

# Eliezer Berkovits and the Revival of Jewish Moral Thought

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For nearly two centuries, the institution of Jewish law has sustained withering criticism from religious thinkers who have argued that in submitting to a legalistic outlook, Judaism has abandoned the moral truths that were at the core of the ancient biblical teaching. Following Spinoza, these writers have argued that while the law may once have been necessary for the establishment of the ancient Jewish people, it was already showing signs of wear by the time of the prophets such as Isaiah and Jeremiah, and is certainly not relevant as law today; rather, it is the moral spirit expressed by these prophets that is the eternal message of Judaism. Thus according to Martin Buber, a leading spokesman for this approach, the central problem with the traditional view is that it “transforms the law into a heap of petty formulas and allows man’s decision for right and wrong action to degenerate into hairsplitting casuistry,” with the result that “religion no longer shapes but enslaves religiosity.”<sup>1</sup>

Views similar to Buber’s can be said to have reached the height of their influence during the first half of the twentieth century, at a time when

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modernist beliefs had become so accepted among Jewish religious thinkers that many openly doubted whether Jewish law would even survive the coming generations.<sup>2</sup> In our day, however, a reaction against such extreme positions can be felt throughout the spectrum of Jewish religious belief, a striking example being the platform adopted by the Reform movement in 1999, which broke with its century-long opposition to the application of Jewish law when it called for the “ongoing study of the whole array of *mitzvot*,” and the renewed observance of classical practices previously abjured by many of the movement’s leaders.<sup>3</sup> As a result, the question of the importance of the Jewish law, or halacha, has again become relevant in circles well beyond its traditional constituency, necessitating the reconsideration of fundamental questions concerning the nature and function of this law: If an approach to Jewish life based on law is not inherently at odds with the moral demands of the prophets, as some have argued, then what, if anything, is its moral value? Is it possible that the law, properly understood, could itself play an important role in creating the moral personality, and even that most elusive of aims, the moral society?

With such questions in the air, it is well worth a renewed consideration of the writings of Eliezer Berkovits, perhaps the one modern thinker who addressed these questions most directly and systematically, and who for this reason may prove to be the most significant Jewish moral theorist of the last generation. Berkovits, who died in 1992, is known principally for his writings on the Holocaust, as well as his essays on modern trends of Jewish philosophy.<sup>4</sup> His most important work, however, may be his exploration of the nature of Jewish morality—an effort spanning half a dozen books and many essays, which offers a comprehensive approach to Jewish faith that includes both respect for the traditional law as a binding norm and a belief in the normative supremacy of the values and vision articulated by the prophets.

This he achieved through a careful examination of the rabbinic and biblical literature, which led him to reach three important conclusions

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about Jewish morality: (i) That the halacha as presented in the Bible and Talmud is primarily about moral values rather than rules, and that any attempt to reduce it to a fixed set of rules violates its essence; (ii) that Jewish morality, as expressed by the prophets and as impressed upon the halacha, is concerned fundamentally with the consequences of one's actions rather than the quality of one's reasoning or intention; and (iii) that Judaism understands morality not only as a discipline of man's intellect or spirit, but no less as an effort which must be incorporated into the habits of his physical being, through the vehicle of law, if it is to achieve its goal of advancing mankind in history.

Perhaps there is no need to say that if Berkovits' description of Jewish morality is correct, then much of the fire and brimstone poured upon the halacha over many years may have been misguided, and the road may in fact be open for a serious reconsideration of the justifications and desirability of a law-observing Judaism in our own time. But perhaps of equal interest is the light which Berkovits' arguments shed on the defense of the law mounted by many of its staunchest adherents in recent years, which the central claims of his philosophy do much to call into question as well. In what follows, therefore, I have devoted one section to each of what I take to be the three central tenets of Berkovits' worldview concerning the relationship between Jewish morality and the traditional law. In so doing, I hope to show that, when considered together, they constitute one of the most potentially fruitful philosophies of Jewish morality in recent times; and to suggest that this effort may offer a path towards a more coherent understanding of the Jewish normative tradition.

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## II

**E**liezer Berkovits was born in Romania in 1908, and received his rabbinical and philosophical training in the 1930s at the Hildesheimer Rabbinical Seminary in Berlin and the University of Berlin. After escaping Germany in 1938, Berkovits served as a communal rabbi in Leeds, Sydney, and Boston before assuming the chair of the philosophy department at the Hebrew Theological Seminary in Chicago in 1958, where he taught until 1975. At that time, at the age of 67, Berkovits relocated to Jerusalem, where he lived and worked until his death less than a decade ago. Over the course of his career, Berkovits wrote no fewer than nineteen books, as well as many articles, which, while demonstrating an unflagging devotion to Orthodox Judaism, nevertheless reflected a sharp discontent with the dramatic changes that Orthodoxy had undergone during his lifetime.

In the decades that followed the Second World War, much of Orthodox culture underwent a transformation that the sociologist Menachem Friedman has described as a shift from “life tradition” to “book tradition,” or from a popular religion based on deeply rooted traditional values and norms, in which the scholar was generally limited in his ability to determine practice, to one centered on rules made explicit in the codes of law and in the interpretations of those codes by the rabbis of the yeshivot.<sup>5</sup> This shift had its roots in the rabbinical seminaries of Central and Eastern Europe in the early nineteenth century, but became a dominant social trend only after the Holocaust; at that time, the disruption of centuries of communal life prompted Orthodox leaders to encourage massive yeshiva enrollment, in the hope of rebuilding part of the vast world of Tora scholarship that had been lost. The result was that by the 1970s and 1980s, Orthodoxy had come to be characterized not only by a changed institutional structure, but

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also by a new normative ethos, based far more on the authority of the written halachic codes and their interpreters.

Although this shift was by no means uniform throughout Orthodoxy, a few general points have been observed in describing it. The first is that authority in determining Jewish practice, once given principally to family and communal traditions and only secondarily to the learned elites of the yeshivot, shifted decisively in favor of texts, particularly codes of law, and therefore to the yeshivot where they are studied. The second was a new tendency towards stringency in halachic ruling—what Judaic scholar Lawrence Kaplan has described as an “ethos of *humra*” (i.e., an ethos of stringency), predicated on the asceticism characteristic of yeshiva life, as well as a belief in strictness as a kind of moral training.<sup>6</sup> Third, Jewish practice to a great degree lost its internal hierarchy of values, which was displaced by a new tendency to view all halacha, down to the most minor of prohibitions, as possessing equal importance.<sup>7</sup> As a result of these changes, a new Orthodox norm has emerged that is quite different from what prevailed a century ago, in which value distinctions within the halacha have largely collapsed, and the rule of texts has, for the most part, prevailed.<sup>8</sup>

Berkovits’ writings represent the first and most concerted attempt by an Orthodox writer to resist these trends. The thrust of his argument is that the halacha, although a legal system, is nonetheless a fluid one governed by a fixed set of moral values; accordingly, it has always evolved, allowing change whenever particular rules, including biblical prohibitions, were understood to be in conflict with Judaism’s own larger goals. To demonstrate this, Berkovits wrote a number of works on the nature of Jewish law, the best known of which is *Not in Heaven: The Nature and Function of Halacha* (1983).<sup>9</sup> In this work he describes what he calls the “priority of the ethical” in halacha, by which he means a flexibility built into the law to allow for the fulfillment of higher moral principles. One such principle is that of human dignity (*kevod habriot*), the application of which ranges from preserving the physical modesty of men and women to protecting the honor

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of the disadvantaged. According to the Talmud, the preservation of human dignity overrides all rabbinical regulations, as well as some biblical commands.<sup>10</sup> Moreover, Berkovits cites a number of cases in which the principle of human dignity inspired legal innovation. The Talmud cites the ordinances concerning funeral rites, in which rabbinic leaders obligated wealthy families to adopt the standards of the poor, who could not afford fancy coffins and shrouds, in order to allay the latter's shame.<sup>11</sup> Another such value is the "ways of peace" (*darkei shalom*), the desire to prevent needless conflict both within the Jewish community and between Jews and gentiles. While the principle of the "ways of peace" is not given the same legal weight as human dignity, the rabbis nonetheless felt it to be a fundamental principle, as expressed by the late amoraic statement that "the Tora in its entirety exists for the sake of the ways of peace."<sup>12</sup> Berkovits cites additional principles which drive and at times override provisions of the halacha, including economic efficiency, public safety and common sense (*sevara*).<sup>13</sup>

The concern for such overarching values afforded the rabbis a remarkable degree of exegetical freedom, which—at least at some stages during the development of the halacha—permitted them to alter or even abrogate the practice of certain laws specified in the Bible. Occasionally this was done through technical innovations to circumvent the law, such as the institution of *prozbul*, a rabbinic writ enabling the extension of monetary loans beyond the sabbatical year despite a biblical injunction to the contrary.<sup>14</sup> More frequently, however, we find the plain intention of the biblical institution ignored. Berkovits cites a number of laws which, while explicit in both letter and spirit in the Tora, were either restricted beyond applicability or simply excised from the practical halacha: The case of the "stubborn and rebellious son" who, because of his vile and uncontrolled ways, is seen as deserving of death; the "city led astray" which is to be destroyed utterly because it has fallen to the temptation of public idolatry; or the "forty lashes" which the Tora prescribes as punishment for certain crimes, but which under the rabbinical interpretation are never to be carried out in full.<sup>15</sup> In these and similar cases, what Berkovits calls the "halachic

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conscience” has been called in to amend the law for the sake of a higher moral principle. In some instances the rabbis explicitly cite the general moral verses of the Bible, such as “And you shall do that which is right and good in the eyes of the Eternal your God.”<sup>16</sup> In others, no source was considered necessary to justify such steps.

