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**“Mah Enosh”:
Reflections on the Relation
between Judaism and
Humanism**

Prefatory and Explanatory Note:

Well in excess of the several years interlude between composition and publication recommended by Longinus and Cardinal Newman, this essay has been gathering dust—and, possibly, shedding interest and relevance—for almost four decades. Written as part of a broader project relating to elements of interface between Halakhah and ethics shortly before we moved to Erez Yisrael, it gradually lapsed into dormancy and relinquished priority. As the pressures of adjusting to the challenges of a fresh social and intellectual climate mounted, and as, concurrently, my relations to some aspects of a prior academic matrix waned, this project was deferred, as yesteryears’ endeavors were overshadowed by the immediate urgency of preparing tomorrow’s shiurim; all the more so, insofar as some of the material, although not the central and crucial issues proper, was now severed from its organic linguistic and literary audience, beyond both the grasp and reach of most Israeli readers. And so, the dust accumulated.

In the interim, however, neither time nor the religious world stood still. Hence, when the prospect of publishing this material resurfaced

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recently, obvious reservations suggested themselves. Were the issues still significantly relevant? Had not some been the subjects of thorough monographs? Might not some of the material appear dated, once familiar allusions now anachronistic, on the one hand, and the failure to relate to more recent expressions of the *Zeitgeist* all too evident, on the other? With respect to this particular essay, for instance, hadn't the role of classical humanism in relation to Torah Judaism, as ally or adversary, receded substantially during the past generation? And hadn't I, in a sense, preempted myself and this piece by discussions of some of its themes strewn through later writings?

Given my own uncertainty, I submitted the material to qualified readers for evaluation. I present it here—and hope, *be-siy'atta di-shemayya*, to present related essays in the future—in deference to their favorable judgment and in response to their importunity. I presume that some of the concerns raised previously are indeed genuine, but I hope that the general audience, too, will find the material of interest and value nonetheless.

Rather than labor under the burden of an extensive overhaul, I am presenting the essay almost intact, as originally written, the excursus on privation at the conclusion of section VI constituting the only significant change. I leave the labor of overhaul and/or comparison to the individual reader. I trust he or she will not find it excessively onerous.

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I

What is the relation between humanism and Judaism? A question so central to a basic understanding of a Torah *Weltanschauung* bears examination in any age. And yet, it has, additionally, a special relevance to our own. The prevalence of humanistic winds currently blowing through general religious thought¹ makes it imperative that this partially neglected problem² be presently treated from a halakhic perspective.

It cannot be treated, of course, without answering a prior question, “What is Humanism?” a question within whose murky depths,” according to a recent writer, “whole libraries might be sunk without affording a foothold.”³ Historically, humanism has indeed presented, even at its most self-conscious, a multifaceted appearance. During the Renaissance, it was as much a literary and educational gospel as a social and political program.⁴ In our own century, whether in league with religion

or in militant opposition to it, it has often stressed social activism. Nevertheless, even at the risk of seeming rash, I think that, for our philosophic purposes, we can formulate a terse working definition: Humanism is a world-view which values man highly. If this be the case, however, it becomes immediately apparent that our initial question is not one but several. For in this formulation, “values” must be understood in two senses, both as “appraises” and as “cherishes.” The two are of course radically distinct. While the second is frequently grounded in the first—friendship, as Aristotle noted, is generally dependent upon appreciation—they are by no means identical. Achilles respected Hector but had no concern for his welfare, while Sonia worried over Raskolnikov but could have had but scant esteem for him.

With respect to man, however, humanism both appraises and cherishes him highly. Hence, philosophically and historically, it revolves around two foci. The first is the nature of man. Humanism affirms the dignity, the uniqueness—to a point, even the virtue—of man. Factually, it holds that man is endowed with a singular character; normatively, that he must realize his distinctive dimension, or rather, his distinctive potential. The basis for these affirmations may vary. In their medieval and Renaissance form—from John of Salisbury through Pico and Erasmus to Hooker and Milton—it was predominantly religious. In their modern form, as exemplified by, say, Babbitt, Camus, or Dewey, it is often secular. The scope of the affirmations may likewise vary. Secular humanism is, in one sense, relatively restricted. Its preoccupation with man is unrelated to any grand vision of man’s objective place within the universe. It accepts the naturalist’s view that man is merely an insignificant speck of cosmic dust. From such a perspective, the centrality of man is purely moral and subjective. It can be accepted only by consciously averting one’s gaze from cold reality and focusing one’s attention upon an infinitesimal portion of the universe.

Religious humanism, by contrast, often makes the most sweeping cosmological claims. In one sense, of course, the religious position *per se*—especially that of revealed religion—assumes man’s special status as the one creature capable of relating intelligently to God. To this extent, religion is, by definition, more humanistic than secularism; in positing a transcendental dimension to his existence, it assumes a nobler view of man. Many religious humanists go much further, however. They regard not only their own systems but the objective universe itself as being anthropocentric. Among Renaissance writers, for instance, statements that man is the very focus of the creation, that the entire cosmos exists

but to serve him, are almost clichés. Whatever the form, however, the primary humanistic thesis is the same. Against radical Augustinian and Calvinistic pessimism on the right and all modes of naturalism on the left, the humanist insists that man is presently endowed with a unique exalted character, be its source transcendental or natural; that his primary duty consists of realizing his distinctive dimension; and that through the exercise of his rational and moral faculties—and through that alone—he has the capacity to attain his potential.

The second focus, related to and yet distinct from the first, concerns the destiny of man—insofar as he can affect it—rather than his nature. The issue here is not what man is, nor even what he can become, but the degree to which human life should be geared to the satisfaction of man's needs and desires. Whatever his worth, to what extent should man be collectively concerned with his own mundane well-being? From a secular perspective, such a question makes very little sense. The answer is, obviously, as much as possible, provided, of course, in the spirit of John Stuart Mill, that these are not confined to the hedonistic or sybaritic but include spiritual desiderata as well. From a religious perspective, however, which regards mankind as having not only rights but responsibilities, it is not only relevant but crucial. Man's relation to God entails obligations to Him, so that energies which might have been channeled toward the advancement of purely human welfare are expended in the service of God. In this sense, therefore, the religious point of view is, by definition, less humanistic than the secular; and the American Humanist Association is correct in regarding supernaturalism as its sworn enemy. If it is indeed true, as Corliss Lamont would have it, that

Humanism is the point of view that men have but one life to lead and should make the most of it in terms of creative work and happiness; that human happiness is its own sanction and requires no sanction or support from supernatural sources; that in any case the supernatural, usually conceived of in the form of heavenly gods or immortal heavens, does not exist; and that human beings, using their own intelligence and cooperating liberally with one another, can build an enduring citadel of peace and beauty upon this earth⁵

then of course religious thought can have no truck with it. However, while such absolute “humanism” cannot be countenanced—of course, from a religious point of view, a philosophy grounded in so limited a view of man's nature and his aspirations is not humanistic at all—varying degrees of concern for human welfare are clearly possible. Even within a religious framework, one can speak of relatively more or less

humanistic points of view. As regards both foci, then, we may validly ask: In what sense, and to what extent, should Torah Judaism be regarded as humanistic?

In dealing with this, as with almost every major problem of religious philosophy, a number of answers are clearly possible. These are not matters of simple dogma, to be settled by reference to catechetical formulations; and, in actual fact, Jewish thought has certainly advanced a significant variety of attitudes and emphases concerning them. Maharal's world-view was more anthropocentric than Rambam's, and Rabbenu Bahya's more ascetic than Rav Kook's. Nevertheless, one can speak of a broad central position. Above all, one can look to a common objective element to help define the limits of discourse. This element is pre-eminently the Halakhah. Reference to halakhic texts and categories will not necessarily delineate the nuances of various positions. Indeed, as regards our first problem, the nature of man, one might be hard put to find halakhic texts which deal with it directly. While the native Jewish tradition regarding this question is central to the whole of Halakhah, it is so pervasive as to be implicit rather than expressed. Nevertheless, as regards both foci, the Halakhah, as the very essence of Judaism, enables us to recognize the bounds of legitimate Jewish thought.

II

Judaism has regarded the nature of man in the light of a basic antinomy. On the one hand, man is a noble, even an exalted being. His spiritual potential and metaphysical worth are rooted in his *Zelem Elokim*, "the image of God" with which his Creator has invested him. The phrase is doubly significant. It describes man's metaphysical essence, on the one hand, and it suggests a kinship on the other.⁶ "Beloved is man that he is created with an image. Particular love is manifested to him in that he is created in God's image, as it is said, 'For in the image of God He made man.'"⁷ Man was imbued with a transcendental spark—endowed with personality, intelligence, and freedom—because divine grace destined him for a special relation with itself. Individually and collectively, man is therefore the object of particular Providence, and, as a spiritual being, a subject capable of engaging his personality in a dialectical community with God.

Faith in the essential worth of man, independently considered, is basic to Judaism. As regards his relative cosmic position, however, the tradition has harbored conflicting views. Thus, Maharal placed man at the

very apex of creation,⁸ while Rambam insisted the angels were ontologically superior.⁹ Similarly, Rambam¹⁰ strongly rejected the notion, often cherished by humanists, that the universe as a whole exists solely in order to serve man. Just as God willed the existence of man, so He willed that of other beings, each for its own sake. None, in Tennyson's phrase, "but subserves another's gain."¹¹ Yet numerous texts expound the very position the Rambam rejects. The Midrash, for instance, repeatedly discusses the creation in strikingly anthropocentric terms. After the fall, it depicts God as stating: "Did I not create animals and beasts solely for man? Now that man has sinned, what need have I of animals and beasts?"¹² Man is the culmination because the pinnacle of creation, "created after everything so as to rule over everything."¹³ According to R. Shimon ben Eleazar, even the higher animals "were but created in order to serve me."¹⁴ For, as *Avot de-Rabbi Natan* put it, "a single man is worth the [entire] creation."¹⁵

However, despite differences that have existed concerning these issues—and they are certainly of momentous importance—the basic thesis has always remained central. Whatever man's position relative to the universe as a whole is, there can be no question about the absolute and ultimate worth of his own existence. Judaism has not assumed man's natural goodness.

Our Rabbis taught: "The evil inclination is hard [to bear], since even his Creator called him evil, as it is written, 'for the inclination of man's heart is evil from his youth.' R. Isaac said: Man's evil inclination renews itself against him daily, as it is written, 'every imagination of the thoughts of his heart was but evil every day.'¹⁶

But Judaism has always insisted upon man's natural worth—upon the sanctity as well as the dignity of human personality.

On the one hand, then, man is regarded as a majestic and exalted being. And yet, on the other, we are confronted by the radical pessimism of Kohelet: "For that which befalls the sons of men befalls beasts; even one thing befalls them; as the one dies, so dies the other; yea, they have all one breath; so that man's pre-eminence over the beast is naught, for all is vanity."¹⁷ For devotees of biblical criticism, it would of course be easy to dismiss this apparent contradiction on historical grounds, to regard the conflicting statements as the contrasting expressions of individual personalities or the *Zeitgeist* of different periods. Not only easy, however, but facile. The Rabbis, in any event, thought otherwise. They insisted on incorporating both attitudes in adjacent passages of one of the oldest and most august of our standard prayers, the *ne'ilah* recited at the end of *Yom Kippur*:

What are we? What is our life? What is our goodness? What our virtue? What our help? What our strength, what our might? What can we say to Thee, Lord our God and God of our fathers? Indeed, all the heroes are as nothing in Thy sight, the men of renown as though they never existed, the wise as without knowledge, the intelligent as without insight. For the multitude of their actions is empty and the days of their life vanity in Thy sight; and man's pre-eminence over the beast is naught, for all is vanity. Yet, from the first Thou didst single out man and acknowledged him [as worthy] to stand in Thy presence. . . .¹⁸

Quite apart from its allusion to the element of divine grace—one of the central motifs of *Yom Kippur* and one whose role within Judaism is often greatly underestimated—the import of the passage is clear. In and of himself, man is simply a part of the natural world and, as such, of little ultimate consequence. However, inasmuch and to the extent that he relates to God, he assumes immense significance. As Rambam¹⁹ noted in commenting on this passage, this relation is initiated through an act of grace. There is no ground here for vainglorious arrogance. It is God who invests human life with meaning—first, by electing man in the act of creation proper, and then by maintaining community with him. Once established, however, the relation radically alters the very fiber of human personality and existence. “Why did he [i.e., the Psalmist] call the Holy One, blessed be He, the king of glory?” asks the Midrash. “Because He imparts glory to His adherents.”²⁰ Through his election, man becomes unique not only as the passive object of special Providence but as a creative spiritual being. In all spheres of activity, he realizes himself as a person rather than as an individual object. Even apart from his religious relation, narrowly conceived, his life attains a genuinely meaningful dimension. It is only through that relation, however, that his *sui generis* character develops. Of man on his own²¹ one can only say, “Man's pre-eminence over the beast is naught, for all is vanity.”

This antinomy finds vivid biblical expression in the eighth psalm:

When I behold Thy heavens, the work of Thy fingers, the moon and the stars which Thou hast established—What is man, that Thou art mindful of him? And the son of man that Thou thinkest of him? And that Thou hast made him but little lower than the angels, and hast crowned him with glory and honor; hast made him to have dominion over the works of Thy hands, and put all under his feet: sheep and oxen, all of them, yea, and the beasts of the field; the fowl of the air, and the fish of the sea, whatsoever passes through the paths of the seas? O Lord, our Lord! How glorious is Thy name in all the earth!²²

Harvard people remember part of this passage as the subject of an interesting local incident. Before leaving for summer vacation, members of the department of philosophy once selected Protagoras' "Man is the measure of all things" as the inscription for a new building. Upon their return, they discovered that President Eliot had substituted "What is man that Thou art mindful of him?"²³ One cannot understand the Jewish position, however, without seeing the entire passage—or rather, without regarding it as a unitary whole; without seeing man both as he might be independently, naked in his natural insignificance, and as he exists through his relation to God, invested with majesty and power.

The whole of Halakhah rests upon this vision. As a normative system, it is grounded upon one cardinal premise: human freedom and creativity. And as an experienced reality, it trumpets forth, in turn, one central message: human freedom and creativity. It does not merely posit this doctrine as a metaphysical principle. It envisions freedom, at every level and in every sphere, as a pragmatic *modus operandi*.²⁴ It makes one persistent demand: Choose. Decide. As a pervasive legal system, Halakhah posits Jewish existence at the plane of maximal consciousness and decision.²⁵ The Jew is insistently called upon to exercise intelligence and rational will—to act, that is, as an active subject rather than as a passive object. He is impelled to regard himself—and, in turn, to regard and to treat his fellow man—as an agent rather than a patient, not as a thing but as a person. Perhaps no single distinction runs through halakhic thought more persistently than that of *hefza* and *gavra*, "object" and "subject," the inchoate natural world and the creative human spirit which, like its Creator, strives to give that world meaning and purpose.²⁶

The Halakhah's emphasis upon man as a creative and responsible agent stands, above all, stubbornly opposed to any naturalistic ethics. It assumes man's *sui generis* character; and it insists that, because of his character, he cannot resign from a life of moral and religious decision. He may rise or fall, but he cannot sit still. There is no opting out. The decision to withdraw would itself be an ethical—or rather, an unethical—decision. From the perspective of the Jewish view of man, to live "naturally" is to be true to only one side of human nature—and, hence, to be false to the whole of it. As A.S.P. Woodhouse noted in a similar connection:

Nature, said Renan, knows nothing of chastity. And of nature on her sub-human level, this statement (as Spenser would agree) is perfectly true. She knows no more of chastity than she does of temperance and continence, of friendship, of justice, of courtesy or constancy or magna-

nimity. She does not know them because she does not need them, having her own sure law, adequate to each level of existence. But this does not mean that the human virtues are unnatural. On the contrary, they are natural in a double sense: because they belong to the nature of man, and because nature, adequately conceived, is seen to furnish their base and to lend them her sanction.²⁷

It is precisely by transcending his undisciplined psychological and biological self that man both realizes his own distinctive dimension and finds his place within universal Nature.

Of course, Halakhah, in its fullest sense, is not the only alternative to naturalism. But it *is* the Jewish alternative; and it can be fairly stated that it rests upon the Torah's view of man. Judaism has placed such enormous emphasis upon normative living—and implicitly, therefore, upon human freedom—because it has envisioned such an existence as a means of realizing the potential inherent in *Z'elem Elokim*. Man can, of course, seek to abdicate his responsibility. But to the extent that he moves in this direction, he betrays his own nature and divests his life of significance. At the limit, “The pre-eminence of man over the beast is naught, for all is vanity.”

As regards the first focus, then—the conception of the nature of man—Judaism is very much within the mainstream of religious humanism. Or rather, it constitutes one of its primary fountainheads. What we have seen as the traditional Jewish position closely resembles so much that was commonplace among, say, Renaissance humanists precisely because they drew so heavily upon it.²⁸ Cultural historians sometimes glibly speak of Christian humanism as the product of Judaic abnegation blended with Graeco-Roman pride.²⁹ The sense of man's nihility is traced back to the Bible and awareness of his potential and accomplishments to a chorus from *Antigone*. The fact of the matter is, however, that both elements are central to the Jewish tradition *ab initio*.³⁰ In terms of emphasis there is perhaps room for contrast. Job's vision is obviously different from Prometheus' and we have no tradition paralleling Protagoras'. As regards the central antinomy, however, both poles are deeply imbedded within the historical Jewish consciousness. It shares Pico's view of human greatness and it has plumbed the depths of Swift's savage despair. At bottom, it regards man, with Pascal, as “*ni ange ni bête*,”³¹ because he is both, not only *in potentia* but in actual fact. “If [a man] is worthy,” says the Midrash, “he is told, ‘You were prior to ministering angels.’ If not, he is told, ‘An insect preceded you, a worm preceded you.’”³²

It should not be assumed that the Jewish view of the nature of man simply coincides with that of Christian humanism. No Jew could have written the latter parts of *In Praise of Folly*. We do not speak of God as “the divine fool” nor could we readily identify our own “folly” with Him. The doctrine of the incarnation enables a Christian to ground his humanism upon premises which a Jew must regard as nothing short of idolatrous. In this sense, it is perfectly true that Christian humanism resulted from the conjunction of Greek and Jewish thought; or perhaps indeed, as Toynbee would have it, that Christianity itself developed out of the injection of Hellenic “man-worship or Humanism” into Judaism.

