

**JEWISH LITERACY**  
**Rabbi Michael Lotker**  
**Midrash, Halacha & Jewish Legal Codes**

I. **Midrash**

- A. A *midrash* (plural *midrashim*) is material structured like a sermon which seeks greater understanding of a text by searching examination of the language used.
- B. Midrash can either be legal (*halacha*) or sermonic (*aggada*).
  - 1. *Halachic midrash* example: taking the prohibition against seething a kid in its mother's milk to ban mixing any milk with any meat.
  - 2. *Aggadic midrash* example: the story of young Abraham breaking the idols in his father's idol shop. In modern usage, *midrash* usually refers to *aggadic* material.
- C. There are many collections of *midrash*. The term *Midrash* often refers to the most famous of these, the *Midrash Rabbah*, which contains *midrashim* on the Torah and the 5 Scrolls.
  - 1. The individual texts are called *Bereshit (Genesis) Rabbah*, *Ruth Rabbah*, etc.
  - 2. *Bereshit Rabbah* was compiled about 500 CE, *Numbers Rabbah* in the 12<sup>th</sup> century.
  - 3. There are many other collections of *midrash*, however, and many have doubtlessly disappeared.
- D. There is a new wave of writers of modern *midrashim*. A good example is *The Red Tent*.
- E. Some notable collections of *aggadic midrash*:
  - 1. Louis Ginsberg, Legends of the Bible, Jewish Publication Society, 1992. This is a one volume version of Legends of the Jews, a five volume work by the same author and publisher, published in 1909. It assembles the *midrashim* on the stories of the Bible in a coordinated fashion. It is readable and fun but it does not tell us the source of each *midrash*.
  - 2. H.N. Bialik & Y.H. Ravnitzky, ed., The Book of Legends, Schocken Books, 1992. This is an English translation of *Sefer Ha-Aggadah*. It is an enormous (almost 900 pages of very small type on oversized pages) collection of *aggadic midrash* wonderfully organized by Bible section, subject content, issue, rabbis, etc. Each *midrash* is clearly identified as to source.
  - 3. Howard Schwartz, *Tree of Souls: the Mythology of Judaism*, Oxford University Press, 2004. A wonderful collection of fantastic tales with much drawn from Kabbalah.
  - 4. You can also find collection of *midrashim* by Torah portion, for children, etc.
- F. Let's read some *midrash*.

## II. **Halacha, Legal Codes & Responsa**

- A. **Halacha:** The word, “halacha,” means “a path” or “walking.” It is the term applied to Jewish Law and emphasizes that Jewish Law is a path for one’s life.
- B. **Legal Codes:** Jewish law as presented in the Talmud is not well organized or assessable to the average Jew (or even the average rabbi!). Thus there was a need for legal codes. Two deserve special mention:
  - 1. Maimonides’ (Moses ben Maimon) code called *Mishne Torah* (“the repetition of the Torah,” 1180).
  - 2. Next major code (still considered authoritative) is Joseph Caro’s *Shulchan Aruch* (“the Prepared Table,” 1500). This was the first code written after the invention of the printing press.
- C. **Responsa:** But questions arose constantly after the completion of the Talmud. These were sent to acknowledged scholars whose answers, in the form of letters, were called “*Responsum*” or, collectively, “*Responsa*”
  - 1. Responsa are case law – they are fascinating to read.
  - 2. Earliest written responsa are from 7<sup>th</sup> century Babylon.
  - 3. Many responsa (for example, all of Rashi’s) have been lost.

Responsa continue to this day in all of the Jewish movements.

Readings for the class on the Prayerbook from the Handbook: pp. 11-28, 47-60, 92-100, 184-185, 202-210, 281-283, 234-5, 525-527, 541-559.

Readings from Lotker: 79-86, 99-103

TRANSLATION AND COMMENTARY

LITERAL TRANSLATION

BACKGROUND

Bet She'arim. Bet She'arim was a small city in the northwestern corner of the Jezreel valley, situated on what is known today as the hill of al-Sheikh Burayk. It served as the seat of the Sanhedrin during the days of Rabbi Yehudah HaNasi. Even though Rabbi Yehudah HaNasi moved in his later years to Sepphoris on account of his failing health, he was buried in Bet She'arim. It was apparently for this reason that the catacombs of Bet She'arim became an especially important burial place. For several hundred years, leading families in Eretz Israel and outside of it would bring their dead to Bet She'arim to be buried there. Bet She'arim's burial grounds were excavated in recent years, and many of the epitaphs and sarcophagi have survived intact.

rise up from his throne, hug and kiss him, and call out to him: "My teacher, my teacher, my master, my master!"

