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in memory of their dear friend, Ezra Lwowski z"l

The Philosophy of Sdom

Yaron Perez

"There are four human outlooks:

1. 'What's mine is mine, and what's yours is yours' – This is intermediate. And some say it is the approach of Sdom.
2. 'What's mine is yours, and what's yours is mine' – This is an ignorant person.
3. 'What's mine is yours, and what's yours is yours' – This is a pious person.
4. 'What's mine is mine and what's yours is mine' – This is a wicked person." (Avot 5:10)

Intermediate or Sdom?

The first philosophy in the mishnah seems to be clearly intermediate: one does not wish to benefit from another's property, and does not wish for others to benefit from his property. Why does the mishnah suggest that this could also be the philosophy of Sdom? We may put forth two points of view.

On one level, the difference between Intermediate and Sdom is in the extent to which one applies this philosophy. One may decide not to help another person because he wishes to protect his assets from harm; this is an intermediate approach. However, if this refusal to help becomes so persistent that he refrains from helping even when he would suffer no loss, then this develops into the approach of Sdom.

On another level, Intermediate and Sdom are distinguished by divergent motivations. It is not malignant to declare "What's mine is mine, and what's yours is yours" when one

genuinely believes that each person receives that which he deserves. However, if "What's mine is mine" is driven by selfishness, such that one also declines to receive lest he be obligated to reciprocate, then this displays the philosophy of Sdom.

Is it that bad?

However, the gravity of this equation to Sdom remains difficult; how could an approach which is potentially inoffensive, and even logical, lead to the evil associated with Sdom? Perhaps the answer lies in the way that the worst aspects of this approach mask themselves as reasonable.

"What's mine is mine, and what's yours is mine" promotes theft. The actor, and the community surrounding him, recognize the corruption of this philosophy, and even a wicked person can experience regret, repent, and mend his ways. On the other hand, "What's mine is mine and what's yours is yours" is justifiable, and therefore repentance is more difficult. By elevating selfishness to the status of legitimate political philosophy, Sdom eliminated the possibility of repentance.

Enshrined in law

Our sages sought to combat this wicked attribute by empowering the courts to prevent people from standing on their property rights. If a property owner could allow someone else to benefit from his property without any cost to the owner, then the courts may compel him to comply; one may not "act in the manner of Sdom."

In the modern Western world, property rights are considered one of the fundamental rights of a human being; we own our property, no one else may touch it, and no one may compel us to allow others access. This sanctification of property rights stands in contrast with Jewish law which overrides property rights in the pursuit of social welfare and the elimination of evil.

The State of Israel is in the midst of a great debate regarding the role of Jewish law. Currently, a judge who encounters a lacuna in the law is licensed to adopt any judicial tradition for addressing the case at hand; there is no priority for the Jewish legal tradition. A new law has been proposed, which would give priority to Jewish law and establish an institution to provide judges with opinions founded on the Jewish legal tradition. Many see no value in such a law – but based on what we have seen, it is clear that the outlook of Jewish law can differ from the outlook of other systems, with significantly different results. Indeed, certain justices on Israel's Supreme Court already draw upon Jewish legal tradition, including the principle of preventing actions which are "in the manner of Sdom."

May we see the fulfillment of Isaiah 1:26, "And I will restore your judges as they once were, and your counselors as they were at the start, such that you will be called the City of Justice, the Faithful City."

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HaMishpat ha'Ivri (Heb.)***Jewish Law: History, Sources, Principles (Eng.)*****Rabbi Menachem Elon****Hebrew: Magnes Press (3rd ed.1988)****English: JPS 1994***This review is of the Hebrew edition.***About the author**

Rabbi Dr. Menachem Elon was twelve years old in 1935, when his family fled Europe for then-Palestine. He studied in the Chevron Yeshiva, and was ordained by Rabbi Ben-Zion Uziel and Rabbi Yitzchak HaLevi Herzog. He pursued a decades-long legal career in private practice and then at the Justice Ministry, as well as a parallel career teaching law at Hebrew University and numerous universities outside of Israel. Rabbi Elon was appointed to Israel's Supreme Court in 1977, and in 1988 he became deputy president of the Supreme Court; he served in that role until his retirement in 1993. Justice Elon received numerous awards, including the Israel Prize (1979), the Ben-Meir Prize (1979), the National Jewish Book Award (1994) and various honorary degrees. He passed away in 2013.

About the book

The four parts of *HaMishpat ha'Ivri*, spanning nearly 1,700 pages (aside from indices and bibliographies), seek to present the path of development of Jewish law over the course of more than 3,000 years. Sections deal with the philosophy of Jewish law, the various breeds of midrash which function as source texts, the roles of *minhag* and precedent, the unique developments of each post-talmudic era, and much more.