Why did the rabbis allow themselves such a degree of flexibility in interpreting the law, if it is divinely revealed? According to Berkovits, such flexibility is central to the nature of the oral tradition. As he writes in *Crisis and Faith* (1976):

Every written law is somewhat “inhuman.” As a code laid down for generations, it must express a general idea and an abstract principle of what is right, of what is desired by the lawgiver. But every human situation is specific and not general or abstract.... The uniqueness of the situation will often call for additional attention by some other principle which has its validity within the system.

According to Berkovits, the written Tora cannot and does not advertise itself as an exhaustive handbook of Jewish living. Rather, it presents laws together with moral values, and then depends on an oral tradition to derive, express and apply these principles to the realities of human life. The role of the scholar is to internalize these values and translate them into functional rabbinic precedent, through what Berkovits calls the “creative boldness of application of the comprehensive ethos of the Tora to the case.” Through a living oral tradition, the scholar of Tora gives the written law its applicability, makes it relevant for the life of his generation, and thereby redeems it from irrelevance and inhumanness: “The written law longs for this, its redemption, by the oral Tora.”<sup>17</sup>

For this reason, in ancient times it was strictly forbidden to put the oral teachings into fixed, written form—a prohibition breached only reluctantly in the second century with the redaction of the Mishna by R. Yehuda Hanasi, when conditions of exile endangered the continued transmission of the oral law. However, as the exile deepened over the centuries, the need for

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increasingly concrete written representations of the halacha was felt, and the precedent set by the Mishna was repeated and expanded until, during the medieval period, the oral law was for the first time translated into the systematized written codes which are now understood to form the core of practical halacha. Today, codes of Jewish law have become central to yeshiva study; most rabbinical programs focus not on study of the Bible or Talmud, which contain mostly literary material or non-decisive legal discussions, but on the perusal of codes of law such as R. Jacob ben Asher's *Arba'a Turim* and R. Joseph Karo's *Shulhan Aruch*, and commentaries on these codes such as Karo's *Beit Yosef* and R. Yisrael Meir Kagan's *Mishna Brura*—the assumption being that through these will the student learn how to render proper halachic decisions when called upon.<sup>18</sup> Thus the recent shift in Orthodoxy towards an emphasis on “book learning” can be seen, in a way, as the extension of a trend that has spanned many centuries.

In *Crisis and Faith*, Berkovits reviews this history with no small measure of discomfort. In his view, this gradual transformation of the oral tradition into a written one was a “calamity,” representing a “violation of the essence of halacha.”<sup>19</sup> While he admits that owing to the Jews' historical predicament, there may not have been any alternative (as some of the codifiers maintained in their own defense), Berkovits nonetheless views the codification of the oral law as a blow to the traditional goals of Jewish law itself. Echoing the criticism leveled against the codes when they first appeared in medieval times, Berkovits sees them as violating the purpose of an oral tradition by reducing what is supposed to be a system of values, the application of which necessarily eludes precise and permanent delineation, to a set of rules. What was once “halacha”—literally, a *way* of living—became a complex code which circumscribes life but cannot capture its most essential contents. The kind of approach to Jewish life that emerged as a result, and became dominant in Orthodoxy in Berkovits' lifetime, was the shadow of what had once been a dynamic, creative approach to life.

Berkovits does not argue for the abolition of the *Shulhan Aruch*. He accepts the premise that the halacha is a binding system of law, and that, as

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with any legal system, one must for the sake of the integrity and stability of the law be willing to preserve time-worn precedents. In this regard, Berkovits is no revolutionary.<sup>20</sup> But by reviving the debate over the effect of the legal codes, he is nonetheless raising the banner for a reconsideration of the way halacha is understood. If the codification of the halacha was a necessary response to the trials of destruction and exile, then the lawbooks which have come to be identified so fully with Orthodoxy are in some important sense alien to the law. Even if they are helpful in assisting a student to review or to organize the halacha, they are of limited value in allowing him to understand, internalize, and ultimately live the values that are the law's essence. For this reason, Berkovits called for a revision of the way Orthodox rabbis are educated, in order to foster a rabbinic type that would more closely resemble the creative, erudite thinkers of the Talmud. This, he hoped, would lead to a regeneration of the vital and dynamic character of the law.<sup>21</sup>

Berkovits is not the only scholar of halacha to insist on the flexibility of the law. Such efforts have become especially popular in recent years, particularly among scholars of the Conservative movement; indeed, some of their arguments resemble Berkovits' quite closely.<sup>22</sup> Yet there is a significant difference between Berkovits' effort and that of these other scholars, which concerns the nature of the values which justify change. Underlying much of the argument of non-Orthodox scholars is an effort to justify change as part of an ongoing evolutionary process resulting from the continuous encounter between tradition and the evolving needs of the individual or society. In the words of Louis Jacobs, a prominent Conservative thinker: "The ultimate authority for determining which observances are binding upon the faithful Jew is the historical experience of the people of Israel"—meaning that history brings new situations before the Jewish people, and halacha must evolve accordingly.<sup>23</sup> Robert Gordis, another leading scholar of the Conservative movement, expresses a similar belief when he writes that "tradition constitutes the thesis, contemporary life is the antithesis, and the resultant of these two factors becomes the new synthesis. The synthesis of one age then becomes the thesis of the next; the

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newly formulated content of tradition becomes the point of departure for the next stage.”<sup>24</sup> In these and similar writings, the emphasis is upon change as a response to new challenges posed by the flow of history, with little attempt to spell out exactly what are the eternal values, if any, that the openness to change is ultimately intended to preserve. Change is a product of the fluid encounter between the Jewish people and history, and therefore it does not follow any clear pattern; it is as variegated as history itself. As a result, it often becomes difficult to tell from these writings whether the need for change is determined through reference to principles that are themselves found within the Jewish tradition, or whether it is derived from somewhere else.<sup>25</sup>

From Berkovits’ standpoint, this view is hard to reconcile with the moral message of the prophetic texts. These were clearly meant to deliver a message whose importance rested not in its success as a “synthesis” between the traditional and the contemporary, but precisely in its ability to transcend the changing attitudes of history. Indeed, according to the Talmud it was the criterion of eternal validity that determined whether a given text was included in the biblical canon in the first place.<sup>26</sup> Instead, Berkovits understands change in halacha to reflect the careful, incremental adjustment of legal means to further moral ends that are themselves intrinsic to Judaism and unchanging. These moral ends are not an external “antithesis” with which the tradition must come to terms by changing its internal content in keeping with them; they are themselves the moral core of the same revealed message from which the law receives its authority. Commenting on the statement of the medieval Jewish thinker Judah Halevi that “God forbid that there should be anything in the Tora that contradicts reason,” Berkovits writes:

The rabbis in the Talmud were guided by the insight: God forbid that there should be anything in the application of the Tora to the actual life situation that is contrary to the principles of ethics. What are those principles? They are Tora principles, like: “And you shall do that which is

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right and good in the eyes of the Eternal”; or “Her ways are ways of pleasantness, and all her paths are peace”... or “That you may walk in the way of good men, and keep the paths of the righteous”....<sup>27</sup>

While the law may change, the values which underlie it do not; on the contrary, the purpose of change is to permit the continued advancement of the Bible’s eternally valid moral teaching under new conditions.

This difference is felt in the way in which Berkovits levels his criticism of prevailing halachic practice. Berkovits believed that the halacha had ossified to the point of inflicting real damage on some of its own moral ends—two significant examples being the status of women in Orthodox life (particularly with respect to marriage and divorce law), to which he dedicated two full books; and the question of conversion standards, the increasing stringency of which was, in his mind, contributing to the dissolution of the unified Jewish people.<sup>28</sup> At the same time, however, the values Berkovits invokes are consistently those found in the biblical and rabbinic literature. When calling for a reconsideration of the status of women in Jewish law, for example, Berkovits shies away from Enlightenment concepts such as liberty and equality, and instead invokes classical Jewish concepts such as human dignity, the protection of the innocent, and the covenantal symbolism which the institution of marriage is supposed to entail, in order to conclude that “we have reached a juncture at which the comprehensive ethos of the Tora itself strains against its formulation in specific laws.”<sup>29</sup> In his theological writings, as well, Berkovits assumes that the Jewish tradition is driven by a set of moral values inherent to and derived solely from within that tradition. His *Studies in Biblical Theology* (1969) is an extensive and meticulous work dedicated to teasing out the essential moral principles of the Bible by analyzing its use of terms such as “holiness,” “justice,” and “truth.”<sup>30</sup>

Berkovits’ emphasis on values rather than rules, and the kinds of change which such an approach implies, earned him no small amount of criticism from an Orthodox establishment that was, and continues to be, in the midst of a dramatic shift in the opposite direction.<sup>31</sup> Yet his account of the

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oral tradition resolves a number of difficulties which the more conventional accounts are at pains to address. For example, a salient feature of the Talmud is its interweaving of legal discussions into a single text with the anecdotal and legendary materials known as *agada*. From the structure of the Talmud, it appears as though the halacha and agada were originally studied together, as a single subject. But if the halacha is essentially a set of rules rather than values, there is no obvious reason why the Talmud (or the Tora, for that matter) should ever have mixed together two essentially unrelated literary forms. Indeed, the logic of separating them is sufficiently compelling that Maimonides and the other codifiers found no difficulty in doing away almost entirely with the agada in composing their legal works; similarly, it is common practice in most yeshivot today to skip over the agadic passages of the Talmud, on the assumption that they have no important bearing upon the halachic discussion.

