Defining Oneself Through The Halakhic Process: A Curriculum Guide for Reform Jewish Teenagers

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Curriculum Rationale

When I was an undergraduate student, I worked as a religious school teacher at a small Reform synagogue. Once a month, my class was scheduled for a time called "Ask the Rabbi." These sessions were meant to provide students with an opportunity to ask the rabbi any question they wanted to about Judaism. Sometimes the questions were basic, such as what day does Shabbat fall on? Most of the time, though, the students were interested in knowing how something in Torah could be applied to their lives, or what the point was of a certain Jewish tradition, which seemed to them to be antiquated. The rabbi usually struggled to answer these types of questions for the students. I often wondered how we could teach our students to craft their own answers to the questions they asked.

Judaism as we know it today can be considered a creation of the Early Rabbis. The rabbis and sages of the first five centuries took the oral and written Torah and expanded upon it to make it into a religion that could be lived out in their time. They took the biblical religion of Moses, which included sacrifices, purity rituals, agricultural festivals and so forth, and translated them into ways new generations of Jews could be Jewish. In this way, the process of creating *halakhah* became a way for the rabbis to define who they were through the lens of traditional Jewish values (Washofsky, 2001, pp. xiv-xviii).

Today, as many of my previous religious school students noticed, we live in a much different social context than that of the Early Rabbis. As modern Jews, we

must create new ways to apply the Jewish values and ideas that we inherit from our predecessors. Engaging in a *halakhic process* can be a way to accomplish continuity by both understanding the interpretations of those that came before us and taking our seat in the eternal conversation. Interpretation teaches us that tradition contains the sources for the creation of something new with our active participation (Ellenson, 2016, pp. 38-63).

Halakhah, as defined by Dr. Rachel Adler, is a way of moving forward by continually creating new interpretations and actions that apply values and commitments inherent to the Jewish story to a particular time period. This definition differs from another definition of *halakhah*, which designates a normative prescription of "what one ought to do" (Roth, 1986, p. 1). Reform Judaism acknowledges that modern Jews may have difficulty applying the actions and decisions created by the rabbis long ago in ways that feel authentic in the present era. Therefore, it has adopted the notion, *choice through knowledge*, the idea that one should learn about normative prescriptions and then choose the ones that seem to fit one's lifestyle and values (Adler, 1998, pp. 23-28).

Choice through knowledge, though, is a challenging endeavor for contemporary Jews. According to Dr. Mark Washofsky, the problem with "*choice through knowledge*" is that this overused slogan is empty and lacking specific content. Rather, if we teach Reform Jews how to engage in a *halakhic process*, they will gain a more sophisticated ability to define themselves and their communities in accordance with values and stories of Judaism in their present context. Washofsky

concludes, “In other words by focusing on *halakhah* as a process, we move closer to what it’s all about” (M. Washofsky, personal communication, December 29, 2017).

Dr. Jacob Petuchowski provides some ground rules for how Reform Jews can engage in this process. He suggests there should be an investigation into the main thrust of the Jewish millennial tradition, a definition of the context in which one finds him or herself personally, attention to one’s individual conscience and an accountability to the covenantal community (Petuchowski, 1979, pp. 116-125). Through both study and reinterpretation of laws, participating in the *halakhic* process will enable Jews to define themselves today in light of the values and stories which stem from Jewish tradition.

Teenagers are at a pivotal time in their lives when they are searching for ways to define themselves in the world. As teenagers gain independence, they have the opportunity to create their own way of living that is no longer dependent on their parents. By teaching them how to engage in the *halakhic* process, these teenagers will learn to be responsible and think creatively about how to apply ethical Jewish values to their contemporary lives. In this way, teenagers will learn to define themselves with relation to both their modern context and to Judaism. Students will become translators for their time just as the Early Rabbis were for theirs. As a result, Judaism can become a more authentic and holistic expression of their everyday lives.

Halakhah can be seen not only as a product of individual interpretation but also of public discourse. While this curriculum will help students to think individually it will also give them the opportunity to experience how important

community is for studying texts and for reinterpretation in order to truly create authentic Jewish expressions. Washofsky explains that in order to understand the *halakhic* process, we must see the similarities between it and the legal process. He says that law develops over time through a practice of argument enabling the otherwise fixed words of old legal texts to be applied to new cases and situations. He says the same can be said for *halakhah*.

> Precisely *what* the texts of Torah and Talmud and the medieval codes, commentaries, and responsa *mean* - that is, how they are to be understood as speaking to present-day reality - is a question that the texts do not answer by themselves. That meaning arises out of the ongoing *process* of argument carried out within the recognized community of interpretation. So when I think of a "Reform halakhic process," I think of an ongoing process of argument over the meaning of a set of texts that we have inherited from our predecessors (who preceded us in this ongoing argument and whose opinions we take seriously, even if we are free to dissent from them). (M. Washofsky, personal communication, December 29, 2017).

Typically, *halakhah* is divided into the categories of rituals and ethics. In order for this curriculum to appeal to teenagers, it will need to cover areas of *halakhah* which teenagers have questions about and are already actively seeking to define themselves within. *Onaa't dvarim*, or the area of *halakhah* that concerns itself with hurtful words, and *kibbud av v'eim*, or the area of *halakhah* that deals with the way children show respect towards their parents, are both fertile ethical areas of exploration for teenagers. By learning to engage in the *halakhic* process as outlined by Petuchowski and further described by Washofsky, teenagers can begin to answer challenging questions and define themselves in accordance with the stories and values of Judaism.

To prepare learners to creatively engage in the *halakhic* process, students will spend time learning about the ways *halakhah* can be defined, the development

of *halakhah* over time, Jewish values and how different communities of Jews may choose to engage with such a process. In order to get a basic sense of how Jewish textual interpretation works, students will spend a part of the curriculum learning skills of *hevrutah* and interpretation. Then, students will begin to uncover the *halakhic* process by studying the *halakhic* concept of *hashavat aveidah.* I believe this area of Jewish law about returning lost objects, is an accessible area of *halakhah* to study first because it is both conceptually concrete and relatable to all people. Following this part of the curriculum, students will be looking at the way Reform Jews have used *tshuvot* to engage in the *halakhic* process. Finally, by looking at a range of textual sources for *halakhah* in the areas *onaat d'vrarim* and *kibbud* av *va'eim,* learners will come to see patterns in how Reform Jews such as themselves can engage in the *halakhic* process and create their own interpretations.

This curriculum is based on the following enduring understandings:

1. *Halakhah*, like law, draws upon a process of argument enabling otherwise fixed words of old legal texts to be applied to new cases and situations.
2. *Halakhah* translates stories of Jews and ethical values of Judaism into ongoing action.
3. Investigation into the main thrust of the Jewish millennial tradition, a definition of the context in which one finds one's self personally, attention to one's individual conscience and an accountability to the covenantal community provides a way for Reform Jews to engage in a *halakhic* process.
4. Interpretation allows new meaning to emerge from Jewish sacred texts through a culture of argument.
5. The creative process of *halakhah* encourages individuals and communities to define themselves within a Jewish framework.

Note to The Teacher

Dear Educator,

I am thrilled that you are considering the use of my Curriculum Guide on the *halakhic* process. This guide is geared towards a post-confirmation age group of 11th-12th grade students for several reasons. First, the guide utilizes high-level thinking that is most appropriate for this age group. Second, the guide sets out a progressive approach to *halakhah* that could be extremely beneficial for emerging young adults who are preparing to make a transition from high school to college. If you are searching for a curriculum to educate this kind of audience, specifically in a Reform Jewish context, this curriculum guide may be perfect for you.

Teenagers, especially before college, are rapidly trying to define themselves. By teaching them to engage in the *halakhic* process, we can empower them to do so in a Jewish way and by speaking a Jewish language. This curriculum guide not only has the explicit goals of enabling teens to make meaning in their life through the Jewish way of *halakhah*, but also will allow your learners to grow in a few other areas. The learners will hopefully become more competent with their skills in *hevrutah,* interpretation and text. Therefore, teenagers that engage with this curriculum will exit more personally connected to Judaism and prepared to be a part of the larger Jewish conversation that exists both within and outside of Reform Judaism.

The educator for this curriculum should be experienced in teaching teenagers and ideally have a baseline relationship with them. The teenagers will be more excited and comfortable engaging with the material if they feel as if they can trust the educator and that their needs are understood by whoever this person might be. Additionally, the educator should ideally be both proficient and interested in the study of text. By text skills, I do not necessarily mean that the educator must be excellent at Hebrew, but rather they should be comfortable engaging in the study and interpretation of Jewish texts. (The texts are all accompanied by English translations, provided from the Jewish Publication Society unless otherwise noted.) The educator's relationship to text will be imperative to a successful experience teaching this curriculum guide.

In order to maximize your potential success in teaching this curriculum guide, there are a few background resources I would suggest either reading or at least familiarizing oneself with. First, to better understand the way I define *halakhah* in this curriculum beginning in Unit 1, I suggest reading "Here Comes Skotsl: Renewing Halakhah" by Rachel Adler, in *Engendering Judaism* (Adler, 1998, pp. 21-59). Next, I also highly recommend reading or at least skimming *A Philosophy of Hevrutah* by Elie Holzer and Orit Kent (Holzer & Kent, 2014). Even if the educator feels skilled in the area of *hevrutah* learning and textual interpretation, this book provides a very clear foundation on the best practices with how to teach these skills to students, which I base each lesson of unit two upon. Finally, I suggest reading the chapter "The Study and To Do" by Jaokob Petushowski, in *Ever Since Sinai* (Petuchowski, 1979, pp. 103-125). This source, which the students will read a part

of in Unit three, provides a foundation for the *halakhic* process that this curriculum is based on. Not only will these three sources help you to be prepared to teach the content of this curriculum, but also, they will help you understand why the curriculum is structured the way it is.

Before I say more, I want to preview for you the way this curriculum guide is structured. The first three units are introductory ones. Unit one introduces the concept of *halakhah,* unit two introduces the skills of *hevrutah* and interpretation and unit three introduces the *halakhic* process as defined by Petuchcowski. Each of these units builds upon the one which comes before it and therefore it is unadvisable to do them out of order. Units four and five, however, do not directly depend on each other and could conceivably be done in the opposite order with some minor adjustments, which I will make note of in the units themselves. Both of these units apply the *halakhic* process to the *halakhic* areas of *onaat devarim* (words that hurt) and *kibbud av va'eim* (respecting your mother and mother). Each individual lesson is designed to take an hour and half. You may, of course adjust that timing based on your own classroom needs.

Please be advised, that this curriculum guide is not meant to teach students about the entirety of the three areas of *halakhah* included in units three, four and five. Rather, the focus is on exposing students to the *halakhic* process and the skills by which they will need to be comfortable utilizing this process when they finish this course. The process can be difficult to remember. If you notice your students are challenged beyond the ways this curriculum provides to reinforce and help students recall the process, you may need to improvise based on the needs of your

students. It is my hope that teens will find the *halakhic* process meaningful for their lives and become able to themselves in this specifically Jewish way in the future. I also hope you the educator will find this curriculum to be useful, meaningful and an exciting choice for the education of the teenagers in your institution. If there is anything I can do to help you as you prepare to teach this curriculum or while you are teaching it, please do not hesitate to reach out to me. I will be happy to assist you in whatever way I can.

B'hatzlacha,

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Scope and Sequence

Unit 1: Defining *Halakhah*, Defining Ourselves

This unit will introduce various definitions of *halakhah* including the definition of Reform *halakhah* that will be used for the duration of the curriculum. This curriculum will define *halakhah* as a way forward by continually reinterpreting Jewish texts to create actions that apply values and commitments inherent to a Jewish story and to a particular time period. In order to break apart this definition of *halakhah*, the unit will help students explore the development of *halakhah* through time by exposing them to Bible, Talmud and Codes as new interpretations of Jewish texts in different periods of time. Then, students will examine what are Jewish values and their connection to *halakhah*, Finally, this unit will conclude with an opportunity for students to explore how *halakhah* can be meaningful for the lives of Reform Jewish teenagers.

- **Curriculum Pre-assessment:** Based on everything student learned in this unit they will have the opportunity to define *halakhah* in their own words and how they can envision themselves being defined by it. This definition can evolve, but by doing this exercise at the beginning of the curriculum students will be able to see how much they have learned about *halakhah* when they repeat this exercise at the end.

Unit 2: The Art of Interpretation

This unit will teach students how to become skilled *hevrutah* partners and interpreters of Jewish text. Therefore, the unit will provide students with some guidelines for both. By the end of the unit, students will hopefully be able to see that through a sound process of interpretation Jewish tradition contains the sources for something new.

- **Authentic Assessment:** Using everything students have learned about interpretation in this unit, they will create a piece of art that can take the form of a visual, song, play, dance, story, etc. The piece of art should depict the interpretation that students began in lesson two on Exodus 24:7-18, from the end of *Parshat Mishpatim*. Students will need to complete the full cycle of interpretation that they learned about in this unit before creating their piece of art.

Unit 3: Uncovering the *Halakhic* Process: A Study of *Hashavat Aveidah*- Returning Lost Objects (Scripted Unit)

This unit will first compare the *halakhic* process and the American legal process. Then, it will guide students through the Reform *halakhhic* process as described by Mark Washofsky and further outlined by Jacob Petuchowski's four criteria. By studying *hashavat aveida*, learners will uncover the four distinct criteria for the Reform *halakhic* process: the main thrust Jewish value, realizing context, being true to yourself and finally accountability to the covenantal community.

- **Memorable Moment**: At the beginning of this unit, students will have the opportunity to hear a lecture by either a local constitutional law professor or lawyer on the similarities between the American and Jewish legal process. The lecturer will then supervise the students as they explore a variety of Supreme Court Decisions to better understand how the American legal process works.

Unit 4: Putting The Process in Motion: A Study of *Onaat Devarim*- Words That Hurt

In this unit, students will use their knowledge of interpretation and the *halakhic* process to study *Onaat Devarim* (hurtful words). This relatable area of law for teenagers will include *hevrutah* study, moving from Bible to Codes. In this unit, the question, "How Do We Apply this *halakhic* area to our modern and technological context including social media?" will be asked and answered by groups of students in the form of *responsa*.

- **Authentic Assessment:** Learners will work together to create their own specific *sheilah* (question) and *tshuvah* (answer) based on their study of texts in this unit and their understanding of the context they find themselves in. These *responsa* will be presented to the class in the final lesson of this unit.

Unit 5: Defining Ourselves In Relation to Our Parents: A Study of *Kibbud Av Va'eim*

As teenagers, one of the most challenging tasks is for one to define themselves in relation to their parents. In this unit, students will move through the *halakhic* process once again, but this time with even less guidance from the instructor. They will study texts on the *halakhic* area of *kibbud av va'eim* moving from Bible to Codes. Once they have finished investigating the main thrust of *kibbud av va'eim*, they will work individually to craft a narrative, which describes their own social context.

Based on this narrative, they will pose their own specific question related to defining themselves in relation to their parents. Then, they will be charged with answering this question for themselves using their interpretive work on the texts, in a way that both keeps them accountable to their individual conscience and responsible to the community to the extent that it applies.

- **Authentic Assessment**: Students will work individually to create their own *responsa* which asks a specific question about how to apply the main thrust of *kibbud av va'eim* to a piece of their life which they find challenging and answer it based on their study of text in this unit.

Unit 6: Reflecting on the Unit

According to Wiggins and McTighe, the highest form of understanding is self-knowledge. The goal is for the students to be able to act moving forward based on what they understand about the *halakhic* process. The curriculum will end with a final reflection about how the students feel about *halakhah* at the end of this curriculum and how they will be able to use the *halakhic* process to help them continue to define themselves Jewishly in the future. As Wiggins and McTighe suggests, reflection is what allows self-knowledge to transpire into action (Wiggins & McTighe, 2006, pp. 100-103).

- **Curriculum Assessment**: In this multi part assessment, learners will write a definition of *halakhah* in their own words and then compare and contrast it to the one they wrote at the end of Unit 1 during the Curriculum Pre-Assessment. Then, learners will answer the following questions of reflection:
    1. How has my definition of *halakhah* evolved throughout this curriculum?
    2. How has the *halakhic* process allowed me to define myself in a Jewish way?

Unit 1: Defining Halakhah, Defining Ourselves

Unit Summary

This unit will introduce various definitions of *halakhah* including the definition of Reform *halakhah* that will be used for the duration of the curriculum. This curriculum will define *halakhah* as a way forward by continually reinterpreting Jewish texts to create actions that apply values and commitments inherent to a Jewish story and to a particular time period. In order to break apart this definition of *halakhah*, the unit will help students explore the development of *halakhah* through time by exposing them to Bible, Talmud and Codes as new interpretations of Jewish texts in different periods of time. Then, students will examine what are Jewish values and their connection to *halakhah*, Finally, this unit will conclude with an opportunity for students to explore how *halakhah* can be meaningful for the lives of Reform Jewish teenagers.

Unit Enduring Understandings

1. *Halakhah* translates stories of Jews and ethical values of Judaism into ongoing action.
2. The creative process of *halakhah* encourages individuals and communities to define themselves within a Jewish framework.

Unit Essential Questions

1. What is *halakhah*? How is *halakhah* similar to law?
2. What are Jewish values and how do they relate to *halakhah*?
3. Why should I care about *halakhah* as a Reform Jew?

Lesson 1: Defining *Halakhah*

Essential Questions

1. What is *halakhah*? How is *halakhah* similar to law?
2. How does the way I define *halakhah* reflect my beliefs about Judaism?

Goals (*As an educator, I want to show students…*)

1. The similarities between laws/rules and *halakhah*
2. How the way we engage with *halakhah* depends upon the way it is defined
3. How *halakhah* is a defining characteristic of each of the major streams of Judaism

Objectives (*Students will be able to…*)

1. Translate the meaning of *halakhah* from Hebrew to English.
2. Compare and contrast the Reform, Conservative and Orthodox beliefs about *halakhah*.
3. Define *halakhah* for Reform, Conservative and Orthodox Judaism.

Materials

- Sample Code of Conduct- (or use your institution's code of conduct for Religious School) See Appendix 1.1A
- Scavenger Hunt Materials-See Appendix 1.1B
- Supplementary Reading Materials for Activity 2- See Appendix 1.1C-F
- Pencils/Pens/Highlighters
- Folder[1]

[1] Note to The Teacher: Provide your students with a folder each lesson to help them keep all of their resources together throughout the curriculum

Set Induction: Why Do We Need Rules?[2]

1. Give the students a few minutes to read through the code of conduct with a partner. Have each partner underline the three rules they think are most important.
2. Next, have each partner explain how the rules they selected are connected to each Jewish value.
3. Now, come back together and ask the students to discuss, what is a rule[3]?
4. Say: Judaism creates a system of meaning through something similar to rules called *halakhah.* It comes from the root HLKh which means to walk or go. As we begin to define this word for ourselves, we are going to "go on a walk" to discover its meaning for us as Reform Jews.

Activity 1: Scavenger Hunt[4]

Tell students they are going to "go on a walk" to discover the meaning of *halakhah* for themselves: *Halakhah* is an act of moving forward![5] The students will collect clues that will move them forward to places throughout the building. In each location, they will be given a new defining element of *halakhah* and the clue which will take them to the next place where they can learn more about it. Here is a list of the elements and locations, which should be included in the scavenger hunt. See Appendix 1.1B.

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[2] Note to the teacher: For this activity, ideally you should make copies of the Religious School Code of Conduct. If you do not have one, you will find a sample in the appendix to use for the sake of this activity.

[3] Rules= system of creating meaningful action in a given environment. The meaning is driven from the values upon which the rule is based. School is one place we live by rules which create a system of meaning. Judaism as a whole has its own version of laws called *halakhah.*

[4] Note to The Teacher: Before doing this activity, you should make sure you have permission to use spaces throughout the building of your institution and notify people to leave your slips of paper where you place them. Before the lesson, place your papers in their proper locations. If you do not have all the spaces listed in this activity, you may modify based on the available spaces. If so, you may also have to modify the clues so that they still make sense.

[5] Rachel Adler, *Engendering Judaism: An Inclusive Theology And Ethics* (Philadelphia, Jewish Publication Society, 1998), 21.

- Authority/Obligation/Precedent[6]- Director of Education's Office/Rabbi's Office
- Time/ paradigm shift/flexibility- Social Hall/Any Flex Space
- Jewish Values- Sanctuary
- Action- Playground/Social Justice Area/Courtyard
- Development/Process- Kitchen

Activity 2: Construct a Class Definition of *Halakhah* For Each of the Major Branches of Judaism.

Option A: Guided Reading

1. Using each aspect of *halakhah* found on the scavenger hunt, students are going to break into three groups to define *halakhah* for the three largest branches of Judaism in the United States: Reform, Conservative and Orthodox Judaism. Each group should be assigned to one of the movements and use the resource for each movement as guidance to fill out the graphic organizer. See Appendix 1.1G.
    - Everyone Reads: The Source of *Halakhic* Authority- Appendix1.1C[7]
    - Reform Group: Reform Judaism and the *Halakhah*- Appendix 1.1D[8]
    - Conservative Group: Conservative Judaism and the *Halakhah*- Appendix 1.1E[9] (Begin on the middle of page 35)
    - Orthodox Group: The *Halakhic* Consensus- Appendix 1.1F[10]

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[6] Mark Washofsky, *Re-examining Progressive Halakhah,* ed. Walter Jacob and Moshe Zemer (New York: Berghan Books, 2002), 1-70.

[7] Moshe Zemer, *Evolving Halakhah: A Progressive Approach to Traditional Jewish Law* (Woodstock, VT: Jewish Lights Pub., 1999), 40-44.

[8] Mark Washofsky, *Jewish Living: A Guide to Contemporary Reform Practice* (New York: UAHC Press, 2001), xix-xxii.

[9] Mark Washofsky, *Dynamic Jewish Law:* Progressive *Halakhah-Essence and Applicatio*, ed. Walter Jacob and Mose Zemer (Tel-Aviv: Rodef Shalom Press, 1991), 35-38.

[10] Mark Washofsky, *Re-examining Progressive Halakhah*, ed. Walter Jacob and Moshe Zemer (New York: Berghahn Books, 2002), 28-33.

2. When students have completed their section of the graphic organizer, the class will reconvene to share their respective section so that by the end each person will have a complete graphic organizer.
3. Tell the class that the work we do in this course, since we are studying in a Reform Jewish Institution, will be based mostly on the Reform definition.

Option B: Panel of Rabbis

1. For this option, you may invite a Reform, Conservative and Orthodox Rabbi to come and sit on a panel about *halakhah*. Before they come to class, provide them with the graphic organizer in Appendix 1.1G so they know the focus of the panel. Students should fill out the graphic organizer as the panelists speak.
2. Ask the panelists to make a brief presentation that answers the following questions in 3-5 minutes
    - What movement of Judaism do you come from and what are its defining principles?
    - What is the role of *halakhah* in your movement?
        - Who has authority to determine it?
        - How flexible is it?
        - How does it relate to Jewish values?
        - How does it relate to action? Are certain actions more important than others?
        - Does *halakhah* progress over time? Is so, how?
    - Provide a chance for students to ask questions

Educational Closure

1. Ask the students how they feel about *halakhah* and this point. Why?
2. What is something they would like to know about it moving forward?
3. Ask for takeaways from the lesson.

Appendix 1.1A

DERECH ERETZ - FAIR CONDUCT CODE

The faculty and staff of are committed to standards of excellence, both in student personal growth and in academic accomplishments.

"If I am not for myself, who will be for me?
If I am only for myself, what am I?
If not now, when?"

At our school we interpret Hillel's statement in the following way:

"If I am not for myself, who will be for me?" We believe that in order to foster a sense of self-esteem, students must take responsibility for their actions and accomplishments, for their school supplies and their personal safety.

"If I am only for myself, what am I?" We believe that though students must take primary responsibility for themselves, they must not separate themselves from the school community through inappropriate behavior.

"If not now, when?" We believe that students must develop a sense of the importance of time and self-motivation, of beginning and completing a task in a timely manner. Also, the formative years are the years to learn the concepts addressed -- and NOW is the time.

Hillel's statement can be considered the introduction to our Fair Conduct Code. We believe that discipline should be dealt with on an educational level, not a punitive one.

The following basic principles support our curriculum for teaching responsible behavior at School:

1. School is a place for the business of learning.
   (Talmud Torah.)
2. Respect for the rights and feelings of others.
   (V'Ahavta L're'acha Kamocha.)
3. Respect and responsibility for the community.
   (Al Tifrosh Min Hatzibur.)
4. Responsibility for the safety of self and others.
   (Kol Yisrael Areivim Zeh Lazeh.)
5. Respect and responsibility for the environment and property.
   (Bal Tash-chit.)
6. Responsibility for one's own actions.
   (Im Ein Ani Li Mi Li.)

School seeks to establish a school environment which enables students to successfully pursue the serious job of learning.

A proper school environment, which is comfortable and unstressful yet has firm behavioral expectations, is essential for intellectual, social and emotional development of students. Appropriate behavior is a prerequisite for learning. It is expected that all students will conduct themselves in a way that does not interfere with the classroom instructional process or with the rights of others.

The following rules have been established with the goal that students internalize the basic principles of conduct and behave accordingly.

School is a place for the business of learning (Talmud Torah)

- Be in attendance at all required times.
- Don't bring games, toys, electric games, trading cards, comic books, walkman or sports equipment unless designated by a teacher.
- Come to school prepared with necessary supplies, texts and homework.

Respect for the rights and feelings of others (V'Ahavta L're'acha Kamocha)

- Students should share and take turns using equipment and while playing games.
- Students shall eat politely. No food, drink or wrapping shall be thrown and students should clean up after themselves.
- Students shall show respect to others by proper conduct in their language, manners, and not touching others' possessions.
- Students shall keep their hands to themselves.
- Students are to use bathrooms only for personal toilet needs. Bathrooms are to be kept clean.

Respect and responsibility for the community (Al Tifrosh Min Hatzibur)

- Out of consideration for other students and teachers, students shall maintain quiet in the halls.
- The blessings before and after meals should be recited with respect.
- In assemblies, students should sit quietly while awaiting instructions, and should watch and listen attentively to the person in charge. (Inappropriate noises such as booing are unacceptable behavior.)
- Students will enter the Sanctuary quietly and with reverence and go directly to their assigned seats.

Responsibility for the safety of self and others (Kol Yisrael Areivim Zeh Lazeh)

- Only walking is permitted in hallways.
- Students shall walk in an orderly fashion and should stay to the right when walking in the hallways and from place to place.
- Students may not play tag or chase during recess periods.
- Students shall play and walk safely (no pushing, shoving, tripping).
- Students in grades K-2 shall sit in their grade level groups until they are dismissed at car pool pickup.
- Students may not be in the classroom unless a teacher is present.
- Students may not be picked up for car pool at the bottom of

Respect and responsibility for the environment and property
(Bal Tashchit)

- Students shall walk in the halls without touching the walls or bulletin boards.
- All playground equipment must be used only in the appropriate manner for which it was intended and shall be returned to its proper place after use.
- Students shall use waste receptacles for litter.
- Students shall walk in designated areas only (not on walls, rocks or through plants or gardens).
- Students shall not chew gum in school.

Responsibility for one's own actions (Im Ein Ani Li Mi Li)

- Students will hang hats and jackets in lockers (cubbies).
- Except for group projects, students will do their own work.

In order to help students learn appropriate behavior, any one of the following consequences may be assigned:

- The teacher will talk to the student privately.
- Teacher and student will have an informal discussion to develop a contract.
- The school counselor will meet with the student in order to make a plan of action.
- The teacher will notify the parents.
- A formal conference with teacher, student, parents, counselor or principal will be held to establish a plan.

SERIOUS BREACHES OF PROPER CONDUCT

Students must refrain from doing the following during school and/or school sponsored activities:

- Fighting, or endangering the safety of others.
- Emotionally harassing another child.
- Stealing property belonging to the school, teachers, students, staff or others on campus.
- Direct disobedience or willful disrespect of teachers or other adults.
- Causing damage to school property or the property of others.

Consequences for not following these rules will be based on the severity of the infraction and may include one or more of the following:

- The teacher will discuss and develop a plan of action (this plan will be documented and given to the school counselor and/or director).
- A formal conference with teacher, student, parents, counselor or director will be held to devise a plan.
- Early morning school service.
- Expulsion

Appendix 1.1B

Clue: Go to the place where authority over the religious school resides. You may be sent here if you choose not to abide. (Director of Religious School's Office)

Authority/Precedent= This aspect of *halakhah* has to do with who can decide the *halakhah* and how binding it is on your life.

Clue: Go the place that no matter the social gathering or the time, the flexibility allows this space to accommodate and be designated as prime. (Social Hall)

Time/Flexibility= This aspect of *halakhah* has to the degree of rigidity or flexibility with which one approaches it. As times change, as social context changes, does *halkhah* change?

Clue: Go to the place where we come together to pray, you will find your clue in the spot which physically holds the heart of our Jewish values system every day.

Jewish Values= Derived from the Torah, these ethical values are a critical piece of Judaism. They are at the core of the *halakhic* system, you just have to look.

Clue: Go to the place where kids like to play, it certainly does not matter what day. (Playground)

Action= Judaism is a religion of action. *Halakhah* takes Jewish values/mitzvot and turns them into action that Jews can live by.

Clue: Go to the place where we make lots of yummy food, no matter how long the process takes the cooking will put you in a good mood.

Development/Process= The progression of *halakhah* can be traced through a number of periods and Jewish texts. Thus, *halakhah* can be understood as a process.

principles—themselves enshrined in Halakhah—by which the Torah is expounded. Thus, there is no reason why decisors of the present generation may not rule leniently and permit what is at first sight questionable or forbidden, in accordance with the demands of ethics, their conscience, and evolving Halakhah.

But can all halakhic problems be solved by application of the halakhic methods for leniency? Down through the ages, rabbis wrestled with many difficult problems and found solutions to a large proportion of them—but certainly not all of them. They often found ways to erase the blot of halakhic illegitimacy,[6] once this had come to light, but rarely to permit a *kohen* to marry a convert to Judaism or a divorcée.[7] Even when they did find grounds for permitting such exceptions, frequently they were unwilling for their leniency to be cited as a precedent for similar cases that might arise in the future.

To clarify these questions further, we must now turn our attention to two fundamental issues: (1) the source of halakhic authority and (2) the criteria for halakhic rulings.

The Source of Halakhic Authority

One obstacle to the attempts to rule flexibly and apply lenient postulates from the distant past derives from an attitude toward halakhic authority that is based on a fundamentalist conception of the essence and significance of divine revelation.

The view of halakhic authority held by Orthodox Judaism is quite different from that maintained by Progressive Jews. This latter term refers here to certain circles of rabbis and scholars affiliated with the Movement for Progressive Judaism (which goes by the names "Reform," "Liberal," or "Progressive"), with the Masorti (Conservative) Movement, and with the Reconstructionist Movement, and a number of Modern Orthodox rabbis. Milton Steinberg categorized the outlook of these circles as "modernist" (a term I shall use frequently below), as opposed to the "traditionalist" approach of Jews with a fundamentalist philosophy.[8] In fact,

this difference is perhaps the major source of contention between Orthodox and non-Orthodox decisors. The Orthodox stance is summarized in a brief submitted by the Chief Rabbinate Council in response to a suit brought by the Israel Movement for Progressive Judaism, asking that its rabbis be granted the status of marriage registrars and the right to officiate at weddings in Israel.

The Rabbinate's brief advanced two main arguments: (1) The Torah given to Moses on Mount Sinai and the rulings of the Sages have absolute authority. (2) Nothing may be changed in Halakhah, whether in response to contemporary circumstances or to the urgings of individual conscience.

For the Chief Rabbinate, the postulate that the Torah given to Moses on Mount Sinai and the rulings of the Sages have absolute authority means that the opinions and practices of Jews who do not accept these basic tenets are religiously invalid, because such persons "do not see themselves bound [literally "chained"] by the Torah given to Moses on Sinai, and . . . by the rulings of the Sages over the generations and decisors throughout Jewish history."[9]

Although the Chief Rabbinate offered no textual support for its position that Halakhah is static and immutable because the Revelation on Mount Sinai was a one-time event valid for all generations, there are classical texts that may be interpreted as supporting this view. Citing the verse "these are the laws, rules, and instructions that the Lord established, through Moses on Mount Sinai, between Himself and the Israelite people" (Lev. 26:46), the Sages Ramarked that "this teaches that the Torah—its laws, details, and interpretations—was given through Moses on Sinai" (*Sifra, Beḥukotai* 8:12). In the Gemara, Rabbi Simeon ben Lakish holds that not only the Torah—that is, the Pentateuch—but also the Prophets and the Hagiographa, the Mishna and the Gemara, were all given at Mount Sinai (BT Berakhot 5a).

If everything was already revealed at Sinai, there is no room for innovation and change. Indeed, the conclusion inferred from the concept of a perfect revelation at Sinai is that "no prophet is permitted to innovate in any matter from this time on" (BT Shabbat 104a). If prophets are so restricted, how much the more are rabbis and scholars: "Even what a long-time student will one day

expound before his teacher was already given to Moses at Sinai" (JT Pe'ah 2:4). It is this fundamentalist position that leads most Orthodox thinkers to reject the historical and scientific view of the evolving nature of the Bible and rabbinic literature held by modernist Jewish scholars.

On the other hand, there are also many passages in which the Sages recognized the fact that Judaism changes. Consider the well-known midrash that Moses visited the academy of Rabbi Akiba (early second century) but "did not understand their discourse [about the Torah he had received] and felt faint." Only when a student asked Rabbi Akiba for the source of his teaching, and the Sage replied that "it is a Halakhah given to Moses on Sinai," did Moses recover (BT Menaḥot 29b).

For the British Rabbi Louis Jacobs, this midrash could be interpreted as follows:

> The Torah that Akiba was teaching was so different from the Torah given to Moses because the social, economic, political, and religious conditions were so different in Akiba's day that, at first, Moses could not recognize his Torah in the Torah taught by Akiba. But he was reassured when he realized that Akiba's Torah was implicit in his Torah, was, indeed, an attempt to make his Torah relevant to the spiritual needs of Jews in the age of Akiba.[10]

Rabbi Jacobs' conclusion is buttressed by a statement of Rabbi Jose bar Ḥanina (a third-century Palestinian *amora*): "Matters that were not revealed to Moses were revealed to Rabbi Akiba and his colleagues" (Exodus Rabbah 5:9). This idea is at variance with the passage quoted above from the Jerusalem Talmud, which holds that anything that a Sage might ever expound had already been taught to Moses on Sinai.[11] But it reflects a recognition of a process that develops and supplements the Torah given at Sinai. The foundation of the authority to make innovations in the Torah, which troubled many generations, was expressed clearly by the fifteenth-century Spanish Jewish philosopher Rabbi Joseph Albo:

> The Written Law cannot be understood except with the Oral Law; and the law of God cannot be perfect so as to be adequate for all times, because the ever-new circumstances of human relations, their judgments and their actions, are too numerous to be embraced in a book.
>
> Therefore Moses was given orally certain general principles, only briefly alluded to in the Torah, by means of which the Sages may work out the newly emerging particulars in every generation.[12]

Albo understood that no written book, not even the divine Torah, could contain all the rules and laws required by future generations. The Torah is not perfect, in the sense that it does not embrace all future knowledge. The constant, dynamic changes in human society make it impossible to record the particulars of all customs and provide an account of all epochs to come. Hence, the Oral Law includes general principles that make it possible for the wise scholars of every generation to apply them and interpret the Written Law for their own age. One cannot help contrasting Albo's dynamic approach to the evolution of Halakhah with the position of those who believe that it all began and ended at Sinai.

By analyzing these and many other passages, liberal scholarship has reached the conclusion that "long before the rise of modern criticism some of the Jewish teachers had a conception of revelation which leaves room for the idea of human cooperation with the divine."[13]

How is the divine will revealed in Halakhah? According to Jacobs,

> Revelation must be understood as a far more complicated and complex process of divine-human encounter and interaction and quite differently from the idea of direct divine communication of infallible laws and propositions, upon which the traditional theory of Halakhah depends. [14]

Evolving, modernist Halakhah, then, must be founded on such a reinterpretation of revelation. It relies on scholarly study of the classic texts of Judaism, which discovers variety, flexibility, and

creativity in Halakhah and draws on new information derived from archaeological excavations and documents unknown to our ancestors.

This theological-halakhic position has implications for the authority of traditional Halakhah. For the non-Orthodox Jew:

> The ultimate authority for determining which observances are binding upon the faithful Jew is the historical experience of the people of Israel, since, historically perceived, this is ultimately the sanction of the Halakhah itself.[15]

Serious modernist Jews accept or reject the content of Jewish tradition not out of convenience or caprice but as a matter of principle, based on their liberal theological understanding of revelation, history, and Halakhah.

The Principles and Criteria of Progressive Halakhah

In chapters 1 and 2 we noted the progressive principles that are part of the codified Halakhah and that permit evolution, change, and grappling with customs and conventions. Despite the vast potential latent in these principles, however, we encounter many obstacles to dealing with the severe problems of our day. Some serious problems seem to have no solution in the framework of Halakhah, despite the sagacious principles incorporated into Halakhah itself that make it possible to rule leniently. Most Orthodox decisors of our day hold that there is nothing to be done about such cases because they lack the authority to rule permissively. The rabbis of earlier generations could boldly issue lenient rulings—they say—because their command of the Torah exceeded ours. If there is no way to keep some unfortunate persons from suffering at the hands of the codified Halakhah, that is, unfortunately, simply the way of the Torah.

Some Orthodox rabbis contend that these obstacles reflect the

will of God, which is above human understanding. Hence, it is impossible to alleviate the suffering of those who cannot marry as they choose—the halakhically illegitimate and others—nor should one modify certain liturgical conventions, such as the prayer for the renewal of animal sacrifices in the Temple, or *Yekum Purkan,* an invocation in Aramaic recited every Sabbath on behalf of the welfare of the rabbis and scholars of the Land of Israel as well as their colleagues in Mesopotamia, who flourished more than a thousand years ago.

Modernist Jews have a different basic conception of the divine authority of Halakhah. The progressive view initiates and supports inquiry aimed at uncovering the latent principles of Halakhah and Jewish tradition and then applies them to reach halakhic decisions. Some of these principles may not fall into the category of codified Halakhah in the conventional sense of the term.

This theological position on the divine authority of Halakhah, together with a sensitivity to ethical concerns, inner spirituality, and social justice, is the crucial factor in the opinions issued by modernist halakhists. Some of the foremost thinkers of the twentieth century have set forth criteria for halakhic decision making and observance of the commandments by modern nonfundamentalist Jews. Most Orthodox decisors reject these criteria because the very process of choosing and selecting which traditional precepts should be observed is incompatible with the traditional view of the absolute authority of the divinely authored and sanctioned Halakhah.

The sections that follow review several principles and criteria for determining the halakhic attitude appropriate for modernist Jews. These principles have been gleaned from the writings of many thinkers affiliated with various streams of Judaism—Reform, Orthodox, Conservative. It is their approach to Halakhah, and not their movement affiliation, that warrants their inclusion here. Their concepts and criteria for rendering halakhic decisions are appropriate for a nonfundamentalist Halakhah. Although these criteria are not stated explicitly in the codified Halakhah, they are implicit in it and can be deduced from it.

pretation of the legal sources. Responsa are of immense importance to us as we study the history of Jewish law. They show us how the *halakhah* has developed over the centuries, case-by-case and step-by-step, quite literally in *response* to new questions, challenges, and uncertainties that previous generations had not resolved or even addressed. Responsa also afford us vivid examples of the rabbinic mind at work. In each responsum, we enter the rabbi's study, as it were, to watch an act of literary creation. We see the scholar take old texts and translate them into new statements of meaning, apply them to issues to which they have never before spoken, derive new understandings from words which have never been understood precisely in this way before. In each responsum, we listen to a rabbinic speech, a kind of legal sermon in which the rabbi formulates an argument that he hopes will persuade his intended readership to view the world of Torah and *halakhah* in *this* way as opposed to some other way.

This process affords us an important insight into the nature of Jewish law. In searching for a single idea which expresses the nature of *halakhah,* however imperfectly, we might well settle upon the word *conversation.* Jewish law is a dialogue among scholars, a discourse over the meaning of our sacred texts. In pursuing this age-old discourse, rabbis constantly rearrange the texts into new structures of meaning in order to respond to the challenges of the Jewish present and future. Like the printed page of the Talmud, which encompasses texts, commentaries, and commentaries-upon-commentaries that span fifteen centuries of rabbinic thought, *halakhah* is an arena of discussion in which the generations converse with one another, forward and backward in time, in a never-ending argument. The argument never ends because there are few answers to questions of Jewish law which are so clearly and obviously "right" as to preclude objection and criticism. It never ends because there are no short-cuts in Jewish law; there is no way to arrive at the answers one seeks except by way of the path of conversation. To determine the "correct" answers to questions of Torah is not a matter of rules and formulae, for *halakhah* knows of no automatic indices which can distinguish the right from the wrong interpretations. "Correct" answers emerge out of the process of argument that fills the Talmud and all the books written to explain it. They are tentative conclusions whose rightness is based upon the ability of one school of thought to persuade the community of rabbinic scholars that its point of view represents the best understanding of Torah and of God's de-

mands upon us. To engage in *halakhah*, therefore, is to take one's part in the discourse of the generations, to add one's own voice to the chorus of conversation and argument that has for nearly two millennia been the form and substance of Jewish law.

Reform Judaism and the Halakhah

The Reform movement, over the two centuries of its history, has taken an active participating role in this conversation. It has always concerned itself with matters of *halakhah*, and the language of *halakhah* has always served as its means of religious expression. In the formative period of Reform Judaism, in both Europe and America, Reform scholars and thinkers sought to explain and justify in halakhic terms the innovations they introduced into Jewish religious observance. They did this out of their conviction that this "new" Judaism was a direct continuation of the rabbinic religion that was the common heritage of all Jews. Thus they wrote responsa which attempted to demonstrate that their innovations in Jewish ritual, such as prayer in the vernacular, the use of instrumental music at services, and the placing of the *bimah* at the front rather than in the center of the sanctuary, were entirely consistent with Jewish law.

This Reform halakhic literature waned after several decades. Many reformers sought to explain their position in terms of the forces of historical development rather than through the dialectics of talmudic argument and found responsa ill-suited to their purpose. Others, the so-called "radical reformers," who saw their religion as a revolutionary new phenomenon in Judaism, broke sharply with the rabbinic-halakhic heritage. This was especially true in the United States, where Reform Judaism developed in a most radical direction. Yet halakhic language never disappeared from Reform Jewish speech, nor were subjects of halakhic importance dropped from the movement's agenda. The *Yearbooks* of the Central Conference of American Rabbis (CCAR), which began to appear during the height of the "radical" period in 1890, contain numerous lectures, papers, and debates devoted to questions of ritual observance in which halakhic literature plays a central role.

In recent decades, moreover, North American Reform has turned away from radicalism and toward a renewed interest in religious observance, an interest marked by the appearance of such guides to ritual

practice as *A Guide for Reform Jews* by Frederic Doppelt and David Polish (1957) and *Liberal Judaism at Home* by Morrison D. Bial (1971). While these were works of individual scholars, during the 1970s and 1980s the CCAR itself, through the agency of its Committee on Reform Jewish Practice, published comprehensive guides to religious observance, which were and are widely distributed among North American Reform congregations. *A Shabbat Manual* (1972), *Gates of Mitzvah* (1979), *Gates of the Seasons* (1983), and *Gates of Shabbat* (1991) describe the central elements of Jewish observance as interpreted by Reform Judaism, and all of them draw deeply upon the literature of Talmud and *halakhah*. The editions of the CCAR *Rabbi's Manual* and the two volumes of *Gates of Understanding*, the commentaries to the prayerbooks currently published by the CCAR, offer explanations of Reform practice in life-cycle ceremonies and in liturgy that are replete with references to the Talmud, codes, and responsa literature. Perhaps the most systematic and ambitious of all these works is Solomon B. Freehof's classic *Reform Jewish Practice in Its Rabbinic Background,* which attempts to "describe present-day Reform Jewish practices and the traditional rabbinic laws from which they are derived." And then there are the responsa, hundreds of decisions and opinions on questions of Jewish practice issued by the Responsa Committee of the CCAR, which has existed since 1906, and by individual Reform rabbis, most notably Solomon B. Freehof, the author of eight volumes of responsa. These essays and decisions, taken together, constitute the largest single body of Reform Jewish thinking on matters of observance and practice. And like the responsa literature in general, Reform responsa are essentially *halakhic* documents: they speak in halakhic terms, cite halakhic sources, and reach their conclusions through a process that students of halakhic literature would find quite familiar.

How do we explain this record of writing, this continuing attachment to *halakhah* and its literature in a "non-halakhic" movement which has rejected the authority of Jewish law? The only reasonable answer is that this rejection was never as drastic as it may have seemed. Reform Judaism may indeed have dispensed with the "rule of law," the notion that every religious question must be submitted to rabbis for authoritative judgment, but it did not discard the law itself, the substance of halakhic observance as it has come down to us. That substance can be seen quite clearly in the concrete religious life of Reform Judaism. The forms of our religious practice are all based upon "traditional" Jewish models,

which are *rabbinic* and *halakhic* in nature. Consider for a moment some of the more prominent features of Reform observance. When we gather in our synagogues to worship, we recite a liturgy whose fundamental elements—the recitation of the *Shema*, the *Tefillah*, the reading of the Torah, benedictions recited at various occasions—are described and defined for us in the Mishnah and the Talmud. When we celebrate our holy days—when we kindle the Sabbath and *yom tov* candles, say *Kiddush*, and eat the festive meal; when we conduct our Pesach Seder; when we build and sit in the *sukkah*, when we take the *lulav* and *etrog*; when we hear the *shofar* on Rosh Hashanah and fast on Yom Kippur; when we joyfully observe Simchat Torah, Chanukah, and Purim—we are performing ritual acts rooted in the halakhic sources, rituals constructed out of sketchy or even non-existent biblical references. Then there are the ceremonies of the life cycle, the ways in which we mark such important moments as birth, marriage, and death. Some of these rituals are mentioned in the Bible, but we must turn to the halakhic literature to learn about them in detail. The very stuff of our religious life as Reform Jews, in other words, is halakhic. The ways we pray, celebrate, commemorate, and mourn, even in our liberal and modern style, are modes of sacred action that we have inherited from the rabbinic legal tradition. And it is to that tradition, to the Talmud and to the codes, the commentaries, and the responsa that we must turn if we wish to know this heritage and understand ourselves as Jews.

The reformers certainly created a new approach to Judaism which reflected a modern outlook on the world. Yet no matter how innovative or "radical" they may have been, they never created a brand new religion. Neither do we Reform Jews today define our religion as separate and distinct from the rabbinic Jewish heritage. Rather, Reform Judaism has always strived for a recognizably *Jewish* approach to religious life. And the standard by which we measure "Jewishness" is not one of our own creation but one that links our religious experience to that of other Jews. Reform Judaism cannot be understood without reference to the rabbinic tradition from which it emerged and which continues to serve it as a source of inspiration, definition, and structure. Moreover, this tradition within which we define our Jewishness is a fundamentally halakhic one. It is in the literature of *halakhah* that the tradition speaks most directly and clearly to matters of ritual and ethical behavior and works out its answers to the eternal question: what precisely does God, our Partner in covenant, want us to *do*? To the extent that Judaism

mais alai is a case in point. The "lenient" opinion of Rashi and Rambam is rejected in no uncertain terms by R. Tam, Ramban, R. Shelomo b. Adret, R. Asher b. Yehiel,[22] R. Nissim Gerondi, R. Yitschak b. Sheshet Perfet and other luminaries, a rejection so complete that the position is not mentioned in the *Shulhan Arukh*. The commentators are in no doubt that the law here follows the consensus opinion,[23] and that opinion has never been challenged by subsequent authorities.[24] Thus, it is doubtful whether the rejected opinion is still an available alternative to the *halakhist*. What happens when a rabbi *does* challenge the historical consensus is illustrated by Berkovits himself. In 1966 he proposed his own *halakhic* innovation, a pre-nuptial stipulation agreed to by bride and groom that would annul the marriage in the event that the husband would one day arbitrarily refuse to issue his wife a divorce. This provoked a sharp response from R. Menachem Kasher, who contended that the Berkovits proposal did not overcome technical difficulties which had buried similar proposals in the past. Kasher's main point, however, was that Berkovits has no business contradicting the unequivocal ruling of the great *poskim* who prohibit the use of such a stipulation. During the course of the century a total of 1500 rabbis have explicitly rejected the institution of conditional marriage under any circumstances. The quality and quantity of this rabbinic opposition demonstrates that "there is no excuse to raise again a question which has already been examined and decided by all the sages of Israel. Their ruling must not be doubted."[25] Kasher expresses his scorn by never referring to Berkovits by name, but only as "a certain rabbi". Such is the fate of Jepthah when, even in the name of morality, he challenges the *halakhic* consensus.

This consensus, as understood by Kasher and by the leading *halakhic* scholars whom he cites, is not merely a tendency among rabbis toward extreme conservatism. It is presented as a working factor in *halakhic* theory, a principle that is recognized by the legal

system itself and which places strict limitations upon the freedom and discretion which the *halakhist* enjoys. That is, proposed rabbinic decisions, no matter how extensive their Talmudic justification or how urgent their appeal to ethical necessity, are invalid when they run counter to the consensus opinion of the preponderance of *halakhic* authorities. It hardly needs emphasis that the innovations championed by liberal *halakhists* generally do contradict the consensus. One who wishes to argue for the *halakhic* validity of these suggestions must therefore prove that the contemporary rabbi may safely ignore the weight of consensus. Berkovits, it must be concluded, does not do this. His portrayal of a *halakhic* process in which rabbinic discretion is the rule is thoroughly one-sided. It explains neither the realities of *halakhic* practice nor the rabbis' own conception of how the system functions.

On the other hand, there exists a rabbinate which does conduct its *halakhic* business according to the Berkovits guidelines. The rabbis of the Conservative movement of North America have long declared their loyalty to the traditional *halakhah*. At the same time, speaking as individuals or through the Committee on Jewish Law and Standards of the Rabbinical Assembly, they have frequently taken stands which are totally at odds with the position of the *halakhic* consensus. In *The Halakhic Process: A Systemic Analysis*,[26] Joel Roth, a leading *halakhic* authority for the Conservative movement, sets out to prove that the legal decisions of his movement meet the criteria of validity recognized by rabbinic law. He therefore confronts the same theoretical problem which faces Berkovits: may the contemporary authority ignore or overrule the *halakhic* consensus?