For the Jews, this revolutionary Christian doctrine of God’s incarnation was a blasphemous importation into Judaism of a myth that was one of the most damnable of all the errors in hellenic paganism. This was a betrayal of everything that Judaism had achieved in a long and arduous struggle to purify and elevate man’s vision of God’s nature, and no orthodox Jew would have been capable of it.³³

Needless to say, in this regard, nothing has changed during the last two millennia. At bottom, any Jewish humanism must reject one dimension of its Christian counterpart. Christian thinkers are fully aware of this dimension. “L’humanisme Chrétien,” writes a Catholic scholar, “est d’abord une spiritualité axée sur le dogme de l’incarnation.”³⁴ Maritain, in pleading for an “integral” humanism, suggests that “such a humanism, which considers man in the wholeness of his natural and supernatural being, and which sets no *a priori* limit to the descent of the divine into man, we may call *the humanism of the Incarnation*.”³⁵ That being the case, Judaism—which does set an “*a priori* limit to the descent of the divine into man”—must, in part, reject it.

Moreover, Christian humanists often instinctively think in terms that are relevant but not quite as central for their Jewish counterparts. The problem of the nature of man actually involves two issues: 1) man’s inherent metaphysical character and status and 2) his psychological tendencies within his actual historical situation. As regards the first, the Jewish position and that of Christian humanism largely coincide. As regards the second, however, one often encounters significant divergence. While humanists represent the Pelagian strain within Christianity, they nevertheless—partly, in spite of themselves—often employ the categories of depravity and grace in a manner distinctly foreign to Judaism. Nevertheless, in its broad outlines, Jewish anthropology does have much in common with Christian humanism;³⁶ and sensitivity to important differences of tone and emphasis as well as substance should not blind us to

this fact. Above all, they share the concurrent vision of man's complex dual nature: the grandeur of what Milton called "the human face divine" and the animality of the two-footed beast.

III

Whatever be the Torah-halakhic view of the nature of man, our second focus—the degree of concern for human welfare—poses an entirely different question. In a sense, of course, the two problems are related. Insofar as one assumes the majesty and dignity of man, he presumably becomes less prone to other-worldliness. Respect for human personality would naturally lead to concern for satisfying all its needs and for the fullest development of the total environment within which it finds both realization and self-fulfillment. Historically, this has no doubt generally occurred. An obvious instance is provided by modern secular humanism, with its consuming passion for exploring and exploiting the human potential of what Wordsworth called "the very world, which is the world / Of all of us,—the place where, in the end, / We find our happiness, or not at all!"³⁷ Religious parallels can readily be cited, however. In his *De dignitate hominis*, for instance, the Florentine humanist, Giannozzo Manetti, writes: "Just as the force, the reason, and the power of man, for whom the world itself and all the things of the world were created, are great, straight, and admirable, so we must judge and believe that the mission of man consists in knowing and ruling over the world made for him, as well as over all things which we see established in this immense universe."³⁸ Or again, as More's example particularly manifests, one can hardly challenge G.K. Hunter's statement that sixteenth-century English humanists "sought to turn religious ideals and energies towards the amelioration of life in this world and to achieve an order in this life corresponding to the religious vision of man's worth."³⁹ Nor can we seriously doubt that the eudaemonistic element in Greek culture—what Jaeger called "the innate Greek belief in the value of this world, their confidence that they could bring 'the best state,' 'the best life' into being here and now"⁴⁰—is directly related to its profound confidence in man himself.

Nevertheless, despite their prevalent psychological link, these two questions have no necessary logical connection. One could conceivably entertain the highest estimate of man's worth and yet be relatively unconcerned with "the amelioration of life in this world." And I would agree with Professor Bush that it is "very misleading" to assume "as an unquestionable fact that humanism and related words signify a turning

from heaven to earth, from medieval theology and otherworldliness to this mundane world which the classics have taught men to enjoy.”⁴¹ The crucial question turns on the conception of human welfare. Inasmuch as man consists of body and soul, his well-being must presumably be defined with reference to both. Or rather, if we are to speak from a religious perspective, it may be defined purely in terms of the latter, physical well-being becoming relevant only insofar as it contributes to spiritual development. Given certain conceptions of the relation between body and soul, therefore—if it should be assumed, for instance, that one can only grow at the expense of the other and that a rigorous asceticism is essential to spirituality—there is no logical contradiction whatsoever between the most exalted notions of human nature and destiny and the most extreme forms of otherworldliness. In the history of Western thought, Neoplatonism furnishes an excellent example of this combination. Plotinus could, on the one hand, regard himself as virtually divine, a temporarily miscast demigod; and yet, on the other hand—or perhaps, for that very reason—Porphyry writes that he “seemed ashamed of being in the body.”⁴² Or, to take a recent Jewish example, R. Yosef Yosel Hurwitz, the founder of the Novardek school of *musar*, entertained the most exalted conceptions of man’s intrinsic worth and yet counseled radical forms of asceticism and renunciation.⁴³

Hence, the Torah-halakhic conception of the nature of man suggests no definitive answer to our second question: How much weight has Judaism assigned man’s realization of temporal happiness? To what extent has it recognized the value of satisfying his physical and emotional needs? The answer to this question must rather primarily be sought—apart from explicit biblical or aggadic statements of attitude—in areas of Halakhah which either define or reflect a perspective upon man’s relation to the mundane. Such an inquiry should concern itself, in turn, with two distinct elements. The first might be called the normal or fundamental Halakhah, the moral and religious demands imposed by the Torah as a program for human life under ordinary circumstances. The second concerns whatever provisions the Halakha has made for superseding its usual norms in emergency situations in which these conflict with essential human needs.

With regard to either element, but especially the first, it becomes immediately apparent that any answer must be largely relative. It all depends on one’s standard and expectations. As compared with medieval Christianity, Judaism is singularly mundane; as compared to most contemporary versions, it is rather other-worldly. Beside Abelard or Anselm,

the Halakhist appears almost secular; beside Harvey Cox, he is very much the *religieux*. Much also depends on one's perspective. To outsiders accustomed to a relatively unfettered existence, the minutiae of halakhic living can seem terribly onerous. A devout Episcopalian once ate supper at our home and expressed amazement that one could be constantly aware of the laws concerning washing, blessings, and so on without being wholly overwhelmed. To those acclimated to its regimen, however, the demands of Halakhah, comprehensive though they be, are fully compatible with a reasonably comfortable life. Indeed, aided by the marvels of modern technology, some are now so thoroughly inured as to feel no discomfort whatsoever. Nevertheless, if we eschew judgmental and comparative epithets, an exposition of the fundamental Jewish attitude can be readily formulated.

Like seventeenth-century Anglicans, modern Jews often pride themselves upon possessing a eudaemonistic *via media*—a humanistic religion which avoids the Scylla of secular liberalism on the left and the Charybdis of Christian asceticism on the right. While this claim is often shallowly entertained and its value insufficiently analyzed (What value is there in mediacy *per se*?), it is nevertheless securely grounded. The humanistic strain is reflected in what the Halakhah both says and avoids saying. In a positive sense, it finds expression in the overriding emphasis upon *hesed*, usually translated as “goodness” or “mercy” but truly denoting a total complex of empathy and action deriving from concern for the welfare of others. Transcending mere paternalism and demanding not only charity but *caritas*, *hesed* entails genuine personal involvement with the needs of my fellowman, rich or poor. Its centrality is reflected in numerous *mizvot*, ranging from various tithes for the poor through interest-free lending to wedding celebration,⁴⁴ and is, at times, explicitly stated: “R. Eleazar said: What is the implication of the text, ‘It hath been told thee, O man, what is good, and what the Lord doth require of thee—to do justly, to love mercy, and to walk humbly with thy God.’ ‘To do justly’ refers to justice; ‘to love mercy’ to acts of *hesed*; ‘and to walk humbly with thy God’ to attending to funerals and dowering a bride [for her wedding].”⁴⁵ The Torah as a whole is seen as framed by the concept: “R. Simlai expounded: The Torah begins with an act of *hesed* and ends with an act of *hesed*, for it is written, ‘And the Lord God made for Adam and for his wife coats of skin and clothed them;’ and it ends with an act of *hesed*, for it is written, ‘And He buried him in the valley.’”⁴⁶ And it frames the Torah precisely because it is so intimately related to its essence and purpose. Hillel’s statement—in answer to a

prospective proselyte who wanted to be taught the whole Torah while standing on one leg—expressed it most radically: “What is hateful to you, don’t do to your fellow—that is the whole Torah. The rest is its commentary; go and study it.”⁴⁷

The drive to *hesed* has two motive springs. One is the obligation to imitate divine attributes and actions. Commenting on the verse, “To go in all His ways,”⁴⁸ the *Sifrei*, after noting that these are the thirteen attributes of merciful grace cited in a theophanic passage in Ex. 34:6-7, goes on to apply this point within a more specific context:

“Whosoever will be called by the name of the Lord shall be spared.” How is it then possible for a person to be called by the name of the Holy One, blessed be He? But [this means] as the Omnipresent is called gracious and compassionate, so you be gracious and compassionate and give gifts of grace to all. As the Holy One, blessed be He, is called righteous . . . so you be righteous. As the Holy One, blessed be He, is called merciful . . . so you be merciful. In this sense, it is said, “Whosoever shall be called by the name of the Lord shall be spared.”⁴⁹

Or, to put it more concretely:

What is the meaning of the text, “Ye shall follow the Lord your God?” Is it, then, possible for a human being to follow the *Shekhinah*? Has it not been said, “For the Lord thy God is a devouring fire?” But [this means] walk after the attributes of the Holy One, blessed be He. As He clothes the naked . . . , so you also clothe the naked. The Holy One, blessed be He, visited the sick . . . , so you also visit the sick. The Holy One, blessed be He, comforted mourners . . . , so you also comfort mourners. The Holy One, blessed be He buried the dead . . . , so you also bury the dead.⁵⁰

The second spring is the obligation to love another. This commandment—singled out by R. Akiva as a “central principle in the Torah”⁵¹—was cited by Rambam as the halakhic basis of the very acts of *hesed* subsumed by the *gemara* in *Sotah* under imitation of the ways of God, *imitatio viarum Dei*. After presenting a catalogue of such acts that have been ordained as rabbinic commandments—besides those cited in *Sotah* it includes other kindnesses to the dead and their memory, escorting guests, and arranging and celebrating weddings—he concludes: “These constitute acts of *hesed* [to be] performed in person for which no limit can be prescribed.⁵² Although all these commands are of rabbinic origin they are included in ‘And thou shalt love thy neighbor as thyself.’”⁵³ Rambam evidently means that these acts manifest love to one’s fellow and as such are to be subsumed under a general biblical injunction; but that, as specific objects of a particular commandment, their status is only

of rabbinic origin. The Torah, speaking of a subjective emotional relation, formulated a general principle which is both realized and reflected through the performance of various acts of *hesed*. Over and above this, the Rabbis have singled out some of these acts and have posited them, at the objective plane of action, not only as instances of a broader category, but as definite categories in their own right.⁵⁴ Be this as it may, however, Rambam's formulation emphasizes a second normative dimension of *hesed*—the interpersonal. In extending empathy and aid to others, the Jew therefore strives in two directions. At one level, he moves toward the fulfillment of his own spiritual personality. At another, he improves the lot of his fellow man.

This intersection of two orders of *mizvot*, duties to God and man respectively, is no accident. It reflects halakhic faith that religious self-fulfillment imposes social obligations, on the one hand, but that, on the other hand, social action cannot have ultimate meaning unless it draws upon and relates to a transcendental source. The reciprocal interaction of the "ethical" and the "religious"—at a legal and not only at a philosophical plane—reflects the fact that the Halakhah can never reconcile itself to their divorce. And it invests *hesed*, as a quality and as a *mizvah*, with its singularly Jewish character.

The importance attached by the Halakhah to helping the needy—be they rich or poor⁵⁵—reflects the profoundly Jewish spirit of compassion and commiseration for the weak and the downtrodden. In a very real sense, this spirit constituted our specific contribution to the classical world. Graeco-Roman culture knew much of friendship and something of love but relatively little of compassion. At the same time, this spirit is rooted in an awareness of the significance of man's temporal needs, physical as well as psychological. This awareness is most strikingly manifested in a different context. Among incidents which can be regarded as visitations of divine chastisement, the *gemara* cites the most pedestrian frustrations: "if a man had, for example, a garment woven for him to wear and it does not fit him"; if a drink was to be served hot and was served cold or vice-versa; "even if his shirt gets turned inside out"; "even if he puts his hand into his pocket to take out three [coins] and takes out but two."⁵⁶ But the same sensitivity, although expressed in less dramatic terms, constitutes the basis of the Torah's emphasis upon *hesed*.

The humanistic strain is likewise evident in a major halakhic omission. As a moral and religious regimen, the Halakhah demands a great deal; but its discipline contains little which can be regarded as purposively ascetic. Of mortification it knows almost nothing,⁵⁷ of monasticism even

less. The emphasis is rather upon a discipline of choice and direction. Man's basic physiological and psychological drives are recognized as healthy, but they are channeled and chastened by being integrated into a harmoniously ordered discipline. He is encouraged to eat well—hearty meals are an integral aspect of Sabbath and festival celebration⁵⁸ and often conjoined with “rejoicing before God”⁵⁹—but never at will. He is commanded to indulge his sexual appetite—at most, celibacy is permitted in only the rarest of instances⁶⁰—but not indiscriminately. With respect to the social and economic order, likewise, man is commanded to lead a full and productive life—“as the Torah was granted through a covenant, so was labor granted through a covenant”⁶¹—but he is enjoined, even with respect to the economic sphere, from becoming *homo economicus*, an agent whose decisions are guided solely by secular considerations. The basic goal is *kedushah*, not the suppression but the sanctification of world and self, and the primary means is the organization of experience around a divinely ordained normative order. This ideal links seemingly disparate areas. Rambam included laws concerning sexual behavior in the “book of holiness”—together with those governing ritual slaughter and proscribed foods—rather than in the book dealing with marriage and divorce. Rabad lumped the laws of sexual abstinence following menstruation together with a whole slew of *mizvot*: injunctions concerning modes of plowing or sowing, tithes, *zizit*, circumcision, wearing *sha'atnez* garments, blessing before and after eating, observance of Sabbath and festivals, and numerous others—all having been given “in order that man should know that he has a Creator governing him.”⁶² In ethical areas, the individual norms are generally ethical in character; in other areas, they may be, relatively speaking, almost arbitrary. The ideal of *kedushah* is all-pervasive, however.

The Halakhah does occupy, therefore, a middle ground between secular utilitarianism and Christian asceticism. On the one hand, it not only omits but positively decries excessive self-denial:

R. Eleazar ha-Kappar Beribi said: What is the point of the words: “And make an atonement for him, for that he sinned regarding the soul?” Regarding what soul did this [Nazarite] sin unless by having deprived himself of wine? Now can we not base on this an argument *a fortiori*: If a Nazarite who deprived himself only of wine is already called a sinner, how much the more so one who deprives himself of all matters?⁶³

A remark cited in the Yerushalmi is even more emphatic: “R. Hezekiah [in the name of] R. Kohen in the name of Rav: ‘A person is destined to render judgment regarding everything that he has seen and not partaken thereof.’”⁶⁴

One could no doubt cite seemingly conflicting sources—students of the *Mesillat Yesharim*⁶⁵ will recall Ramḥal’s attempt to reconcile evidently disparate texts—and it is more than likely that within *Ḥazal* proper, and in the *rishonim* certainly, we may encounter varying degrees of humanistic world-acceptance. One version of a celebrated text presents this divergence explicitly. Expanding upon the *mishnah*, “and all your actions should be for the sake of Heaven,”⁶⁶ the *baraita* of *Avot de-Rabbi Natan* comments:

Like Hillel. When Hillel would go somewhere, people would ask him, “Where are you going?” “I’m going to do a *mizvah*.” “What *mizvah*, Hillel?” “I’m going to the toilet.” “Is this, then, a *mizvah*?” “He said to them: yes—in order that my body should not degenerate.” [Or again], “Where are you going, Hillel?” “I’m going to do a *mizvah*.” “Which *mizvah*, Hillel?” “I’m going to the bathhouse.” “Is this, then, a *mizvah*?” “He said to them: yes—in order to clean my body. By way of proof—look. If as regards icons which stand in royal palaces, the government pays their appointed polisher and cleaner a *salira* annually, and moreover, he is placed among the nobles of the kingdom—we, who were created in [divine] image and form, as it is said, ‘For in the image of God He created man,’ *a fortiori!*” Shammai would not say thus, but rather: “Let us perform⁶⁷ our duties with this body.”⁶⁸

Professor Lieberman’s comment that “Shammai did not permit physical enjoyment except with the sense of one who is being gratified against his will,”⁶⁹ may overstate Shammai’s dissent; but, in any event, a difference in attitude is clearly discernible.