Yet if, as Berkovits insists, the rules of the halacha are merely one reflection of a set of higher moral principles, and the rules alone cannot suffice to provide the content of these values, then the interspersion of agadic material becomes reasonable, for it is in the tales and aphorisms of the rabbis that these moral principles are presented as part of an actual life full of unique situations; it is these stories that permit the student of halacha to study the application of values in complex, living circumstances, in a way that the study of a cut-and-dry legal code never can. If the institutions of Sabbath and prayer, to take two examples, are not merely about following a particular set of rules, but in fact aim at creating a certain type of devotional experience of which the rules are only a part, then the many agadot which appear in the talmudic tractates of Shabbat and Brachot, and which are rich in theological statements about the nature of these institutions, constitute a crucial alternative path for understanding how to live them.<sup>32</sup>

Another difficulty which Berkovits' model addresses is the relation between the prophetic and halachic texts. It is no secret that inasmuch as the halacha, narrowly understood, has become the focus of the yeshiva

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world, it has been at the expense of study of the Bible, particularly the books of the prophets. Like the *agada*, the biblical stories and prophetic teachings appear to add little to one's understanding of a rule-driven law; in several places the Talmud even prohibits the deduction of laws from prophetic texts.<sup>33</sup> Yet from the standpoint of the tradition itself, the reduction of the prophets' status is a difficult pill to swallow: The rabbis of the Talmud not only possessed an encyclopedic grasp of the prophetic writings, as is evidenced by their extensive citation of them; they also underscored the importance of the prophetic books through various *halachot* aimed at preserving their sanctity (such as the public reading of the *haftara* on the Sabbath, or the declaration that scrolls containing books of the Bible "defile the hands"),<sup>34</sup> as well as through detailed midrashic commentaries on many passages throughout the Prophets and Writings. The deepest secrets of the Tora are understood by the rabbis to be contained within the opening chapters of the book of Ezekiel, whereas the book of Esther is said to contain the key to understanding the Jews' covenant with God.<sup>35</sup> If the teachings of the prophets are so irrelevant to living a proper Jewish life, as may be inferred from their place in the yeshiva curriculum, why were the rabbis of the Talmud so concerned with them?

From the perspective suggested by Berkovits, there is no necessary separation between "prophetic" and "rabbinic" Judaism, for the thrust of both is moral. The rabbis were no less concerned with the cause of morality than were the prophets, and Berkovits is not exaggerating when he casts them as the prophets' moral heirs.<sup>36</sup> If there is a great difference between prophetic and rabbinic texts, it is due not to a diminution of the status of morality, but to its incorporation into an oral law charged with fashioning a formal normative system for a people living in dispersion. This does not mean that there were no real differences between the way the prophets understood the normative content of the Jewish law and the way it was understood by the rabbis. What it does mean is that the popular view of the rabbis as dedicated principally to the preservation and process of ritual laws,

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and only secondarily to moral principles, is the reverse of the truth; and that there need be no contradiction between a commitment to the halacha as a binding law and a belief in the primacy of morality in determining the content of that law. The moral realm is not only a part of the halachic tradition. It is its driving spirit.

### III

Nowhere in his writings did Eliezer Berkovits offer us a systematic treatise on the nature of Jewish morality, as considered separately from halacha. Yet his writings are infused with a distinctive set of assumptions that amount to a systematic rejection of the Kantian style in ethics, which, with its nearly exclusive focus on purity of intention, has characterized the thought of almost every major writer on Jewish morality of the last century. The Jewish perspective, according to Berkovits, is not concerned with the attempt to identify absolute principles which should inform our intentions, for it is not primarily concerned with intentions at all. From Berkovits' perspective, what is important is not intentions, or even "actions" as such, as much as the consequences of action. The moral values which stand behind the writings of the prophets and the rabbis are, in other words, an attempt to describe a desired state of human affairs within the world, the achievement of which is the aim of moral behavior.

This belief plays an especially prominent role in his halachic writings. One of Berkovits' goals in writing *Not in Heaven* is to demonstrate that the halacha not only accepts the priority of the moral, but also, as a consequence, constantly concerns itself with what he calls the "wisdom of the feasible"—the willingness to accept change in the legal order when this is necessary in order to avert undesirable social consequences such as shame, injustice, waste, physical danger, or communal strife. Citing the talmudic

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dictum “what is possible is possible, what is impossible is impossible,” Berkovits brings a number of cases in which the Jewish norm is determined not according to a strict application of abstract principle, but according to the “possible”: That which can be reasonably expected to bear successful application, as measured by its consequences.

One example is the talmudic principle of “the end was permitted on account of the beginning,” according to which emergency personnel, who are permitted to travel on the Sabbath in order to save lives, are allowed to return home on the Sabbath as well, even after the risk to life has passed, when in principle they should be required to remain where they are. Because of the concern that doctors, midwives, or firefighters would hesitate to take the steps necessary to save lives because of the prospect of being stranded until nightfall, the rabbis allowed continued travel even after the mission had been completed, in order to achieve the desired result of saving lives.<sup>37</sup> Another example concerns the willingness of the rabbis to add an extra month to the Jewish calendar—with the consequence of delaying the observance of biblically prescribed holy days—for the purely practical reason of avoiding the difficulties of conducting Passover too soon after the winter rains.<sup>38</sup> Flexibility in halacha is displayed primarily in an effort to bring about desirable social results, or to prevent undesirable ones.

Similarly, Berkovits’ theological writings consistently emphasize the consequential side of prophetic morality. In the essays of *Studies in Biblical Theology*, not only are overtly moral terms such as righteousness (*tzedek*) and charity (*tzedaka*) understood to be addressing the actual achievement of good, as opposed to one’s intentions with respect to others; even terms which relate principally to the divine realm, such as the “spirit” of God or the notion of “holiness” (*kedusha*), are shown, convincingly, to refer to God’s actions or representation as they are reflected in their consequences within the historical world. Not surprisingly, this position is most vividly spelled out in Berkovits’ explanation of the biblical idea of “justice” (*mishpat*). Berkovits’ reading of the biblical text presents justice as concerned primarily with the bringing about of a just state of affairs, rather than possessing

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“just” intentions or adhering to “just” maxims; conversely, when justice is not done, it reflects not a violation of an absolute rule, but a betrayal of the actual widow, orphan, or oppressed, whose relative powerlessness has made them incapable of defending their righteousness.<sup>39</sup> Through a careful analysis of the biblical applications of the term *mishpat* and its cognates, Berkovits develops a larger understanding of justice built not on absolute ideals but on a divinely sanctioned notion of “an orderliness, an appropriateness, and a balanced relatedness of all things in nature without which life is not possible.” The prophetic demand for justice is thus understood as a call for the establishment of a just order within the world. Justice is, in Berkovits’ words, “an appropriateness, determined not by abstract consideration, but by the reality of man’s condition and subserving the meaningful preservation of human life.... Justice is done not that justice prevail, but that life prevail; it is done out of concern with a concrete situation, in which life is endangered and calls for its salvation.”<sup>40</sup>

To understand the significance of Berkovits’ approach, it is instructive to contrast it with the powerful existentialist movement that had come to dominate Jewish philosophy by Berkovits’ time, and which continues to set the tone for much of Jewish philosophy today. Inspired by the iconoclastic thought of Soren Kierkegaard and Franz Rosenzweig, many Jewish thinkers in interwar Germany turned away from the abstract ideals which were the focus of earlier German thought and instead turned their attention to the examination of the individual consciousness, out of the belief that only through such an “empirical” approach could they achieve a reliable philosophical understanding. In discussing the religious experience, thinkers such as Martin Buber and Abraham Joshua Heschel employed the classical Jewish sources with the aim of studying the religious experience of the individual, such as prophecy or mystic ecstasy.<sup>41</sup> When dealing with ethics, they tended to translate the moral teachings of the Jewish texts into an emphasis on “deeds”—ethical actions which derive their obligatory nature from one’s consciousness of God and of other people. However, while their

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appreciation for the concrete over the abstract brought them to an emphasis on actions, it is a natural result of their subjectivistic outlook that the “deed” was seen and judged primarily from the inside, as something which draws its importance and relevance principally from its place in the world of the acting subject: Either as a tool for the development of desirable qualities within the individual, or as part of a desirable pattern of individual living. The result is that while the existentialists paid greater attention to the importance of actions than did their German-idealist predecessors, they retained the latter’s rejection of consequences as a valid consideration in determining whether an action is moral. On the contrary, the weighing of consequences was understood to be a violation of the purity of intentions, which continued to be viewed as the essence of morality.