Rabbi Elon devotes particular focus to the impact of European Emancipation, and then the State of Israel, on the modern development of Jewish law. Centuries of separation of the Jewish community from non-Jewish government, such that rabbinical courts were charged with managing the internal affairs of Jews, compelled our courts to harness law to the realities of daily life. In contrast, Rabbi Elon contends, the modern imposition of secular law on Jewish communal life has led to a more theoretical, and less practical, development of Jewish legal theory. This shifts again with the modern State of Israel, and the friction between Israeli law and Jewish law.

About the reader

HaMishpat ha'Ivri may be used as a resource for readers who wish to draw on particular sections, and especially on their extensive citations and footnotes. However, the author's intended benefit would be best received by a full reading of the text, from start to finish.

In his introduction to the first edition, the author wrote, "This book is not only targeted at students and researchers of law, or jurists. I hope that it will be of interest to anyone for whom the world of *halachah* is close to his interest and heart, and anyone who wishes to understand the principles of the Torah of Judaism as a whole. In the world of Jewish law and its creativity are expressed many of the unique traits of this nation – incisive thought and intellectual insight, ways of life and justice, values of ethics and righteousness, modes of thought and philosophical insight, and above all – an unwavering will and capacity for creativity and continuity."

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Israel's Chief Rabbis: Rabbi Yisrael Meir Lau**Rabbi Jonathan Ziring*****Rabbi Yisrael Meir Lau*****Born in Poland, 1937****Chief Rabbi of Netanya 1978-1988****Ashkenazi Chief Rabbi of Israel, 1993-2003****Chief Rabbi of Tel Aviv – 1988-1993, 2003-present****Life**

Rabbi Yisrael Meir Lau was born in 1937 in Piotrków Trybunalski, Poland. His father, Rabbi Moshe Chaim Lau was the last Chief Rabbi of the town. He is the 38th generation in an unbroken chain of rabbis, a tradition which has been carried on by his son, Rabbi Dovid Lau, the current Ashkenazi Chief Rabbi of Israel.

Most of Rabbi Lau's family perished in the Holocaust. He survived Buchenwald, and a photograph of him became an iconic picture of the miraculous survival of children from the Holocaust. He wrote a memoir of his life and the path he took after the Holocaust, including his eventual appointment as Chief Rabbi, which has been published in English as *Out of the Depths*.

After the War, Rabbi Lau emigrated to Mandate Palestine and was raised by his uncle and aunt. He studied in Yeshivat Kol Torah under Rabbi Shlomo Zalman Auerbach, as well as in Yeshivat Ponevezh and Keneset Chizkiyahu. He served as Chief Rabbi of Netanya, then Tel Aviv, eventually being appointed Chief Rabbi of Israel. Afterwards he returned to his former position as Chief Rabbi of Tel Aviv, a position he still holds. He also is the chairman of Yad V'Shem, and has received the Israel Prize for his life work.

Legacy

Rabbi Lau has written several volumes of responsa, *Yachel Yisrael*, covering all areas of Shulchan Aruch, as well as modern medical issues. While sometimes he will offer a final halachic position, at other times he argues that the issue should be left to Torah scholars to weigh in on the halachic and ethical issues involved. See, for example, *Yachel Yisrael* 89 regarding defining motherhood in cases of surrogacy. Following Rabbi Shlomo Zalman Aurbach, he allows some dying patients to reject medical care rather than endure pain, while encouraging them to extend their lives if they are so willing. (*Yachel Yisrael* 54-55)

Rabbi Lau engages many pressing modern issues. For example, he devotes a lengthy responsum to the question of why, and to what extent, customs are binding now that historical communities have relocated to centres like Israel and North America where many traditions are represented (*Yachel Yisrael* 9-10). He also deals with ethical questions, such as the parameters of the obligation to speak the truth. (*Yachel Yisrael* 11)

Rabbi Lau is also known for his relatively lenient practice regarding interfaith dialogue, and he met with Pope John Paul II personally.

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Biography

Rabbi Chaim Hirschensohn

Rabbi Baruch Weintraub

Rabbi Chaim Hirschensohn was born in Tzfat in 1857. His father was Rabbi Yaakov Mordechai Hirschensohn, one of the founders of Chovevei Tzion, an early Eastern European Zionist movement, and the family had made aliyah to Eretz Yisrael nine years earlier.

When young Chaim was one year old, his family moved to Jerusalem, where his father established Yeshivat Sukkat Shalom. This yeshiva was unique, as it used modern pedagogic methods and pushed the students to academic excellence, in contrast to the classic approach which put the emphasis on the act of learning itself, regardless of its quality. In addition, Rabbi Yaakov Hirschensohn advocated for openness toward the study of modern science.