The Gemara answers: There is no difficulty. This act of Jehoshafat is the way that a king or Nasi should relate to Torah scholars in private, and the advice of Rabbi Yehudah HaNasi is the way he should relate to them in public.

The Gemara continues: It was taught in a Baraita: "Rabbi Yehudah HaNasi was lying on his deathbed in Sepphoris, and a burial place was made ready for him in Bet She'arim."

The Gemara asks: But surely it was taught otherwise in another Baraita: "The verse which states (Deuteronomy 16:21): 'Justice, justice shall you pursue,' teaches that a person should seek out justice by following a great Torah scholar to the academy where he teaches. This means that one should follow Rabbi Yehudah HaNasi to Bet She'arim." Thus, we see that Rabbi Yehudah HaNasi's permanent residence was in Bet She'arim, and not in Sepphoris!

The Gemara answers: Rabbi Yehudah HaNasi indeed lived in Bet She'arim, but when he became ill, he was moved to Sepphoris for medical reasons [104A] for Sepphoris is situated at a higher altitude than Bet She'arim, and its climate is more pleasant.

It was related that the day that Rabbi Yehudah HaNasi died the Rabbis had decreed to be observed as a fast, and everybody prayed for God's mercy, so that Rabbi Yehudah HaNasi's would recover from his illness. And they said: "Whoever proclaims that Rabbi Yehudah HaNasi died will be pierced with a sword." Rabbi Yehudah HaNasi's maidservant went up to the roof of the house and said: "The heavenly creatures desire Rabbi Yehudah HaNasi up in Heaven, and the earthly creatures desire him on earth

he would rise from his throne, and hug him, and kiss him, and call him: "My teacher, my teacher, my master, my master!"

It is not difficult. This, in private. This, in public.

It was taught: "Rabbi was lying [ill] in Sepphoris, and a place [for burial] was ready for him in Bet She'arim."

But surely it was taught: "Justice, justice shall you pursue"—

follow Rabbi to Bet She'arim."

Rabbi was in Bet She'arim, but when he became ill, they moved him to Sepphoris, [104A] because it is higher, and its air is pleasant.

The day that Rabbi died the Rabbis decreed a fast, and they prayed for mercy. And they said: "Whoever says [that] Rabbi died will be pierced with a sword." Rabbi's maidservant went up to the roof, [and] said: "The heavenly creatures desire Rabbi, and the earthly creatures desire Rabbi."

RASHI

בצונעת - מכנז כל אחד ואחד. בפרהסיא - מטיל עליהם אימה, להודיע נשואו. רבי מוטל - בחלו נצפורי, ומקום קברו מוכן לו נניח שערים. רמרליא - דאמרין במסכת מגילה (דף 101): למה נקרא שמה נצפורי - שיושבה נראש ההר, כליפור.

היה עומד מפסאו ומחבקו ומנשקו, וקורא לו: 'רבי, רבי, מרי, מרי!'  
לא קשיא. הא בצנינעא. הא בפרהסיא.

תנא: רבי מוטל בצפורי, ומקום מוכן לו בבית שערים. והתנא: "צדק צדק תרדף" - הלך אחר רבי לבית שערים!

רבי בבית שערים הנה, אלא בין דחלש, אמטיוהי לצפורי, [104A] דמדלגא, וובסיס אורא.

ההוא יומא דנח נפשיה דרבי, גזרו רבנן תעניתא. ובעו רחמי. וואמרי: "כל מאן דאמר נח נפשיה דרבי ידקר בקרב". סליקא אמתיה דרבי לאיגרא, אמרה: "עליונים מבקשין את רבי, והתחתונים מבקשין את רבי."

NOTES

This, in private; this in public. The king must be severe with the Sages, for there is a special rule that the fear of the king must be cast upon his people. Just as it is forbidden for others to treat his position lightly, so too he himself must do nothing to compromise his own honor. Whoever says that Rabbi

died. Rivan explains that the Sages did not want to be informed of Rabbi Yehudah HaNasi's death, because they wanted to pray for him, and they would not be able to continue to do so once they knew he was dead. The heavenly creatures desire Rabbi. Maharsha explains that man has a heavenly side - his soul, and an earthly side - his body. Heaven and earth

HALAKHAH

This, in private. This, in public. "The king is obligated to honor Torah scholars. When the Sages of Israel appear before him, he must stand up before them, and seat them at his side. But this only applies inside

the king's castle and out of the public eye. But in public he may not stand up and show respect to anyone, so that his fear be cast on the whole nation. (Rambam, Sefer Shofetim, Hilkhot Melakhim 2:5.)