An extreme example of this position is found in Buber’s ethical writings. In a collection of his early essays entitled *On Judaism*, Buber argues that morality in Judaism, like ethics according to Kant, is predicated on the idea of “unconditionality”: That moral actions must be taken with the perfect intention of doing what is right, without regard for external consequence:

Not the matter of a deed determines its truth but the manner in which it is carried out: In human conditionality, or in divine unconditionality. Whether a deed will peter out in the outer courtyard, in the realm of things, or whether it will penetrate into the Holy of Holies is determined not by its content but by the power of decision which brought it about, and by the sanctity of intent that dwells in it.... Unconditionality is the specific religious content of Judaism.<sup>42</sup>

Deeds that are performed in “conditionality”—that is, with regard for their consequences—are in Buber’s mind impure, sullied in the “lowlands of causality.”<sup>43</sup> While actions certainly have consequences, these consequences are so intricately woven within the vast fabric of causality that man cannot hope to fathom them. However, when man purifies his intentions and

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ignores the conditions of the world, his actions “affect deeply the world’s destiny.”<sup>44</sup> It is the goal of the Jew, therefore, to work to purify his intentions, so that he may perform that which is right purely because it is so. A similar position is offered in Buber’s 1952 essay “Religion and Ethics,” where he defines ethics to mean

the “yes” or “no” which man gives to the conduct and actions possible to him, the radical distinction between them which affirms or denies them not according to their usefulness or harmfulness for individuals and society, but according to their intrinsic value and disvalue. We find the ethical in its purity only there where the human person confronts himself with his own potentiality and distinguishes and decides in this confrontation without asking anything other than what is right and what is wrong in his own situation.<sup>45</sup>

Similar sentiments are found in the writings of Abraham Joshua Heschel, despite his many differences with Buber. Like Buber, Heschel emphasizes the importance of ethical action taken in purity of intention as the focus of religious life. Heschel’s ethical vision is guided not by the careful weighing of consequences, but by an ideal of “piety” which focuses on intentions rather than results as the touchstone of moral validity. Piety is “the orientation of human inwardness toward the holy,” an orientation which is ahistorical, recognizing that “life takes place under wide horizons, horizons that range beyond the span of an individual life or even the life of a nation, of a generation or even of an era.”<sup>46</sup> Quoting the rabbinical dictum that “it matters not whether one does much or little, if only he directs his heart to heaven,”<sup>47</sup> Heschel describes what he believes to be the true end of good actions according to Judaism:

We exalt the deed; we do not idolize external performance. The outward performance is but an aspect of the totality of a deed. Jewish literature dilates on the idea that every act of man hinges and rests on the intention and hidden sentiments of the heart.<sup>48</sup>

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The significance of deeds, according to Heschel, is not in what they are capable of achieving in the outside world, but for the attainment of what he calls “spiritual ends”—that is, ends that relate to the spiritual state or level of the individual actor.<sup>49</sup> “The purpose of performance,” he writes in *God in Search of Man*, “is to transform the performer; the purpose of observance is to train us in achieving spiritual ends.... Ultimately, then, the goal of religious life is quality rather than quantity, not only *what* is done, but *how* it is done.”<sup>50</sup> Thus while Heschel does call for a “leap of action,” a decision to act that is more important than a leap of faith because it has a greater impact on one’s soul, the goal of such a leap is not the direct improvement of the state of things in the world, but to be “ushered into the presence of spiritual meaning. Through the ecstasy of deeds he [i.e., the Jew] learns to be certain of the hereness of God. Right living is a way to right thinking.”<sup>51</sup>

Berkovits also places a premium on “deeds,” yet it is clear that when he uses this term, he has something different in mind. While he agrees that actions have an invaluable impact upon character, for him the most important perspective from which to view deeds is from the “outside,” from a perspective that is historical and public rather than subjective and personal—and which therefore necessarily views consequences as essential. As he writes in *God, Man, and History* (1959):

The deed... is essentially social; and in order to be, it must find its place in the external world of man. It is social because it is always expressive of a relationship.... The deed, directed to the outside, is always in relationship to “an other.” This “other” may be the world, a neighbor, or God. However, in order to be, the deed must be effective; and it must be so in the place where it belongs—in the external world, in history. In fact, the deed is the stuff of which history is made.<sup>52</sup>

To understand morality purely from within the framework of the individual psyche, Berkovits argues, is inadequate to the nature of the Jewish

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norm, which is focused primarily upon one's relationship to "the world, a neighbor, or God." This focus on the external means that deeds are not simply connected with the outside world, but entirely dependent on it "in order to be." A deed that is not "effective," that does not achieve desired consequences, is not morally significant.

Understood more broadly, morality must consider consequences in history, because it is for the sake of history—the improvement of the condition of man and his eventual redemption—that morality exists. Berkovits explicitly deduces the nature of morality from the belief in an eventual redemption of mankind in history. "Man in all his creaturely existence is to be redeemed. Redemption is an event in history. This world is to be established as the kingdom of God. The deed, man's daily life in space and time, must find its place in the kingdom; it builds the kingdom.... The deed, being the stuff out of which history is made, is never private; it is always public, as history itself."<sup>53</sup> Morality does not concern merely the individual's adherence to the divine command, but is the individual's way of contributing to the biblical vision of redemption. In the moral deed, man takes responsibility for history.

In this, Berkovits' understanding of morality resembles Max Weber's "ethic of responsibility" governing the conduct of politics. In Weber's view, the moral political figure acts in full consideration of consequences because he is acting for the furtherance of certain results, and is held to account principally for his success or failure to bring them about.<sup>54</sup> Under such a system, right and wrong take on a different kind of meaning than under an approach based on the purity of intention, and require a different sort of discipline. Confronted with a situation that is unjust or dangerous to the public, the individual asks not which rules he is obligated to follow based on a theoretical ethics, but begins by asking what a just situation, or one which eliminated the danger, would look like; only then does he ask what is necessary in order to bring about such a state of affairs. The political figure described by Weber is motivated by a general sense of responsibility for

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outcomes, and is guided by his own understanding of what results are desirable. Moreover, because he is interested primarily in achievement rather than the correspondence of his actions to a set of rules, the kind of knowledge necessary for proper moral decisionmaking is vastly different under an ethic of responsibility than under an intention-driven ethics. If one must account for results, then one's understanding must include a due appreciation of all those things upon which results depend, beyond one's own intentions: Historical and cultural factors, the proclivities of political actors, human nature, and so forth.

It is such an ethic of responsibility that Berkovits sees being demanded by the Jewish understanding of the deed, which is "always public, as history itself." He finds in Judaism a moral perspective according to which our actions are determined out of a sense of responsibility for the attainment of certain results, be they on an interpersonal or on a communal level. This is not to say that Berkovits advocates the abandonment of the weighty rules of behavior which we ordinarily associate with morality. On the contrary, precepts such as the avoidance of lying, killing, and violating the property of others are essential elements in the creation of a society of the sort envisioned in the Bible, and it is for this reason that in addition to its articulation of a larger vision, the Bible provides a collection of strong precepts which are intended to contribute to its realization. But there is a crucial difference between the rules appearing under an ethic of responsibility and the moral law as understood by Kant's Jewish followers: Because the rules are derivative of a larger vision of society, they are also subordinate to that vision—that is, they are not "absolute" laws at all, but general principles which ought to be followed under most conditions, but which should not be binding in cases where their application clearly does more harm to that vision than does their neglect. The result is that even such clear-cut biblical precepts as the avoidance of shedding blood and infringing on the property of others are found—in the killing and expropriation experienced in wartime, for example—to be limited in their applicability

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when the greater good is truly at stake; and many other, often less weighty, biblical laws are affected in much the same manner. Moreover, the purity of intentions, which Kant posed as a minimal condition for moral behavior,<sup>55</sup> takes on secondary importance under an ethic of responsibility, in which intentions are only important insofar as they affect outcomes. And finally, as far as intellectual faculties are concerned, an ethic of responsibility places a far greater emphasis on one's ability to judge the weight of rules against the consequences of behavior in a given case than on one's ability to formulate a pure intention. Soundness of judgment, rather than purity of thinking, becomes the decisive element in the composition of the just soul.<sup>56</sup>

By introducing morality as an ethic of responsibility, Berkovits' understanding of Judaism avoids two common pitfalls of modern moral discourse. On the one hand, because rules governing right and wrong are not absolute, but are instead subordinated to outcomes, moral valuations cannot ignore the specific situation in which the individual finds himself and upon which outcomes depend; in no case are we left concluding that he has done something that is on some level "wrong" even though it was the best of all available options—a conclusion which follows easily from a morality based on absolute rules, but which violates our basic understanding that right and wrong are intimately linked to free will. On the other hand, because the biblical vision is an eternally binding one, the source of moral understanding is objective and external, so that man is not left groping for moral guidance solely from within the confines of his own immediate reality—a belief in the primacy of the "situation" which flows naturally from the existentialist enterprise, but which ultimately produces a morality that is hopelessly subjective and relativistic.<sup>57</sup>

In Judaism as understood by Berkovits, the moral actor adheres to the heteronomous precepts which the Bible and the tradition provide, but always keeps before his eyes the redemptive state of affairs which they are meant to bring about, and therefore understands that he must ultimately exercise his own judgment in determining where the applicability of a given

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moral precept reaches its limit. Morality for Berkovits is, like politics, an “art of the possible,” the aim of which is not mere adherence to a code, but the advancement of a vision of reality through the application of the consequence-driven values articulated by the prophets and their heirs in the rabbinic tradition.

