Halakha and Morality in a Polarized Society

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Devarim 4:5–8 paints an idyllic word-picture of how Gentiles will perceive Torah-observant Jews:

> *Behold, I have taught you statutes and regulations, as Hashem my God commanded me, for you to do them in the midst of the land which you are coming to inherit. You will preserve them and do them, because they are your wisdom and discernment in the view of the nations, who will hear all these statutes and say: "Indeed this great nation is wise and discerning."*

History has rarely corresponded to this picture. Moreover, rabbinic literature is fully aware that some biblical commandments arouse mockery or disdain among many non-Jews. Dismissing those non-Jews as shallow does not resolve the problem that the Torah seems descriptively false. Claiming that the Torah's description applies only to a perfectly observant community, and thus blaming Jews for incomplete observance, seems disingenuous and victim-blaming.

And yet there was an exception. American Jews in the late twentieth century could reasonably perceive themselves as living mostly in the Torah's world. The phrase "Judeo-Christian values," however problematic historically and fraught politically, amounted to Gentile recognition and endorsement of what they perceived as the values of the Torah. Laws such as *kashruth* were seen as legitimate and praiseworthy means of preserving identity while expressing universal values, rather than as illegitimate and blameworthy separatism. Even the ban on intermarriage was tolerated by the broader society, although I suspect only because it was honored mostly in the breach.

Nonetheless, the logically inescapable truth is that on any issue that is controversial in Gentile society, Jews and Judaism cannot take a firm position without earning praise from the Gentiles on one side and criticism from those on the other. The substance of Torah can be universally admired only in a

consensus society, or else if Torah refracts into multiple and mutually exclusive positions corresponding to the broader society's moral/ideological factions.

If America was a consensus society, it is no longer; and of course, one can argue that the supposed consensus was always an illusion fostered by an elite. Political data suggests that we are consciously or unconsciously adopting the refraction strategy to meet the new polarized reality. Orthodox Jews are increasingly going with Republicans or MAGAism, and non-Orthodox Jews with Democrats or progressivism. Anecdotally, this sorting is self-reinforcing, as Jews are also switching or dropping out of denominational life because of political discomfort.

It's entirely reasonable for the Jewish community overall to have roughly the same political spectrum as the society around it, and for Orthodoxy and non-Orthodoxy to favor different sides of a major cultural conflict. And it is natural that some Orthodox Jews will have different sympathies than most of their peers and as a result feel isolated. But I think what particularly troubles sincere, idealistic Orthodox Jews is when the moral positions of their *shul*mates or religious institutions seem to be changing to justify their political affiliation rather than developing autonomously out of the tradition. They want to belong to a Torah community that serves as a light rather than as a mirror to the nations.

How can we best create such a community?

Because Jewish tradition is genuinely multivocal and legitimately responsive to changes in the world, I don't think that drawing objective red lines, i.e., trying to rule specific positions out of bounds, is likely to be an effective strategy for preventing moral followership.

It's also important to recognize that reaction can be as inauthentic as conformity. If anti-Semitism continues to become more prevalent and more socially acceptable, there may be a natural internal Jewish reaction to ascribe greatest Jewish authenticity to those aspects of Torah most criticized by anti-Semites, especially to those who are on the other side of a polarized political space. Similarly, where the Torah can be interpreted in multiple ways, there may be pressure to demonstrate authenticity by adopting the interpretations that most annoy the anti-Semites on the other side. These pressures may manifest on both sides in areas as diverse as Middle East politics, gender/sexuality, public health policy, and more.

Rather, I suggest that we need to collectively develop a procedural/epistemological checklist that lets us challenge ourselves and each other whether we are making a sincere attempt to authentically represent Jewish tradition, and to meaningfully discuss across party lines whether a position of ours meets that challenge.

For example: If you are making a claim about Jewish tradition, do you know the most common traditional sources used to challenge your position, and can you convincingly explain them? If your application of Jewish tradition rests on a claim of fact, have you seriously engaged with scholars who reject that claim? If you are arguing from contemporary authority, have you discussed these issues with respected scholars who are not public figures and/or are politically uninvolved, to make sure that you are not just listening to the loudest voices or aiding a campaign of intimidation?[1]

Let's suppose—a huge if—that we can accomplish this. I want to be clear that this is not enough to meet our Torah obligation vis-a-vis the human societies we participate in. In fact, my use of autonomy and authenticity as lodestars for developing positions might create the false impression that we are indifferent to what non-Jews think of Torah.