TRANSLATION AND COMMENTARY

LITERAL TRANSLATION

<sup>1</sup>May it be Your will that the earthly creatures overcome the heavenly creatures, and that Rabbi Yehudah HaNasi remain among the living." <sup>2</sup>But when she saw how many times he went to the outhouse, and first took off his tefillin, and then put them back on again, and how he suffered from the intestinal illness that plagued him, <sup>3</sup>she altered her prayers and said: "May it be Your will that the heavenly creatures overcome the earthly creatures, and that Rabbi Yehudah be relieved of his misery, and laid to his final rest." <sup>4</sup>But the Rabbis did not silence themselves and stop praying for God's mercy, so that Rabbi Yehudah HaNasi would not be taken from them. <sup>5</sup>So the maidservant took a pitcher, and cast it down from the roof to the ground, and it smashed to pieces. <sup>6</sup>Alarmed by the sudden noise, the Rabbis silenced themselves and momentarily stopped praying for God's mercy, and in that interim Rabbi Yehudah HaNasi died. <sup>7</sup>The Rabbis said to Bar Kappara: "Go in and check on Rabbi Yehudah HaNasi's condition." <sup>8</sup>He went in, and found that he had died. <sup>9</sup>Bar Kappara immediately rent his garment as a sign of mourning, but he then turned the garment around so that the rent was behind him, and could not be seen. When he came out and reported back to the Rabbis, <sup>10</sup>he began to eulogize Rabbi Yehudah HaNasi and said: "Both the angels and the mortals seized the Holy Ark, <sup>11</sup>but in the end it was the angels who defeated the mortals, and the Holy Ark was taken captive." Unwilling to interpret this riddle on their own, <sup>12</sup>the Rabbis asked Bar Kappara outright: "Did Rabbi Yehudah HaNasi die?" Remembering that it had been decided earlier that nobody would announce Rabbi Yehudah HaNasi's death, <sup>13</sup>Bar Kappara said to them: "You said it, not I."

<sup>14</sup>It was further related that at the time that Rabbi Yehudah HaNasi was dying, he pointed his ten fingers upwards to Heaven, <sup>15</sup>and said: "Master of the Universe, it is revealed and known to you that

יְהִי רְצוֹן שְׂכֹפּוֹ תַּחְתּוֹנִים  
 אֶת הָעֲלִיוֹנִים. <sup>2</sup>כִּיּוֹן דְּחֻזָּא  
 בְּמָה זִימְנֵי דְעִוִּיל לְבֵית הַכְּסָא,  
 וְחָלַץ תְּפִילִין, וּמְנַח לְהוּ  
 וְקִמְצָטְעָר, <sup>3</sup>אָמְרָה: "יְהִי רְצוֹן  
 שְׂכֹפּוֹ עֲלִיוֹנִים אֶת  
 הַתַּחְתּוֹנִים." וְלֹא הוּוּ שְׂתַקִּי  
 רַבָּנָן מִלְּמִיבְעֵי רַחֲמֵי. <sup>5</sup>שִׁקְלָה  
 כּוּזָא, שְׂדִיָּא מְאִיגְרָא  
 [לְאַרְעָא], <sup>6</sup>אִישְׁתִּיקוּ מִרַחֲמֵי.  
 וְנָח נַפְשֵׁיהּ דְּרַבִּי. <sup>7</sup>אָמְרוּ לִיה  
 רַבָּנָן לְבַר קַפְרָא: "זִיל עֵיין."  
<sup>8</sup>אִזְל אֲשַׁכְחִיהּ דְּנָח נַפְשֵׁיהּ.  
<sup>9</sup>קָרְעִיהּ לְלְבוּשֵׁיהּ וְאַחֲרֵיהּ  
 לְקָרְעִיהּ לְאַחֲרֵיהּ. <sup>10</sup>פְּתַח  
 וְאָמַר: "אַרְאֵלִים וּמְצוּקִים  
 אָחֳזוּ בְּאָרוֹן הַקֹּדֶשׁ. <sup>11</sup>נִצְחוּ  
 אַרְאֵלִים אֶת הַמְּצוּקִים, וְנִשְׁבָּה  
 אָרוֹן הַקֹּדֶשׁ." <sup>12</sup>אָמְרוּ לִיה: "נָח  
 נַפְשֵׁיהּ?" <sup>13</sup>אָמַר לְהוּ: "אַתּוֹן  
 קָאֲמַרְתּוּ, וְאַנָּא לֹא קָאֲמִינָא."  
<sup>14</sup>בְּשַׁעַת פְּטִירְתּוּ שֶׁל רַבִּי, זָקַח  
 עֶשֶׂר אֲצַבְעוֹתָיו כְּלַפֵּי מַעְלָה,  
<sup>15</sup>אָמַר: "רְבוּנוּ שֶׁל עוֹלָם, גָּלוּי