Or, to cite a later example, the difference is perhaps reflected in two radically divergent interpretations of R. Yehudah ha-Nasi’s deathbed statement: “Master of the world! It is revealed and known before you that I have labored in Torah with my ten fingers and have not derived pleasure even with a small finger. May it be Thy will that there be peace in my rest.”⁷⁰ *Tosafot*⁷¹ and a number of other commentators take this as a testament of lifelong renunciation. Rashi,⁷² however, understands R. Yehudah ha-Nasi to be stating that he has not received mundane reward commensurate with the deserts of the effort expended by even one finger. Again, an element of otherworldliness is clearly present in such statements as, “R. Yehudah ha-Nasi says: Whoever takes upon himself pleasures of this world, the pleasures of the world to come are withheld from him, and whoever does not take upon himself the pleasures of this world, the pleasures of the world to come are given to him;”⁷³ or, “Rav said: The world was but created for Aḥ’av ben Omri and R. Ḥanina ben Dosa—this world for Aḥ’av ben Omri and the next world for R. Ḥanina ben Dosa.”⁷⁴

Nevertheless, while these differences should not be minimized, I do not believe they erode the fundamental halakhic position. By and large, these statements concern shading and emphasis within a commonly accepted framework; and while some may sound starkly ascetic when regarded in isolation, we should not lose sight of the normative context which they take for granted and upon which they seek to provide a perspective. It was Shammai, after all, who, when he noticed a fine food on Sunday, would already set it aside for the Sabbath⁷⁵—hardly an ascetic practice; and it was of R. Yehudah ha-Nasi and Antoninus that the *gemara* relates that “winter or summer, lettuce, cucumbers, and radishes were never absent from their table.”⁷⁶ The primary halakhic attitude clearly discourages a rigorously ascetic posture. In some instances—as that of a fair-haired dandy who became a Nazarite in order to overcome his narcissism⁷⁷—allowance might be made for special circumstances. Obviously, ascetic practice must ultimately be judged in the light of its motivation.⁷⁸ But these are rather the exceptions. Ordinarily, the Halakhah places the Jew very much within a worldly milieu. At the level of personal piety, it instinctively assumes a framework of participation rather than renunciation; at the level of public policy, it assumes the last of what Tawney called “four main attitudes”—the first three are asceticism, indifferentism, and zeal for some particular or final reform—“which religious opinion may adopt toward the world of social institutions and economic relations.”⁷⁹ Its attitude is one which “may at once accept and criticize, tolerate and amend, welcome the gross world of human appetites, as the squalid scaffolding from amid which the life of the spirit must rise, and insist that this also is the material of the Kingdom of God.”⁸⁰

But no—it goes further. The Halakhah does not merely regard the mundane order as “squalid scaffolding” from which spiritual life may emerge. The mundane is itself one facet of the spiritual life—not just an arena within which spirituality may grow but, insofar as it is the subject of numerous commandments, the very fabric of halakhic living. It is not just a preliminary to religious existence but, when governed by the relevant *mizvot* and *halakhot*, one aspect of it. For if the Torah regards the world positively, on the one hand, it does not, on the other hand, simply leave the Jew free to mind his own store. It makes both general and specific demands, it formulates priorities, and it posits both a mode and a direction for man’s exploitation of nature. Standing firmly upon its middle ground, it places pleasure within an eternal as well as a temporal framework. But perhaps we would do better to call it a third ground. Avoiding either pole of James’ familiar dichotomy, the world-rejection

of the sick soul and the world-acceptance of the healthy-minded, the Halakhah has adhered to what C.E. Raven has justly described as “the more profound concept of world-redemption.”⁸¹ “Halakhic man,” writes its leading contemporary expositor, “. . . fights against life’s evil and struggles relentlessly with the wicked kingdom and with all the hosts of iniquity in the cosmos. His goal is not flight to another world that is wholly good, but rather bringing down that eternal world into the midst of our world.”⁸² Not content with the integration of the secular and the religious into a single harmonious scheme, the Halakhah demands their interpenetration. The sacred must not only relate to the profane but—even as the two remain distinct—impregnate it. Halakhah proclaims the central truth that while religion is, in one sense, an area of experience, in another sense it frames all experience, inasmuch as it concerns man’s relation to God, the ground and goal of life itself. It is not only a quantitative but also a qualitative aspect of existence, and, as such, impinges upon every area. “All human activity,” Rambam insisted, “is subsumed under *yir’at shamayim*, ‘the fear of Heaven.’”⁸³

IV

In one respect, therefore—its concern with man’s mundane welfare—the Halakhah is thoroughly humanistic. In others, however, it is not—at least, not in the sense in which secularists generally use the term. For one thing, its ritual aspect imposes demands which contribute little to man’s temporal well-being. If the Halakhah has eschewed asceticism *per se*, it has nevertheless established norms which, at a practical level, often achieve almost the same effect. Positive commandments divert energies and resources from worldly tasks; negative injunctions may limit indulgence to the point of hardship. Neither aims directly at self-flagellation—a crucial point, philosophically. Practically, however, observance of *mizvot* may necessitate severe self-denial. The Rabbis had no illusions on this score. In discussing the controversy concerning the interlude between *Pesah* and *Shavuot*—the Sadducees contended that it began on the Sunday following the first day of *Pesah* while the Pharisees held the Torah’s “on the morrow after the Sabbath”⁸⁴ referred to the second day of *Pesah*—the *gemara* reports an interesting exchange. Challenged by R. Yoḥanan ben Zakkai, one Sadducean elder grounded his position upon the Torah’s presumed compassion:

Mosheh our master was a great lover of Israel and, knowing full well that *Shavuot* lasted only one day, he proceeded to establish it on the day after

the Sabbath so that Jews should enjoy themselves for two [successive] days. [R. Yoḥanan ben Zakkai] quoted the following verse to him: “It is eleven days’ journey from Horev unto Kadesh-Barnea by the way of Mount Seir.” If Mosheh our master was [such] a lover of Israel, why, then, did he detain them in the wilderness for forty years?⁸⁵

As his students pointed out to him, R. Yoḥanan’s answer was more a flippant riposte than a serious reply. Nevertheless, it reflects a deeply ingrained awareness that both the pursuit of the normal halakhic regimen and, particularly, unswerving commitment at occasional moments of crisis can produce genuine hardship.

The oft-used phrase, “the yoke of *mizvot*,”⁸⁶ not to mention common experience, attests to this point readily. The *gemara* does occasionally refer to a principle that “the Torah has consideration for the money of Israel,” but always within a context of sacrifice and obligation. Indeed, the specific instances would strike a utilitarian pragmatist as perfectly ludicrous. In one case, the principle is applied to explain why the censer used in the temple during the year, as opposed to *Yom Kippur*, was silver rather than golden.⁸⁷ In another, it justifies purchasing grain rather than flour for use in preparing regular votive offerings; the former may contain impurities but it is also cheaper.⁸⁸ These savings attest to a nice sensitivity to human loss. But they are minor modifications within a program of substantial expense, and as such will hardly excite humanitarian liberals. Clearly, if the Halakhah rejects outright asceticism, it has no hesitation about demanding personal sacrifice. It requires, for instance, that a Jew abandon all his property rather than actively transgress a single injunction.⁸⁹ It no doubt envisions ultimate human happiness even at the secular plane. The Bible is full of this theme and, in several places, the Talmud cites the verse, “Her [i.e., the Torah’s] ways are the ways of pleasantness” to establish a halakhic point.⁹⁰ But its attainment could well entail much self-denial along the way.

Secondly, far more than the particular sacrifices it requires, the very existence of Halakhah rejects one aspect of humanism. As an objective normative order, Halakhah shifts the center of authority from man to the law. To be sure, man plays a crucial role in interpreting and, to a point, even in shaping the law. But so long as he remains honestly committed to the system, he is no longer a final arbiter. The human element is thus diminished twofold. On the one hand, man is no longer vested with the power of ultimate decision. On the other hand, human comfort is discarded as the normal ground of decision. Not the realization of human desires but conformity to the divine law—attendant hardship

notwithstanding—becomes the central objective. Special circumstances may justify limited dispensations. Ordinarily, however, the keynote is obedience rather than convenience.

In one respect, this shift resembles the subjugation of inclination to the moral law that lies at the heart of Kantian ethics. In reality, however, the halakhic demand goes much further. The sacrifice it requires—in principle, and occasionally in practice—is not only natural inclination but moral judgment proper. As Kierkegaard so clearly perceived, the *akedah* involved Avraham's ethical instincts as well as his son. The halakhic system thus compromises human autonomy far more than Kant's.

Nor can the halakhic demand be equated with the sacrifice of self-will—in a sense, the very sacrifice of self—that all spiritual religion urges upon its adherents. Dante's *e la sua volontade è nostra pace*—"and His will is our peace"—or Tauler's negation of selfhood posit an ideal and point a direction. They legislate little at the level of detail. The Halakhah, however, with its comprehensive scope, impinges upon the minutiae of human activity. With respect to the ordinary Jew as well as the most spiritual, it is no mere general principle but a universal presence. The sacrifice of self-will that it exacts from every Jew is not, as with the mystics, just an ultimate goal. It is, albeit in a more limited mode, a point of departure.

To be a Jew means giving up something of one's autonomy. Covenantal commitment, at Sinai or later, is not so much the acknowledgment of the moral law or the assumption of specific obligations. It is, first and foremost, an act of submission. The Jew accepts not just the law but the King, not only the *mizvah* but the *mezavveh*. "Why," asks the *mishnah* with respect to the order of the paragraphs in *shema*, "does the portion of *shema* precede that of *ve-hayah im shamo'a*? In order that he [who recites] should first accept the rule of the Kingdom of Heaven and then the rule of *mizvot*."⁹¹ This is the crux of the precedence of *na'aseh*, "we shall do," to *ve-nishma*, "and we shall hear,"⁹² which the Rabbis saw as being so basic to Israel's acceptance of the Torah. Virtually by definition, however, such precedence entails some loss of autonomy. Indeed, the Rabbis refer to it as the *modus operandi* of the angels,⁹³ who, in Jewish thought, are generally regarded as lacking free will. Hence, the *gemara* even speaks of future *mizvot*, such as *Purim*, as having been accepted in the desert.⁹⁴ Covenantal commitment constitutes a blank check.

The Torah itself defines Israel's position in the clearest of terms. "For they are My servants, whom I brought forth out of the land of Egypt."⁹⁵

This bondage is not just the terminus of a passionate religious quest. It is the ground of the Jew's fundamental relation to God, the point of departure for his spiritual life. Christianity has often denigrated this relation, opposing the sonship of the new dispensation to the indentures of the old. Judaism, however, has insisted that we can be God's children only if we are His servants, and that this entails not only service but servitude. Bondage is not a propaedeutic preliminary to spiritual adulthood. It is a permanent pole within the dialectic of the religious life. On *Rosh ha-Shanah*, Jews implore God "be it as sons, be it as servants,"⁹⁶ and small wonder. The term *eved*, servant-slave, is used in the Bible repeatedly to describe Mosheh, David, Avraham, and numerous others; and the three-fold imagery of bondsman, subject, and son recurs throughout Scripture, the Talmud, and the *siddur* with reference to Israel's relation to God. To be sure, this bondage is regarded as the highest privilege and is defined, even in a narrow legal sense, as an asset.⁹⁷ The gift of Torah is regarded as an act of merciful grace. "R. Ḥananya the son of Akashya used to say: the Holy One, blessed be He, wished to render Israel more worthy. Therefore, he provided them with much Torah and [many] commandments."⁹⁸ Nor is the Jew's commitment regarded as incompatible with genuine freedom. On the contrary, the Rabbis insisted that "there is no free man but he who engages in the study of Torah."⁹⁹ For, as Berdyaev noted, "Exteriorization is the source of slavery, whereas freedom is interiorization. Slavery always indicates alienation, the ejection of human nature into the external."¹⁰⁰ Covenantal commitment, however, is the very opposite of such alienation. It constitutes man's turning as subject, from the objectified external to the source of being and his sole and ultimate repose. But it is bondage nonetheless, and we overlook this at our peril.

Much of this probably has a somber Calvinistic ring. It will fall harshly on ears accustomed to a more liberal and humanistic view of Judaism. But I don't see how the Torah view of the Jew's relation to God can be accurately portrayed in any other terms. It is almost ludicrous to speak of Judaism as an anthropocentric religion. Judaism is humanistic in its vision of man's worth, its concern for his well-being, and its positive approach to all aspects of his existence. But it harbors no illusions about man's servile position, a position he occupies not as a punishment for some Original Sin but simply as his natural condition; or, at a higher level, as the result of his covenantal commitment. Judaism never transposes the Creator and the creature; does not confuse means and ends; always remembers that the temporal welfare of man and society is but valuable as an instrument of attaining eternal salvation; and it inex-

orably asks Prospero's question—"My foot, my tutor?"¹⁰¹ A Halakhah that intones "And thou shalt love the Lord with all thy heart, and with all thy soul"—even if He takes away thy soul,"¹⁰² can be nothing but theocentric. As if profound religion could be anything else.

Even in its worldly aspect, therefore, the Halakhah is radically different from the "secular" religion now in vogue in certain Protestant circles. It is different not only from the "theology of blasphemy" (as it has been aptly titled), the blend of confused claptrap and disguised atheism currently heralding the new dawn of human dominion. The halakhic attitude is different even from that of a figure like Bonhoeffer, whose profound faith and saintly sensibility experienced God as a living presence but who felt that, for the average man at any rate, God would now only be relevant incognito, as it were. Bonhoeffer saw himself on the verge of an age in which man would no longer approach God best by seeking Him consciously within a religious mold, but rather simply by finding Him through immersion in the secular order, through active devotion to improving the lot of mankind. In a passage that has been worn threadbare with quotation he suggested that

the time when men could be told everything by means of words, whether theological or simply pious, is over, and so is the time of inwardness and conscience, which is to say the time of religion as such. We are proceeding toward a time of no religion at all: men as they are now simply cannot be religious any more. . . . Religious people speak of God when human perception is (often just from laziness) at an end, or human resources fail: it is in fact always the *Deus ex machina* they call to their aid, either for the so-called solving of insoluble problems or as support in human failure—always, that is to say, helping out human weakness or on the borders of human existence. Of necessity, that can only go on until men can, by their own strength, push those borders a little further, so that God becomes superfluous as a *Deus ex machina*.¹⁰³

Or again:

Is it not true to say that individualistic concern for personal salvation has almost completely left us all? Are we not really under the impression that there are more important things than bothering about such a matter? (Perhaps not more important than the matter itself, but more than bothering about it.) I know it sounds pretty monstrous to say that. But is it not, at bottom, even biblical? Is there any concern in the Old Testament about saving one's soul at all? Is not righteousness and the kingdom of God on earth the focus of everything . . . ? It is not with the next world that we are concerned, but with this world as created and preserved and set subject to laws and atoned for and made new.¹⁰⁴

What Bonhoeffer anticipated—clearly, with rather mixed emotions—some of his popularizers—often, with far less spiritual sensitivity—have positively trumpeted. Dr. Cox’s paean to megalopolis barely stops short of naming the post-religious age the eschatological.¹⁰⁵ The Jew stands on wholly different ground, however. Bonhoeffer’s analysis is grounded upon a Christian, and especially a Lutheran, outlook to which it has a special relevance. Its central premise is a salvific conception of religion, and it conditions man to see God primarily as a savior rescuing him from the morass of his own impotence. To the Jew, however, God is as much a commander as a redeemer, perhaps even more so. Hence, for one thing, increased mastery over his environment, while it may have serious spiritual repercussions, will exert a less decisive impact upon him than upon the Christian. More important, however, God’s commanding posture vitiates the antithesis between religion and activism. For what God commands is not merely the contemplation of one’s religious navel. It is—at least, much of it is—action; and a great deal of that action entails laboring in “worldly” vineyards.¹⁰⁶ It is perfectly true, as R. Kook has noted,¹⁰⁷ that the Bible—and the Halakhah as well—does not place exclusive or even direct primary stress upon individualistic striving for personal salvation. The Torah is equally concerned with forging a sacral society. “The ideal of halakhic man,” as R. Soloveitchik has written, “is the redemption of the world not via a higher world but via the world itself, via the adaptation of empirical reality to the ideal patterns of Halakhah.”¹⁰⁸ And this adaptation has its public aspect. “Halakhic man’s religious viewpoint is highly exoteric. . . . The ideal of eternal life is not the private domain of a small spiritual elite or some particularly gifted individuals, but is the public domain of all Israel.”¹⁰⁹

Precisely, however, because his religion impels him normatively to establish an ideal “secular” order, the Jew need not—indeed, cannot—abandon it so that he may improve the world. In Professor Twersky’s words, he acts “for the sake of humanity *because* of religious conviction and obligation.”¹¹⁰ Judaism thus diverges sharply from the position outlined by Bonhoeffer and since championed by exponents of the secular city.¹¹¹ With them, it regards secular activity as related to man’s quest for God; it sees the temporal order as an instrument of its own transcendence; and it stresses social involvement as an integral aspect of the spiritual life. However, Judaism does not consider activism as a possible substitute for religion. It regards it as a part—but only a part—of religion. It does not suggest that we abandon our conscious and even formal quest for God in the hope that we may find Him all the better as we

strive to improve the temporal human condition. Instead, it demands that we commit ourselves to Him and then consecrate the mundane by imposing God-given categories upon it. Not content to accept the secular world on its own terms, it attempts to permeate our experience of it with religious awareness. Improving the human condition is important, but not self-sufficient; and it is not to be considered in isolation. The social and economic sphere is not only a milieu for raising the standard of living, essential as that may be. It is one arena among many for implementing divine law as part of a heroic effort to embrace the totality of experience within a harmonious order consecrated to God and pervaded by consciousness of Him.

To the modern secularist, the effort may occasionally appear naïve. He is accustomed to think of finance much as he thinks of mechanics; and he regards the market as the dominion of little but economic muscle and human avarice. He may admire, in Tawney's words, "the endeavor to draw the most commonplace of human activities and the least tractable of human appetites within the all-embracing circle of a universal system"¹¹² as a noble albeit futile experiment; and, in reflecting upon its history, he may agree that "it had in it something of the heroic, and to ignore the nobility of the conception is not less absurd than to idealize its practical results."¹¹³ But he may find it difficult to repress a smile. The Jew is in dead earnest, however. He feels the sanctification of all of life can be attained and must be attained. And he feels this is best done by remembering God rather than ignoring Him.

In one respect, I am of course oversimplifying. The halakhic life is not a neat two-step affair: commitment and acceptance followed by mechanical implementation. It is a dialectical process. The world is not just a *mise-en-scène* in which pre-fabricated personalities routinely apply preconceived orders. It is, in Keats's phrase, "the vale of soul-making."¹¹⁴ The ethical life—of which social involvement is an essential ingredient—does indeed both enrich man and bring him closer to God. All the more so, however, to the extent that he acts, in Milton's words, "as ever in my great Task-master's eye."¹¹⁵ Activism and religious commitment, far from being opposed, reinforce and sustain each other. "I have set the Lord always before me."¹¹⁶ This verse, cited and glossed by Rama in the very opening codicil of the *Shulḥan Arukh*,¹¹⁷ epitomizes the whole of Judaism.

