

The Fundamental Principle of the Torah

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Rosh Yeshiva, RIETS

The Sifra, that is, Torat Kohanim, Midrash Halakhah on Sefer Va-Yiqra quotes a celebrated dispute between the Tannaitic authorities R. Akiba and Ben Azzai.

You shall not take vengeance or bear a grudge against your kinfolk. Love your neighbor as yourself: I am the L-RD

Leviticus 19:18

Love your neighbor as yourself: R. Akiba states, this is a great principle of the Torah. Ben Azzai states: This is the book of the descendants of Adam (Genesis 5:1): This is even a greater principle.

Sifra, on Sefer Va-Yiqra (ad loc.)

לא תקם ולא תטר את בני עמך ואהבת לרעך
כמוך אני ה'
ויקרא יט:יה

ואהבת לרעך כמוך, רבי עקיבא אומר
זה כלל גדול בתורה, בן עזאי אומר זה
ספר תולדות אדם, זה כלל גדול מזה.
ספרא קדושים פרשה ב ד"ה פרק ד

This dispute is cited, among other places, in the Talmud Yerushalmi to the tractate Nedarim as well. The mishnah discusses methods of retroactively nullifying vows by exposing the fact that there are changed circumstances that make nullification admissible. Some of these changed circumstances can consist of realization of the full import of the Torah's interpersonal commandments. Regarding one who had vowed that another could not have any benefit from him, the mishnah states:

In addition, R. Meir said, one "opens" (the way to retroactively nullify a vow) for him with what is written in the Torah. One says to him, "If you had realized that you sin against You shall not take revenge, You shall not nurse hatred, You shall not hate your brother in your heart, you shall love your neighbor as yourself, Let your brother live with you, maybe he would become poor and you cannot provide for him! If he said, "If I had realized this, I would not have vowed," he is permitted.

Nedarim 65b

ועוד אמר ר"מ: מ: פותחין לו מן הכתוב
שבתורה, ואומרין לו: אילו היית
יודע שאתה עובר על לא תקום ועל
לא תטור, ועל לא תשנא את אחיך
בלבבך, ואהבת לרעך כמוך, וחי
אחיך עמך, שהוא עני ואין אתה יכול
לפרנסו, אמר: אילו הייתי יודע
שהוא כן לא הייתי נודר - הרי זה
מותר.

נדריים סה:

The Yerushalmi to Nedarim (Nedarim 9:4; p. 41c in the Venice edition), takes the citation of “Love your neighbor as yourself” in the mishnah as the point of departure for a citation of the dispute between R. Akiba and Ben Azzai and records the dispute in the same manner that the Sifra does.

Before proceeding to an analysis of the dispute itself, it must be noted that our texts of Bereshit Rabbah also present this dispute, but in that source the names of the protagonists are reversed. In the Soncino Press’s English translation of J. Theodor’s critical edition of Bereshit Rabbah we read as follows:

Ben Azzai said: This is the book of the descendants of Adam (Genesis 5:1): is a great principle of the Torah. R. Akiba said: Love your neighbor as yourself (Leviticus 19:18) is even a greater principle. Hence, you must not say, “Since I have been put to shame, let my neighbor be put to shame.” R. Tanhuma said: If you do so, know whom you put to shame, [for] In the likeness of God made He him. (Genesis 5:1).¹⁶

בן עזאי אומר זה ספר תולדות אדם זה כלל גדול בתורה, ר"ע אומר (ויקרא יט) ואהבת לרעך כמוך, זה כלל גדול בתורה, שלא תאמר הואיל ונתבזיתי יתבזה חבירי עמי הואיל ונתקללתי יתקלל חבירי עמי, א"ר תנחומא אם עשית כן דע למי אתה מבזה, בדמות אלהים עשה אותו.
בראשית רבה פרשה כד ד"ה ז' ר' תנחומא

I do not believe that the question of whether R. Akiba or ben Azzai quoted the verse “This is the book of the descendants of Adam” is only of pedantic interest, and assert this because of the following reason. The Talmud (Hagigah 14b) famously records the results of the efforts of four Tannaim who attempted to attain mystical knowledge of God. They are Aher (Elisha ben Abuyah), Ben Azzai, Ben Zoma, and R. Akiba. Ben Azzai, according to the standard text of the Gemara, died as a result of his efforts. Only R. Akiba returned in peace. What emerges from that Gemara is that only R. Akiba possessed the full intellectual/spiritual/religious ability to reconcile knowledge of God with life in this world.