"May it be [Your] will that the earthly creatures overcome the heavenly creatures." <sup>2</sup>When she saw how many times he went to the outhouse, and took off his tefillin, and put them on, and was in distress, <sup>3</sup>she said: "May it be [Your] will that the heavenly creatures overcome the earthly creatures." <sup>4</sup>But the Rabbis did not silence themselves [and refrain] from praying for mercy. <sup>5</sup>She took a pitcher, [and] cast it from the roof to the ground, <sup>6</sup>[and] they silenced themselves, [refraining] from [praying for] mercy. <sup>7</sup>And Rabbi died. The Rabbis said to Bar Kappara: "Go [and] check." <sup>8</sup>He went, [and] found that he died. <sup>9</sup>He rent his garment, and turned the rent behind him. <sup>10</sup>He began (lit., "opened") and said: "The angels and the mortals seized the Holy Ark. <sup>11</sup>The angels defeated the mortals, and the Holy Ark was taken captive." <sup>12</sup>They said to him: "Did he die?" <sup>13</sup>He said to them: "You said it, but I did not say it." <sup>14</sup>At the time of Rabbi's passing, he pointed his ten fingers upwards, <sup>15</sup>[and] said: "Master of the Universe, it is revealed

RASHI

דעל כמה זימנין לבית הכסא -  
 דחולי מעיים הוה ליה. וחלץ תפילין ומנח להו - וקא מצער  
 לחנון ולהניח. פתח ואמר - הספד. אראלים ומצוקים -  
 מלאכים ודיקים מלוקי ארץ.

NOTES

fought over Rabbi Yehudah HaNasi. On the one hand, Rabbi Yehudah HaNasi's soul would reach new spiritual heights once it was separated from his body, but on the other hand, only when it is linked to his body could it perform God's will on earth. By breaking the earthenware pitcher so that it no longer had any use, the maidservant hinted Rabbi Yehudah HaNasi's broken body and impending death (see Ecclesiastes 12:6).

The angels and the mortals. The term *er'elim* refers to the angels, as the verse states (Isaiah 33:7): "Behold, the *er'elim* shall cry outside, angels of peace shall weep bitterly." And the term *metzukim* refers to the righteous, as the verse states (I Samuel 2:8): "For the pillars (*metzukei*) of the earth are the Lord's, and He has set the world upon them," and as is stated elsewhere that the righteous are the foundation of the world (see *Rashi* and *Rivan*).

12. "The Lord God<sup>14</sup> made earth and heaven" (Gen. 2:4). A parable of a king who had cups made of delicate glass. The king said: If I pour hot water into them, they will [expand and] burst; if cold water, they will contract [and break]. What did he do? He mixed hot and cold water, and poured it into them, and so they remained unbroken. Likewise, the Holy One said: If I create the world with the attribute of mercy alone, its sins will be too many; if with justice alone, how could the world be expected to endure? So I will create it with both justice and mercy, and may it endure!<sup>15</sup>

<sup>14</sup> In rabbinic conception, Adonai ("Lord") represents the attribute of mercy, while Elohim ("God") represents the attribute of justice. Both, according to Gen. 2:4, were brought together at the making of heaven and earth.

<sup>15</sup> Gen. R. 12:15; Yalkut, *Beresheit*, §19.

8. Abraham's family used to make images and sell them in the market. One day, when it was Abraham's turn to sell, his father Terah gave him several baskets of household gods and set him up in the marketplace. A man came to him and asked: Have you a god to sell? Abraham: What kind of god do you wish to buy? The man: I am a mighty man—give me a god as mighty as I am. So Abraham took an image that was standing on a shelf higher than all the others and said: Pay the money and take this one. The man asked: Is this god as mighty as I am? Abraham replied: You good-for-nothing! Don't you know the way of gods? The one who sits above all others is the mightiest of all. As the man was about to leave, Abraham asked him: How old are you? The man answered: Seventy years. Abraham said: Woe to a man who is seventy, yet prostrates himself before this thing which was made only today. At that, the man flung that god back into Abraham's basket, demanded the return of his money, and went his way.