Like Berkovits, Roth studies the immanent rules and procedures of *halakhah*. He differs, however, in his effort to explain *halakhah* as a system much like all other legal systems. He draws heavily upon the literature of modern jurisprudence,

particularly the works of Hans Kelsen and John Salmond,[27] in helping to identify the "systemic" structure of rabbinic law. From Kelsen he adopts the notion of a *Grundnorm*, a postulated, pre-legal principle from which all other precepts of the legal system are derived. Such a concept exists in every system; in the *halakhic* system, the *Grundnorm* would read: "the document called the Torah embodies the word and will of God, which it behooves man to obey, and is, therefore, authoritative" (p. 9). Roth borrows Salmond's classification of all legal questions into questions of law and questions of fact, with the former divided into questions of law in the first sense (questions which the law has definitively answered) and questions of law in the second sense (questions as to what the law is). A question of law in the second sense is also a question of fact: that is, the judge must determine the true meaning of the words of a text, statute, or precedent. In the early stages of a legal system, most questions fall into this latter category. Over time, matters of uncertainty are gradually transposed into fixed, precise definitions and presumptions. Here the *halakhic* system differs from most others, since with the disappearance of the Sanhedrin there is no universally recognized body empowered to turn questions of fact into questions of law in the first sense. This implies a wider range of judicial discretion in *halakhah* than that existing in other systems. On all matters of legitimate *mahloket* - that is, "such that none of the positions can be legally demonstrated to be untenable or false" - the rabbinic arbiter remains free to exercise his discretion, even when an earlier authority has decided otherwise.

This discretion thrives in the *halakhah* even though a sense of the holiness of his task and of his inferiority compared with earlier scholars may deter the contemporary *halakhist* from rendering a decision "at variance with common practice or precedent." His freedom is guaranteed by the principle which Roth calls "the *sine qua non* of the system": *ein ladayan ela mah sheeinav*

ro-ot ("a judge must be guided by what he sees"). Indeed, Roth calls this "the ultimate systemic principle" of the *halakhah,* the "systemic legitimization of judges to exercise judicial discretion as they deem appropriate." *Halakhah* does not recognize a doctrine of authoritative precedent; the rulings of earlier sages do not attain the status of *davar mishnah* (uncontrovertible legal presumptions) but may be challenged by later scholars who can support their viewpoint through source citation and reasoning.[28]

If judicial discretion enjoys the status of "systemic imperative" in rabbinic law, then there is simply no room for "consensus" as a working principle in *halakhah*. Consensus has a certain predictive value: if rabbis have always ruled in a certain way on a particular issue, it is probable that they will continue to do so. Nevertheless, this tendency to legal stability in no way restricts the discretion of later authorities to dissent from that ruling. The only limit upon rabbinic discretion in a system whose ultimate principle is *ein laayan ela mah sheeinav ro-ot* lies in the integrity of the *halakhic* authority himself. This implies that he conform to two demands. First, the potential *halakhic* authority must be characterized by *yirat hashem*, religious behavior indicative of his fundamental commitment to the system. That is, he accepts the *Grundnorm* as the reflection of God's word and will and recognized the rabbis as the sole legitimate interpreters of the *Grundnorm*. Second, the decisions of this authority must be supported according to the rules of *halakhic* reasoning and interpretation. These constitute the criteria of validity in Roth's "*halakhic* process"; any ruling meeting these criteria is, by definition, valid *halakhah*.

On this basis, the *halakhic* innovations of the Conservative rabbinate qualify for *halakhic* legitimacy. If, for example, a potential authority committed to the *halakhic* system should drive to synagogue on Shabbat, this highly unprecedented practice is valid *halakhah* so long as the authority believes it to be

"systemically defensible." His may be a minority view, but by the systemic rules of *halakhah* it must be recognized as a legitimate option. The same would apply to other Conservative *halakhic* innovations, such as the *kashrut* of wines and cheeses, the counting of women in a *minyan*, and the resort to conditional marriage. All of these positions are justified through traditional methods of *halakhic* argumentation and issued by rabbis committed to the *halakhic* system and its basic norm. All of them may therefore claim validity, even though they run counter to the consensus positions among the *poskim*.

Still, this theory of *halakhic* validity will not be persuasive to most *halakhists*. Despite his sophisticated explanation of *halakhah* as a legal system, Roth, like Berkovits, underestimates the power of the *halakhic* consensus as a working factor within that system. Consensus, a widespread agreement among *halakhic* scholars on points of law, is more than a guide to and prediction of future rabbinic decision. It is itself a "systemic" principle, a controlling mechanism that restricts the rabbinic discretion which, according to Roth, is the ultimate "systemic" principle in *halakhah*. Rabbinic decision-making, in this view, involves considerably more than the purely intellectual confrontation between the individual scholar and the authoritative text. The *halakhic* tradition is more than text. It contains as well that which R. Joseph Soloveitchik calls the "Massorah of conduct," the generally accepted modes of Jewish religious observance. The effect of this Massorah upon the understanding of *halakhah* is underscored by an Orthodox critic in his review of Roth's book. "Once a particular opinion has become normative for the entire Jewish community," he writes, "it becomes an integral part of the 'Massorah of conduct' which can no longer be changed on the basis of purely intellectual considerations." Rabbis loyal to *halakhah* as traditionally conceived would never violate this practical Massorah. Thus, they would never permit driving to synagogue and turning on lights on Shabbat, regardless

of the textual justification that could be marshalled in defense of such rulings.[29] Liberal rabbis, who deviate from the 'Massorah of conduct' as defined by the preponderance of *halakhic* opinion, do not qualify as *halakhic* authorities; their writings, no matter how proficient in Talmudic analysis, are not to be regard as *halakhic* literature.[30]

Roth's theory, which attempts to explain the *halakhic* process while explaining away the *halakhic* consensus, is a conceptual model which explains how *halakhah* ought to work. Like other liberal approaches, however, it does not account for the way in which *halakhah* functions in the concrete world of rabbinic practice. For example, Roth's theory does not discuss the dominant role played by the *gedolei hador*, the leading *halakhic* authorities, in shaping *halakhic* practice. Unlike judges in a Kelsenian system, the *gedolim* are not selected through a rational procedure governed by systemic legal rules but by "a sure and subtle process which knows its leaders and places them in the forefront of a generation."[31] These men identify the *halakhic* consensus for their time and determine, in fact if not in theory, the parameters of legitimacy in *halakhic* argument.[32] To ignore their formal/informal function as a "Sanhedrin in exile" is to present an inaccurate picture of the *halakhic* system as it really is. Consider as well Roth's treatment of the phenomenon of codification in *halakhic* history. Since the writing of codes tends to limit the exercise of judicial discretion, he seeks to minimize the importance of codification by citing the remarks of well-known opponents of the *Mishneh Torah* and the *Shulkhan Arukh*. In theory, he has a point. Perhaps the views expressed by Ravad, Maharsha, the *Penei Yehoshua* and the *Sheelat Yaavetz* opposing the exclusive reliance upon codes *ought* to be seen as the "royal road" of *halakhic* practice. Yet this fervent theoretical wish is controverted by the fact that codes *have* been written; that they *have* been produced in response to a perceived need for legal clarity and certainty; and that these books *have* functioned to limit the scope of permitted decision-

scholars tell us, however, is that in theory as well as in practice the tendency to seek out and rely upon past decisions exerts considerable constraining force over the discretion of the contemporary *posek*. Facts such as these ought to give us pause before we proclaim, along with the "conventional wisdom," that Jewish law does not recognize a doctrine of binding precedent.

c. The Halakhic Consensus

Over time, a question that has long been a subject of lively dispute within a legal community will become settled. Though the community may have in the past entertained disagreement and divergent approaches to its solution, this multiplicity of views becomes out of place once a widely accepted answer has been arrived at. That answer now holds the status of "law," so that the burden of proof rests heavily upon those who claim that it is not in fact the only correct answer or even the best answer. This process occurs in Jewish law whenever the community of *poskim* reach a consensus as to the right answer to a previously-disputed halakhic issue. At that point, while students of the *halakhah* will continue to study the "rejected" approaches, those will be regarded as purely theoretical possibilities. The law in practice (*halakhah lema`aseh*) will be identified by most observers with the consensus view among the *poskim*. Other, conflicting views, however plausible they may be as interpretations of the halakhic sources, will be seen as incorrect.

This consensus performs a precedential function in *halakhah*, a constraint upon the freedom of rabbinic scholars to derive solutions to legal problems that differ from the consensus view. We see evidence of this consensus throughout the history of Jewish law, every time a community adopts through formal or informal processes the practice of deciding their legal issues in accordance with a single *posek* or a group of *poskim*.[107] We see it in the form of "rules" for halakhic decision-making, designed to create a uniform interpretation of legal sources that in theory could be read in two or more different ways.[108] And we see it operating on substantive halakhic questions as well, forging agreed-upon solutions to issues otherwise susceptible to a variety of approaches. In a significant sense, what we today call "Orthodox Judaism" is an example of halakhic consensus, a collective stipulation by a particular Jewish community to adhere to the particular halakhic interpretations championed by a particular set of rabbinical

authorities. Consensus thus enables the Orthodox community to identify itself, to its own members and to the rest of the Jewish world. The controversy over abortion in Jewish law serves as a good example of this consensus at work. I say "controversy" because the halakhic literature supports either one of two general approaches to the permissibility of abortion. A number of authorities, including some outstanding Orthodox *poskim* of our own time, hold that a pregnancy may be terminated for a variety of reasons, including the desire to safeguard the physical and emotional health of the mother. Others, however, rule that abortion is permitted only when the procedure is necessary in order to save the life of the mother, when the fetus can be termed a "pursuer" (*rodef*) that poses a mortal danger to her. The debate has a long history; it is involved, complex, and nuanced. Yet one who reads today's Orthodox halakhic literature, particularly those writings such as compendia on "Jewish medical ethics" intended for a general audience, finds little evidence that the more lenient position remains a legitimate option under Jewish law. The more stringent position, which has now been assumed by the preponderant majority of Orthodox halakhists, has become *the* law, while the comparatively lenient alternative (which itself is far from a permit for abortion "on demand" but sets careful requirements before permitting the procedure) is treated as a deviation from the mainstream—*i.e.*, the "correct"—understanding of the *halakhah*.[109]

Consensus also operates as a constraining factor in the area of marital *halakhah*. In 1966, Rabbi Eliezer Berkovits, the well-known theologian, proposed a solution to the problem of the *agunah*, the wife unable to remarry under Jewish law because her husband either cannot or will not issue her a valid divorce document (*get peturin*). The injustice of this situation has long been evident. Under traditional *halakhah*, the wife cannot divorce the husband; he must divorce her, and if he does not she may be left with no recourse but to live alone or to accede to whatever exorbitant demands the husband will make of her as his price for issuing the *get*. Over the years, halakhists have sought to construct legal remedies that would enable the *agunah* to remarry in cases where the husband ought to but does not authorize a divorce.[110] Berkovits, for his part, suggested that prior to the wedding the bride and groom stipulate that their marriage would be annulled retroactively should the husband one day

refuse to comply with the order of a valid rabbinical court (*beit din*) to issue her a *get*.[111] In support of this idea, he marshaled an impressive array of halakhic texts, from the Talmud, the codes and the responsa, from the *rishonim* and the *aharonim*, texts which he analyzed and elucidated in the customary rabbinical style. Yet none of this argumentation impressed his critics. One of these, R. Menachem M. Kasher, sternly rebuked Berkovits for his temerity in raising the idea of stipulations in marriage, given that the use of such stipulations had been unequivocally rejected by the great *poskim* of previous generations. The stature of these authorities, along with their sheer number (Kasher estimated that 1500 rabbis had explicitly rejected "conditional marriage" [*kiddushin al tenai*] under any circumstances), demonstrates that "there is no excuse to raise again a question which has already been examined and decided by all the sages of Israel. Their ruling must not be doubted."[112] The rabbinical opposition Kasher cited had been stirred by a previous proposal, floated in 1907 by an assembly of rabbis in France, that called for the use of stipulations in marriage as a remedy for the *agunah*.[113] Berkovits, too, mentioned that proposal but argued that his own plan was free of the difficulties that had led the *poskim* to reject it. Yet the halakhic consensus had been formed: "stipulations" of whatever kind are not to be entertained in Jewish marriage, no matter the Talmudic and halakhic argumentation that might be brought in their favor.

A similar fate befell Rabbi Shlomo Riskin, who called in 1989 for the rabbinical courts in Israel to coerce husbands to divorce their wives when the latter refuse conjugal rights on the claim that "he is repulsive to me" (*ma'is alay*).[114] This claim, mentioned in the Talmud, is taken by such medieval authorities as Maimonides and Rashi as grounds for coerced divorce,[115] and were the rabbis to accept it as such today, the legal position of the wife would be vastly improved. By "rebelling" against her husband—that is, by declaring him repulsive and refusing him conjugal rights—she would set into motion a chain of events that, given the power of the Israeli rabbinical courts to adjudicate divorce law and to enforce their decisions, would lead inevitably (in most cases) to her freedom. The difficulty is that the rabbis do *not* accept that claim today as grounds for coerced divorce. Riskin attributes this state of affairs to the influence of R. Ya`akov Tam, the leading Tosafist, who feared that the stability of marriage

would suffer if the wife were to enjoy such easy access to divorce.[116] R. Tam's position was adopted by virtually all subsequent *rishonim*, to the point that the *Shulhan Arukh*, which frequently recites Rambam's opinion as *halakhah*, makes no mention of his position on this issue.[117] Riskin's argument for restoring the practice of coerced divorce in these cases is two-fold: Rashi and Rambam present an interpretation of the Talmudic sources that is as good as if not better than that of R. Tam; and the social concerns which seem to have led R. Tam to his ruling are far outweighed today by the need to rescue deserted wives from their status as *agunot*. We have here, again, a, apparently legitimate halakhic argument, crafted by a rabbi whose solicitude for *halakhah* is beyond reproach. Yet here again, his proposal is rejected out of hand by Orthodox commentators on the grounds that R. Tam's opinion "has been accepted into the fabric of the *Shulhan Arukh*, the basic code of practice for halakhic Jewry." Instead, Riskin is advised to join in the search for remedies for the *agunah* problem that have some chance of being accepted.[118] The halakhic consensus once more makes itself felt. The consensus having been established—in this case, it has been established for centuries—a conflicting view of the *halakhah* is rejected out of hand, despite the plausibility of that view as a matter of textual interpretation. The rejected opinion certainly retains its theoretical and historical significance, for it is of deep interest to the scholar that Rashi and Rambam read the Talmud differently on this point than do R. Tam and his successors. The "scientific" scholar, too, may want to consider the social, cultural, and other factors that might have led to these variant interpretations. But the rejected opinion is not taken seriously as an alternative approach to the real-life application of Jewish law.[119] Indeed, the very fact that it *has* been rejected by the halakhic consensus is itself a criticism against those like Riskin who might think to raise it again.

To all of this, one might respond that consensus is not a formal constraining rule in the *halakhah* but rather a social fact, the tendency within legal or religious communities to unify over time around particular resolutions to contentious issues. Once a resolution has gained wide acceptance, it may be quite natural for the community's members to "gravitate"[120] toward that resolution, affirming it as one of the accepted truths defining the community's beliefs and actions. Those who question these long-

accepted truths will be seen as dissenters, troublemakers perhaps, for raising issues that had been thought settled. But a fact of social life should not be confused with the *theory* of law by which the group lives. That theory may well permit the community's members to revive arguments that have lain dormant for some time. So, too, in the *halakhah*: regardless of the tendency of the community to coalesce around the "accepted" opinions, this social fact does not—in theory—prevent competent scholars from reconsidering other opinions that, though not reflected in communal practice, still exist as plausible interpretations of the legal sources. Against this, however, we can discern two major reasons why the halakhic consensus operates as a precedential force in Jewish law. First, the examples cited above show that the existence of a consensus does constrain the decisions of rabbis, making it much less likely that they will issue rulings that conflict with the widely-accepted view of the scholarly community. True, this constraint may be one of practice rather than abstract theory, but it is after all practice which decides the law. Against this reality, theoretical possibilities may matter very little; the *halakhah* that the people actually know will be the *halakhah* that is constrained by consensus. And second, some writers do attempt to construct theoretical justifications for the workings of the halakhic consensus. One such theory attributes special insight, an almost charismatic knowledge to the *gedoley hador*, the leading halakhic sages of the day; the view that they accept should accordingly be seen as the correct one, even if other interpretations of the sources could be advanced.[121] Another approach, that of R. Yosef Dov Soloveitchik, derives a distinction between two types of authoritative tradition (*masoret*) in Jewish law: a "tradition of learning," the Talmudic arguments and proofs that lead to legal rulings; and a "tradition of practice," formed when the community (*kelal yisrael*) adopts particular behaviors as its way of performing the *mitzvot*. This "tradition of practice," the way in which the *halakhah* is observed in fact, bears a strong affinity to what I have termed the halakhic consensus, and as Soloveitchik notes, "reasoning and proofs cannot prevail against a tradition of practice … in such a case, it is the tradition itself and not Talmudic reasoning which determines the observance."[122] It is because of this "tradition of practice," "which can no longer be changed on the basis of purely intellectual considerations," that observant Jews will reject out of hand interpretations of the *halakhah*

that diverge from those that make up the consensus view shared by the recognized authorities.[123] We must conclude, therefore, that the halakhic consensus is real, that it is a factor of considerable weight in identifying the "correct" understanding of Jewish law for the observant community, and that it functions as precedent, constraining the freedom of the halakhist to derive other decisions on the basis of the sources.

The Leeways of Halakhic Precedent: A Look to the Responsa Literature

What then *is* the role of precedent in Jewish law? The answer that emerges from the halakhic writings and the academic research cited above is equivocal or, better, dichotomous, revealing an apparently deep chasm between theory and practice. The theory holds that *halakhah* does not contain a doctrine of binding precedent. The *law*, the standard of Jewish practice, is to be derived from the recognized sources of the law, primarily the Babylonian Talmud and its cognate literature. The rulings and decisions of post-Talmudic scholars are not strictly speaking "law" but interpretations of the law; possessing no inherent authority, they do not constrain the freedom of the contemporary *posek*. The individual *posek* who finds such a ruling inconsistent with the Talmudic sources is accordingly free to ignore it or to set it aside. In practice, however, the decisions of the post-Talmudic sages exert a powerful precedential force upon subsequent generations. As a matter of practice, a litigant legitimately expects that the judge will avoid judicial error, a ruling on a controversial issue that conflicts with the dominant opinion among the *poskim*. As a matter of practice, halakhists have adopted methods for deciding the law in accordance with the opinion of one post-Talmudic authority or a "banc" of such authorities. And as a matter of practice, the community will tend to identify the correct *halakhah* with the consensus view of its scholars, severely limiting thereby the likelihood that alternative points of view will enjoy a careful and considered hearing.

This theory-practice dichotomy ought to make us wary of conventional wisdoms. To put this another way: a theory is only as valid as the data it purports to explain. It is tempting to isolate a few key phrases and remarks that bob on the surface of the

Appendix 1.1G

Definitions of *Halakhah* By Major Branch of Judaism			
Branch	Reform	Conservative	Orthodox
Authority			
Time/ Flexibility			
Jewish Values			

Action			
Development /Process			
Definition of *Halakhah*			

Lesson 2: The Development of *Halakhah* Over Time

Essential Question

1. What inspires something to develop over time?

Goals (*As an educator, I want to show students…*)

1. That the concept of development is inherent in the way *halakhic* Jewish texts progress from Torah to Codes.
2. There is a relationship between the way a *halakhic* Jewish text develops and the time period it is written in.

Objectives (Students will be able to…)

1. List the major *halakhic* texts in order (*Bible, Talmud, and Codes*).
2. Compare and contrast *Bible*, *Talmud*, and Codes.
3. Explain how *halakhah* has developed from *Torah* to Codes literature.

Materials

- Device that connects to the internet
- Equipment necessary to play video
- Appendix 1.2A-D
- Smart phones or other recording device for each home group

Set Induction

1. This class will start with a video. The video, which lasts about four minutes, will provide an introduction to the development of *halakhah* and to the major texts involved. Show: https://www.bimbam.com/halacha/
2. Say: As you can see, the Torah (written law) is the foundation of *halakhah.* Then, beginning with the Early Rabbis, the laws from the Torah are extended, expounded and supplemented in the *Mishnah*, *Talmud*, *Codes.* Today, we are going to learn how this progression occurred and allowed *halakhah* to develop over time.

Activity 1: Jigsaw About the major textual sources that show the development of *halakhah*

1. In this activity, divide students into three expert groups. Each expert group will be tasked to research one of the three major *halakhic* texts, *Bible*[11], *Talmud*[12] and *Codes*[13] See appendix 1.2A for the questions for each expert group to answer.

2. Tell the students that the purpose of the jigsaw is to be able to come back to your home group and be able to make a video to remember the way *halakhah* develops. This may help motivate them to do a thorough job learning in their expert groups and presenting information to their home groups. Here are the groups and their corresponding sources: (Allow about 30 minutes)

    - Bible Expert Group- See Appendix 1.2B
    - Talmud Expert Group- See Appendix 1.2C
    - Codes Expert Group- See Appendix 1.2D

3. When they finish in their expert groups, they will form four home groups (should be at least one expert in each home group) to teach each other about their expert topic. The teaching should summarize the answers to the questions in Appendix 1.2A. (Allow about 20 minutes)

Activity 2: Authentic Assessment Make A Video to Remember the Development of *halakahah*?[14]

1. Show: I'm Just A Bill by Schoolhouse Rock. https://www.youtube.com/watch?v=tyeJ55o3El0
2. The teacher should connect students back to the opening Bim Bam video to remind them that they watched a video, which taught about the development of *halakhah*.

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[11] Barry W. Holtz, *Back To The Sources: Reading The Classic Jewish Texts* (New York: Simon and Schuster, 1984), 83-91, 98-103.

[12] Holtz, *Back To The Sources: Reading The Classic Jewish Texts*, 129-143, 168-170.

[13] Holtz, *Back To The Sources: Reading The Classic Jewish Texts*, 158-163.

[14] Note to The Teacher: Save these videos to use again for the set induction in Unit 4 Lesson

3. In this authentic assessment, students will work in their home groups, which should have at least one person from the *Bible, Talmud*, *and Codes* to create a new video that will help both their future selves and future students learn the way *halakhah* has developed over time. The videos should be about 2 minutes long each. Students should use inspiration from both Schoolhouse Rock and Bim Bam as they think about how to construct their video. The video must speak about *Bible, Talmud*, *Codes* and *Responsa*. It is not meant to be a long task that becomes professionally edited. (Allow about 30 minutes)

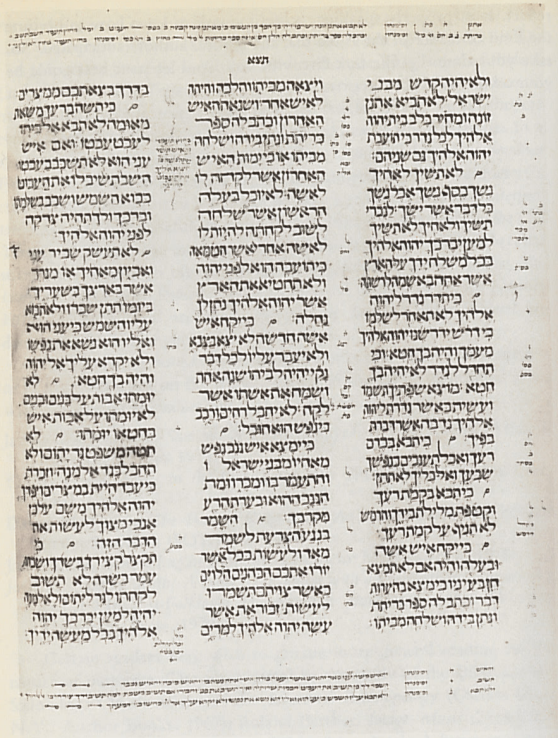
Educational Closure

1. The lesson should close by letting students watch the videos that each group made.

Appendix 1.2A

Questions for Each Expert Group to Answer as They Discuss and Prepare for Home Group

1. What is the origin of the laws in the source you are studying?
2. What is the time period of the source you are studying?
3. How do we as students of Jewish text study your source?
4. How is your source organized?
5. How does your source work in relation to the other sources? (If your article does not say, make a prediction)
6. Any other information that might be helpful to know?



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From Deuteronomy 24, Bible manuscript from Spain, 15th century.

B. BIBLICAL LAW

EDWARD L. GREENSTEIN

For the ancients, religion was already to a certain extent what it should become for us—practical poetry." With this insight the German poet of the romantic period, Novalis, provides a useful perspective on the Bible: what we now call religion embodied in antiquity, not a segment or area of life, but an entire world view that permeated, ordered, and shaped the full range of human behavior. Religion was not a distinctive sector of experience but an ingredient of all experience. Perhaps on account of its pervasiveness, religion was not distinguished in the Bible by a name of its own; there is no word for "religion" per se in biblical Hebrew. The Bible encompasses a variety of genres: stories, hymns, proverbs, prayers, laws, prophetic speeches, and more. Yet the particular religious world view of the Bible cuts across these diverse materials, organizes them, and gives them unity. Even such discrete genres as laws and narratives may interrelate. In fact, we shall see that the civil and ritual laws of the Bible are informed and given distinctive shape by two great mythic stories: the Creation and the Exodus.

Torah and Law

The most sacred part of the Jewish Bible, the Torah, or Five Books of Moses, presents an integrated—though not necessarily consistent—picture of God, the world, the peoples that populated it, and the rules by which one people, Israel, was to live in it, with heavy emphasis on the last-named category. The Torah has for good reason been called "the

Law." The bulk of its material (the latter half of Exodus, Leviticus, a good part of Numbers, and the core of Deuteronomy) comprises the regulations by which Israel is to fulfill its duties to God. The title "Law," however, is of Greek, not Hebrew, origin and derives from the word *nomos,* "law." This is familiar from the name of the fifth book of the Torah, *Devarim* in Hebrew. This Hebrew name means "words" and is taken from the first words of the book: "These are the words that Moses spoke to the Israelites across the Jordan. . . ." But in the Greek translation of the Bible adopted by the Christian Church, the book was entitled *Deutero-nomos* (Latin, *Deuteronomium,* English, Deuteronomy), which describes its contents as a review of the law, a "second law."*

The Hebrew word *torah* does not strictly mean "law." The fact that it does not is crucial to its role in Judaism. Hebrew does employ words for a "statute," a "ruling," and, of course, *mitzvah,* a "commandment." But the word *torah* itself means "instruction" or "teaching." The laws of the Torah are one of its means of teaching; they are the specific behaviors by which God inculcates his ways—what we call values—in his human creatures. If we are to understand these values we must read the laws, in a sense, as a sort of body language that outwardly symbolizes something of much deeper significance.

Biblical law's didactic function is all the more striking when we notice that, contrary to the common view, the Torah does not encompass a complete code of law. It is selective, illustrative, paradigmatic. Its arrangement is imbalanced. Some laws are repeated twice or more; laws we would expect to find are often absent. Moreover, with the exception of the cultic rites of Deuteronomy, there is no evidence that the Torah's laws circulated in ancient Israel as a practical guide or anthology of precedents. (There is evidence to the contrary, more on which later.) This appears less surprising when we compare the fate of the famous Code of the great king Hammurapi of Babylon, from the eighteenth century B.C.E., five centuries before Moses. Hammurapi had his laws incised on a tall black monument and erected it inside a shrine. He sought to impress the gods with how responsibly and fairly he had been governing the lands that the gods had placed in his charge. But of the thousands of legal documents that have been unearthed from ancient Mesopotamia, not one clearly cites this great Code for authority! *The Torah's laws, too, seem to have served less as a tool for the judiciary than as a vehicle for religious instruction.* The religious character of the law is further

* This name in turn derived from the phrase *mishneh torah,* "double [copy] of the *torah,*" in Deut. 17.18.

suggested by the fact that once God had declared what the law was, the task of disseminating the law was entrusted to the tribe of Levi, the priests:

> They shall teach your rulings to Jacob and your teaching to Israel.
>
> —DEUT. 33.10

The various norms that God commands the Israelites in the Torah were calculated to instill abstract values through concrete acts.

GOD AS KING

In a carving atop the monument bearing Hammurapi's Code, the god of justice, Shamash (Sun), hands the monarch the insignia of power, imparting to him the values that he will embody in his legislation. In the epilogue to his Code, Hammurapi proudly boasts of

> Just laws which Hammurapi, the able king, has set up so that the land will adhere to honest administration and good governance. . . . So that the strong does not harm the weak, to provide justice for the orphan and widow . . . have I inscribed my precious words on my monument, set them up before my statue, "The King of Justice."

As Hammurapi's statement shows, ancient Near Eastern law outside the Torah differentiates between principles of justice and the laws themselves. But in the Torah God dictates the laws directly, without human intermediation.

Indeed, for Deuteronomy the king must take special pains to consult God's law:

> It will be when [the king] sits on the chair of his kingship, he shall have a copy of this teaching written on a scroll by the levitical priests. It shall be with him and he shall read out of it all the days of his life so that he learns to revere the Lord his God, to keep all the words of this teaching and these statutes, to do them.
>
> —DEUT. 17.18–19

The Torah conceives of God as Israel's true king. This concept is manifested in a number of ways: by the story of the Torah from Genesis through Exodus, by the nature of the Covenant, and by the symbolism of the *mishkan* (God's palace among the Israelites). We shall examine each of these in turn.

First, the Torah's narrative establishes the Lord's right to rule, his legitimacy, as it were. God creates and controls all lands and all peoples. Out of the many peoples, he covenants with one, Abraham and his descendants, promising them the land of Canaan and numerous progeny. The people of Israel cannot remain in the land that will be called Israel until they have accepted the laws of God. Jacob's name became Israel only after he had wrestled with God (Gen. 32.22–32). In order to ensure that Israel will accept his laws, God places the Israelites in a position of indebtedness: he creates a famine and thereby forces Jacob and his sons to descend to Egypt, where they are enslaved; then God liberates them magnificently. By hardening Pharaoh's heart and extending the number of plagues in Egypt to ten, the Lord impresses both the Egyptians and the Israelites with his power (see Exod. 10.1–2). When the Lord splits the Reed Sea* for the Israelites to cross and then drowns the pursuing army of Egypt, he earns the Israelites' trust (Exod. 14.31). He further increases their dependence by sending them into the wilderness where they will need him to provide water and food—manna and quail. When he brings the Israelites to Mount Sinai to impose his laws upon them, he reminds them that he has been their benefactor:

> You have seen that which I did to Egypt. I have carried you on the wings of eagles and I have brought you to me.
>
> —Exod. 19.4

And just as he begins to present the Ten Commandments, he declares:

> I am the Lord your God who have taken you out from the land of Egypt, from a house of slaves.
>
> —Exod. 20.2

That God coerced the Israelites into accepting the regimen of his commandments finds vivid expression in a Midrash of the classic rabbis (see Chapter Three for more on Midrash). In Exodus 19.17 the Torah states that at Sinai the Israelites "stood up at the bottom of the mountain." The word for "bottom," however, denotes literally "underneath." How could the Israelites be standing *underneath* the mountain? The word, felt the rabbis, contains a fuller tale. The Lord raised the mountain over the Israelites' heads and, threatening to drop it, asked the

* What is usually called the Red Sea is termed the "Reed" Sea *(yam suf)* by the Bible.

Israelites if they would accept the obligations of the Torah. Displaying a profound instinct for survival, the people responded, "All that the Lord has spoken, we will do" (Exod. 19.8).

God as a Covenant Partner

The Torah conceives of Israel as God's slaves or, more properly, vassals. In order to free the Hebrews from their Egyptian bondage, the Lord has Moses command Pharaoh: "Release my people that they may serve me in the wilderness!" The Hebrew verb for "to serve" or "worship" *(avad)* also lies at the base of the word for "slave" *(eved)*. The word for slave also denotes "vassal," and the Torah models the God-Israel relationship on that of a mighty king and his vassals. The overlord furnishes sustenance and protection, the vassals owe exclusive devotion—worship of one God; and acts of fealty—observance of the commandments. In fact, as modern scholars have long noted, the covenant between the Lord and the Israelites hews to the pattern of an ancient Near Eastern vassal treaty. Such a treaty is imposed after an overlord conquers or performs some great favor for lesser kings. He then commits them to provisions of allegiance; they must, for example, come to his aid in war. After spelling out the vassals' obligations, the overlord invokes "the great gods of heaven and earth" to pronounce blessings for loyalty and curses for betrayal. That the biblical covenant follows the form of ancient vassal treaties is most obvious in the books of Leviticus and Deuteronomy, where the corpus of laws concludes with lengthy series of blessings and curses. For example:

> Blessed be you in the town, and
> blessed be you in the field.
> Blessed be the fruit of your womb,
> and the fruit of your ground,
> and the fruit of your cattle, the
> calving of your oxen, and the fecundity
> of your sheep.
> Blessed be your basket and your bowl.
> Blessed be you in your entering, and
> blessed be you in your exiting . . .
>
> Cursed be you in the town, and
> cursed be you in the field.
> Cursed be your basket and your bowl.
> Cursed be the fruit of your womb and
> the fruit of your ground, the calving

of your oxen, and the fecundity of your sheep.
Cursed be you in your entering and
cursed be you in your exiting . . .
(Deuteronomy 28.3–6. 16–19)

If Israel serves God faithfully, adopting his ways, they will dwell securely in a "land flowing with milk and honey"; but if they rebel, they will be exiled and their land devastated.

Israel's anxiety over satisfying God and holding onto its land reverberates in the Torah's first story about people, the Garden of Eden story. The Lord commands the man and woman to do one thing: refrain from eating of the tree of the knowledge of good and evil. They violate this single prohibition and are expelled from the garden.

Christian tradition reads this story as evidence of "original sin," the irreparable flaw in human nature that can be redeemed only by God's sacrifice of his only son. In the context of the Torah, however, the man and woman leave the mythical garden to live a mundane existence in the real world. They do not "fall" from grace. Although the Lord of Israel may make severe demands and pronounce terrifying threats, he is characterized in the Torah as

> a God loving and kind, slow to anger and greatly devoted and faithful; staying devoted to thousands [of generations], tolerating crime, betrayal, and sin; [yet] he will not call [the guilty] innocent, innocent, tendering the crime/punishment of fathers on sons and on sons-of-sons, on the third [generation] and on the fourth.
>
> —Exod. 34.6–7

According to Deuteronomy, Moses could ply God into forgiving Israel their transgressions by reminding him that they're only human. He would evoke the ancestors who showed outstanding trust:

> Pay mind to your servants, to Abraham, to Isaac, and to Jacob. Do not direct your face to the hardness of this people, nor its wickedness, nor its sinfulness.
>
> —Deut. 9.27

Moses went on to play on God's strikingly human ego:

> Lest the land from which you have taken us out say: "For lack of the Lord's capability to bring them to the land which he promised them, for his hatred of them has he taken them out to have them die in the wilderness."
>
> —Deut. 9.28

The last part of the verse is telling: God doesn't really hate the people, even when they rebel. He wouldn't want it to seem as though he did. Even when the Israelites constructed a Golden Calf, dancing about it and proclaiming, "This is your god, O Israel!" Moses could persuade God to yield his anger and promise a future. God is a *mensch*.

God Dwells among the People

The intimacy of God and Israel implied by their "understanding" is central to the ritual of the Torah. God resides among the people, a king in their midst. The people's prosperity and security depend on retaining God's very presence in their camp (e.g., Exod. 29.45–46; cf. 23.25). At the center of the camp in which the Israelites lived and traveled following the Covenant at Sinai, the Torah prescribes a "tabernacle," literally a "dwelling" *(mishkan)*, for God. (Later, rabbinic tradition utilizes the same Hebrew wordstem to denote the immanent presence of God, the *shekhinah*.) Surrounding the rectangular courtyard of this portable sanctuary the twelve tribes of Israel camp, three on each side. Within the courtyard are a square altar for offerings to God and the sanctuary proper, a rectangular structure in which the priests would serve God in dignified privacy. The backmost, square-shaped chamber of this structure comprises the inner sanctum, the Holy of Holies, God's apartment. The symmetrical shapes of the altar and Holy of Holies symbolize their unique sanctity.

God's apartment is set up as a royal chamber. The ark of the covenant, in which the stone tablets of the law were deposited, was covered by a solid gold seat, God's throne. Ancient Phoenician kings sat on their thrones flanked by winged sphinxes—the Bible's *keruvim*, "cherubim"—and so did the Lord of Israel sit on the throne of the ark, a golden cherub on each side. The apartment was sealed by a veil, embroidered with gold cherubim, a delight for God's eyes. Outside the curtain stood a golden *menorah* or lampstand, penetrating the veil with light; an incense altar, emitting its stimulating fragrance into God's chamber; and a golden table, on which loaves of bread and empty drinking vessels symbolized the priestly concern for God's creature comforts. (In more primitive sanctuaries the ritual functioned to serve the biological needs of the god; the structure of the Torah's *mishkan* conserves the outer form of the primitive paraphernalia.) For Israel, God's immanence found expression in the perception of God as a superperson.

Keeping the Environment Pure

The Torah's religion focuses on nourishing the divine presence, providing an environment worthy of God. In order to establish and maintain a holy environment the Israelites had to do two general, yet multifaceted tasks: keep the atmosphere free of impurity and keep the laws of God.

> Holy shall you be for holy am I, the Lord your God.
>
> —Lev. 19.2

For the Torah God is more than an idea or spirit; God is a physical, though largely invisible presence. In the Garden of Eden, God's afternoon stroll startled the man and woman by its rustling (Gen. 3.8). In Genesis 18, God and two of his messengers, or angels, visited Abraham in human guise. God's locus could be seen in the wilderness and in the *mishkan* by the glowing aura or cloud that enveloped it. When the Israelites freshly completed and consecrated the *mishkan,* this is how the Torah describes the scene:

> The cloud covered the tent of meeting, and the aura of the Lord filled the *mishkan*. Moses was not able to enter the tent of meeting for there resided *[shakhan]* upon it the cloud, and the aura of the Lord filled the *mishkan*. Upon the rising of the cloud off the *mishkan,* the Israelites journey, in all their journeys. But if the cloud does not rise, the Israelites do not journey, until the day of its rising. For the cloud of the Lord is upon the *mishkan* by day, and fire is by night upon it, before the eyes of all the House of Israel, in all their journeys.
>
> —Exod. 40.34–38

God's substance is pure, but his purity is sensitive to invisible pollutants in the environment; God will withdraw, as in an allergic reaction, when too many pollutants are drawn too near. Animals brought into the *mishkan* and the people who enter it must be examined for purity by the priests. Some animals are flawed or tainted—impure—by nature, and human beings can become tainted, requiring rites of purification. The concern for purity surrounding God dominates chapters 11–15 of Leviticus, which delineate the various sources of ritual pollution and their antidotes through acts of purification. We shall be looking at some illustrations below.

Some of the important ideas behind ritual purity derive from the themes of Genesis 1.1–2.4, the story of Creation. God created the world

by separating out distinct areas and classes from the dark, watery, primeval chaos. Just as that chapter in Genesis is neatly ordered by an arrangement into days and patterned by repeating formulas, so is Creation ordered by divisions: light from darkness, water above from water below, land from water, species of vegetation from species, breed of animal from breed, human from animal, female from male, Sabbath from weekdays. And later, as Genesis runs its course and Exodus carries it further, Israel is distinguished from the many nations, destined to be a treasure among peoples and the priests among nations (Exod. 19.5). The division into species likewise governs the Torah's ritual. As anthropologist Mary Douglas and others have shown, the Torah divides the world into that which is Godlike, pure and holy, and that which is inimical to God, tainted and profane.

When the world was new, the humans were given vegetation for food, not animals. Only after the Flood, as a concession, did God permit people to eat flesh so long as it was not taken live and its blood was removed:

> Every animate being which is live yours may be for eating; like the grassy greens have I given you everything. But flesh with its blood yet in its breath you may not eat.
>
> —Gen. 9.3–4

Blood epitomizes life, and God is life or rather, living-ness. Humans may not expropriate God's element. Before proceeding to discuss purity per se, it will be useful first to explore further this notion of living-ness.

Life Belongs to God

The earliest chapters in Genesis deal with, among many other matters, the boundary between God and human. The main difference between God and human is not appearance. When the Torah states "God created the human in his image, in the image of God he created him, male and female he created them" (Gen. 1.27), the text means that of all the animals he created, only the human occupies the blessed status of resembling God, a clone of the deity. In the Garden of Eden, when the humans assert their difference, the independence of their will from God's by disobeying him, they acquire another trait that makes them similar to God: knowledge. But they also acquire the characteristic that becomes the distinguishing mark of humanness as opposed to divinity: mortality. The boundary between God and human is drawn by the lifeline. Only God lives forever, is always living-ness.

his family (21.5). This cannot occur in Deuteronomy's version of the law. Rather, a slave would only want to stay out of affection for his master (15.16)! In both codes the master pierces the attached slave's ear to mark his status of permanent servitude. The historical symbolism of this act remains moot, but rabbinic interpretation follows the thrust of the Torah's logic. The ear that heard the Lord proclaim (see above) that the Israelites are his servants alone and yet seeks to serve a human master deserves to be disfigured and punished! See the comment of Rashi to Exodus 21.6. (On Rashi's commentary, see Chapter Four.)

In typical hortatory style, Deuteronomy 21 supplements the slave law with two verses (15 and 18):

> You shall remember that a slave were you in the land of Egypt, and the Lord your God redeemed you. For this I command you this matter today. . . . Let it not be hard in your eyes when you release [the slave] as a freeman from you, for double the labor of a hired-laborer has he worked for you. The Lord your God will bless you in all that you do.

The Torah acknowledges the difficulty of holding up a high standard of behavior. People incline to be self-centered and selfish. But the Torah directs the Israelites to hallow their environment and their conduct so that God's presence will dwell among them and provide a constant source of blessing.

How We Read a Biblical Law

In the preceding section, the approach that we took in interpreting biblical laws was characteristically modern. For one thing, we sought to understand the background of biblical law and to appreciate its significance by means of comparing related laws from other ancient Near Eastern cultures. For another, we adopted the critical notion that the Torah may embody a revelation from God, but that revelation was shaped by the people that received and applied it. The Torah was compiled and edited from material that originated at different stages of ancient Israelite history. Thus codes of law in different places in the Torah reflect various sources and may in fact diverge from or even contradict one another.

The traditional Jewish approach exemplified in the rabbinic process of interpretation (see Chapter Three) operates under different assumptions. There the fundamental assumptions regarding biblical law are the following. Although at first blush the laws of the Torah seem sketchy, in fact God has coded all the laws we will ever need into the language of

the Torah. It is up to rabbinic interpretation to explain how all the laws that are defined in the rabbinic codes of the classic period derive from the text of the Torah. Because the coding of revelation into the language of the Torah is efficient, no two laws teach the same thing, no two laws contradict each other, all the laws form a consistent system, and—because the rabbis claim to have received the official and authoritative interpretation of the Torah—all are consonant with the beliefs of the classic rabbis. In other words, the meaning of the Torah's laws is not determined through an explanation of their historical and literary contexts—which is what we have done. The Torah's laws mean what the rabbis' traditions, emerging centuries later, say they mean.

To grasp this distinction more clearly, let us read through a biblical law together, interpreting it first according to modern critical methods, then contrasting our interpretation with the rabbinic understanding. The law we shall consider is Deuteronomy 24.10–13.

In ancient times, as is often the case today, borrowers would leave their creditors a pledge as collateral. This is common knowledge and is assumed by the law. Since a poor borrower had little to offer as a pledge, he would typically leave his outer robe with the lender. Deuteronomy wishes to protect the poor borrower from the creditor in two ways. First (24.10–11), to respect the dignity of the borrower, the law restrains the creditor from invading the poor man's home to confiscate the pledge:

> When you lend your neighbor any item, you shall not go into his house to take his pledge as a pledge. Outside you shall stand, and the man to whom you are lending will bring the pledge out to you outside.

It is also implied that the borrower, not the creditor, has the option of selecting the article that will serve as pledge.

Second (24.12–13), Deuteronomy seeks to protect the poor borrower from double jeopardy:

> And if he is a poor man, you shall not lie down in his pledge. Return, you shall return to him the pledge at sundown that he may lie down in his robe and bless you. Then you will merit reward from the Lord your God.

It's bad enough a man must borrow; he shouldn't have to go cold at night, too. In the Land of Israel it is often very warm by day but cold at night. A poor person might have nothing for his blanket but his robe, the article he pledged on his debt. Hence, the law instructs the creditor to return the garment taken in pledge by nightfall, and indirectly by

extension, urges all Israelites to be considerate of others. The goal is a modest utopia in which people will bless each other for being kind.

We today are able to discern some of the background of this law because we have material from ancient Mesopotamia and, in this instance, ancient Israel itself that bears upon its significance. To take the latter, more striking evidence first, a Hebrew letter from the seventh century B.C.E. documents a formal complaint by a laborer who alleges that his supervisor distrained his garment for no good reason. Apparently Deuteronomy's worry over the hasty seizure of poor people's garments was not idle.

By comparing a parallel law in the Code of Hammurapi we may better appreciate the humanistic thrust of Deuteronomy's law. The Babylonian law places a monetary fine on the improper distraint of a pledge. This is well and good. But the overriding concern there is *economic* justice—ergo, the imposition of a fine. Deuteronomy takes a *moral* tack, concerning itself with the personal needs of the borrower, his immediate situation. Typically, biblical law cares about people, whereas Mesopotamian law worries over money (see also above).

There is yet another angle by which we can view Deuteronomy's law. We can compare it to a parallel one in the Book of Exodus 22.24–26. After forbidding an Israelite to charge interest on a loan to another Israelite, the text in Exodus goes on to say (22.25–26):

> If you take, take as a pledge the robe of your neighbor, by the setting of the sun you shall return it to him. For it is his only covering, it is his robe for his skin. In what [else] will he lie down? It will be that if he cries out to me [= God], I shall hear, for gracious am I.

Clearly the law in Exodus covers the same ground as that in Deuteronomy. Although Exodus features the melodramatic rhetorical—almost Yiddish-flavored—question, "In what [else] will he lie down?" the contents of the two texts are similar. Both also refer to God's personal concern for the indigent borrower.

Deuteronomy, however, adds another dimension to the law, barring the creditor from barging into the debtor's home. Modern scholars tend to date the law in Deuteronomy later than that in Exodus. Consequently, we would say that the compilers of Deuteronomy found this particular law in Exodus sympathetic and chose to include it in their code as well. But they took the liberty of expanding the law in order to underscore its humanism.

The rabbinic reading of these laws differs not only on the specifics, but even on the general meaning of the laws. The rabbinic approach to

Exodus 22 and Deuteronomy 24 may be found, for example, in the eleventh-century commentary of Rashi (see Chapter Four). The rabbinic method, according to which the Torah does not waste words, sees two different laws here. Exodus refers to a garment worn by day, Deuteronomy to one worn at night. Thus, in the rabbinic interpretation of Exodus 22.25, the creditor must return the garment during the day, taking the phrase "by the setting of the sun" to denote before sundown, in daytime. Then what is the force of "In what [else] will he lie down?" in Exodus 22.26? According to the rabbis, it refers not to a garment at all but to a couch, another article that might have been seized as collateral. Although the rabbinic interpretation may seem to twist the words of the text, to their credit the rabbis grasp the ultimate intent of the law and carry it one step farther. In the Torah's formulation the law seeks to protect a borrower's rights when a pledge is taken. The rabbis do not even allow the taking of collateral on such a debt, which is, after all, just borrowing from a fellow Hebrew. They understand the Torah to refer to a pledge that is seized only after a debtor has failed to pay back a loan on time. In this case, the creditor deserves some protection, too.

Readers who wish to read the laws of the Torah with a historical-critical perspective should consult a modern critical commentary that points out parallel passages in the Torah itself and in ancient Near Eastern sources. Then one has three essential tasks: to see if a law's meaning is suggested by its context, i.e., the surrounding laws in the Torah text; to examine the style and language of the law, to see if certain aspects seem to be emphasized by virtue of repetition or an "extra" phrase; and, third, to see how this particular law may distinguish itself from a law elsewhere in the Torah or in the ancient Near East. If, after consulting a commentary and performing these three steps, one feels confused, there is every likelihood that sophisticated scholars, too, must struggle and puzzle over what that ancient, intriguing text is trying to tell us.

Where to Go from Here

We have attempted in this chapter to survey some of the Torah's ritual and civil laws by connecting them with the two most critical stories in the Torah. The story of Creation describes how God ordered the world by way of categories and infused his creation with life. Israel is commanded to respect and safeguard those categories of God and revere life itself as the property of God. The story of the Exodus from Egypt impresses upon Israel God's concern for the downtrodden and his desire for human freedom. Many of the Torah's laws which distinguish

them from the laws of other nations in the ancient Near East seem to exemplify a special regard for the disadvantaged. The Israelites, who know what it means to be a slave and an alien, must see that their slaves and the aliens among them receive the sort of treatment that God had afforded His people.

Yet, it will be obvious to any with even a modest familiarity with the Torah that many areas of biblical religion and law have not even been touched upon here. Accordingly, we append references to sources and studies that can assist the interested reader in going into the subject matter more thoroughly and deeply. The literature written about the Bible is tremendous and continues to swell, so the selections are only representative of what is available in English. One should also consult the reading suggestions following Chapter Three and Chapter Four.

A good text on biblical thinking, including some cultural background, is Frank E. Eaken, Jr.'s *The Religion and Culture of Israel: An Introduction to Old Testament Thought* (Washington, D.C.: University Press of America, 1977). The most comprehensive, insightful, and readable introduction to biblical culture is still Johannes Pedersen's two-volume *Israel: Its Life and Culture* (London: Oxford University Press, 1926–1940). The best discussion of the biblical mindset, though technical, is H. Wheeler Robinson's *Inspiration and Revelation in the Old Testament* (Oxford: Clarendon Press, 1946). A more recent treatment is Hans Walter Wolff, *Anthropology of the Old Testament* (Philadelphia: Fortress Press, 1974).

Antithetical, yet classic, reconstructions of the history of Israelite religion are Julius Wellhausen's *Prolegomena to the History of Ancient Israel* (Cleveland and New York: Meridian Books, 1957) and Yehezkel Kaufmann's *The Religion of Israel* (New York: Schocken Books, 1972). For a theological comparison of the Bible and ancient Near Eastern religion, G. Ernest Wright's *The Old Testament against Its Environment* (London: SCM Press, 1950) provides a helpful perspective. On the parallel between the biblical covenant and ancient Near Eastern treaties, see especially George Mendenhall, "Covenant Forms in Israelite Tradition," *The Biblical Archaeologist Reader 3,* ed. Edward F. Campbell, Jr. and David Noel Freedman (Garden City, N.Y.: Anchor Books, 1970), pp. 25–53.

Good analyses of the biblical cult tend to be technical, such as Menahem Haran, *Temples and Temple-Service in Ancient Israel* (Oxford: Clarendon Press, 1977); Baruch A. Levine, *In the Presence of the Lord* (Leiden: E. J. Brill, 1974); and Jacob Milgrom's *Studies in Levitical Terminology* (Berkeley: University of California Press, 1970) and *Cult and Conscience* (Leiden: E. J. Brill, 1976). On the underlying ideas of the laws of purity

in the Torah, see Mary Douglas, *Purity and Danger: An Analysis of Concepts of Pollution and Taboo* (London: Routledge & Kegan Paul, 1966), especially pp. 41–58; and Jean Soler, "The Dietary Prohibitions of the Hebrews," *New York Review of Books,* June 14, 1979, pp. 24ff. For a critical discussion, consult Robert Alter, "A New Theory of Kashrut," *Commentary,* August 1979, pp. 46–52. To negotiate the jargon-laden Book of Leviticus, the commentary of Bernard Bamberger in *The Torah: A Modern Commentary* (New York: Union of American Hebrew Congregations, 1981) is a steady guide.