Now, to the extent that according to the Sifra and the Yerushalmi, the citation of “This is the book of the descendants of Adam”, and the conclusion that this is even a greater principle than “Love your neighbor as yourself” is correct, one might have assumed that davka R. Akiba, and not Ben Azzai would have been the author of the ultimately correct view regarding the particular verse that expresses the biblical foundation of Jewish interpersonal ethics. He should presumably have been the author of the last word on the subject. Nonetheless, one will find a discussion of this subject in the Theodor-Albeck Hebrew critical edition of Bereshit Rabbah (Jerusalem, 1965, Vol. 1, pp. 236-37), and the conclusion presented there is that the nusah of the Sifra and the Yerushalmi in Nedarim, namely, the text that records R. Akiba as quoting “Love your neighbor as yourself” and ben Azzai as responding with “This is the book of the descendants of Adam”, and having the last word on the subject, is apparently the correct version. The Bereshit Rabbah version is also apparently the source of the comments of Rabad, in his analysis of the dispute between the protagonists.

¹⁶ See The Midrash Rabbah: Genesis [London, Jerusalem and New York, 1977], Chapter XXIV, 6-7, p. 204

The Dispute between ben Azzai and R. Akiba

Why does ben Azzai reject R. Akiba's verse? Rabad, in his commentary to Sifra (ad loc.), makes several points. First, expounding R. Akiba's viewpoint, he cites the dictum "that which is hateful to you, do not do to your fellow man," as the conceptual substructure of R. Akiba's citation of "Love your neighbor as yourself". This citation, of course, is of a famous Gemara (Shabbat 31a) in which a potential convert asked Hillel to tell him the entire Torah while standing on one foot. Hillel responded with his celebrated aphorism.¹⁷ Apparently, Rabad understood that this aphorism expresses the meaning of "Love your neighbor as yourself" and teaches the practical application of the verse. R. Akiba's view is that this Scriptural basis of interpersonal relationships expresses the "great principle of the Torah." So what could be wrong with it? Why is it incomplete? Why does ben Azzai have to replace this verse with another?

In explaining ben Azzai's view, Rabad continues by citing the Bereshit Rabbah passage quoted above. If the only ground of acting kindly (or not acting unkindly) toward one's neighbor is one's natural desire not to suffer at the hands of someone else, what if one is put to shame? Granted that one must love one's neighbor in an equivalent manner to one's love of oneself, but what if his neighbor has already broken the social contract with him first and shamed him? One could rationalize and say, "I am indeed treating my friend exactly as he has treated me!" One might feel an urge to say, "With regards to most people in the world, I indeed act appropriately, but with regard to the person who shamed me, why may I not retaliate?"¹⁸

Ben Azzai comes to teach that the ground of Jewish interpersonal ethics is not merely a social contract between disparate individuals but is rooted in the fact that every human being was created in the image of God. Hence, the end of Genesis 5:1 is the crucial key. That is the point of the Torah stating "This is the book of the descendants of Adam". It is precisely the fatherhood of God that is the ground of our duty to embrace the brotherhood of man. Hence, even if one has broken the social contract and harmed someone else, one dare not retaliate. Every human being is created in the image of God, and no one may ever forget it¹⁹.

¹⁷ Indeed, in Aboth de-Rabbi Nathan [ed. S. Schechter, repr. Jerusalem, 1967], Nusah bet, Chapter 26, p. 27a, this aphorism is stated not in the name of Hillel, but in the name of R. Akiba himself!