When Chaim was of age, he entered his father's yeshiva. After demonstrating great success in his learning, he was ordained by his father. In accordance with his father's instructions, he received scientific training in addition to his Torah studies.

In 1885, Rabbi Chaim became a teacher in the Lemel school in Jerusalem, where science was part of the curriculum. The school was under a ban by zealous opponents in Jerusalem, and teaching in the school meant entering open war against them. Rabbi Chaim was not shy in his opinions, and four years later he joined Eliezer Ben Yehuda to found the Safah Berurah ("Plain Language") society, advocating for the revival of Hebrew as a daily language. This act was the final straw, and the attacks on him and his family became so vicious that in 1903 he had no other way but to leave for Istanbul, where he managed a Hebrew-speaking school.

In 1904, Rabbi Chaim participated in the Sixth Zionist Congress in Basel, where he accepted a rabbinic position in Hoboken, New Jersey; he served there until his passing in 1935. Rabbi Chaim published more than forty books, many of them dealing with questions regarding halachah in modern times and the laws of a Jewish state.

On the 12th of Cheshvan we commemorated the murder of prime minister Yitzchak Rabin. On that note, please see the accompanying translation from Rabbi Hirschensohn's thoughts on Democracy.

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Torah and Translation

A Democratic Mashiach?

Rabbi Chaim Hirschensohn, Malki baKodesh Vol. 1 #1

Translated by Rabbi Baruch Weintraub

שאלה: איך נוכל לצפות לרגלו של המשיח להעמיד עלינו מלך להיות הממלכה ולזרעו אחריו כל הימים, אחרי כי כל העולם כולו, וביחוד עם ישראל עם חכם ונבון, כלם יודעים ומכירים כי כבר בא הזמן של ממשלת-עם?...

וכבר הוכחנו לדעת שאפילו בממשלה רעפובליקאנית עדיין לא יצאנו ידי חובת הצדק והמשרים עד שתתנהג במשטר דעמאקראטי...

ולואת באה השאלה איך נקיים המצוה של "שום תשים עליך מלך" ... להיות המצוה הזאת מתנגדת חס ושלום להחכמה הנמוסית אשר למד הזמן אותנו על ידי נסיונות רבות ודרכי החכמה ולמודי הכלכלה המדינית? והלא חכמינו ז"ל העמידו לעיקר גדול בפירושי התורה לבאר ספקותיה את הקרא "דרכיה דרכי נועם וכל נתיבותיה שלום"!!...

תשובה; אמר ר' יהודה שלש מצוות נצטוו ישראל בכניסתן לארץ ... כתב רש"י ז"ל בסנהדרין ... שהן תלויות זו בזו...

טעם הדבר מובן לכל אשר לו השקפה תולדתית בדברי ימי העמים, ויודע אשר כל עם לא התרכז בראשונה לעם רק על ידי דחיפה ולרוב דחיפה חיצונית... ובפרט עם אשר רובם היו עבדים מעונים, אין בטבע עם כזה להתרכז מעצמו ולבחור לו ראשיו ומהיגיו...

ואין אנו מחויבים לשום עלינו מלך רק למלחמת עמלק... אין דרך היותר נאות להעמיד את העולם על עמודי הצדק והמשרים רק הדרך הדעמאקראטי בלא שעבוד מלכיות אפילו ממלך ישראל.

אבל הנבואות המנבאים על מלך המשיח המה על הזמן אשר לא יהיה עוד קנאה ותחרות בעולם רק ימלא הארץ דעה את ד'. והמלך יהיה רק להוליך את העם בעצת ד'... וכל ישראל וכל העמים כלם יכירו אותו ויקבלו מלכותו ברוחניות עליהם. ואזי לא נצטרך לממלכה דעמאקראטית כי הדעמאקראטי תהי בטבע האנוש, ולא נצטרך עוד לממשלה ומשטר כלל כי כל הטוב אשר אנו מבקשים על ידי הממלכה והמשטר יהיה בטבע האנושית המתוקנה וישאף רק אל הדעת והתבונה.

be filled with the knowledge of G-d. The role of the king will be just to lead the people with Divine counsel... And Israel and all of the nations will acknowledge him and accept his spiritual monarchy over them. Then we will not need any democratic reign, for democracy will be part of human nature. We will not need any reign or government at all, for all of the good we seek via government will come through refined human nature, and people will aspire only to knowledge and wisdom.

Question: How can we expect Mashiach to appoint a king upon us, to possess the monarchy for himself and his children for eternity, once the whole world, and especially the wise Jewish nation, knows and recognizes that the time for government by the people has come?...

And we have already come to realize that even a republic is not enough to fulfill the duty to justice and righteousness, until it is governed in a democratic way...