Concerning biblical and ancient Near Eastern law, Hans Jochen Boecker's *Law and the Administration of Justice in the Old Testament and the Ancient East* (Minneapolis: Augsburg Publishing House, 1980) provides an overall introduction. A historical approach to the laws of the Bible is taken by Anthony Phillips in *Ancient Israel's Criminal Law* (Oxford: Basil Blackwell, 1970). In *The Laws of Deuteronomy* (Ithaca: Cornell University Press, 1974) Calum M. Carmichael compares the laws of Deuteronomy to passages elsewhere in the Torah. More technical studies, taking a comparative and historical approach, are Shalom M. Paul, *Studies in the Book of the Covenant in the Light of Biblical and Cuneiform Law* (Leiden: E. J. Brill, 1970) and Moshe Weinfeld, *Deuteronomy and the Deuteronomic School* (Oxford: Clarendon Press, 1972). The underlying values embedded in biblical law are exposed in Moshe Greenberg's essay, "Some Postulates of Biblical Criminal Law," in *The Jewish Expression,* ed. Judah Goldin (New York: Bantam Books, 1970), pp. 18–37.

For legal and other material from the ancient Near East, the best collection of sources is James B. Pritchard, ed., *Ancient Near Eastern Texts Relating to the Old Testament,* 3rd ed. (Princeton: Princeton University Press, 1969). The slave laws referred to above are found on pp. 167 (Code of Hammurapi, laws 15–20), 190 (Hittite Laws 22–24), 160 (Lipit-Ishtar Code, law 12), and 163 (Laws of Eshnunna, law 50). The laws on collateral are on pp. 170 (law 114) and 176 (law 241). The related Hebrew letter is translated there on p. 568. Ancient parallels to the gleaning laws, alluded to above, are cited from Samuel Noah Kramer, *The Sumerians* (Chicago: University of Chicago Press, 1963), p. 108; and W. O. E. Oesterley, *The Wisdom of Egypt and the Old Testament* (New York: Macmillan, 1927), pp. 79–80.

For specific topics and survey articles in all areas, one will often find useful the entries in *The Interpreter's Dictionary of the Bible,* 5 vols. (Nashville: Abingdon, 1962–1976) and the *Encyclopaedia Judaica* (Jerusalem: Keter Publishing House, 1971), 16 vols. The best guide to the Bible, however, is reading and rereading it, in Hebrew if possible.

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First page of the early printed Soncino Talmud of 1483.

CHAPTER TWO

Talmud

ROBERT GOLDENBERG

When the persecutions of Hadrian were over, our Sages gathered at Usha: R.* Judah, and R. Nehemiah, and R. Meir, and R. Yose, and R. Simeon ben Yohai, and R. Eliezer the son of R. Yose the Galilean, and R. Eliezer ben Jacob. They sent a message to the elders of the Galilee, saying, "Let whoever has learned come and teach, and whoever has not learned come and learn." They gathered together, learned and taught, and did as the times required.

—SONG OF SONGS RABBAH 2.16

Although this story appears only in a relatively late source, it reflects the central motive of the rabbinic movement from the time of its first appearance in Jewish life. Convinced that Jewish life could recover from its defeats at the hands of Rome only through renewed dedication to "Torah," rabbis organized themselves to spread their teaching, gain disciples, and achieve the largest possible role in Jewish life. Of all the books that ancient rabbis have left behind, the most revealing, the most challenging, and the most rewarding is the Talmud.

The word "Torah" was just placed in quotation marks to call attention to its special meaning. For the ancient rabbis, as mentioned in the Introduction, "Torah" meant far more than the five books attributed to Moses that Jews customarily call by that name. For them, Torah was

* The standard abbreviation for Rabbi or Rav ("Rav" was the title of ordination in the ancient Babylonian Jewish community).

the Divine Wisdom which had existed before the world came into being (see Prov. 8.22–31), indeed, the blueprint according to which Creation had followed its proper course. Torah included all possible knowledge of God's will, of the life the Creator intended for the Chosen People to live. All things, from the most trivial to the most sublime, were within its realm.

Basing this notion on certain hints in the text of Scripture, ancient rabbis taught that the revelation granted to Moses had been delivered in two forms, a smaller revelation in writing and the larger one kept oral. This "Oral Torah" had been transmitted faithfully by the leaders of each generation to their successors, by Moses to Joshua, and then to the elders, then to the prophets, to the men of the Great Assembly, to the leaders of the Pharisees, and finally to the earliest rabbis. Thus only these rabbis knew the *whole* Torah—written *and* oral—and only such knowledge could qualify anyone for legitimate leadership over the people of Israel.

The earliest rabbis saw themselves, as noted, as heirs to the Pharisees. This ancient sect has acquired a terrible reputation, primarily because of the intense hostility to it expressed in a few chapters of the New Testament. What the Pharisees aimed at, however, was essentially the extension of holiness from the limits of the Jerusalem Temple to a wider range of everyday life. They sought, for example, to eat all their meals, not only sacrificial foods, in a state of Levitical purity; this concern, which will be reflected in the sample passage below (pp. 132–133), had the effect of putting much routine activity under the regulation of laws originally intended for special events. On the one hand, this tendency produced the concern for ritual detail that underlies the early Christian critique of Pharisaism, but on the other it turned life into an inexhaustible supply of opportunities to fulfill divine law and thus to sanctify life.

Associated with the Pharisees were the scribes, also attacked in the New Testament as pettifogging, self-righteous hypocrites, but also open to more charitable understanding. The scribes were men who devoted their entire lives to the study and teaching of Holy Writ and to the unending development of new techniques for interpreting it, again a religious style open to corruption, but again one founded on an unexceptionable premise. The scribes were Jews who considered the Scriptures a source of infinite wisdom, and saw no better way to spend their lives than in study.

The rabbinic movement can be understood as combining these two impulses; it sought to merge studiousness with a sense that the laws of Scripture should be expanded to cover all of life, not limited to their

own originally intended contexts. Beginning in the Land of Israel, the rabbis sought to carry this conception of Jewish life to the entire Diaspora, that widespread dispersion of Jewish communities that had begun in Babylonia in the sixth century B.C.E., and had been growing ever since. Within a century of the destruction of the Temple in the year 70 C.E., rabbis had started organizing the "Oral Torah," and were preparing it for permanent transmission:

> R. Akiba [d. 135] was like a worker who took his basket and went outside. He found wheat and put it in; he found barley and put it in; he found spelt and put it in; he found lentils and put them in. When he came into his house, he set aside the wheat by itself, the barley by itself, the beans by themselves. R. Akiba did likewise, and made the whole Torah into separate rings.
>
> —AVOT D'RABBI NATHAN, ch. 18

This rather odd story expresses the rabbis' conception of how their own literature began to grow. Rabbi Akiba, the great martyr-hero of the early second century, is described as the first compiler of "Oral Torah." Much like a gleaner who sorts the day's collection after his return home, Akiba is credited with initiating a process in which numerous miscellaneous fragments of transmitted lore were organized and collected under subject headings ("rings") of various kinds. This earliest codification of rabbinic teaching began, it is said, early in the second century; although this part of the tradition cannot be verified, it is certain that by the turn of the third century the Mishnah ("Recitation," "Recapitulation," that is, of the Oral Torah) was complete.

The Mishnah is the core document of the Talmudic tradition. Composed in very terse language and arranged topic by topic over a wide range of subjects, the Mishnah looks much like a code of Jewish law, though it probably is something other than that. Full of unresolved legal disputes and liberally sprinkled with nonlegal materials (stories, interpretations of Scripture, and so on), the Mishnah probably represents an early attempt to reduce the Oral Torah to an official compilation, to prepare some authoritative statement of the minimal amount of learning a disciple had to acquire for admittance to advanced rank in the rabbinic movement. The Mishnah is thus the earliest teaching-text, the oldest curriculum of Jewish learning in the world today.

The Mishnah is divided into six Orders, each dealing with a broad area of Jewish life. These in turn are divided into smaller topical sections called *massekhtot* ("webbings," usually translated "tractates" or "trea-

tises"); there are sixty-three of these in all. The tractates of the Mishnah vary in length, and within each Order are generally arranged according to size. Each Order and almost every tractate is called by a one-word name that reflects its dominant theme.

The first Order of the Mishnah is called *Zera'im* (Seeds), and deals mostly with agricultural law (tithes, first-fruits, and so on). The first tractate, however, is called Berakhot (Blessings); it deals with the life of prayer in Judaism, both regular daily prayer and prayer for special occasions, and presumably was placed at the beginning of the entire work because it seemed an appropriate way to start it out. A good way to see what the Mishnah as a whole is like is to see how it begins.

Mishnah Berakhot, Chapter One

1. From what time [may people] recite the evening Shema?* From the hour that the priests come in to eat of their Heave-offering, until the end of the first watch; [these are] R. Eliezer's words, but the Sages say, Until midnight. R. Gamaliel says, Until the first light of dawn. There was a case when his sons came back from a feast; they said to him, "We have not recited Shema." He said to them, "If the first light of dawn has not appeared, you are obliged to recite." And not only [in] this [case], but [in] every [case where] the Sages have said "Until midnight," the commandment [applies] until the first light of dawn: the burning of fat parts and [prescribed] limbs [on the altar]—the commandment [to do so applies] until the first light of dawn; all [sacrifices] which are to be eaten for [only] one day—the commandment [to do so applies] until the first light of dawn. If so, why did the Sages say "Until midnight"? In order to keep a man away from transgression.

2. From what time [may people] recite the morning Shema? From [the time one can] distinguish between blue and white. R. Eliezer says, Between blue and green. And he [must] finish it by sunrise. R. Joshua says, Within three hours [of sunrise], since it is the way of princes to arise at the third hour. One who recites from this hour forward has not lost anything; [he is] like a man reading in the Torah.

3. The House of Shammai say, In the evening every man [must] recline and recite, and in the morning, they [must] stand, as it is said, "When you lie down and when you rise up" (Deut. 6.7). But the House of Hillel say, Every man reads in his [own] way, as it is said, "And as you go along the way" (Ibid.). If so, why does it say, "And when you lie down and when you rise up"?—At the hour that people [generally] lie down and the hour that people [generally] rise up. Said R. Tarfon, "I was once travelling and I lay down to recite according to the opinion of the House of Shammai, and I endangered myself on account of robbers." They said to him, "You deserved to lose your life, since you violated the opinion of the House of Hillel."

4. In the morning [one] recites two blessings before [Shema] and one after it, and in the evening two before it and two after it, one long and one short. At a place where they said to lengthen, he is not permitted to shorten; [where they said] to shorten, he is not permitted to lengthen. [Where they said] to seal off [a blessing, with the words "Blessed art Thou . . ."], he is not permitted not to seal off; [where they said] not to seal off, he is not permitted to seal off.

5. [People] make mention of the Exodus from Egypt at night [as well as by day]. Said R. Eleazar b. Azariah, "Behold, I am as one seventy years old but I was never worthy [to prove] that the Exodus from Egypt should be mentioned at night, until Ben Zoma offered this interpretation, as it is said, 'In order that you remember the day of your leaving the land of Egypt all the days of your life' (Deut. 16.3): 'The days of your life' [would mean] the days; 'all the days of your life' [includes] the nights." But the Sages say, "The days of your life" [means] this world; "all the days of your life" includes the days of the Messiah.

* For an explanation of what "reciting Shema" is, see Chapter Eight.

Even without stopping to explain all the technical details of this chapter (some of that will be done below), the reader can learn much from examining it. First, the text takes very much for granted. The reader of this chapter must already know what "reciting Shema" means, and is expected to agree that the recitation must take place twice a day, since it seems that only details of hour and posture remain to be clarified. References to entirely unconnected matters of cultic ritual are added without any effort to explain them, and indeed one such reference (to the time that priests eat Heave-offering)* is crucial to the very first

* Heave-offering (Hebrew *terumah*) was a kind of religious tax on fresh produce that people gave to the priests. It had to be kept undefiled, and could not be eaten by persons who had become impure.

sentence in the chapter. Technical concepts like "seal off a blessing" similarly are mentioned with no effort to explain what they mean. It is of course true that the Mishnah is a large work, and that many of these phrases are explained more fully elsewhere in it. Still, the text as it stands here makes no reference to such explanations. One simply begins at the beginning, and one is expected to make one's own way.

Second, disagreements are never resolved. The text reports that the "Houses" of Shammai and Hillel do not agree concerning the proper posture for reciting Shema, but it fails to indicate how one really ought to recite it. It reveals that R. Tarfon's colleagues shared the Hillelite opinion, but not why, or whether they considered that everyone should share this preference. Similarly, the different time limits in paragraphs 1 and 2 are simply allowed to stand side by side. No single answer is ever declared authoritative, and in fact several of them are couched in extremely vague or exotic terms and never clarified at all.

Third, nonlegal materials (several stories, the Midrash of Ben Zoma) are regularly used to support or to illustrate legal opinions. Such a "proof" is quoted in full in the last paragraph but then rejected anyway. Indeed, the Sages' interpretation of Deuteronomy 16.3 implies that the Exodus from Egypt is not part of the evening Shema after all, though even that is never clearly stated, nor is the implied disagreement ever resolved. Thus the relationship between the rules and the supporting materials in this chapter remains unclear.

In other words, while the Mishnah *looks like* a code of rules for Jewish life, it apparently *is* something else. It requires more elucidation than it supplies, and it fails to tell how its contents might actually be put into practice. It is, however, a remarkably seductive text: anyone studying these chapters will almost inevitably frame a list of questions for further inquiry—What is "reciting Shema" anyway? Why evening? Why morning? Why do these authorities disagree like this, and who are they, anyway? How has each arrived at his opinion, and how are those who would be their disciples actually supposed to act?

The Mishnah serves extremely well for the training of disciples or for the education of a community. It covers the main themes of Jewish life, and it does so in a way that teaches the most important point of all: Jewish life is a life of constant study; one's Jewish learning is never complete while any part of it remains unexplained or incompletely integrated with the rest. Thus the Mishnah almost at once gave rise to a tradition of careful, detailed text-study that has continued down to the present.

From Mishnah to Talmud

Within a generation of its first appearance toward the turn of the third century C.E., the Mishnah had become the central text of the Oral Torah.* In the Galilee, and increasingly in Babylonia (today part of Iraq) as well, groups of rabbis and their disciples would gather to study its tractates, clarify their meaning, and apply their instructions to situations arising in their own lives. These study groups, which apparently began as informal arrangements meeting in people's homes, are the ancestors of the academies of Talmudic study *(yeshivot)* that are still the centers of rabbinic training today.

Over succeeding generations, as rabbis continued their study of Oral Torah, a tradition of commentary and explanation began to grow. The first generation applied itself chiefly to clarifying passages of the Mishnah that seemed obscure, but this work was soon accomplished, and rabbinic attention moved on to other concerns: extracting general principles of action from the particular rules that the Mishnah supplies, or expanding the collection of recorded precedents and actual applications of Mishnah-law in functioning rabbinic courts. Soon a new body of Oral Torah began to accumulate with the Mishnah as its core: the first generation discussed the Mishnah; the second generation continued this discussion, but also discussed the comments of their predecessors; the third generation discussed the Mishnah, both sets of earlier comments, and also their relationship to one another; and so on for several hundred years.

This rapidly expanding mass eventually became an object of study in its own right, called *talmud* in Hebrew and *gemara* in Aramaic; both words mean "study," and both had had other meanings before they became the names for the post-Mishnaic rabbinic tradition. The "webbing" of the Oral Torah grew ever tighter, as traditions attached to different passages of Mishnah came to refer to one another, or to draw connections between related Mishnaic materials that do not themselves express these links. Attention came to be drawn to the various sayings attributed to a given rabbi in the hope of detecting the hidden principles that held his teachings together, or alternatively to find apparent contradictions in his rulings and then to resolve them. As new materials were produced by successive generations, it became necessary to decide where

* Note that a "text" can be oral.

to fit them in. Thus the Talmudic tradition became more and more tightly organized, while at the same time newly created materials always threatened to dismember this organization at its seams. When, after centuries, this process of steady accumulation and slightly less steady organization finally came to a halt, the books now called the Talmud* remained as its monument. All modern forms of Jewish religion stand on this foundation.

There are two Talmuds. The earlier, the Jerusalem or Palestinian Talmud (it was really produced in the Galilee), dates from the first half of the fifth century. It takes the form of an extremely loose and elaborate commentary on selected tractates of the Mishnah. Proceeding paragraph by paragraph, it offers a jumble of textual elucidation, case precedents and other stories, moral instruction both general and specific, theological speculation, legends about Bible characters and later people too, and so forth. It shows signs of insufficient editing: transitions, both within arguments and also between sections, are weak, and parallel discussions appear in widely separated sections with no reference to one another, each sometimes duplicating, sometimes contradicting the others. The first English translation of the Jerusalem Talmud has just now begun to appear, and it will run to numerous volumes and thousands of pages.

Yet the Jerusalem Talmud is barely half the size of the Babylonian. Dating from a century or two later, the Babylonian Talmud shows the result of more leisurely and more skillful preparation. The arguments in the legal sections are far more elegantly presented, with points made more trenchantly and with the help of a much larger arsenal of standard technical terms and rhetorical devices. The narratives in the Babylonian Talmud also tend to be smoother and more elaborate. In general, studying the Babylonian Talmud tends to be more challenging, but also more gratifying. It is frequently difficult, but the Jerusalem Talmud is often just obscure.

The complete Babylonian Talmud was issued in English translation several decades ago by the Soncino Press. It is currently available in several different formats.†

* Unfortunately, the word "Talmud" has two meanings. It can refer to the *gemara*, that is, to the huge mass of rabbinic discussion of Mishnah that accumulated after that text appeared, or it can refer to the composite works—Mishnah plus *gemara*—that usually go by that name. This ambiguity sometimes became deceiving because the two meanings are so closely related.

† A short list of translations and other study aids appears at the end of this chapter.

A Talmudic Glossary

In preparation for examining a sample passage from the Talmud, it may help to explain a number of terms.

Mishnah—As already mentioned, this is the name of the earliest major rabbinic book, though the term also is used to denote a single paragraph of that collection. The Mishnah as a whole is arranged like a code: a *mishnah* (i.e., a single paragraph) is part of a chapter, a chapter part of a tractate, a tractate part of an Order. Every passage of the Talmud ostensibly belongs to the discussion of one *mishnah* or another. The central status of the Mishnah in the rabbinic tradition is reflected in the fact that the Talmud has a special set of technical terms for quoting from it, terms that ought not to be used when other rabbinic materials are cited.*

Tosefta (Aramaic, supplement)—A collection of older traditions similar to the Mishnah, this work concentrates on materials that the editor(s) of the Mishnah chose not to include. The Tosefta is arranged like the Mishnah into Orders and tractates, but its relationship to the Mishnah is hard to determine. Certain sections seem like commentaries on the parallel sections in the Mishnah, others seem more like alternate versions of the Mishnah itself, others seem to have almost nothing to do with the Mishnah, almost no connection at all. These different sorts of relationships can appear within one tractate, in unpredictable sequence. For scholars, therefore, the Tosefta is noteworthy because it sheds some light on the development of the materials appearing in the Mishnah itself, but there will be little further occasion to mention it here.

Baraita (Aramaic, outside)—A *baraita* is a piece of tradition appearing in one of the Talmuds but attributed to a rabbinic teacher who lived in the time of the Mishnah or even earlier. All such early traditions, though not part of the Mishnah itself, were held by later teachers to be authoritative in some way,† but since they often contradicted one an-

* This does not mean, to be sure, that the contents of the Mishnah always determined the actual law.

† In general, the various periods in the history of the rabbinic tradition (Mishnaic, Talmudic, early medieval, late medieval, etc.) are arranged hierarchically in order of age. Though this rule was often disregarded, there was a general tendency for every age to accept as binding the texts and the decisions of its predecessors.

other, and since later teachers also often felt free to disregard them, the exact nature of that authority is hard to determine. At the very least it can be said that no such tradition could simply be ignored. If a *baraita* was quoted in the course of a discussion, its meaning and its implications necessarily had to be explored. Any later teacher could strengthen the authority of his opinion by quoting a *baraita* in its support.

Tanna (Aramaic, repeater)—The Tannaim, as they are collectively known, were the authorities whose work is assembled in the Mishnah; the name reflects their characteristic mode of teaching—repeating Oral Torah. The first century or so following the destruction of Jerusalem is thus known as the Tannaitic period, and the Mishnah, the Tosefta, and certain other books are called Tannaitic literature. The shorthand for the preceding discussion of *baraita* could therefore be this: the Talmuds consider any fragment of Tannaitic tradition worthy of their most serious attention.

Amora (Aramaic, discusser)—The Amoraim are the rabbinic teachers of the post-Mishnaic era whose traditions are found in the *gemara* part of the Talmuds themselves. The Amoraic era was thus the successor to the Tannaitic. In theory, the Amoraim simply expanded on the Tannaitic foundation of Judaism, but in fact the several centuries of Amoraic activity saw the rabbinic tradition enter into a decisively new phase, as the preceding description of the Talmud tried to suggest.

Halakhah (Hebrew, law; derived from the verb *to go*)—The *halakhah* is the set of rules often known as "Jewish law" that governs Jewish life. It must be kept in mind, however, that the *halakhah* embraces far more than the term "law" usually suggests in English; its subject matter is much broader, and much Jewish "law" is in principle unenforceable. Who, for example, really knows which kitchens in a given community are kosher, or which members of that community secretly violate the Sabbath?

Although the Mishnah only looks like a law code, nevertheless, most of its content pertains to the *halakhah;* although the Talmud only looks like a commentary on the Mishnah, the same can be said of it. The earliest public role in the Jewish community that rabbis were able to achieve was as judges and community officials. *Halakhah* naturally became their chief concern, a concern that fit their theological conviction that Judaism essentially amounts to learning precisely what the Torah commands and then *doing* it.

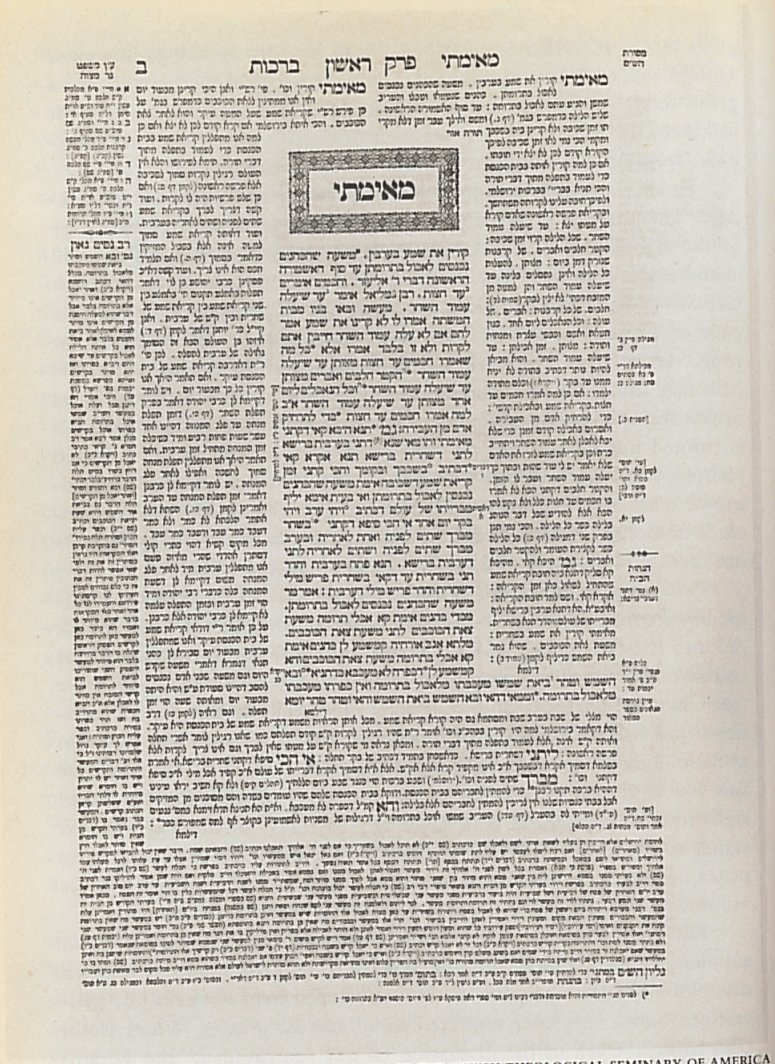
Aggadah (Hebrew, discourse)—Any nonhalakhic Talmudic discussion can be labeled *aggadah*. The term sometimes has the more specific meaning of rabbinic narrative, either stories about Bible heroes or about

great rabbis of earlier generations. More broadly speaking, however, *aggadah* also embraces moral exhortation, theological speculation, and a great, miscellaneous variety of folklore. Despite its primary concern for *halakhah,* the Talmud is large enough to contain great quantities of *aggadah* sprinkled seemingly at random among its pages.

Finally, a picture of a page of the Talmud, and then a sample passage. The attached illustration (see page 140) depicts the very first page of the Babylonian Talmud, just as the analysis that is to follow will examine the Talmud's very first discussions. As the picture makes clear (see Schematic Drawing and Key, pages 141–42), even the layout of a page of Talmud reflects its character as discussion. In the middle of the page, set in larger type, are the oldest stages of the conversation, the Mishnah and the *gemara* themselves. The first word is enclosed in an ornate frame (this is true for every tractate), and then the first Mishnah is printed out in full. On the fourteenth line, set off by the enlarged Hebrew letters *gimmel-mem* (for *gemara*), the Mishnah ends and the Talmudic discussion begins; it will continue for fifteen pages and will include numerous and wide-ranging digressions (see below). Then *mishnah* number two is printed, and the Talmudic discussion resumes.

Surrounding the Talmudic text are the two most famous of the medieval commentaries. To the right is the commentary of Rashi (*R*abbi *Sh*lomo *I*tzhaki, 1040–1105), the master of Jewish commentators. In the course of his life, Rashi produced commentary on almost all the Bible (see Chapter Four) and almost all the Talmud, and to this day no traditional Jew will study either of those sacred texts without having Rashi at hand. Indeed, starting with the first printings of the Talmud in the late 1400s, almost every edition that has ever appeared has put Rashi right next to the central text, as he appears here. In this page, which stands to the left of the binding, Rashi is on the right, but on alternate pages he stands on the left. Thus, Rashi is always at the center of the volume, at the "heart" of the study of the Talmud.

On the right here, in the outside column, are the Tosafot (Heb., supplements). Originally amplifications of Rashi's comments by his own disciples and successors, the Tosafot developed over the next few generations into a vast interconnected set of specific queries. Where Rashi tries to keep track of the discussion on any specific page, the Tosafot seek to connect it with some other discussion elsewhere. Where Rashi seeks simplicity and clarity, the Tosafot aim at complexity—but often produce obscurity. Much of the Talmud's reputation for overcomplicated, "hairsplitting" dialectic derives from the Tosafot and their attempt to combine all Talmudic literature into a single, integrated whole.


מאימתי

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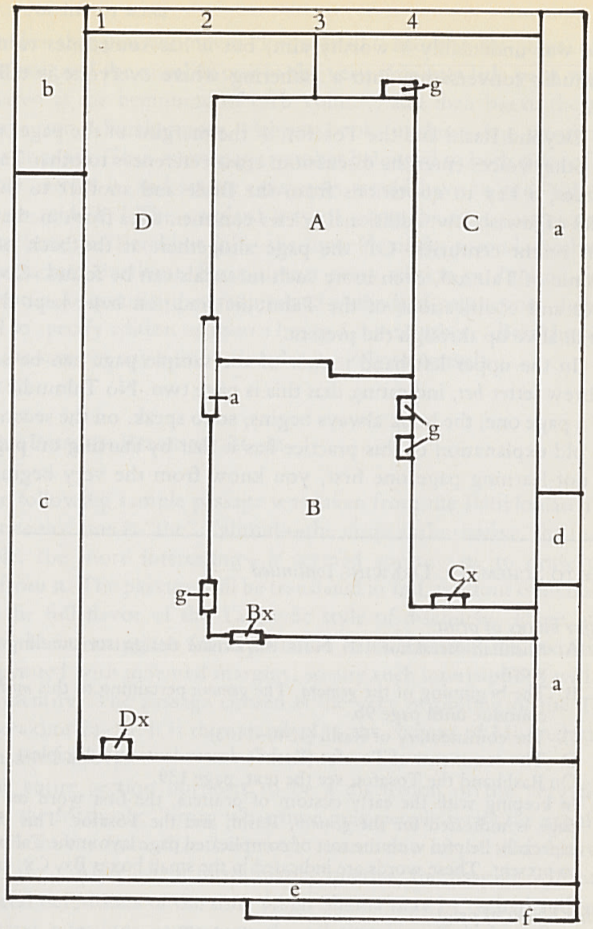
First page of the Tractate Berakhot in standard edition of Talmud.



KEY TO SCHEMATIC DRAWING

Heading:

1. The letter *bet,* indicating page two, side one. There is no page one; see the text, page 143.
2. "Berakhot"
3. "First Chapter"
4. "From When"; most chapters of the Mishnah, and therefore of the Talmud, are named after their first words

continued

This was undeniably a worthy aim, but it has sometimes turned the Talmudic conversation into a gathering where everyone is talking at once.

Beyond Rashi and the Tosafot, at the margins of the page, numerous other voices enter the discussion: cross-references to other Talmudic sources, a key to quotations from the Bible and another to the great codes of Jewish law, additional briefer commentaries from medieval and even recent centuries. Off the page altogether, at the back of every volume of Talmud, even more such materials can be found. Commentaries and codifications of the Talmudic tradition have kept the Oral Torah alive up through the present.

In the upper left-hand corner of the sample page can be seen the Hebrew letter *bet,* indicating that this is page two. No Talmudic tractate has a page one; the book always begins, so to speak, on the second page. An old explanation of this practice has it that by starting on page two, by not learning page one first, you know from the very beginning of your studies that you will never "know it all." More to the point, early printers assigned the number one to the very elaborate title page which they placed at the beginning of each volume, and then began the text with page two.* Furthermore, Hebrew books in those days numbered leaves, not pages. Thus every page number belonged to both sides of the sheet that carried it, and source references would have to cite "folio x, side a" or "side b." The standard way of citing the page just pictured therefore became "Berakhot 2a"—the first side of the second numbered sheet in tractate Berakhot. Since almost every edition of Talmud since the invention of printing has maintained a standard pagination, there is no need to specify edition or source beyond this number. "Berakhot 2a" will be the same in any edition a reader is likely to consult.

KEY TO SCHEMATIC DRAWING *continued*

Major blocks of print:

A. Mishnah Berakhot 1:1. Note the ornate design surrounding the first word.
B. The beginning of the *gemara*. The *gemara* pertaining to this *mishnah* will continue until page 9b.
C. The commentary of Rashi (1040–1105)
D. The comments of Tosafot (Rashi's descendants and disciples)

On Rashi and the Tosafot, see the text, page 139.

In keeping with the early custom of printers, the first word on the next page is indicated for the *gemara,* Rashi, and the Tosafot. This custom is especially helpful with the sort of complicated page layout the Talmud tends to present. These words are indicated in the small boxes Bx, Cx, and Dx.

Other blocks of print:

a. Cross-references to other passages in the Talmud
b. Cross-references to medieval codes of Jewish law. These codes include the *Mishneh Torah* of Maimonides* (1135–1204), the *Great Commandment-book* of R. Moses of Coucy (13th century), the *Four Turim* (Rows) of R. Jacob b. Asher (d. 1340), and the *Shulhan Arukh* of R. Joseph Caro* (1488–1575). The two starred codes are discussed in the text, pages 161–63.
c. The comments of R. Nissim Gaon (d. 1062)
d. A textual emendation by R. Joel Sirkes (1561–1640)
e. Notes by R. Akiba Eger (1761–1837)
f. An anonymous comment, possibly added by the original printers of this edition (Romm, Vilna, 1880–86)
g. Key to quotations from the Bible

A SAMPLE PASSAGE: BERAKHOT 2A–3A

The following sample passage was taken from the Babylonian Talmud; since that one is "the" Talmud—the more authoritative, the more accessible, the more interesting—it seemed appropriate to draw our sample from it. The passage will be translated in full, without omissions, to give the full flavor of the Talmudic style of discourse. There will, however, be interruptions for explanation or elaboration; the text itself will be printed with indented margins, so any such interruptions will be easy to identify. The passage chosen is the very beginning of the Talmud, Berakhot 2a–3a; it is thus attached to the chapter of Mishnah that was translated above.

This entire section purports to be a discussion of the very first phrase in the Mishnah: "From what time may people recite the evening Shema? From the hour that the priests come in to eat of their Heave-offering. . . ." After a few introductory queries, the passage will present several definitions of the time when Shema may be recited and will raise certain questions concerning the relationship of these definitions to one another. It may seem that this is all a practical discussion, an effort to decide when in fact the time for Shema arrives and then to produce convenient tests for determining whether that moment has come.

It is important to keep in mind that this is not at all the true purpose of the passage. Two facts make this clear: the practical question at hand

* Most modern books are similar. Very few actually have a page one containing part of the body of the text.

". . . And How?"

Beginners especially may find Talmud study a difficult task. The logic can be convoluted, while every page alludes to customs, political arrangements, and so on which were once everyday reality but are now terribly obscure. Worst of all, the whole effort must be made with translated texts, unless the student can master Hebrew and Aramaic even before starting. It must therefore be emphasized that the necessary background can be acquired. People have done so in every generation, and people can do so now. The texts are translated; introductions, explanations, and commentaries have been written; Hebrew has been revived as a spoken tongue. The would-be beginner need only supply the will.

It may also help to bear in mind that Talmud study can be tremendous fun. Like any challenging task, the task of understanding an unfamiliar Talmudic passage is intimidating only until it has once been accomplished. After that, the challenge can be relished, and the task enjoyed. The fact is, after all, that the Talmud is *interesting*. The people represented in it were intelligent, articulate, and dedicated to the remarkable project of helping an ancient tradition survive mortal danger. Their arguments stimulate, their language gives pleasure, the immensity of their achievement provokes awe. There is wit in the Talmud, and humor too. There are wonderful stories, and logic whose disciplined sharpness is breathtaking. The Talmud has been compared to the sea; you never enjoy swimming anywhere until you've gotten used to the water. Getting wet can be uncomfortable at first, but after that "the water's fine"; the pleasure keeps mounting.

But what does it mean to study the Talmud; how is it to be done? In our time, the Talmud exists primarily in print, as a book, and our culture tends to see reading as a private activity. Even the reader of this book probably is sitting alone somewhere, trying to concentrate on its pages. People not reading alone usually are found in large groups, either listening to a lecturer explain a text, or in a classroom, engaged in group discussion. Neither of these settings, however, reflects the manner of Talmud study in the traditional *yeshiva*. There, students study in pairs, reading every word of the text out loud, never going on to the next phrase until they have exhausted the meaning of the one under discussion. The Talmud itself, after all, originated as oral discussion, and still has the form of an elaborate conversation carried on over centuries. Its standard way of citing an opinion is "Rabbi X says . . ."; later generations of rabbinic disciples listened to Rabbi X, and answered back. This

mode of study, called in Aramaic *havruta* ("fellowship"), turns text study into dialogue and makes books into tools for overcoming, not strengthening, isolation. It makes the tradition of rabbinic learning a powerful source of community cohesion, a source of speech rather than silence. This activity was usually called not "study" but "learning," and in every Jewish community an invitation to fellowship could take the form of the proposal "Let's learn together." The life of the mind and the life of society were thus made one.*

In the past, it was also taken for granted that one needed a teacher to study Talmud properly. Those pairs of students in the *yeshiva* always know whose disciples they are, and regularly gather to hear "the rabbi" lecture, or to be examined by him one by one. In an extreme statement, ancient rabbis are quoted as having said that even one who has memorized the whole Bible, and the Mishnah too, is still only an ignoramus, a heretic, or even worse, unless he has also "served the Sages," that is, has carried out a proper apprenticeship with a master (Sotah 22a).

The advice still has force, especially for the beginner. The world of the Talmud is an exceedingly complex one; a first entry into it through books is like looking up a word in a foreign-language dictionary. Every choice the dictionary offers is in some sense a translation of the word in question, but only one really captures the correct meaning in context; others may amount to grotesque errors. So too the Talmud's habit of assuming whenever it talks of one thing that the student already understands ten others makes it useful to have access to a teacher who can put everything into a helpful framework, who can say when some term or idea is *mentioned* in place X that it's really *explained* in place Y. Such living sources of guidance have saved countless novice Talmudists from despair.

They are not, however, indispensable. The booklist at the end of this chapter assumes that modern students of the Talmud differ from their predecessors in their way of study just as they differ in their purpose and in their prior training. Those who can find a teacher or a class which suits them in aim and in atmosphere are fortunate to be sure, but the following bibliography is designed for the modern reader who wishes

* It seems to me that solitary study tends to seek meaning, while study *behavruta* tends to look for implications. When we read by ourselves, and we are satisfied that we have understood, we naturally move on. But when "learning" is a kind of conversation, then there is always more to be said. The rate of progress is more leisurely, the depth of analysis more penetrating. The modern way of "study" and traditional Jewish "learning" are more different, and are different in more ways, than might at first seem the case. See the Introduction to this book for more on this matter.

to sample the Talmud in the way most modern books are read—alone, with ready access to printed study aids, but without the constant presence of a colleague or a guide. Pirke Avot 1.6 (see below) advises "Acquire a companion," but not everyone is so lucky.

Final Note—the Talmud Is More than Law

This chapter has concentrated almost exclusively on the legal aspect of Talmudic literature, and this has been so for a number of reasons. For one thing, the Talmud has functioned for much of its history principally as the basis of Jewish law. More people have studied the Talmud to learn its legal content than for any other reason. Second, the Talmud treats matters of law more than it treats any other sort of topic. Other interests too are reflected in its pages, but the Talmud is primarily a law book, just as the ancient rabbis primarily concerned themselves with the study, the application, and the enforcement (when they could) of the law—they would have said the commandments—of the Torah. Finally, this chapter has been concerned not directly with the Talmud as a book, but with the experience of studying that book, and there can be no doubt that the study of Talmudic law is really what people have always meant when they spoke of "learning *gemara*." Beginners possibly were initiated into Talmud study with easier materials, but only when the legal heart of the literature—the famous gored oxen and their companions—had been reached were people thought to have become "disciples of the Sages."

Nevertheless, the Talmud is not altogether a law book, and a few words, even as an afterthought, should be devoted to its other interests.

The Talmud contains much narrative. Many famous legends about personalities in the Bible make their first appearance in the Talmud. So too many well-known stories about the early rabbis themselves can be found there, as can long narratives about crucial events in Jewish history. In particular, the rabbis' version of the most crucial event of all—the Romans' destruction of Jerusalem and its Temple—takes several pages in tractate Gittin (55b–58b) to recount. More generally, rabbinic narrative includes folklore, stories about angels and demons, and gossip about all sorts of surprising people (Nero became a convert to Judaism, Jesus was an Egyptian magician,* and so on). Some of these stories really constitute precedents embedded in the legal materials, but the modern reader's interest in them can go far beyond that original use.

* Much Talmudic discussion of early Christianity was censored out in the course of the Middle Ages and must now be recovered from scattered manuscripts.

The Talmud also contains what would now be called theological speculation. Scattered here and there are brief references to God and how God operates in the world. All things considered, the Talmud for a "religious" text pays remarkably little attention to God, but still a student who works through its entire length will have a considerable notion of how those early Jewish teachers conceived of their Creator. In particular, there is again one quite lengthy section (Hagigah 11b–16a) that contains much of our information about early Jewish mysticism, the so-called Merkavah ("Chariot") movement. Much of this material appears in a format that was discussed above—exegesis of Scripture—but its interest for the modern reader is not limited to that functional aspect.

Finally, the Talmud embodies an entire world view which can perhaps best be embraced by the word "ethics." The Talmud taught the Jew how to live. This includes the working-out of Jewish law, of course, but also much, much more; ancient rabbis knew perfectly well that law can never provide a full set of guidelines for living one's life. One must also, as later teachers put it, be a *mensch*.

This ethical side to the Talmudic tradition appears most clearly in a particular tractate of the Mishnah, one which in fact never received a *gemara* of the standard type at all. Tractate Avot ("Fathers") is an anthology of rabbis' sayings about a great variety of subjects. These appear in no particular order, other than a vague chronological sequence which peters out before the tractate is half finished. Despite its unusual format, however, this tractate is probably the most studied Jewish text of all time.

From an early period, the custom grew of studying one chapter of tractate Avot on each of the Sabbaths between Passover and Shavuot. There are six weeks between these festivals, and originally there were only five chapters in Avot, but this custom became so firmly entrenched that a sixth was added, just to make the study come out even. In fact, the tractate came to be known popularly as "Pirke Avot," the "Chapters of Avot" (in English, commonly, the "Ethics of the Fathers," reflecting the tractate's characteristic theme), after the custom of studying this text every year, a chapter at a time.

Avot begins with a kind of brief history of the entire Jewish tradition as rabbis understood it ("Moses received Torah from Sinai and transmitted it to Joshua; Joshua to the Elders, the Elders to the Prophets," and so on); the entire remainder of the tractate consists of sayings attributed to one rabbi or another, starting with the earliest forerunners of the rabbinate and going up to the early third century. These sayings deal with numerous topics: techniques for Torah study, types of person-

for overcoming this uncertainty—the present generation is no different in this respect. It will be useful to review some of those earlier techniques, and then at last to raise the question how people of the present generation can approach this remarkable tradition.

The Talmud and Its Offspring

As has been mentioned, the Talmud tends to assume the tradition is basically reliable: if a given saying is attributed to Rabbi X then Rabbi X said it, and if it is reported that Rabbi X said Y then that is what Rabbi X said. When confronted with evidence that the tradition is not in order —the final sections of the sample passage presented such evidence—the Talmud knows of several standard procedures for removing the resultant discomfort. It can "correct" one of the conflicting traditions, as though to say that one day in the schoolhouse a conflict of this sort arose, but it was found to be the result of a faulty text. The fault was corrected, and now the "official" tradition is once again reliable. The fault itself can be accounted for in several ways: a student was inattentive and got his master's words wrong, or the words were remembered correctly but attached to the wrong context, or the tradition is correct but was temporarily misunderstood, and so forth. More rarely, as in the case above, the Talmud admits that two different versions of a master's teaching are inconsistent, but then leaves both standing. In the sample, this occurred because each had its own authentication; each was transmitted by a different "Tanna," and even though something perplexing had happened here, there was no way to sort things out. Elsewhere, it may be suggested that the master in question had himself changed his mind. One way or the other, the Talmud is satisfied; this is made clear by the simple fact that the rabbinic tradition did not collapse over difficulties of this sort. The teachings of earlier masters were considered to have been reliably transmitted, and occasional discrepancies were handled on the spot, so to speak, with no consideration for their possible broader implications.

With respect to the law, the problem was more difficult. Since rabbinic traditions were considered authoritative, later generations wished to live according to their teaching. How could one do that, however, if the tradition was organized largely according to disputes, and if these were so often left unresolved? In response, the Amoraim developed guiding rules of the sort, "If Rabbi A differs with Rabbi B, follow Rabbi A," or, "If Rabbi C differs with one colleague follow

Rabbi C anyway, but not if he differs with all his colleagues," or, "Follow Rabbi D in matters of X but not in matters of Y."* These rules themselves were sometimes ignored, and later generations took for granted that an explicit ruling found in the Talmud itself must always supersede such general guidelines. Still, they provided an escape from utter confusion. Now in principle, any dispute in the Mishnah, even if the Talmud seems not to resolve it, could be resolved by reference to such rules, and disputes of the Amoraim found in the Talmud itself could be resolved through reference to similar rules worked out by later generations of Talmudic and post-Talmudic masters.

Thus, in the end, the legal content of the Mishnah and then the Talmud became the basis of the continuing tradition of Jewish law, even though these texts originated to serve other ends. This change reflects another, still more fundamental one.

At the time the Talmud was composed, "the rabbis" formed one of the movements in Jewish life. Their influence was steadily growing, to be sure, but the Jewish community as such was not organized around them. Except when they could acquire some part in the community's formal governance (as they did, for example, in Babylonia), they could not count on any *power* over their fellow Jews, and whatever *influence* they could achieve had to be won through the force of their teaching.† Under these circumstances, the Talmud and its related literature were chiefly the private study texts of a particular group.

In the Middle Ages, however, rabbinic teaching was indeed the basis of all Jewish religious life. "Judaism" was rabbinic Judaism; the other ancient forms of this once-varied tradition had disappeared. Talmudic literature was now public property; not that everyone studied it, but everyone accepted its authority. Talmudic law was more than material for study, it now really was the law of the community. As such, it demanded clarification and application in all sorts of novel situations.

Once again, however, the problem of historical reliability was not a paramount concern. The very authority of the Talmud was taken to imply that its text was trustworthy; you could not base your life on a book if you could not trust it. Later generations naturally knew of the problems recognized in the Talmud itself, but they accepted the solutions it offered as well. The problem of medieval teachers had rather to

* A sample list of such rules can be found in the Talmud at Eruvin 46b.
† The distinction between power and influence comes from the work of Jacob Neusner. Professor Neusner is one of the leading scholars of our generation, and by far the most prolific. No list of his works can be complete, but for a sample see the booklist below, pp. 172–175.

do with explaining a text that by now was quite alien to their own day-to-day surroundings, and with applying its law to situations that the framers of that law had not foreseen.

Medieval rabbis developed three distinctive types of literature to meet this need. One was the *responsum* (Heb. *teshuvah*); as the name implies, this had the form of the answer to a question. Medieval Jewry never developed a hierarchy in the formal sense, but still every generation knew who were the truly distinguished teachers, the great men of the time. Other rabbis all over the world would address inquiries to these luminaries whenever they felt unable to solve a problem that had arisen in their own locality. At first, these problems were usually referred to the surviving academies in Babylonia, heirs in the strictest sense to the authority of the Talmud itself. As these began to decline, however (tenth to eleventh centuries), and as centers of Torah-study began to arise elsewhere (in North Africa, then in Spain, then in the Rhineland and Italy), queries were sent wherever local rabbis thought they had found the leaders of their generation. Every great rabbi of the Middle Ages wrote many responsa, and huge quantities of these survive; a computer project in Israel has now begun to collect, classify, and prepare an index to the entire surviving collection.

Every *responsum* is preceded by a question, in which the inquirer describes the situation which has arisen and specifies the legal matter on which he needs a ruling. The question itself will very often include a citation of all relevant Talmudic passages and perhaps even survey possible interpretations of these. The inquiry thus has certain features in common with a lawyer's brief, except that it comes not from one of the two contending sides but from the lower-court judge himself. Similarly, the answer, much like an appellate court's decision, will not necessarily uncover great new amounts of precedent; it will rather provide an authoritative interpretation of texts that the inquirer has already cited.

Over the years, the accumulating body of responsa thus provided a growing collection both of specific precedents based on concrete cases and also of general interpretations of key Talmudic passages, interpretations that might now be applied to any case where these passages were thought pertinent. The availability of fresh responsa in every generation (and they are still being produced today) was the most important factor in keeping Jewish law a living tradition over so many years.

A second type of literature was the *novella* (Heb. *hiddush*). *Hiddushim* were commentaries on the Talmud written without specific reference to a particular case. As time went on, consensus began to develop about which passages of the Talmud were fairly clear in meaning, and which

required careful explanation. The greatest scholars in each generation prepared their own explanations of the Talmud, initially for their own students (and very often only orally) but eventually in written form for wider circulation. Many authorities produced both responsa and *hiddushim,* though not all worked with equal comfort in both forms; the responsum was the preferred format of those whose community position required that they issue numerous practical rulings, while commentaries on the Talmudic text attracted those whose lives were spent in more private study.

Finally, and perhaps best known, the Middle Ages saw the appearance of the great comprehensive codes of Jewish law. The three texts underlying Jewish law—the Bible, the Mishnah, and the Talmud—are none of them organized by topic. Anyone wanting to know what the Bible says about the Sabbath will need to read the entire book through or to have access to some modern index of its contents; the text itself provides nothing of the kind. The Mishnah, because it is arranged by tractates, seems better in this regard, except that one quickly learns that not everything concerning the Sabbath is found in the tractate bearing that heading, and not everything in that tractate concerns the Sabbath; the same is true for divorces, or kosher slaughter, or any topic at all.

The Talmud, because of the free-wheeling discussions out of which it was put together, is more like the Bible than the Mishnah. Even with the Talmud it always pays to start the study of some topic with the tractate named after that topic, but it is never safe to use those titles as indicators of the likely content of a specific passage. As with the Bible, if you want to know what the Talmud says about the Sabbath, you have to read the whole thing through—and the Talmud is extremely long. As a result, soon after the Talmud became a closed text, summaries of its legal contents began to appear. Most of these treat only selected topics, while the more comprehensive summaries, like that of R. Isaac of Fez ("Rif," 1013–1103), still follow the order of the Talmud itself; though these formats gather much material into a more concise framework, neither is yet a true code in the modern sense of the term.

The greatest of the true medieval codes is that of Moses Maimonides (1135–1204). Reflecting his philosophical bent (for more on this see Chapter Five), Maimonides' Code, the *Mishneh Torah,* (the Torah recapitulated) begins with a philosophical introduction in which the rudiments of Aristotelian physics and metaphysics are turned into the foundation of Jewish law. Further reflecting its all-inclusive character, the *Mishneh Torah* ends with a section detailing laws concerning the Messiah, how he is to be recognized, and what he can be expected to

accomplish. In between, every conceivable topic of Jewish law is treated in its proper place in a carefully worked-out sequence. All Talmudic sources relevant to any subject matter have been gathered and digested by the author and only the outcome of the process actually written down; as a result, the reader finds no summary of ancient discussions, but rather a simple statement of the law in the clearest possible language. Maimonides wrote that the purpose of his code was to make study of the Talmud unnecessary for those who merely wanted to know the law. He was widely condemned for this arrogance and denounced as a threat to traditional Judaism, and he failed to achieve that particular aim. The *Mishneh Torah* is nonetheless one of the most impressive accomplishments in the long history of Jewish thinking.

The code most influential in modern Jewish life—and also the last comprehensive one to be written—is the *Shulhan Arukh* (The Set Table) of R. Joseph Caro (1488–1575). Actually a digest of Caro's own commentary to an earlier, more elaborate code, the *Shulhan Arukh* aims at giving a simple statement of the law as it affects the life of the ordinary Jew; those who enter the banquet hall of Torah can now find its contents laid out ("The Set Table") in elegant simplicity. Unlike Maimonides, Caro simply ignored all areas of the law not currently applicable, though like his great predecessor, he tended to omit all reference to earlier sources or to opinions he had decided to reject.

Caro's code reflected its author's own background. Its law was the law of the so-called Sephardic Jews of Spanish and Portuguese descent; in Caro's own time these Jews lived primarily in Greece, Turkey, and the Land of Israel. The *Shulhan Arukh* gained world-wide acceptance through the work of another, the great Polish rabbi, Moses Isserles (d. 1572). Greatly impressed with Caro's work, Isserles nevertheless saw it would fail among the Ashkenazic Jews of Eastern Europe unless it included and granted legitimacy to their own distinctive customs. He therefore wrote a "Tablecloth" for the Set Table, and it was the composite work thus produced that became the functioning code for observant Jews to our own day.