#### IV

Berkovits’ argument with Kantian moral thought and its Jewish adherents is, however, predicated on a deeper critique of much of Western moral thought since pre-Christian times. This tradition has consistently sought to portray morality as a set of ideas which, once grasped and accepted by man’s non-physical side (that is, his intellect or spirit or soul), will bring about a commensurate change in the behavior of his physical element. Thus for Plato the good is identified with knowledge; for the Christian with faith; for Kant with reason. What unites this tradition is its fundamental dismissal of the body as a significant factor of the good, the assumption being that once man’s non-physical element is properly directed, the physical side will surely follow.<sup>58</sup>

However, as Berkovits points out, the physical side does not surely follow—and therefore it cannot be left out of the moral equation. Morality is distinct from other areas of philosophy in that it is about performance, which means that it cannot exist without the cooperation of the body. As he writes:

The spirit itself is powerless; it may act only in union with the vital or “material” forces in the cosmos. No one has ever accomplished anything merely by contemplating an idea. All conscious action is the result of some form of cooperation between the mind and the body. Matter—

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whatever its ultimate secret—without the mind is inanity; mind without matter is, at best, noble impotence.... The material world can be saved from the idiocy of mere being by the direction that it may receive from the spirit; the spirit can be redeemed from the prison of its impotence by the amount of cooperation that it may be able to derive from the material world.<sup>59</sup>

Here Berkovits confronts the Platonic-Christian moral tradition, which sets itself against the body and the material world it inhabits, with what he understands to be the traditional Jewish account of man's nature as comprising spiritual and material elements, both of which must be engaged and tutored if he is to redeem himself and his world.<sup>60</sup> In learning to act morally, man faces a dual task befitting his dual nature: His conscious self must learn to identify and desire the good, and his material side must learn how to carry it out. Because the material is no less intrinsic to morality than the spiritual, any moral system which does not account for both will necessarily fail to maintain its applicability for actual, physical man—and without applicability, morality can have no meaning.

Man's physical side, however, is notoriously unresponsive to the edicts of reason. The body is a cauldron of material energies, complex and conflicting forces which are, in Berkovits' words, "unaware of the existence of any moral code."<sup>61</sup> The behaviors of the human body are guided by its needs and appetites, which have no innate knowledge of or care for the demands of moral behavior. The matter of securing the body's "cooperation" therefore becomes a central problem. "Only now are we able to appreciate the seriousness of man's ethical predicament," Berkovits writes. "On the one hand, the mind of man, the custodian of all spiritual and ethical values, is by itself incapable of action; on the other, the life forces and all the sources of material energy, without whose instrumentality no ethical action is possible, are by their very essence completely indifferent to ethical or spiritual concepts.... The human body, the tool of individual moral conduct, is essentially amoral."<sup>62</sup> Moral behavior therefore requires full coordination between man's understanding of the good and his behavior

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as a physical being—a coordination which is itself no small achievement, and therefore which no discussion of morality can afford to ignore.

The mistaken belief that man can be made good solely through preparation of the mind is, in Berkovits' view, the salient tragedy of Western civilization. The Greeks understood, to varying degrees, the nature of the problem.<sup>63</sup> But beginning with Christianity, which decisively parted from its Hebrew biblical tradition when it wrote off the body as part of an incorrigibly sinful world, Western man as represented by European thought has associated the question of morality almost exclusively with the question of what a truncated, spiritualized actor, possessing only reason or faith, ought to do. The question of how, once right action has been determined, one is to overcome inner obstacles to taking the proper action is understood, when it is considered at all, to be a separate issue, relating to other realms such as psychology or education. "Since the days of antiquity," Berkovits writes, "Western civilization has mistakenly believed that it is possible to convince the body by reasoning with it.... And so it hoped in vain for effective ethical conduct through education. At its best, Western civilization was talking to the mind and never really reached the body."<sup>64</sup>

The result was that despite centuries of moral teaching, Western man was never able to overcome the intrinsic amorality of his material element. The rise of murderous regimes in the heart of the most philosophically developed civilization stood for Berkovits as testimony to the West's failure to grasp the nature of morality. "In this respect, there seems to be little difference between ages of greater or lesser enlightenment; except that, in times of greater intellectual advancement, as knowledge increases, man grows in power proportionately and becomes correspondingly more dangerous.... Notwithstanding enlightenment, man seems to remain an essentially unethical being."<sup>65</sup> Thus by focusing exclusively on the training of his reason, and leaving aside the very practical and consequentialistic question of how the body may be trained to follow the commands of the intellect, Western man was never adequately prepared to act decisively in the face of evil.

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As opposed to this tradition, Berkovits argues that Judaism has consistently maintained the centrality of the question of the physical. The rabbinic tradition is deeply occupied with man's composite nature as it pertains to his moral behavior. In the midrashic literature, man is consistently described as dual, combining both the "upper" and "lower" realms, resembling both the angels and the animals.<sup>66</sup> Commensurately, he possesses a "good inclination" which must be trained to outwit and overcome the "evil inclination," a naturally more powerful immoral urge associated with man's animal side. In later times, as well, much of Jewish moral literature focused not on the derivation of correct beliefs but on the discipline required to bring about moral behavior.<sup>67</sup>

According to Berkovits, Judaism addresses the problem of the human body by creating a comprehensive normative system that relates to the material on its own terms. Unlike the mind, the body cannot be taught through logical persuasion, for its "knowledge" does not take the form of words, arguments, or even primarily emotions. Rather, it "understands" through habits, and through what Berkovits refers to as the "bodily awareness"—that is, through acquired, reflexive reactions to circumstances within the world. To train the body to be moral, an appropriate method must be introduced:

The body is not accessible to logical reasoning. One can only teach it by making it do things. One does not learn to swim by reading books on swimming technique, nor does one become a painter merely by contemplating the styles of different schools. One learns to swim by swimming, to paint by painting, to act by acting.... This applies nowhere more strictly than in the realm of ethical action.<sup>68</sup>

Morality, like any other performative skill, requires actual physical training. If man is to live a moral life, rather than merely to think moral thoughts, it is not enough that he study the nature of the good or the right; he must also educate his physical element through its habituation to moral behavior,

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which requires a regime no less demanding than what is required for other areas of life in which performance is the measure of success.

To illustrate what such training might be like, and why it is essential for morality, Berkovits draws an analogy to military training: Just as it is potentially catastrophic for a soldier to learn to fight only in the context of an actual war, without advance preparation, so too is it perilous to ask a person to inhibit his powerful, amoral tendencies in the face of a moral challenge if he has not had advance preparation. Just as training for war means subjecting soldiers to a regimen of rehearsed fighting as if there were an actual enemy, so too does the Jewish tradition recognize the need for a method of moral rehearsal even in the absence of an actual moral challenge. This it achieves through the system of ritual laws, which discipline man's material side to disregard its own desires and act instead according to the prescriptions of the mind, as if there were an actual moral challenge being faced.<sup>69</sup>

Thus for Berkovits, even the "ritual" aspects of Jewish law which are devoid of obvious moral worth are nonetheless crucial for the moral training they provide. The dietary laws, for example, can be understood as preparation for a situation in which proper moral conduct may come into conflict with a specific physical urge, in this case the appetite for food. Through the continual, controlled inhibition of this appetite for the sake of a higher law, man learns to limit the influence of this urge upon his actions. When combined with similar training with regard to other physical inclinations, man's physical side as a whole becomes conditioned to responding correctly and accurately whenever emotions or inclinations conflict with moral demands:

The aim is to teach... a new "awareness," one which is foreign to the entire organic component of the human personality. It is the awareness... of an order of being as well as of meaning different from that of organic egocentricity. The purpose of the inhibitive rules is to practice saying "no" to self-centered demands; whereas the fulfillment of the positive

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commands is the exercise of saying “yes” in consideration of an order different from one’s own.<sup>70</sup>

This does not, of course, mean that the ritual laws have no meaning beyond their utility. Berkovits is careful to avoid casting Jewish ritual solely in an instrumental light, at the expense of the symbolic, devotional or historical meaning the rituals entail. He dedicates an entire chapter of *God, Man, and History* to showing how these commandments direct our composite selves not only toward moral behavior, but also toward a proper relationship between the individual and God.<sup>71</sup> What it does mean, however, is that the lattice of Jewish practices could not have simply been a collection of independently derived, socially encouraged devotional rituals, but needed to be a comprehensive system of law, if it were to fulfill its educational mission. Law, in the sense that it is meant here, means acting out of obligation, even in contravention of momentary desires. It means forcing our material side to act according to principle rather than inclination. Considered independently, symbolic rituals do not need to be “laws”; they can be undertaken on an individual basis, out of one’s appreciation for their esthetic virtues, and perpetuated through convention. By presenting rituals as law, Judaism demands of man that he impose a discipline on his own material self throughout his life. In this way, the tradition trains him as a moral being in a way that no amount of discourse can.