Next came a widow, who said to Abraham: I am a poor woman—give me a god as poor as I am. At once Abraham took an image that was on a shelf lower than all the others and said: To suit your poverty, take this god who is humble, placed as he is on a shelf below all the others; but he will not budge until you pay me the money. [So she paid the price] and, as she was about to depart, he asked her: How old are you? She replied: Quite old. Abraham then said: May the breath of such a woman be blasted! To think that one so old prostrates herself before a god who is only one day old. She immediately dropped the god into the basket, got back her money from Abraham, and went her way.

Then Abraham took all the gods and brought them back to his father Terah. Terah's other sons said to their father: This Abraham does not know how to sell gods; come, then, and let us make him a priest. Abraham asked: What is a priest's work? They replied: He waits upon the gods, offers sacrifices to them, and serves them food and drink. So they made him priest. Abraham promptly set food and drink before the images and said to them: Come and eat, come and drink, so that you may be able to bestow good upon human beings. But not one of them took any-

thing at all to eat or to drink. Then Abraham began to recite the verse "They have mouths but they speak not; eyes have they, but they see not; they have ears, but they hear not; noses have they, but they smell not; they have hands, but they handle not; feet have they, but they walk not" (Ps. 115:5-7).

A woman came carrying a bowl of fine flour and said: Here, offer it to the gods. At that, Abraham seized a stick, smashed all the images, and placed the stick in the hand of the biggest of them. When his father came, he asked: Who did this to the gods? Abraham answered: Would I hide anything from my father? A woman came with a bowl of fine flour and said: Here, offer it up to them. When I offered it, one god said, "I will eat first," and another said, "No, I will eat first." Then the biggest of them rose up and smashed all the others. His father replied: Are you making sport of me? They cannot do anything! Abraham answered: You say they cannot. Let your ears hear what your mouth is saying!

29. "The Lord came unto Sinai; after having [first] risen at Seir unto the people thereof, then having shined forth at Mount Paran,<sup>12</sup> He came unto the myriads holy, at His right hand a fiery law for them" (Deut. 33:2).<sup>13</sup> When he who is everywhere revealed Himself to give the Torah to Israel, He revealed Himself not only to Israel but to all the other nations as well. At first God went to the children of Esau. He asked them: Will you accept the Torah? They said right to His face: What is written in it? He said: "Thou shalt not murder." They replied: Master of the universe, this goes against our grain. Our father, whose "hands are

the hands of Esau" (Gen. 27:22), led us to rely only on the sword, because his father told him, "By thy sword shalt thou live" (Gen. 27:40).<sup>1</sup> We cannot accept the Torah.

Then He went to the children of Ammon and Moab, and asked them: Will you accept the Torah? They said right to His face: What is written in it? He said: "Thou shalt not commit adultery." They replied: Master of the universe, our very origin is in adultery, for Scripture says, "Thus were both the daughters of Lot with child by their father" (Gen. 19:36). We cannot accept the Torah.

Then He went to the children of Ishmael. He asked them: Will you accept the Torah? They said right to His face: What is written in it? He said: "Thou shalt not steal." They replied: Master of the universe, it is our very nature to live off only what is stolen and what is got by assault. Of our forebear Ishmael, it is written, "And he shall be a wild ass of a man: his hand shall be against every man, and every man's hand against him" (Gen. 16:12). We cannot accept the Torah.

<sup>12</sup> Seir is a reference to Edom, and Paran to Ishmael.

<sup>13</sup> JV: "The Lord came from Sinai, and rose from Seir unto them. He shined forth from Mount Paran, and He came from the myriads holy, at His right hand was a fiery law unto them." Here the commentator attempts to solve the meaning of God's peregrinations; he is also baffled by the strange statement that God came from Sinai, whereas in truth He came to Sinai. Accordingly, the commentator takes the proposition *mi* (usually rendered "from") as meaning rather "the place or region in or at which a thing is" (see Gesenius, *Lexicon*, p. 584; cf. Gen. 12:8). The "myriads holy" are the myriads of Israel.

There was not a single nation among the nations to whom God did not go, speak, and, as it were, knock on its door, asking whether it would be willing to accept the Torah.

At long last He came to Israel. They said, "We will do and hearken" (Exod. 24:7). Of God's successive attempts to give the Torah, it is written, "The Lord came unto Sinai; after having [first] risen at Seir unto the people thereof, then having shined forth at Mount Paran, He finally came unto the myriads holy, at His right hand a fiery law for them" (Deut. 33:2).<sup>2</sup>

<sup>2</sup> Sif Deut., §343; PR 21 (PRF, p. 99b; YJS 1:417).