To be sure, the process of commentary and adjustment has continued. Within Caro's own lifetime, commentaries on his code had begun to appear. Alterations in circumstances have led to modifications of some of his and Isserles' rulings, and new developments have required the application of those rulings in ways and to questions that the authors themselves could never have foreseen. Nevertheless, the phrase "*Shulhan Arukh* Jew" is still used—both in praise and in criticism—to describe those whose conception of Jewish life is centered on carrying out the laws found in this code. Even among those who find this a narrow conception of the wealth that Judaism has to offer, the continuing use of this term testifies to the power of Caro's work four hundred years and more after it was completed.

Perhaps because it was the first compiled after the invention of printing, and therefore circulated far more quickly throughout the Jewish world, Caro's was the last comprehensive code to be drawn up. The history of Jewish (that is, Talmudic) law, however, hardly ended in the sixteenth century. Responsa, as noted, continue to be written, and even the codes retain a life of their own through the new work they have stimulated. Each great code represents an important turning point in the history of the law. Each has given rise to its own commentaries and adaptations, but no code has brought that history to an end.

There is an irony here: the same centuries that saw the composition of these great codes also saw unending opposition to the activity they reflect. There has always been a fear among rabbis that codifying presented a double threat to the authentic tradition: it could distract people from studying the *really* important texts (principally the Talmud), and a truly authoritative code might well freeze the law in a way even the most tradition-minded leaders did not wish to see. These two dangers feed one another. If a code is not to freeze the law, a steady stream of commentary and application will be needed to keep it fluid. But if all that energy is to go into commenting on other people's writing, is it not preferable to keep the focus on the Talmud itself, the truly authoritative text, the foundation of the whole system? The history of Jewish law has revolved around questions of this sort for over a thousand years. The questions themselves can receive no definitive answer, since they involve, among other factors, the question of individual temperament and the accidents of history, but they attest to the continued liveliness of this ancient facet of the Jewish tradition.

Why Study Talmud, and How?

All that has preceded this point is really only background to what follows. So far the subject has been the Talmud as a text—a sample passage, a description of its origins and its offshoots, and so on—but now it shifts to the act of study. What is it like to study the Talmud? Why did Jews make Talmud-study the central feature of their entire religious tradition? What was the source of the Talmud's fascination, and how can that fascination be made available today?

Lesson 3: Jewish Living, Jewish Values

Essential Questions

1. What are values?
2. What makes a value Jewish and why should I care about these Jewish values?
3. How can Judaism help me to live out values?

Goals (*As an educator, I want to show students…*)

1. That there is overlap between universal values and Jewish values
2. Judaism provides wisdom and guidance on how to both understand and apply values to our lives

Objectives (*Students will be able to…*)

1. Define in their own words what are universal values and Jewish values
2. Explain why Jewish values are important and how they relate to *halakhic* sources (*Bible, Talmud, Codes*)

Materials

- Journals[15]
- Pencils/Pens
- Art supplies (Your choice)
- *Pirke Avot* Texts-See Appendix 1.3A
- "We asked 21 Rabbis: Is there a thing as Jewish Values?" https://forward.com/opinion/388394/we-asked-21-rabbis-is-there-such-a-thing-as-jewish-values/

[15] Note to The Teacher: It would best to give your students a bound journal that they can keep for the duration of this curriculum. That will allow them to keep all their ideas in one place.

Set Induction: The Values I Live By

1. Tell each student to think of a value that they try to live by. For example, you could say, "I choose to be as honest as possible with my friends and family."
2. Then you will instruct each student to decide how they would like to present the value to the class. Students have the option of presenting their value in a number of ways. They can tell a brief story that exemplifies how they live by that value, draw a picture, find a piece of music, etc. They may choose any way which clearly shows the value and why it is important for them to live by.
3. After the students have presented their values, you will ask the class the following questions:
    - What is a value? (What one deems important in life and behaves accordingly)
    - What made you choose the value you did?
    - Why do you think that everyone chose to represent his or her value in a different way?
4. Tell students that now we are going to move towards figuring out what makes a value Jewish!

Activity 1: What Makes A Value Jewish?

In this activity, it is important to start by saying the following: Now we know what defines a value. However, we must ask ourselves, if values exist universally as in the examples we all gave at the beginning of class, why do we need the Jewish version, what we call Jewish values?

1. To begin to answer this question, you are going to give your students a few short Jewish texts form *Pirke Avot.* - See Appendix 1.3A for the text and a few guiding questions. (This is a tractate in the Mishnah, which translates to Ethics of Our Fathers. This is a good time to remind students that we learned *Mishnah* is the earliest rabbinic interpretation of the Torah.)
2. Come back together to discuss the last of the three discussion questions, "What is the connection between a value and Judaism?" (Judaism takes values which it deems to be important in a specific time period, universal or not, and represents their meaning through a variety of Jewish sources such as text, stories, songs, liturgy, etc. *Halakhah* takes Jewish values and prescribes actions for living them out within the time period it is written.

Activity 2: How do you describe Jewish Values

From the time of the early rabbis to contemporary ones, Jewish leaders continue to argue about what exactly Jewish values are. In a recent Forward article titled "We asked 21 Rabbis: Is there a thing as Jewish Values?" each rabbi takes a moment to answer the important and difficult question.

1. First, have your students read through the responses in the article: https://forward.com/opinion/388394/we-asked-21-rabbis-is-there-such-a-thing-as-jewish-values/.
2. Tell each student to pick the one which is most compelling for them and be ready to explain why he or she made their selection.
3. Have each student read their response and share their explanation with the class.

Educational Closure

Circling back to the essential questions in this lesson, state the essential questions for this lesson again and ask students to share their thoughts on them now as this session concludes.

1. What are values?
2. What makes a value Jewish and why would I should I care about these Jewish values?
3. How can Judaism help me to live out values?

Appendix 1.3A

Pirke Avot

1:1

מֹשֶׁה קִבֵּל תּוֹרָה מִסִּינַי, וּמְסָרָהּ לִיהוֹשֻׁעַ, וִיהוֹשֻׁעַ לִזְקֵנִים, וּזְקֵנִים לִנְבִיאִים, וּנְבִיאִים מְסָרוּהָ לְאַנְשֵׁי כְנֶסֶת הַגְּדוֹלָה. הֵם אָמְרוּ שְׁלֹשָׁה דְבָרִים, הֱווּ מְתוּנִים בַּדִּין, וְהַעֲמִידוּ תַלְמִידִים הַרְבֵּה, וַעֲשׂוּ סְיָג לַתּוֹרָה

Moses received the Torah form Sinai and transmitted it to Joshua, and Joshua to the Elders, and the Elders to the Prophets, and the Prophets transmitted it to the Men of the Great Assembly. They said three things: Be deliberate in judgment, raise up many disciples and make a fence for Torah.

1:17

שִׁמְעוֹן בְּנוֹ אוֹמֵר, כָּל יָמַי גָּדַלְתִּי בֵּין הַחֲכָמִים, וְלֹא מָצָאתִי לַגּוּף טוֹב אֶלָּא שְׁתִיקָה. וְלֹא הַמִּדְרָשׁ הוּא הָעִקָּר, אֶלָּא הַמַּעֲשֶׂה. וְכָל הַמַּרְבֶּה דְבָרִים, מֵבִיא חֵטְא:

Shimon, his son, says, “All my days I grew up among the Sages, and I did not find anything good for the body except silence. And the exposition [of Torah] is not what is essential, but the action. And whoever increases words brings sin.”

3:17

רַבִּי אֶלְעָזָר בֶּן עֲזַרְיָה אוֹמֵר, אִם אֵין תּוֹרָה, אֵין דֶּרֶךְ אֶרֶץ. אִם אֵין דֶּרֶךְ אֶרֶץ, אֵין תּוֹרָה. אִם אֵין חָכְמָה, אֵין יִרְאָה. אִם אֵין יִרְאָה, אֵין חָכְמָה. אִם אֵין בִּינָה, אֵין דַּעַת. אִם אֵין דַּעַת, אֵין בִּינָה. אִם אֵין קֶמַח, אֵין תּוֹרָה. אִם אֵין תּוֹרָה, אֵין קֶמַח. הוּא הָיָה אוֹמֵר, כָּל שֶׁחָכְמָתוֹ מְרֻבָּה מִמַּעֲשָׂיו, לְמַה הוּא דוֹמֶה, לְאִילָן שֶׁעֲנָפָיו מְרֻבִּין וְשָׁרָשָׁיו מֵעָטִין, וְהָרוּחַ בָּאָה וְעוֹקַרְתּוֹ וְהוֹפַכְתּוֹ עַל פָּנָיו, שֶׁנֶּאֱמַר (ירמיה יז) וְהָיָה כְּעַרְעָר בָּעֲרָבָה וְלֹא יִרְאֶה כִּי יָבוֹא טוֹב וְשָׁכַן חֲרֵרִים בַּמִּדְבָּר אֶרֶץ מְלֵחָה וְלֹא תֵשֵׁב. אֲבָל כָּל שֶׁמַּעֲשָׂיו מְרֻבִּין מֵחָכְמָתוֹ, לְמַה הוּא דוֹמֶה, לְאִילָן שֶׁעֲנָפָיו מֵעָטִין וְשָׁרָשָׁיו מְרֻבִּין, שֶׁאֲפִלּוּ כָל הָרוּחוֹת שֶׁבָּעוֹלָם בָּאוֹת וְנוֹשְׁבוֹת בּוֹ אֵין מְזִיזִין אוֹתוֹ מִמְּקוֹמוֹ, שֶׁנֶּאֱמַר (שם) וְהָיָה כְּעֵץ שָׁתוּל עַל מַיִם וְעַל יוּבַל יְשַׁלַּח שָׁרָשָׁיו וְלֹא יִרְאֶה כִּי יָבֹא חֹם, וְהָיָה עָלֵהוּ רַעֲנָן, וּבִשְׁנַת בַּצֹּרֶת לֹא יִדְאָג, וְלֹא יָמִישׁ מֵעֲשׂוֹת פֶּרִי:

Rabbi Elazar ben Azariah says: If there is no Torah, there is not worldly occupation; if there is no worldly occupation, there is no Torah. If there is no wisdom, there is no fear; if there is no fear, there is no wisdom. If there is no understanding, there is no knowledge; if there is no knowledge, there is no understanding. If there is no flour, there is no Torah; if there is no Torah, there is no flour. He would say: Anyone whose wisdom exceeds his deeds to what is he compared? To a tree whose branches are many but whose rots are few, and the wind comes and uproots it and turns it upside down; as it is aid; "And he shall be like a lonely juniper tree in the wasteland and shall not see when good comes, but shall inhabit the parched places of the wilderness, a salty land that is uninhabitable." (Jeremiah 17:6). But one whose deeds exceed his wisdom, what is he like? Like a tree whose branches are few but whose roots are many; since even if all the winds of the world come and blow upon it, they do not move it form its place, as it is said; "He shall be like a tree planted by the waters, and spreads out its roots by the river, and shall not perceive when heat comes, but its leaf shall remain fresh; and it will not be troubled in the years of drought, nor will it cease to bear fruit." (Jeremiah 17:8)

Questions

1. How do you understand, "Be deliberate in judgment, raise up many disciples and make a fence for Torah."
2. Both 1:17 and 3:17 make a distinction between words and action. Is one better than other? What is their relationship?
3. Finally, if you were a Rabbi who wrote Pirke Avot, how would you explain the connection between a value and the Jewish tradition?
4. Why do I need the Jewish version of a value?

Lesson 4: Why should I Care About *Halakhah*?

Essential Question

1. As a Reform Jew, why should I care about *halakhah*?

Goals (*As an educator, I want to show students…*)

1. That there are areas in their life which they are already trying to define themselves in which *halakhah* can provide guidance for

Objectives (*Students will be able to…*)

1. Define *halakhah* in their own words

Materials

- Device that connects to the internet
- Equipment necessary to play video
- Poster paper (and something to stick it on the wall with)
- Markers
- Journals
- Pencils/Pens

Set Induction

Show two short clips from the show, "Boy Meets World" In this show, produced by a Jew, Michael Jacobs, the main character Cory faces some major dilemmas at the beginning of college. This clip has been chosen for two reasons. One, Boy Meets World is a show, which was based on developing living out values. Two, it is intended to get learners thinking about ways they might wish to define themselves as college approaches. This curriculum will give them the tools to do so in a Jewish way, through the *halakhic* process.

Show: 10:24-14:31: https://www.youtube.com/watch?v=o8adtQx3wCc

Show: https://www.youtube.com/watch?v=sk1n20gKDQQ

Discussion Questions

1. How was Cory trying to define himself in these two clips?
2. What Jewish values do you think may have been at play?

Activity 1: The Need for *halakhah* in Reform Jewish Life: 4 Corners Activity

1. Say: As Reform Jews, we defined *halakhah* just a few classes ago as a system, which translates the stories and values in our tradition into ongoing action. Therefore, we have the great responsibility to take our Jewish tradition and make it speak to us in a way that can lead to meaningful action as contemporary American Jews. In this activity, we are going to explore areas of our Reform Jewish life, which are actually based on *halakhah*. And just to be clear, Reform Jewish life entails everything we as Reform Jews "do" inside and outside of the synagogue.
2. Now, tell the students to go to one of the corners of the room. In each corner of the room, you should place a piece of poster board before the activity. The four-poster boards should be labeled according to the four divisions of classical *halakhah*.
    a. Prayer, synagogue, Shabbat and holidays
    b. Dietary, mourning, family life
    c. Marriage, divorce
    d. Finance, financial responsibility, personal damages
3. Each group should come up with questions they have, as Reform Jews, for how they might have trouble defining themselves in light of both Jewish tradition and the contemporary life they lead.
    a. For example, a question for group b might be, "I want to eat in a very ethical way, but we don't have kosher restaurants or meats in our city. How can I use the laws on *kashrut* to inform an ethic practice of eating?
    b. For example, a question for group c might be, "If I fall in love with someone who is not Jewish but want to get marry in the Jewish tradition, is this possible?

4. When each group is done with their brainstorming session, have them share their ideas with the class. The hope is that this activity will get their minds thinking about the individual work in the next activity.

Activity 2: Personal Definitions[16]

In this activity, students will have the opportunity to put everything they have learned in this unit together to create their own personal definition of *halakhah*. This definition can evolve, but it is important at this time in the curriculum to give the students a chance to reflect individually on where they have been thus far on this journey and give them some space to think about where they might want to go, even past the boundaries of this curriculum. This activity should take the bulk of time. It should be done as a writing exercise. The students should answer the following questions, also found in Appendix 1.4A:

1. What is my definition of *halakhah* at this point? (Use the chart from lesson 1 as a baseline and modify to fit your understanding at the end of this unit).

2. What are some ways I would like to define myself as a Reform Jewish teenager moving forward with *halakhah*? For this question, students should explore the reasons why they want to define themselves in these areas by writing some narratives to support each area. *For example, as I move closer to being independent I am thinking about the choices I make with regard to what I eat. My parents do not seem to give much thought to what we eat at home. We eat everything and anything. I want to be more conscience about what I eat as I prepare to leave home. I would like to learn how I can define myself with regards to dietary halakhah.*

Educational Closure

Students should present their definitions to the class and any ways in which they would like to define themselves that they feel comfortable sharing. The

[16] Note to the Teacher- You may wish to play some calming music in the background to set a reflective mood.

teacher should field any remaining questions, reminding students that next session they will be moving onto the next unit, which will be about *Hevrutah* Study and the Rules of Interpretation.

Appendix 1.4A

Defining *Halakhah*, Defining Myself

1. What is my definition of *halakhah* at this point? (Use Graphic Organizer from lesson 1, 1.1G, as a baseline and modify to fit your understanding at the end of this unit).

2. What are some ways I would like to define myself as a Reform Jewish teenager moving forward with *halakhah*? For this question, explore the reasons why you want to define yourself in these areas by writing narratives to support each area. *For example, as I move closer to being independent I am thinking about the choices I make with regard to what I eat. My parents do not seem to give much thought to what we eat at home. We eat everything and anything. I want to be more conscience about what I eat as I prepare to leave home. I would like to learn how I can define myself with regards to dietary halakhah.*

Unit 2: The Art of Interpretation

Unit Summary

This unit will teach students how to become skilled *hevrutah* partners and interpreters of Jewish text. Therefore, the unit will provide students with some guidelines for both. By the end of the unit, students will hopefully be able to see that through a sound process of interpretation Jewish tradition contains the sources for something new.

Unit Enduring Understandings

1. Interpretation of Jewish text requires one to form a relationship with a learning partner and the text simultaneously.
2. The levels of Jewish interpretation (PaRDeS) enable *hevrutah* partners to make varying levels of meaning together.
3. Meaning resides not "in" the text but is the result of interpretation.
4. Interpretation shows Jewish tradition contains the sources for the creation of something new with our active participation.

Unit Essential Questions

1. How do I form a relationship with a learning partner and to the text at the same time?
2. How does textual interpretation allow meaning to emerge from the work of the text?
3. Does the text shape interpretation or does interpretation shape the text?
4. How can I use the interpretation of an ancient text to create something new?

Lesson 1- Relationships: *Hevrutah* Learning Triangle

Essential Questions

1. How do I form a relationship with a learning partner and to the text at the same time?

Goal (*As an educator, I want to show students…*)

1. The importance of forming relationships for the study of text.

Objectives (*Students will be able to…*)

1. List at least three of the key requirements for forming strong relationships.
2. Explain the way the *hevrutah* learning triangle fits into the interpretive process.
3. Identify the specific needs one has in a *hevrutah* learning pair.

Materials

- Appendix 2.1A-E
- Pencils/Pens
- Journals

Set Induction: Human Spring[17]

This short activity will get the students to begin thinking about what it means to be in relationship. Through the activity, hopefully students will recognize that dialogue is only one part of what a relationship involves. There are also non-verbal cues to consider in order to ensure a successful relationship.

1. Ask learners to stand facing each other in pairs. Their elbows should be bent, with their palms facing toward each other.

[17] "Team Building Resources: From The I Express Initiative," March 31, 2017, 6, accessed April 22, 2018, https://www. Jewishedproject.org/.

2. Instruct them to touch their palms together, and gradually start leaning toward each other, so that they eventually hold each other up.
3. Then, tell everyone to move their feet further and further back, so that they have to depend solely upon their partners to remain standing.
4. As pairs fail, allow them to try a few more times with a reminder for them to not only talk to each other about how they could do better, but to take notice to the way their partner expresses themselves nonverbally during each trial.
5. Following a few trials, ask the following questions:
    a. What helped your pair to improve with each round?
    b. What hindered the success of your pair?

Activity 1: Forming a Relationship with The Text

This activity is meant to teach the students about the importance of forming a relationship with a text when interpreting it. A large requirement of this concept requires us to read a text in the context in which it was written. If we do not do this, we may gravely misunderstand what the text is trying to say to us. The chosen text provides a good example to the learners of what could happen if we try to make an interpretation of a text which does not accurately contextualize the selection.

Forming a Relationship with Text[18]- See Appendix 2.1A

1. Tell students to read the text in Appendix 2.1A with a partner, which comes from Proverbs 31:10-31, but do not tell them the source just yet.
2. Ask the students to tell you their initial reaction to the idea of a woman of *chayil*?
3. Now, tell the students that the text they just read comes from Proverbs, a text form the section of the bible called *Ketuvim* or Writings likely written sometime between the 6th and 4th centuries BCE. Tell the students to re-read the text using

[18] Holzer and Kent, *A Philosophy of Havruta* (Boston: Academic Studies Press), 42-49.

Jewish Women's Archive Ayshet Chayil text sheet and the guided questions- See Appendix 2.1B-C [19]

4. When students are done with number 3 on the question sheet, ask them this final discussion question: How has your opinion of the text changed from your initial reactions? What have you learned about the importance of getting to know texts?

Activity 2: The *Hevrutah* Learning Triangle

This activity is meant to transition between activity 1 and 3. In this short activity, learners will have the chance to see that forming a relationship with the text is only one part of the learning triangle. In addition, it is also important to form a relationship with one's partner as well.

1. Show: http://www.brandeis.edu/mandel/projects/beitmidrashresearch/
2. Draw a triangle on the board and ask the learners to help you fill it in. One point of the triangle should have person, another should have person and the final should have text.
3. Ask: Why do we need to be in relationship with both text and learning partner?

Activity 3: Forming A Relationship With A Learning Partner Through Drawing

In this activity, the learners will see how forming a relationship with a learning partner is both similar and different to forming a relationship to text.

1. For this activity, students will find a partner. Tell everyone to draw something in their notebook, which they have to eventually teach their partner how to draw. It can be whatever they want to draw.
2. Tell one partner in each group to instruct the other partner how to draw the same image, which they have created in their notebook. The partner who is drawing may NOT see the original
3. Before you have the partners switch roles, tell the groups to examine the guidelines for building good relationships with partners (See Appendix 2.1D)

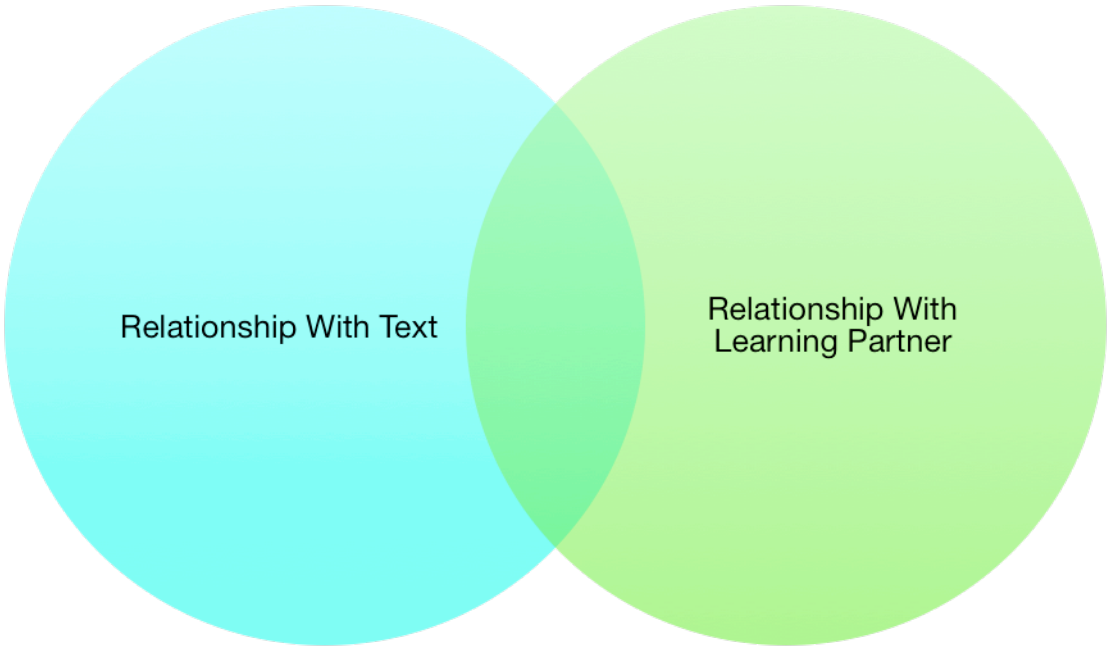
[19] Jewish Women's Archive. "A Feminist Talmud Page." (Viewed on April 22, 2018) https://jwa.org/discover/throughtheyear/march/talmud.

and to think about what might be important to incorporate in the next round to be even more successful.

4. Tell the partners to switch roles. The partner who did the instructing is now the drawer and vice versa.

Educational Closure

Ask your students to end the session by filling in this Venn diagram. You will find a blank copy in the Appendix B. This copy shows a sample of what could be filled in for the teacher to reference.



Relationships With Text	Similarities	Relationship with Learning Partner
Acknowledge the viewpoint of the text and yourself	Become familiar with "partner"	Acknowledge the viewpoint of the learning partner and yourself
"Partner" is mute without you	Listen to the "partner"	Partner speaks on their own
	Gain meaning through grounded but variable interpretations	

Appendix 2.1A

Mystery Text

What a rare find is a capable wife! Her worth is far beyond that of rubies.
Her husband puts his confidence in her, And lacks no good thing.
She is good to him, never bad, All the days of her life.
She looks for wool and flax, And sets her hand to them with a will.
She is like a merchant fleet, Bringing her food from afar.
She rises while it is still night, And supplies provisions for her household, The daily fare of her maids.
She sets her mind on an estate and acquires it; She plants a vineyard by her own labors.
She girds herself with strength, And performs her tasks with vigor.
She sees that her business thrives; Her lamp never goes out at night.
She sets her hand to the distaff; Her fingers work the spindle.
She gives generously to the poor; Her hands are stretched out to the needy.
She is not worried for her household because of snow, For her whole household is dressed in crimson.
She makes covers for herself; Her clothing is linen and purple.
Her husband is prominent in the gates, As he sits among the elders of the land.
She makes cloth and sells it, And offers a girdle to the merchant.
She is clothed with strength and splendor; She looks to the future cheerfully.
Her mouth is full of wisdom, Her tongue with kindly teaching.
She oversees the activities of her household And never eats the bread of idleness.
Her children declare her happy; Her husband praises her,
"Many women have done well, But you surpass them all."
Grace is deceptive, Beauty is illusory; It is for her fear of God That a women is to be praised.
Extol her for the fruit of her hand, And let her works praise her in the gates.

Appendix 2.1B

JEWISH WOMENS ARCHIVE

WOMEN OF חיל [CHAYIL]

חיל [chayil]: This word takes on several meanings in Jewish texts. Chayil can connote bravery (Ps. 76:6); capability (Prov. 12:4); triumph (Ps. 118:15); a rampart (Ps. 84:8); or wealth (Prov.13:22).

HILLEL

HILLEL'S JOSEPH MEYERHOFF CENTER FOR JEWISH LEARNING

girds herself with strength

Genesis 2:22

With understanding the Lord God took the rib from Adam for a woman and he brought her to Adam.

Babylonian Talmud, Niddah 45b

"And the Lord God endowed the rib with understanding" (Gen. 2:22). The verse indicates that the Holy One endowed woman with more understanding than man.

Bobbie Rosenfeld, Athlete (1904-1969)

No longer are we athletes the pretty maids of yesteryear. Our perfect 36's are being ruined, our features are becoming quite 'Frankensteinish,' shout these croquet and pat-ball advocators, all because we are no longer satisfied with being just a 'rib of Adam', but we have elected to hurl the discus, throw the javelin, run and jump as 'Adam' does....

her lamp never goes out at night

Genesis Rabbah 60:16

"Isaac brought her [Rebekah] into the tent [and behold, she was like] his mother Sarah" (Gen. 24:67)... As long as Sarah lived, a lamp was alight [in her tent] from one Sabbath eve to the next; at her death, the light ceased. But when Rebekah came, the light returned.

Justine Wise Polier, Judge (1903-1987)

So, one lived two lives - one worked during the day at one's job, and then pitched into the things that seemed most important at night.

clothed with strength and splendor

Exodus 15:19-21

For the horses of Pharaoh, with his chariots and horsemen, went into the sea; and the Lord turned back on them the waters of the sea; but the Israelites marched on dry ground in the midst of the sea. Then Miriam the prophetess, Aaron's sister, took a timbrel in her hand, and all the women went out after her in dance with timbrels. And Miriam chanted for them: Sing to the Lord, for He has triumphed gloriously; Horse and driver He has hurled into the sea.

Bella Abzug, Feminist Politician (1920-1998)

I believe very deeply that the hope of an effective women's political movement lies in reaching out ... to working women, to young women, to black women, to women on welfare—and joining their strength together with millions of other American women who are on the move all over this country demanding an end to discrimination and fighting for their rights as full and equal citizens.

Her mouth is full of wisdom

Babylonian Talmud, Berachot 11a

There were thugs in the neighborhood of Rebbe Meir, and they aggravated him greatly. So Rebbe Meir prayed that they would die. Beruriah his wife said to him, What do you think this verse means: It is written, "The sins will be removed from the earth" (Psalms 104:35)? Is it written that the sinners should be removed?

Gertrude Weil, Social Reformer (1879-1971)

Knowing our past we shall find strength and wisdom to meet the present.

let her works praise her in the gates

Babylonian Talmud, Berachot 45b

Every woman has a mind of her own.

Gertrude Elion, Chemist (1918-1999)

What greater joy can you have than to know what an impact your work has had on people's lives?

What a rare find is a woman of חיל [chayil]! Her worth is far beyond that of rubies… She sets her mind on an estate and acquires it; she plants a vineyard by her own labors. She **girds herself with strength**, and performs her tasks with vigor. She sees that her business thrives; **her lamp never goes out at night**… She gives generously to the poor; her hands are stretched out to the needy… Her husband is prominent in the gates, as he sits among the elders of the land… She is **clothed with strength and splendor**; she looks to the future cheerfully. **Her mouth is full of wisdom**; her tongue with kindly teaching… Her children declare her happy; her husband praises her… Extol her for the fruit of her hand, and **let her works praise her in the gates**.

–from Eshet Chayil, Proverbs 31:10-31

A Post-modern Talmudic Dialogue between Biblical and Modern Women of Valor. All quotes from Rosenfeld, Polier, Abzug, Weil, and Elion taken from www.jwa.org. For more post-modern Talmud pages, visit www.hillel.org.

Appendix 2.1C

Guided Reading Questions (From JWA)[20]

1. Just as *chayil* can range widely in meaning depending on context, so too can each reader of Proverbs 31:10-31 bring different interpretations. Think back to your initial reaction to *Eshet Chayil.* How have the ancient and modern voices in the Talmud page changed your initial understanding of the text?
2. When the feminist movement was just beginning, how would they have received Proverbs? How is this reception different from today?
3. Why can this text still be beneficial to contemporary Jews?

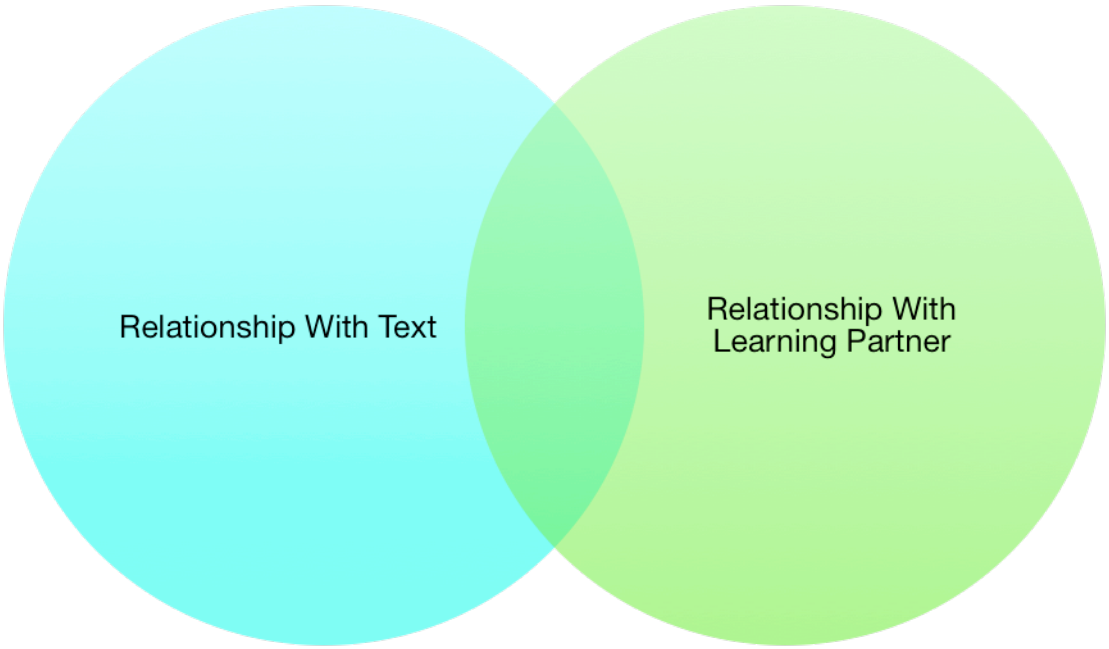
[20] *ibid*

Appendix 2.1D

Guidelines For Building A Strong Relationship With My Partner

1. The *Hevrutah* partners should use consensus seeking dialogue- the partners can form their own interpretations of the images they are drawing but the result should be compelling to both partners.
2. Listen to partner
3. Check for partner's understanding before moving on
4. Either partner can question the other on their "interpretation"
5. Explain or elaborate on a concept
6. Ask for help from your partner
7. Make comments that show understanding and/or appreciation

Appendix 2.1E



Lesson 2- Questioning as a Textual Practice

Essential Questions

1. How can I ask questions of the text that will help me to overcome my preconceptions?
2. How can I get the text to "speak to me?" In other words, how does textual interpretation allow meaning to emerge from the work of the text?

Goals[21] (*As an educator, I want to show students…*)

1. Introduce students to their responsibility to make text speak.
2. Introduce students to the role of questioning in making text speak.

Objectives (*Students will be able to…*)

1. Explain the necessity of asking questions to interpret text.
2. Ask a variety of open ended questions of the text.

Materials

- Way to project Marc Chagall "I and The Village" OR Guess Who Game
- Pencils/Pens
- Appendix 2.2A-C

[21] Holzer and Kent, *A Philosophy of Havruta,* 95

Set Induction:

Option A: Look at a piece of art by Marc Chagall "I and The Village"

Students will take an initial look at this piece of abstract art. Give them about a minute for this and then begin asking them the following questions:

1. What can be done to be understand this painting? (Ask Questions)
2. Are some questions more helpful than others? If so, why?
3. Reflect upon previous personal experience: In what other situations have questions helped you to better understand something?

Option B: Play the game "Guess Who"

In this game, students will form two teams. Each team will draw a mystery person card. On each team, the goal will be to figure out the opposing team's mystery person first. In order to do so, students will have to think of good questions to ask that help them learn more about their mystery person. Each team can ask one question at a time. Following the game, ask the students the following questions:

1. What was the key to figuring out who your person was? (Ask Questions)
2. Are some questions more helpful than other? If so, why?
3. Reflect upon previous personal experience: In what other situations have questions helped you to better understand something

Activity 1: Asking Open Questions

1. Write the following quote on the board: "To ask a question means to bring into the open"- Hans-Georg Gademer
2. Ask: How can a question bring something into the open? Think back to our opening activity if you need some inspiration!
3. Present students with the text from Exodus 24:7-18: See Appendix 2.2B. Tell them to follow the worksheet (2.2C) with their partners and remind them to call you over when ever they get stuck. In addition, you the teacher should circulate and check on all the groups to see how the learners are doing on generating questions.[22]

Educational Closure: Reflection

1. Ask: How did your preliminary interpretations differ from the ones you came up with by the end of the exercise?
2. Ask: How did questions help you to move away from your preliminary assumptions?
3. Say: "Making the text speak" requires a certain investigative process, constituted by openness to the idea that the text might say something different than originally assumed. Practices like repeated readings, reading aloud, paraphrasing, and above all asking open questions are central tools in that regard.[23]

[22] Note to The Teacher: Save Appendix 2.2B-C for the Unit Authentic Assessment in Lesson 5 of this unit.

[23] Holzer and Kent, *A Philosophy of Havruta,*

Appendix 2.2A

Marc Chagall
I and the Village, 1911
Oil and Canvas
192.1 cm x 151.4 cm (75.6 in x 59.6 in)
Museum of Modern Art, New York

Appendix 2.2B Exodus 24:7-18

7.

וַיִּקַּח סֵפֶר הַבְּרִית וַיִּקְרָא בְּאָזְנֵי הָעָם וַיֹּאמְרוּ כֹּל אֲשֶׁר־דִּבֶּר יְהוָה נַעֲשֶׂה וְנִשְׁמָע׃

Then he took the record of the covenant and read it aloud to the people. And they said, “All that the LORD has spoken we will faithfully do!”

8.

וַיִּקַּח מֹשֶׁה אֶת־הַדָּם וַיִּזְרֹק עַל־הָעָם וַיֹּאמֶר הִנֵּה דַם־הַבְּרִית אֲשֶׁר כָּרַת יְהוָה עִמָּכֶם עַל כָּל־הַדְּבָרִים הָאֵלֶּה׃

Moses took the blood and dashed it on the people and said, “This is the blood of the covenant that the LORD now makes with you concerning all these commands.”

9.

וַיַּעַל מֹשֶׁה וְאַהֲרֹן נָדָב וַאֲבִיהוּא וְשִׁבְעִים מִזִּקְנֵי יִשְׂרָאֵל׃

Then Moses and Aaron, Nadab and Abihu, and seventy elders of Israel ascended;

10.

וַיִּרְאוּ אֵת אֱלֹהֵי יִשְׂרָאֵל וְתַחַת רַגְלָיו כְּמַעֲשֵׂה לִבְנַת הַסַּפִּיר וּכְעֶצֶם הַשָּׁמַיִם לָטֹהַר׃

and they saw the God of Israel: under His feet there was the likeness of a pavement of sapphire, like the very sky for purity.

11.

וְאֶל־אֲצִילֵי בְּנֵי יִשְׂרָאֵל לֹא שָׁלַח יָדֹו וַיֶּחֱזוּ אֶת־הָאֱלֹהִים וַיֹּאכְלוּ וַיִּשְׁתּוּ

Yet He did not raise His hand against the leaders of the Israelites; they beheld God, and they ate and drank.

12.

וַיֹּאמֶר יְהוָה אֶל־מֹשֶׁה עֲלֵה אֵלַי הָהָרָה וֶהְיֵה־שָׁם וְאֶתְּנָה לְךָ אֶת־לֻחֹת הָאֶבֶן וְהַתּוֹרָה וְהַמִּצְוָה אֲשֶׁר כָּתַבְתִּי לְהוֹרֹתָם׃

The LORD said to Moses, “Come up to Me on the mountain and wait there, and I will give you the stone tablets with the teachings and commandments which I have inscribed to instruct them.”

13.

וַיָּקָם מֹשֶׁה וִיהוֹשֻׁעַ מְשָׁרְתּוֹ וַיַּעַל מֹשֶׁה אֶל־הַר הָאֱלֹהִים׃

So Moses and his attendant Joshua arose, and Moses ascended the mountain of God.

14.

וְאֶל־הַזְּקֵנִים אָמַר שְׁבוּ־לָנוּ בָּזֶה עַד אֲשֶׁר־נָשׁוּב אֲלֵיכֶם וְהִנֵּה אַהֲרֹן וְחוּר עִמָּכֶם מִי־בַעַל דְּבָרִים יִגַּשׁ אֲלֵהֶם׃

To the elders he had said, “Wait here for us until we return to you. You have Aaron and Hur with you; let anyone who has a legal matter approach them.”

15.

וַיַּעַל מֹשֶׁה אֶל־הָהָר וַיְכַס הֶעָנָן אֶת־הָהָר׃

When Moses had ascended the mountain, the cloud covered the mountain.

16.

וַיִּשְׁכֹּן כְּבוֹד־יְהוָה עַל־הַר סִינַי וַיְכַסֵּהוּ הֶעָנָן שֵׁשֶׁת יָמִים וַיִּקְרָא אֶל־מֹשֶׁה בַּיּוֹם הַשְּׁבִיעִי מִתּוֹךְ הֶעָנָן׃

The Presence of the LORD abode on Mount Sinai, and the cloud hid it for six days. On the seventh day He called to Moses from the midst of the cloud.

17

וּמַרְאֵה כְּבוֹד יְהוָה כְּאֵשׁ אֹכֶלֶת בְּרֹאשׁ הָהָר לְעֵינֵי בְּנֵי יִשְׂרָאֵל׃

Now the Presence of the LORD appeared in the sight of the Israelites as a consuming fire on the top of the mountain.

18

וַיָּבֹא מֹשֶׁה בְּתוֹךְ הֶעָנָן וַיַּעַל אֶל־הָהָר וַיְהִי מֹשֶׁה בָּהָר אַרְבָּעִים יוֹם וְאַרְבָּעִים לָיְלָה׃ (פ)

Moses went inside the cloud and ascended the mountain; and Moses remained on the mountain forty days and forty nights.

Appendix 2.2C

Learning To Ask Questions of the Text adopted from *A Philosophy of Hevrutah*[24]

1. Take turns reading the text out loud (Hebrew or English).
2. Help each other paraphrase the text. Write your summary here:

3. Outline the text by breaking it down into small, meaningful parts. Parts can be broken down by theme, characters, settings and plot development.

4. Read the text again. You may notice new details. If so, what new details emerge?

[24] Holzer and Kent, *A Philosophy of Havruta*, 98-102

5. At this point, what do you think this is a story about? Work on this with your *hevrutah* partner. This is your preliminary interpretation.

6. Generate a list of open questions together with your *Hevrutah:* Example: Why does God not want to be "seen" by anyone except Moses?

7. With your *Hevrutah*, organize the questions into categories: Examples include character motivations, missing information, etc.

8. Now, with your *Havruta*, choose a few questions which you think will help lead you to a deeper understanding of the text and circle them under question 7.

9. Using the few questions that they chose, complete one of the following sentence starters: I believe the story to be about….and it is saying that….

10. Finally, as specifically as possible, what in the text led you to this interpretation (or these interpretations)?

Lesson 3- Learning to Listen

Essential Questions

1. What does it mean to be an effective listener when engaging in interpretation?

Goals (*As an educator, I want to show students…*)

1. The relationship between good listening and textual interpretation.[25]

Objectives (*Students will be able to…*)

1. Recall the *hevrutah* triangle and apply it to "listening."
2. Analyze their interpretations through the levels of PaRDeS
2. Create an interpretation of a text

Materials

- Sunglasses
- Hawaiian shirt
- Head phones
- Oversized t-shirt
- Tables
- Pencils/Pens
- Appendix 2.3A-F

Set Induction: Meeting a New Person for the First Time

This set induction is meant to get the students thinking about the concept of listening, both to non-verbal and verbal cues. It also connects to what we spoke about at the end of last class regarding making preliminary assumptions.

[25] Holzer and Kent, *A Philosophy of Havruta,* 117.

1. Have the students each pick a card from the deck. Each card will have a direction that the student must follow before they can go and "meet" a new friend. These cards can be found in the Appendix 2.3A. You can have them rotate to a few different people depending on how much time you have. You may ask them a different question to discuss during each interaction. Here are some example questions:
    - Where are you parents and grandparents from?
    - What is a hobby of yours and why?

The corresponding props will be included on the card. Please provide these props to the students. You may choose to make up your own cards/and or props as well. These are just examples.

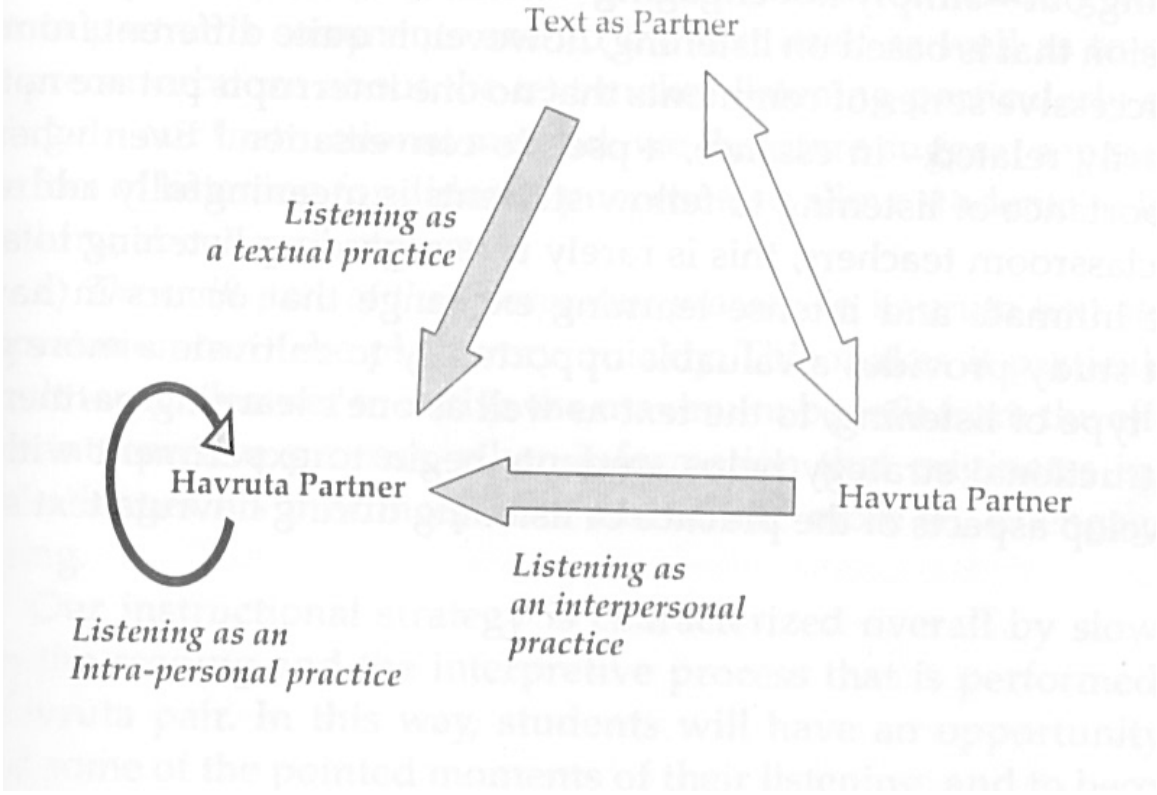
1. Put on sunglasses to make you look aloof
2. Wear a Hawaiian shirt and pretend like you are relaxing on the beach
3. Mess up your hair, wear oversized t-shirt and act like you just rolled out of bed
4. Put on headphones to show you are distracted
5. You constantly interrupt the person when they speak
6. You do not make eye contact with the person
7. You roll your eyes throughout the conversation

2. Reflection Questions- To Be Completed as a Class[26]
    1. Ask: Did you make assumptions, based on how they dress, or how the person acts?
    2. Ask: As the conversation progressed, did you take in new information both from the verbal and non-verbal cues the person provides?

[26] Note to The Teacher: You may want to project these questions on a screen

3. Ask: How were prior assumptions either reinforced or, on the contrary, altered in light of the new information gained in the conversation?

4. How does listening resemble the *Hevrutah* triangle we discussed earlier in this unit? (We need to listen to the non-verbal text and the verbal partner. Both pieces can provide us with information that may either reinforce or alter the assumptions that we came in with).[27]



[27] Holzer and Kent, *A Philosophy of Havruta,* 109.

Activity 1: Learning to Listen Line by Line

In this activity, you will utilize a rabbinic text that works well for helping students to both listen to the text and their learning partner.[28] Students should sit in *hevrutah* pairs facing each other. Initially, the text should be covered by a piece of blank paper. Instruct the students to only uncover the verses as you tell them to. This procedure is meant to slow down the interpretive process and help them listen to what they will hear from each line of the text and from their partner. The paper is meant to train the students to focus on each line without skipping straight to the next one. To assist with this focus, on each line, students may comment about the characters' motivation, to say what they expect to happen next or what they understand the meaning of the story to be. Remember to tell your students that this is a process and there are no right or wrong answers. However, your answers must be grounded in the lines of the text. That means, new information may compel the students to revise their interpretations. Before you have your students do the listening activity, have them read the background text on 2.3C.

1. Before you begin the line-by-line method of reading, allow the students to read the background text (Ketubot 62b) by themselves. – See Appendix 2.3C

2. Then, have students begin the line-by-line method on the next text (Ketubot 62b). As an instructor, your role is to make sure the whole class moves on to the next line at the same time. Make sure to have the students write down all of their work next to each line.- See Appendix 2.3D

3. A few times in this exercise, have your students pause to fill out the "Reflection Pause" table located in Appendix 2.3E. The graphic organizer will help the students make sense of how their listening is contributing to the meaning that they are making of the text. This experience is intended to help them see the changes in the meaning that is unfolding and persuades them to pay attention to the way the plot unfolds and relates to the unfolding deeper level of meanings.

[28] Holzer and Kent, *A Philosophy of Havruta,* 113-116.

Activity 2: From Listening to Developing and Interpretation

In this activity, the goal is to introduce students to the different levels of interpretations that they may be engaging with. In Judaism, there is a model of interpretation called PaRDeS.[29]

1. Tell the students to cut apart their interpretations and place them where they think they fall in this model. This will help them begin to understand the different levels of interpretation. See Appendix 2.3F.
2. Finally, have each student write their interpretation. They do not have to include every level of the acronym; however, they should go in the order of PaRDeS. All interpretations must start at the simplest, *pshat* level, before they can become more complex. After utilizing these levels, students will write a 1-2 sentence resulting interpretation based on their PaRDeS analysis. Please save this work for the next lesson, lesson four.

Sample Interpretation

Pshat= Even though R. Hama tried not to imitate R. Hakanai, but could not recognize his son when he entered the House of Study

Remez= We might think that when we are separated from friends or family that we are doing a good job keeping in touch. However, it can be easy to get distracted by what we are doing currently in our lives and lose touch. The story is an extreme example of this scenario.

Drash= We do not know what sending a message entails. It may have just been one letter at the beginning of his 12-year study without any correspondence. This would explain why R. Hama does not recognize his son.

Resulting Interpretation

For example: I believe this story is about….

How important it is to stay in touch with friends/family no matter what we are preoccupied with in our lives.

[29] Note to The Teacher: This acronym stands for Pshat, Remez, Drash and Sod. Pshat= Literal, plot level meaning. Remez= how might this be connected to life in surprising way. Drash= gaps in the narrative, add the perspective of a character. Sod=wildest idea about the text.

Educational Closure:

With your *hevrutah* partner, discuss the following questions about your experience studying text line by line:

1. Look back at your notes to a place when you made a prediction about what would happen next and it was wrong? How was listening to both the text and/or your partner helpful in this?
2. Look back at your notes to a place where you had to revise something you thought was correct previously? How did detailed listening help with this?
3. In general, how did listening help you to build a layered (PaRDeS) interpretation of the text?

Appendix 2.3A[30]

1. Put on sunglasses to make you look aloof

2. Wear a Hawaiian shirt and pretend like you are relaxing on the beach

3. Mess up your hair, wear oversized t-shirt and act like you just rolled out of bed

4. Put in earphones to show you are distracted

5. You constantly interrupt the person when they speak

6. You do not make eye contact with the person

7. You roll your eyes throughout the conversation

[30] Note to TheTeacher: The corresponding props will be included on the card. Please provide these props to the students. You may choose to make up your own cards/and or props as well. These are just examples.

Appendix 2.3B

Reflection Questions- To Be Completed as a Class

1. Did you make assumptions, based on how they dress, or how the person acts?
2. As the conversation progressed, did you take in new information both from the verbal and non-verbal cues the person provides?
3. How were prior assumptions either reinforced or, on the contrary, altered in light of the new information gained in the conversation?
4. How does listening resemble the *Hevrutah* triangle we discussed earlier in this unit?[31]

[31] Holzer and Kent, A Philosophy of Havruta, 109.

Appendix 2.3C

Background Text: Ketubot 62b

Rabbi Hannay son of Hakhinai was about to leave for the House of Study at the end of Rabbi Shimon ben Yochai's wedding. He said to him, "Wait for me until I come with you." He did not wait for him. He went and sat (studied) for 12 years in the House of Study.

Rabbi Shimon used to send letters to his home and knew what was happening. R. Hannah son of Hakhinai did not send letters home and did not know what was happening.