It is this appreciation of physical performance which leads Berkovits to argue that there is a value, albeit a diminished one, even in the performance of commandments by “rote,” without proper intention. The obligation of prayer offers an important case in point. Prayer is fundamentally a matter of devotion; through it, man expresses his most intimate thoughts and feelings to his creator. The intentions behind one’s prayer are, perhaps more so than in any other religious act, essential to its nature. Thus Joseph B. Soloveitchik, a leading Orthodox thinker of the Kantian tradition, insisted that intention constitutes the entirety and essence of prayer, whereas the physical recitation of prayers is merely “the technique of implementation of

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prayer and not prayer itself.”<sup>72</sup> Heschel, too, was stating what appeared obvious to him when he wrote that “to pray with *kavana* (inner devotion) may be difficult; to pray without it is ludicrous.”<sup>73</sup>

Yet by including prayer within a system of legal obligation, the halacha requires the Jew to pray at fixed times and in accordance with a fixed liturgy, with the result that many Jews often find themselves praying in the absence of proper intention. Seen solely from the perspective of the individual’s spiritual connection with God, such prayer may indeed be empty and meaningless. Yet from the standpoint of man’s material element, as Berkovits points out, the action is defensible, and even praiseworthy, because it both signifies and reinforces the body’s subjugation to the conscious decision to pray, even if the mind has not fully succeeded in following suit. As he writes:

Such, of course, is not the ideal form of prayer; at the same time, it is no small achievement to have taught the lips to “pray” on their own, without the conscious participation of the heart and mind. It shows that the human organism, from whose own nature hardly anything could be further removed than the wish to pray, has actually submitted to direction by the will to prayer.... Automatically “praying” lips may count for little in comparison with *kavana*, the directedness of the praying soul toward God in ecstatic submission; yet, they too represent a form of submission of the organic self to the will to pray.<sup>74</sup>

Thus the halacha is, for Berkovits, not a set of seemingly arbitrary rules dictated by God and the rabbis, but rather a necessary response to man’s fundamental dualism—an approach to morality which views the body as no less significant than the mind, and which forms a part of a larger, normative Judaism spanning both the moral and legal realms. This is something which other Jewish philosophers have in some ways attempted. Both Buber and Heschel, for example, insist that their philosophies of Judaism address, in Buber’s words, “the whole man, body and spirit together.” For this reason we find them not infrequently making statements similar to those of

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Berkovits concerning the importance of the body's involvement in moral actions.<sup>75</sup> Yet they fail to articulate any kind of method for preparing the body for moral action, under the assumption that where the mind determines to lead, the body will simply follow. Their moral teaching, it often seems, tacitly assumes that the human body is what the mind that inhabits it wishes it to be, rather than what it actually is.

The failure of so much of Western ethics to address the body as a moral question has a great deal to do with its emphasis on moral intention at the expense of the actual outcome of human actions. For if results are unimportant, then actions, however important, are so only insofar as they are a reflection of one's intentions. Moral failings are necessarily perceived as failures of the conscious mind, and therefore the only redress is a further purification of intent. The inevitable result of this approach, however, is a disjunction between the demands of morality and the hopes of redemption: By detaching morality from consequences, these thinkers must also detach it from any reasoned hope that moral behavior will, in any clear way, bring about the betterment of mankind in history. If there is to be any causal link, no matter how distant, between morality and redemption—a basic tenet of Judaism which no major Jewish thinker has yet attempted to do without—then an intention-based morality must relegate it to the realm of the incomprehensible and obscure, and make of it a matter for faith alone; which is precisely what many of these thinkers, adopting a mystical approach to history, advocate.<sup>76</sup> If, however, as Berkovits argues, morality is in its essence meant to bring about an actual improvement in the affairs of mankind, then one must view outcomes as the principal target of moral behavior, and the body as a central challenge to morality, since it is the agent of all moral outcomes.

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The Jewish moral tradition brings together three distinct elements: A system of law incorporating both moral and ritual obligations; a set of moral values emphasized in the teachings of the prophets and in the rabbinic tradition; and a vision of the improvement of man's lot in history, which adherence to the Jewish normative system is meant to assist in bringing about. Because of the difficulty of maintaining a balance among all three elements—law, values, and vision—contemporary Jewish thinkers are often found attempting to escape the central role bequeathed to one or another of them by Jewish tradition. For some, traditional values such as *kevod habriot*, human dignity, are downplayed in the effort to transform the more concrete precepts of Jewish law into the central imperative of religion; among others, it is the law that is undermined in the pursuit of distilled moral values which, while possessing great appeal in their simplest form, frequently fall short in their ability to give clear guidance for moral action when confronted with the complexity of real life; and in many cases as well, the improvement of man's condition within history is relegated to the status of a wishful, mystical outcome resulting from one's devotion to either laws or ethical principles that are themselves derived without reference to their consequences in history, and so no longer seem to have any discernible purpose that reaches beyond the bounds of the subjective mind.

Of Jewish thinkers in the last century, it was Eliezer Berkovits who most successfully combined these diverse elements of the tradition, preserving for each a proper place within a balanced system of Jewish morality: For Berkovits, it is the values of Judaism which constitute its eternal moral fabric, which underlie the law and which dictate the extent of change in the

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law over time; it is the prophetic vision which establishes morality as a vehicle for the advancement of man, and thereby determines the consequentialist character of these values; and it is the law—as law, not merely as traditional practice—which is needed to address the fundamental problem of man’s corporeality, a problem that must be overcome if moral beliefs are to be translated reliably into moral outcomes. Taken together, these elements form a comprehensive approach to morality which seems to offer the possibility of a Judaism that is capable of holding fast before the tides of revolution, while at the same time safeguarding our humanity and offering us the hope of genuine improvement of our condition within history.

By incorporating all three elements into a single moral system, Berkovits poses a significant challenge to those Jewish thinkers who read the tradition as making compliance with halachic codes the sole test of religious behavior. No less important, however, is the challenge he poses towards those of the opposite inclination, who have for so long assailed Jewish law as a stumbling-block for moral behavior. For as the events of the past century demonstrate, all the mind’s moral principles may come to nought if the concrete society which they are supposed to benefit lacks the practical discipline necessary to put them into practice—and this is a discipline that only law can teach. The renewed interest in Jewish law in recent years seems to reflect a disillusionment with the dominant assumption of twentieth-century Jewish thought: The belief that the Jewish people can successfully offer a moral example to the world while denying its tradition of heteronomous law. Eliezer Berkovits offers all Jews a compelling theoretical basis for rejecting that assumption.

Thus Berkovits provides a coherent alternative to both of these reductionist approaches, by suggesting that morality is ultimately about neither adherence to law nor proper intent, and that neither may therefore be understood as absolute. While cogently arguing for the very real significance of each for the emergence of a moral society, Berkovits reminds us

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that this does not mean that one should, for the sake of conceptual simplicity, forget their contingent nature. Only a rediscovery of the idea that morality is inspired by, and ultimately subordinate to, a vision of the improvement of mankind—and a conscientious application of that vision to reality in the form of our moral understanding and practice—can permit morality to emerge as a factor in human history.

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## **Notes**

1. Martin Buber, *On Judaism*, ed. Nahum Glatzer (New York: Schocken, 1995), p. 92.

2. Cf. M. Herbert Danzger, *Returning to Tradition: The Contemporary Revival of Orthodox Judaism* (New Haven: Yale, 1989), pp. 24-26. See also Howard W. Polsky, "A Study of Orthodoxy in Milwaukee: Social Characteristics, Beliefs, and Observances," in Marshall Sklare, ed., *The Jews: Social Patterns of an American Group* (New York: Free Press, 1958), pp. 325-335; and Sidney Goldstein and Calvin Goldschneider, "Jewish Religiosity: Ideological and Ritualistic Dimensions," in Marshall Sklare, ed., *The Jew in American Society* (New York: Behrman House, 1974), pp. 203-221.

