito ergo sum* as “I speak, therefore I am” (or *dico ergo sum*), based on José Faur, “Person and Subjectivity: A Linguistic Category,” *Mentalities* 6, 2 (1990), 15–18.

[19] José Faur, *In the Shadow of History: Jews and* Conversos *at the Dawn of Modernity* (Albany: SUNY Press, 1992), 6–7.

[20] *Ibid*, 6.

[21] Jean-Paul Sartre, *Being and Nothingness: An Essay on Phenomenological Ontology*, trans. Hazel E. Barnes (New York: Philosophical Library, 1956), 429.

[22] Faur, *In the Shadow of History*, 6.

[23] Susan A. Handelman, *The Slayers of Moses: The Emergence of Rabbinic Interpretation in Modern Literary Theory* (Albany: SUNY Press, 1982), 6.

[24] Interestingly, Sacks also uses this description in referring to covenants, which, “because they are relational, not ontological—are inherently pluralistic” (*Dignity of Difference*, 203).

[25] Handelman, *Slayers of Moses*, 24.

[26] *Ibid*. 56.

[27] NRSV *Matthew* 22:35–40.

[28] *Ibid*. 7:12

[29] *Avot* 2:1.

[30] *Ibid*. 3:13.

[31] *Guide for the Perplexed* III:35.

[32] *bShabbat* 31a. In addition to the following discussion, it is worth pointing out that Hillel also states that *this* is the entire Torah—loving one’s fellow, not loving God.

[33] José Faur, *The Horizontal Society: Understanding the Covenant and Alphabetic Judaism* (2 vols.), vol. 2 (Boston: Academic Studies Press, 2010), 33.

[34] Sacks, *Dignity of Difference*, 21.

[35] *Ibid*.

[36] Miroslav Volf, *Flourishing: Why we need Religion in a Globalized World* (New Haven: Yale University Press, 2015), 123. I found some parts of Volf's discussion difficult to map onto Judaism. He considers assessing and comparing religions in terms of their metaphysical structures and truth claims, ideas that I believe are not found, certainly in the classical sense, in rabbinic Judaism. Firstly, as mentioned, Judaism functions much more as a legal system than as a religion; secondly, viewing rabbinic mysticism as a metaphysic does not accord with the presentation cited above of the world as a book authored by God; and thirdly, Judaism does not present belief in its truth as reason for fulfillment of the commandments— rather, one of the commandments is to "believe" in God.

[37] Sacks, *Dignity of Difference*, 17–18.