One standard Jewish expression of an obligation to care about what non-Jews think is *or laGoyim*, "light unto the nations." I have trouble using this phrase because it seems to result from what is known as a Mandela effect, a collective false memory. That expression does not appear in Tanakh.

Rather, Yeshayahu 42:6 and 49:6 each say that God will make the Jewish people *l'or goyim*. It's possible that the meaning remains the same, but I have heard various efforts to argue for fundamental differences.

My preference instead is to use the categories *kiddush Hashem* (sanctification of the Name) and *hillul Hashem* (desecration of the Name). My argument is that these categories legitimately place pressure to make halakhic choices and interpretations that inspire non-Jews to value Torah. My argument is grounded in the following two texts from the Jerusalem Talmud.

1. Yerushalmi Bava Metzia 2:5 (translation modified from Guggenheimer)

> Simeon ben Shetac? was in the linen trade. His students said to him: Rebbe, to make it easier for you, we will buy you a donkey so you won't have to work so hard. They went and bought him a donkey from a Saracen; a pearl was hanging on its neck. They came to him and said: From now on you will not have to work anymore. He said to them: Why? They told him: We bought a donkey for you from a Saracen and a pearl is hanging on its neck. He asked them: Did its owner know about this? They answered: No. He told them: Go return it!
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> But did not Rav Huna Bibi bar Gozlan in the name of Rav say:
> "They objected before Rebbe: 'Even according to the position that an object robbed from a Gentile is forbidden, everybody agrees that his lost object is permitted!?'"
> What do you think, that Simeon ben Shetac? was a barbarian? Simeon ben Shetac? wanted to hear: "Praised be the God of the Jews" more than any gain in this world.

It's not clear whether the last two elements of the passage are an editorial reflection on the story, or rather an anachronistic recreation of the dialogue between Shimon ben Shetach and his students (they quote rabbis who lived many centuries after their time). Regardless, the text is explicit that only a barbarian would keep a Gentile's lost object, even though all halakhic positions are understood to permit keeping it.

This implies that the permission can be kept on the halakhic books as-is only because Gentiles don't know about it. I contend that Shimon ben Shetach fundamentally argues that the permission codifies a lost opportunity to make Gentiles think well of the Torah of the Jews—for *kiddush Hashem*—and therefore cannot be sustained as practical law.

It makes little sense to say that our interest is in having Gentiles think well of Torah that is not actually Torah. That might even be a violation of the prohibition of *geneyvat daat*, which includes gaining goodwill under false pretenses). Possibly, however, the law would remain on the books for hypothetical societies (think Sodom and Gomorrah) so stuck in selfishness that people returning valuable lost objects would be regarded as fools rather than as moral heroes. Nonetheless, that context would have to be provided whenever the law was taught.

2. Yerushalmi Bava Kamma 4:3 (Translation mine)

> A story: The government sent two investigators to learn Torah from Rabban Gamliel. They learned from him Scripture, Mishnah, Talmud, Halakha, and Aggada. In the end they said to

> him: “Your entire Torah is attractive and praiseworthy except . . . that you say . . . “objects stolen from a Jew are forbidden, but objects stolen from a Gentile are permitted.” Immediately Rabban Gamliel decreed that objects stolen from a non-Jew would be prohibited to prevent desecration of the Name.

This text explicitly endorses a change in halakha for the purpose of preventing non-Jews from thinking badly of Torah, which is termed “desecration of the Name,” or *hillul Hashem.*

My bottom line is that Gentile moral evaluation is a legitimate factor to consider when deciding halakha.

Readers are strongly encouraged to challenge my argument via the procedural/epistemological checklist above. I fervently hope this will lead to a conversation in which we together seek to figure out the limits of this principle, and which opinions in which societies we honor and which we proudly flout. Only in that way can our Torah become a genuine source of light for the world.

Note

[1] Deborah Klapper notes that this approach risks reopening battles that have been decisively won in our community, such as whether women can drive; or preventing us from decisively winning crucial battles, such as whether the category Amalek has any contemporary halakhic application. I concede the point. Pluralism is the first refuge of the losing side in culture wars, and the bane of winners. But I have not found a way to justify having a different epistemology in victory than in defeat, so this may be, like democracy, the worst of all systems except for all the others.