Finally, the traditional Jew parts company with the champions of the secular city in yet another respect—as regards not only the mode of approaching the world but also the value ultimately attached to it. He is

earnest; ideally not dour, but dead earnest nonetheless. Yet, there is a point beyond which he cannot take the vicissitudes of human life as seriously as the professional humanist. There is a level at which, in attitude although not in practice, he transcends the world after all. Even on his mundane side, he goes no further than Dunbar's pithy prescription: "Man, please thy Maker, and be merry, / And give not for this world a cherry."¹¹⁸ With R. Eliezer, he cannot but wonder at those who "put aside life eternal and occupy themselves with life temporal."¹¹⁹ Not that he neglects "life temporal." He knows that if, on the one hand, "one hour of spiritual repose in the world to come is finer than all the life of this," yet, on the other hand, "one hour in penitence and good deeds in this world is finer than all the world to come"¹²⁰—and "good deeds" includes a passionate concern with improving man's temporal condition. He realizes that the transient is not only transitory but transitional. Yet the very fact that the world derives its significance precisely from its transitional character, from being a "vestibule" rather than a "palace,"¹²¹ must alter the Jew's perspective. In the religious life, perspective is all-important.

V

The scope and limits of Judaism's concern for man's secular welfare are best seen through an analysis of the basic framework of what might be called the normal or fundamental Halakhah. They may also be seen, however, by a study of the extent to which the Halakhah has sanctioned exceptional deviations from its ordinary norms. The very concept of deviation poses a crucial difficulty—a difficulty amply illustrated by a striking quotation. "The Catholic Church," wrote Newman,

holds it better for the sun and moon to drop from heaven, for the earth to fail, and for all the many millions who are upon it to die of starvation in extremest agony, as far as temporal affliction goes, than that one soul, I will not say, should be lost, but should commit one venial sin, should tell one wilful untruth, though it harmed no one, or should steal one poor farthing without excuse.¹²²

Contemporaries may find it difficult to believe that this sentence was not written by a virulent critic of Roman Catholicism but rather by one of its leading nineteenth-century spokesmen—indeed, by one of its most *liberal* spokesmen, and, *mirabile dictu*, in a work addressed to Anglicans, at that. It may seem more incredible still that when the statement was attacked by Charles Kingsley, Newman deliberately repeated and defended it.¹²³ The very harshness of the dictum serves, however, to

point up the dimensions of the problem to which, in context, it addresses itself. The difference between temporal and eternal bliss is one of kind rather than duration. As the metaphysician holds that timeless eternity is not to be confused with infinite time, so the moralist contends that no amount of mundane joy can equal a single grain of transcendental bliss. Since he “regards this world, and all that is in it, as a mere shade, as dust and ashes, compared with the value of one single soul,” he “considers the action of this world and the action of the soul simply incommensurate, viewed in their respective spheres.”¹²⁴ The difference between them being qualitative rather than quantitative, no measure of physical or emotional good can compensate for even the minutest spiritual evil. Hence, once a normative duty has been established, it becomes inviolate. Moral and religious law defines principles of right and wrong, and henceforth—except insofar as that law itself provides for dispensations—these can be sacrificed to nothing.

Given its premises, Newman’s position, paradoxically harsh as it may seem, is grounded upon an inexorable logic. The Church is right in insisting that it “would rather save the soul of one single wild bandit of Calabria, or whining beggar of Palermo, than draw a hundred lines of railroad through the length of Italy or carry out a sanitary reform, in its fullest details, in every city of Sicily, except so far as these great national works tended to some spiritual good beyond them.”¹²⁵

The premises need not be granted, however. These are—apart from the generally religious conception of man and the universe—primarily two: first, that specific normative absolutes exist; and second, that the moral law itself does not provide for their abrogation under emergency conditions. The first premise, its prestigious history notwithstanding, has come under considerable contemporary attack, even from religious quarters—precisely, in part, because its application often seemed to produce excessively harsh results. To a humanitarian temper, Kant’s discussion of the *notlüge*, “the necessary lie”—whether, for instance, I may falsely deny to a potential murderer that his intended victim is in my home—is surrounded by an air of unreality. It seems not only doctrinaire but downright silly. From a Jewish point of view, however, the existence of normative absolutes is beyond question. They are the very substance of the revelation manifested in the Torah; some, perhaps even antecedent to it.

The second premise is quite another matter, however, and—from a halakhic perspective—thoroughly inadmissible. The Halakhah has recognized several grounds which justify—at times, even require—the violation of its normal standards. These may be subsumed under two

broad categories: one consists of specific elements that, in accordance with fairly rigorous formulae, may override certain norms; the other consists of more general extenuating factors, perhaps a bit amorphous in character, which allow for dispensations due to extraordinary circumstances. The first may be described as an ingredient determining the basic law governing a situation; the latter, as an escape hatch providing temporary relief from it. In a sense, one set of elements enters into the formulation of fundamental Halakhah; another—still halakhically sanctioned, of course—permits deviation from it. Both, however, override ordinary normative demands out of sensitivity to the humanitarian dimensions of a given situation, and both, in this sense, reflect the humanistic aspect of Halakhah.

Of the elements subsumed under the first category, *pikkuaḥ nefesh*, “the preservation of life,” is both the most obvious and the most comprehensive. With but several significant exceptions, all halakhic injunctions, positive or negative, are set aside when they entail a possible loss of life.¹²⁶ The danger may be neither likely nor immediate, but so long as it can reasonably be said to exist, even in a remote sense, it suspends all ordinary halakhic duties. Or rather, in dangerous circumstances *pikkuaḥ nefesh* itself constitutes the highest duty. Saving a life can hardly be a matter of option. “The quick one,” says the Yerushalmi, “is praiseworthy; whoever is asked [i.e., whether one may proceed with a violation], repugnant; and he who [pauses] to ask [i.e., whether he may proceed] like a murderer.”¹²⁷ Or as Rambam put it: “It is forbidden to hesitate with Sabbath violation as regards a dangerously ill person, for it is said ‘which a man shall do them [i.e., the *mizvot*] and live by them,’ and not that he shall die by them. Hence you learn that the laws of the Torah are not a [source of] destruction in the world but of lovingkindness, compassion, and peace in the world.”¹²⁸ Even martyrdom, on Rambam’s view¹²⁹—except when fully mandatory—is absolutely forbidden and tantamount to suicide.

The precedence of *pikkuaḥ nefesh* over other duties rests on one of two grounds. One is the biblical verse cited in the passage I have quoted from Rambam. The second is a rational, almost actuarial, consideration of the net long-term effects of saving a life in danger: “‘And the children of Israel shall keep the Sabbath.’ The Torah said: Profane for his sake one Sabbath, so that he may keep many Sabbaths.”¹³⁰ While either source ordinarily constitutes a sufficient rationale, the two are conceptually poles apart. The first affirms the primacy of one value over another—of preserving human life over observing ritual laws. Hence, it reflects, to

however limited an extent, a humanistic concern. The second merely calculates that, even in the interest of ritual observance proper, its temporary abrogation is in order. Normally, of course, the more incisive thrust of the first reason would obviate the need for the second. There are, however, situations to which only the second may be relevant. Ramban¹³¹ cited the second justification, for instance, as the basis of his contention that *pikkuaḥ nefesh* extends to a fetus even before the fortieth day of conception, although, for other purposes, such a fetus is not yet regarded as a "life." Or again, the possible extension of "preservation" to include not only saving a person from physical extinction but from spiritual death as well—from insanity or apostasy,¹³² for instance—may very well depend upon the validity of the second ground. Finally, it is entirely possible that the *gemara* felt specifically constrained to advance this reason with respect to the Sabbath because the Scriptural "and he shall live by them" might not have applied to it. In view of its gravity—"the Sabbath and idolatry are, each of them, equal to all the other *mizvot* of the Torah,"¹³³ and its rejection, insofar as it implies a denial of the creation and providence, is regarded as a form of apostasy¹³⁴—Sabbath violation might conceivably have been included among the exceptions to *pikkuaḥ nefesh*. Only the pragmatic self-interest of Sabbath proper, as it were, sanctions the extension of the concept to it.

In light of this distinction, I believe the dual source may be salient in another significant context, with respect to the thorny issue of the inclusion of Gentiles in the category of *pikkuaḥ nefesh*. As regards the first source, the response to a question of *pikkuaḥ nefesh* may very well be positive.¹³⁵ With respect to the second, however—i.e. the possible suspension of Sabbath observance at one point in order to facilitate and engender much fuller observance subsequently—this factor obviously only obtains with respect to the community which has been covenantally charged with *shemirat Shabbat*. Hence, on this view, discussion in the *gemara* and subsequently regarding the suspension of halakhic norms in the interests of the *pikkuaḥ nefesh* of Gentiles have focused upon Shabbat, as it would be clearly permissible in the case of other prohibitions.¹³⁶

VI

The preservation of life constitutes the most obvious ground for abrogating halakhic norms, but it is by no means the only one. Preserving something of its quality—the maintenance of personal dignity or domes-

tic peace, specifically—constitutes another. Logically enough, the dispensation provided by these factors is far narrower than that deriving from *pikkuah nefesh*. While mortal danger suspends all but a handful of laws, the pre-emptive power of *kevod ha-beriyyot* or *shalom* is more limited in scope. The precise limits are in dispute. As regards the former, the generally accepted view—based upon the conclusion of the discussion in a *gemara* in *Berakhot*—is that it only suspends rabbinic ordinances or, at most, permits the passive violation of biblical precepts.¹³⁷ The Yerushalmi, however, cites opposing views as to whether *kevod ha-beriyyot* may even sanction the active violation of *de-Oraita* commandments.¹³⁸ Indeed, in another passage the Yerushalmi evidently assumes that the principle certainly can override commandments of the Torah—at least, when the honor of a public is at stake.¹³⁹

Rambam takes a somewhat median position. He writes that “*kevod ha-beriyyot* does not override a negative injunction which is [explicitly] expounded in the Torah.”¹⁴⁰ His phrasing clearly suggests that *kevod ha-beriyyot* would override norms which, while not explicitly formulated in the Torah, are derived therefrom through certain exegetical and hermeneutical principles. This view is in line with his general position¹⁴¹ that such norms, while generally enjoying full biblical force, nevertheless are, for some purposes, weaker than those expressly stated. Finally, the most restrictive view is that of Rabbenu Ḥananel,¹⁴² who holds that not even all rabbinic ordinances can be overridden. Only those which are wholly novel and which, lacking a *de-Oraita* background or archetype, in no way constitute an extension of a biblical norm may be set aside in the interests of *kevod ha-beriyyot*.

As regards *shalom*, the situation is, if anything, even more murky. There is no full-blown talmudic discussion suggesting guidelines for its dispensation. There is no doubt, however, that this very fact, plus the limited nature of the specific applications we do encounter, clearly indicates that this principle’s range is also relatively restricted. These applications are varied. There is, first, a matter of priority. Confrontation between two norms may take one of two forms. Either the fulfillment of one requires direct violation of the other, as when a positive commandment can only be realized by breaking a negative. Or the conflict may be indirect, as when the allocation of time or resources to meeting one need necessitates ignoring another. At the level of priority, the *gemara* states that a *mizvah* related to maintaining peace takes precedence over another which does not. If only a single candle is available, for instance, it should be used for the Sabbath rather than for *Ḥanukkah*.¹⁴³ Going beyond this,

the Yerushalmi¹⁴⁴ perhaps assumes that the preservation of domestic peace proper, quite apart from any *mizvah* related to it, justifies the neglect of rabbinic commandments. Thus, a fiancé may visit his prospective in-laws although he must therefore forego burning his *hamez*.

These are marginal instances, however, and provide little insight concerning when, if ever, the threat to domestic or communal peace warrants the direct violation of halakhic norms. Such violation is apparently sanctioned by numerous texts stating that one may lie—or, as another version has it, should lie—in the interests of peace.¹⁴⁵ Indeed, the rabbis ascribe such prevarication to God Himself. For when Sarah questioned the prediction of her pregnancy, she thought, “After I am waxed old shall I have pleasure, my lord being old also?” Yet, in the very next verse we read that God asked Avraham, “Wherefore did Sarah laugh, saying: ‘Shall I of a surety bear a child, being old?’”¹⁴⁶

Nevertheless, one may question whether the principle implied here will apply equally to other transgressions. If popular morality be any guide, certain forms of lying are regularly granted a license we should hardly accord other legal or moral violations. Indeed, so-called “white” lies are not regarded as lies at all, just a social amenity. Nor is this notion merely popular. Despite recent outcries against the “Sylvester doctrine” and the subsequent development of the “credibility gap,” the idea that a government or an individual often has the right or even the duty to sacrifice literal truth to other interests has a long and honorable history. Readers of Newman’s *Apologia* will recall the body of Catholic and Anglican casuistic literature that he marshals in support of this doctrine;¹⁴⁷ and there is no question that the Halakhah had, long before, already advanced this position. The *locus classicus* is, of course, the celebrated controversy between the disciples of Shammai and of Hillel concerning the proper procedure at wedding feasts: “How does one dance [i.e., and sing] before the bride? Beit Shammai say: ‘the bride as she is.’ Beit Hillel say: ‘Beautiful and graceful bride!’ Beit Shammai said to Beit Hillel: ‘If she is lame or blind, does one say of her: ‘Beautiful and graceful bride?’ But the Torah said, ‘Keep yourself far from any false matter.’ Beit Hillel [then] said to Beit Shammai: ‘According to you, if one has made a bad purchase in the market, should one praise it in his eyes or deprecate it? Surely, one should praise it in his eyes. Hence, the sages said, ‘A man’s disposition toward people should always be pleasant.’”¹⁴⁸ As usual, Beit Hillel’s opinion prevailed, and its underlying principle is reflected in a number of relevant texts. Even the most honest—to whom one may return a lost object on the basis of their mere recognition with-

out any identifying marks whatsoever—are presumed to lie in response to certain questions. If extended lavish hospitality, for instance, they may lie about it to those who would then beat a quick path to their host's door; or if asked about details of their sexual life, they may not only parry the question but, where the interests of modesty require, answer it falsely.¹⁴⁹ Moreover, a number of incidents cited in the Talmud clearly reflect the implementation of Beit Hillel's principle.¹⁵⁰

Hence, the *gemara* which states that “it is permissible to alter [a statement] in the interest of peace” must be regarded an insufficient basis for extending this license to other transgressions. To date, no responsible authority has suggested that one may violate biblical or even rabbinic ordinances in order to enliven a wedding feast or prevent unwanted guests from taxing a former host. Evidently, a measure of disingenuousness is tolerated and even encouraged because it is not regarded as lying at all, truth and truth-telling being somewhat flexibly defined. As a recent writer put it, “Here”—he is speaking of God's “pre-variation” to Avraham—

it is not a matter of overriding truth in the interests of peace, as the Sabbath is overridden by *pikkuaḥ nefesh* or injunctions concerning impurity by public sacrifices. Here we have a different insight into the concept of truth. God's name is peace and his stamp is truth,¹⁵¹ and between the name and the stamp there can be no contradiction, else it constitutes a forgery. The truth, however, lies in ‘and I have aged.’ There is psychic truth and lip-truth or the truth of mere fact. Genuine truth is always the psychic.¹⁵²

As Newman put it, “It is not more than a hyperbole to say that, in certain cases, a lie is the nearest approach to truth.”¹⁵³

Injunctions narrowly defined in purely physical terms are not as amenable to being stretched, however; and with respect to them, one may validly raise a question as to whether they may indeed be overridden in the interest of *shalom*. Rama thought they certainly could.¹⁵⁴ Partly on the basis of the *gemara* concerning white lies but primarily on the strength of an aggadic text, he states unequivocally that even *de-Oraita* injunctions may be violated in order to attain social or domestic harmony. His only hesitation is that this may only apply to commandments “between man and God,” not to those “between man and man.” He concludes, however, that the latter, too—the case at issue involved slander—are included. However, the failure of other *posekim* to develop this principle suggests, *de silentio*, that Rama's perspective may be a minority view. The limits of the dispensation provided by *shalom* therefore remain shrouded in uncertainty.

Whatever the precise limits, however, it is clear that, in one sense, the scope of *kevod ha-beriyot* and *shalom* is much more restricted than that of *pikkuaḥ nefesh*. And yet, in another sense, it is far broader. Concern for dignity or tranquility may not be as decisive a consideration but it applies to an immeasurably greater number of situations. It is not often that literal life or death hangs in the balance. The fracture of personal worth or social harmony may be a daily occurrence. We should remember that the Halakhah has been extremely sensitive to all forms of embarrassment. There are even laws prohibiting the disgrace of inanimate objects. According to one interpretation, we cover the *hallah* while making *kiddush* over wine, “so as not to shame the bread.”¹⁵⁵ Not, of course, because of some primitive animism, but because the Halakhah’s concern for respect and dignity has been so wide-ranging. People concerned about shaming bread have a reminder not to insult their fellows. Commenting on the verse, “Neither shalt thou go up by steps unto Mine altar, that thy nakedness be not uncovered thereof,”¹⁵⁶ the Mekhilta comments: “Now, this is an *a fortiori* matter. If, with respect to stones which have no sense for better or for worse, the Holy One, blessed be He, said ‘do not treat them disdainfully’—your fellow who is in the image of He who spoke and the world came into being, certainly you should not treat with disdain.”¹⁵⁷ Given this kind of sensitivity, events impinging upon dignity and peace may be common indeed.

This very frequently sharpens the problem posed by *kevod ha-beriyot* and *shalom*. It is, quite simply, the problem of definition. Whatever the difficulties attendant upon defining the nature and scope of *pikkuaḥ nefesh*¹⁵⁸—and they are formidable—they seem almost elementary when compared to the challenge presented by concepts so broad and so amorphous as “personal dignity” and “peace.” In this context, *shalom* does not denote solely the avoidance of war. That would naturally come under *pikkuaḥ nefesh*. *Shalom* here includes the avoidance of strife; or, to put it in more positive terms, social or domestic harmony. Hence, the number of situations in which either factor might be somewhat affected is almost limitless. Yet, some limit must clearly be set. No legal system could long survive if it regarded even slight impact upon human dignity or interpersonal harmony as sufficient justification for overriding its norms. So the nagging question persists: Where can we draw the line?

Unfortunately, basic halakhic sources here provide only limited guidance. At most, they supply us with raw material but not with definitions proper. As regards *kevod ha-beriyot*, the *gemara* cites only a few

instances: ensuing prompt and proper burial of a corpse; personal hygiene and dignity as related to the function of excretion; and the avoidance of disrobing in public.¹⁵⁹ These are all fairly drastic circumstances. Collectively, they would set a standard restricting the license of *kevod ha-beriyot* to very few situations indeed. Nevertheless, it is possible that the concept may be construed more broadly.