126. It happened that a certain heathen came before Shammai and said to him, "Take me as a proselyte, but on condition that you teach me the entire Torah, all of it, while I stand on one foot." Shammai instantly drove him away with a builder's measuring rod he happened to have in his hand. When the heathen came before Hillel, Hillel agreed to make him a proselyte, saying "What you don't like, don't do to your neighbor—this is the entire [substance of] Torah, all of it; the rest is commentary. Go and study it."<sup>6</sup>

<sup>6</sup> B. Shab 31a.

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75  
1. Our masters taught: For two and a half years the school of Shammai and the school of Hillel were divided: The first school said: It would have been better for man not to have been created than to have been created. The other said: It is better for man that he was created than it would have been had he not been created. They finally voted and decided: it would have been better for man not to have been created than to have been created. But now that he has been created, let him search his past deeds. Some say: Let him examine what he is about to do.<sup>1</sup>

2. R. Akiva used to say: Beloved is man, for he was created in God's image. Still greater was the love shown him inasmuch as it was made known to him that he was created in God's image, for it is written, "In the image of God made He man" (Gen. 9:6).<sup>2</sup>

<sup>1</sup> Past misdeeds cannot be undone; one can only repent and repair any harm caused by them. Future misdeeds can be foreseen and left undone. B. Er 13b.

<sup>2</sup> Avot 3:14.

#2 "Take now thy son" (Gen. 22:2). Abraham: "I have two sons [which one do you mean]?" God: "Thine only son" (ibid.). Abraham: "[Both are only sons]--Isaac is the only son I have from his mother, and Ishmael is the only son I have from her who is his mother." God: "The son whom thou lovest" (ibid.). Abraham: "Master of the universe, are there separate compartments in one's inmost self for love? I love both of them." God: "Very well, then--Isaac." Why did God drag out His command to such length? So that Abraham's mind might not be stunned [by such a heartrending demand].

#7 "Ye are My witnesses, saith the Lord, and I am God" (Isa. 43:12). When you are My witnesses, I am God, but when you are not My witnesses, I am not God. [Sif Deut., #346]

#1 R. Jeremiah ben Eleazar said: When the Holy One created Adam, He created him hermaphrodite [bisexual], as is said, "Male and female created He them . . . and called their name Adam" (Gen. 5:2).

R. Samuel bar Nahman said: When the Holy One created Adam, He made him with two fronts; then He sawed him in half and thus gave him two backs, a back for one part and a back for the other part. Someone objected: But does not Scripture say, "And He took one of his ribs (mi-tzalotav)" (Gen. 2:21)? R. Samuel replied: Mi-tzalotav may also mean "his sides," as in the verse "And for the second side (tzela) of the Tabernacle" (Exod. 26:20). [Gen. R. 8:1]

I do not know of any prohibition against pronouncing blessings with the head uncovered. To some scholars it is evident that one is forbidden to mention God without covering the head.<sup>8</sup> But I do not know the source of this prohibition. I even find disagreement on this question in the Talmud. . . . [Isserles cites the Talmudic passages]. . . . It is clear from this that there is no real prohibition against reciting the *Shema* [the basic creedal statement] with head uncovered, and that God did not burden the Jews with such a requirement.

But what can I do, since other rabbis have said that the head must be covered when reciting a blessing? I am surprised to learn that they even prohibit an uncovered head when not at prayer. I do not know where this prohibition came from. . . .

But I cannot be lenient in this matter. . . . Even without a prohibition, even were piety not involved . . . a scholar ought to follow the custom, since people consider an uncovered head a violation of Jewish law.

<sup>8</sup> Since a pious Jew would recite scores of blessings every day, each including God's name, he would tend to keep his head covered all the time if it was required to cover the head when saying a blessing.

Responsa of the Holocaust

**Question:** Every day the Nazis force one thousand Jewish slave laborers to work at building an airport. The only food given these laborers is one bowl of soup. Many of the workers will not eat the soup because it is not kosher, thus endangering their lives. Is it permitted to eat the soup?

**Response:** Yes. . . . "The principle of lifting the ban on non-kosher food in order to save an endangered life may be applied in this case."

**Question:** Is it permissible for a man to save his life, so that he may join the partisans, by purchasing a certificate of baptism?

**Response:** Such an act is forbidden "although the purchaser of the certificate does so with definite mental reservations, believing still in the God of the Jews. In any event, it is our duty and privilege to suffer martyrdom, our duty and privilege to invite death rather than deceive the Gentiles into thinking that we have denied the God of Israel."