3. "A Statement of Principles for Reform Judaism," adopted at the 1999 Pittsburgh Convention of the Central Conference of American Rabbis, available on the CCAR's Internet site, [www.ccarnet.org](http://www.ccarnet.org). According to the platform, Reform Jews "are committed to the ongoing study of the whole array of *mitzvot* and to the fulfillment of those that address us as individuals and as a community. Some of these *mitzvot*, sacred obligations, have long been observed by Reform Jews; others, both ancient and modern, demand renewed attention as the result of the unique context of our own times." According to R. Richard Levy, one of the statement's

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principal proponents, the use of the term *mitzva* is a deliberate break with the Reform movement's past, reflecting a new consensus among Reform rabbis in favor of a more traditional approach to Jewish practice: "The Centenary Perspective [the Reform platform adopted in 1976] would not use the Hebrew word *mitzva* but only the English word 'obligation,' whereas most Reform rabbis and laypeople are trying nowadays to build more and more *mitzvot* into their lives." According to Levy, "Reform Jews are much more willing today to rethink Jewish practices that have been taboo for a hundred years." An earlier draft of the statement also called for a rediscovery of specific practices of *kasbrut* and ritual immersion in a *mikveh*. Richard Levy, "Is It Time to Chart a New Course for Reform Judaism?" *Reform Judaism*, Winter 1998, pp. 10-22, 54.

4. On the Holocaust, cf. Eliezer Berkovits, *Faith After the Holocaust* (New York: Ktav, 1973); Eliezer Berkovits, *With God in Hell: Judaism in the Ghettos and Death Camps* (New York: Sanhedrin, 1979). Berkovits' essays on Jewish philosophers are collected in Eliezer Berkovits, *Major Themes in Modern Philosophies of Judaism* (New York: Ktav, 1974).

5. Menachem Friedman, "Life Tradition and Book Tradition in the Development of Ultra-Orthodox Judaism," in Harvey E. Goldberg, ed., *Judaism Viewed from Within and from Without* (Albany: SUNY, 1987), pp. 235-255.

6. Lawrence Kaplan, "The Hazon Ish: Haredi Critic of Traditional Orthodoxy," in Jack Wertheimer, ed., *The Uses of Tradition* (New York: Jewish Theological Seminary, 1992), pp. 145-173.

7. Cf. Michael K. Silber, "The Emergence of Ultra-Orthodoxy: The Invention of a Tradition," in Wertheimer, *Uses of Tradition*, pp. 49f. This leveling effect may be seen as a response to the perceived threat of the non-Orthodox movements, whose allure may have been seen as particularly strong at a time when large, uprooted Jewish populations were coming ashore to a New World in which these movements had established a successful base; since the threat came from those who rejected the binding nature of halacha, many Orthodox leaders responded by making adherence to halacha per se, rather than a complex of traditional value judgments, the overriding value.

8. The most important account of the change is that of the historian Haym Soloveitchik, whose essay "Rupture and Reconstruction: The Transformation of Contemporary Orthodoxy" created a minor tempest in Orthodox circles when it first appeared. The essay was published in *Tradition* 28:4, Summer 1994, pp. 64-130. In addition to this as well as the sources cited above by Friedman, Kaplan, and Silber, see Menachem Friedman, "The Lost Kiddush Cup: Changes in Ashkenazic Haredi Culture—A Tradition in Crisis," in Wertheimer, *Uses of Tradition*, pp. 175-186; Jack Wertheimer, *A People Divided: Judaism in Contemporary America* (New York: Basic Books, 1993), pp. 114-233.

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9. Eliezer Berkovits, *Not in Heaven: The Nature and Function of Halacha* (New York: Ktav, 1983). *Not in Heaven* appeared in an expanded form in Hebrew under the title *Halacha: Its Power and Function* (Jerusalem: Mosad Harav Kook, 1981).

10. Brachot 19b-20a; Jerusalem Brachot 3:1; Jerusalem Kilaim 9:1; cited in Berkovits, *Not in Heaven*, pp. 22-24, 120 n. 51.

11. Moed Katan 27a-27b; quoted in Berkovits, *Not in Heaven*, pp. 23-24.

12. See Mishna Gitin 5:8, and the discussion in Gitin 59b. The Tosefta relates that “because of the ways of peace,” Jews are obligated to support the poor of the non-Jewish communities, to visit their sick, and to bury their dead “as one buries the dead among Jews.” Tosefta Gitin 3:18. Berkovits, *Not in Heaven*, pp. 25-26.

13. Berkovits, *Not in Heaven*, pp. 3-32.

14. The question of whether the cancellation of loans was still considered to have biblical status at the time of Hillel is debated in the Talmud. According to the opinion of Abaye, which was later accepted as halacha, Hillel acted under the assumption of the position of R. Yehuda Hanasi (who lived about two hundred years after Hillel), according to which the cancellation of loans no longer was considered a biblical commandment. This was somewhat difficult, since R. Yehuda Hanasi’s position was itself a minority opinion when he held it, and thus for Abaye’s claim to be historically accurate would require that the *prozbul* have been a matter of contention for at least two centuries, a dispute of which we would expect to have some record. For this reason, perhaps, Abaye’s position is disputed by Rava, who holds that Hillel was empowered to act even in contravention of a biblical institution. Gitin 36a-36b; see Rashi ad loc.

Two latter-day parallels to this are controversial, yet widely accepted: The *heter iska*, which enables Jewish-owned banks to lend and borrow money at interest despite a strict biblical prohibition on charging or paying interest; and the *heter mechira*, which allows Jewish farmers in Israel to circumvent the prohibition on farming during the sabbatical year by allowing them to temporarily transfer ownership of the land to non-Jews.

15. Berkovits, *Not in Heaven*, pp. 21-22, 30-32.

16. Deuteronomy 6:18.

17. Eliezer Berkovits, *Crisis and Faith* (New York: Sanhedrin, 1976), pp. 91-92.

18. By “codes” I am referring to lists of rules such as those composed beginning in the medieval period. This is as opposed to works of the oral law which are not codes: The Talmud and its commentaries comprise a collection of discussions

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and disputes; in general, the study of Talmud in the yeshiva is frequently understood to be a separate subject of study from “halacha,” which focuses mostly on the legal rulings beginning with the *Arba’a Turim* and continuing through the centuries to our own day. While both subjects are considered crucial for the aspiring *talmid hacham*, it is the study of halacha which constitutes the immediate basis on which rabbis are to make their decisions.

19. Eliezer Berkovits, “The Concrete Situation and Halacha,” in Berkovits, *Crisis and Faith*, pp. 93-96. The essay originally appeared as part of an essay on the subject of conversion in Jewish law. Eliezer Berkovits, “Conversion ‘According to Halacha’—What Is It?” *Judaism* 23, 1974, pp. 467-478.

20. In his proposal for the creation of a new type of rabbinical education, Berkovits includes the study of codes of Jewish law, which he understood as binding in nature. Eliezer Berkovits, “A Contemporary Rabbinical School for Orthodox Jewry,” *Tradition* 12:2, Fall 1971, pp. 5-20.

21. Eliezer Berkovits, *Towards Historic Judaism* (Oxford: East and West Library, 1943), p. 109.

22. Louis Jacobs, for example, a leading thinker of the Conservative stream in Judaism, dedicates a chapter of his *A Tree of Life* to cataloguing instances in which the talmudic rabbis altered the import of the biblical law, in a discussion reminiscent of Berkovits’ opening chapters in *Not in Heaven*. Jacobs also writes that “Change is never engaged for its own sake, and there is a proper appreciation of the great caution that is required if continuity is to be preserved. But where halacha as it is at present practiced results in the kind of injustice that reasonable persons would see as detrimental to Judaism itself, frank avowal that there must be changes in the law is called for.” With the possible exception of Jacobs’ “reasonable persons” test, this is a statement with which Berkovits might wholeheartedly agree—even if they may disagree on how this would be carried out in practice. Louis Jacobs, *A Tree of Life: Diversity, Flexibility, and Creativity in Jewish Law* (London: Littman Library, 2000), pp. 34-41, 220-221. Other examples are: Moshe Zemer, *Evolving Halacha: A Progressive Approach to Traditional Jewish Law* (Woodstock, Vt.: Jewish Lights, 1999); Robert Gordis, *The Dynamics of Judaism: A Study of Jewish Law* (Bloomington: University of Indiana, 1990). In all these cases, the demonstration of the evolution of halacha over time at the initiative of the rabbinic establishment is taken to be proof of halachic flexibility.

23. Jacobs, *Tree of Life*, p. 230. Jacobs’ *A Tree of Life* is a well-researched study on the flexibility of halacha in the face of many different types of considerations: Ethical, historical, philosophical. What is missing, however, is any effort to develop a theory which unites these extra-halachic factors—in other words, which can serve as the basis for a coherent theory governing the development of halacha.

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As such, *A Tree of Life* is typical of the historical school which he represents, and which Berkovits rejects.

24. Robert Gordis, "A Dynamic Halacha: Principles and Procedures of Jewish Law," *Judaism* 28:3, Summer 1979, p. 265.

25. See, for example, Zemer, *Evolving Halacha*, pp. 44-57.

26. Megila 14a.

27. Berkovits, *Not in Heaven*, p. 19. The verses cited are Deuteronomy 6:18, Proverbs 3:17, and Proverbs 2:20. Cf. Zemer, *Evolving Halacha*, p. 49; Zemer cites only the first part of Berkovits' statement, that halacha may not contradict "ethics," but leaves out the continuation in which he describes the ethical principles as based within the Tora itself. For a more faithful representation of Berkovits' position, see Jonathan Sacks, *Crisis and Covenant: Jewish Thought After the Holocaust* (Manchester: Manchester, 1992), pp. 162-167.