Rashi, in any event, evidently did. The *gemara* in *Hullin* states: “A man should not open [for a guest] casks of wine which are to be sold by the shopkeeper, unless he informs the guest of it ... If, however, the purpose is to show the guest great respect, it is permissible.”¹⁶⁰ In commenting upon the passage, Rashi notes: “It is permissible—for great is *kevod ha-beriyot*.”¹⁶¹ The *halakhah* cited in the text could of course be interpreted otherwise. Inasmuch as the injunction concerns the element of deception, it is confined to deception motivated by self-aggrandizement. If, however, one engages in the practice not in order to ingratiate himself but in order to enhance the position of another, it is innocuous. The problem is analogous to that of complimenting someone, in which case the motivation—whether it be ingratiation through flattery or supporting someone else’s ego—makes a crucial ethical and halakhic difference. However, Rashi’s quotation of the precise formulation used in the texts concerning *kevod ha-beriyot* strongly suggests that he interpreted this *gemara* by reference to that general concept rather than in purely local terms.

Nor is the reason hard to find. The legal underpinnings of the license of *kevod ha-beriyot* are nowhere clearly formulated in the Talmud. It is ordinarily assumed that it is grounded upon the Rabbis’ legislative authority with respect to their own injunctions.¹⁶² Inasmuch as these are their own creation, they could of course provide as they saw fit for their occasional suspension. As regards *de-Oraita* injunctions, their passive violation could be sanctioned by the principle—exemplified, for instance, in our not blowing *shofar* when *Rosh Hashanah* falls on the Sabbath—that “the Rabbis have the authority to uproot a law of the Torah in a case of abstention.”¹⁶³ As for their active violation, which such rabbinic authority could not sanction—it cannot, indeed, be licensed by *kevod ha-beriyot*. Rashi,¹⁶⁴ however, cites a different source—a principle initially qualifying the *mizvah* of returning lost property but potentially having more universal relevance. On the basis of a somewhat unusual construction found in a verse, the Rabbis comment that despite the injunction, “Thou mayest not hide thyself [i.e., so as to avoid returning lost objects],”¹⁶⁵ there are times when one may hide himself. One of the instances cited is “if he [i.e., the finder] is an

elder and it is not in accordance with his dignity.”¹⁶⁶ Clearly, if the license of *kevod ha-beriyot* is derived from this source, be it even solely by analogy, it must extend far beyond prompt burial or avoiding nudity.

Rambam likewise extends the bounds of this license. After establishing the principle that a *kohen* “may defile himself with a rabbinically ordained impurity for *kevod ha-beriyot*,” he goes on to exemplify: “For instance, if a mourner enters a *beit ha-peras*,¹⁶⁷ everyone may follow him there in order to console him.”¹⁶⁸ The implications of this example fall short of Rashi’s, but they still go well beyond the more extreme instances noted earlier. Similarly, in another context—while urging a judge to be restrained in disciplining recalcitrant defendants or offenders—Rambam appears to be thinking in fairly broad terms: “Whatever [he does], let all his actions be for the sake of Heaven. And let him not regard *kevod ha-beriyot* lightly; for it overrides rabbinic prohibitions.”¹⁶⁹ The context clearly suggests that Rambam is cautioning against all forms of unnecessary abuse; and this seems, in turn, to suggest a fairly broad conception of the license rooted in *kevod ha-beriyot*.

Just how far we should go remains in question, however. Several tentative guidelines come to mind readily. First, personal dignity must be significantly, albeit briefly, fractured, rather than merely ruffled. Secondly, genuine dignity must be involved, not superficial vanity. The avoidance of any and every frivolous hurt can hardly override an injunction. It can only be overridden when one has the halakhic and ethical right to be sensitive or feel threatened. Having suggested these guidelines, however, one immediately realizes that they are, inevitably, so ambiguous as to offer little definitive guidance. The key terms, “significantly” or “genuine,” can take their place among the amorphous hobgoblins—“reasonable doubt,” “frequent occurrence,” and the like—haunting the practical implementation of law. Moreover, quite apart from the ambiguity of the criteria, the phenomena involved, sensitivity and personal dignity, are so subtle and complex as to defy precise evaluation. Nevertheless, as general guidelines, these criteria may at least help point a direction.

Finally, a third possible criterion may be suggested. Perhaps some distinction should be made between situations involving others and those confined to oneself. Of course, Judaism has never subscribed to the currently popular view that ethics is restricted to interpersonal relations. “By morality,” a Gifford lecturer once wrote, “I mean what is meant in common speech, the behaviour of men in society.”¹⁷⁰ The Jew, however, would rather agree with Henry More, the seventeenth-century Cambridge

Platonist, that “political society . . . by no means is the adequate measure of sound morality, but there is a moral perfection of human nature, antecedent to all society.”¹⁷¹ The maximal realization of the dignity and sanctity potentially inherent in a human personality is itself an ethical imperative of the highest order. Nevertheless, actions impinging upon another impose a special obligation. Lying is forbidden; but insofar as it affects one’s fellow, it becomes doubly abominable, pertaining to both *bein adam la-Makom* (“between man and God”) and *bein adam la-ḥavero* (“between man and man”). Thus, Rambam cites the prohibition against misleading others twice, once in the section on ideal personal attitudes and conduct and again in the section concerning sales.¹⁷²

It is therefore entirely possible that in defining *kevod ha-beriyot* and the license granted by it we should employ different yardsticks, depending on whether or not a situation impinges upon the sensibilities of one’s fellow. The cases cited in the *gemara* do not involve the feelings of others. Avoiding nudity and insuring privacy and cleanliness in excretion are purely personal; and burial, while it concerns another, concerns him only as a passive object rather than as a sentient subject. Hence, since the question is purely one of treating human personality *per se* with respect rather than adversely affecting others, the impact upon *kevod ha-beriyot* must be fairly severe. However, where the prospect of hurting another is also present, as in the cases noted in Rashi and Rambam, it is conceivable that the principle may be much more broadly defined.

One may perhaps find sanction for such a distinction in a statement of Rosh. The *gemara* in *Berakhot* states that “if one finds *sha’atnez* in his garment, he takes it off even in the street. What is the reason? ‘There is no wisdom nor understanding nor counsel against the Lord,’ wherever a profanation of God’s name is involved, no respect is paid [even] to a teacher.”¹⁷³ Inasmuch as continued wearing would constitute an active violation, the principle of *kevod ha-beriyot* is ineffectual. The Yerushalmi,¹⁷⁴ however, relates that Rav Ammi reproached a student who had informed his fellow that he was wearing a *sha’atnez* garment. Rosh resolves the contradiction by suggesting that “when one finds *sha’atnez* in his [own] garment, ‘There is no wisdom nor understanding nor counsel against the Lord,’ and he must remove it even in public. However, a person who sees *sha’atnez* in his fellow’s garments—and the wearer does not know of it—should not inform him in public before he reaches his home; for, because of *kevod ha-beriyot*, one should not deter him [when he is] unwitting.”¹⁷⁵ The distinction may turn on the quality of the transgression—whether it

be willful or unwitting.¹⁷⁶ It is equally conceivable, however, that Rosh is distinguishing between two levels of *kevod ha-beriyot*, the individual and the interpersonal. If so, his comment may provide some guidance in applying this somewhat elusive principle.¹⁷⁷

With reference to the license provided by *shalom*, we are confronted by a virtually identical situation. How great must the threat be and how much amelioration must the violation of a norm produce in order to legitimize a dispensation? It seems inconceivable that norms may be freely violated in order to enhance the beatitudes of Tennyson's *Enoch Arden*. Nor does it seem likely they may be readily set aside in order to effect slight improvement in what would in any event remain an explosive situation. What guidelines can one employ, then?

As with *kevod ha-beriyot*, I'm afraid we are driven back upon ambiguities. The particular case discussed by Rama concerned a heated controversy which embroiled a whole community and threatened its very fabric; the proposed remedy—which, incidentally, failed—would have resolved it entirely. Without necessarily requiring quite this much, one must nevertheless presume—if, for no other reason, simply *de silentio*, because this factor is not cited by Rama more frequently—that injunctions can be overridden only when the threat to peace, on the one hand, and the impact of the violation, on the other, are both measurably significant. The stability, perhaps the very existence, of an institution or a relation—and of one worth preserving—should be at stake before such a drastic measure can be considered. This criterion is admittedly vague. It permits—or rather, requires—ad hoc application on a primarily subjective basis. But, as with *kevod ha-beriyot*, it is difficult to imagine a more precise definition.

One major qualification does suggest itself, however. The quest for amity can justify overriding norms only when the source of friction is not itself a halakhic issue. If a domestic or social quarrel can be patched up by temporarily overriding a specific law, it is conceivable that a dispensation may be in order. Such a dispensation in no way undermines the authority of Halakhah as a whole. Rather, on the basis of that very authority, it momentarily suspends one section in favor of another. However, when friction is rooted in a direct challenge to the validity of Halakhah, it is inconceivable that its proponents should always back down in the interests of irenicism. From the biblical period down, Jewish history affords ample evidence that, when necessary, the Torah community has fought rather than submit. Nor could it have been otherwise. With the Halakhah itself under attack, to yield rather than risk possible

schism is to adopt the most naïve form of pacifism. In effect, it entails knuckling under to the threat of force or blackmail—allowing the Halakhah's desire for peace to be exploited to the point of eroding its very foundations. As such, concessions become clearly unconscionable. There are times when the Halakhah's concern with peace may itself require a struggle. "Whatever is written in the Torah," says the Midrash, "was written for the sake of peace; and although wars are cited, the wars, too, were written for the sake of peace."¹⁷⁸ This is not to suggest that a battle must be waged around every issue. At times, compromise may be not only acceptable but desirable. Religiously, ethically, and/or tactically, the game is not always worth the candle. All I am suggesting is that any decision concerning resistance or accommodation must be based on a number of halakhic and tactical factors—communal context, the nature and motivation of the opposition, and so on—and with an eye to the long-range realization of ethical and religious ideals. It cannot be imposed as an absolute halakhic imperative, "better yield than quarrel."

Our attempt to define *kevod ha-beriyot* and *shalom* has not arrived at a truly precise formulation, one which could be readily applied at a practical level. Whatever the exact definitions, however, one point seems fairly clear. The dispensations warranted by these factors have not been sufficiently recognized. Wherever any reasonable line may be drawn, we have collectively strayed far on the side of caution. Precisely because these concepts are so amorphous and their application so potentially sweeping, *posekim* have generally been reluctant to resort to them as grounds for overriding halakhic norms. Their reluctance is thoroughly understandable. Inasmuch as these concepts lend themselves to widespread and dangerous abuse, one naturally tends to stifle even their legitimate application. No doubt, in the modern period particularly, as organized attempts at the irresponsible manipulation of Halakhah have actually materialized, the urge to tone down elements that, in reckless hands, could undermine its entire structure has become almost irrepressible. One suspects that, in some instances, even where the primary basis for a decision has been *kevod ha-beriyot* or *shalom*, a *posek* has preferred, wherever possible, to advance narrower formal or technical grounds rather than encourage the use and potential abuse of general dispensations.

Nevertheless, this conservatism, however laudable in motive and intent, is not without its own dangers. Elements such as *kevod ha-beriyot* and *shalom* are central to a Torah *Weltanschauung*, a fact to which their legitimate and limited role in suspending certain halakhic norms clearly attests. Yet the reluctance to permit them to play that role

tends to downgrade their position. The result is twofold. First, there is a danger that in situations in which they ought to be decisive, so that certain usual norms actually should be overridden, they may not be invoked. The wrong decision might thus be handed down; after all, relevant technical grounds for arriving at the same conclusion are not always available. This possibility is, in itself, a matter of grave concern. We should bear in mind that in situations in which *kevod ha-beriyot* or *shalom* can legitimately suspend a norm, such suspension is not merely permissible but mandatory. Moreover, the reluctance to invoke a dispensation tends to feed upon itself. Once it has fallen into relative disuse, one is understandably reluctant to apply it more broadly lest he rock the boat—or lest he be accused of rocking the boat. Even R. Ḥayyim Soloveitchik, despite the immense prestige he enjoyed as the foremost halakhic master of the early twentieth century, came under criticism for extending the concept of *pikkuaḥ nefesh* beyond what had then been its prevalent range.

Secondly, quite apart from possible specific errors, there exists a potentially graver danger. The axiological centrality of *kevod ha-beriyot* or *shalom* as the moral and religious basis of large tracts of Halakhah may be seriously undermined. The dispensation provided by them is not a mere technicality, nor is their application an exercise in legal mechanics. It is grounded in—and hence serves to sharpen and to heighten the awareness of—their position as fundamental Torah values. This point is clearly emphasized in the basic relevant texts. The *gemara* does not merely state—as it does in comparable cases elsewhere¹⁷⁹—that *kevod ha-beriyot* overrides the usual norms in certain situations. It states, rather, “Great is human dignity, so that it overrides a negative precept of the Torah.”¹⁸⁰ Even more emphatically, Rambam, in the final words of the book of “Seasons,” on the Sabbath and the festivals, states that Sabbath candles¹⁸¹ take priority over Ḥanukkah candles “for the sake of household peace, seeing that even a divine name might be erased in order to make peace between husband and wife. Great is peace, as the whole Torah was given in order to bring peace upon the world, as it is said, ‘Her ways are ways of pleasantness, and all her paths are peace.’”¹⁸² Consequently, the failure to invoke these dispensations in any but the most extreme cases cannot but erode their position—and popular awareness of that position—as central values within the Torah-halakhic order. No committed Jew can regard such a prospect lightly. Some margin of safety is perhaps advisable. But must it be as large as we have tended to maintain?

This is not to suggest that dispensations grounded in *kevod ha-beriyot* and *shalom* be bandied about with abandon. Certainly, the risks inherent in applying them cannot be ignored. I do, however, wish to point out the risks inherent in the opposite course, in the direction of extreme caution; to emphasize that we have collectively perhaps—I should rather say, probably—strayed too far in that direction; and to suggest that, in this area, we should be well advised—nay, religiously obligated—to reassess our current thought and practice. The price we are paying for caution may be excessive; and, in any event, we need to ask whether we have the halakhic right to pay any price at all. The concepts of *kevod ha-beriyot* and *shalom* are not personal property.

With respect to dispensation, we have dealt heretofore with the familiar factor of acute crisis, when personal survival is at stake, and with less prominent and less crucial elements of a more social and communal cast. We cannot leave this topic, however, without noting, however cursorily, a complex of cognate factors, whose comprehension and detailed treatment lie beyond the scope of this essay, but which are in need of acknowledgment nonetheless.

Broadly speaking, these may be subsumed under the umbrella rubric of “privation”—an omnibus term which I take to denote a wide range of deficiencies, maladies, and other assorted hardships or misfortunes, but not confined to the harsher associations of suffering, nor including mere nuisance or annoyance. In searching for a halakhic equivalent, I note that while specific aspects of privation can be readily identified as halakhic entities, no general correlative comes to mind readily. The apparent implication that no such category exists seems almost self-evident, and it is clearly of relevance to our discussion.

To be sure, some data can be marshaled, and, as to a term, we may ponder the rough equivalency of *za'ar*. The term denotes either pain or anguish, and is multifaceted with respect to the source and etiology of either. However, for our purposes, it is hardly adequate. Unquestionably, its relation to certain aspects of privation is amply clear. The most obvious example—in a sense, contiguous with *pikkuaḥ nefesh* and yet distinct from it—is that of medical need. At the extreme, some authorities have virtually accorded some instances the status of actual *pikkuaḥ nefesh*. Thus, major *posekim* were divided about the status of possible loss of limb,¹⁸³ while others, making the surprising leap from the quantitative to the qualitative, held that the prospect of inquiry in a public venue should be classified as a mode of mortal danger.¹⁸⁴ In more moderate situations, defined as those of a *holeh she-ein bo sakkanah*, “a sick

[patient] in no life-threatening danger,¹⁸⁵ the scope of the license to override halakhic norms is both in dispute and, differentially formulated, subject to several variables. What is not in dispute, however, is the clear fact that the basis of leniency is not an overarching mantra of *za'ar*, but, rather, specific local factors. A similar pattern emerges if we analyze the area of financial distress, reinforcing the impression we have noted.

There are some exceptions, but, to the best of my knowledge, they, too, are isolated and marginal. The *gemara* in *Ketubbot* 60a cites an instance in which even an act that is proscribed *mi-de-Oraita* may be performed in order to relieve pain if performed abnormally, in which case the prohibition is reduced to the level of a *de-rabbanan*, as *bi-mekom za'ar lo gazeru rabbanan*. But the very textual isolation of the license, as well as its being cited regarding a specific case, suggest that here, too, we confront a focused dispensation rather than an overall formulation. Such a formulation is perhaps reflected in a gloss of Rama in *Hilkhot Shabbat* wherein he permits, in situations of *za'ar*, untying knots when unraveling is only proscribed *mi-de-rabbanan*.¹⁸⁶ Since in this case his explanatory assertion, *de-bi-mekom za'ar lo gazeru*, nowhere appears in the *gemara*, one can only presume that Rama expanded and extrapolated the citation from *Ketubbot* into a general principle. Even here, however, the isolated application and the absence of any comprehensive assertion mitigate this impression.

In another context, Rama apparently recognized the impact of *za'ar* as grounds for leniency with respect to far more critical decisions. Grounding himself upon a *teshuvah* authored by the fifteenth century Italian *posek* R. Yosef Kolon (Maharik), he writes that a child is not obligated to abstain from the choice of a mate if his parents object to it.¹⁸⁷ In Maharik's responsum,¹⁸⁸ this conclusion is theorized in light of the assumption that one is not obligated to incur significant financial loss in order to support his parents, and, hence, *a fortiori*, that he need suffer no psychological privation, *ve-khol she-ken za'ara de-gufa*.¹⁸⁹ However, as the *za'ar* in this case would be considerable, we can only infer license in comparable circumstances. At the very least, then, we cannot employ sweeping generalities and need to acknowledge correlation between levels of *za'ar* and the scope of any *hetter* based upon it.