**Question:** A Jewish family had given up all practice of Judaism, including circumcision. The head of the family was killed by the Nazis as a Jew and the mother and children forced into the ghetto. The son wants to die as a Jew, and seeks circumcision. There are no pious circumcisers left alive in Kovno. Is it permitted by a non-practicing Jewish doctor?

**Response:** The doctor is permitted to perform the circumcision.

From Maimonides' *Mishne Torah*

There are eight degrees of charity. The highest is to give assistance to a neighbor who has fallen on hard times by making him self-supporting through a gift, a loan, by making him a partner, or by finding him a job.

The second degree is to give charity so that the giver does not know who received his charity, and the recipient does not know the giver. This is in fulfillment of the commandment of disinterested giving exemplified by the Room of Secret Charity which existed in the Temple, where the righteous deposited their alms and the poor were secretly aided.

Third is when the giver knows who receives his charity, but the receiver does not know from whom the aid came. Thus our sages went about secretly throwing money into the doorways of the poor. This is a proper course to pursue, particularly where the administrators of the community charity fund are not fair.

The next lower degree is when the recipient of charity knows the giver, but the giver does not know to whom he gave. Thus our great sages used to tie money in bags and throw the bags over their shoulders for the poor to pick up, so they would not feel shame.

The fifth degree is when a man puts alms into the hands of the poor before he is asked.

The sixth degree is when a man gives alms to the poor after he is asked.

The seventh degree of charity is when a man gives less than he should, but does so cheerfully.

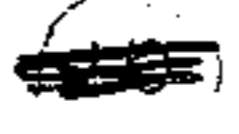
And the lowest degree of charity is when a man gives grudgingly.

Every Jew is required to offer up his life for the sanctification of the name of God. But this applies only to the capital crimes of idolatry, unchastity [adultery and incest], and murder. One must choose death rather than commit these crimes. Anyone who does so has sanctified the name of God.

But if a Jew has a choice between breaking some other commandment and losing his life, he should yield to the sin rather than give up his life, for the Torah says that man is to *live* by God's commandments, not to *die* by them. A Jew who sacrifices his life by refusing to violate a divine commandment (other than idolatry, unchastity, and murder) is guilty of suicide.

If a person is critically ill, it is permitted to do everything possible (even violate commandments) to restore him to health, except to break the commandments against idolatry, unchastity, and murder. Where life can be saved, any remedy prescribed by a physician may be used, even though the remedy may be otherwise prohibited by the Torah.

A synagogue may be turned into a house of study, but a house of study may not be turned into a synagogue, because the holiness of a house of study is greater than that of a synagogue: objects may be raised to holier use but not lowered to less holy use.



*Laws Concerning Honor Due to Parents.*

1. One should be very careful about the honor and fear of his father and mother, for the Scriptures compare it to the honor and fear of the Holy One, blessed be He. It is written, "Honor thy father and thy mother" (Ex. xx, 12), also "Honor the Lord with thy substance" (Prov. iii, 9). Again it is written, "Ye shall fear every man his mother, and his father" (Lev. xix, 3), also "Thou shalt fear the Lord thy God" (Deut. vi, 13). We thus see that in the same manner in which He commanded us to honor His great Name and to fear Him, He also commands us to honor and fear our parents. Three partners have a share in man's creation, namely, the Holy One, blessed be He, one's father and mother. (The man provides it with the white substance, the woman with the red substance, and God blows in him the breath of life, the faculty of seeing, hearing and speaking.) When a man honors his father and his mother, the Holy One, blessed be He, says: "I regard them as though I dwelt among them and they honored Me."

2. What is the fear due to parents? One must neither stand in the place appointed for one's father according to his rank, nor in the place reserved for him to pray. One should not sit in the place of one's father's seat in his house. One must neither contradict one's father nor corroborate his words in his presence, even by saying, "It is obvious that father is right." To what degree shall parents be feared? If a son were attired in costly dress and presided over a meeting, when his father or mother came and rent his garments, and struck his head, and spat in his face, he should neither insult them nor feel aggrieved in their presence, nor display anger towards them, but he should remain silent and fear the King who is the King of kings, the Holy One, blessed be He, who had thus decreed. He may, however, seek legal redress for the damage they have caused him.

3. What is the honor due to parents? To provide them with food and drink, with garments and clothing. He should bring them home and take them out. He should provide them with their needs with a cheerful countenance, for even if one should feed them with crammed birds but show them an angry face, he incurs thereby Divine punishment.