¹⁸ Rabad gives examples of shaming, cursing, stealing and striking. To be sure, he is not negating the principle that one may seek redress for grievances under the law, but is addressing the basic mental attitude towards other human beings that one must possess.

¹⁹ Mention must be made of an alternate tradition in which R. Akiba himself supplements his citation of Love your neighbor as yourself as the basis of the rule of interpersonal relations with the citation of conclusion of the verse: I am the L-RD. In Aboth de-Rabbi Nathan, Nusah Aleph, Chapter 16 [ed. Schechter, p. 64], one finds the following: "But does it not say Love your neighbor as yourself: I am the L-RD: and why is that? Because I [the L-RD] have created him." [I have cited the translation found in Judah Goldin (trans.), The Fathers According to Rabbi Nathan {New Haven, 1955}, p. 86.] If one takes the position that both R. Akiba and ben Azzai stress God in their respective derashot, a distinction based upon the fact that R. Akiba does not and ben Azzai does of course falls apart. However, as the Sifra, Yerushalmi, and Bereshit Rabbah do not mention the I am the L-RD conclusion of the Leviticus verse, and only cite Love your neighbor as yourself, while, on the other hand, the Bereshit Rabbah does mention the end of the verse in Genesis, In the likeness of God made He him. (Genesis 5:1), it does seem legitimate to make this distinction the basis of the difference between R. Akiba and ben Azzai.

An Alternate Understanding of the Bereshit Rabbah

In my opinion, one can also interpret the Bereshit Rabbah passage that is the source of Rabad's remarks in an alternate manner. The Midrash itself does not explicitly use any word that can be translated as retaliation (although, to be sure, Leviticus 19:18 does begin with You shall not take vengeance or bear a grudge against your kinfolk before concluding with Love your neighbor as yourself: I am the L-RD). There is no evidence that the Midrash assumes that the person who was harmed by another will in turn harm the selfsame person who harmed him. Perhaps one can interpret ben Azzai's critique of R. Akiba as follows: Granted Hillel's dictum "that which is hateful to you, do to do to your fellow man," in light of the following question: what if someone lacks elementary self-respect? What if he does not care if he is cursed and reviled, etc.? Such a person could conceivably claim, "I indeed fulfill the requirements of Love your neighbor as yourself. But my conception of loving myself entails not minding if I am cursed, reviled, etc. Hence, I am morally consistent if I act this way towards others." According to this view, such a person might be shamed by one person, and might then proceed to shame yet another, not out of any sense of retaliation, but simply because his sense of human dignity does not include caring about such matters. One can take whatever subjective view that one wants, as long as one is consistent about it.

But ben Azzai teaches that the Torah teaches that such a morality is false, and the source of that falsehood is the fact that it contradicts the Torah's teaching, expressed in the verse "This is the book of the descendants of Adam... In the likeness of God He made him". Because man was created in the image of God, there are objective standards of human dignity that no man may transgress or trespass. These rules are not subjective. And if one suffers the indignity of having those rules violated against him, he may not say, "I don't care. You can curse me, I can curse someone else. It's all immaterial." It is not immaterial. The image of God is not something to be trifled with.

The Categorical Imperative

The great German philosopher Immanuel Kant (1724-1804) formulated the sublime principle of moral law known as the categorical imperative. According to this law, we are not permitted to make exceptions for ourselves, or to do what we would not rationally permit others to do. In his work *The Groundwork of the Metaphysics of Morals*, published in 1785, he formulated the law in three ways. The first states: Act only according to that maxim through which you can at the same time will that it should become a universal law.

Whereas this first formulation expressed his notion from the point of view of the agent, the person acting, the second formulation expressed the matter by drawing attention to the person affected by one's act: Act in such a way that you always treat humanity, whether in your own person or in the person of another, never simply as a means, but always at the same time as an end.

