

FOUNDATIONS



Foundations for a Thoughtful Judaism Ethics

SOURCES



SHALOM HARTMAN מכון
INSTITUTE שלום הרטמן



CLASS 2

THE MORAL CONCERN APPROACH

Source 1



Babylonian Talmud Sanhedrin 6b

רבי אליעזר בנו של רבי יוסי הגלילי אומר: אסור לבצוע, וכל הבוצע - הרי זה חוטא, וכל המברך את הבוצע - הרי זה מנאץ, ועל זה נאמר (תהלים י') בצע ברך נאץ ה', אלא: יקוב הדין את ההר, שנאמר (דברים א') כי המשפט לא-להים הוא, וכן משה היה אומר יקוב הדין את ההר.

אבל אהרן אוהב שלום ורודף שלום, ומשים שלום בין אדם לחבירו, שנאמר (מלאכי ב') תורת אמת היתה בפיהו ועולה לא נמצא בשפתיו בשלום ובמישור הלך אתי ורבים השיב מעון.

רבי יהושע בן קרחה אומר: מצוה לבצוע, שנאמר: (זכריה ח') אמת ומשפט שלום שפטו בשעריכם. והלא במקום שיש משפט - אין שלום, ובמקום שיש שלום - אין משפט. אלא איזהו משפט שיש בו שלום - הוי אומר: זה ביצוע.

Rabbi Eliezer the son of Rabbi Yose haGalili says: It is forbidden to compromise, and anyone who compromises has sinned. And everyone who blesses a compromiser is a blasphemer, as it says, "The arbitrator curses and renounces Hashem" (PSALMS 10:3). Instead, allow the law to cut through the mountain [i.e. take its course], as it said, "For it is the law of God" (DEUTERONOMY 1:17). And so, Moshe would say let the law cut through the mountain.

But Aaron loved peace and pursued peace, and he made peace between man and his friend, as it says, "The Torah of truth was on his mouth, unrighteousness was not found on his lips, he walked with Me in peace and uprightness, and turned many away from iniquity" (MALACHI 2:6).

Rabbi Joshua ben Korha said: It is a *mitzvah* to compromise, as it says, "Truth, justice and peace settle in your gate." But is it not true that in a place that there is justice, there is no peace [because one side will win], and in a place where there is peace, there is no justice [because the side that is right does not win]?! Instead, what is justice that has peace in it? We say about this that this is compromise.



Source 2



Mishnah Bava Metsia 1:1-2

שְׁנַיִם אוֹחֲזִין בְּטִלְתָּ, זֶה אוֹמֵר אֲנִי מְצָאתִיהָ וְזֶה אוֹמֵר אֲנִי מְצָאתִיהָ, זֶה אוֹמֵר כְּלָהּ שְׁלִי וְזֶה אוֹמֵר כְּלָהּ שְׁלִי, זֶה יִשָּׁבַע שְׂאִין לוֹ בָּהּ פְּחוֹת מִחֲצִיָּה, וְזֶה יִשָּׁבַע שְׂאִין לוֹ בָּהּ פְּחוֹת מִחֲצִיָּה, וַיִּחְלְקוּ. זֶה אוֹמֵר כְּלָהּ שְׁלִי וְזֶה אוֹמֵר חֲצִיָּה שְׁלִי, הָאוֹמֵר כְּלָהּ שְׁלִי, יִשָּׁבַע שְׂאִין לוֹ בָּהּ פְּחוֹת מִשְׁלֹשָׁה חֲלָקִים, וְהָאוֹמֵר חֲצִיָּה שְׁלִי, יִשָּׁבַע שְׂאִין לוֹ בָּהּ פְּחוֹת מִרְבִּיעַ. זֶה נוֹטֵל שְׁלֹשָׁה חֲלָקִים, וְזֶה נוֹטֵל רְבִיעַ: ... בְּזִמְנָן שֶׁהֵם מוֹדִים אוֹ שֵׁישׁ לָהֶן עֵדִים, חוֹלְקִים בְּלֹא שְׁבוּעָה:

If two people are grasping a cloak: One says, “I found it” and the other says, “I found it,” or one says “It’s all mine,” and the other says, “It’s all mine,” they each swear that they don’t own more than half of the cloak and they split the cloak. If one says, “It’s all mine,” and the other says, “It’s half mine,” the one who says, “It’s all mine” swears that they do not own less than three quarters, and the one who says “It’s half mine” swears that they do not own less than one quarter. And the former takes three quarters, and the latter takes one quarter...In a situation where they accept each other’s claims or there are witnesses, they split the garment without needing to take oaths.

Source 3



Babylonian Talmud Gittin 55a

תנו רבנן: גזל מריש ובנאו בבירה, ב"ש אומרים: מקעקע כל הבירה כולה ומחזיר מריש לבעליו, וב"ה אומרים: אין לו אלא דמי מריש בלבד, משום תקנת השבין.

The Rabbis taught: If a person wrongfully takes a beam and builds it into a palace, the House of Shammai say that they must demolish the whole palace and restore the beam to its owner. The House of Hillel, however, say that the latter can claim only the monetary value of the beam, so as not to place obstacles in the way of penitents.



Source 4



Shaul Magid, "Is Egalitarianism Heresy? Rethinking Gender on the Margins of Judaism," *Nashim: A Journal of Jewish Women's Studies and Gender Issues*, no. 8 (Fall 2004), 200

I wish to propose nothing less than a paradigmatic shift...in modern traditional Judaism's conception of the world with regard to gender and halakhah...I propose that we view egalitarianism as a new dogma...The underlying principle here is not halakhic and therefore cannot and should not be justified by solely by halakhic means. Rather, it is a redrawing of the boundaries of halakhic discourse on the basis of an ethical principle, one that I recognize as incompatible with the ethical world constructed by the rabbis. I am indebted to Martha Nussbaum's basic premise that the question of gender in society and religion is a question of justice and should be dealt with solely as such. While halakhic debate can and should continue on the particulars of this issue, it should function solely within the parameters of justice as the overarching and driving principle underlying halakhic adjudication.

Source 5



Blu Greenberg, *On Women and Judaism: A View from Tradition* (1981), 177-78

Perhaps this is the only legitimate response one can make at this time: a series of tentative remarks. If feminism is a revolution, as I believe it is, and Judaism is and always has been the rock-bottom source of a Jew's values, thoughts, feelings, actions, mores, laws, and loves—how else can one respond to and be part of that turbulent encounter but with a stammer, one step forward and half a step backward. I envy those who can say, "This is Halakhah (=Jewish law). That's it!" Or, "These are the absolute new truths, and nothing less will do!" I envy, but I also suspect, their unexamined complacency. I suspect that their fear is even greater than mine; therefore, they must keep the lid on even tighter and show no ambivalence, no caution, and no confusion.

So, for me, despite the turbulence, or maybe because of it, it has not been all bad. I have had some very good feelings in the course of doing this work. The best of these has been a sense of being able to approach the sources without intimidation. The fact that I can think about the traditional sources without knowing them exhaustively, that I can bring to bear my own interpretative keys without diminishing the divinity and authority of the Halakhah and tradition—this has been a revelation for me. So, too, the experience, which all women alive today share, of stretching ourselves, our minds, our talents, our sights. Transition women, like myself, are taking everything less for granted and finding each step more exhilarating.