4. If his father or mother should be asleep, he should not arouse them, even if through their sleep he will lose much profit, but if the father would profit by being aroused, and if he should not be awakened he would be grieved for the loss of the profit, it is a duty to arouse him as that will make him happy. It is also a duty to awaken one's father to call him to go to the synagogue or for the performance of any other commandment, as all are equally bound to honor the Omnipotent, blessed be He.

5. If the son were in need of something which his fellow-townsmen could do for him, and he knows that they would gratify his desire for his father's sake, even though he also knows they would do it for his own sake as well, he should not say: "Do this for my sake," but rather let him say: "Do it for the sake of my father," in order that it should redound to his father's honor.

6. If his mother told him to do a certain thing which he did, and his father subsequently asked him: "Who told you to do this?" If he perceives that by telling him that his mother asked him to do so, his father's anger would be kindled against his mother, he should not tell it to him, even if he himself thereby incur his father's wrath.

7. A son is bound to stand in the presence of his father and his mother.

8. It is one's duty to honor his parents also after their death, thus if he mentioned their name, within twelve months either in speech or in writing he should say or write: "I am an atonement for his place (i. e., all evil that is to come on his soul should befall me), or her place." And after twelve months (when he has already received his punishment, for the judgment of the wicked is not prolonged to more than twelve months), he should add: "May his (or her) memory be a blessing, in the life of the future world."

9. Even if his father be wicked and a sinner, it is proper for him, nevertheless, to honor and to fear him. Some hold that one is not bound to honor his father who is wicked as long as he has failed to repent, but he is forbidden to cause him pain. It is proper to follow the former opinion which is the stricter.

10. If he saw his father transgressing any of the commandments of the Torah, he should not say to him: "Thou hast transgressed the commands of the Torah," but he should rather say: "Father, is it not written thus and thus in the Torah?" as though asking for information, and not as though he admonished him; the father will thus take the hint without being put to shame.



## QUESTIONS AND REFORM JEWISH ANSWERS

led to a full, long life. Additional medical attention which she does not wish should not be forced on her; it is only likely to shorten her life. The physician has done his duty by suggesting the treatment. The patient who knows that she is close to the end of her life with or without the treatment and is not obligated to accept the suggestion.

November 1988

### 158. INFORMING A DYING PATIENT

**QUESTION:** The children have been informed that their mother is dying, and the physician believes that it is his responsibility to inform their mother of the hopelessness of her condition. The children have insisted that this news be kept from her as they feel it will hasten her death and make the last period of her life miserable. Which path should be followed? (Norman Levin, Cleveland OH)

**ANSWER:** It is our principle task during illness, including the final illness, to maintain an attitude of hope in the patient. Therefore, the rabbinic tradition rejected the approach of the prophet Isaiah to King Hezekiah in which he demanded that the king "set his house in order, for you will die and not live." (II Kings 20.1), actually the king was healed and survived. The *Talmudic* discussion of such situations felt that prayer and hope should not cease even when the outlook was bleak (Ber 10a). In another Biblical story which the rabbis quoted, the prophet Elijah was asked whether Ben Hadad the Aramean King would recover, and he lied to encourage him (II Kings 8.10 f). We may therefore stretch the

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truth to engender hope. This mood of hopefulness was carried even further by the injunction not to inform a seriously ill patient of the death of a relative as that might change her mood (*Shulhan Arukh* Yoreh Deah 377).

We must, of course, weigh this attitude against that of giving the patient sufficient time to prepare her affairs before death and also the opportunity to make confession (Sem 4.1; *M* San 6.2; 32a). In this instance there are no pressing business affairs which need to be settled. Personal confession can occur at any time; it need not be formalized into an occasion which will frighten the mother. The physician has done his duty by speaking of the condition to the children. If the mother inquires repeatedly from the physician and indicates that she wishes to know the truth, then she should be told to her. If that does not occur we should follow the path of tradition and the inclination of the children and allow the mother to retain her currently hopeful attitude.

July 1988

### 159. NUTRITION AND INCURABLE CANCER

**QUESTION:** Should nutrition in contrast to medicine be continued for a comatose patient who is suffering from incurable cancer? (Stanley Landman, San Antonio TX)

**ANSWER:** We need to make some distinctions immediately between a terminal cancer patient and a victim of stroke or an accident. In the latter cases, the prognosis is not at all certain and death may not be indicated in the foreseeable future. In the case of the incurable cancer patient, a time is reached when medicine can no longer be considered as healing and when the suffering patient