The third formulation looks both at the agent and the recipient of the action together: All maxims as proceeding from our own law-making ought to harmonize with a possible kingdom of

ends as a kingdom of nature. That is, we are members of a society of beings whose permissible ends are to be respected, and our maxims must reflect that.²⁰

It is certainly appealing to claim that Kant's formulations are somehow adumbrated in the debate between R. Akiba and Ben Azzai regarding the great principle of the Torah. But how exactly would the form of a serious correspondence of ideas take?

Ernst Cassirer (1874-1945), in his classic 1918 book on Kant²¹, makes the point that based upon Kant's other ideas, it would be untenable for Kant to maintain that pleasure or pain are the ground of ethical principles. For pleasure or pain are similar to sensory perceptions. They are passive, and change according to the particular state of the individual receiving them. People choose to strive not so much for pleasure, as for one's own pleasure. Even though it is indeed innate in all beings to strive for this pleasure, this biological fact is, according to Kant, worthless in setting up an ideal standard of unity or harmony. On the other hand, the categorical imperative, grounded in the concept of duty, is indeed a tenable standard to use as the grounds for a system of universal ethics (Cassirer, pp. 240 ff.). Cassirer also distinguishes between the categorical imperative and the hypothetical imperative in Kant's thought. An imperative is called hypothetical when it indicates which means must be supplied in order that the something further, the end, is realized. Thus, if one acts nicely towards someone else because one wants some reciprocity, e.g., some favors from that person, one is only acting in terms of a hypothetical imperative. The categorical imperative, on the other hand, is a category based upon the concept of duty, and is not based upon what end or result one might receive from a particular action. Any act of goodness based upon the hypothetical imperative is only conditional and cannot form the basis for a system of ethics. Only the categorical imperative can be the ground of unconditional goodness (Cassirer, pp. 244-45). Only the categorical imperative is worthy to be the foundation of morality.

Armed with these categories, we can now return to the debate between R. Akiba and ben Azzai. Ben Azzai disputes R. Akiba's citation because in his view, "Love your neighbor as yourself" and Hillel's notion of "what is hateful to you do not do to your fellow man," expresses only the hypothetical imperative, and not the categorical imperative. And the hypothetical imperative will not take care of the case in which one is harmed by others, and feels that it is indeed a legitimate source of pleasure to retaliate. Alternately, the hypothetical imperative will not take care of the case in which one personally does not consider an act that others consider harmful to be, in fact, harmful. Ben Azzai, when responding with "This is the book of the descendants of Adam" responds by asserting that Jewish ethics is grounded upon a categorical imperative. And that itself is based upon the verse that concludes "In the likeness of God made He him". As man was created in the image of God, a verse that declares the universality of man's dignity, a

²⁰ (For the three formulations, see J. B. Schneewind, "Autonomy, Obligation and Virtue: An Overview of Kant's Moral Philosophy," in Paul Guyer (ed.), *The Cambridge Companion to Kant* (Cambridge, 1992), pp. 309-41, on p. 322.)

²¹ *Kants Leben und Lehre*, translated by James Haden into English as *Kant's Life and Thought* [New Haven and London, 1981]

perspective that takes as its point of departure one's particular goals and desires cannot be the foundation of Jewish ethics.

Of course, Jewish heteronomy, that is, our system of laws as a system of mitzvot commanded by God, Who has the absolute right to demand that we obey Him, by definition, differs from Kantian autonomy, in which one's reason is the ground of ethics. That point, however, is not germane to the discussion here. The point here is that both the Kantian system and the Torah's system reject a notion of society in which reciprocity of pleasure is the ground of ethics. Moreover, our system of mitzvot *bein adam la-havero*, expressive of the brotherhood of man, is intimately connected with the fact of the fatherhood of God.