His wife sent him a letter saying: "Your daughter has reached the age to marry, come home and help her to get married." He did not return. Rabbi Akiba was inspired by heaven and said: "Whoever has a daughter to marry should return home."

By the time he came back, the streets of the town had changed and he did not know how to go to his house. He went and sat on the bank of the river. He heard young women calling to a certain girl: "Daughter of Hakhinai, daughter of Hakhinai fill your jug and go." He said (to himself): "Infer from this that this girl is our daughter." He followed her. His wife was sifting the flour. She lifted up her eyes and looked at him. Her heart recognized him, she passed away and died. He said. "Master of the Universe, this poor woman, is this her reward?" He besought mercy for her and she revived.

Appendix 2.3D

Line by Line Text: Ketubot 62b

1. R. Hama son of Bisa went away and spent 12 years at the House of Study.

2. When he came back (to his house) he said: “I will not do what the son of Hakhinai did.”

3. He therefore entered the (local) House of Study and sent a message to his house.

4. His son, R. Oshaya, entered, and sat before him.

5. He (Rabbi Oshaya) asked him a question about subjects of study.

6. He (Rabbi Hama) seeing how well versed he (Rabbi Oshaya) was in his

7. studies became distressed

8. “Had I been here,” he said, I would have had a son like this.”

9. R Hama entered his house

10. His son came in

11. Whereupon he rose before him believing that he wished to ask him some (More) study questions.

12. His wife said to him: “Is there a father who stands up before his son?”

Appendix 2.3E

Pauses	At this point of our study, what do I tentatively think this story is about?	What is one thing I've heard from my *havruta* partner that has contributed to this tentative interpretation of mine?	What is one thing I've heard from the text that has contributed to my tentative interpretation?
One			
Two			

Appendix 2.3F

PaRDeS	
Pshat- literal, plot level meaning	
Remez- how might this be connected to life in surprising way?	
Drash- narrative gaps, add the perspective of a character	
Sod- wildest ideas about the text.	
Resulting Interpretation: I believe this is a story about…	

Lesson 4- Supporting, Challenging and Evaluating Interpretations

Essential Questions

1. How does textual interpretation allow meaning to emerge from the work of the text?
2. How can I both support and challenge someone?

Goals (*As an educator, I want to show my students…)*

1. That supporting and challenging each other can make their interpretations stronger.
2. That while multiple interpretations are possible, some are more compelling than others.

Objectives (*Students will be able to…*)

1. Define the words support, challenge and evaluate in the context of providing feedback.
2. Ask questions that support, challenge and evaluate one's work.
3. Revise an interpretation based on receiving feedback.

Materials

- Device to play video
- Journal
- Device to project video
- Pencils/pens
- Appendix 2.4A-B

Set Induction: Austin's Butterfly Video

This video is a very good way to get students thinking about critique. Many people think of clique as a bad thing, but it really is not! This video shows a brief introduction on how support, challenge and evaluation help to make a good idea even better. https://www.youtube.com/watch?v=hqh1MRWZjms

After showing the video, ask your students how they would explain these three terms:

- Support (help make partner's idea as strong as possible by noticing additional evidence or details in text that can strengthen the interpretation on the table)[32]
- Challenge (help make partner's idea as strong as possible by pointing to weaknesses in a particular idea and/or making space for her to come with more compelling ideas)[33]
- Evaluate (Being able to account for multiple interpretations and decide which one may be stronger or weaker)[34]

Activity 1: Supporting and Challenging

In this activity, students will revisit the line-by-line text and resulting interpretations they made in lesson three. As a reminder, the resulting interpretations are at the bottom of Appendix 2.3F. The suggested time for this activity is about 30 minutes.

- Tell learners to find a new *Hevrutah* partner. With this new partner, each person should have a turn being a presenter and a critical colleague revisiting the text form lesson three. See instructions below and Appendix 2.4A for print ready version, adapted from *A Philosophy of Hevrutah*.[35]

Presenter's Role

1. Share your interpretation of what the story is about and explain how you arrived at this interpretation.
2. Listen and then respond to your *hevrutah's* questions.
3. Revise your interpretation

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[32] Holzer and Kent, A Philosophy of Havruta, 124.

[33] Holzer and Kent, A Philosophy of Havruta, 124-125.

[34] Holzer and Kent, A Philosophy of Havruta, 147.

[35] Holzer and Kent, A Philosophy of Havruta, 135.

Critical Colleague Role

1. Actively listen to your colleague's interpretation(s).
    - Ask questions like: Am I understanding you correctly that you are reading this part of the text to mean X?
2. Probe your colleague's interpretation.
    - Ask clarifying questions such as: You said X, how did you get to this idea? You said X, could you tell me more about what you mean by that?
3. Support your colleague's interpretation by offering additional cues in the story and/or reasons.
    - For example: Would you say then when it says X, this reinforces your point?
4. Challenge the interpretation of your colleague by pointing to details in the story which the interpretation does not address or which may contradict the interpretation.
    - For example: In the text it says X, how do you make sense of this part according to your interpretation?

Activity 2: Evaluating

For this activity, the class will serve together as a critical friends group for each presenter individually. The critical friends groups should be 4 students (2 *hevrutah* pairs). A critical friends group serves to help a presenter strengthen their ideas to build on their interpretation. The following protocol should be explained by the teacher and used in preparation for what will happen in Unit 4 regarding a *responsa* committee. Students should take notes throughout to see what makes the interpretations resoundingly strong and weak.[36] Finally, students will finish the evaluating part of the activity on their own. Therefore, this activity will take students from groups of 4→1.

[36] Note to the teacher: Based on the size of your class, you can determine how many presenters you want to have and how much time to allow for each presenter.

Instructions to Tell Students

1. Have students engage as a Critical Friends Group (2 *hevrutah* pairs) Allow 8 minutes per presenter for about 40 minutes total. - See Appendix 2.4B

    - Presenter shares interpretation as it stands now
    - Critical friends ask clarifying questions to the presenter
    - Critical friends provide feedback as to what elements of the interpretation they find compelling and those which are lacking.

2. Have students complete the individual evaluations. Allow about 15 minutes for this part. - See Appendix 2.4B

    - If you are changing your interpretation, write your new one and explain what led you to change it. Why is your new one more compelling?
    - If you decide not to change your interpretation. explain how your existing one addresses the questions you received from your *hevrutah* and your critical friends group.

Educational Closure

Students should write responses to the following questions in their journal.

1. How do you feel engaging in support, challenge and evaluation can strengthen one's interpretation work?

Appendix 2.4A

Support and Challenge

Presenter's Role

1. Share your interpretation of what the story is about and explain how you arrived at this interpretation.
2. Listen and then respond to your *hevrutah's* questions.
3. Probe/reinforce/revise your interpretation

Critical Colleague/*Hevrutah's* Role

1. Actively listen to your colleague's interpretation(s). Ask questions like: Am I understanding you correctly that you are reading this part of the text to mean X?
2. Probe your colleague's interpretation by asking clarifying questions such as: You said X, how did you get to this idea? You said X, could you tell me more about what you mean by that?
3. Support and reinforce your colleague's interpretation by offering additional cues in the story and/or reasons which may support their interpretation. For example: Would you say then when it says X, this reinforces your point?
4. Challenge the interpretation of your colleague by pointing to details in the story which the interpretation does not address or which may contradict the interpretation. For example: In the text it says X, how you you make sense of this part according to your interpretation? How do you account for? Why do you say that? How does that fit with what you just said? I don't really get that, can you explain it in another way?

Appendix 2.4B

Instructions for Activity 2

Critical Friends

1. Presenter shares interpretation as it stands now
2. Critical friends ask clarifying questions to the presenter
3. Critical friends provide feedback as to what elements of the interpretation they find compelling and those which are lacking.

Individual Final Evaluation Instructions

1. If you are changing your interpretation, write your new one and explain what led you to change it. Why is your new one more compelling?
2. If you decide not to change your interpretation. explain how your existing one addresses the questions you received from your *hevrutah* and the critical friends group.

Lesson 5- Interpretation: The Creation of Something New[37]

Essential Questions

1. How is art connected to interpretations?
2. How can I use the interpretation of an ancient text to create something new?

Goals (*As an educator, I want to show my students…*)

1. That when they complete a cycle of interpretation they are creating something new.

Objectives (*Students will be able to…*)

1. Apply their new *hevrutah* and interpretation skills onto a familiar text to yield an interpretation of that text
2. Create a piece of art which reflects a layered interpretation of a text

Materials

- Pencils/Pens
- Journals
- Art Supplies- TBD by each individual instructor
- Appendix 2.5A-C

Set Induction

Similarly, to the way you started lesson two, you will begin this lesson with another piece of art by Marc Chagall. This one is called "The Sacrifice of Isaac"

[37] Note to The Teacher: This lesson may take more than one session, especially if you want to give your student ample time on their art project.

This time, the goal of the exercise is a little different. Here, you want to introduce the concept of how art can be an interpretive creation. Ask your students to familiarize themselves with the painting for about a minute. Then, ask them the following question:

1. Ask: What biblical story is this a depiction of? (*Pshat*)
2. Ask: What is happening in this story? (*Pshat*)
3. Say: Read the following verses form the story: Then, what commentary does this painting provide upon the verses of the Torah? (*Drash*) See Appendix 2.5A for Student Copy of the text.

Genesis 22:9-13

9) They arrived at the place of which God had told him. Abraham built an altar there; he laid out the wood; he bound his son Isaac; he laid him on the altar, on top of the wood.

10) And Abraham picked up the knife to slay his son.

11) Then an angel of the LORD called to him from heaven: “Abraham! Abraham!” And he answered, “Here I am.”

12) And he said, “Do not raise your hand against the boy, or do anything to him. For now I know that you fear God, since you have not withheld your son, your favored one, from Me.”

13) When Abraham looked up, his eye fell upon a ram, caught in the thicket by its horns. So Abraham went and took the ram and offered it up as a burnt offering in place of his son.

Now, you can tell your students that this is what we are going to be aiming for today in our session together, using the verses of Torah that we looked at in Lesson 2!

Activity 1: Unit Authentic Assessment

In this lesson, the students will be assessed on how well they are able to put all of their new interpretation skills to work to create a piece of art.[38] This piece of art need not be a traditional visual. Rather, it can come in the form of a song, play, dance, storytelling, etc.

As the educator, you will be providing them with a guided resource sheet, found below and an expanded ready to print version in Appendix 2.5C

Guided Resource Sheet (For Teachers To Tell Students)

1. Look back to the questions you already came up with in lesson 2 activity 1 to get you started. The Exodus text can be found in Appendix 2.5B.
2. Complete a line-by-line study of the text in *Hevrutah* to develop your initial interpretation of the text. (More guidelines on student worksheet)
3. With your *Hevrutah,* go through the guide for support and challenge. (More guidelines on student worksheet)
4. Pick your medium of art and depict your interpretation of the text!

Educational Closure

Have the students share their piece of art and explain both how they got to their interpretation and how they used art to depict it.

[38] Note to The Teacher: The goal here is not to be good artists but good interpreters!

Appendix 2.5A

Set Induction Text: Genesis 22:9-13

9) They arrived at the place of which God had told him. Abraham built an altar there; he laid out the wood; he bound his son Isaac; he laid him on the altar, on top of the wood.

10) And Abraham picked up the knife to slay his son.

11) Then an angel of the LORD called to him from heaven: “Abraham! Abraham!” And he answered, “Here I am.”

12) And he said, “Do not raise your hand against the boy, or do anything to him. For now I know that you fear God, since you have not withheld your son, your favored one, from Me.”

13) When Abraham looked up, his eye fell upon a ram, caught in the thicket by its horns. So Abraham went and took the ram and offered it up as a burnt offering in place of his son.

Appendix 2.5B Exodus 24:7-18

7.

וַיִּקַּח֙ סֵ֣פֶר הַבְּרִ֔ית וַיִּקְרָ֖א בְּאָזְנֵ֣י הָעָ֑ם וַיֹּ֣אמְרוּ֩ כֹּ֨ל אֲשֶׁר־דִּבֶּ֧ר יְהוָ֛ה נַעֲשֶׂ֖ה וְנִשְׁמָֽע׃

Then he took the record of the covenant and read it aloud to the people. And they said, “All that the LORD has spoken we will faithfully do!”

8.

וַיִּקַּ֤ח מֹשֶׁה֙ אֶת־הַדָּ֔ם וַיִּזְרֹ֖ק עַל־הָעָ֑ם וַיֹּ֗אמֶר הִנֵּ֤ה דַם־הַבְּרִית֙ אֲשֶׁ֣ר כָּרַ֣ת יְהוָ֔ה עִמָּכֶ֖ם עַ֣ל כָּל־הַדְּבָרִ֥ים הָאֵֽלֶּה׃

Moses took the blood and dashed it on the people and said, “This is the blood of the covenant that the LORD now makes with you concerning all these commands.”

9.

וַיַּ֣עַל מֹשֶׁ֗ה וְאַהֲרֹן֙ נָדָ֣ב וַאֲבִיה֔וּא וְשִׁבְעִ֖ים מִזִּקְנֵ֥י יִשְׂרָאֵֽל׃

Then Moses and Aaron, Nadab and Abihu, and seventy elders of Israel ascended;

10.

וַיִּרְאוּ֙ אֵ֣ת אֱלֹהֵ֣י יִשְׂרָאֵ֔ל וְתַחַ֖ת רַגְלָ֑יו כְּמַעֲשֵׂ֣ה לִבְנַ֣ת הַסַּפִּ֔יר וּכְעֶ֥צֶם הַשָּׁמַ֖יִם לָטֹֽהַר׃

and they saw the God of Israel: under His feet there was the likeness of a pavement of sapphire, like the very sky for purity.

11.

וְאֶל־אֲצִילֵ֣י בְנֵי יִשְׂרָאֵ֗ל לֹ֤א שָׁלַח֙ יָד֔וֹ וַיֶּחֱזוּ֙ אֶת־הָאֱלֹהִ֔ים וַיֹּאכְל֖וּ וַיִּשְׁתּֽוּ׃

Yet He did not raise His hand against the leaders of the Israelites; they beheld God, and they ate and drank.

12.

וַיֹּ֤אמֶר יְהוָה֙ אֶל־מֹשֶׁ֔ה עֲלֵ֥ה אֵלַ֖י הָהָ֑רָה וֶהְיֵה־שָׁ֗ם וְאֶתְּנָ֣ה לְךָ֡ אֶת־לֻחֹת֩ הָאֶ֨בֶן וְהַתּוֹרָ֜ה וְהַמִּצְוָ֗ה אֲשֶׁ֤ר כָּתַ֙בְתִּי֙ לְהוֹרֹתָֽם׃

The LORD said to Moses, “Come up to Me on the mountain and wait there, and I will give you the stone tablets with the teachings and commandments which I have inscribed to instruct them.”

13.

וַיָּקָם מֹשֶׁה וִיהוֹשֻׁעַ מְשָׁרְתּוֹ וַיַּעַל מֹשֶׁה אֶל־הַר הָאֱלֹהִים:

So Moses and his attendant Joshua arose, and Moses ascended the mountain of God.

14.

וְאֶל־הַזְּקֵנִים אָמַר שְׁבוּ־לָנוּ בָּזֶה עַד אֲשֶׁר־נָשׁוּב אֲלֵיכֶם וְהִנֵּה אַהֲרֹן וְחוּר עִמָּכֶם מִי־בַעַל דְּבָרִים יִגַּשׁ אֲלֵהֶם:

To the elders he had said, “Wait here for us until we return to you. You have Aaron and Hur with you; let anyone who has a legal matter approach them.”

15.

וַיַּעַל מֹשֶׁה אֶל־הָהָר וַיְכַס הֶעָנָן אֶת־הָהָר:

When Moses had ascended the mountain, the cloud covered the mountain.

16.

וַיִּשְׁכֹּן כְּבוֹד־יְהוָה עַל־הַר סִינַי וַיְכַסֵּהוּ הֶעָנָן שֵׁשֶׁת יָמִים וַיִּקְרָא אֶל־מֹשֶׁה בַּיּוֹם הַשְּׁבִיעִי מִתּוֹךְ הֶעָנָן:

The Presence of the LORD abode on Mount Sinai, and the cloud hid it for six days. On the seventh day He called to Moses from the midst of the cloud.

17

וּמַרְאֵה כְּבוֹד יְהוָה כְּאֵשׁ אֹכֶלֶת בְּרֹאשׁ הָהָר לְעֵינֵי בְּנֵי יִשְׂרָאֵל:

Now the Presence of the LORD appeared in the sight of the Israelites as a consuming fire on the top of the mountain.

18

וַיָּבֹא מֹשֶׁה בְּתוֹךְ הֶעָנָן וַיַּעַל אֶל־הָהָר וַיְהִי מֹשֶׁה בָּהָר אַרְבָּעִים יוֹם וְאַרְבָּעִים לָיְלָה: (פ)

Moses went inside the cloud and ascended the mountain; and Moses remained on the mountain forty days and forty nights.

Appendix 2.5C

Guided Resource Sheet

1. Look back at the questions you already came up with in lesson 2 activity 1 (Refer to Appendix 2.2C Questions 6-8) to get you started thinking about how you might interpret the text.

2. Complete a line-by-line study of the text (The Exodus text can be found in Appendix 2.5B) in *Hevrutah* to expand your initial interpretation of the text and think more about the questions you already asked. Ensure that your interpretation of the text hits at least the first two levels of PaRDeS.

    - Initially, the text should be covered by a piece of blank paper. Uncover the verses as you go through each one. This procedure is meant to slow down the interpretive process and help you listen to what you will hear from each line of the text and from their partner.

    - Fill out two pauses as you go line by line

Pauses	At this point of our study, what do I tentatively think this story is about?	What is one thing I've heard from my *havruta* partner that has contributed to this tentative interpretation of mine?	What is one thing I've heard from the text that has contributed to my tentative interpretation?
One			
Two			

- Transfer the information from your pauses into the appropriate spaces in the PaRDes graphic organizer

PaRDeS	
Pshat- literal, plot level meaning	
Remez- how might this be connected to life in surprising way?	
Drash- narrative gaps, add the perspective of a character	
Sod- wildest ideas about the text.	

3. New Interpretation: Based on the work you have just done, complete this sentence: *I believe this text to be about*…

4. With your *Hevrutah,* go through the guide for support and challenge.

Support and Challenge

Presenter's Role

1. Share your interpretation of what the story is about and explain how you arrived at this interpretation.
2. Listen and then respond to your *hevrutah's* questions.
3. Probe/reinforce/revise your interpretation

Critical Colleague/*Hevrutah's* Role

1. Actively listen to your colleague's interpretation(s). Ask questions like: Am I understanding you correctly that you are reading this part of the text to mean X?
2. Probe your colleague's interpretation by asking clarifying questions such as: You said X, how did you get to this idea? You said X, could you tell me more about what you mean by that?
3. Support and reinforce your colleague's interpretation by offering additional cues in the story and/or reasons which may support their interpretation. For example: Would you say then when it says X, this reinforces your point?
4. Challenge the interpretation of your colleague by pointing to details in the story which the interpretation does not address or which may contradict the interpretation. For example: In the text it says X, how you you make sense of this part according to your interpretation? How do you account for? Why do you say that? How does that fit with what you just said? I don't really get that, can you explain it in another way?

5. Finally, pick your medium of art and depict your interpretation of the text!

Unit 3: Uncovering the Halakhic Process: A Study of Hashavat Aveidah-Returning Lost Objects (Scripted Unit)

Unit Summary

This unit will first compare the *halakhic* process and the American legal process. Then, it will guide students through the Reform *halakhhic* process as described by Mark Washofsky and further outlined by Jacob Petuchowski's four criteria. By studying *hashavat aveida*, learners will uncover the four distinct criteria for the Reform *halakhic* process: the main thrust, context, individual conscience and accountability to the covenantal community.[39]

Unit Enduring Understandings

1. *Halakhah*, like law, draws upon a process of argument enabling otherwise fixed words of old legal texts to be applied to new cases and situations.
2. Investigation into the main thrust of a Jewish value, definition of the context in which one finds one's self personally, attention to one's individual conscience and an accountability to the covenantal community provides a way for Reform Jews to engage in a *halakhic* process.
3. The creative process of *halakhah* encourages individuals and communities to define themselves within a Jewish framework.
4. Interpretation produces new meaning from our sacred texts by means of a culture of argument.

Unit Essential Questions

1. What makes *halakhah* legal process?

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[39] Note to The Teacher: This unit will require extra advanced preparation. You the teacher should be very familiar with the not only the lessons but how the *halakhic* process works. Refer back to the Note to The Teacher at the beginning of this curriculum guide for more guidance on how to prepare.

2. How is *halakhah* a "process" with which I can engage?
3. How does participating in a culture of argument allow law to develop over time and become more meaningful?

Lesson 1: Law as A Process

Lesson Overview

This lesson is about law as a process. Since *halakhah* as a system works very much like civil American law, we will begin with American law as it is something more familiar. As an introduction lesson to the unit on understanding the *Halakhich* process, the students will first be able to understand the process of how civil law develops over time as a baseline for learning about the way Jewish law develops.

Essential Questions:

1. How is the process of *halakhah* similar to American law and how is it different?
2. How is law more than just a system of rules to follow?
3. How does participating in a culture of argument allow law to develop over time and become more meaningful?

Goals (*As an educator, I want to show my students…*)

1. How the legal process allows law to develop over time.
2. How to participate in the legal process.

Objectives (*Students will be able to…*)

1. Explain how the original United States constitution continually evolves into new laws.
2. Compare and contrast *halakhah* and law in the United States.
3. Reconstruct the process that has occurred from an article in the United States constitution to a recent Supreme Court decision.

Materials:

- Legal Expert[40]

[40] Note to The Teacher: It is best to have someone from the community, either a constitutional law professor or lawyer, come to lecture in this unit for activity one and assist with activity two. If you can't find either of these types of people to come

- Law students or Community Members- To Assist With Break Out Groups (Optional)
- Projector/screen
- Appendix 3.1A-E
- Pens/Pencils/Highlighters
- Big pieces of paper

Timeline:

00:00-00:10 Set Induction

00:10-00:30 Activity 1: Lecture by Legal Expert

00:30-01:25 Activity 2: Case Exploration

01:25-01:30 Educational Closure

Set Induction: 00:00-00:10

Students will break into pairs to read the 14th Amendment (See Appendix 3.1 B) of the United States constitution. There will be some guiding remarks that make them think about what kind of interpretation is needed. Afterwards, students will come back together to discuss some of the concerns they have raised.

- Say: We are beginning a new unit today where we will finally have the opportunity to learn about the *halakhic* process. Before we dive in, we are going to spend some time thinking about the nature of American law and how it develops over time. To do this, we are lucky to be joined today by _____. She/he is an expert on the legal process and is going to spend some time teaching us how law evolves. _____, will you please share a few words about yourself.
- _____ introduces him/herself.

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in, you can also ask someone else in the community who understands the American legal process. Ideally, this person will also be Jewish and can draw parallels to the Jewish legal process. If not, you may have either help them out with this or also invite a Rabbi for this lesson.

- Say: Now, we are going to have you break into pairs to read the 14th amendment. As you read, come up with a list of things you like about the article of the constitution and some concerns you have about its use in today's world.
    - Give students 6 minutes.
- Say: Ok, let's come together now and allow students to share the things they liked and their concerns with this document.

Activity 1 Lecture by Legal Expert: 00:10-00:30

For this activity, you will need to bring in a legal expert (Such as a constitutional law professor, lawyer, or community member). The guest should lecture to the students in a way that answers the following questions. At the end, they should allow time for questions from the students.

A. What is the American constitution? When was it established? How is it similar to the Torah?

B. What is the process of legal interpretation for lawmakers and judges and what is a culture of argument? How does this process allow our constitution to evolve? How is this process similar to interpretation done by the Rabbis?

C. Questions?

Activity 2 Case Exploration: Brown v. Board of Education (1954), Roe v. Wade (1973), and Obergefell v. Hodges (2015): 00:30-01:25[41]

For this activity, the class will be doing a simulation of the American legal process led by the legal expert or you, the teacher. It can also be led by you, the teacher and still work well. If possible, it is also good to have a few law students or community members who understand the legal process to assist with this activity. The directions have been broken into two steps. ALL of this should be explained BEFORE the students begin working in their groups. The presentations will happen at the beginning of the next lesson.

1. Break the class into three small groups. the class will work with a law student or community member (or without) to look back at their initial questions they

[41] Note To The Teacher: You may choose to trim down any materials that seem too long. Also, you may choose to go find your own resources for these cases as well.

raised on the 14th Amendment and study some of the interpretations made by lawmakers over the past 150 years.

- Say: Now, we have a special opportunity to take the information we just learned from our opening conversation and lecture by _____ and become lawmakers ourselves. Each of you will be placed into one of three groups to examine a real case that has been brought before the Supreme Court: Brown v. Board of Education- Appendix 3.1C, Roe v. Wade-Appendix 3.1D and Obergefell v. Hodges- Appendix 3.1E.

2. Together, the students will put together a small presentation to defend the historical Supreme Court decision, which cites the original amendment to the United States constitution, the relevant interpretations by lawmakers to support their case in light of modern contexts and a statement of how their case has accountability to their own conscience and the people of the United States of America. The guidelines for the students can be found in Appendix 3.1A.

- Say: Each team will have 55 minutes to examine their relevant materials and prepare their case. You will have 5 minutes to present in the next session. Follow the guidelines in Appendix 3.1A closely! (Allow 55 minutes of time)

Educational Closure 01:25-01:30

The legal expert or you, the teacher, will sum up what is the constitution and the process of legal Interpretation. Then, ask the students the following two questions:

1. Ask: What do you appreciate about the process of legal interpretation?
2. Ask: What do you predict, you may appreciate then, about the *halakhic* process, remembering that it shares many similarities with the process of legal interpretation in the United States?

Say: Next week we will have our presentations by each group and dive into the *halakhic* process together!

Appendix 3.1A

Guidelines for Activity 2: Case Exploration

1. Opening Statement: Explain, in your own words, the main thrust of the article/and or amendment upon which your Supreme Court decision is based? A main thrust is like the big idea behind the article/amendment that shines through every era no matter how it becomes interpreted. In addition, explain why you see it as important to further interpret this article/amendment given the current context you live in (you are operating in the year of your Supreme Court Decision).-1 minute of presentation

2. Provide evidence that helps support your Supreme Court decision. (i.e.- How do previous lawmakers/other cases that lead up to yours interpret your article/amendment in a way that supports your case? How do these interpretations allow us to see the article/amendment differently? - 3 minutes of presentation

3. Closing Statement: Provide a brief statement that shows how your Supreme Court decision holds your group accountable to their own personal conscience as well as to the welfare of the people of the United States of America- 1 minute of presentation

Appendix 3.1B

14th Amendment[42]

Passed by Congress June 13, 1866. Ratified July 9, 1868.

Note: Article I, section 2, of the Constitution was modified by section 2 of the 14th amendment.

Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2.

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age,* and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3.

[42]https://www.archives.gov/founding-docs/amendments-11-27

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4.

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5.

The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

**Changed by section 1 of the 26th amendment.*

Appendix 3.1C

Case #1 Brown v. Board of Education

The Plessy Decision

Although the Declaration of Independence stated that "All men are created equal," due to the institution of slavery, this statement was not to be grounded in law in the United States until after the Civil War (and, arguably, not completely fulfilled for many years thereafter). In 1865, the Thirteenth Amendment was ratified and finally put an end to slavery. Moreover, the Fourteenth Amendment (1868) strengthened the legal rights of newly freed slaves by stating, among other things, that no state shall deprive anyone of either "due process of law" or of the "equal protection of the law." Finally, the Fifteenth Amendment (1870) further strengthened the legal rights of newly freed slaves by prohibiting states from denying anyone the right to vote due to race.

Despite these Amendments, African Americans were often treated differently than whites in many parts of the country, especially in the South. In fact, many state legislatures enacted laws that led to the legally mandated segregation of the races. In other words, the laws of many states decreed that blacks and whites could not use the same public facilities, ride the same buses, attend the same schools, etc. These laws came to be known as Jim Crow laws. Although many people felt that these laws were unjust, it was not until the 1890s that they were directly challenged in court. In 1892, an African-American man named Homer Plessy refused to give up his seat to a white man on a train in New Orleans, as he was required to do by Louisiana state law. For this action he was arrested. Plessy, contending that the Louisiana law separating blacks from whites on trains violated the "equal protection clause" of the Fourteenth Amendment to the U.S. Constitution, decided to fight his arrest in court. By 1896, his case had made it all the way to the United States Supreme Court. By a vote of 8-1, the Supreme Court ruled against *Plessy*. In the case of *Plessy v. Ferguson*, Justice Henry Billings Brown, writing the majority opinion, stated that:

"The object of the [Fourteenth] amendment was undoubtedly to enforce the equality of the two races before the law, but in the nature of things it could not have been

intended to abolish distinctions based upon color, or to endorse social, as distinguished from political, equality. . . If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane."

The lone dissenter, Justice John Marshal Harlan, interpreting the Fourteenth Amendment another way, stated, "Our Constitution is color-blind, and neither knows nor tolerates classes among citizens." Justice Harlan's dissent would become a rallying cry for those in later generations that wished to declare segregation unconstitutional.

Sadly, as a result of the *Plessy* decision, in the early twentieth century the Supreme Court continued to uphold the legality of Jim Crow laws and other forms of racial discrimination. In the case of *Cumming v. Richmond (Ga.) County Board of Education* (1899), for instance, the Court refused to issue an injunction preventing a school board from spending tax money on a white high school when the same school board voted to close down a black high school for financial reasons. Moreover, in *Gong Lum v. Rice* (1927), the Court upheld a school's decision to bar a person of Chinese descent from a "white" school.

The Road to Brown

(Note: Some of the case information is from Patterson, James T. Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy. Oxford University Press; New York, 2001.)

Early Cases

Despite the Supreme Court's ruling in Plessy and similar cases, many people continued to press for the abolition of Jim Crow and other racially discriminatory laws. One particular organization that fought for racial equality was the National Association for the Advancement of Colored People (NAACP) founded in 1909. For about the first 20 years of its existence, it tried to persuade Congress and other legislative bodies to enact laws that would protect African Americans from lynchings and other racist actions. Beginning in the 1930s, though, the NAACP's Legal Defense and Education Fund began to turn to the courts to try to make

progress in overcoming legally sanctioned discrimination. From 1935 to 1938, the legal arm of the NAACP was headed by Charles Hamilton Houston. Houston, together with Thurgood Marshall, devised a strategy to attack Jim Crow laws by striking at them where they were perhaps weakest—in the field of education. Although Marshall played a crucial role in all of the cases listed below, Houston was the head of the NAACP Legal Defense and Education Fund while *Murray v. Maryland and Missouri ex rel Gaines v. Canada* were decided. After Houston returned to private practice in 1938, Marshall became head of the Fund and used it to argue the cases of *Sweat v. Painter and McLaurin v. Oklahoma Board of Regents of Higher Education*.

Murray v. Maryland (1936)

Disappointed that the University of Maryland School of Law was rejecting black applicants solely because of their race, beginning in 1933 Thurgood Marshall (who was himself rejected from this law school because of its racial acceptance policies) decided to challenge this practice in the Maryland court system. Before a Baltimore City Court in 1935, Marshall argued that Donald Gaines Murray was just as qualified as white applicants to attend the University of Maryland's School of Law and that it was solely due to his race that he was rejected. Furthermore, he argued that since the "black" law schools which Murray would otherwise have to attend were nowhere near the same academic caliber as the University's law school, the University was violating the principle of "separate but equal." Moreover, Marshall argued that the disparities between the "white" and "black" law schools were so great that the only remedy would be to allow students like Murray to attend the University's law school. The Baltimore City Court agreed and the University then appealed to the Maryland Court of Appeals. In 1936, the Court of Appeals also ruled in favor of Murray and ordered the law school to admit him. Two years later, Murray graduated.

Missouri ex rel Gaines v. Canada (1938)

Beginning in 1936, the NAACP Legal Defense and Education Fund decided to take on the case of Lloyd Gaines, a graduate student of Lincoln University (an all-black college) who applied to the University of Missouri Law School but was denied because of his race. The State of Missouri gave Gaines the option of either attending

an all-black law school that it would build (Missouri did not have any all-black law schools at this time) or having Missouri help to pay for him to attend a law school in a neighboring state. Gaines rejected both of these options, and, employing the services of Thurgood Marshall and the NAACP Legal Defense and Education Fund, he decided to sue the state in order to attend the University of Missouri's law school. By 1938, his case reached the U.S. Supreme Court, and, in December of that year, the Court sided with him. The six-member majority stated that since a "black" law school did not currently exist in the State of Missouri, the "equal protection clause" required the state to provide, within its boundaries, a legal education for Gaines. In other words, since the state provided legal education for white students, it could not send black students, like Gaines, to school in another state.

Sweat v. Painter (1950)

Encouraged by their victory in Gaines' case, the NAACP continued to attack legally sanctioned racial discrimination in higher education. In 1946, an African American man named Heman Sweat applied to the University of Texas' "white" law school. Hoping that it would not have to admit Sweat to the "white" law school if a "black" school already existed, elsewhere on the University's campus, the state hastily set up an underfunded "black" law school. At this point, Sweat employed the services of Thurgood Marshall and the NAACP Legal Defense and Education Fund and sued to be admitted to the University's "white" law school. He argued that the education that he was receiving in the "black" law school was not of the same academic caliber as the education that he would be receiving if he attended the "white" law school. When the case reached the U.S. Supreme Court in 1950, the Court unanimously agreed with him, citing as its reason the blatant inequalities between the University's law school (the school for whites) and the hastily erected school for blacks. In other words, the "black" law school was "separate," but not "equal." Like the Murray case, the Court found the only appropriate remedy for this situation was to admit Sweat to the University's law school.

McLaurin v. Oklahoma Board of Regents of Higher Education (1950)

In 1949, the University of Oklahoma admitted George McLaurin, an African American, to its doctoral program. However, it required him to sit apart from the

rest of his class, eat at a separate time and table from white students, etc. McLaurin, stating that these actions were both unusual and resulting in adverse effects on his academic pursuits, sued to put an end to these practices. McLaurin employed Thurgood Marshall and the NAACP Legal Defense and Education Fund to argue his case, a case which eventually went to the U.S. Supreme Court. In an opinion delivered on the same day as the decision in *Sweat*, the Court stated that the University's actions concerning McLaurin were adversely affecting his ability to learn and ordered that they cease immediately.

Brown v. Board of Education (1954, 1955)

The case that came to be known as *Brown v. Board of Education* was actually the name given to five separate cases that were heard by the U.S. Supreme Court concerning the issue of segregation in public schools. These cases were *Brown v. Board of Education of Topeka*, *Briggs v. Elliot, Davis v. Board of Education of Prince Edward County (VA.)*, *Bolling v. Sharpe,* and *Gebhart v. Ethel*. While the facts of each case are different, the main issue in each was the constitutionality of state-sponsored segregation in public schools. Once again, Thurgood Marshall and the NAACP Legal Defense and Education Fund handled these cases.

Although it acknowledged some of the plaintiffs'/plaintiffs claims, a three-judge panel at the U.S. District Court that heard the cases ruled in favor of the school boards. The plaintiffs then appealed to the U.S. Supreme Court.

When the cases came before the Supreme Court in 1952, the Court consolidated all five cases under the name of Brown v. Board of Education. Marshall personally argued the case before the Court. Although he raised a variety of legal issues on appeal, the most common one was that separate school systems for blacks and whites were inherently unequal, and thus violate the "equal protection clause" of the Fourteenth Amendment to the U.S. Constitution. Furthermore, relying on sociological tests, such as the one performed by social scientist Kenneth Clark, and other data, he also argued that segregated school systems had a tendency to make black children feel inferior to white children, and thus such a system should not be legally permissible.

Meeting to decide the case, the Justices of the Supreme Court realized that they were deeply divided over the issues raised. While most wanted to reverse Plessy and declare segregation in public schools to be unconstitutional, they had various reasons for doing so. Unable to come to a solution by June 1953 (the end of the Court's 1952-1953 term), the Court decided to rehear the case in December 1953. During the intervening months, however, Chief Justice Fred Vinson died and was replaced by Gov. Earl Warren of California. After the case was reheard in 1953, Chief Justice Warren was able to do something that his predecessor had not—i.e. bring all of the Justices to agree to support a unanimous decision declaring segregation in public schools unconstitutional. On May 14, 1954, he delivered the opinion of the Court, stating that "We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal. . ."

Expecting opposition to its ruling, especially in the southern states, the Supreme Court did not immediately try to give direction for the implementation of its ruling. Rather, it asked the attorney generals of all states with laws permitting segregation in their public schools to submit plans for how to proceed with desegregation. After still more hearings before the Court concerning the matter of desegregation, on May 31, 1955, the Justices handed down a plan for how it was to proceed; desegregation was to proceed with "all deliberate speed." Although it would be many years before all segregated school systems were to be desegregated, *Brown* and *Brown II* (as the Courts plan for how to desegregate schools came to be called) were responsible for getting the process underway.[43]

[43] http://www.uscourts.gov/educational-resources/educational-activities/history-brown-v-board-education-re-enactment

Appendix 3.1D

Case #2 Roe v. Wade

MR. JUSTICE BLACKMUN delivered the opinion of the Court. Chief Justice Burger and Justices Douglas, Brennan, Stewart, Marshall and Powell joined the opinion.

…We forthwith acknowledge our awareness of the sensitive and emotional nature of the abortion controversy, of the vigorous opposing views, even among physicians, and of the deep and seemingly absolute convictions that the subject inspires. One's philosophy, one's experiences, one's exposure to the raw edges of human existence, one's religious training, one's attitudes toward life and family and their values, and the moral standards one establishes and seeks to observe, are all likely to influence and to color one's thinking and conclusions about abortion.

…The principal thrust of appellant's attack on the Texas statutes is that they improperly invade a right, said to be possessed by the pregnant woman, to choose to terminate her pregnancy. Appellant would discover this right in the concept of personal "liberty" embodied in the Fourteenth Amendment's Due Process Clause; or in personal, marital, familial, and sexual privacy said to be protected by the Bill of Rights or its penumbras.

…The Constitution does not explicitly mention any right of privacy. …[T]he Court has recognized that a right of personal privacy, or a guarantee of certain areas or zones of privacy, does exist under the Constitution. … This right of privacy, whether it be founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon state action, as we feel it is, or, as the District Court determined, in the Ninth Amendment's reservation of rights to the people, is broad enough to encompass a woman's decision whether or not to terminate her pregnancy. The detriment that the State would impose upon the pregnant woman by denying this choice altogether is apparent. Specific and direct harm medically diagnosable even in early pregnancy may be involved. Maternity, or additional offspring, may force upon the woman a distressful life and future. Psychological harm may be imminent. Mental and physical health may be taxed by child care. There is also the distress, for all concerned, associated with the unwanted child, and there is the problem of bringing a child into a family already unable, psychologically and otherwise, to care for it. In other cases, as in this one, the additional difficulties and continuing stigma of unwed motherhood may be involved. All these are factors the woman and her responsible physician necessarily will consider in consultation.

On the basis of elements such as these, appellant and some amici argue that the woman's right is absolute and that she is entitled to terminate her pregnancy at whatever time, in whatever way, and for whatever reason she alone chooses. With this we do not agree. Appellant's arguments that Texas either has no valid interest

at all in regulating the abortion decision, or no interest strong enough to support any limitation upon the woman's sole determination, are unpersuasive. The Court's decisions recognizing a right of privacy also acknowledge that some state regulation in areas protected by that right is appropriate. As noted above, a State may properly assert important interests in safeguarding health, in maintaining medical standards, and in protecting potential life. At some point in pregnancy, these respective interests become sufficiently compelling to sustain regulation of the factors that govern the abortion decision. The privacy right involved, therefore, cannot be said to be absolute….We, therefore, conclude that the right of personal privacy includes the abortion decision, but that this right is not unqualified, and must be considered against important state interests in regulation.

… (a) For the stage prior to approximately the end of the first trimester, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician.

(b) For the stage subsequent to approximately the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health.

(c) For the stage subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother.

This holding, we feel, is consistent with the relative weights of the respective interests involved, with the lessons and examples of medical and legal history, with the lenity of the common law, and with the demands of the profound problems of the present day. The decision leaves the State free to place increasing restrictions on abortion as the period of pregnancy lengthens, so long as those restrictions are tailored to the recognized state interests. The decision vindicates the right of the physician to administer medical treatment according to his professional judgment up to the points where important state interests provide compelling justifications for intervention. Up to those points, the abortion decision in all its aspects is inherently, and primarily, a medical decision, and basic responsibility for it must rest with the physician. If an individual practitioner abuses the privilege of exercising proper medical judgment, the usual remedies, judicial and intra-professional, are available.[44]

[44]http://landmarkcases.org/en/Page/659/Key_excerpts_from_the_majority_opinion

Appendix 3.1E

Case #3 Obergefell Hodges

Justice Kennedy delivered the opinion of the Court.

The Constitution promises liberty to all within its reach, a liberty that includes certain specific rights that allow persons, within a lawful realm, to define and express their identity. The petitioners in these cases seek to find that liberty by marrying someone of the same sex and having their marriages deemed lawful on the same terms and conditions as marriages between persons of the opposite sex.

These cases come from Michigan, Kentucky, Ohio, and Tennessee, States that define marriage as a union between one man and one woman. See, *e.g.*, Mich. Const., Art. I, 25; Ky. Const. 233A; Ohio Rev. Code Ann. 3101.01 (Lexis 2008); Tenn. Const., Art. XI, 18. The petitioners are 14 same-sex couples and two men whose same-sex partners are deceased. The respondents are state officials responsible for enforcing the laws in question. The petitioners claim the respondents violate the Fourteenth Amendment by denying them the right to marry or to have their marriages, lawfully performed in another State, given full recognition.

Petitioners filed these suits in United States District Courts in their home States. Each District Court ruled in their favor. Citations to those cases are in Appendix A, *infra*. The respondents appealed the decisions against them to the United States Court of Appeals for the Sixth Circuit. It consolidated the cases and reversed the judgments of the District Courts. *DeBoerv. Snyder*, 772 F. 3d 388 (2014). The Court of Appeals held that a State has no constitutional obligation to license same-sex marriages or to recognize same-sex marriages performed out of State.

The petitioners sought certiorari. This Court granted review, limited to two questions. 574 U. S. ___ (2015). The first, presented by the cases from Michigan and Kentucky, is whether the Fourteenth Amendment requires a State to license a marriage between two people of the same sex. The second, presented by the cases from Ohio, Tennessee, and, again, Kentucky, is whether the Fourteenth Amendment requires a State to recognize a same-sex marriage licensed and performed in a State which does grant that right.

Under the Due Process Clause of the Fourteenth Amendment, no State shall "deprive any person of life, liberty, or property, without due process of law." The fundamental liberties protected by this Clause include most of the rights enumerated in the Bill of Rights. See *Duncanv. Louisiana*, 391 U. S. 145 149 (1968). In addition these liberties extend to certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs. See, *e.g.*, *Eisenstadtv. Baird*, 405 U. S. 438, 453 (1972) ; *Griswoldv. Connecticut*, 381 U. S. 479 486 (1965).

The identification and protection of fundamental rights is an enduring part of the judicial duty to interpret the Constitution. That responsibility, however, "has not been reduced to any formula." *Poev. Ullman*, 367 U. S. 497, 542 (1961) (Harlan, J., dissenting). Rather, it requires courts to exercise reasoned judgment in identifying interests of the person so fundamental that the State must accord them its respect. See *ibid.* That process is guided by many of the same considerations relevant to analysis of other constitutional provisions that set forth broad principles rather than specific requirements. History and tradition guide and discipline this inquiry but do not set its outer boundaries. See *Lawrence*, *supra*, at 572. That method respects our history and learns from it without allowing the past alone to rule the present.

The nature of injustice is that we may not always see it in our own times. The generations that wrote and ratified the Bill of Rights and the Fourteenth Amendment did not presume to know the extent of freedom in all of its dimensions, and so they entrusted to future generations a charter protecting the right of all persons to enjoy liberty as we learn its meaning. When new insight reveals discord between the Constitution's central protections and a received legal stricture, a claim to liberty must be addressed.

Applying these established tenets, the Court has long held the right to marry is protected by the Constitution. In *Lovingv. Virginia*, 388 U. S. 1, 12 (1967) , which invalidated bans on interracial unions, a unanimous Court held marriage is "one of the vital personal rights essential to the orderly pursuit of happiness by free men." The Court reaffirmed that holding in *Zablockiv. Redhail*, 434 U. S. 374, 384 (1978) , which held the right to marry was burdened by a law prohibiting fathers who were behind on child support from marrying. The Court again applied this principle

in *Turnerv. Safley*, 482 U. S. 78, 95 (1987) , which held the right to marry was abridged by regulations limiting the privilege of prison inmates to marry. Over time and in other contexts, the Court has reiterated that the right to marry is fundamental under the Due Process Clause. See, *e.g., M. L. B.v. S. L. J.*, 519 U. S. 102, 116 (1996) ; *Cleveland Bd. of Ed.v. LaFleur*, 414 U. S. 632 640 (1974); *Griswold*, *supra*, at 486; *Skinnerv. Oklahoma ex rel. Williamson*, 316 U. S. 535, 541 (1942) ; *Meyerv. Nebraska*, 262 U. S. 390, 399 (1923) .

It cannot be denied that this Court's cases describing the right to marry presumed a relationship involving opposite-sex partners. The Court, like many institutions, has made assumptions defined by the world and time of which it is a part. This was evident in *Bakerv. Nelson*, 409 U. S. 810 , a one-line summary decision issued in 1972, holding the exclusion of same-sex couples from marriage did not present a substantial federal question.

Still, there are other, more instructive precedents. This Court's cases have expressed constitutional principles of broader reach. In defining the right to marry these cases have identified essential attributes of that right based in history, tradition, and other constitutional liberties inherent in this intimate bond. See, *e.g.*, *Lawrence*, 539 U. S., at 574; *Turner*, *supra*, at 95; *Zablocki*, *supra*, at 384; *Loving*, *supra*, at 12; *Griswold*, *supra*, at 486. And in assessing whether the force and rationale of its cases apply to same-sex couples, the Court must respect the basic reasons why the right to marry has been long protected. See, *e.g.*, *Eisenstadt*, *supra*, at 453 454; *Poe*, *supra*, at 542 553 (Harlan, J., dissenting).

This analysis compels the conclusion that same-sex couples may exercise the right to marry. The four principles and traditions to be discussed demonstrate that the reasons marriage is fundamental under the Constitution apply with equal force to same-sex couples.

A first premise of the Court's relevant precedents is that the right to personal choice regarding marriage is inherent in the concept of individual autonomy. This abiding connection between marriage and liberty is why *Loving* invalidated interracial marriage bans under the Due Process Clause. See 388 U. S., at 12; see also *Zablocki*, *supra*, at 384 (observing *Loving* held "the right to marry is of fundamental importance for all individuals"). Like choices concerning

contraception, family relationships, procreation, and childrearing, all of which are protected by the Constitution, decisions concerning marriage are among the most intimate that an individual can make. See *Lawrence*, *supra*, at 574. Indeed, the Court has noted it would be contradictory "to recognize a right of privacy with respect to other matters of family life and not with respect to the decision to enter the relationship that is the foundation of the family in our society." *Zablocki*, *supra*, at 386.

Choices about marriage shape an individual's destiny. As the Supreme Judicial Court of Massachusetts has explained, because "it fulfils yearnings for security, safe haven, and connection that express our common humanity, civil marriage is an esteemed institution, and the decision whether and whom to marry is among life's momentous acts of self-definition." *Goodridge*, 440 Mass., at 322, 798 N. E. 2d, at 955.

The nature of marriage is that, through its enduring bond, two persons together can find other freedoms, such as expression, intimacy, and spirituality. This is true for all persons, whatever their sexual orientation. See *Windsor*, 570 U. S., at ___ ___ (slip op., at 22 23). There is dignity in the bond between two men or two women who seek to marry and in their autonomy to make such profound choices. Cf. *Loving*, *supra*, at 12 ("[T]he freedom to marry, or not marry, a person of another race resides with the individual and cannot be infringed by the State").

A second principle in this Court's jurisprudence is that the right to marry is fundamental because it supports a two-person union unlike any other in its importance to the committed individuals. This point was central to *Griswold* v.*Connecticut*, which held the Constitution protects the right of married couples to use contraception. 381 U. S., at 485. Suggesting that marriage is a right "older than the Bill of Rights," *Griswold* described marriage this way:

"Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony in living, not political faiths; a bilateral loyalty, not commercial or social projects. Yet it is an association for as noble a purpose as any involved in our prior decisions. " *Id.*, at 486.

And in *Turner*, the Court again acknowledged the intimate association protected by this right, holding prisoners could not be denied the right to marry because their committed relationships satisfied the basic reasons why marriage is a fundamental right. See 482 U. S., at 95 96. The right to marry thus dignifies couples who "wish to define themselves by their commitment to each other." *Windsor*, *supra*, at ___ (slip op., at 14). Marriage responds to the universal fear that a lonely person might call out only to find no one there. It offers the hope of companionship and understanding and assurance that while both still live there will be someone to care for the other.

As this Court held in *Lawrence*, same-sex couples have the same right as opposite-sex couples to enjoy intimate association. *Lawrence* invalidated laws that made same-sex intimacy a criminal act. And it acknowledged that "[w]hen sexuality finds overt expression in intimate conduct with another person, the conduct can be but one element in a personal bond that is more enduring." 539 U. S., at 567. But while *Lawrence* confirmed a dimension of freedom that allows individuals to engage in intimate association without criminal liability, it does not follow that freedom stops there. Outlaw to outcast may be a step forward, but it does not achieve the full promise of liberty.

A third basis for protecting the right to marry is that it safeguards children and families and thus draws meaning from related rights of childrearing, procreation, and education. See *Piercev. Society of Sisters*, 268 U. S. 510 (1925) ; *Meyer*, 262 U. S., at 399. The Court has recognized these connections by describing the varied rights as a unified whole: "[T]he right to 'marry, establish a home and bring up children' is a central part of the liberty protected by the Due Process Clause." *Zablocki*, 434 U. S., at 384 (quoting *Meyer*, *supra*, at 399). Under the laws of the several States, some of marriage's protections for children and families are material. But marriage also confers more profound benefits. By giving recognition and legal structure to their parents' relationship, marriage allows children "to understand the integrity and closeness of their own family and its concord with other families in their community and in their daily lives." *Windsor*, *supra*, at ___ (slip op., at 23). Marriage also affords the permanency and stability important to children's best interests. See Brief for Scholars of the Constitutional Rights of Children as *Amici Curiae*22 27.

As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples. See Brief for Gary J. Gates as *Amicus Curiae* 4. Most States have allowed gays and lesbians to adopt, either as individuals or as couples, and many adopted and foster children have same-sex parents, see *id.*, at 5. This provides powerful confirmation from the law itself that gays and lesbians can create loving, supportive families.

Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser. They also suffer the significant material costs of being raised by unmarried parents, relegated through no fault of their own to a more difficult and uncertain family life. The marriage laws at issue here thus harm and humiliate the children of same-sex couples. See *Windsor*, *supra*, at ___ (slip op., at 23).