The need for a differential approach in any consideration of license based upon *za'ar* seems self-evident *per se*, and it is reflected in a distinction drawn by *rishonim*, for instance, between pains of illness and pangs of hunger.¹⁹⁰ And yet, even allowing for such differentiation, the status of privation as the basis of dispensation is more limited than

might have been anticipated from a humanistic perspective. Unlike the analysis of the more axiologically laden elements of *kevod ha-beriyot* and *shalom*, I am inclined to assume that this excursus regarding *za'ar* has rather shed light upon the Halakhah's alternate mien—which demands and challenges, which persists in urging servitude and sacrifice, which bespeaks denial of human desire and inhibits aspiration, even, at times, positive aspiration. It certainly illuminates the facet that is so graphically manifested in a *gemara* in *Sukkah*. In the wake of a discussion of the impact of the principle that one who is engaged in performing a given *mizvah* is, concurrently, exempt from others upon assorted dispensations granted with respect to *sukkah*, the *gemara* ponders the status of a mourning *avel* during *shiv'ah*. After citing a view that the *mizvah* is incumbent upon him, the *gemara* goes on to query that this should be presumably self-evident, inasmuch as the general halakhic regime is binding upon him. In response, the *gemara* explains why the *din* required exposition and formulation. The reason given is that inasmuch as a *mizta'er*, one who is in a state of *za'ar*, is exempt from sitting in a *sukkah*, a grieving *avel* should likewise be exempt as he, too, is in *za'ar*. Hence, there was need to clarify that the analogy does not hold. “It is only the onset of external *za'ar* [which exempts]; here, however, the *za'ar* is self-induced. He ought to have calmed himself.”¹⁹¹ The concluding demand unquestionably raises the bar rather high. That, too, however, is an aspect of the halakhic complex.

VII

To this point, we have gauged the Halakhah's humanism—as regards its concern with man's worldly welfare—on the basis of two criteria: the fabric of the fundamental halakhic order, the complex of rights and duties of which it is constituted; and the factors, at once humanistic and halakhically normative, which suspend, in part or in whole, the usual demands of that order. It can also be measured, however, by a third criterion: the extent, if any, to which halakhic standards may be compromised as a concession to personal or even financial difficulty. This factor should not, of course, be confused with the second. The recognition accorded *pikkuaḥ nefesh* or similar elements entails neither compromise nor concession. These elements override certain injunctions simply because, even from a purely legal standpoint, they carry greater weight. Their power is grounded in the fact that, occasional confrontation between opposing norms being inevitable, the Halakhah had to formulate princi-

ples of priority. When these elements override an injunction, they do so as one halakhic norm pre-empting another, and not as a humanitarian factor transcending, as it were, the Halakhah. Hence, in cases of conflict, the precedence of these elements is mandatory and not merely optional. When critics accused R. Ḥayyim Soloveitchik of excessive laxity because of his sweeping application and broad definition of *pikkuaḥ nefesh*, he replied that he was not, Heaven forefend, lax as regards prohibitions. He was just exceedingly scrupulous as regards *pikkuaḥ nefesh*.¹⁹² Of those who were visibly chagrined when they had to violate the Sabbath in order to avert possible danger, he would ask whether they were equally upset over the “violation” involved in Sabbath circumcision. Both, he would argue, have been not only permitted but mandated, and, as regards either, twinges of residual guilt are thoroughly baseless. Similarly, with reference to the *mishnah*’s statement that between the sections of *shema*, “one may give greeting out of fear and return it out of respect,”¹⁹³ the Ḥafeẓ Ḥayyim would insist that one not only may interrupt but must.¹⁹⁴ *Kevod ha-beriyot*, again, is not merely optional.

By contrast, the principle to be explored presently—that normative standards may be compromised in straitened circumstances—does concern the clash of human and halakhic factors. It suggests that, within limits, extraneous factors may validly intrude upon halakhic judgments; that, for the *posek* or his respondent, non-normative considerations may properly enter into normative decision. Clearly, however—as regards the respondent, certainly—the consideration of such factors must be, at best, a matter of license. If one may, as a concession to his condition, take certain liberties, these can hardly be elevated into duties. And even if one argues correctly that it is the Halakhah itself which has sanctioned these liberties—so that they be rightfully regarded as grounded in principle rather than convenience—it has sanctioned them only as such, as an option of which one may avail himself rather than as an imperative duty. Hence, the humanistic moment implicit in such permissiveness must be regarded as more significant than that reflected in *pikkuaḥ nefesh* or *kevod ha-beriyot*. Whereas they constitute particular halakhic concepts relevant to specific areas of Halakhah, this principle represents a broad flexibility within the halakhic process generally; and whereas they remain genuinely internal elements, it can, in a very real sense, be construed as an extraneous factor.

With respect to such a principle, one may ask three primary questions. First, does it exist? Secondly, if so, what is its basis? And, finally, what are its limits?

There can be little doubt of its existence. The Talmud sets down certain guidelines concerning situations governed by unresolved halakhic controversies: if the case involves a biblical ordinance, one should heed the more rigorous view; if a rabbinic, he may assume the more lenient.¹⁹⁵ Yet, in a number of instances,¹⁹⁶ the Talmud states that, under conditions of stress, one may rely upon the less stringent opinion, even if it be a minority view—evidently, even if the question involves a biblical injunction.¹⁹⁷ Similarly, with reference to many disputed issues cited in the *Shulḥan Arukh*, Rama's gloss accepts the more rigorous view but with the accompanying proviso that in cases of *hefsed merubbeh* ("substantial loss") it may be ignored.¹⁹⁸ In many *teshuvot*, likewise, one sees leading *posekim* straining, sometimes without success, to ameliorate the effect of *halakhot* whose impact, in a given instance, might be excessively harsh.¹⁹⁹ Circumstances may clearly license a degree of leniency.

But what is the halakhic basis of such license? That the basis must indeed be halakhic is beyond question. No committed halakhist can seriously countenance the simplistic socio-economic interpretation that, under pressure, the Halakhah just periodically capitulates. For one thing, the image—or rather the reality—of Halakhah and its masters which he envisions simply does not correspond with this theory. For another, if *posekim* or their constituents have always been bent, consciously or subconsciously, upon adjusting the Halakhah to suit social or economic needs, they have certainly made a terrible botch of things. In one area after another, they have "modified" one injunction only to leave untouched a dozen far more stringent. Pressures of circumstance no doubt make themselves felt, but they generally operate within halakhic limits and to the extent that they are accorded halakhic recognition. Interpretations of the Halakhah's past—or projections of its future—that ignore its fundamental objectivity distort its very essence. Least of all, will the halakhist accept the contention that, under pressure, the Halakhah *should* capitulate.

We are confronted, once again, by Newman's dictum. Despite its terrifying severity, it expresses one ineluctable truth. Given the conception of an absolute religious law, no degree of purely temporal bliss or suffering can compensate for the slightest sin—except insofar as the legal system itself has provided for such compensation. In that case, the prospective "sin" is of course neutralized, perhaps even transmuted into a virtue. Barring this, however, utilitarian considerations count for nothing. Where the law has stood rigid, an individual can claim no inherent right to transcend it, simply because the cost is too great. To

many, this fact is no doubt sufficient reason for rejecting absolute religious law. Given the conception, however, this conclusion seems inevitable. What *a priori* limit can be set to the sacrifice which religion can rightfully demand?

For the Jew, therefore, it is Halakhah and Halakhah alone that determines what it can exact from him. Hence, if straitened circumstances can justify a degree of leniency, the rationale must be grounded in—must, in a sense, constitute—a halakhic principle. This rationale is based upon two premises. The first is the obvious desire and duty to employ every possible means to assist those in need. This obligation, rooted and expressed both in specific precepts and in the omnibus drive toward *imitatio viarum Dei*, is not confined to charity or social action. It impinges upon the process of *pesak* as well. In cases of genuine difficulty, the imposition of possibly needless burdens is not merely neutral. It violates the letter as well as the spirit of Halakhah. Or, to put it more positively, within the limits of flexibility, the exercise of ingenuity in an effort to relieve potential hardship becomes a matter of the highest duty. Of course, ingenuity alone does not suffice. It can only be used in conjunction with erudition and commitment, and the number of those possessing the religious and intellectual qualifications for halakhic decision can never be very large. For those endowed with them, however, sensitivity to the human as well as the legal dimensions of a situation is imperative. It is, of course, easier to be cautious and to take refuge in presumed ignorance; hence, the Rabbis' statement that "the power of leniency is greater,"²⁰⁰ because, as Rashi explained, the lenient *posek* "relies upon his knowledge and is not afraid to permit while the power of those who forbid proves nothing as everyone can be rigorous even with respect to the licit."²⁰¹ But the first-rate *posek*, jealous as he is in guarding the tradition, is also driven by a sense of responsibility to his straitened respondent; and to the extent that he can employ scholarship to reconcile their respective interests, he feels duty-bound to do so.

The obligation to compassionate leniency is imposed by *caritas*. The opportunity is provided by a pluralistic conception of Halakhah. So long as Halakhah is defined in purely monistic terms, every text being subject to only one correct interpretation and every problem amenable to only one solution, it is difficult to justify such leniency. However, the Rabbis interpreted Halakhah in somewhat more flexible terms. "R. Abba stated in the name of Samuel," says the *gemara* in *Eruvin*,

For three years there was a dispute between Beit Shammai and Beit Hillel, these asserting, "The Halakhah is in accordance with our views," and those

asserting, “The Halakhah is in accordance with our views.” A *bat kol*²⁰² then issued, pronouncing: “These and these are the words of the living God, but the Halakhah is in accordance with the rulings of Beit Hillel.”²⁰³

This famous albeit somewhat enigmatic dictum can only mean that, at the primary level, the Rabbis recognized a pluralistic dimension within Halakhah. The rational interpretation of texts or concepts is not governed by the principle of the excluded middle. Where a number of reasonable alternatives are present, none can be categorically rejected. For the scholar who conscientiously arrives at it, each alternative—simply by dint of it being a reasonable possibility—is considered right. For that situation to obtain, the scholar must be a genuine authority and he must sincerely interpret according to his best lights. Given those elements, however, his understanding of Halakhah becomes for him, at the primary normative level, the Halakhah. This concept is not to be confused with the conundrum of relativistic subjectivism. The scholar who acts upon his interpretation is not just charitably viewed as being, at worst, an unwitting and therefore innocent “sinner.” He is regarded as being correct—objectively correct.

This implication was clearly recognized by the Tosafists. “The French Rabbis, of blessed memory, asked,” writes Ritva,

“How is it possible that ‘these and these are the words of the living God’ if one proscribes and one permits?” They answered that when Mosheh ascended on high to receive the Torah he was shown, concerning each and every matter, forty-nine grounds for proscription and forty-nine for license. He asked God about this and He said that the issue should be placed in the hands of the sages of Israel in each and every generation and the decision should be theirs.²⁰⁴

This conception raises obvious metaphysical and epistemological questions; but these lie beyond the confines of this essay. Our present concern is rather with practical corollaries deriving from it. One is that a qualified scholar who has become honestly and fully convinced of one interpretation may safely ignore conflicting alternatives.²⁰⁵ So long as he remains convinced—and provided that none of the principles governing decision in case of controversy apply—he can, by definition, do no wrong. Hence, the Gaon of Vilna could refuse to wear two pairs of *tefillin* in order to heed conflicting opinions concerning their specifications.²⁰⁶ Once such a principle were countenanced, he argued, one would have to pay equal homage to all possibilities. As regards *tefillin*, this would entail wearing sixty-four pairs—a practice no one had yet suggested. This

reductio ad absurdum points out the inconsistency of those who do heed one dissenting view; but it does not yet explain the Gaon's own position. Nor can his reluctance be ascribed to common indolence. It was rather rooted in the conviction that those who, like himself, were thoroughly convinced of one position could safely ignore other points of view. Within the limits of rational halakhic discourse, certainty confers *ipso facto* legitimacy.

The second corollary is, in one sense, the obverse of the first. If, on the one hand, the convinced *posek* can ignore alternatives, then, on the other hand, the uncommitted *posek*—while he is ordinarily bound by various canons of decision—can, when ethical considerations warrant, strain after any reasonable option in order to arrive at a favorable conclusion. So long as he is not convinced that a given position is wrong, he may ground a decision upon it. He does so secure in the knowledge that for those who are committed to it this position constitutes conclusive halakhic truth; and that, even for the indifferent, its mere possibility confers legitimacy. “These and these are the words of the living God.” The *posek* need not be absolutely sure that a given contention is right and therefore universally applicable. But so long as his logic has not discarded it as a live option, the imperative drive to compassionate action impels him to draw upon it in an ethical emergency.

In straining after occasional leniency, the *posek* has recourse to various processes. He may strike out on his own—offering novel textual interpretations, redefining concepts, or introducing hitherto overlooked distinctions. Or he may draw sustenance from authorities whose views had not become the standard *pesak* but which had not been categorically demolished. Overruled but not moribund, these views can be brought into play under conditions of duress. No canon of decision is clearer than that of majority: “An individual versus a group—the Halakhah is like the group.”²⁰⁷ And yet: “Worthy is R. Shimon”—or any other legitimate authority—“of being relied upon at a time of emergency.”²⁰⁸

This procedure has—and clearly must have—certain limits. Not every minority opinion is cast into limbo. Some are rejected with utter finality. In the first place, some issues concern matters of fact and error rather than analytic interpretation; and of these, as Rashi pointed out,²⁰⁹ one can hardly say that a number of views are legitimate. Secondly, halakhic pluralism is operative at a primary level of individual confrontation with the raw material of Halakhah. At this purely theoretical plane, all reasonable options (however that be defined) are equally open. The opinions of Beit Shammai are as much a part of the corpus of

Torah as those of Beit Hillel. Certainly, whoever engages in their study is fulfilling the *mizvah* of *talmud Torah* equally. At a secondary level, however, one must make a choice—and the practical halakhic code incorporates the one and excludes the other. “These and these . . . ,” but “the Halakhah is in accordance with the rulings of Beit Hillel.” Hence, to the extent that they are bound by precedent and tradition, later *posekim* can only draw upon prior minority statements which have not been formally and definitively rejected. We do not, for instance, find *rishonim* citing minority views mentioned—and implicitly rejected—in the *mishnah*.²¹⁰ Whatever its limitations, however, the fundamental validity of this process is clear, and it reflects one dimension of halakhic humanism.

The extent to which this dispensation is invoked will undoubtedly vary with the individual *posek*. As with *kevod ha-beriyot* and *shalom*, terms like *she'at ha-dehak* (“a moment of pressure”) or *hefsed merubbeh* (“substantial loss”) are somewhat ambiguous. Attempts have indeed been made to define the latter in fixed quantitative terms; but one is inclined to agree with the conclusion of the author of *Har ha-Karmel* that “it has no fixed figure whatsoever. Everything depends upon the judgment of the *posek*, with respect to the time and the period, and the person who would incur the loss. If the loss would be substantial for him, it is considered *hefsed merubbeh*.”²¹¹ Such a formulation clearly allows for considerable latitude in the definition and application of the concept. Confronted by a situation in which the “normal” Halakhah comes into conflict with a genuine human need, two *posekim* both working within strictly halakhic limits, may produce diametrically opposed decisions. Differences in attitude, temperament, and emphasis may lead the one, compassionately responsive to the personal dimensions of the problem, to accept a broader construction of “emergency” and to strain generally after any factor which may possibly support a lenient decision; while the other, primarily imbued with a sense of responsibility to the truth of the tradition, may be inclined to very limited recourse to dispensations and will perforce hand down a rigorous decision.²¹² Such variation is not an indictment of halakhic objectivity; nor does it imply that the process can be extended *ad infinitum*. It merely attests to the presence of an element of flexibility within Halakhah and to the fact that, within certain limits, this flexibility—its definition proper being in occasional dispute—produces varied decisions.

The modern temper is, of course, on the side of the angels. Whatever its general feral tendencies as regards the application of religious law, it is all in favor of compassion. We should, however, beware of glib

judgments. The *posek* who adopts a more rigorous stance is not being insensitive to human needs. Rather—if I may paraphrase Julius Caesar—he loves not man the less but Torah more. Yet, on the other hand, we should not minimize the difference in approach and emphasis. Any serious study of the corpus of responsa clearly reveals it. However, the full discussion of this issue would require a monograph—probably several—analyzing the approaches implicitly and explicitly adopted in the responsa of leading *posekim*. If it were grounded upon an awareness of the moral and religious dimensions of the problem and did not merely rely upon facile sociological and pseudo-psychological interpretation, such a study could make a significant contribution to our present understanding of Halakhah. Here, even while noting that its scope has often varied, I simply content myself with sketching the legal and philosophic basis of this humanistic halakhic strain.

VIII

In the final analysis, the Halakhah cannot satisfy the demands of the radical secular humanist. For its humanistic strain is, although not muted, nevertheless counterpoised; or rather, as the committed Jew prefers to think, counterpointed. Judaism holds with Plato that “God ought to be to us the measure of all things, and not man, as men commonly say.”²¹³ It subscribes, in consequence, to Carlyle’s “Everlasting Yea”—“love not Pleasure; love God.”²¹⁴ No doubt, when it is a question of alleviating suffering—especially of others—rather than seeking pleasure, the problem assumes a different aspect. And yet the focal issue remains the same. The heart of the halakhic message is that, at one level, the Sabbath was made for man—”The whole Torah was given in order to bring peace upon the world, as it is said, ‘Her ways are ways of pleasantness, and all her paths are peace.’”²¹⁵ At another level, however, man was made for the Sabbath. “If you have learned much Torah, do not plume yourself, for it is for that purpose that you were created.”²¹⁶ The Jew profoundly believes that God’s law was given for man’s good—and he acts and is bound to act upon that belief. But he does not flinch even when it induces pain. Obedience would mean little if it were purely selective. Yet obedience is the least which the Jew, both as a created spiritual being and as the recipient of divine Torah, owes and proffers to God. His assessment of what he is ready to give is made in the light of the ultimate knowledge that “even the whole world,” as the Yerushalmi would have it, “does not equal [in value] one item of the Torah.”²¹⁷

It is often difficult to impart this message to the modern Jew—even to the avowedly believing Jew. While renunciation is not the central motif of Halakhah, it is, at times, an inevitable by-product; and to a mind deeply engaged in the pursuit of secular happiness, any call for withdrawal strikes an almost Oriental note. The Halakhah, despite its profound reverence for life and its activist orientation, must occasionally proffer Carlyle's advice: "The fraction of life can be increased in value not so much by increasing your numerator as by lessening your denominator. Nay, unless my algebra deceive me, unity itself divided by zero will give infinity."²¹⁸ However, in an age caught up in a revolution of rising expectations, such advice is neither lightly given nor lightly taken. It is, in fact, difficult to convey this message today without appearing—sometimes even to oneself—grossly callous. Largely pragmatic in character, contemporary Western culture does little to cultivate respect for law generally or for an absolute Halakhah specifically; and modern men and women, as remote from Aquinas and Hooker as from Rambam, and primarily oriented to the attainment of utilitarian desiderata, often simply cannot see how a formal or technical element can be permitted to block an otherwise desirable step. Moreover, it is precisely the ethically sensitive who are frequently most dismayed. It seems inconceivable to them that one could not, at the very least, wink here and cut a corner there; and rigorous adherence to standards, accompanied by exhortations to sacrifice, may strike them as cold indifference. Yet, if there is one quality thoroughly absent from Halakhah, it is callousness. From a perspective of commitment, halakhic demands, while often exacting, have a genuinely positive character. There is profound joy—even in worldly terms—in halakhic living; but its necessary concomitants are courage and faith.