Thus comes the question: how can we perform the commandment of "You shall appoint a king upon yourself"... as this commandment would contradict, Chas V'Shalom, the ethical recognition that history has taught us through many trials, the ways of wisdom, and the teachings of political theory? Did our Sages not put forth a central principle in their interpretation of the Torah, addressing its challenges, the verse, "Its ways are pleasant and all its paths are peaceful"!...

Answer: Rabbi Yehudah said that Israel was given three commandments as they entered the land [appointing a king, destroying Amalek and building the temple]... and Rashi in Sanhedrin wrote... that these depend on each other...

And the logic is clear to anyone who takes a historical view of the history of nations, knowing that no nation was united into a nation other than by pressure, and generally external pressure... All the more so in a nation composed largely of tortured slaves, which by their nature will not unite by themselves to appoint heads and leaders...

We are not obligated to appoint a king but for the sake of fighting Amalek... And nothing would be more proper than to establish the world upon pillars of justice and righteousness, using the democratic way, without any tyranny, even by a Jewish king.

The prophecies which prophesy regarding the king Mashiach speak of a time in which there will be no more envy and competition in the world, as the world will

Weekly Highlights: Nov 19 – 25 / 18 Cheshvan – 24 Cheshvan

Time	Speaker	Topic	Location	Special Notes
שבת Nov. 18-19	Shabbaton in Clanton Park: Angels Among Us			
Fri. 8:00 PM	R' Jonathan Ziring	ONEG: Praying to Angels?	11 Josephine Rd	
After hashkamah	Yaron Perez	You, too can create Angels!	Clanton Park	
Derashah	R' Mordechai Torczyner	Avraham 1, Angels O?	Clanton Park	
Derashah	Adam Friedmann	Greeting the Angels of Shabbat: A Unique Time Experience	Shaarei Tefillah	
After musaf	R' Jonathan Ziring	Torah was not Given to Angels	Or Chaim Minyan	
4:50 PM	R' Mordechai Torczyner	Do Angels Live in Heaven or on Earth?	Shaarei Tefillah	
After minchah	Adam Friedmann	What is an Angel?	Or Chaim Minyan	
After minchah	R' Shalom Krell	Topic TBA	BAYT	Simcha Suite
6:00 PM	Yaron Perez	Parent-Child Learning	Shaarei Shomayim	
Sun. Nov. 20				
8:45 AM	R' Jonathan Ziring	Responsa	BAYT	Hebrew
9:15 AM	R' Shalom Krell	Book of Shemuel	Associated North	Hebrew
10:00 AM to 11:20 AM	Adam Friedmann Mrs. Elliezra Perez	The Purpose of Prayer Hitbodidut: Talking to G-d	BAYT Simcha Suite	Midreshet Yom Rishon For Women
Mon. Nov. 21				
9:30 AM-Noon	Mrs. Elliezra Perez	Tefillah: Connecting to G-d	Ulpanat Orot	University Women
7:00 PM	R' Mordechai Torczyner	Legal Ethics with CPD: Child Custody	Shaarei Shomayim	Laypeople welcome
8:30 PM	Adam Friedmann	Gemara: Arvei Pesachim	Clanton Park	
8:30 PM	R' Jonathan Ziring	Avodah Zarah 3 of 6: Art in Halachah	Shomrai Shabbos	Third floor, Men
Tue. Nov. 22				
9:30 AM-Noon	Mrs. Ora Ziring	Chullin / Hilchot Kashrut	Ulpanat Orot	University Women
12:30 PM	R' Jonathan Ziring	Business Ethics: Insider Trading	Miller Bernstein 1801-5000 Yonge St.	Lunch served; RSVP to cchoi@millerbernstein.com
1:30 PM	R' Mordechai Torczyner	Ezra 2: Names?	Shaarei Shomayim	
Wed. Nov. 23				
9:30 AM-Noon	Mrs. Ora Ziring	Tanach	Ulpanat Orot	University Women
10:00 AM	R' Jonathan Ziring	Arguing with G-d 3 of 6: The Blasphemer	Beth Emeth	There is a fee; see torontotorah.com/arguing
12:30 PM	R' Jonathan Ziring	May a Jew profit from weapons?	Zeifmans LLP 201 Bridgeland Ave	Lunch served; RSVP to rk@zeifmans.ca
2:30 PM	R' Jonathan Ziring	Narratives of Exodus	carollesser@rogers.com	Women
8:00 PM	Adam Friedmann	Why do we...?	Shaarei Tefillah	
Thu. Nov. 24				
9:30 AM-Noon	Mrs. Elliezra Perez	Netivot Shalom on Parshah	Ulpanat Orot	University Women
1:30 PM	R' Mordechai Torczyner	Shoftim: Drafting Soldiers	49 Michael Ct.	Women
Fri. Nov. 25				
10:30 AM	R' Jonathan Ziring	Laws of Onaah	Yeshivat Or Chaim	Advanced