That is not to say the right to marry is less meaningful for those who do not or cannot have children. An ability, desire, or promise to procreate is not and has not been a prerequisite for a valid marriage in any State. In light of precedent protecting the right of a married couple not to procreate, it cannot be said the Court or the States have conditioned the right to marry on the capacity or commitment to procreate. The constitutional marriage right has many aspects, of which childbearing is only one.

Fourth and finally, this Court's cases and the Nation's traditions make clear that marriage is a keystone of our social order. Alexis de Tocqueville recognized this truth on his travels through the United States almost two centuries ago:

"There is certainly no country in the world where the tie of marriage is so much respected as in America . . . [W]hen the American retires from the turmoil of public life to the bosom of his family, he finds in it the image of order and of peace . . . . [H]e afterwards carries [that image] with him into public affairs." 1 Democracy in America 309 (H. Reeve transl., rev. ed. 1990).

In *Maynardv. Hill*, 125 U. S. 190, 211 (1888) , the Court echoed de Tocqueville, explaining that marriage is "the foundation of the family and of society, without

which there would be neither civilization nor progress." Marriage, the *Maynard* Court said, has long been " 'a great public institution, giving character to our whole civil polity.' " *Id.*, at 213. This idea has been reiterated even as the institution has evolved in substantial ways over time, superseding rules related to parental consent, gender, and race once thought by many to be essential. See generally N. Cott, Public Vows. Marriage remains a building block of our national community.

For that reason, just as a couple vows to support each other, so does society pledge to support the couple, offering symbolic recognition and material benefits to protect and nourish the union. Indeed, while the States are in general free to vary the benefits they confer on all married couples, they have throughout our history made marriage the basis for an expanding list of governmental rights, benefits, and responsibilities. These aspects of marital status include: taxation; inheritance and property rights; rules of intestate succession; spousal privilege in the law of evidence; hospital access; medical decision making authority; adoption rights; the rights and benefits of survivors; birth and death certificates; professional ethics rules; campaign finance restrictions; workers' compensation benefits; health insurance; and child custody, support, and visitation rules. See Brief for United States as *Amicus Curiae* 6 9; Brief for American Bar Association as *Amicus Curiae* 8 29. Valid marriage under state law is also a significant status for over a thousand provisions of federal law. See *Windsor*, 570 U. S., at ___ ___ (slip op., at 15 16). The States have contributed to the fundamental character of the marriage right by placing that institution at the center of so many facets of the legal and social order.

There is no difference between same- and opposite-sex couples with respect to this principle. Yet by virtue of their exclusion from that institution, same-sex couples are denied the constellation of benefits that the States have linked to marriage. This harm results in more than just material burdens. Same-sex couples are consigned to an instability many opposite-sex couples would deem intolerable in their own lives. As the State itself makes marriage all the more precious by the significance it attaches to it, exclusion from that status has the effect of teaching that gays and lesbians are unequal in important respects. It demeans gays and lesbians for the State to lock them out of a central institution of the Nation's society. Same-sex couples, too, may aspire to the transcendent purposes of marriage and seek fulfillment in its highest meaning.

The limitation of marriage to opposite-sex couples may long have seemed natural and just, but its inconsistency with the central meaning of the fundamental right to marry is now manifest. With that knowledge must come the recognition that laws excluding same-sex couples from the marriage right impose stigma and injury of the kind prohibited by our basic charter.

Objecting that this does not reflect an appropriate framing of the issue, the respondents refer to *Washingtonv. Glucksberg*, 521 U. S. 702, 721 (1997) , which called for a " 'careful description' " of fundamental rights. They assert the petitioners do not seek to exercise the right to marry but rather a new and nonexistent "right to same-sex marriage." Brief for Respondent in No. 14 556, p. 8. *Glucksberg* did insist that liberty under the Due Process Clause must be defined in a most circumscribed manner, with central reference to specific historical practices. Yet while that approach may have been appropriate for the asserted right there involved (physician-assisted suicide), it is inconsistent with the approach this Court has used in discussing other fundamental rights, including marriage and intimacy. *Loving* did not ask about a "right to interracial marriage"; *Turner* did not ask about a "right of inmates to marry"; and *Zablocki* did not ask about a "right of fathers with unpaid child support duties to marry." Rather, each case inquired about the right to marry in its comprehensive sense, asking if there was a sufficient justification for excluding the relevant class from the right. See also *Glucksberg*, 521 U. S., at 752 773 (Souter, J., concurring in judgment); *id.*, at 789 792 (Breyer, J., concurring in judgments).

That principle applies here. If rights were defined by who exercised them in the past, then received practices could serve as their own continued justification and new groups could not invoke rights once denied. This Court has rejected that approach, both with respect to the right to marry and the rights of gays and lesbians. See *Loving* 388 U. S., at 12; *Lawrence*, 539 U. S., at 566 567.

The right to marry is fundamental as a matter of history and tradition, but rights come not from ancient sources alone. They rise, too, from a better informed understanding of how constitutional imperatives define a liberty that remains urgent in our own era. Many who deem same-sex marriage to be wrong reach that conclusion based on decent and honorable religious or philosophical premises, and neither they nor their beliefs are disparaged here. But when that sincere, personal opposition becomes enacted law and public policy, the necessary consequence is to

put the imprimatur of the State itself on an exclusion that soon demeans or stigmatizes those whose own liberty is then denied. Under the Constitution, same-sex couples seek in marriage the same legal treatment as opposite-sex couples, and it would disparage their choices and diminish their personhood to deny them this right.

The right of same-sex couples to marry that is part of the liberty promised by the Fourteenth Amendment is derived, too, from that Amendment's guarantee of the equal protection of the laws. The Due Process Clause and the Equal Protection Clause are connected in a profound way, though they set forth independent principles. Rights implicit in liberty and rights secured by equal protection may rest on different precepts and are not always co-extensive, yet in some instances each may be instructive as to the meaning and reach of the other. In any particular case one Clause may be thought to capture the essence of the right in a more accurate and comprehensive way, even as the two Clauses may converge in the identification and definition of the right. See *M. L. B.*, 519 U. S., at 120 121; *id.*, at 128 129 (Kennedy, J., concurring in judgment); *Beardenv. Georgia*, 461 U. S. 660, 665 (1983) . This interrelation of the two principles furthers our understanding of what freedom is and must become.

Indeed, in interpreting the Equal Protection Clause, the Court has recognized that new insights and societal understandings can reveal unjustified inequality within our most fundamental institutions that once passed unnoticed and unchallenged. To take but one period, this occurred with respect to marriage in the 1970's and 1980's. Notwithstanding the gradual erosion of the doctrine of coverture, see *supra*, at 6, invidious sex-based classifications in marriage remained common through the mid-20th century. See App. to Brief for Appellant in *Reedv. Reed*, O. T. 1971, No. 70 4, pp. 69 88 (an extensive reference to laws extant as of 1971 treating women as unequal to men in marriage). These classifications denied the equal dignity of men and women. One State's law, for example, provided in 1971 that "the husband is the head of the family and the wife is subject to him; her legal civil existence is merged in the husband, except so far as the law recognizes her separately, either for her own protection, or for her benefit." Ga. Code Ann. 53 501 (1935). Responding to a new awareness, the Court invoked equal protection principles to invalidate laws imposing sex-based inequality on marriage. See, *e.g., Kirchbergv. Feenstra*, 450 U. S. 455 (1981) ; *Wenglerv. Druggists Mut. Ins. Co.*, 446 U. S. 142 (1980) ; *Califanov.*

Westcott, 443 U. S. 76 (1979) ; *Orrv. Orr*, 440 U. S. 268 (1979) ; *Califanov. Goldfarb*, 430 U. S. 199 (1977) (plurality opinion); *Weinbergerv. Wiesenfeld*, 420 U. S. 636 (1975) ; *Frontierov. Richardson*, 411 U. S. 677 (1973) . Like *Loving* and *Zablocki*, these precedents show the Equal Protection Clause can help to identify and correct inequalities in the institution of marriage, vindicating precepts of liberty and equality under the Constitution.

These considerations lead to the conclusion that the right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment couples of the same-sex may not be deprived of that right and that liberty. The Court now holds that same-sex couples may exercise the fundamental right to marry. No longer may this liberty be denied to them. *Bakerv. Nelson* must be and now is overruled, and the State laws challenged by Petitioners in these cases are now held invalid to the extent they exclude same-sex couples from civil marriage on the same terms and conditions as opposite-sex couples.

* * *

No union is more profound than marriage, for it embodies the highest ideals of love, fidelity, devotion, sacrifice, and family. In forming a marital union, two people become something greater than once they were. As some of the petitioners in these cases demonstrate, marriage embodies a love that may endure even past death. It would misunderstand these men and women to say they disrespect the idea of marriage. Their plea is that they do respect it, respect it so deeply that they seek to find its fulfillment for themselves. Their hope is not to be condemned to live in loneliness, excluded from one of civilization's oldest institutions. They ask for equal dignity in the eyes of the law. The Constitution grants them that right.

The judgment of the Court of Appeals for the Sixth Circuit is reversed.

It is so ordered.[45]

[45] https://supreme.justia.com/cases/federal/us/576/14-556/opinion3.html

Lesson 2: Finding The Main Thrust of the Jewish Texts: What Does Judaism Find Wrong with "Finders Keeper Losers Weepers?" Part 1

Lesson Overview:

This lesson takes the framing of "law as a process" from the previous lesson and begins to apply it to Jewish law or *halakhah*. In order to do that, this lesson will begin to expose students to the *halakhic* process as defined by Jacob Petuchowski (Main Thrust, Social Context, Individual Conscience and Communal Responsibility). By looking at a range of Jewish texts from Torah, Talmud, and codes on the topic of *hashavat aveida* or returning lost objects, students will be able to uncover for themselves how to engage with the first step of Petuchowski's process, finding the main thrust within the Jewish texts.[46] This topic will be carried through two 1.5 hour lessons. You will notice that the lessons in this unit do not fully utilize the method of interpretation from unit 2. This was a deliberate pedagogical decision. The goal of this unit is more about providing an understanding of the process. Units 4 and 5 will allow students to fully apply the interpretation skills from Unit 2 and combine them with the *halakhic* process.[47]

Essential Questions:

1. How is *halakhah* a "process" with which I can engage?
2. What do the Torah and Talmud say about returning lost objects?
3. What does the term "main thrust" mean and how can I find it by studying Jewish texts?

Goals: (*As an educator, I want to show my students…*)

1. How the main thrust of a set of texts can help us to pull out the value which inspired the texts to be written.

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[46]Jakob J. Petuchowski, "Some Criteria for Modern Jewish Observance," in *Contemporary Jewish Theology: A Reader*, ed. Elliot N. Dorff and Louis E. Newman (London: Oxford University Press, 1998), 295-296.

[47] Note to The Teacher: The Contemporary Jewish Theology Reader is a condensed and modern version of what J. Petuchowski writes in his book *Ever Since Sinai.* Students will read the more condense and modern version during this unit.

2. How finding the main thrust can begin to make a text more relatable.

Objectives : (*Students will be able to…*)

1. Explain what is meant by the main thrust according to Petuchowksi's definition.
2. Compare the way Torah and Talmud speak about returning lost objects.
3. Apply their understanding of main thrust to *hashavat aveida,* using Torah and Talmud.

Materials

- Projector/Screen
- Speakers/Audio Hook Up
- Computer/Tablet
- Appendix 3.2A-E
- Journals
- Pencils/Pens

Timeline:

00:00-00:20 Presentations

00:20-00:30 Set Induction

00:30-01:00 What is "The Main Thrust?"

01:00-01:25 Torah and Talmud *Hevrutah*

01:25-01:30 Educational Closure

Presentations: 00:00-00:20

- Say: Today, we are going to allow time for each group to present their Supreme Court Case to the class! Since it has been some time since you and your group created the presentations, take five minutes to regroup. Then, each group will have about 15 minutes to hear from our three groups. That means each group has five minutes to present.

Set Induction: 00:20-00:30

The clip shows an Orthodox rabbi who buys a desk on craigslist. When he brings the desk home he opens the drawer and finds 98,000 dollars cash. The Rabbi takes the money and returns it to the woman. She was eternally grateful. This case illustrates the way the concept of returning lost objects easily applies to our contemporary lives.

1. Say: We are going to watch this short clip from the Steve Harvey show which will serve to introduce you to the *halakhic* topic we will be studying in this unit, returning lost objects.
2. Show clip- 4 minutes: https://www.youtube.com/watch?v=JM8ndm0f7jg
3. Say: Now, I want to ask you the following questions.
    a) When the rabbi says he was taught from a young age to "Be considerate of the feelings of others and to put yourself in someone else's shoes and think about how you would feel if you were them" how do you think that connects to returning lost objects?
    b) In this case, it was easy to return the lost object to its owner: No one else had ever owned the desk. What do you think he should have done if he did not know whom the money belonged to?
4. Say: One thing that would help us to understand how the Rabbi knew so quickly what to with the money is to learn the first step of the *halakhic* process. Let's discover what the main thrust of returning lost objects is in our Jewish texts beginning with Torah and Talmud. This step will help us to identify what is the main ethical principle behind returning lost objects regardless of the context.

Activity 1: What is The Main Thrust? (Reading for Meaning) 00:30-01:00

1. Say: Before we go any further, we need to define what we mean when we say main thrust, which is the first step in our *halakhic* process.
2. Say: Please read the statements to yourself on the Reading for Meaning Organizer (Appendix 3.2B) and make some predictions as to whether you agree or not with them. Then, individually, please read about the main thrust from the article, "Some Criteria for Modern Jewish Observance" (Attachment 3.2A) and complete the reading guide as you read. When you are finished, find a partner and compare your answers on the

reading guide. Give the students 20 minutes for pre reading, reading, and discussion

3. Ask: Now that you have read and discussed the passage, let's have a few people, in their own words, tell me what the main thrust means? (Allow some wait time)

Activity 2: Finding "The Main Thrust" of *hashavat aveidah* using Torah and Talmud (*Hevrutah* Study) 01:00—01:25

In this activity, students will take what they learned about what a main thrust is and begin to apply it to Torah and Talmud texts on *hashavat aveidah.*[48] As you guide the students through the texts, follow the script for teachers which is written below each text.

Exodus 23:4

כִּי תִפְגַּע שׁוֹר אֹיִבְךָ אוֹ חֲמֹרוֹ תֹּעֶה הָשֵׁב תְּשִׁיבֶנּוּ לוֹ׃ (ס)

4) When you encounter your enemy's ox or ass wandering, you must take it back to him.

Deuteronomy 22:1-3

לֹא־תִרְאֶה֙ אֶת־שׁ֣וֹר אָחִ֔יךָ אוֹ אֶת־שֵׂיוֹ֖ נִדָּחִ֑ים וְהִתְעַלַּ֣מְתָּ מֵהֶ֗ם הָשֵׁ֤ב תְּשִׁיבֵם֙ לְאָחִ֔יךָ׃

1) If you see your fellow's ox or sheep gone astray, do not ignore it; you must take it back to your fellow.

וְאִם־לֹ֤א קָרוֹב֙ אָחִ֣יךָ אֵלֶ֔יךָ וְלֹ֣א יְדַעְתּ֔וֹ וַאֲסַפְתּוֹ֙ אֶל־תּ֣וֹךְ בֵּיתֶ֔ךָ וְהָיָ֥ה עִמְּךָ֖ עַד דְּרֹ֣שׁ אָחִ֑יךָ אֹתוֹ֙ וַהֲשֵׁבֹתָ֣ו לֽוֹ׃

[48] Note to The Teacher: Remember, the focus in this lesson and lesson 3 will be on understanding the *halakhic* process and less so about skills of interpretation. The interpretation will be a focus in the next two units again.

2) If your fellow does not live near you or you do not know who he is, you shall bring it home and it shall remain with you until your fellow claims it; then you shall give it back to him.

וְכֵן תַּעֲשֶׂה לַחֲמֹרוֹ וְכֵן תַּעֲשֶׂה לְשִׂמְלָתוֹ וְכֵן תַּעֲשֶׂה לְכָל־אֲבֵדַת אָחִיךָ אֲשֶׁר־תֹּאבַד מִמֶּנּוּ וּמְצָאתָהּ לֹא תוּכַל לְהִתְעַלֵּם: (ס)

3) You shall do the same with his ass; you shall do the same with his garment; and so too shall you do with anything that your fellow loses and you find: you must not remain indifferent.

1. Say: Everyone should pair up with the same *hevrutah* they worked with for the reading for meaning activity. Now, individually read both the Exodus and Deuteronomy texts out. -See Appendix 3.2C
2. Say: Take a moment to paraphrase each of the texts in your own words.
3. Say: Each partner should now take a minute to write down their own interpretation of the Torah texts in their notebooks. In other words, in thinking about these two texts together, what is the big idea which you believe the texts to be about?
4. Say: Now, take some time to both challenge and support your *Hevrutah* partner's interpretation(s). See *hevrutah* Sentence starters in Appendix 3.2E. Write down your final interpretation in your journal. This will be your main thrust of Torah. You can have more than one idea for the main thrust.

Text Study 2: Talmud-10 minutes today, 15 minutes next time

אלו מציאות שלו מצא פירות מפוזרין מעות מפוזרות כריכות ברשות הרבים

Mishnah Bava Metzia 21a

In a case where one discovers lost items, which found items belong to him and for which items is one obligated to proclaim his find so that the owner of the lost items can come and reclaim them? These found items belong to him: Scattered produce, scattered coins, bundles of grain in a public domain.

Rashi, Talmud Bavli, Bava Metzia, 21a

Scattered Money (can be kept by the finder). [Why?] Since the money does not have any *siman*, clearly identifying features (that would enable the loser to reclaim his property), he will relinquish hope of ever regaining ownership (ye'ush), and the money becomes ownerless (hefker). This is the reasons these objects may be kept.

בעא מיניה רב ביבי מרב נחמן מקום הוי סימן או לא הוי סימן אמר ליה תניתוה מצא חביות של יין ושל שמן ושל תבואה ושל גרוגרות ושל זיתים הרי אלו שלו ואי סימן הוי דמקום לכרוז מקום

Talmud Bavli, Bava Metzia 23b

Rav Beivai raised a dilemma before Rav Nahman: Is the location where the lost item was found a distinguishing mark, or is it not a distinguishing mark? Fav Nahman said to him that you learned it in the baraita: If one found barrels of wine, or of oil, or of grain, or of dried figs, or of olives, these belong to him. And if it enters your mind that location is a distinguishing mark, let the finder proclaim what he found, and have the location serves as a distinguishing mark.

מתני' ואלו חייב להכריז מצא פירות בכלי או כלי כמות שהוא מעות בכיס או כיס כמות שהוא צבורי פירות צבורי מעות

Mishna Bava Metzia 24b

And for these found items, one is obligated to proclaim his find: If one found produce inside a vessel, or a vessel by itself; coins inside a pouch, or a pouch by itself; piles of produce; piles of coins…

5. Say: Now that we have looked at the two main areas of the Torah that refer to returning lost objects, it is time to move onto some of the early interpretations of these texts made by the Rabbis of the *Mishnah* and *Gemarah*. As we move on, begin to think about what the Torah leaves out in order to be able to apply these laws to our lives today. For instance, what do we do if we cannot find the owner of a lost article? We will spend 10 minutes today on this and 15 next time. Read through the Talmud texts on your own individually and write what you think is the big idea that underlines all of these Talmud texts. Write the answer in your journals. We will come back to this point next class.

Educational Closure and Bridge: 01:25-01:30

- Say: We are going to go around to each group. What I would like you to share is one take away about what you have learned about the main thrust and to tell us what your group believes is the main thrust of the texts we have studied thus far on returning lost objects.

Appendix 3.2A

Excerpt from "Some Criteria for Jewish Observance" by Jakob J. Petuchowski p. 295-296 in Dorff/Newman Reader

These sources- Bible and Talmud, Midrash and philosophy, Kabbalah and Codes, poetry and the classics of the scientific study of Judaism- are the property of all Jews. In the obligation to study these sources there is no differences between the Orthodox and the Liberals, the Conservatives and the Reformers. It is a *mitzvah* which even the most radical of the Reformers cannot afford to ignore without calling into question his good faith and the seriousness of his conviction. That is why tradition said that "the study of the Torah surpasses the other commandments in importance.

Only if the Reform Jew acts out of a full knowledge can there be talk of Reform Judaism at all. An ignoramus is only- an ignoramus. It is, of course, possible and even likely that, under certain circumstances, the Reform orientation might lead to the nonobservance of several traditional laws. It is possible but not inevitable. The example of Franz Rosenzeig again comes to mind. Nevertheless, even if the Reform orientation should lead, in a number of cases, to the nonobservance of *mitzvot*, it would be a nonobservance based on careful evaluation and not on ignorance. A true Reform Judaism , therefore, and one worthy of its name, would have to cultivate the study of the totality of our tradition, applying to it a set of criteria to guide the modern Jew in making his selections from it.

What, then are those criteria?

I would suggest four criteria. First, *What has been the main thrust of the millennial Jewish tradition in a given case?* In examining the traditional material, we must not remain satisfied with first impressions, especially so because, in a tradition which spans four thousand years, the meaning of a given observance has not always been uniformly understood and interpreted.

A modern Jew might, for example, be under the impression that the prohibition of work on the Sabbath was simply directed against strenuous

physical labor. he may assume that the Sabbath, throughout the centuries, has been a day of physical rest and relaxation. Moreover, we know that was difficult in ancient days to make a fire by rubbing two sticks or stones together. Hence, the prohibition to cook or bake on the Sabbath was quite understandable. These activities involved hard work. But can this part of our tradition not be discarded today when it is no longer hard to make a fire?

This conclusion is frequently drawn. Yet is it not warranted. A study of the Jewish sources will soon lead to the discovery that far more is involved in the Jewish Sabbath than the mere abstention from exhausting physical labor. The Sabbath is the day on which man, who works and creates throughout the week, shows himself to be but a creature. God alone is recognizes as the Creator. On the Sabbath, the Jew refrains form interfering in the process of nature. It is a day on which he is to leave nature unchanged, in recognition of the fact that his own powers over nature are limited. Consequently, if the purpose of the Sabbath is to express the notion that God, and not man, is the real Creator, the abstention from work, commanded in the Torah, aims at something over and above man's relation and physical recuperation.

The Sabbath law, with all its commandments and prohibitions, contains and implies far more than we have been able to hint at in connection with the prohibition of work. However, it illustrates what we mean by demanding, as one of the criteria for a modern Jewish observance, that in any given case, an investigation be made into the main thrust of our millennial tradition. This examination is, of course, an objective and detached process. It does not yet commit us to anything.[49]

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[49] Jakob J. Petuchowski, "Some Criteria for Modern Jewish Observance," in *Contemporary Jewish Theology: A Reader*, ed. Elliot N. Dorff and Louis E. Newman (London: Oxford University Press, 1998), 295-296.

Appendix 3.2B

Reading For Meaning Organizer

Evidence For Statement	Statement	Evidence Against Statement
	Reform Jews can study Bible, Talmud, Midrash, Philosophy, Kabbalah, Codes and Poetry like Conservative and Orthodox Jews.	
	Reform Jews do not need to study the totality of the Jewish tradition before making a decision on a certain topic.	
	Reform Jews should not be satisfied with their first impressions regarding an observance.	

	It does not make sense any more for modern Jews to abstain from making a fire on Shabbat, because it is no longer "hard" work to make a fire.	
	The process of finding "The Main Thrust" will vary by person. In other words, each person can come up with their own personal "main thrust."	

Appendix 3.2C

Text Study 1: Torah

Exodus 23:4

כִּי תִפְגַּע שׁוֹר אֹיִבְךָ אוֹ חֲמֹרוֹ תֹּעֶה הָשֵׁב תְּשִׁיבֶנּוּ לוֹ׃ (ס)

4) When you encounter your enemy's ox or ass wandering, you must take it back to him.

Deuteronomy 22:1-3

לֹא־תִרְאֶה֙ אֶת־שׁ֣וֹר אָחִ֔יךָ אוֹ אֶת־שֵׂיוֹ֖ נִדָּחִ֑ים וְהִתְעַלַּ֣מְתָּ מֵהֶ֔ם הָשֵׁ֥ב תְּשִׁיבֵ֖ם לְאָחִֽיךָ׃

1) If you see your fellow's ox or sheep gone astray, do not ignore it; you must take it back to your fellow.

וְאִם־לֹ֤א קָרוֹב֙ אָחִ֣יךָ אֵלֶ֔יךָ וְלֹ֣א יְדַעְתּ֔וֹ וַאֲסַפְתּוֹ֙ אֶל־תּ֣וֹךְ בֵּיתֶ֔ךָ וְהָיָ֥ה עִמְּךָ֖ עַד דְּרֹ֣שׁ אָחִ֑יךָ אֹתוֹ֙ וַהֲשֵׁבֹתָ֣ו לֽוֹ׃

2) If your fellow does not live near you or you do not know who he is, you shall bring it home and it shall remain with you until your fellow claims it; then you shall give it back to him.

וְכֵ֣ן תַּעֲשֶׂ֗ה לַחֲמֹרוֹ֙ וְכֵ֣ן תַּעֲשֶׂ֔ה לְשִׂמְלָתוֹ֙ וְכֵ֣ן תַּעֲשֶׂ֔ה לְכָל־אֲבֵדַ֖ת אָחִ֑יךָ אֲשֶׁר־תֹּאבַ֤ד מִמֶּ֙נּוּ֙ וּמְצָאתָ֔הּ לֹ֥א תוּכַ֖ל לְהִתְעַלֵּֽם׃ (ס)

3) You shall do the same with his ass; you shall do the same with his garment; and so too shall you do with anything that your fellow loses and you find: you must not remain indifferent.

Appendix 3.2D

Text Study 2: Talmud-10 minutes today, 15 minutes next time

מתני׳ אלו מציאות שלו ואלו חייב להכריז

אלו מציאות שלו מצא פירות מפוזרין מעות מפוזרות כריכות ברשות הרבים

Mishnah Bava Metzia 21a

In a case where one discovers lost items, which found items belong to him and for which items is one obligated to proclaim his find so that the owner of the lost items can come and reclaim them? These found items belong to him: Scattered produce, scattered coins, bundles of grain in a public domain.

Rashi, Talmud Bavli, Bava Metzia, 21a

Scattered Money (can be kept by the finder). [Why?] Since the money does not have any *siman*, clearly identifying features (that would enable the loser to reclaim his property), he will relinquish hope of ever regaining ownership (ye'ush), and the money becomes ownerless (hefker). This is the reasons these objects may be kept.

בעא מיניה רב ביבי מרב נחמן מקום הוי סימן או לא הוי סימן אמר ליה תניתוה מצא חביות של יין ושל שמן ושל תבואה ושל גרוגרות ושל זיתים הרי אלו שלו ואי ס"ד דמקום הוי סימן לכרוז מקום

Talmud Bavli, Bava Metzia 23b

Rav Beivai raised a dilemma before Rav Nahman: Is the location where the lost item was found a distinguishing mark, or is it not a distinguishing mark? Fav Nahman said to him that you learned it in the baraita: If one found barrels of wine, or of oil, or of grain, or of dried figs, or of olives, these belong to him. And if it enters your mind that location is a distinguishing mark, let the finder proclaim what he found, and have the location serves as a distinguishing mark.

מתני׳ ואלו חייב להכריז מצא פירות בכלי או כלי כמות שהוא מעות בכיס או כיס כמות שהוא צבורי פירות צבורי מעות

Mishna Bava Metzia 24b

And for these found items, one is obligated to proclaim his find: If one found produce inside a vessel, or a vessel by itself; coins inside a pouch, or a pouch by itself; piles of produce; piles of coins…

Appendix 3.2E

Challenge/Support Sentence Starters

- I notice that you said _____. I wonder how/where/if you can say more about how you have gotten there?
- I appreciate the way you say _____. I feel similarly because _____.

Lesson 3: Finding the Main Thrust of the Jewish Texts: What does Judaism find wrong with "Finders Keeper Losers Weepers?" Part 2

Lesson Topic:

This lesson takes the framing of "law as a process" from the previous lesson and continues to apply it to Jewish law or *halakhah*. In order to do that, this lesson will begin to expose students to the *halakhic* process as defined by Jacob Petuchowski. By looking at a range of Jewish texts from Torah, Talmud and Codes on the topic of *hashavat aveida* or returning lost objects, students will be able to uncover for themselves how to engage with the first step of Petuchowski's process, finding the main thrust within the Jewish texts. This topic is a continuation of what was taught in lesson two.

Essential Questions:

1. How is *halakhah* a "process" with which I can engage?
2. What do the Codes say about objects that are lost and found?
3. What does the term main thrust mean and how can I find it within Jewish texts?

Objectives: *Students will be able to…*

1. Explain what is meant by the main thrust according to Petuchowksi's definition.
2. Compare and contrast the way Torah, Talmud and Codes speak about returning lost objects.
3. Apply their understanding of main thrust to *hashavat aveida,* using texts from Torah, Talmud and Codes.\

Goals (*As an educator, I want to show my students…*)

1. How the main thrust of a set of texts can help us to pull out the value which inspired the texts to be written.
2. How finding the main thrust can begin to make a text more relatable.

Materials:

- Board/Smart Board
- Pens/Pencils
- Journals
- Appendix 3.3A-E

Timeline:

00:00-00:10 Set Induction

00:10-00:55 Activity 1

00:55-01:20 Activity 2

01:20-01:30 Educational Closure

Set Induction 00:00-00:10

Presumably it has been at least a week since the class last met. Because this lesson is a continuation of the last one, it will begin with a review of where we have been and project where we are moving in this lesson.

1. Ask: Who can tell me in their own words what the main thrust of a set of texts means?
2. Say: Last week we began to study an area of *halakhah* called *hashavat aveidah.*
3. Ask: What questions remain unanswered for you from the previous lesson?
4. Say: Today we are going to continue investigating "the main thrust" of more texts within the *halakhic* area of returning lost objects. We will do so by finishing our study of Talmud and then by studying a few texts from the Jewish law Codes.

Activity 1 Using Talmud and Codes to Continue Finding The Main Thrust of *hashavat aveidah* (*Hevrutah* study) 00:10-00:55

The script for teachers can be found below each text. The student version of each text is in Appendix 3.3A-B.

Talmud: 15 minutes

מתני׳ אלו מציאות שלו ואלו חייב להכריז

אלו מציאות שלו מצא פירות מפוזרין מעות מפוזרות כריכות ברשות הרבים

Mishnah Bava Metzia 21a

In a case where one discovers lost items, which found items belong to him and for which items is one obligated to proclaim his find so that the owner of the lost items can come and reclaim them? These found items belong to him: Scattered produce, scattered coins, bundles of grain in a public domain.

Rashi, Talmud Bavli, Bava Metzia, 21a

Scattered Money (can be kept by the finder). [Why?] Since the money does not have any *siman*, clearly identifying features (that would enable the loser to reclaim his property), he will relinquish hope of ever regaining ownership (ye'ush), and the money becomes ownerless (hefker). This is the reasons these objects may be kept.

בעא מיניה רב ביבי מרב נחמן מקום הוי סימן או לא הוי סימן אמר ליה תניתוה מצא חביות של יין ושל שמן ושל תבואה ושל גרוגרות ושל זיתים הרי אלו שלו ואי ס"ד דמקום הוי סימן לכרוז מקום

Talmud Bavli, Bava Metzia 23b

Rav Beivai raised a dilemma before Rav Nahman: Is the location where the lost item was found a distinguishing mark, or is it not a distinguishing mark? Fav Nahman said to him that you learned it in the baraita: If one found barrels of wine, or of oil, or of grain, or of dried figs, or of olives, these belong to him. And if it enters your mind that location

is a distinguishing mark, let the finder proclaim what he found, and have the location serves as a distinguishing mark.

מתני׳ ואלו חייב להכריז מצא פירות בכלי או כלי כמות שהוא מעות בכיס או כיס כמות שהוא צבורי פירות צבורי מעות

Mishna Bava Metzia 24b

And for these found items, one is obligated to proclaim his find: If one found produce inside a vessel, or a vessel by itself; coins inside a pouch, or a pouch by itself; piles of produce; piles of coins…

1. Say: Today, open your journal back to the place where you left off last time. Hopefully, you have a big idea written down for Talmud and a main thrust for Torah. To finish finding the main thrust for the Talmud, return to your *hevrutah* from last time and follow the rules for support and challenge. - See Appendix 3.3A for the Talmud texts and 3.3C for support and challenge sentence starters. Afterwards, determine what you believe the main thrust of the Talmud to be.
2. Say: Once you have completed your support and challenge, look at your main thrust from Torah and then from Talmud. Combine them together and record your response in the graphic organizer under the column Talmud. -See Appendix 3.3D
3. Say: Now, to conclude finding the main thrust we will be looking into some of the Codes.

Codes: 30 minutes

לפיכך המוצא מעות מפוזרים ועיגולי דבילה וככרות של נחתום ומחרוזות של דגים שאין בהם סימן לא בקשרים ולא במנינם וחתיכות של בשר שאין בהם סימן ולשונות של ארגמן וגיזי צמר שאינם צבועים ואניצי פשתן הרי אלו שלו שבכל אלו מסתמא הרגישו הבעלים בנפילתם וכיון שאין בהם סימן מתייאש

Shulchan Aruch, Chosen Mishpan, Siman 262:6

If someone finds scattered money…it belongs to the finder, for in all such cases we assume the owners became aware of their loss after it was dropped, and since there is no *siman*, the owner has relinquished hope of ever finding it.

הגה שמקומן סימן ומיהו במקום שהכל נותנין שם כגון חביות בשפת הנהר אינו סימן שהכל פורקין שם

Rema, Shulchan Aruch Choshen Mishpat 262:9

A lost object's location serves as a siman. However, a location where everyone puts things, like barrels on the river bank, does not serve as an identifying characteristic (siman), for everyone unloads there.

Aruch Hashulchan, Chosen Mishpat 259:17

It is written (Deuteronomy 22:3), "Anything else that your brother loses." The sages explain that this comes to expand the scope of returning lost objects. We are also obligated to prevent loss to another's real estate. For instance, when one sees water overflowing and approaching this friend's property, he is obligated to try to save the loss by building a barrier against the

water. Hashavat aveidah also means trying to prevent all types of loss that may occur to another. If it is within one's ability to prevent a loss, he is obligated to prevent it…

4. Say: I will ask that you go through a similar strategy in your search as you did when studying Torah and Talmud last week with your continuation of Codes this week.[50]- See Appendix 3.3B for Codes Text
    1. Read each text aloud and paraphrase in your own words
    2. Each partner should write down their own, initial interpretation of each text
    3. Share and challenge and support the interpretations you have each made.- See attachment 3.3C. Based on this piece, write your "main thrust" of the codes in your graphic organizer found in Appendix 3.3D.
    4. Finally, look back at the conclusions you drew from Torah and those from your study on Talmud to come up with what you believe to be the main thrust of the totality of these texts. Now, take that idea and put it aside for a moment. With your *hevrutah* partner, fill out the diagram (Appendix 3.3D) which will help you find the similarities, differences and the new main thrust for all the texts which we have studied. The graphic organizer should be completed when you are finished.

Activity 2: Making A Case For The Main Thrust (Assessment) 00:45-01:20

1. Say: When we boil a bunch of texts down to their core meaning, we are no longer distracted by those parts which at first glance, may seem more or less relevant to us. At the heart of all *halakhic* texts is an important ethic, which hopefully you have now uncovered.
2. Now, let's go back to last session, which opened with a powerful clip of a Rabbi who found 98,000 dollars in a desk he recently purchased on Craiglist. If you can remember, the Rabbi provided a very vague response when asked if he thought twice about keeping the money. Utilizing the new overall main thrust you have uncovered from your text study, create a short speech that you could deliver on the Steve Harvey Show if you were this Rabbi which more clearly explains why you returned the money using. In other words, what is the main ethic or value

[50] Note to The Teacher: You may want to write the steps that you see below on the board so the students can see them visually.

that provides inspiration for all the texts we studied. We will share them with the class when we are finished. - Use Appendix 3.3D to help you

Educational Closure 01:20-01:30

- Ask: As we reflect on the past two lessons, I want you to take a look at our graphic organizer that we will build upon as we move throughout the rest of the steps of the *halakhic* process. Take a few minutes to fill out, in your own words, what you think is meant now by the main thrust.- See Appendix 3.3E

Appendix 3.3A

Talmud Text

אלו מציאות שלו מצא פירות מפוזרין מעות מפוזרות כריכות ברשות הרבים

Mishnah Bava Metzia 21a

In a case where one discovers lost items, which found items belong to him and for which items is one obligated to proclaim his find so that the owner of the lost items can come and reclaim them? These found items belong to him: Scattered produce, scattered coins, bundles of grain in a public domain.

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Scattered Money (can be kept by the finder). [Why?] Since the money does not have any *siman*, clearly identifying features (that would enable the loser to reclaim his property), he will relinquish hope of ever regaining ownership (ye'ush), and the money becomes ownerless (hefker). This is the reasons these objects may be kept.

בעא מיניה רב ביבי מרב נחמן מקום הוי סימן או לא הוי סימן אמר ליה תניתוה מצא חביות של יין ושל שמן ושל תבואה ושל גרוגרות ושל זיתים הרי אלו שלו ואי ס"ד דמקום הוי סימן לכרוז מקום

Talmud Bavli, Bava Metzia 23b

Rav Beivai raised a dilemma before Rav Nahman: Is the location where the lost item was found a distinguishing mark, or is it not a distinguishing mark? Fav Nahman said to him that you learned it in the baraita: If one found barrels of wine, or of oil, or of grain, or of dried figs, or of olives, these belong to him. And if it enters your mind that location is a distinguishing mark, let the finder proclaim what he found, and have the location serves as a distinguishing mark.

מתני׳ ואלו חייב להכריז מצא פירות בכלי או כלי כמות שהוא מעות בכיס או כיס כמות שהוא צבורי פירות צבורי מעות

Mishna Bava Metzia 24b

And for these found items, one is obligated to proclaim his find: If one found produce inside a vessel, or a vessel by itself; coins inside a pouch, or a pouch by itself; piles of produce; piles of coins…

Appendix 3.3B

Codes Text

לפיכך המוצא מעות מפוזרים ועיגולי דבילה וככרות של נחתום ומחרוזות של דגים שאין בהם סימן לא בקשרים ולא במנינם וחתיכות של בשר שאין בהם סימן ולשונות של ארגמן וגיזי צמר שאינם צבועים ואניצי פשתן הרי אלו שלו שבכל אלו מסתמא הרגישו הבעלים בנפילתם וכיון שאין בהם סימן מתייאש

Shulchan Aruch, Chosen Mishpan, Siman 262:6

If someone finds scattered money…it belongs to the finder, for in all such cases we assume the owners became aware of their loss after it was dropped, and since there is no *siman*, the owner has relinquished hope of ever finding it.

הגה שמקומן סימן ומיהו במקום שהכל נותנין שם כגון חביות בשפת הנהר אינו סימן שהכל פורקין שם

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It is written (Deuteronomy 22:3), "Anything else that your brother loses." The sages explain that this comes to expand the scope of returning lost objects. We are also obligated to prevent loss to another's real estate. For instance, when one sees water overflowing and approaching this friend's property, he is obligated to try to save the loss by building a barrier against the water. Hashavat aveidah also means trying to prevent all types of loss that may occur to another. If it is within one's ability to prevent a loss, he is obligated to prevent it…

Appendix 3.3C

Hevrutah Sentence Starters

Challenge/Support

- I notice that you said _____. I wonder how/where/if you can say more about how you have gotten there?
- I appreciate the way you say _____. I feel similarly because _____.

Appendix 3.3D

	Similarities Between "Main Thrust" of each category of text	Differences Between "Main Thrust" of each category of text	New "Main Thrust"
Torah/Talmud			
Codes			

Appendix 3.3E

Step	Definition
Main Thrust	
Context	
Individual Conscience	
Communal Responsibility	

Lesson 4- Realizing Context- What is Different Today Than What Was At the time our texts were written?

Lesson Overview:

This lesson continues teaching students about the *halakhic* process as envisioned by Petuchowski. The focus of this lesson will be on his second criteria, which is how to best realize the main thrust of the millennial tradition in the context which one lives. As 21st Century Reform Jews, the students will learn to take the main thrust from lessons two and three and ask how they can apply it to their lives today. In order to do so, this lesson will first provide a space to help students think more about the context in which they live and then introduce them to a new old tool in Judaism which can help put the main thrust and a new context together called *responsa.*

Essential Questions:

1. How can I best apply the main thrust of *halakhic* texts to the here and now?[51]
2. In the here and now, what new circumstances have arisen that may affect how I apply the main thrust of returning lost objects?
3. What are *responsa* and how can they help me to apply the main thrust of *halakhic* texts to the here and now?

Goals: (*As an educator, I want to show students…*)

1. Why context matters and how to define it.
2. How they can apply the main thrust to their here and now.

Objectives: *(Students will be able to…)*

1. Describe what here and now means and begin to distinguish it from the past.
2. Define *responsa* and explain how they can facilitate the application of *halakha* to the here and now.
3. Apply the main thrust of *halakhic* texts to the here and now.

[51] Petuchoswki, *Some Criteria For Modern Jewish Observance*, 296.

Materials

- Projector/Screen
- Audio equipment
- Computer/tablet
- Lost objects (gift card, wallet, congregant's car with the lights left on)
- Appendix 3.4A-C

Timeline:

00:00-00:10 Set Induction

00:10-00:55 Activity 1: Returning Lost Objects "Hike"

00:55-01:25 Activity 2: Introduction to *Responsa*

01:25-01:30 Educational Closure

Set Induction: Doing things the "Advertising Evolves Over Time" 00:00-00:10

1. Say: Today, we are going to start class by watching a few old commercials.
2. Show: https://www.youtube.com/watch?v=rWfqkrAM8IY (Old Cell Phone Commercial
3. Show: https://www.youtube.com/watch?v=HYqdnb3ZAfA (Old Wendy's Commercial)
4. Show: https://www.youtube.com/watch?v=ZHz2ogz5mEA (Old Kmart Commercial)
5. Ask: I heard a lot of chuckling during each of these commercial. (Presumably they will be laughing) Why were you laughing?
6. Say: What makes these commercials so funny is that today they are way out of context. We live in a much different here and now than the time these commercials originally aired. Today, we have new technology, new food standards, and new fashion trends. As a result, these commercials would no longer do anything to sell a product if they were shown on television. Advertisers have to live in the here and now if they want to make a successful commercial. As Reform Jews, we have to do the same thing when it comes to applying the main thrust to our lives. Today, we are going to learn why this concept is so important to living meaningful Jewish lives.

Activity 1: Returning Lost Objects Hike 00:10-00:50

In this activity, students are going to go on a hike. As the teacher, your job is to pre-place 4 to 5 items along the path of your walk that your class will find together and then discuss what to do with it based on their studies thus far. You can decide the setting for this activity. (The hike can range from a walk around the synagogue to an actual hike in the woods.) The walk gets the students moving and simulates what it would be like to be out and find something in "the here and now."[52]

1. Say: We are going to go on a "hike." (The students should have been asked ahead of time to wear comfortable shoes and bring a water bottle.)
2. Say: Along our hike, we are going to encounter some contemporary scenarios of lost objects. It will be our job to apply the main thrust and decide what to do in each case.
    a) Case 1- 25-dollar Target Gift Card-10 minutes
    b) Case 2- Walk by a car with its lights left on (cars did not exist at the time of our texts, but Oxen did!)-10 minutes
    c) Case 3- Finding a wallet in the grass with just ID and 10 dollars cash (Today, we possess new technology to help us return wallets that contain no other identifying information besides a photo i.d- 10 minutes
3. Say: What is new about these cases is either the object itself or the technology we now possess to assist us in returning object. Therefore, while the existing *halakhah* may not tell us exactly how to react to these new cases, we can apply the main thrust in ways that honor the Jewish tradition and context we find ourselves in today.

[52] Note to teacher: It may be helpful to have students pull out their graphic organizers from lesson 3- See Appendix 3.3D for the one you filled out or the blank one in this appendix, 3.4A

Activity 2: Introduction to *Responsa* 00:50-00:01:25

Option A[53]

1. Say: When new circumstances arise, we must recognize them and find a way to apply our main thrust to them. One of the best ways to do so is through *responsa.*
2. Say: Essentially, *responsa* involve a(n) *sheila(ot)* questions(s) that stem(s) from a new context in which an answer cannot be found in existing *halakhic* texts.[54] Therefore, our job as Jews is to continue the conversation by coming up with a new answer which applies the main thrust to the here and now. Now, we are going to look at one such answer regarding a question posed about *hashavat aveidah*. - See Appendix 3.4B
3. Say: We are going to take a look at a simple *responsa* about a vending machine. In this example, your job is to do examine the Question and Answer. Then, you get to do some detective work to figure out how the Rabbi who wrote the Answer may have gotten there. For this, you may need to refer back to both your graphic organizer (Appendix 3.3D) and/or the text sheets from Lessons Two and Three. Use the guiding questions to examine the *responsa*. -See Appendix 3.4B for the *responsa* and guiding questions-When everyone is finish we will come back together to discuss the questions.
4. Says: Let's go through the discussion questions 1-3.-See Appendix 3.4B

[53] Note to the Teacher: You may choose to give your students a soft drink for this activity to further connect the to the question.

[54] https://www.myjewishlearning.com/article/responsa/

Option B- Best for Groups That Have Already Been Exposed to *Responsa*. Or, can be done after Option A if time allows.

Students will learn what *responsa* are and how they function to take "the main thrust" and apply it to the here and now in a way that existing texts do not.[55]

1. Say: When new circumstances arise, we must recognize them and find a way to apply our "main thrust" to them. One of the best ways to do so is through *responsa.*
2. Say: Essentially, *responsa* involve *sheila(ot)* questions(s) that stems from a new context in which an answer cannot be found in existing *halakhic* texts.[56] Therefore, our job as Jews is to continue the conversation by coming up with new answers which takes into account both the "main thrust" and the here and now. Now, we are going to look at one such answer regarding a question posed about *hashavat aveidah*.
3. Say: *Responsa* can also come in alternative forms, such as poems. Today, we are going to have an opportunity to take a look at a piece of modern Israeli literature which applies the "main thrust" to contemporary Israeli society (See Appendix 3.4C). In our next unit, we will have the chance to examine and even create more "classical" *t'shuvot*. As you read the poem with a *hevrutah,* discuss the questions which follow.- See Appendix 3.4C for Poem and Questions

Educational Closure: 01:25-01:30

- Say: Today, I hope you learned more about the part of the *halachic* process which deals with application of the main thrust as time continues. Please fill out the realizing context section of your graphic organizer. If you have questions before you leave, please ask! (See Appendix 3.4A for new copy)

[55] Note to The teacher: This activity would work well in a coffee shop setting since its a poetry activity. However, if you cannot take your students to a nearby coffee shop, you can serve them coffee at small tables in your permanent setting to still simulate the coffee shop vibe.

[56] https://www.myjewishlearning.com/article/responsa/

Appendix 3.4A

Step	Definition
Main Thrust	
Context	
Individual Conscience	
Communal Responsibility	

Appendix 3.4B

Question: Yaakov inserted 1.00 worth of coins into a vending machine in order to buy a can of soft drink. The coin became lodged in the machine's mechanism, and Yaakov gave the machine a firm bang on its side. Not only is this blow dislodge Yaakov's coins, but several others as well, and over a dozen quarters came pouring out of the change slot. Is Yaakov allowed to keep the money, or should he contact the owner of the machine and return the money to him?

Answer: The source of the quarters that were disgorged by the machine is obviously from previous customers at this vending machine. If those previous customers had lost their money in the machine and not received anything in return, the money may be kept by Yaakov. However, of the pervious customers did not receive their cans of soft drink, the money belongs to the owner of the vending machine.[57]

Discussion Questions (Some Detective Work!)

1. Of the sources which we studied in lesson 2 and 3, do any standout as ones which the author of this *T'shuva* may have cited? (Mishnah/Talmud Bava Matzia 21a, Shulchan Aruch Choshen Mishpat 262)

2. Now, look back at your chart (Appendix 3.3D). What is the main thrust that you decided when you were studying these texts before?

3. Ask yourself, how does the answer of the author take the "main thrust" and apply it to the here and now? Do you agree with the answer? Why or why not?

[57] Rabbi Tzvi Spitz, *Cases in Monetary Halachah*, 246-248.

Appendix 3.4C

Next to The Stone Claims (Cannot always objectify loss)
Tet Carmi
Translated from Hebrew to English by Daniel Freedman
Key Hebrew Words Which Link Poem to Talmud Bavli Bava Metzia in *Italics*

I seek what I have not lost
You of course.

If I could, I would stop.

I would stand next to the stone claims
and (*machriz)* announce in the voice of voices:

Forgive me.
For the trouble I have caused in vain. All the (*simanim*) signs "I" gave (a white forehead, silence, a name of three…)
The world is not in my possession.

My soul is alive
This stone is in the heart of the city
I return in it through my words
I take everything in return.

Make for me kindness
I don't want to make fun of you.
I know that there are here people of a difficult day, of bad fortune,
That their world is lost in a moment of truth.

And I, I seek that which I have not lost,
That which,
That which,
Name, neck, wound, a white forehead like stone.

Discussion Questions

1. How do you interpret the line, “I seek what I have not lost? (Something that is lost may not have to be physically gone from us. I think the author is taking the talmudic principle of lost and found and actually applying it in a more human way)
2. In Talmud/Codes *simanim* or signs are used by the finder to identify and object that she/he has lost. How does the author use *simanim*? (In the poem, the signs are all human identifiers of loss.
3. If you had to envision the question that Carmi might have asked and then answered in his poem regarding a new context/application of *hashavat aveidah*, returning lost objects, what do you think it might be? (Can we apply this principle of returning lost objects, to cases which are not monetary. In this case, it seems that someone who is in love has “lost” their lover (maybe to a break up?) but is not yet in complete despair?)

Lesson 5- Learning to Balance Our Individual Conscience with Our Communal Jewish Responsibility

Lesson Overview:

This lesson covers the final two steps of the *halakhic* process as outlined by Petuchowski. Building off of the last lesson, about applying the main thrust to the here and now, this lesson brings in two additional components to the *halakhic* process which will prove necessary for both the individual and community to define themselves when we move into units four and five.

Essential Questions:

1. How do I listen to my own conscience?
2. What does it mean to be responsible to the Jewish covenantal community?
3. How can I balance my individual conscience with a communal Jewish responsibility?

Goals (*As An Educator, I want to show my students…*)

1. How to navigate between their own conscience and the needs of the Jewish community.

Objectives: (*Students will be able to…*)

1. Navigate between their own conscience and the needs of the Jewish community.

Materials

- Journals
- Appendix 3.5A-C
- Pencils/Pens
- Materials for jigsaw
- Dictionaries and/or devices to look up words

Timeline:

00:00-00:10 Set Induction: Free Write

00:10-01:00 Activity 1: Jigsaw

01:00-01:10 Activity 2: Striking A Balance Brainstorm

01:10-01:30 Educational and Unit Closure

Set Induction: Free Write 00:00-00:10

1. Say: Students, today we are going to begin our time together with a short free write. The question I would like you to think about and write on is as follows: How do I listen to my own conscience? (Give students about 7 minutes to write)
2. Ask: Will everyone share one sentence from what they have written?
3. Say: Today, we are going to learn how we do not stop in the *halakhic* process when we figure out a way to apply the main thrust to the here and now. We then have to ask ourselves two more questions. The first being, what does my conscience say about the application and how does said application hold me accountable to the Jewish community?