The *posek*, finally, is confronted by a further difficulty. In applying Halakhah for others, he is often caught between two imperatives, truth and *hesed*. The renunciation which, for him, would represent fortitude can, when demanded of others, reflect cold indifference. Hamlet's dictum, "Since no man knows aught of what he leaves, what is't to leave betimes?"²¹⁹ is as true for others as it is for myself. And yet, as a principle of conduct in dealing with one's fellow, such a philosophical perspective can produce frightful cruelty. Caught within this ethical and religious dilemma, the *posek* strains after every possible dispensation. But when ultimately confronted by the authority of the law, he submits—and, with honesty and commiseration, he asks others to submit. In his heart of hearts, he senses that it is here, in the consecration of man and society to God, that genuine humanism lies.

Notes

[Editor's note: I thank R. Reuven Ziegler for his assistance in preparing R. Lichtenstein's article for publication in *The Torah u-Madda Journal*. References to and translations of R. Joseph B. Soloveitchik's *Ish ha-Halakhah* and *Kol Dodi Dofek* have been updated to reflect the most recent English editions of those works—David Shatz.]

1. See, e.g., Roger L. Shinn, *Man: The New Humanism: New Directions in Theology Today*, Vol. IV (Philadelphia, 1968).
2. Many specific elements are of course discussed in connection with other problems in works dealing with Jewish thought as a whole. However, I know of no adequate study of the subject in its entirety—nothing comparable, for instance, to the fairly substantial literature on Christian humanism that has been published during the last forty years. Mendel Hirsch's *Humanism and Judaism*, trans. J. Gilbert (London, 1928), is almost exclusively concerned with the problem of universalism and the Jewish view of Gentiles; and it is, in any event, more apologetics than exposition. Hans Kohn's *L'Humanisme Juif: Quinze Essais sur le Juif, le Monde et Dieu* (Paris, 1931), sweeps a wider arc but is more historical than analytic and focuses, moreover, upon very recent history. It is also, to say the least, unsympathetic to traditional Judaism. R. Samuel Belkin, *In His Image: The Jewish Philosophy of Man as Expressed in Rabbinic Tradition* (London, 1960), contains much useful material and many valuable insights but deals with far too many subjects to be able to treat any of them exhaustively. Harris H. Hirschberg, *Hebrew Humanism* (Los Angeles, 1964), raises fundamental problems and cites numerous texts but does not quite come to grips with the essential issues. Erich Fromm, *You Shall Be as Gods: A Radical Interpretation of the Old Testament and Its Tradition* (New York, 1966), does deal with our problem at some length and has the merit of treating the Bible and the rabbinic tradition as a unit. However, it presents a distorted one-sided view, relying excessively upon Ḥasidic stories, ripped out of their religious and historical context, to shore up its central thesis. Finally, some of Buber's writings and the voluminous literature on them have some bearing upon some aspects of our problem; see, e.g., *A Believing Humanism*, trans. and ed. M. Friedman (New York, 1967), esp. 117-22, and "Hebrew Humanism," in *Israel and the World* (New York, 1948), 240-52. But these, again, are of course not written from a halakhic perspective.
3. G.K. Hunter, *John Lyly: The Humanist as Courtier* (London, 1962), 13.
4. Just how narrowly literary was the focus of Renaissance humanism is a matter of dispute. Some scholars would regard Paul Oskar Kristeller's judgment that "Renaissance humanists were also interested in human values, but this was incidental to their major concern, which was the study and imitation of classical Greek and Latin literature" (*Renaissance Thought: The Classic, Scholastic, and Humanistic Strains* [New York, 1961], 120-21), as too extreme. See, e.g., Myron P. Gilmore, *The World of Humanism, 1453-1517* (New York, 1952), 204-28, and Douglas Bush, *The Renaissance and English Humanism* (Toronto, 1939), who argue for a somewhat broader conception. No one would question, however, that literary interests were a major concern.
5. *The Philosophy of Humanism*, 4th ed. (New York, 1957), 11.
6. Some, particularly mystics, tend to link both aspects and speak of a partial

consubstantiality. However, thinkers who have stressed the elements of divine transcendence have criticized such claims severely. This was one of the Gaon of Vilna's principal criticisms of the *Tanya*.

7. *Avot* 3:14. See commentaries, ad loc., many of whom see the particular love as consisting in the fact that man has been told he had been created in the divine image. See also the textual variants in the Vilna edition of the *mishnah*.
8. See his commentary on *Avot*, *Derekh Ḥayyim*, 3:14; also in *Kitvei Maharal mi-Prague*, ed. A. Kariv (Jerusalem, 1960), II, 54. See also Kariv's introduction, I, xxiii-xxxii.
9. *Guide of the Perplexed* 3:13.
10. *Ibid.*
11. *In Memoriam*, 54:12.
12. *Yalkut Shimoni, Bereshit*, 57.
13. *Bereshit Rabbah* 19:5. The remark is part of an argument attributed to the serpent, but the *midrash* clearly accepts his facts and would only reject the concluding inference.
14. *Kiddushin* 82a.
15. *Avot de-Rabbi Natan*, ed. S.Z. Schechter, 2nd ed. (New York, 1945), A-text, 31, p. 46a. Cf. *Sanhedrin* 37a and 38a.
16. *Kiddushin* 30b. The verses cited are from Gen. 8:21 and 6:5, respectively.
17. *Eccl.* 3:19.
18. *High Holiday Prayer Book*, ed. P. Birnbaum (New York, 1959), 971.
19. *Guide* 3:13.
20. *Shemot Rabbah* 8:2, and numerous parallel texts cited in *Yad Yosef*, ad loc.
21. Of course, having been created, he never is fully on his own. I speak only of a theoretical possibility, the secular view of man and the world, although that view is false even as an account of the secularist's own state.
22. The current J.P.S. translation—as well as numerous others—have “yet” instead of “and” at this point. On this reading, the opening rhetorical question has been concluded and the rest of the chapter goes on to state—and to marvel over—the fact that, despite his presumed insignificance, God has granted man such stature. There is nothing in the text to suggest such a turn, however, and I am convinced the rest of the psalm (until the last verse) should be read as an expansion of the earlier question. The enumeration of God's favors reinforces the question, but its focus remains human existence rather than, as in the other version, divine action.
23. The incident is cited in Douglas Bush, *Science and English Poetry: A Historical Sketch, 1590-1950* (New York, 1950), 137.
24. Of course, the freedom exists within a normative framework. It constitutes, in large measure, freedom to achieve specified ends rather than unbridled autonomy. A radical antinomian might complain that I am misusing the word. I have no desire to enter upon a logomachy but I think the essential point is clear.
25. In its fullest measure, Halakhah exists within the specific covenantal framework of Judaism. However, on a more limited scale, its essential conception of man and his potential is thoroughly universal.
26. The terms proper do not appear very frequently in *Ḥazal*, but the concepts, particularly as elicited by more recent *aḥaronim*, are pervasively latent. For a discussion of the Halakhah's concern with creativity at the highest level, see R. Joseph B. Soloveitchik, *Halakhic Man*, trans. Lawrence J. Kaplan

- (Philadelphia, 1983), 99-137. Cf. also his *Kol Dodi Dofek: Listen—My Beloved Knocks*, trans. David Z. Gordon (New York, 2006), 1-7, 52-71.
27. "Nature and Grace in *The Faerie Queene*," *ELH*, XVI (1949), 217. Cf. John Stuart Mill's posthumous essay, "Nature" in *Nature, the Utility of Religion and Theism* (London, 1874).
 28. For an incisive summary of their views concerning this question, see Theodore Spencer, *Shakespeare and the Nature of Man*, 2nd ed. (New York, 1955), 1-50; and, for a full account, Herschel C. Baker, *The Dignity of Man* (Cambridge, Mass., 1947), with full bibliography. From a Catholic perspective, see Francis Hermans, *Histoire Doctrinale de L'Humanisme Chrétien* (Paris, 1948). For a more critical discussion, see Gordon W. O'Brien, *Renaissance Poetics and the Problem of Power* (Chicago, 1956).
 29. Levi A. Olan, "On the Nature of Man," *C.C.A.R. Yearbook* LVIII (1948): 255-271, reverses this process. He argues that the Jewish view of man and the world has led to a sense of his greatness and importance, and hence to all liberal and socially progressive movements, while the Greek view, as represented by Platonic other-worldliness, leads to Pauline [sic] notions of human degradation and neglect of social issues. I think this, too, is erroneous. It overstresses one side of the Jewish tradition to the exclusion of others and it thoroughly misrepresents the Greek position. For one thing, Platonism does not constitute the whole of Greek thought. Furthermore, even as regards Plato proper, his transcendentalism regards man more as limited and imperfect than as positively corrupt. The idea and ideal of deformity—see, e.g., *Theatetus* 176a—is very much alive for him and subsequently played a crucial role within the Platonic tradition. And certainly—as both his *Republic* and *Laws* clearly attest—Plato did not neglect social issues.
 30. For a generally sound and lucid account of the tradition as it appears in the Bible, see William A. Irwin on "Man," in *The Intellectual Adventure of Ancient Man*, H.A. Frankfort *et al.* (Chicago, 1946), 255-63.
 31. *Pensées* (Paris: Hachette, 1950), 128; no. 358.
 32. *Bereshit Rabbah* 8:1; cf. *Sanhedrin* 38a. The *midrash* literally refers to chronological precedence at the time of creation but axiological priority is no doubt also intended.
 33. Arnold J. Toynbee, *Hellenism: The History of a Civilization* (New York, 1959), 16.
 34. Hermans, *L'Humanisme Chrétien*, IV, 59. See also IV, 87-95.
 35. Jacques Maritain, *Scholasticism and Politics* (Garden City, 1960), 18; the italics are Maritain's.
 36. It does seem to me, however, that the element of rationality, which Werner Jaeger—see his *Humanism and Theology* (Milwaukee, 1943), 15-19—and others have seen as the focus of the humanistic view of man, is not quite so central within the halakhic tradition. It is important but not quite the linchpin. As far as Rambam's view is concerned, however, the interpretation of much disputed passages in his *Guide* 1:1-2 would be crucial. See also Reinhold Niebuhr, *The Nature and Destiny of Man* (New York, 1943), I, 6-14, who argues that the classical view emphasized human rationality while the biblical tradition stressed rather the capacity for self-transcendence.
 37. *The Prelude*, 11:142-44.
 38. Cited in Giuseppe Toffanin, *History of Humanism*, tr. Elio Gianturco (New York, 1954), 198.

39. John Lyly, 13.
40. Werner Jaeger, *Paideia: The Ideals of Greek Culture*, trans. Gilbert Highet (New York, 1943), II, 4.
41. *Renaissance and English Humanism*, 54.
42. *On the Life of Plotinus and the Arrangement of His Work*, in *Plotinus: The Ethical Treatises: Being the Treatises of the First Ennead with Porphyry's Life of Plotinus*, trans. Stephen Mackenna (London, 1917), 9.
43. See his *Madregat ha-Adam*, 3rd ed. (Jerusalem, 1964), 1-27. It should be noted that the question of the nature of man constituted one of the primary concerns of the *musar* movement as a whole.
44. See *Sukkah* 25b and commentaries, a number of whom assume that during the week following the wedding, participants in the festivities are exempt from performing other *mizvot* if these concur or interfere with their celebration.
45. *Ibid.* 49b. The verse cited is from *Mikhah* 6:3.
46. *Sotah* 14a. The verses cited are from Gen. 3:21 and Deut. 34:6.
47. *Shabbat* 31a. I am here assuming the obvious literal meaning of the text. Rashi, s.v. *da-alakh*, presents both this interpretation and another—that the fellow alluded to is God, with the odious thing being disobedience. Cf. also Ramban, Ex. 15:26.
48. Deut. 11:22.
49. *Sifrei, Ekev* 49. The verse cited is from Joel 3:5. Cf. *Shabbat* 133b and Ramban, *De'ot*, 1:6.
50. *Sotah* 14a. The verses cited are from Deut. 13:5 and 4:24, respectively. In this and the preceding selection each point is buttressed by a proof-text. I have omitted these, however.
51. *Sifra, Kedoshim* 4:12.
52. See *Pe'ah* 1:1.
53. *Avel*, 14:1. The verse cited is from Lev. 19:18.
54. See also *Sefer ha-Mizvot*, “Principles,” 1.
55. As opposed to *zedakah* (“charity”), the obligation to do *hesed* includes helping the rich as well as the poor. See *Sukkah* 49b.
56. *Arakhin* 16b.
57. Fasting does, of course, have halakhic significance. Quite apart from several set fast days, it is regarded as a *mizvah* at times of crisis and is specifically linked to repentance; see Rambam, *Ta'aniyot* 1:1-2. Nevertheless, it is not conceived as part of a mortifying regimen and remains poles removed from hairshirt and sackcloth. There is, however, a secondary tradition—not, strictly speaking, halakhic—of ascetic mortification stemming from the *Hasidei Ashkenaz*, medieval Franco-German pietists. See, e.g., R. Eliezer of Worms, *Sefer ha-Rokeah* (Warsaw, 1880), 8-11; and see R. S.J. Zevin, *Ha-Mo'adim ba-Halakhah*, 6th ed. (Jerusalem, 1957), 65-66.
58. See *Shabbat* 118b-119a and *Pesaḥim* 109a; Rambam, *Shabbat* 30:7-10, and *Yom Tov* 6:16-20. *Yom Kippur* is, of course, an exception, but its celebration, too, entails a worldly aspect; see *Shabbat* 119a. See, however, also, the controversy between R. Yehoshua and R. Eliezer as to whether festival celebration must include both Torah study and physical pleasures or whether one may devote himself exclusively to one or the other; see *Pesaḥim* 68b and cf., with respect to the Sabbath, *Yerushalmi, Shabbat* 15:3.
59. See, e.g., Deut. 12:18, 14:26, and 27:7.

60. This is based, in part, upon the need for procreation but not exclusively so. See *Yevamot* 62b and Rambam, *Ishut* 15:3 and 15:16.
61. *Avot de-Rabbi Natan*, A-text, 11; p. 22b.
62. *Ba'alei ha-Nefesh*, ed. J. Kafah (Jerusalem, 1965), 15.
63. *Bava Kamma* 91b. The verse cited is from Num. 6:11.
64. *Kiddushin* 4:12.
65. See ch. 13.
66. *Avot* 2:12.
67. Reading *na'aseh*, as in a manuscript cited in Schechter's notes, rather than *ya'aseh*, as in his printed text.
68. B-text, 30, p. 33b. Cf. *Va-yikra Rabbah* 34:3, which quotes essentially the same text but without Shammai's concluding dissent.
69. R. Saul Lieberman, *Tosefta ki-Peshutah* (New York, 1955), I, 56.
70. *Ketubbot* 104a.
71. *Tosafot*, ad loc., s.v. *lo*.
72. Rashi, ad loc., s.v. *ve-lo*.
73. *Avot de-Rabbi Natan*, A-text, 28, p. 43a.
74. *Berakhot* 61b.
75. See *Beizah* 16a.
76. *Avodah Zarah* 11a. Antoninus was one of the Antonine emperors and a close friend of R. Yehudah ha-Nasi. In the light of this and similar factual accounts, the contrasting attitudinal statements cited earlier should presumably be understood to refer to the quality and motivation of worldly consumption rather than to actual abstinence. The "enjoyment" abjured is the sybaritic pursuit of pleasure for its own sake rather than physical indulgence.
77. See *Nedarim* 9b. Upon concluding the period of his vow, the Nazarite would cut off all his hair.
78. See *Tosafot*, *Bava Kamma* 91b, s.v. *ela*, who suggests that when properly motivated, a Nazarite may be regarded as both holy, with respect to his goals, and a sinner, with respect to the means he employs to attain them. See also Rambam, *Nedarim* 13:23-24 and *Nezirut* 10:14.
79. R.H. Tawney, *Religion and the Rise of Capitalism* (New York: Mentor, 1947), 22.
80. *Ibid.*, 23.
81. *Natural Science and Christian Theology* (Cambridge, Eng., 1953), II, 39-40.
82. R. Soloveitchik, *Halakhic Man*, 41.
83. *Teshuvot ha-Rambam*, ed. J. Blau (Jerusalem, 1960), 715.
84. Lev. 23:11.
85. *Menaḥot* 65a. The verse cited is from Deut. 1:2.
86. See, e.g., *Yevamot* 47a and *Berakhot* 13a.
87. *Yoma* 44b.
88. *Menaḥot* 76b.
89. See *Yoreh De'ah* 157:1.
90. Prov. 3:17. See *Yevamot* 87b; *Sukkah* 32a; and cf. *Tosafot*, *Yevamot* 2a, s.v. *va-aḥot*, and *Pesahim* 39a, s.v. *ve-eima*.
91. *Berakhot* 13a.
92. See Ex. 24:7.
93. See *Shabbat* 88a.
94. See *Shevuot* 39a.
95. Lev. 25:42.
96. *High Holiday Prayer Book*, 383.