The Self-Confident Bully

I believe that there is yet another way in which we can interpret the debate between R. Akiba and ben Azzai in light of the categorical imperative of Kant. This entails understanding a critique of Kant's law formulated by the nineteenth century German "philosopher of pessimism," Arthur Schopenhauer (1788-1960).²²

Schopenhauer rejects internalism, claiming that the recognition of a moral law does not motivate a person for acting according to that law. For example, let us take the rule "one must not lie." But why not? The only reason why one would be motivated not to lie would be a desire to escape punishment, whether from God, or from some other authority figure. Using Kant's own terminology, Schopenhauer insisted that Kant's moral laws, to the extent that they can motivate someone to act ethically, always turn out to be hypothetical imperatives (of prudence), and not, as he had claimed, categorical imperatives. Schopenhauer takes aim at the Kantian formulation "Act only in accordance with that maxim which you can at the same time will to become a universal law for all rational beings." What can Kant say about someone who is flourishing, and simply does not need any one else's assistance? Why should such a person be nice to someone else who is not as successful as he? Why should he not simply be indifferent? This person is not represented by the Midrash's case of someone who is cursed by others and therefore will either feel it is in his best interest either to retaliate against the one who has harmed him or one who, in general, chooses to adopt an ethic in which anyone can harm anyone. Schopenhauer takes the example of a strong, cruel person. He is not harmed by anyone. At the same time, he does not need the love and sympathy of others and has no motivation to be nice to anyone. Indeed, one can go further and ask: What can stop him from harming others, from acting cruelly towards others, out of a notion of superiority? (Elsewhere, Schopenhauer characterizes the behavior of extreme egoists, whose motto is *Neminem juva, imo omnes, si forte conducit, laede* [Help no one; on the contrary, injure all people if it brings you any advantage].) Schopenhauer feels that Kant must revert to some sort of formulation of the hypothetical imperative to motivate ethical behavior in this situation, such as "If one would desire that hypothetically, if one would need, it, one would receive the help of others, one should

²² Much of what follows is indebted to David E. Cartwright, "Schopenhauer's Narrower Sense of Morality," in Christopher Janaway (ed.), *The Cambridge Companion to Schopenhauer* [Cambridge, 1999], pp. 252-92, esp. pp. 257ff.

(even now) bestow help upon others even though currently he doesn't need it." In sum, Schopenhauer points out that Kant's rule does not take care of the case of the self-confident bully.

To be sure, it has been pointed out that Schopenhauer simply does not accept the Kantian notion of duty and that is the source of their dispute. Kant believed that consciousness of the dutifulness of an action serves as a sufficient motive for human action. According to Kant, rational agents could not will indifference as a universal law because of the notion of duty (although Schopenhauer simply denies this). Duty, according to Kant, "is the necessity to act out of respect (Achtung) for the law." So Kant and Schopenhauer, in the final analysis, were talking past each other, each one not accepting the basic premises of the other.

In my opinion, ben Azzai's formulation can serve as a response to Schopenhauer's critique of Kant even assuming Schopenhauer's premises. According to ben Azzai, it is true that "Love your neighbor as yourself: this is a great principle of the Torah", based as it is in the final analysis on the hypothetical imperative and not on the categorical imperative, cannot take care of the case of the self-confident bully. What is to stop him? Who is to stop him? Therefore, ben Azzai states: "This is the book of the descendants of Adam ... In the likeness of God made He him: This is even a greater principle." Schopenhauer's bully is refuted by the fact of the existence of God the Creator. God is He that created human beings; it is He that created all of them in His image that He implanted in all of them. An infinite chasm exists between God and the strongest human being. "What is man, that You have been mindful of him, mortal man that you have taken note of him? (Psalms 8:5) And as Creator, God decreed that all creatures- even the stronger vis a vis the weaker- act appropriately towards each other. The Deity's existence, in the final analysis, is the ground of laws of ethical behavior bein adam la-havero. Even the strongest creature is only a creature of God. And even the weakest creature is also created be-tzelem Elo-him, in the image of God.