Activity 1: Jigsaw 00:10-01:00

In this activity, the class should be divided in half. Group one will be learning together about how the voice of my own conscience plays into the *halachic* process and group two will be looking at how the responsibility towards the Jewish community plays into the *halachic* process as described by Petuchowski. The way this should work is as follows: The class will be divided into two home groups. Then, each home group will be divided in half and go into either group one or two. After about half an hour, each student will return to their home group and spend about ten minutes teaching each other about their given topics. See Appendix 3.5A for the Voice of My Own Conscience material and 3.5B for the Responsibility Towards the Jewish Community material.

1. Say: Today, we are going to do a jigsaw to learn about the last two parts of the *halachic* process which are Individual Conscience and Responsibility Towards the Jewish Community. Each group will be given some materials to study and answer questions about. Then, your task will be to figure out how you will teach

your home groups about the material you studied. To do so, you may use any medium you wish. You will have ten minutes for your presentations.

Activity 2: Striking A Balance Brainstorm 01:00-01:10

In this activity, the class comes back together as one big group. The idea is to have them do a class brainstorm where they come up with the ways in which they feel individual conscience and responsibility to covenantal community balance each other out.

1. Say: To conclude our lesson today, we are going to do a class brainstorm of ideas for how the criterion of individual conscience and responsibility towards covenantal community balance each other out.

2. Say: Petuchowski says, "The last-named criterion (the voice of my own conscience) may well carry within itself the seeds of anarchy. The fourth criterion (feeling of responsibility towards the covenant community) helps to maintain the balance." While Petuchowski says this, he seems to leave it up to us, his readers, to figure out exactly how they balance each other.

3. Ask: In what ways do you feel the two-criterion balance each other out, so that both the individual and the community are upheld in the *halachic* process*?*

4. Give the students 10 minutes for this brainstorm activity, which can be done on a chalkboard, smart board or a piece of large paper.

Educational and Unit Closure: 01:10-01:30

1. Say: Our unit on Uncovering the *Halakhic* Process and *Hashavat Aveidah* has officially come to a close. Before we begin our new unit next week on *Onaat Dvarim* to really put this process into motion, I want to give you all about 20 minutes to reflect on where we have been in the last five lessons.

2. Say: One thing that may help you remember the four steps is this is a mnemonic device.[58]

[58] Note To The Teacher: It might be a good idea to make copies of the acronyms that students come up with an hang them around the room for the remainder of the curriculum!

3. Say: In the next 15 minutes, use your graphic organizer from this unit, found below and in Appendix Educational Closure, to create a mnemonic device which will help you to remember the steps of the *halakhic* process. Everyone should do this individually, because what helps one person to remember each step will likely be different. The 4 phrases should start with the letters M(Main Thrust), C(Context), I(Individual Conscience) and C (Community). Write it in the blank space at the bottom.
    1. For example, a student could say " My Camp Is Cool"

Step	**Definition**
Main Thrust	
Context	
Individual Conscience	
Communal Responsibility	

4. Share: Have students share their mnemonic devices with the class.

Appendix 3.5A

Group 1: The Voice of My Own Conscience

Pre Reading Exercise

Directions: Fill in the meanings for these terms before reading the excerpt. You may use a dictionary or any online resource of your choosing. Your group must agree on the definitions before you continue.

Term	Meaning
Conscience	
Emancipation	
Ecclesiastical	
Legal Fiction	

Excerpt from "Some Criteria for Jewish Observance" by Jakob J. Petuchowski p. 296-297 in Dorff/Newman Reader

A third criterion is the *voice of my own **conscience**.* This criterion, even more than the second one, reveals the liberalism of the Reform Jew and the influence of the **Emancipation**. The Reform Jew, in the words of Leo Baeck, is characterized by the "piety of the individual," and not, as was the Jew of the ghetto, by the "piety of the environment." As an individual, he is no longer subject to religious compulsion or the dictates of any **ecclesiastical** authority. As an individual, he is free to participate or not to participate in religious observance. Even if others believe that they have found the key to the proper observance of the law in the here and now, his conscience still has to assent.

Consider, for example, the law which states, in connection with Passover that "there shall be no leaven seen with thee in all they border seven days" (Deut 16:4). The main thrust of the tradition with regard o this law seems clear. Anything remotely subject to suspicion that it may contain "leaven" ingredients not only must not be "seen" in the Jew's home during Passover, it must not even be in his possession. The application of the list law, as interpreted by the rabbis, could thus lead to the wholesale destruction of food in the Jew's house just before Passover, were it not for the fact that the same rabbis who elaborated the stringencies of that law also evolved a legal fiction by means of which the full force of the law could be evaded. By "selling" the food to a non-Jew, with a minimum down payment and with the understanding that the Jew can buy it back after the festival, the food not only need not be destroyed but can remain on the Jew's premises, provided it is suitably locked up.

There is nothing wrong with **legal fiction** as such. No legal system can function without them. Indeed, one can appreciate the inventiveness of the ancient rabbis which enabled them to keep their legal systems within humane dimensions. But it is one thing to appreciate the phenomenon historically, and quite another to accept it for myself, especially if I do not view my relation to God primarily in terms of a legal system. Thus, while it would be quite possible for the Reform Jew to solve his "leaven" problem along the lines indicated by the rabbis, possible even with his own "here and now," it is quite conceivable that he might also say, "yes, it is possible to do ti this way; but *my conscience speaks against it!* I shall refrain from eating

leaven during Passover, I shall keep all leaven out of sight in my home. But I feel no need for the legal fiction of "selling" my leaven. This would add nothing to my Passover observance. On the contrary, I would not feel intellectually hones were I to engage in this legal fiction. My conscience rebels against it.

In terms of the criterion we have outline here, the Reform Jew would be justified in using such an argument. But he would also have to add that his fellow Jew has an equal right to listen to the voice of *his conscience*- even if his conscience makes him "sell" his leaven for Passover. Both are, "Reform Jews," and the one cannot resent the other's selling of the leaven any more than the latter is able to regard the former's noncompliance with this practice as a sin.

Post Reading Questions To Consider:

1. How does this criteria separate Reform Judaism from other branches of Judaism that believe they must follow the "letter" of the law.
2. Can you come up with another example or two in Judaism where an application of "the main thrust" has been formed, but with which your conscience does not agree?
3. Do you think this criterion is important? Why or why not?

Appendix 3.5B

Group 2: Feeling of Responsibility Towards The Jewish Community

Pre Reading Exercise

Directions: Fill in the meanings for these terms before reading the excerpt. You may use a dictionary or any online resource of your choosing. Your group must agree on the definitions before you continue.

Term	Meaning
Covenant Community	
Redemption	

Excerpt from "Some Criteria for Jewish Observance"

by Jakob J. Petuchowski

p.297 in Dorff/Newman Reader

The fourth criterion is the *feeling of responsibility toward the* ***covenant community***.

Judaism cannot be abstracted from the faith-community within which Judaism is lived- the faith community with which God made a covenant at Sinai and which remained loyal to him throughout the millennia. This covenant people, Israel, not only has a historical significance; its significance extends to the real of **redemptive** history. Everything, therefore, that contributes to the survival and to the unity of the covenant community of Israel must be regarded as a religious commandment. On the other hand, everything that hurts the covenant community must be avoided.

In accordance with this perspective, the Reform Jew will observe a number of *mitzvot*, toward which he might feel no personal obligation if his religion were a matter of the individual only, and not also of the community as a whole. In this category belong the specific seventh day on which the Jewish Sabbath is to be kept, and all Jewish festivals, which have to be observed according to Jewish calendar. In theory, it is conceivable that one could celebrate the ideal of freedom on some evening other than the eve of the fifteenth of Nisan. But the Seder, as the Jewish festival of freedom, can only be celebrated then. The same consideration governs the use of Hebrew in the Jewish worship service. Important as it is to find room for the vernacular in the synagogue, it is nevertheless true that the worshipping community of Israel knows itself as such particularly during the moments of Hebrew prayer.

These illustrations do not reflect purely theoretical issues. They are based on questions which, at one time or another, were raised within Reform Judaism, and to which some radical answers were proposed in the last century. The twentieth century has largely turned always from radical solutions. And the feeling of responsibility toward the covenant community has played a not insignificant role in the change of orientation which has taken place in Reform Judaism.

Post Reading Questions

1. In your own words, why is it important to be responsible to the covenantal community?
2. Can you come up with another example or two in Judaism, something you do for the greater good of the Jewish community but with which you feel no personal obligation?
3. Do you think this criterion is important, if we hold that *the halachic process* can truly come to define us as? Why or why not?

Appendix 3.5C

Unit Closure Graphic Organizer

Step	Definition
Main Thrust	
Context	
Individual Conscience	
Communal Responsibility	

Unit 4: Putting The Process in Motion:A Study of Onaat Devarim- Words That Hurt

Unit Summary

In this unit, students will use their knowledge of interpretation and the *halakhic* process to study *Onaat Devarim* (hurtful words). This relatable area of law for teenagers will include *hevrutah* study, moving from Bible to Codes. In this unit, the question, "How Do We Apply this *halakhic* area to our modern and technological context including social media?" will be asked and answered by groups of students in the form of *responsa*.

Unit Enduring Understandings

1. *Halakhah* translates stories of Jews and ethical values of Judaism into ongoing action.
2. Investigation into the main thrust of texts connected to *onaat devarim*, a definition of the context in which one finds one's self personally, attention to one's individual conscience and an accountability to the covenantal community provides a way for Reform Jews to engage in a *halakhic* process.
3. The creative process of *halakhah* encourages individuals and communities to continually define themselves within a Jewish framework as new contextual challenges arise.

Unit Essential Questions

1. How can *halakhah* translate age-old text about harmful words into action that I can apply to the world I live in today?
2. How can I use the *halakhic* process to define myself in today's word with regards to harmful words?

Lesson 1: Finding The Main Thrust of *Onaat Devarim* Through Torah and Talmud

Essential Questions

1. How can the *halakhic* process help me to engage with text from the Torah and Talmud on *onaat devarim*?

Goals (*As an educator, I want to provide an opportunity for students…*)

1. To have a space to discuss personal and sensitive issues over the next two units.
2. To uncover the main thrust of the Torah and Talmud texts on *onaat devarim* based on the skills they learned previously.
3. To relate their own experiences with harmful words to their encounter with the text.

Objectives (*Students will be able to…)*

1. Define the Talmudic term *onaat devarim.*
2. Compare and contrast *onaat devarim* with *lashon ha-ra.*
3. Apply their interpretation skills to Torah and Talmudic texts.
4. Formulate the main thrust of the Torah and Talmudic texts.

Materials

- Device to show You Tube Clips
- Way to project/show clips
- Board to write on/or poster board
- Pens/Pencils
- Appendix 4.1A-F

Set Induction

1. Show: two clips of NFL Quarterback Cam Newton speaking at a press conference and a clip from Mean Girls. These clips are meant to introduce students to the concept of the power of words and get them thinking about the difference between *onaat devarim* and *lashon ha-ra.* First, show both clips from Cam Newton.
2. https://www.youtube.com/watch?v=j0GsdwVMA2w
3. https://www.youtube.com/watch?v=NZsgi-QpnH8
4. Ask: How would you describe these words? Were they said to someone's face or behind their back?
5. Show: Mean Girls Clip
6. https://www.youtube.com/watch?v=4QtwkIKYTIk
7. Ask: How would you describe these words? Were they said to someone's face or behind their back?
8. Ask: How do the first two clips compare and contrast to this one from Mean Girls?
9. Say: When harmful words are said in public directly to someone, it is called *onaat devarim*. When harmful words are said behind a person's back, they are called *lashon hara*. Both are dealt with in Jewish text and important. In this unit, though, we are going to focus on *onaat devarim* or harmful words that are said directly to a person.

Activity 1: Establishing A Safe Space

Over the next two units, we will be delving into some very personal topics which students will likely feel sensitive about. In order to make people feel comfortable and ready to engage with these topics, this unit will begin with the following activity.

1. Ask: What does a safe classroom feel like? Give students a minute to think about the question by themselves. Then, tell them to come to the board and write one or two words, which represent their feelings about a safe classroom. Examples may include empathy, respect, etc.
2. Next, take a few minutes to explore the words, which are written on the board as a class. Why do these words help to create a safe classroom space?

3. Finally, take a piece of post it paper and write "Class Brit" Give the students a few minutes to generate a list, based on the words they wrote on the board, of ground rules for which to abide by, so the classroom remains a safe space.

Activity 2: Describing An Experience Where You Hurt Someone With Words

In this activity, ask each student to find a partner. You will give each partner two minutes each to share about the following pieces of information. - See Appendix 4.1I for student handout form

1. Who was the person(s) they hurt?
2. Describe the situation. Was the hurt intentional or unintentional?
3. How were the words shared? Written, spoken, social media, etc.

Activity 3: Step 1 of the *Halakhic* Process: Formulating the Main Thrust of Torah and Talmudic Texts on *Onaat Dvarim*.

This lesson is going to be the first time the students are fully applying the process of interpretation from Unit 2 to the *halakhic* process. Either provide them with or let them choose a suitable *hevrutah* partner. You may decide you want to review the process of interpretation from unit two, in which case a fishbowl exercise might be appropriate. A fishbowl would be when you and someone else model the way *hevrutah* learning and interpretation should work based on what the students have learned in unit two. Following the modeling, students should reflect on what they just saw and have an opportunity to ask questions. In any case, it is most appropriate to set the room up in a way that allows you as the instructor to be in the middle surrounded by students on the outside. The resources for textual interpretation will be included again in the appendix along with the text itself. Also, you should have your students review their graphic organizer and mnemonic device from unit three if they need to be refreshed on the *halakhic* process.

1. Have the students look at their mnemonic device, which they created at the end of unit 3, to refresh themselves with the steps of the *halakhic* process. Let a few of them share their device with the class- See Appendix 4.1E for original graphic organizer with space for mnemonic devices.
2. Ask: What step of the *halakhic* process are we going to begin with today? (Step 1- Finding the Main Thrust)

3. Tell the students we are going to move into the Torah and Talmud to discover the main thrust of *onaat dvarim* in these texts. This is the time to break the students into *hevrutah*.
4. Give student Directions and Texts to begin- See Appendix 4.1F-H.[59]

Students should do the following to study the Torah and Talmud Text- See Appendix 4.1F for student copy

1. Complete a line-by-line study of the text in *Hevrutah* to develop your initial interpretation of the text. See Appendix 4.1A and B
2. Ensure that your interpretation of the text hits at least the first two levels of PARDES. See Appendix 4.1C
3. With your *Hevrutah,* go through the guide for support and challenge. See Appendix 4.1D
4. Complete the section of the main thrust graphic organizer just for Torah and Talmud under the column called "Main Thrust." You will have time to complete the rest of this graphic organizer in lesson two. See Appendix 4.1E

Educational Closure

1. Have the students share the answer to this question: What went well in *hevrutah* today? What did not go well?
2. Say: We will be continuing our process of finding the main thrust in lesson two by examining what the Codes have to say on the issue of *onaat devarim*.

[59] Note to the teacher: This is a lot of rich text. You may choose to trim it down yourself or allow more than one session for this lesson. Just make sure to not rush the study of the text itself. Addionally, the Gemara is only being provided in English since it consists of Hebrew and Aramaic. If you would like to access the Hebrew/Aramaic for the Gemara, you can find it here: https://www.sefaria.org/Bava_Metzia.58b?lang=bi

Appendix 4.1A

Line by Line/Question Resources
Tell your students to break into *Hevrutah* partners

These are the steps you should hand out to your students, adopted from *A Philosophy of Hevrutah*[60]

1. Take turns reading the text out loud (Hebrew or English)
2. Help each other paraphrase the text
3. Outline the text by breaking it down into small, meaningful parts. Parts can be broken down by theme, characters, settings and plot development.
4. Read the text again. You may notice new details.
5. At this point, what do you think this text is about? This is your preliminary interpretation. Complete Pause 1- Appendix 4.2B
6. Check steps 1-5 with teacher
7. Generate a list of open questions together with your *hevrutah:* Example: Why does God not want to be "seen" by anyone except Moses?
8. With your *Havruta*, organize the questions into categories: Examples include character motivations, missing information, etc
9. Now, with your *Havruta*, choose a few questions which you think will help lead you to a deeper understanding of the text and circle them under question 7.
10. Using the few questions that you chose, complete one of the following sentence starters: I believe the story to be about….and it is saying that…. Complete Pause 2- Appendix 4.1B
11. Take your work from step 10 and divide it into the different levels of interpretation (PaRDes).- Appendix 4.1C
12. Check steps 7-11 with the teacher before moving onto step 2 of the directions, support and challenge.

[60] Holzer and Kent, *A Philosophy of Havruta,* 98-102

Appendix 4.1B

Pauses	At this point of our study, what do I tentatively think this story is about?	What is one thing I've heard from my *havruta* partner that has contributed to this tentative interpretation of mine?	What is one thing I've heard from the text that has contributed to my tentative interpretation?
One			
Two			

Appendix 4.1C

PaRDeS	
Pshat- literal, plot level meaning	
Remez- how might this be connected to life in surprising way?	
Drash- narrative gaps, add the perspective of a character	
Sod- wildest ideas about the text.	

Appendix 4.1D

Support and Challenge

Presenter's Role

1. Share your interpretation of what the story is about and explain how you arrived at this interpretation.
2. Listen and then respond to your *hevrutah's* questions.
3. Revise your interpretation here:

Critical Colleague Role

1. Actively listen to your colleague's interpretation(s).
    - Ask questions like: Am I understanding you correctly that you are reading this part of the text to mean X?
2. Probe your colleague's interpretation.
    - Ask clarifying questions such as: You said X, how did you get to this idea? You said X, could you tell me more about what you mean by that?
3. Support your colleague's interpretation by offering additional cues in the story and/or reasons.
    - For example: Would you say then when it says X, this reinforces your point?
4. Challenge the interpretation of your colleague by pointing to details in the story which the interpretation does not address or which may contradict the interpretation.
    - For example: In the text it says X, how do you make sense of this part according to your interpretation? How do you account for?

Appendix 4.1E

Main Thrust Graphic Organizer

Step	Definition
Main Thrust	
Context	
Individual Conscience	
Communal Responsibility	

Appendix 4.1F

Student Guide for Study of Torah and Talmud Texts: *Onaat Devarim*

1. Complete a line-by-line study of the text in *Hevrutah* to develop your initial interpretation of the text. See Line by Line Resource and Pauses Graphic Organizer
2. Ensure that your interpretation of the text hits at least the first two levels of PaRDeS. See PaRDeS graphic organizer
3. With your *Hevrutah,* go through the guide for support and challenge. See Support and Challenge Resource
4. Complete the section of the main thrust graphic organizer just for Torah and Talmud under the column called “Main Thrust.” You will have time to complete the rest of this graphic organizer in lesson two. See Graphic Organizer

Appendix 4.1G

Leviticus 25: 14-17

וְכִֽי־תִמְכְּרוּ֙ מִמְכָּ֣ר לַעֲמִיתֶ֔ךָ אֽוֹ קָנֹ֥ה מִיַּ֖ד עֲמִיתֶ֑ךָ אַל־תּוֹנ֥וּ אִ֖ישׁ אֶת־אָחִֽיו׃

14) When you sell property to your neighbor, or buy any from your neighbor, you shall not wrong one another.

בְּמִסְפַּ֣ר שָׁנִ֔ים אַחַ֖ר הַיּוֹבֵ֑ל תִּקְנֶ֣ה מֵאֵ֔ת עֲמִיתֶ֖ךָ בְּמִסְפַּ֥ר שְׁנֵי־תְבוּאֹ֖ת יִמְכָּר־לָֽךְ׃

15) In buying from your neighbor, you shall deduct only for the number of years since the jubilee; and in selling to you, he shall charge you only for the remaining crop years:

לְפִ֣י ׀ רֹ֣ב הַשָּׁנִ֗ים תַּרְבֶּ֤ה מִקְנָתוֹ֙ וּלְפִ֣י מְעֹ֔ט הַשָּׁנִ֖ים תַּמְעִ֣יט מִקְנָתֶ֑ךָ כִּ֛י מִסְפַּ֥ר תְּבוּאֹ֖ת הֽוּא־מֹכֵ֥ר לָֽךְ׃

16) the more such years, the higher the price you pay; the fewer such years, the lower the price; for what he is selling you is a number of harvests.

וְלֹ֤א תוֹנ֙וּ֙ אִ֣ישׁ אֶת־עֲמִיתוֹ֔ וְיָרֵ֖אתָ מֵֽאֱלֹהֶ֑יךָ כִּ֥י אֲנִ֖י יְהוָ֥ה אֱלֹהֵיכֶֽם׃

17) Do not wrong one another but fear your God; for I am your God.

Appendix 4.1H

Talmud Bava Metzia 58b[61]

מתני׳ כשם שאונאה במקח וממכר כך אונאה בדברים לא יאמר לו בכמה חפץ זה והוא אינו רוצה ליקח אם היה בעל תשובה לא יאמר לו זכור מעשיך הראשונים אם הוא בן גרים לא יאמר לו וגר לא תונה ולא תלחצנו (שמות כב, כ) זכור מעשה אבותיך שנאמר:

MISHNA: Just as there is a prohibition against exploitation [*ona'a*] in buying and selling, so is there *ona'a* in statements, i.e., verbal mistreatment. One may not say to a seller: For how much are you selling this item, if he does not wish to purchase it. He thereby upsets the seller when the deal fails to materialize. The mishna lists other examples: If one is a penitent, another may not say to him: Remember your earlier deeds. If one is the child of converts, another may not say to him: Remember the deeds of your ancestors, as it is stated: "And a convert shall you neither mistreat, nor shall you oppress him" (Exodus 22:20).

GEMARA: The Sages taught: It is written: "And you shall not mistreat [*tonu*] one man his colleague; and you shall fear your God, for I am your God" (Leviticus 25:17). The *tanna* explains: The verse is speaking with regard to verbal mistreatment. The *baraita* proceeds: Do you say that it is speaking of verbal mistreatment [*be'ona'at devarim*], or perhaps it is speaking only with regard to monetary exploitation [*be'ona'at mammon*]? When it says in a previous verse: "And if you sell to your colleague an item that is sold, or acquire from your colleague's hand, you shall not exploit [*tonu*] his brother" (Leviticus 25:14),monetary exploitation is explicitly stated. How then do I realize the meaning of the verse: "And you shall not mistreat one man his colleague"? It is with regard to verbal mistreatment.

If torments are afflicting a person, if illnesses are afflicting him, or if he is burying his children, one may not speak to him in the manner that the friends of Job spoke to him: "Is not your fear of God your confidence, and your hope the integrity of your ways? Remember, I beseech you, whoever perished, being innocent?" (Job 4:6–7). Certainly you sinned, as otherwise you would not have suffered misfortune.

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[61] English translation from Koren Talmud Bavli with commentary from Rabbi Adin Even-Israel Steinsaltz

Likewise, if donkey drivers are asking to purchase grain from someone, and he has none, he may not say to them: Go to so-and-so, as he sells grain, if he knows about him that he never sold grain at all. He thereby causes the donkey drivers and the would-be seller anguish. Rabbi Yehuda says: One may not even cast his eyes on the merchandise for sale, creating the impression that he is interested, at a time when he does not have money to purchase it. Verbal mistreatment is not typically obvious, and it is difficult to ascertain the intent of the offender, as the matter is given to the heart of each individual, as only he knows what his intention was when he spoke. And with regard to any matter given to the heart, it is stated: "And you shall fear your God" (Leviticus 25:17), as God is privy to the intent of the heart.

Rabbi Yoḥanan says in the name of Rabbi Shimon ben Yoḥai: Greater is the transgression of verbal mistreatment than the transgression of monetary exploitation, as with regard to this, verbal mistreatment, it is stated: "And you shall fear your God." But with regard to that, monetary exploitation, it is not stated: "And you shall fear your God." And Rabbi Elazar said this explanation: This, verbal mistreatment, affects one's body; but that, monetary exploitation, affects one's money. Rabbi Shmuel bar Naḥmani says: This, monetary exploitation, is given to restitution; but that, verbal mistreatment, is not given to restitution.

The Gemara relates that the *tanna* who recited *mishnayot* and *baraitot* in the study hall taught a *baraita* before Rav Naḥman bar Yitzḥak: Anyone who humiliates another in public, it is as though he were spilling blood. Rav Naḥman bar Yitzḥak said to him: You have spoken well, as we see that after the humiliated person blushes, the red leaves his face and pallor comes in its place, which is tantamount to spilling his blood. Abaye said to Rav Dimi: In the West, i.e., Eretz Yisrael, with regard to what mitzva are they particularly vigilant? Rav Dimi said to him: They are vigilant in refraining from humiliating others, as Rabbi Ḥanina says: Everyone descends to Gehenna except for three.

Appendix 4.1I

1. Think of a person you have hurt face to face?
2. Describe the situation. Was the hurt intentional or unintentional?
3. How were the words shared? Written, spoken, social media, etc.

Lesson 2: Finding the Main Thrust of *Onaat Devarim* Through the Codes

Essential Questions

1. How can the *halakhic* process help me to engage with Torah, Talmud and Codes?

Goal (*As an education, I want to show students…*)

1. To uncover the main thrust of the Torah, Talmud and Codes based on the skills they learned previously about interpretation and the *halakhic* process

Objectives (*Students will be able to…*)

1. Define the Talmudic term *onaat devarim*
2. Apply their interpretation skills to the Codes
3. Formulate the main thrust of the Codes and reformulate the main thrust for all the texts as a whole

Materials

- Device to play videos from Unit 1
- Screen to play video and connect to device
- Pencils/Pens
- Appendix 4.2A-F

Set Induction

- Say: Today, we are going to start class by giving everyone the opportunity to share the videos they made in Unit 1 about the development of *halakhah*. This time will provide students with some entertainment and a refresh on where they are now in their analysis of major *halakhic* texts.[62]

[62] Note to The Teacher: You may also wish to remind the students to recall their acronym to remind them of steps of the *halakhic* process.

Activity 1: Step 1 of the *Halakhic* Process: Finding the Main Thrust of Codes On *Onaat Dvarim*

This lesson is a continuation of lesson one. Today, the students will complete the first step of the *halakhic* process, to find the main thrust of the major *halakhic* texts.

It is most appropriate to set the room up in a way that allows you as the instructor to be in the middle surrounded by students on the outside.[63]

1. Give your students the Codes text and have them work with the same *hevrutah* from lesson one if possible. The resources for textual interpretation will be found in Appendix 4.2A-F

Students should do the following to study the Codes Text: See Appendix 4.2F for student copy

1. Complete a line-by-line study of the text in *Hevrutah* to develop your initial interpretation of the Codes text. Use activity one resources to help you. Ensure that your interpretation of the text hits at least the first two levels of PARDES. – See Appendix 4.2A-C

2. With your *Hevrutah,* go through the guide for support and challenge. You will find it in the Appendix for this lesson if you need a refresh. – See Appendix 4.2D

3. Complete the section of the main thrust graphic organizer just for Codes under the column called "Main Thrust." -See Appendix 4.2E

4. Complete the rest of the graphic organizer to end up with a "New Main Thrust." -See Appendix 4.2E

Educational Closure

1. Have each group share their final reformulated version of the main thrust.
2. Tell students that in the next lesson, we will start to think about how we can take the main thrust and apply it in an authentic way into our modern social contexts.

[63] Note to The Teacher: If your students did not finish their Torah/Talmud study from lesson 1, give them some time to do so here before moving onto the Codes. The Code text is very short, so there is flexible time in this lesson.

Appendix 4.2A

Line by Line/Question Resources
Tell your students to break into *Hevrutah* partners

These are the steps you should hand out to your students, adopted from *A Philosophy of Hevrutah*[64]

1. Take turns reading the text out loud (Hebrew or English)
2. Help each other paraphrase the text
3. Outline the text by breaking it down into small, meaningful parts. Parts can be broken down by theme, characters, settings and plot development.
4. Read the text again. You may notice new details.
5. At this point, what do you think this text is about? This is your preliminary interpretation. Complete Pause 1- Appendix 4.2B
6. Check steps 1-5 with teacher
7. Generate a list of open questions together with your *hevrutah:* Example: Why does God not want to be "seen" by anyone except Moses?
8. With your *Havruta*, organize the questions into categories: Examples include character motivations, missing information, etc
9. Now, with your *Havruta*, choose a few questions which you think will help lead you to a deeper understanding of the text and circle them under question 7
10. Using the few questions that you chose, complete one of the following sentence starters: I believe the story to be about….and it is saying that…. Complete Pause 2- Appendix 4.2B
11. Take your work from step 10 and divide it into the different levels of interpretation (PaRDes).- Appendix 4.2C
12. Check steps 7-11 with the teacher before moving onto step 2 of the directions, support and challenge

[64] Holzer and Kent, *A Philosophy of Havruta,* 98-102

Appendix 4.2B

Pauses	At this point of our study, what do I tentatively think this story is about?	What is one thing I've heard from my *havruta* partner that has contributed to this tentative interpretation of mine?	What is one thing I've heard from the text that has contributed to my tentative interpretation?
One			
Two			

Appendix 4.2C

PaRDeS	
Pshat- literal, plot level meaning	
Remez- how might this be connected to life in surprising way?	
Drash- narrative gaps, add the perspective of a character	
Sod- wildest ideas about the text.	

Appendix 4.2D

Support and Challenge

Presenter's Role

1. Share your interpretation of what the story is about and explain how you arrived at this interpretation.
2. Listen and then respond to your *hevrutah's* questions.
3. Revise your interpretation here:

Critical Colleague Role

1. Actively listen to your colleague's interpretation(s).
    - Ask questions like: Am I understanding you correctly that you are reading this part of the text to mean X?
2. Probe your colleague's interpretation.
    - Ask clarifying questions such as: You said X, how did you get to this idea? You said X, could you tell me more about what you mean by that?
3. Support your colleague's interpretation by offering additional cues in the story and/or reasons.
    - For example: Would you say then when it says X, this reinforces your point?
4. Challenge the interpretation of your colleague by pointing to details in the story which the interpretation does not address or which may contradict the interpretation.
    - For example: In the text it says X, how do you make sense of this part according to your interpretation? How do you account for?

Appendix 4.2E

	Main Thrust	Similarities between Main Thrust of Torah/Talmud and Codes	Differences between Main Thrust of Torah/Talmud and Codes	New Main Thrust That Accounts For All Sources
Torah and Talmud				
Codes				

Appendix 4.2F

Student Directions: Students should do the following to study the Codes Text:

1. Complete a line-by-line study of the text in *Hevrutah* to develop your initial interpretation of the Codes text. Ensure that your interpretation of the text hits at least the first two levels of PARDES. See Line by Line Resource, Pauses Graphic Organizer, Codes Text and PaRDeS graphic organizer
2. With your *Hevrutah,* go through the guide for support and challenge. You will find it in Appendix 4.2D. – See Support and Challenge Resource
3. Complete the section of the main thrust graphic organizer just for Codes under the column called "Main Thrust." See Main Thrust Graphic Organizer
4. Complete the rest of the graphic organizer to end up with a "New Main Thrust."- See Main Thrust Graphic Organizer

Appendix 4.2F

Codes Text Sheet[65]

Shulhan Aruch Choshen Mishpat 228:1

אסור להונות בדברים ולגנוב דעת הבריות ולרמות במקח וממכר ובו כ סעיפים:
כשם שאונאה במקח וממכר כך אונאה בדברים וגדולה אונאת דברים מאונאת ממון שזה ניתן להשבון וזה לא ניתן להשבון זה בגופו וזה בממוניוהצועק על אונאת דברים נענה מיד: ומי שמאנה (הגה וי"א דאין מצווין על אונאת דברים אלא ליראי השם (נ"י פרק הזהב את עצמו מותר להוניהו (שם בשם המדרש):

It is forbidden to deceive with words and to steal created knowledge and to lie about making a purchase and selling: There are 20 explanations of this.

1) Just as there is a prohibition against exploitation (*ona'a*) in buying and selling, so is there *ona'a* in words. The *ona'a* for words is greater than *ona'a* monetary because monetary wrongdoing can be returned, and wrong doing of words cannot. One deals with his body and the other deals with his money and the one who cries out against someone who wrongs them with words is responded to immediately.

Isserles Commentary: There are those who say we are not commanded to refrain from wronging with words all people but rather those who fear God. Whoever wrongs himself its permissible to wrong him.

[65] English Translation by Daniel Freedman

Lesson 3: Realizing Context: Applying The Main Thrust of *Onaat Devarim* To Today

Essential Questions

1. What is similar and different about the period of time I am living in from that of which the texts I study were written?
2. How do I begin to separate the main thrust from the context of the *onaat devarim* texts, which I studied, and reapply it to the modern world I live in now?
3. What are *responsa* and how can they help me to apply the main thrust of *halakhic* texts to the here and now?

Goals (*As an educator, I want to show students…*)

1. How to consider the important characteristic of a time period for our *halakhic process*.
2. How to take the main thrust behind *onaat devarim* and apply it to the here and now.
3. To begin to ask a question that can frame the application of the main thrust to the here and now.

Objectives (*Students will be able to…*)

1. Describe what the here and now means and begin to distinguish it from the past in terms of *onaat devarim*.
2. Craft a question that can connect the main thrust of *onaat devarim* to the here and now.

Materials

- Device that can show video
- Screen to show video on and connect to device
- Pens/pencils
- Highlighters
- Appendix 4.3A-B, 4.2E

Set Induction

You are going to show what might be a very sensitive news clip about teens and the rise of suicide. The clip claims there is a correlation between social media and suicide. Be ready for what could be a very challenging conversation about this topic, but one that could get the teens thinking about the importance of finding ways to apply the principle of *onaat devarim* to the here and now. This news video comes from November 2017. If you are teaching this lesson at a later time, you may choose to find something more recent.

1. Show:https://www.cbsnews.com/news/rise-in-suicide-and-social-media-is-there-a-link/
2. Ask: How does technology impose a new challenge and therefore the need for new interpretations on *onaat devarim*?

Activity 1: Beginning to Explore the Here and Now of *Onaat Devarim*

As it turns out, there are relatively few contemporary *responsa* on the topic of *onaat devarim*. Therefore, this activity is meant to get students thinking about the modern context they live in and some of the problems that technology might pose to the main thrust of *onaat devarim* texts they have studied. Following this activity, they will work on creating a specific question on the topic of *onaat devarim*.- See Appendix 4.3A.

Directions for Teacher to tell Students:[66]

1. Tell students to read a selection of the article *A Torah Guide for the Digital Age: The Ten Tenets of Social Media* by Gil Student[67] by themselves but highlight areas that you think might pertain to the material we studied on *onaat devarim.*
2. Share your notes with your *hevrutah* partner.

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[66] Note to The Teacher: It would be helpful to write these two questions on a board so the students will remember them.

[67] Gil Student, "A Torah Guide for the Digital Age: The Ten Tenets of Social Media," Jewish Action, December 01, 2015, accessed April 27, 2018, https://jewishaction.com/religion/jewish-law/a-torah-guide-for-the-digital-age-the-ten-tenets-of-social-media/

Activity 2: Crafting a Question (*Sheila*)

In this activity, students are going to work in their *hevrutah* pairs from lesson one and two. Here are the steps they should follow in crafting a question, which will form the base of the *tshuvah* they will write together next lesson and present in the authentic response hearing that will occur in the final lesson.

Steps To Guide Students- See Appendix 4.3B for student handout

1. First, pull out all of their resources from the prior lessons in this unit
2. Re-familiarize themselves with their "main thrust." Decide if there is anything they want to change about their answer. - See Main Thrust Graphic Organizer from lesson 1 and 2.
3. Generate a list of important here and now considerations for being able to apply the main thrust. In other words, have them think of ways that the here and now poses new challenges to applying the main thrust of *onaat dvarim*. (Social media, other technology, etc)
   a) For example, Social media and the power of my words
4. Generate a new list of specific questions that address the items on the list from step 3. Actual *tshuvot* (answers) respond to very specific *sheilot* (questions).The students should work on questions that they're actually confronting right now in their context.
   a) For example, they might ask, "How do I voice my authentic self on Facebook when someone could potentially read it and be offended?
5. As a *Hevrutah* pair, pick the top question together that you would like to work through next week in your *tshuvah* (answer).

Educational Closure

1. Have each *hevrutah* pair share their top question (from above) with the class.
2. Tell students that next week we will be learning the specifics of how to make our own *tshuvah* utilizing the questions we just crafted.

Appendix 4.3A

Jewish Law: A Torah Guide for the Digital Age: The Ten Tenets of Social Media[68]
By Gil Student

Technology is changing faster today than at any other time in history. These developments affect our lives in many wonderful, and sometimes not-so-wonderful, ways. As we try to enrich our lives both by using technology and by refraining from using it as appropriate, we need to remember the Torah's guidance as it applies to these new forms of communication. For too long, the Internet has been a lawless Wild West. Responsible people need to think carefully about how they behave online.

Be Transparent

Because of the ease with which people shift identities online, it is important to let people know what to expect. Are you promoting a product from which you benefit financially or are you criticizing a competitor's product? Are you vehemently disagreeing with someone who once wronged you? You need to be transparent, even if you are anonymous. Everyone has biases and you are effectively lying if you fail to disclose those biases ("midvar sheker tirchak" and "vihyitem neki'im"). Transparency through disclaimers is crucial here. If you wish to maintain your anonymity, you have to either be creative in wording a disclaimer or avoid certain topics.

For example, there are only two stores that sell a product in your community and you own one. You wish to describe a negative experience with your competitor while remaining anonymous. You probably should not do so because of your clear bias. If you ask someone else to describe his negative experience, he should include a disclaimer stating that he has a connection to your store so readers understand his bias.

Be Careful About Confidentiality

The Torah forbids revealing secrets (megaleh sod), except under extenuating circumstances. Breaking personal confidences may also involve violations of secular law. Therefore, individuals must take care not to reveal personal and confidential information about others. Additionally, the Torah forbids defaming people by telling negative stories about them, whether true or not (lashon hara and hotza'at shem ra). You may not describe other people or organizations in an unflattering light, with

[68] Gil Student, "A Torah Guide for the Digital Age: The Ten Tenets of Social Media," Jewish Action, December 01, 2015, accessed April 27, 2018, https://jewishaction.com/religion/jewish-law/a-torah-guide-for-the-digital-age-the-ten-tenets-of-social-media/

only limited exceptions discussed later in this article. The damage we can cause online, where potentially thousands of people can read our words, is much greater than when we speak with a few friends.

Do Not Defame

You are not only forbidden to defame others but also to provoke defamation (avak lashon hara). This means that you must avoid potentially explosive topics unless you have clear permission as determined by the laws of lashon hara. These requirements include not only a societal benefit in revealing the information but also, among other conditions, a lack of bias. And when discussing neutral or even positive stories, beware of the potential to provoke criticism. Exaggerated praise about a person or organization will inevitably lead to someone disagreeing and presenting a story to the contrary. It is important to anticipate such fallout and write strategically to avoid it.

The Internet makes theft as easy as the click of a button. However, the Torah forbids violating copyright laws . . . You may not steal someone else's creative product, whether it is the written word or a photograph or some other image.

You are not permitted to enable other people to sin, including to defame (lifnei iveir and mesayei'a yedei ovrei aveirah). Even if other, less responsible venues for that defamation exist, you are still forbidden to provide a forum for defamation. The implica tions of this position in social media are significant and specific recommendations are provided in an accompanying sidebar. You may lose followers because of this strict stance, but your maintaining higher standards than tabloid journalism demonstrates not only fealty to basic halachah but also basic decency.

We cannot justify linking to or otherwise highlighting a damaging story by claiming that we did not reveal it ourselves. Our actions constitute publicizing it even if we only empower others to reveal it. Stories that affect a broader public can and should be told (to'elet). However, there are a number of necessary conditions before you may go about publicizing such a story. Most importantly, you must be certain the story is true (or includes appropriately worded caveats such as "these are unproven allegations") and that you have no ulterior motives to report it. On such complex and potentially damaging issues, you should always consult with your rabbi.

Bullying

The Torah forbids causing emotional distress to others (ona'at devarim). This effectively prohibits insulting and bullying. Do not let the anonymity of the Internet lull you into more aggressive patterns of speech. Words hurt and often cause real damage beyond the computer screen. Wikipedia defines "cyberbullying" as "the use of the Internet and related technologies to harm other people, in a deliberate, repeated, and hostile manner." This is the equivalent of verbally attacking and stalking someone.

But even one-time attacks are wrong. If someone expends a lot of time and effort to create something, your denigrating it or him is hurtful even if you are correct. You must find ways to express your strong feelings without insulting others.

Copyrights

The Internet makes theft as easy as the click of a button. However, the Torah forbids violating copyright laws, whether due to an inherent creator's right or because of the binding nature of secular law (gezel and dina demalchuta dina). You may not steal someone else's creative product, whether it is the written word, a photograph, a design or some other electronic creation. Make sure to obtain permission before using someone else's creation and take care to properly attribute your sources.

Be Positive

The Internet is the public domain. You may not damage the Jewish community or the Torah itself by spreading misunderstandings or incorrect teachings (ziyuf haTorah and chillul Hashem). While the Torah needs no apologies, it often requires proper context. For example, outsiders can easily misunderstand insular trends of thought and practice within Judaism as racist or intolerant. The global nature of the Internet confers a responsibility to properly explain the Torah and the behavior of its adherents to avoid misunderstanding.

What you say about Torah and how you phrase it can impact people's impressions of your specific community, the greater Jewish community and the Torah. It is important, of course within the bounds of honesty, to always strive to create a positive image of Judaism (kiddush Hashem) and avoid the opposite (chillul Hashem). It is also important to avoid undermining other people's religious convictions. There are always people undergoing religious crises who are teetering on the edge of spiritual collapse. You do not want to push them over by supporting whatever misunderstanding currently occupies their minds. Standards of what types of theological discussions are acceptable vary by community. However, everyone needs to be sensitive about this issue and consult with advisors, whether a rabbi or someone familiar with the specific medium, on how to proceed with caution.

Appendix 4.3B

Instructions for Students to Guide Students in Creating A Question

1. First, pull out all resources from the prior lessons in this unit
2. Re-familiarize yourself with their main thrust of *kibbud av va'eim*. Decide if there is anything they want to change about their answer. - See Main Thrust Graphic Organizer from lesson 1 and 2.
3. Generate a list of important here and now considerations for being able to apply the main thrust. In other words, have them think of ways that the here and now poses new challenges to applying the main thrust of *onaat devarim*. (Social media, other technology, etc.)
    a. For example, Social media and the power of my words
4. Generate a new list of specific questions that address the items on the list from step 3.
    a. Actual *tshuvot* (answers) respond to very specific *sheilot* (questions). The students should work on questions that they're actually confronting right now in their context. For example, they might ask, "How do I voice my authentic self on Facebook when someone could potentially read it and be offended?
5. As a *Hevrutah* pair, pick the top question together that you would like to work through next week in your *tshuvah* (answer).

Lesson 4: Creating A *Responsa* for *Onaat Devarim*: Being Accountable to Myself and the Jewish Community

Essential Questions:

1. How do I listen to my own conscience to create a *tshuvah*?
2. What does it mean to be responsible to the Jewish covenantal community as I write a *tshuvah*?
3. How can I balance my individual conscience with a communal Jewish responsibility in my *tshuvah*?

Goals (As an educator I want to show students…)

1. How *responsa* have been one way Reform Judaism has historically engaged with *halakhic* texts
2. The basic structure of *responsa*
3. Guidelines for creating an original and authentic *tshuvah*.

Objectives (Students will be able to…)

1. Define the terms *sheilah*, *tshuvah* and *responsa* and explain how they can facilitate the application of *halakha* to the here and now.
2. Explain why *responsa* literature is important to the Reform movement
3. Apply their interpretations of text from historical contexts to their own modern contexts.
4. Create an original and authentic *tshuvah*

Materials

- Video of Dr. Mark Washofksy: https://vimeo.com/216882219
- Pens/Pencils
- Appendix 4.4A
- All Resources from Unit 4 Lessons 1-3

Activity 1: What Are *Responsa* and How Do They Fit into Reform Judaism?

In this activity, the teacher will present this 10-minute video clip of Rabbi Dr. Mark Washofsky presenting on the background of Reform *Responsa* and the committee. This video should provide the class with a framework for what it means to create authentic *tshuvot* and present them to a Reform *respona* hearing. This should last no more than 20 minutes.

1. Show: https://vimeo.com/216882219 (Show 32:00-42:00)
2. Following the video, ask these questions to the class to check for understanding:
    1. How do a question and answer function in a *responsa*? (*Responsa* contain an answer to a question about Jewish practice).
    2. How is interpretation important in creating *responsa*? (People who write *responsa* make interpretations of relevant Jewish legal sources, i.e. Torah, Talmud and Codes, to arrive at a conclusion or answer to the question about Jewish practice.)
    3. How does Rabbi Dr. Mark Washofsky define tradition? Based on this definition, what do Reform *Responsa* do to allow Reform Judaism to be considered a living tradition? (Tradition= Mode of thought which all reasoning occurs within. Living tradition is a historically socially extended argument about the core values or goods that constitute that tradition. When individuals search for goods and value, they seek them out both within their present social context and historical tradition. *Responsa* allows Reform Jews to work within the frame of historical tradition, not outside of it. Reform *responsa* is evidence that Reform Jews can take their seat in the historic argument, *halakhah*, and contribute new interpretations of the texts which push the boundaries of previous conclusions based on living in a new social context.)
    4. Why does Rabbi Dr. Mark Washofsky have trouble with the phrase, “thinking outside of the box?” In other words, why does he argue we are always in a box, and need one to make meaning? (Box is a metaphor for a tradition. In order for reasoning to make sense, it happens within a box. Jewish tradition is our box.)

Activity 2: Write Your Own *Tshuvah* (Authentic Assessment)

In this activity, students will work with their *hevrutah* partner to write their own *tshuvah.* They will take their selected question from lesson 3 and utilize the guidance of activity 1 to do so. You should provide them with this graphic organizer to help them develop their *responsa*. Then, they should either put their *responsa* onto a poster board or a power point, so they will be able to present it to the class next week during the hearing. See Appendix 4.4A

Educational Closure

1. Ask each student to share a takeaway from completing the *tshuvah* making process.

Appendix 4.4A

Statement of the Question: This Should be Kept Brief (1-2 sentences)	
Introduction of The Problem That Led You To Your Question	
State Your Main Thrust Briefly (1-2 sentences)	
Source 1 and interpretation that led you to Main Thrust	
Source 2 and interpretation that led you to Main Thrust	

Source 3 and interpretation that led you to Main Thrust	
Application of Main Thrust to New Context.	
How does your application take your own conscience into account?	
How does your application take the good of the entire Jewish community/world into account?	
Concluding Paragraph (3-4 sentences will suffice. This should summarize everything you say in your *tshuvah*)	

Lesson 5: *Responsa* Hearing and Reflection

This lesson is meant to resemble the critical friends approach, which the students have been practicing with each other during *hevrutah* to enhance their individual interpretations of the text. Now, we will use it to enhance our *tshuvot*. Additionally, this unit will allow each pair to learn from one another.

Essential Questions:

1. How can I both support and challenge someone who shares his or her creative work?
2. What does it mean to provide kind, specific and helpful feedback?
3. How do I effectively listen?

Goals (As an educator I want to show students…)

1. They can help each other to make one another's *responsa* better through the critical friends approach.

Objectives (Students will be able to…)

1. Provide feedback to another that is kind, specific and helpful.

Materials

- Austin's Butterfly Video: https://www.youtube.com/watch?v=hqh1MRWZjms
- Device to show video on
- Screen to show video on
- Pencils/Papers
- Appendix 4.4A

Set Induction: Austin's Butterfly Video

This video is a very good way to get students thinking about critique. Many people think of critique as a bad thing, but it really is not! The Reform

Responsa committee is made up of colleagues that listen to each other present ideas and help to make them better through the critical friends model. To remind us how this works, we will watch Austin's Butterfly Video once more.

1. Show video: https://www.youtube.com/watch?v=hqh1MRWZjms
2. After showing the video, ask your students what elements are important to keep in mind in a critical friends group.
    - Support (help make partner's idea as strong as possible by noticing additional evidence or details in text that can strengthen the interpretation on the table)[69]
    - Challenge (help make partner's idea as strong as possible by pointing to weaknesses in a particular idea and/or making space for her to come with more compelling ideas)[70]- Kind, specific and helpful

Activity 1: *Responsa* Committee of Critical Friends[71]

As the teacher, you will be the "head" facilitator of the *Responsa* committee. Ideally, you can "shtick" this session up as much or as little as you wish. You could put a sign up that says "*Responsa* Committee Meeting" as an example. You might choose to do the meeting around a round table. You should follow the protocol, which I am including below. You should follow the protocol listed below:

Protocol for Facilitation of *Responsa* Committee

1. Presenting Groups Shares Their *Tshuvah* – 4 minutes
2. Critical Friends Ask Clarifying Questions about the Work. *These are questions that can be answered by the presenters with facts that are easily accessible. For example, Am I understanding you correctly that you are reading this part of the text to mean X?* -2 minutes

[69] Holzer and Kent, *A Philosophy of Havruta,* 124.

[70] Holzer and Kent, *A Philosophy of Havruta,* 124-125.

[71] Note to The teacher: For this activity, you will have to think about how many *hevrutah* pairs need to present and set the time accordingly. Ideally, each pair should have 15 minutes.

3. Critical Friends Ask Probing and Challenging Questions about the Work. *These are questions that help the presenter to consider issues that s/he may not have considered about the work or its implications*. - 2 minutes
4. Critical Friends Offer Suggestions to Strengthen *Tshuvah*. *These should be kind, specific and helpful.* -4 minutes
5. Presenting Group Concludes by sharing their thoughts based on the feedback-1 minute

Activity 2: Revision of *Tshuvah*

Provide students with a short amount of time to revise their *tshuvah* with their *hevrutah* partner based on the feedback they received in the *Responsa* Committee.

Educational Closure:

A good way to close out a unit would be to reflect on some of the unit enduring understandings and essential questions. Here are the ones you should consider focusing on:

1. Do you feel that *halakhah* has allowed you to translate ethical values from a series of texts into livable action in the here and now? Why or why not?
2. How has the *halakhic* process given you an opportunity to define yourself within a Jewish framework?

Unit 5: Defining Ourselves in Relation to Our Parents: A Study of Kibbud Av Va'eim

Unit Summary

As teenagers, one of the most challenging tasks is for one to define themselves in relation to their parents. Students will study texts on the *halakhic* area of *kibbud av va'eim*. Once they have finished investigating the main thrust of *kibbud av va'eim*, they will individually craft a narrative, which describes their own social context. Based on this narrative, they will ask question related to defining themselves in relation to their parents. Then, they will answer this question for themselves using their interpretive work on the texts.

Unit Enduring Understandings

1. *Halakhah* on *kibbud av va'eim* translates stories of Jews and ethical values of Judaism into relevant action for Jewish families to take.
2. Investigation into the main thrust of *kibbud av va'eim*, definition of the context in which one finds one's self personally, attention to one's individual conscience and an accountability to the covenantal community provides a way for Reform Jews to engage in a *halakhic* process.
3. The *halakhic* process empowers adult children to create boundaries to protect their unique individual development and the sacred relationship between themselves and their parent or guardian.