97. See *Ketubbot* 11a.
98. *Makkot* 23b.
99. *Avot* 6:2.
100. Nicolas Berdyaev, *Slavery and Freedom* (New York, 1944), 60. Of course, Berdyaev's own attitude was radically anti-halakhic; see *ibid.*, 82-92 and his autobiographical *Dream and Reality* (New York: Collier Books, 1962), 56 ff.
101. *The Tempest*, I, ii, 469.
102. *Berakhot* 61b. The verse cited is from Deut. 6:5.
103. Dietrich Bonhoeffer, *Letters and Papers from Prison* (London: Fontana Books, 1959), 91, 93.
104. *Ibid.*, 94.
105. See Harvey Cox, *The Secular City*, rev. ed. (New York, 1966), 95 ff.
106. It might be added that not only the problem but the limits of the proposed solution are different for the Jew. "Being with God in the world" has, in one sense, a far more immediate ring for the Christian than it can have for him.
107. See R. Avraham Y. Kook, *Orot*, 2nd ed. (Jerusalem, 1961), 109-15. R. Kook notes and laments the fact that, in the post-biblical period, and especially in the Diaspora, the individualistic element became so much more prominent among Jews. It should be emphasized, however, that R. Kook's periodization is not premised upon the presumed contrast between biblical and halakhic Judaism sometimes postulated by non-traditional historians. R. Kook of course envisioned both elements as parts of an organic unity. He is rather lamenting a shift, within that single framework, from a broader to a narrower focus.
108. *Halakhic Man*, 37-38.
109. *Ibid.*, 42
110. Isadore Twerky, "Some Aspects of the Jewish Attitude toward the Welfare State," *Tradition* 5 (1963): 143; my italics. See, generally, 139-45, and references; and see also Walter S. Wurzbarger, "Pluralism and the Halakhah," *Tradition* 4 (1962): 221-39, who argues—rather convincingly, I think—that the Halakhah generally encourages an activist rather than a quietist relation to the world.
111. For a sharp reaction to Cox's book proper, and especially to some of its statements concerning Judaism, see Steven S. Schwarzschild, "A Little Bit of a Revolution?," in *The Secular City Debate*, ed. Daniel Callahan (New York, 1966), 145-55; and cf. Cox's equally acerbic reply, 183-85.
112. *Religion and the Rise of Capitalism*, 58.
113. *Ibid.*, 60.
114. *The Letters of John Keats, 1814-1821*, ed. H.E. Rollins (Cambridge, MA, 1958), II, 102; April 21, 1819.
115. "How Soon Hath Time . . .," 14.
116. Ps. 16:8.
117. *Orah Hayyim* 1:1.
118. Quoted in C.S. Lewis, *The Four Loves* (London: Fontana, 1963), 84.
119. *Beizah* 15b.
120. *Avot* 4:22.
121. See *Avot* 4:21. Of course, the *mishnah* there deals with the plane of personal existence. At a universal plane, history may no doubt have greater intrinsic significance. Still, the basic distinction I am making holds up. For a characteristic statement, see Ramban's preface to *Torat ha-Adam* (Jerusalem, 1955).
122. John Henry Newman, *Lectures on Certain Difficulties Felt by Anglicans in*

- Submitting to the Catholic Church* (London, 1850), 199.
123. Interestingly enough, Kingsley, although he does twit Newman for writing in a manner “shocking to plain English notions,” criticizes the passage not so much because of its extreme nature as because it is inconsistent with Newman’s position that lying is sometimes permissible. See his pamphlet, “What, Then, Does Dr. Newman Mean?,” in *Newman’s “Apologia Pro Vita Sua”: The Two Versions of 1864 and 1865, Preceded by Newman’s and Kingsley’s Pamphlets*, ed. Wilfrid Ward (Oxford, 1913), 46; and cf. Newman’s reply on 339.
 124. *Lectures on Anglican Difficulties*, 199.
 125. *Ibid.*
 126. See *Sanhedrin* 74a-b; Rambam, *Yesodei ha-Torah*, 5:1-3.
 127. *Yoma* 8:5. The authority whose opinion was sought is evidently criticized for not having educated the public previously.
 128. *Shabbat* 2:1. The verse cited is from Lev. 18:5.
 129. See *Yesodei ha-Torah*, 5:4. Many *rishonim* disagree; see, e.g., *Tosafot, Avodah Zarah*, 27b, s.v. *yakhol*. Even on their view, however, one may only choose death rather than “transgression” when coerced to choose by an oppressor. Under such circumstances, he fulfills the *mizvah* of *kiddush Hashem* by suffering martyrdom. In the absence of coercion and resistance, however, no authorities would permit dying rather than, let us say, eating non-kosher food.
 130. *Yoma* 85b. The verse cited is from Ex. 31:16.
 131. *Torat ha-Adam*, 11. Cf. also Rambam, *Mamrim* 2:4.
 132. R. Ḥayyim Soloveitchik regarded both as constituting *pikkuaḥ nefesh*. I know of no written source concerning insanity. As to apostasy, see *Orah Hayyim*, 306:14 and commentaries. I cite R. Ḥayyim’s view as I have heard it from his grandson, R. Joseph B. Soloveitchik. I do not know for certain, however, whether his decision was based upon the reason I have suggested; upon the fear that insanity might lead to actual physical danger; or, finally, upon the idea that insanity *per se* is a kind of spiritual death.
 133. Rambam, *Shabbat* 30:15.
 134. See *Hullin* 5a and Rashi, s.v. *alma*.
 135. This may depend on the semantic nuances of the term *adam*, as it appears in the Torah. See *Sanhedrin* 59a, *Yevamot* 61a, and *Bava Kamma* 38a.
 136. I have limited these remarks to one aspect of the topic. Fuller discussion would of course include far more evidence, textual and historical, as well as the analysis of relevant halakhic and hashkafic variables.
 137. *Berakhot* 19b-20a. See also *Shabbat* 81b and 94b.
 138. *Kil’ayim* 9:1; p. 40b.
 139. *Berakhot* 3:1; p. 24a.
 140. *Kil’ayim* 10:29.
 141. See, e.g., *Shevuot* 5:7, as explained by *Ḥiddushei ha-Ran, Shevuot* 23b; and, for a possible theoretical basis, *Sefer ha-Mizvot*, “Principles,” 2. The import of the latter passage is in dispute, however. See commentaries, ad loc., and *Siftei Kohen, Hoshen Mishpat* 33:1. Cf. also *Teshuvot ha-Rambam*, II, 631-33; and see J.J. Neubauer, *Ha-Rambam al Divrei Sofrim* (Jerusalem, 1957).
 142. Cited in Rambam, *Torat ha-Adam*, 37-38.
 143. See *Shabbat* 23b.
 144. *Pesaḥim* 3:7; p. 23b. This text is not wholly conclusive because perhaps it deals exclusively with a person who had already begun such a visit and who is then not required to cut it short. See, analogously, Rambam, *Ḥamez u-*

- mazzah* 3:9, and cf. *Zevaḥim* 100a. Furthermore, it is conceivable that the obligation to burn *ḥamez*, as well as the prohibition against keeping it, only apply when one possesses it willfully. If he is aware of its existence but cannot, for some reason, destroy it, perhaps he is not merely regarded as duty-bound but not held accountable due to extenuating circumstances. He is not subsumed under these norms at all. See Rambam, *ibid.*, 3:8, and *Kesef Mishneh*. If this be true at a *de-Oraita* level, it may also apply to the rabbinic commandment to burn *ḥamez* even after one has disavowed it. In that case, this text may have no universal implications.
145. See *Yevamot* 65b; *Sifrei*, *Naso* 42; *Vayikra Rabbah* 9:9 and analogues cited there in *Yad Yosef*. Cf. also *Sotah* 41b and Yerushalmi, *Pe'ah* 1:1, p. 4b.
 146. Gen. 18:12-13.
 147. See 360-71 and especially Note G. on “Lying and Equivocation,” 436-63.
 148. *Ketubbot* 17a. The verse cited is from Ex. 23:7. It should be added that Tosafot, s.v. *kallah*, comments that, even according to Beit Shammai, one should either be silent or cite other praises but certainly not present the insulting truth.
 149. See *Bava Mezi'a* 23b-24a. See also Rif and Tosafot, s.v. *ushpiza*, who discuss the relation of this text to that of *Yevamot* 65b.
 150. See, e.g., *Pesaḥim* 5a (but note the very relevant controversy between Rashi and Tosafot there), *Shabbat* 129a, and *Sanhedrin* 11a.
 151. See *Shabbat* 10b and *Berakhot* 13b.
 152. R. Avraham Hen, *Be-malkhut ha-Yahadut* (Jerusalem, 1959), I, 294-95.
 153. *Sermons, Chiefly on the Theory of Religious Belief* (London, 1844), 343.
 154. *Teshuvot ha-Rama* #11.
 155. Mordekhai, *Pesaḥim* 100b.
 156. Ex. 20:23.
 157. *Yitro*, *Massekhta de-ba-Hodesh* 11.
 158. These concern primarily two questions: 1) the extent, if any, to which a mortal danger need be clear, immediate and specifically related to a particular individual or group; 2) the possibility, if any, that any cause of public physical injury comes under *pikkuaḥ nefesh*, although no potential loss of life is apparent—either because we fear, statistically, that one person may die after all or, although this is logically difficult, because mass injury proper constitutes *pikkuaḥ nefesh*. These are, of course, basic and highly relevant issues but they deserve full independent discussion and cannot be treated within the confines of this essay, let alone in a footnote.
 159. See *Berakhot* 19b; *Shabbat* 81b and 94b; *Eruvin* 41b; and *Menaḥot* 37b.
 160. *Hullin* 94a.
 161. s.v. *muttar*.
 162. In *Berakhot* 19b, Rashi himself, s.v. *kol mili*, offers this explanation.
 163. *Yevamot* 90b.
 164. *Shabbat* 81b, s.v. *she-doḥeh*. Cf. *Turei Even*, *Megillah* 3b.
 165. Deut. 22:1.
 166. *Berakhot* 19b.
 167. A field in which a grave has been plowed up.
 168. *Avel* 3:14. This *halakhah* is, of course, found in *Berakhot* 19b and does not originate with Rambam. However, the *gemara* does not relate this dispensation to *kevod ha-beriyot* specifically. One might, for instance, see it as deriving from the *mizvah* of comforting mourners. Secondly, it only mentions the

dispensation with reference to *bet ha-peras* whose impurity, inasmuch as it is grounded upon uncertainty, may be weaker than that of other rabbinic sources of defilement. In this case, therefore, the prohibition may be initially and internally circumscribed rather than overridden by an extraneous factor. This view is buttressed by the fact that a *kohen* may enter a *bet ha-peras*—or places of similar status—whenever this is essential to the performance of a *mizvah*; see *Semaḥot* 4:25-26 and *Avodah Zarah* 13a. Rambam, however, while, at the beginning of this *halakhah*, he restricts the license cited in *Semaḥot* to the category of *bet ha-peras*, permits defilement by *all* rabbinic impurities in order to comfort the mourner. Hence, he felt virtually constrained to invoke the general principle of *kevod ha-beriyyot*. It should be noted, further, that he similarly goes on to include all rabbinic defilements in a third dispensation granted to recover property unjustly expropriated by Gentiles. The *baraita* in *Semaḥot* included this license in one catalogue with defilement for the purpose of *mizvah*. Rambam, however, inasmuch as he evidently gave the two dispensations different scope, was careful to formulate them separately. It might be added, finally, that the Yerushalmi, evidently reading *mippenei kevod ha-am*, assumed the text in *Semaḥot* permits the *kohen* to follow the crowd through a defiled path, out of deference to it, rather than vice-versa; see *Berakhot* 3:1; p. 24a.

169. *Sanhedrin* 24:10.
170. H.H. Henson, *Christian Morality* (Oxford, 1936), 29.
171. In John Norris, *The Theory and Regulation of Love, A Moral Essay in Two Parts: to Which Are Added, Letters, Philosophical and Moral between the Author and Dr. Henry More* (London, 1694), 147.
172. See *De'ot* 2:6 and *Mekhirah* 18:1.
173. *Berakhot* 19b. The verse cited is from *Prov.* 21:30.
174. *Kil'ayim* 9:1; p. 40b.
174. Commentary on *Kil'ayim* 9:8.
176. See *Yoreh De'ah* 303:1 and 372:1.
177. Of course, even if this interpretation be correct, Rosh is dealing with the scope of *kevod ha-beriyyot* rather than its definition. Nevertheless, his view would support the distinction in principle.
178. *Tanḥuma, Zav*, 3. Of course, such a principle can be invoked for totalitarian purposes, and one needs to guard against its abuse. But there are times when it is unquestionably valid.
179. See, e.g., *Yevamot* 3b ff. where the *gemara* simply states that a positive commandment overrides a negative. Cf., however, Ramban, *Ex.* 20:8.
180. *Berakhot* 19b. The passage can alternatively be translated “since it overrides,” in which case the dispensation of *kevod ha-beriyyot* would prove its greatness rather than be explained by it. In either case, however, the juxtaposition of the two parts of the statement remains significant.
181. I cite these in accordance with Rashi's interpretation of the referent in the *gemara's* discussion, possibly buttressed by its overall context, which deals with a parallel question concerning the relative priority of *kiddush* wine. However, no mention of the candles' identity appears in Rambam, and he may very well have subscribed to the view of Ritva that the *gemara* deals with ordinary week-day candles, employed for the potential goal of illumination. Of course, in that case, the force and weight of *shalom* is even more sharply emphasized.
182. *Ḥanukkah* 4:14. The verse cited is from *Prov.* 3:17.

183. See the range of views cited in *Shulḥan Arukh, Oraḥ Ḥayyim* 328:17, all of which prohibit *de-Oraita* violations in order to save an organ, and *Sifteï Kohen, Yoreh De'ah* 157:3, who is inclined to permissive resolution of this question.
184. See *Shabbat* 42a, and the discussion regarding the view of the Geonim, cited in the *ḥiddushim* of Ramban and his successors, ad loc.
185. See *Shulḥan Arukh, Oraḥ Ḥayyim* 328:17.
186. See *Ibid.* 317:1.
187. See *Shulḥan Arukh, Yoreh De'ah* 240:25.
188. See *She'elot u-Teshuvot ha-Maharik* #167.
189. The limitation is of both a local and of a more general character. Specifically, a child is not legally obligated to cover his parents' expenses if they have the means to do so themselves; see *Kiddushin* 32a. Generally, while one is required to sacrifice all his assets rather than violate a negative *de-Oraita* prohibition, there is a limit of a fifth of personal assets which must be sacrificed in order to avoid the failure to perform a positive *mizvah*.
190. See *Tosafot, Ketubbot* 60a, s.v. *goneah yonek*.
191. Rashi, *Sukkah* 25a, s.v. *tirda di-reshut*, explains that the *mizvah* of *avelut* is confined to external actions, so that any emotional component is purely voluntary and ought therefore to have been controlled. Ramban, however, on the basis of *Sanhedrin* 46a, held that anguish was the very essence of grief, a position much expanded and expounded by the Rav, זצ"ל. On his view, it is presumably the excess of grief which should be restrained.
192. See R. S. J. Zevin, *Ishim ve-Shittot* (Tel Aviv, 1952), 59.
193. *Berakhot* 13a.
194. I have been told this by R. Joseph B. Soloveitchik.
195. *Avodah Zarah* 7a.
196. See, e.g., *Niddah* 6a-b and 9b; *Eruvin* 46a; and *Shabbat* 45a.
197. This last point has been disputed. The cases cited in the Talmud are inconclusive. However, inasmuch as he does not qualify, one would assume that Rashba's statement concerning such license covers *de-Oraita* injunctions as well; see his *Teshuvot* I, #253. But cf. *Sifteï Kohen, Yoreh De'ah* 242 (concluding discourse), who argues the practice is only legitimate with respect to rabbinic ordinances, and who contends, moreover, that Rashba should be understood in a similar vein. See also *Enziklopedyah Talmudit*, s.v. "Halakhah," IX, 260-61 and n. 268.
198. See, e.g., *Yoreh De'ah*, 36:16, 39:2, 39:13, 69:2, 92:4, 108:1-2, 135:1.
199. See, e.g., *Teshuvot Rav Akiva Eiger*, 85; *Noda bi-Yehudah*, 1st ed.; *Yoreh De'ah*, 48, 57, and 61.
200. *Beizah* 2b.
201. *Ibid.*, s.v. *de-hettera*.
202. A semi-oracular voice.
203. *Eruvin* 13b.
204. *Ḥiddushei ha-Ritva, Eruvin* 13b.
205. See *Hullin* 116a and *Teshuvot ha-Rashba* I, #253. It is conceivable, however, that such license would only extend to the convinced scholar proper and to those who, residing in his town, are subject to his authority. It may not apply to others, even if they choose to make inquiry of this scholar. See *Pesahim* 51b; *Eduyot* 5:7; and *Yerushalmi, Berakhot* 1:1; p. 6b. Cf. also *Yevamot* 14a ff.
206. This practice is mentioned—with reference to a disagreement between Rashi

- and Rabbenu Tam—in *Orah Hayyim* 34:2. For the Gaon's view, see Asher Hakohen, *Orehot Hayyim* (Jerusalem, 1819), sec. 14 (often printed in *Siddur ha-Gra*).
207. *Berakhot* 9a.
208. *Ibid.*
209. *Ketubbot* 57a, s.v. *ha*.
210. See *Niddah* 9b where the *gemara* states that, in an emergency, R. Yehudah ha-Nassi could have relied upon the minority view of a *tanna*, but not if that view had been formally rejected. As regards post-talmudic *posekim*, however, the fact that a position had been cited in the *mishnah* as a minority view would itself be tantamount to its rejection and would therefore close that particular option. For them, the principle I've been discussing would therefore be operative with reference to decisions handed down by other post-talmudic *posekim*. See, however, *Or Zarua*, II, 306, who does seem to apply it to minority views of *tannaim* as well; and cf. *Shiltei ha-Gibborim*, *Shabbat* 48a (in Alfasi). See also *Sifte Kohen*, *Yoreh De'ah* 242, and R. A. Y. Kook, *Shabbat ha-Areẓ*, 3rd ed. (Jerusalem, 1951), intro., 41-44. Cf. also *Or Zarua*, *Sanhedrin* 67.
211. Cited in *Pithei Teshuvah*, *Yoreh De'ah* 31:2. With respect to *she'at ha-deḥak*, see *Tosafot*, *Niddah* 6b, s.v. *bi-she'at*.
212. See *Hullin* 49b; but see also *Tosafot*, s.v. *Rav*.
213. *Laws*, 716.
214. Thomas Carlyle, *Sartor Resartus* (London, 1908), 145; II, ix.
215. Rambam, *Ḥanukkah* 4:14.
216. *Avot* 2:9.
217. *Pe'ah* 1:1; 4a.
218. *Sartor Resartus*, 144; II, ix.
219. V, ii, 233-34.