Unit Essential Questions

1. How can *halakhah* translate age-old text about *kibbud av va'eim* into action that I can apply to my contemporary familial relationships?
2. How can I use the *halakhic* process to define myself today with regards to my parent or guardian?

3. How do I act in accordance with *kibbud av va'eim* when a parent or guardian tries to counter my religious or ethical values?[72]

[72] Daniel Nevins, "Between Parents and Children," in *The Observant Life: The Wisdom of Conservative Judaism For Contemporary Life*, ed. Martin S. Cohen and Michael Katz (New York: The Rabbinical Assembly, 2012), 673-692.

Lesson 1: Finding The Main Thrust Using Torah on *Kibbud Av Va'eim*

Essential Questions

1. What does it mean for me to both *kabed* (honor) and *yirah* (fear) my parent or guardian?
2. What if I do not have a "mother and father," do the Torah's commandments mean anything to my family?

Goals (*As an educator, I want to show students…*)

1. We can make Torah "speak" to us in a more inclusive way.
2. There are reasons for the Torah to include both verses Exodus 20:12 and Leviticus 19:3.
3. How to use a biblical dictionary and concordance.

Objectives (*Students will be able to…*)

1. Define the words *kabed* and *yirah.*
2. Describe their parent figure(s) and how they currently relate to them.
3. Explain the importance of *kabed* and *yiru* based on the study of texts in the Torah.

Materials

- Device to play YouTube video
- Screen to play a video and connect to device
- Journals
- Appendix 5.1A-B
- Pencils/Pens

Set Induction: "The Guilt Trip" Trailer

1. Show: https://www.youtube.com/watch?v=YlzykvWVJ9A
    a. This trailer, for a movie that is rated PG 13, is a great way to introduce what lies at the heart of this unit on *kibbud av va'eim* (respecting our parental figures).
2. After you show it, you may ask the following questions:
    a. What do you think this movie is going to be about?
    b. Why might I show you this clip at the beginning of our unit on *kibbud av va'eim*?[73]

Activity 1: Torah Study Adventure

In this text study, students are going to take their skills on interpretation and practice it on these Torah texts, which are foundational to the concept of *kibbud av va'eim*. The only difference, this time, is that you, the teacher, will provide some guiding questions to help the students get started and expose them to a few new tools (BDB Dictionary and Concordance). In the worksheet, found in Appendix 5.1A, there will be a mix of questions and resources to help students with these foundational texts, so they are ready to move on next time to further commentary on these verses in Talmud Tractate *Kiddushin.*

1. Tell students to either work with their *hevrutah* from unit 4 or find a new one.
2. Pass out the worksheet from Appendix 5.1A.
3. Provide guidance to the students as they complete the worksheet.

Activity 2: Describing My Modern Family

This activity is extremely important to do after the Torah text study. As the writer of this curriculum guide, I am aware that just these two verses of Torah text may already feel very challenging for some or many of your students. Both verses are gender normative. What about our families that do not fit these "traditional" family models? The Talmud states (BT Sanhedrin 19b), that "who-ever raises an orphan in

[73] Note to The Teacher: If your students do not know what the term *kibbud av'veim* means, write the three words on a board. Define each one individually for the students to see visually. *Kibbud*= respect, *Av*= Father, *Eim*= Mother

their home is considered by Scripture as if [the orphan] were their [own] child"[74] Then, the Talmud provides a few proof texts rooted in biblical stories of "nontraditional" families to further support this statement.

1. Divide the class into four groups.
2. Assign each group one of the "proof" texts to study and then explain to the rest of the class by creating a brief skit. Each proof text is an example of a child who has parents other than a biological mother and father. Proof texts can be found in Appendix 5.1B.
3. Finally, this activity will end with each person making his or her own "proof" text. In other words, just like BT Sanhedrin 19b describes "nontraditional" families, each person has their own unique family. Please have them write this "proof" in the journals. Moving forward in the rest of the unit, students can substitute *av va'eim* with their own adults as shown by BT Sanhedrin 19b.
4. For example, "I live in a home with a mom and dad who I love. I also live down the street from my grandparents. My mom and dad work a lot so during the week I spend a lot of time with my grandparents. My grandma helps me with my homework and my grandpa teaches me how to fix things with my hands. We build projects together."

Educational Closure

1. Ask: Can we go around and have everyone share something about a parent or guardian in their lives?
2. Ask: Reflect for a moment on the words *kibbud* and *Yirah.* At the moment, which one seems most important?
3. Say: Next class, we will delve into the Rabbis' interpretation of these words and find out how they viewed them.

[74] Daniel Nevins, "Between Parents and Children," in M. Cohen and M. Katz, eds., The Observant Life: The Wisdom of Conservative Judaism for Contemporary Jews (The Rabbinical Assembly, 2012)

Appendix 5.1A

Kibbud Av Va'eim Text Sheet

1. Read the first text to yourself a few times. Then paraphrase the text in your own words.

Exodus 20:12

כַּבֵּד אֶת־אָבִיךָ וְאֶת־אִמֶּךָ לְמַעַן יַאֲרִכֻון יָמֶיךָ עַל הָאֲדָמָה אֲשֶׁר־יְהוָה אֱלֹהֶיךָ נֹתֵן לָךְ

כבד your father and mother, that you may long endure in the Land that your God is assigning to you.

2. Confer with your *hevrutah* partner on your understanding of the first verse of Torah.

3. Now, read this next verse a few times. Then paraphrase it in your own words.

Leviticus 19:3

אִישׁ אִמּוֹ וְאָבִיו תִּירָאוּ וְאֶת־שַׁבְּתֹתַי תִּשְׁמֹרוּ אֲנִי יְהוָה אֱלֹהֵיכֶם

You shall each ירא his mother and father and keep my Sabbaths, I am your God.

4. Now, you may be asking yourself why both of these verses of Torah are included. With your *hevrutah* partner, begin to compare and contrast the two verses using the table provided.

	Similarities	Differences
Exodus 20:12		
Leviticus 19:3		

5. Now, look at the differences you noted. Hopefully, one of them is the different Hebrew words that are used to command us to do something towards our parents! We must learn what each word means by using a special Torah dictionary called Brown, Driver, Briggs, Lexicon of the Old Testament. This special dictionary provides English definition of Hebrew words, which can be found by their three letter Hebrew root. The definitions are based on the way the words are used in the bible. Due to time restrictions, here are the definitions that you would have found if you had looked in BDB yourselves:

כבד, verb/command, Exodus 20:12
Defenition= heavy, weighty, burdensome, honor

ירא, verb/command, Leviticus 19:3
Definition= fear, reverence, honor

6. You are doing great! Now, think about how you better understand a new word in English. You look at the way it is used in other contexts. When we study Torah, we can do the same thing! To do so, we use what's called a concordance. A concordance tells us all the places in Torah that the same word is used. Below, you will find a few other verses of Torah that each word, כבד and ירא are used.

Genesis 34:19
And the youth lost no time in doing the thing, for he wanted Jacob's daughter. Now he was the most נכבד (respected) in all his father's house.

Leviticus 19:30
You shall keep my sabbaths and תיראו (revere) my sanctuary. I am God

7. Finally, it's time to put each step together and provide your new interpretation of each verse of Torah. You will, of course, be learning more about these verses in the next lesson by looking at Talmud Tractate Kiddushin. In other words, based on all of the questions in this worksheet:

I believe Exodus 20:12 is saying…

I believe Leviticus 19:3 is saying…

Appendix 5.1B

Talmud Bavli Sanhedrin 19b

1. And the neighbors gave him a saying: There is a son born to Naomi (Ruth 4:17). And did Naomi give birth to the son? But didn't Ruth give birth to him? Rather, Ruth gave birth and Naomi raised him. Therefore, he was called by her name: "A son born to Naomi"

2. And his wife Hajehudijah gave birth to Jered the father of Gedor, and these are the sons of Bithiah, daughter of Pharoh, whom Mered took" (I Chronicles 4:18). Mered is Caleb, and why was his name Mered? Because he rebelled against the counsel of the spies. And did Bithiah give birth to Moses? But didn't Jochebed give birth to him? Rather, Jochebed gave birth to him and Bithiah raised him. Therefore, he was called by her name.

3. "You have with your arm redeemed your people, the children of Jacob and Joseph, Selah" (Psalms 77:16). And did Joseph sire all the children of Israel? But didn't Jacob sire them? Rather, Jacob sired them and Joseph sustained them financially. Therefore, they were called by his name; all of Israel were called the children of Joseph.

4. Anyone who teaches another person's son Torah, the verse ascribes him credit as if he sired him, as it is stated: "Now these are the generations of Aaron and Moses" (Numbers 3:1), and it is written immediately afterward: "And these are the names of the sons of Aaron: Nadav the firstborn and Avihu, Eleazar, and Ithamar" (Numbers 3:2), but it does not mention the names of Moses' children. This serves to says to you that Aaron sired his children, but Moses taught them Torah. Therefore, the children were also called by his name.

Lesson 2: Finding The Main Thrust Using Talmud on *Kibbud Av Va'eim*

Essential Questions

1. What does it mean for me to both *kabed* (honor) and *yirah* (fear) my parent or guardian?
2. Does Torah prescribe feelings and emotions, behaviors or both?
3. How can I understand *kibud av va'eim* to be a holy act?
4. How far do I need to go to fulfill *kibbud av va'eim*, the mitzvah of honor and reverence to towards my parent or guardian?

Goals (As an educator, I want to show students…)

1. How to use Talmud to further investigate a distinction made by Torah, namely that of *kabed* and *yirah.*
2. How the Rabbis understood *kabed* and *yirah* of parents to be parallel to that of God.
3. The way the Rabbis begin to establish parameters around how far one must go to honor and revere their parents.

Objectives (Students will be able to…)

1. Compare and contrast the words *kabed* and *yirah.*
2. Apply their interpretation skills to the Talmudic texts on *kibbud av va'eim.*
3. Formulate the main thrust of the Torah/Talmudic texts on *kibbud av va'eim.*

Materials

- Journals
- Pens/Pencils
- Appendices 5.2A-F

Set Induction: Respect/Fear Sing Down

In order to get the students excited about the class for today, it can be fun to do what is called a sing down.

1. Have the students break off into two groups.
2. Give students two minutes to come up with as many songs as they can which have the word respect or fear in them.
3. After two minutes is up, have one representative for each team come to the front of the room. Now, they will each have a turn to name one of their songs. If the opposing team does not have the song, the other team gets a point. If they each have it, the teams will have a sing off to see who wins the point. You, the teacher will be the judge. This activity should last no more than 10 minutes!

Activity 1: Talmud *Hevrutah* Text Study[75]

Today, students will spend virtually the whole class in hevrutah. They are going to be studying selections from Talmud Bavli Tractate Kiddushin 30b-32a. Before you set them off, I suggest you read to them the essential questions for this lesson.

1. Ask/Display the essential questions of the lesson to your students:
    a. What does it mean for me to both *kabed* (honor) and *yirah* (fear) my parent or guardian?
    b. Does Torah prescribe feelings and emotions, behaviors or both?
    c. How can I understand *kibud av va'eim* to be a holy act?
    d. How far do I need to go to fulfill *kibbud av va'eim*, the mitzvah of honor and reverence to towards my parent or guardian?[76]
2. Now, before you set the students off on their own, remind them that besides trying to use the Talmud to investigate these essential questions, they should keep in mind their guidelines for interpretation and *hevrutah* study which you should provide them with during this activity and fill in the main thrust section

[75] Note to The Teacher: Depending on the text skills of your class, this activity may take more than one class period. You will have to decide what is best for your class. You may also wish to trim down the text on your own.
[76] Note to The Teacher: You may wish to either display these questions on the board. In addition, students will have them on their Talmud text handout, Appendix 5.2F.

of the organizer for Torah and Talmud. See Appendix 5.2A-F for all the resources you will need for this activity.[77]

Educational Closure

1. Have each *hevrutah* group share the main thrust they have come up with thus far.

[77] Note to The Teacher: Gemara is only being provided in English since it consists of Hebrew and Aramaic. If you would like to access the Hebrew/Aramaic for the Gemara, you can find it here: https://www.sefaria.org/Kiddushin.31b?lang=bi

Appendix 5.2A

Line by Line/Question Resources
Tell your students to break into *Hevrutah* partners

These are the steps you should hand out to your students, adopted from *A Philosophy of Hevrutah*[78]

1. Take turns reading the text out loud (Hebrew or English)
2. Help each other paraphrase the text
3. Outline the text by breaking it down into small, meaningful parts. Parts can be broken down by theme, characters, settings and plot development.
4. Read the text again. You may notice new details.
5. At this point, what do you think this text is about? This is your preliminary interpretation. Complete Pause 1- Appendix 5.2B
6. Check steps 1-5 with teacher
7. Generate a list of open questions together with your *hevrutah:* Example: Why does God not want to be "seen" by anyone except Moses?
8. With your *Havruta*, organize the questions into categories: Examples include character motivations, missing information, etc
9. Now, with your *Havruta*, choose a few questions which you find to be most generative.
10. Using the few questions that you chose, complete one of the following sentence starters: I believe the story to be about….and it is saying that…. Complete Pause 2- Appendix 5.2B
11. Take your work from step 10 and divide it into the different levels of interpretation (PaRDes).- Appendix 5.2C
12. Check steps 7-11 with the teacher before moving onto step 2 of the directions, support and challenge.

[78] Holzer and Kent, *A Philosophy of Havruta,* 98-102

Appendix 5.2B

Pauses	At this point of our study, what do I tentatively think this story is about?	What is one thing I've heard from my *havruta* partner that has contributed to this tentative interpretation of mine?	What is one thing I've heard from the text that has contributed to my tentative interpretation?
One			
Two			

Appendix 5.2C

PaRDeS	
Pshat- literal, plot level meaning	
Remez- how might this be connected to life in surprising way?	
Drash- narrative gaps, add the perspective of a character	
Sod- wildest ideas about the text.	

Appendix 5.2D

Presenter's Role

1. Share your interpretation of what the story is about and explain how you arrived at this interpretation.
2. Listen and then respond to your *hevrutah's* questions.
3. Revise your interpretation here:

Critical Colleague Role

1. Actively listen to your colleague's interpretation(s).
    - Ask questions like: Am I understanding you correctly that you are reading this part of the text to mean X?
2. Probe your colleague's interpretation.
    - Ask clarifying questions such as: You said X, how did you get to this idea? You said X, could you tell me more about what you mean by that?
3. Support your colleague's interpretation by offering additional cues in the story and/or reasons.
    - For example: Would you say then when it says X, this reinforces your point?
4. Challenge the interpretation of your colleague by pointing to details in the story which the interpretation does not address or which may contradict the interpretation.
    - For example: In the text it says X, how do you make sense of this part according to your interpretation? How do you account for?

Appendix 5.2E

	Main Thrust	Similarities between Main Thrust of Torah/Talmud and Codes	Differences between Main Thrust of Torah/Talmud and Codes	New Main Thrust That Accounts For All Sources
Torah and Talmud				
Codes				

Appendix 5.2F

Talmud Text Sheet[79]

Essential Questions To Consider As You Study This Text

1. What does it mean for me to both *kabed* (honor) and *yirah* (fear) my parent or guardian?
2. Does Torah prescribe feelings and emotions, behaviors or both?
3. How can I understand *kibud av va'eim* to be a holy act?
4. How far do I need to go to fulfill *kibbud av va'eim*, the mitzvah of honor and reverence to towards my parent or guardian?

Bavli Talmud Kiddushin 31b

The Sages taught: What is fear and what is honor? Fear of one's father includes the following: One may not stand in his father' fixed place, and may not sit in his place, and may not contradict his statements by expressing an opinion contrary to that of his father, and he many not choose sides when his father argues with someone else. What is considered honor? He gives his father food and drink, dresses and covers him, and bring him in and takes him out for all his household needs.

Bavli Talmud Kiddushin 30b

The sages taught that it is stated: "Honor your father and your mother." (Exodus 20:11), and it is stated: "Honor God with your wealth" (Proverbs 3:9). In this way, the verse equates the honor of one's father and mother to the honor of God.

Similarly, it is stated: "A person shall fear their mother and father (Leviticus 19:3), and it is stated: "You shall fear the Lord your God and him you shall serve" (Deuteronomy 6:13). The verse equates the fear of one's father and mother to the fear of God.

Likewise, it is stated: "He who curses his father or his mother shall be put to death" (Exodus 21:17), and it is stated: "Whoever curses him God shall bear his sin" (Leviticus 24:15). The verse equates the blessing one's father and mother to the blessing of God. But with regards to striking, it is not possible.

And so, a logical derivation can be made, as the three of them are partners in creation. As the sages taught, there are three partners in the forming of a person: The Holy One who provides the soul, and his father and mother. When a person honors their father and mother, the Holy One, says: I ascribe credit to them as if I dwelt between them and they honor me as well.

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[79] English translation from Koren Talmud Bavli with commentary from Rabbi Adin Even-Israel Steinsaltz

Bavli Talmud Kiddushin 31a-32a

The sages raised a dilemma before Rav Ulla: How far must one go to fulfill the mitzvah of honoring one's father and mother? Rav Ulla said to them: Go and see what one gentile did in Asheklon, and his name was Dama ben Netina. Once the Sages sought to purchase merchandise from him for six hundred thousand gold dinars profit, but the key was placed under his father's head, and he was sleeping at the time. And Dama ben Neina would not disturb his father by waking him, although he could have made a substantial profit.

The next year the Holy One, gave Dama ben Netina his reward, as a red heifer was born in his herd, and the Jews needed it. When the sages of Israel came to him he said to them: I know, concerning you, that if I were to ask for all the money in the world you would give it to me. But I ask only that money that I lose due to the honor of Father.

Rav Asi had an elderly mother. She said to him: I want jewelry, and he made jewelry for her. She said to him: I want a man whom I can marry, and he said to her: I will seek one for you. She said to him: I want a husband who is as handsome as you. At this point, he left her and went to Eretz Yisrael.

And if a father takes a purse and throws it into the sea in front of his son, and that son does not embarrass him. And if you say what difference does it make to the son? The Gemara answers, this refers to a son who is fit to inherit from him. And this is as Rabba bar Huna, when Rav Huna tore silk garments in front of his son Rabba. Rav Huna had said to himself: I will go and see if he becomes angry or does not become angry. But perhaps his son would become angry and Rav Huna would violate "Nor put a stumbling block before the blind" (Leviticus 19:14), where the father has forgone his honor.

Lesson 3: Finding The Main Thrust Using Codes On *Kibbud Av Va'eim*

Essential Questions

1. How far do I need to go to fulfill *kibbud av va'eim*, the mitzvah of honor and reverence to towards my parent or guardian?
2. How do I begin to honor my own "boundaries" and my parent or guardian at the same time?

Goals (*As an educator, I want to show students…*)

1. How to uncover the main thrust of the Torah, Talmud and Codes based on the skills they learned previously.

Objectives (*Students will be able to…*)

1. Apply their interpretation skills to the Codes on *kibbud av va'eim*.
2. Formulate the main thrust of the Codes on *kidbbud av va'eim* and reformulate the main thrust for all the texts as a whole.

Materials

- Device to play YouTube video
- Screen to show video and connect to device
- Pens/Pencils
- Appendix 5.3A-F

Set Induction: "Guilt Trip" Clip

Looking back to lesson one, you showed the trailer for the movie "Guilt Trip". Now, as we move onto the lesson on the codes for *kibbud av va'eim*, we narrow in on our two essential questions for this lesson:

1. How far do I need to go to fulfill *kibbud av va'eim*, the mitzvah of honor and reverence to towards my parent or guardian?

2. How do I begin to honor my own "boundaries" and my parent or guardian at the same time?

Show: https://www.youtube.com/watch?v=MOAEGtGDiR4

1. Ask: What were the tensions at play in this movie clip?
2. Ask: Can you relate to Andy at all in this clip? Why or why not?

Activity 1: Codes Text Study [80]

Today, students will spend virtually the whole class in *hevrutah* again. They are going to be studying selections from Rambam's *Mishneh Torah.*

1. Tell your students that the Codes they are studying today do explicitly make reference to abuse by a parent.[81] It is going to be the job of the students to use their interpretive skills to figure out how else one can understand the main thrust behind this set of texts. In other words, what other ways can the psychical abuse in the text be understood? Remind them of the classroom *Brit* established at the beginning of Unit 4 and that this is a safe space.
2. Before you set them off, I suggest you read to them the essential questions for this lesson and write them on the board. Their interpretation of the text should help them to answer these questions:
    a. How far do I need to go to fulfill *kibbud av va'eim*, the mitzvah of honor and reverence to towards my parent or guardian?
    b. How do I begin to honor my own "boundaries" and my parent or guardian at the same time?
3. Remind the students that while they are trying to use the Codes to investigate these essential questions they should follow the guidelines for interpretation and *hevrutah* study. These resources along with the Codes Text and main thrust graphic organizer, which the students should finish filling out today are all found in the Appendix 5.3A-F.

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[80] Note to The Teacher: There is a fair amount of text here. If it is too much for your students to do in one day, you may either give them more than one class to do this activity or trim down the text on your own.
[81] Note to The Teacher: If any of the texts today triggers and emotion within a student, you may need to seek out resources such as clergy to speak with them.

Educational Closure

1. Ask: Students, please share your new main thrust with the class from your graphic organizer.

Appendix 5.3A

Line by Line/Question Resources
Tell your students to break into *Hevrutah* partners

These are the steps you should hand out to your students, adopted from *A Philosophy of Hevrutah*[82]

1. Take turns reading the text out loud (Hebrew or English)
2. Help each other paraphrase the text
3. Outline the text by breaking it down into small, meaningful parts. Parts can be broken down by theme, characters, settings and plot development.
4. Read the text again. You may notice new details.
5. At this point, what do you think this text is about? This is your preliminary interpretation. Complete Pause 1- Appendix 4.2B
6. Check steps 1-5 with teacher
7. Generate a list of open questions together with your *hevrutah:* Example: Why does God not want to be "seen" by anyone except Moses?
8. With your *Havruta*, organize the questions into categories: Examples include character motivations, missing information, etc
9. Now, with your *Havruta*, choose a few questions which you find to be most generative.
10. Using the few questions that you chose, complete one of the following sentence starters: I believe the story to be about….and it is saying that…. Complete Pause 2- Appendix 4.2B
11. Take your work from step 10 and divide it into the different levels of interpretation (PaRDes).- Appendix 4.2C
12. Check steps 7-11 with the teacher before moving onto step 2 of the directions, support and challenge.

[82] Holzer and Kent, *A Philosophy of Havruta*, 98-102

Appendix 5.3B

Pauses	At this point of our study, what do I tentatively think this story is about?	What is one thing I've heard from my *havruta* partner that has contributed to this tentative interpretation of mine?	What is one thing I've heard from the text that has contributed to my tentative interpretation?
One			
Two			

Appendix 5.3C

PaRDeS	
Pshat- literal, plot level meaning	
Remez- how might this be connected to life in surprising way?	
Drash- narrative gaps, add the perspective of a character	
Sod- wildest ideas about the text.	

Appendix 5.3D

Presenter's Role

1. Share your interpretation of what the story is about and explain how you arrived at this interpretation.
2. Listen and then respond to your *hevrutah's* questions.
3. Revise your interpretation here:

Critical Colleague Role

1. Actively listen to your colleague's interpretation(s).
    - Ask questions like: Am I understanding you correctly that you are reading this part of the text to mean X?
2. Probe your colleague's interpretation.
    - Ask clarifying questions such as: You said X, how did you get to this idea? You said X, could you tell me more about what you mean by that?
3. Support your colleague's interpretation by offering additional cues in the story and/or reasons.
    - For example: Would you say then when it says X, this reinforces your point?
4. Challenge the interpretation of your colleague by pointing to details in the story which the interpretation does not address or which may contradict the interpretation.
    - For example: In the text it says X, how do you make sense of this part according to your interpretation? How do you account for?

Appendix 5.3E

	Main Thrust	Similarities between Main Thrust of Torah/Talmud and Codes	Differences between Main Thrust of Torah/Talmud and Codes	New Main Thrust That Accounts For All Sources
Torah and Talmud				
Codes				

Appendix 5.3F

Codes Text Study: Rambam, *Hilkhot Mamrim* (Rebels), 6:6-10, 12-13[83]

אֶחָד הָאִישׁ וְאֶחָד הָאִשָּׁה חַיָּבִין בְּמוֹרָא וְכָבוֹד. אֶלָּא שֶׁהָאִישׁ יֵשׁ בְּיָדוֹ לַעֲשׂוֹת וְהָאִשָּׁה אֵין בְּיָדָהּ לַעֲשׂוֹת שֶׁהֲרֵי רְשׁוּת אֲחֵרִים עָלֶיהָ. לְפִיכָךְ אִם נִתְגָּרְשָׁה אוֹ נִתְאַלְמְנָה הֲרֵי שְׁנֵיהֶם שָׁוִים

6) To what degree does the mitzvah of honoring one's father and mother extend? Even if one's parent takes his purse of gold and throws it into the sea in his presence, he should not embarrass them, shout, or vent anger at them. Instead, he should accept the Torah's decree and remain silent.

עַד הֵיכָן הוּא כִּבּוּד אָב וְאֵם. אֲפִלּוּ נָטְלוּ כִּיס שֶׁל זְהוּבִים שֶׁלּוֹ וְהִשְׁלִיכוּ בְּפָנָיו לַיָּם לֹא יַכְלִימֵם וְלֹא יְצַעֵר בְּפְנֵיהֶם וְלֹא יִכְעֹס כְּנֶגְדָּם אֶלָּא יְקַבֵּל גְּזֵרַת הַכָּתוּב וְיִשְׁתֹּק. וְעַד הֵיכָן מוֹרָאָן אֲפִלּוּ הָיָה לוֹבֵשׁ בְּגָדִים חֲמוּדוֹת וְיוֹשֵׁב בָּרֹאשׁ בִּפְנֵי הַקָּהָל וּבָא אָבִיו וְאִמּוֹ וְקָרְעוּ בְּגָדָיו וְהִכּוּהוּ בְּרֹאשׁוֹ וְיָרְקוּ בְּפָנָיו לֹא יַכְלִימֵם אֶלָּא יִשְׁתֹּק וְיִירָא וְיִפְחַד מִמֶּלֶךְ מַלְכֵי הַמְּלָכִים שֶׁצִּוָּהוּ בְּכָךְ. שְׁאִלּוּ מֶלֶךְ בָּשָׂר וָדָם גָּזַר עָלָיו דָּבָר שֶׁהוּא מְצַעֵר יֶתֶר מִזֶּה לֹא הָיָה יָכוֹל לְפַרְכֵּס בַּדָּבָר. קַל וָחֹמֶר לְמִי שֶׁאָמַר וְהָיָה הָעוֹלָם כִּרְצוֹנוֹ

7)To what degree does the mitzvah of fearing them extend? Even if one was wearing fine garments and sitting at the head of the community, if one's father and mother came, ripped the clothes, struck him on the head, and spit in his face, he should not embarrass them. Instead, he should remain silent and fear the King of kings who commanded him to conduct himself in this manner. Were a mortal king to decree something which would cause him even more suffering he would not be able to move a limb in protest. Certainly, this applies when the command emanates from He who spoke and caused the world to come into existence as He desired it.

אַף עַל פִּי שֶׁבְּכָךְ נִצְטַוִּינוּ אָסוּר לָאָדָם לְהַכְבִּיד עֻלּוֹ עַל בָּנָיו וּלְדַקְדֵּק בִּכְבוֹדוֹ עִמָּהֶם שֶׁלֹּא יְבִיאֵם לִידֵי מִכְשׁוֹל. אֶלָּא יִמְחל וְיִתְעַלֵּם שֶׁהָאָב שֶׁמָּחַל עַל כְּבוֹדוֹ כְּבוֹדוֹ מָחוּל

8) Although these commands have been issued, a person is forbidden to lay a heavy yoke on his sons and be particular about their honoring him to the point that he presents an obstacle to them. Instead, he should forgo his honor and ignore any affronts. For if a father desires to forgo his honor, he may.

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[83] English Translation by Eliyahu Touger: https://www.chabad.org/library/article_cdo/aid/1181857/jewish/Mamrim-Chapter-6.htm

וְהַמַּכֶּה בְּנוֹ גָּדוֹל מְנַדִּין אוֹתוֹ שֶׁהֲרֵי הוּא עוֹבֵר עַל וְלִפְנֵי עִוֵּר לֹא תִתֵּן מִכְשֹׁל

9) A person who strikes a son who has attained majority should be placed under a ban of ostracism, for he is transgressing the charge, Leviticus 19:14: "Do not place a stumbling block in front of the blind."

מִי שֶׁנִּטְרְפָה דַּעְתּוֹ שֶׁל אָבִיו אוֹ שֶׁל אִמּוֹ מִשְׁתַּדֵּל לִנְהֹג עִמָּהֶם כְּפִי דַּעְתָּם עַד שֶׁיְּרַחֵם עֲלֵיהֶן. וְאִם אִי אֶפְשָׁר לוֹ לַעֲמֹד מִפְּנֵי שֶׁנִּשְׁתַּטּוּ בְּיוֹתֵר יְנִיחֵם וְיֵלֵךְ לוֹ וִיצַוֶּה אֲחֵרִים לְהַנְהִיגָם כָּרָאוּי לָהֶם

10) When a person's father or mother lose control of their mental faculties, their son should try to conduct his relationship with them according to their mental condition until God has mercy upon them. If it is impossible for him to remain with them because they have become very deranged, he should leave them, depart, and charge others with caring for them in an appropriate manner.

מִי שֶׁאָמַר לוֹ אָבִיו לַעֲבֹר עַל דִּבְרֵי תּוֹרָה בֵּין שֶׁאָמַר לוֹ לַעֲבֹר עַל מִצְוַת לֹא תַּעֲשֶׂה אוֹ לְבַטֵּל מִצְוַת עֲשֵׂה אֲפִלּוּ שֶׁל דִּבְרֵיהֶם. הֲרֵי זֶה לֹא יִשְׁמַע לוֹ שֶׁנֶּאֱמַר (ויקרא יט ג)"אִישׁ אִמּוֹ וְאָבִיו תִּירָאוּ וְאֶת שַׁבְּתֹתַי תִּשְׁמֹרוּ". כֻּלְּכֶם חַיָּבִין בִּכְבוֹדִי

12) When a person's father tells him to violate the words of the Torah - whether he tells him to transgress a negative commandment or not to fulfill a positive commandment, even if all that is involved is a point of Rabbinic Law - he should not listen to him, as can be inferred from Leviticus 19:3: 'A person must fear his mother and his father and keep My Sabbaths.' Implied is that all are obligated in honoring Me.

אָמַר לוֹ אָבִיו הַשְׁקֵנִי מַיִם וְיֵשׁ בְּיָדוֹ לַעֲשׂוֹת מִצְוָה אִם אֶפְשָׁר לַמִּצְוָה שֶׁתֵּעָשֶׂה עַל יְדֵי אֲחֵרִים תֵּעָשֶׂה וְיִתְעַסֵּק בְּכִבּוּד אָבִיו שֶׁאֵין מְבַטְּלִין מִצְוָה מִפְּנֵי מִצְוָה. וְאִם אֵין שָׁם אֲחֵרִים לַעֲשׂוֹתָהּ יִתְעַסֵּק בַּמִּצְוָה וְיָנִיחַ כָּבוֹד אָבִיו שֶׁהוּא וְאָבִיו חַיָּבִים בִּדְבַר מִצְוָה. וְתַלְמוּד תּוֹרָה גָּדוֹל מִכִּבּוּד אָב וָאֵם

13) The following laws apply when a person's father tells him: 'Draw water for me,' and he has the opportunity to perform a mitzvah. If it is possible for the mitzvah to be performed by others, they should perform it and he should concern himself with honoring his father. For we do not negate the observance of one mitzvah, because of the observance of another mitzvah. If there are no others able to perform the other mitzvah, he should perform the mitzvah and neglect his father's honor. For he and his father are obligated to perform the mitzvah. Torah study surpasses honoring one's father and mother.

Lesson 4: Creating A *Responsa* for *Kibbud Av Va'eim*: Being Accountable to Myself and Others

Essential Questions

1. How can the relationship between my parent or guardian and me benefit from *tzimtzum* (contraction)?
2. How can Judaism help me define myself in relation to my parent or guardian?

Goals (*As an educator, I want to show students…*)

1. The relationship between *tzimtzum* and the main thrust of the texts on *kibbud av va'eim*.
2. To ask a question(s) that can relate the application of the main thrust of the texts on *kibbud av va'eim* to their own relationships with parents or guardians.

Objectives (*Students will be able to…*)

1. Define *tzimtzum* and apply it to the relationship between me and my parents.
2. Craft a question (*sheila*) that can relate the main thrust of *kibbud av va'eim* to their contemporary relationships with parents or guardians and create their own answer (*tshuvah*).

Materials

- Device to play video
- Screen to show video and connect to device
- Appendix 5.4A-C
- Pens/Pencils
- Journals
- Supplies for Activity 2: TBD by each individual teacher

Set Induction: *Tzimtzum* Video[84]

Show: https://www.chabad.org/multimedia/media_cdo/aid/748130/jewish/The-Secret-of-the-Bagel.htm

1. Say: In Lesson 2, we learned that we can understand our parents and God as partners in the act of creation. Today, we come back to this concept and build further upon it.
2. Ask: Can someone try to define *tzimtzum* based on what they saw in the video? (*Tzimtzum* is the idea of self-contraction. One self-contracts to create space, like the space in a bagel. In this space, one provides room for growth. In the case of God, this room allows humans to grow and fill the earth with God's light.[85])
3. Ask: Based on the video, how does God self-contract? Now, how might we apply this idea of *tzimtzum* to our own human relationships?
4. Say: We are going to "test" out the concept of *tzimtzum* on each other!

Activity 1: The Therapeutic Effect of *Tzimtzum*

This activity is meant make the concept of *tzimtzum* more concrete and relatable.

1. First, have someone in the class read each paragraph of the story about the prince popcorn style: See Appendix 5.4A
2. Ask: What elements does the wise man use to become successful in this situation. (Write the responses on the board, for example, does not seek to make the prince admit he is not a turkey, etc)
3. Read the following paragraph out loud: When we look in a mirror and strike a strong pose, our mirror image does the same. This is also true for our relationship with God: God reacts to us in accordance with the way we act in God's presence. If we act humbly, God will contract God's self in dealing with us so that we will have the strength to stand in God's presence. However, if we act arrogantly, it stands to reason that God will act toward us in all God's greatness.

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[84] Note to The Teacher: This intensive day of learning could be a great day to provide some bagels for the students, especially in the spirit of this video!

[85] Mordechai Rotenberg, *Psychology of Tzimtzum: Self, Other, and God* (Jerusalem: Maggid Books, 2015), 2-3.

No mortal has the strength to stand before God's greatness; we can only stand before God if God contracts God's self.[86]

4. If we equate God to parents in the example above, how should we act towards our parent or guardian? (If children can make room for the parent or guardian's feelings, it could change the way parents in turn relate to their children by giving them more space through self-contraction.)
5. Say: Consider the main thrust you have come up with for *kibbud av va'eim* over the last few classes. Now, think for a moment by yourself about how the notion of *tzimtzum* we have just discussed might relate/benefit that main thrust? Take a few moments to jot down some notes in your journal, as we get ready to begin our own person question and answer on the topic of *kibbud av va'eim*

Activity 2: Create Your Own *Responsa* (Can be in the form of art, music, writing, or video.)

In this activity, students will work alone to create their own *sheilah* (question) and *tshuvah* (answer). You should provide them with the graphic organizer and printable version of the directions below in Appendix 5.4B-C to help them develop their *responsa*. Then, they should put their *responsa* into a format of their choice to present to the class next week during the hearing. If students need more than about an hour of time, you may choose to give them another class period to work on this activity.

Instructions to Guide Students in Creating Their Individual *Responsa*

1. As a teenager, you walk a fine line of developing independently and within the confines of your parents. Reflect once again on the main thrust you have derived from the texts we studied on *Kibbud av va'eim*.
2. Think of a specific tension you face regarding your own independent development, something that is important to your growth as a person, and the laws of *kibbud av va'eim*.
    a. For example, My own religious beliefs are in opposition of that of my parent or guardian's

[86] Mordechai Rotenberg, *Psychology of Tzimtzum: Self, Other, and God* (Jerusalem: Maggid Books, 2015), 39-40.

   b. For example, What I see as best for my own growth in my college selection comes into conflict with my parent or guardian's ideal for myself.

3. Based on this thought, ask a specific question that applies the main thrust you derived to your specific family circumstance.

   a. For example, "I want to keep kosher, but my parents do not keep kosher in their home. Should I refrain from eating in my parent's home now?"

   b. For example, "I want to apply to colleges far away from home that seem to really fit my personality, but my parents want me to stay in state. How do I respect my own self and that of my parents at the same time?"

4. Come up with an answer that you are both happy with and draws upon relevant texts and interpretations that you worked on in our previous classes. The answer should satisfy your individual conscience and the texts on *kibbud av'veim.* Next week, we will present our questions and answers to the class. Use the graphic organizer to help you develop your answer. - See Appendix 5.4C

Appendix 5.4A

A prince lost his mind and began to think of himself as a turkey. He sat naked under the table, refraining from all food except for raw oatmeal, which he would place in his mouth and eat…The king his father summoned all the physicians in the kingdom to heal his son but none of them was able to come up with a cure. One day, a wise man appeared before the king and said to him, "I will cure your son."

The wise man immediately undressed and, sitting down under the table beside the prince, began to gather grains of oatmeal, which he put into his mouth. The prince asked him, "Who are you and what are you doing here?" The wise man replied with a question: "And who are you and what are you doing here?" I am a turkey," said the prince. "And so am I," rejoined the wise man. The two turkeys sat under the table side by side until they became accustomed to one another.

Seeing that the prince had become accustomed to his presence, the wise man motioned that he be given a rob. Putting on the robe, he turned to the prince, saying, "Do you think that a turkey is not entitled to wear robe? It is entitled to do so and that does not mean it stops being a turkey." After pondering the wise man's words for a while, the prince also agreed to wear a robe. A few days later, the wise man asked for a pair of pants, and after putting them on, he asked the prince, "Do you think that turkey is not entitled to wear pants?" The prince admitted that a turkey could wear pants and he also put on a pair of pants. Eventually, both the wise man and the prince were full dressed.

Then the wise man requested human food and asked the prince whether a turkey had to sit under the table. They both concluded that a turkey could go wherever it wanted and that this was perfectly acceptable. The prince then began to walk about, to eat, and to tact like an ordinary human being.[87]

[87] Mordechai Rotenberg, *Psychology of Tzimtzum: Self, Other, and God* (Jerusalem: Maggid Books, 2015), 29-30.

Appendix 5.4B

Instructions for Students to Guide Students in Creating An Individual *Responsa*

1. As a teenager, you walk a fine line of developing independently and within the confines of your parents. Reflect once again on the main thrust you have derived from the texts we studied on *Kibbud av va'eim*.-See Main Thrust graphic organizer used in lesson 2 and 3.
2. Think of a specific tension you face regarding your own independent development, something that is important to your growth as a person, and the laws of *kibbud av va'eim*.
    a. For example, My own religious beliefs are in opposition of that of my parent or guardian's
    b. For example, What I see as best for my own growth in my college selection comes into conflict with my parent or guardian's ideal for myself.
3. Based on this thought, ask a specific question that applies the main thrust you derived to your specific family circumstance.
    a. For example, "I want to keep kosher, but my parents do not keep kosher in their home. Should I refrain from eating in my parent's home now?"
    b. For example, "I want to apply to colleges far away from home that seem to really fit my personality, but my parents want me to stay in state. How do I respect my own self and that of my parents at the same time?"
4. Come up with an answer that you are both happy with and draws upon relevant texts and interpretations that you worked on in our previous classes. The answer should satisfy your individual conscience and the texts on *kibbud av va'eim.* Next week, we will present our questions and answers to the class. Use the graphic organizer to help you develop your answer. Use the graphic organizer titled "Defining Myself in Relation to My Parents or Guardians."

Appendix 5.4C

Defining Myself in Relation to my Parents or Guardians

Statement of the Question: This Should be Kept Brief (1-2 sentences)	
Introduction of The Problem That Led You To Your Question	
State Your Main Thrust Briefly (1-2 sentences)	
Source 1 and interpretation that led you to Main Thrust	
Source 2 and interpretation that led you to Main Thrust	

Source 3 and interpretation that led you to Main Thrust	
Define the context you find yourself in. What specifically needs to be taken into account to answer the question? (i.e. technology, ways of communicating, etc)	
Application of Main Thrust to New Context.	
How does your application take your own conscience into account?	
Concluding Paragraph (3-4 sentences will suffice)	

Lesson 5: Presentation of Project[88]

Essential Questions

1. How can *halakhah* translate age-old text about *kibbud av va'eim* into action that I can apply to my contemporary familial relationships?
2. How can I use the *halakhic* process to define myself today with regards to my parents or guardians?
3. How do I act in accordance with *kibbud av va'eim* when a parent or guardian tries to counter my religious or ethical values?[89]

Goals (*As an educator, I want to …*)

1. Provide students with a safe and supportive space to share their *responsa*.
2. Facilitate an interaction between students and current college students that may be able to shed further light on defining oneself in relation to their parents.

Objectives (*Students will be able to…*)

1. Explain their *responsa* in a way that both addresses the contextual problem and cites evidence from the text.

Materials

- All materials that are necessary for each individual student to make their presentations (e.g Video, Audio, Easel, etc.)
- Refreshments, chairs for presenters and guests
- Appendix 5.5A

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[88] Note to The Teacher: This lesson asks that you invite college age students into the classroom. Please plan ahead!

[89] Daniel Nevins, "Between Parents and Children," in *The Observant Life: The Wisdom of Conservative Judaism For Contemporary Life*, ed. Martin S. Cohen and Michael Katz (New York: The Rabbinical Assembly, 2012), 673-692.

Activity 1: Student Presentations

- Each student should have between 5 and 7 minutes to present their *responsa* to the class and a group of college students from a nearby university.
- Ideally, these will be Jewish college students. Alternatively, you may try to do this lesson at a time when college students from the community in which you teach are in town and willing to participate in this lesson. If you do not have access to college age students, invite some young adult professionals instead.
- The presentations may look differently depending upon the medium with which each student decided on. It could be reading something, showing a video, displaying a piece of art and speaking about it, singing a song and discussing it, etc.
- You need not allow time for questions! There will be an opportunity for this during Activity 2.

Activity 2: Meet and Greet[90]

For this activity, you should ideally have about 30 minutes left for an informal reception. As the instructor, you should divide this time in half so that each of your students will be able to spend about 15 minutes with two college students or young professional adults. It would be best to provide some sort of refreshments. The idea is for the high school students to be able to dialogue with the college age students or young professional adults about their project and gain some informal feedback on the *responsa* they presented. This activity helps to make the project even more authentic. See Appendix 5.5A for sample questions students may like to ask each other. Set up areas of two chairs each throughout the room for one high school students and one college student to sit at with enough distance between that people will be able to hear each other speak.

1. First, give the students and the college age students or young adult professionals a few minutes to grab some refreshments.

[90] Note to The Teacher: You may choose to spend more or less time on this activity than suggested. Also, you can allow less time for each conversation to allow students to meet with a different number of college students. Finally, if you have a different number of high school and college students, you should adjust the activity accordingly. For example, if you have more high school students than college students, have a few of your high school students pair up for the conversations.

2. Then, tell your students to have a seat.
3. Then, tell the college students to go find a seat next to a high school student. If possible, they should sit next to one which presented about a *responsa* they can closely relate to. If not, that is ok too.
4. After about 15 minutes, the college age students or young adult professional should get up and go sit next to another high school student to have another 15-minute conversation.

Appendix 5.5A

Sample Questions

From the High School Student

1. Have you experienced challenges with your parents as you have transitioned to being more independent?
2. Do you have any advice for me as I make a similar transition?

From College Age Student or Young Adult Professional

1. How did you come up with the question you asked?
2. Can you tell me more about x?

Unit 6: A Reflection on The Halakhic Process: Curriculum Assessment

According to Wiggins and McTighe, the highest form of understanding is self-knowledge.[91] The goal is for the students to be able to act moving forward based on what they understand about the *halakhic* process. The curriculum will end with a final reflection about how the students feel about *halakhah* at the end of this curriculum and how they will be able to use the *halakhic* process to help them continue to define themselves Jewishly in the future. As Wiggins and McTighe suggests, reflection is what allows self-knowledge to transpire into action.[92]

Unit Enduring Understandings

1. Halakhah translates stories of Jews and ethical values of Judaism into ongoing action.

2. The creative process of halakhah encourages individuals and communities to define themselves by constructing an identity within the Jewish culture.

3. Reflection allows self-knowledge to transform into action.

Unit Essential Questions

1. What is *halakhah*?
2. What are Jewish values and how do they relate to *halakhah*?
3. Why should I care about *halakhah* as a Reform Jew?

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[91] Grant Wiggins and Jay McTighe, *Understanding By Design* (Pearson: Upper Saddle River, NJ, 2006), 100-103.

[92] Note to the Teacher: You may wish to play some calming music in the background to set a reflective mood.

Lesson 1: A Reflection on The *Halakhic* Process

Essential Questions

1. What is *halakhah*?
2. What are Jewish values and how do they relate to *halakhah*?
3. Why should I care about *halakhah* as a Reform Jew?

Goals (*As an education, I want to show students…*)

1. The act of reflection can help one to see all they have learned in this curriculum.

Objectives (*Students will be able to…*)

1. Define *halakhah* in their own words.
2. Explain the significance of *halakhah* for their Reform Jewish practice and their individual lives.
3. Reflect on the ways their definition of *halakhah* and how their relationship to the Jewish tradition has evolved over the course of this curriculum.

Materials

- Journals
- Pens/Pencils
- Board/Smart Board
- Paper
- Drawing Supplies (Markers, Colored Pencils, Etc.)

Activity 1: Personal Definitions

In this activity, students will have the opportunity to put everything they have learned in this unit together in this curriculum to create their own personal definition of *halakhah*. This definition can evolve, but it is important at this time in the curriculum to give the students a chance to reflect individually on where they have been thus far on this journey. This will give them some space to think about where they might want to go beyond this course. This activity should take a good chunk of time and be done as a writing exercise. The students should answer the following questions:

1. What is my definition of *halakhah* now?
2. How has *halakhah* helped to define me within the Jewish framework so far?
3. What questions do I have about my life now that I would like to use the *halakhic* process to answer?

Activity 2: Reflection as A Group

For this activity, the students and the teachers will discuss their written reflections regarding the two questions they answered.

Discussion Questions

1. How has your definition evolved from the one you crafted in unit one?
2. Now that you have been through the *halakhic* process a few times, lets pinpoint how it allows you to define yourself Jewishly? Write these answers on the board.

Activity 3: Draw A Picture of Yourself "Defined Jewishly"

For this final activity, provide students with paper and markers. Tell the students to draw themselves in a way that shows how they are defined by Judaism now and moving forward. You will end the course by having students share their drawings. Tell students to look at the board from activity 2 for ideas. Below are some examples you may share with them:

1. Mouth- allows you to relate to other Jewish learners and the major texts of the Jewish tradition.
2. Brain- allows them to critically think about Jewish text and interpret it

3. Heart- This represents my conscious. I don't apply a main thrust in ways which do not uphold what I feel in my heart, my individual conscience.

Educational Closure

1. Have students share/explain their drawings from Activity 3.
2. Take any remaining questions
3. Pass back all students work and materials so that students will be able to build off their work and skills in the future!

Annotated Bibliography

Adler, R. (1998). *Engendering Judaism: An inclusive theology and ethics*. Philadelphia, PA: The Jewish Publication Society.

- Chapter two of this book, titled "Here Comes Skotsl" Renewing Halakhah" helped me to better understand the different ways *halakhah* can be defined. Based on my understanding of this chapter, I was able to craft one of my enduring understandings of this curriculum, which says that *halakhah* translates Jewish stories and ethical values into ongoing action. This book provides a philosophy of how *halakhah* can conceivable be understood in a Reform context but does not include many concrete or practical steps.

Holtz, B. W. (1984). *Back to the sources: Reading the classic Jewish texts*. New York: Simon & Schuster Paperbacks.

- This book is a modern and practical guide to the major *halakhic* sources that are included in this curriculum. I use this book in Unit 1 to introduce students to Bible and Talmud.

Holzer, E., & Kent, O. (2014). *A philosophy of havruta: Understanding and teaching the art of text study in pairs*. Boston: Academic Studies Press.

- This book became the foundation for my second unit, *The Art of Interpretation*. Holzer and Kent provide both the theory and practical guidelines for how to teach *hevrutah* and interpretation skills in the classroom. Since my curriculum depends on the students being able to find new meaning from a set of text, these skills are very important. With the help of this book, I was able to construct on of the enduring understandings of this curriculum, which says that interpretation allows new meaning to emerge from sacred texts.

Nevins, D. S. (2012). Between Parents and Children In M. S. Cohen & M. Katz, (Eds.), *The observant life: The wisdom of Conservative Judaism for contemporary Jews* (673-692). New York: The Rabbinical Assembly.

- I found the content area of the fifth unit, *kibbud av va'eim*, to be especially challenging. This book not only helped me to wrap my head around this *halakhic* area but also give me some ideas as to the new ways it can apply in the lives of modern Jews.

Petuchowski, J. J. (1979). *Ever since Sinai*. Milwaukee, WI: B. Arbit Books.

- Jacob Petuchowski is a Reform rabbi and scholar. The chapter titled, "The Study and To Do" provides a foundation for the *halakhic* process and the overarching understanding upon which this curriculum guide is based. That enduring understanding says investigation into the main thrust of the Jewish millennial tradition, a definition of the context in which one finds themselves personally, attention to one's individual conscience and an accountability to the covenantal community provides a way for Reform Jews to engage in a *halakhic* process. In unit three, students will actually read exceprts from this chapter to gain a better understanding of each part of the *halakhic* process. The structure of units four and five are based on Ptuchowski's understanding of how Reform Judaism can embrace a *halakhic* process.

Washofsky, M. (2002). Taking precedent seriously: On halakhah as a rhetorical practice In (W. Jacob & M. Zemer, Eds.), *Re-Examining progressive halakhah* (1-70). New York: Berghahn Books.

- In this chapter, Washofsky explores the meaning of precedent in a variety of legal system. This chapter will provide you with an understanding of how legal systems work and why

halakhah can be considered a legal system. He argues that it is possible to both respect precedent and innovate within a legal system, paving the way for new interpretations. This chapter would be particulary helpful to read before teaching unit three of this curriculum.

Washofsky, M. (1991). The search for liberal halakhah In (W. Jacob & M. Zemer, Eds.), *Dynamic Jewish law: Progressive halakhah - essence and application* (25-51). Tel-Aviv: Rodef Shalom Press.

- In this chapter, Washofsky provides a very succinct and easy to follow history of liberal *halakhah.* Within his writing, he also explains how liberal movements and non-liberal movements approach *halakhah*. This would be a good chapter to read before teaching unit one of this curriculum.

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