28. On the status of women in halacha, see Eliezer Berkovits, *Conditionality in Marriage and Divorce* (Jerusalem: Mosad Harav Kook, 1966) [Hebrew]; Eliezer Berkovits, *Jewish Women in Time and Tora* (Hoboken, N.J.: Ktav, 1990); as well as the essay "The Status of Woman Within Judaism" in his book *Crisis and Faith*, pp. 97-122; also Berkovits, *Not in Heaven*, pp. 32-45. On conversion, see Berkovits, "Conversion 'According to Halacha';" a version dealing only with conversion, without the discussion of the history of the oral law, appears in *Crisis and Faith* under the title "Conversion According to Halacha," in Berkovits, *Crisis and Faith*, pp. 122-131; cf. Eliezer Berkovits, *Unity in Judaism* (New York: American Jewish Committee, 1986).

29. Berkovits, *Crisis and Faith*, p. 121.

30. Eliezer Berkovits, *Man and God: Studies in Biblical Theology* (Detroit: Wayne State, 1969).

31. See, for example, Jonathan Sacks, *Crisis and Covenant*, p. 167. Sacks does not present a justification for his opinion.

32. Cf. Eliezer Berkovits, *What Is the Talmud?* (Berlin: Jüdischer Buch-Verlag, 1938), pp. 40-47. [German] An excellent example of an effort to explain the Sabbath prohibition on work with reference to the agadot of the tractate Shabbat is Yosef Yitzhak Lifshitz, "Secret of the Sabbath," *AZURE* 10, Winter 2001, pp. 85-117. A similar effort to describe prayer in light of both the halacha and agada is undertaken by Berkovits himself. Eliezer Berkovits, *Prayer* (New York: Yeshiva University, 1962).

Berkovits is not the only modern Jewish thinker to declare the essential nature of the agadic passages of the Talmud. However, usually this claim is made by those

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who do not accept the binding nature of the halacha, and therefore do not view the central purpose of the agada as contributing to the integrity of the system of halachic values, but to an overall understanding of Jewish morality independent of halacha. See, for example, Abraham Joshua Heschel, *God in Search of Man* (New York: Noonday, 1996), pp. 336-337; there Heschel describes the agada as necessary for giving man his ultimate direction, whereas halacha provides a specific, non-legal norm.

33. “We do not learn out words of Tora [i.e., halacha] from words of the received [i.e., prophetic] tradition.” Baba Kama 2b; cf. Rashi ad loc., s.v. *divrei kabala*; Hagiga 10b; Nida 23a.

34. The rabbis decreed that biblical texts, but not apocryphal or post-biblical ones, had the status of “defiling the hands,” i.e., causing ritual impurity. The purpose of this seemingly counterintuitive law was more practical than symbolic: To prevent the storage of these texts together with the food of the Priests, which had to be eaten in purity, and thereby to protect the scrolls from the rodents which tended to roam in areas where food was stored. Nonetheless, a debate ensued over which of the biblical books defile the hands and which do not, a discussion clearly meant to establish the relative sanctity of the different books. Shabbat 13b; cf. Mishna Yadaim 3:4; Tosefta Yadaim 2:14; Megila 7a.

35. On Ezekiel, cf., inter alia, the extended discussion beginning in Hagiga 11b. On Esther, cf. Shabbat 88a.

36. Berkovits, *Towards Historic Judaism*, p. 102.

37. Mishna Rosh Hashana 2:5; Beitza 11b; Berkovits, *Not in Heaven*, p. 12.

38. “Because of the roads, because of the bridges, because of the ovens for roasting a paschal lamb, and because of the Jews who left their homes in Exile but have not arrived yet.” Sanhedrin 11a; Berkovits, *Not in Heaven*, pp. 12-13.

39. As Berkovits points out, there are even cases in which the word *mishpat* leans so heavily to the side of consequences that it cannot even be reasonably translated as “justice” at all, but rather as “deliverance”—as in the verse “The Eternal therefore judge, and give sentence between me and you, and see and plead my cause, and *deliver* me (*v’yishp’teni*) out of your hand.” I Samuel 24:16, quoted in Berkovits, *Studies in Biblical Theology*, pp. 232-233.

40. Berkovits, *Studies in Biblical Theology*, pp. 245-246.

41. Martin Buber, one of the outstanding examples of this approach, undertook an extensive study of Hasidic thought to demonstrate the religious truths inherent in the movement’s spiritual approach. Abraham Joshua Heschel and Joseph B. Soloveitchik used similar means to spell out the experience of the prophetic type (Heschel), or of the “halachic man” (Soloveitchik), a type whose

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perception of the world is seen through the prism of the law. Cf. Martin Buber's many Hasidic works, notably Martin Buber, *Hasidism and Modern Man*, trans. Maurice Friedman (New York: Harper Torchbooks, 1958), and Martin Buber, *The Origin and Meaning of Hasidism*, trans. Maurice Friedman (Atlantic Highlands, N.J.: Humanities, 1988); Abraham Joshua Heschel, *The Prophets* (New York: Harper Torchbooks, 1962); Joseph B. Soloveitchik, *Halachic Man*, trans. Lawrence Kaplan (Philadelphia: Jewish Publication Society, 1983).

42. Buber, *On Judaism*, p. 87.

43. Buber, *On Judaism*, p. 114. Buber is aware of how difficult a goal this is. In his essay "The Holy Way," Buber bemoans the difficulty of preserving the purity of the deed, and of creating a community based on unconditional deeds:

It is its [the deed's] nature to point beyond itself. No matter how free its intention, how pure its manifestation, it is at the mercy of its own consequences; and even the most sublime deed, which does not waste so much as a glance at the lowlands of causality, is dragged into the mud as soon as it enters the world and becomes visible. And the deed concerned with the growth of the true community especially has everything lined up against it: The rigorism of the habitual traditionalists and the indolence of the slaves of the moment, yet equally a rash doctrinairism and irresponsible disputatiousness; miserly egotism and untractable vanity, yet also hysterical self-effacement and disoriented flurry; the cult of the so-called pure idea, hand in hand with the cult of so-called *realpolitik*. In addition, it is opposed by all the established forces that do not wish to be disturbed in the exercise of their power. All these forces rage in a clouded and beclouding whirlwind around the lonely and dedicated individual who boldly assumes the task of building a true community—and with what materials! There is no undefilable perfection here; everywhere the impure challenges the pure, dragging it down and distorting it; all about him gloating derision apprises the heroic victim of his futility, and the abyss pronounces its inexorable sentence on the dying to whom victory is denied. (Buber, *On Judaism*, p. 114)

44. "It is Judaism's basic tenet," Buber writes, "that the deed as an act of decision is an absolute value. On the surface it may seem that the deed is inescapably set into the unyielding structure of causality, whose rules determine its impact; in fact, however,... when it remembers its divine goal, when it extricates itself from all conditionality and walks by its own light—that is, the light of God—it is free and powerful...." Buber, *On Judaism*, p. 67.

45. Martin Buber, "Religion and Ethics," in Martin Buber, *The Eclipse of God: Studies in the Relation Between Religion and Philosophy* (Amherst, N.Y.: Humanity, 1999), p. 95. An example of the slight but noticeable moderation of his

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position is found in an essay entitled “The Silent Question” (1952), where Buber allows that “inward truth must become real life, otherwise it does not remain truth. A drop of Messianic consummation must be mingled with every hour; otherwise the hour is godless, despite all piety and devoutness.” Yet even here, it is still not clear whether by “real life” he actually means actions taken in purity, or a consideration for their consequences. Buber, *On Judaism*, p. 209. Cf. Buber, *Hasidism and Modern Man*, p. 99, where he asserts, in the context of the Hasidic concept of intentionality (*kavana*), that “there are no *goals*, only *the goal*. There is only one goal that does not lie, that becomes entangled in no new way, only one into which all ways flow, before which no byway can forever flee: Redemption.” [emphasis in original]

46. Abraham Joshua Heschel, *Man Is Not Alone* (New York: Farrar, Straus, and Giroux, 1979), pp. 277-278.

47. Brachot 17a; cited in Heschel, *God in Search of Man*, p. 309.

48. Heschel, *God in Search of Man*, p. 308.

49. Cf. Heschel, *God in Search of Man*, p. 311: “Deeds are outpourings, not the essence of the self. They may reflect or refine the self, but they remain the functions, not the substance of inner life. It is the inner life, however, which is our most urgent problem.” Cf. also Heschel, *God in Search of Man*, p. 310: “A moral deed unwittingly done may be relevant to the world because of the aid it renders unto others. Yet a deed without devotion, for all its effects on the lives of others, will leave the life of the doer unaffected. The true goal for man is *to be* what he *does*. The worth of a religion is the worth of the individuals living in it. A *mitzva*, therefore, is not mere doing but an act that embraces both the doer and the deed. The means may be external, but the end is personal. Your deeds be pure, so that ye shall be holy.”

50. Heschel, *God in Search of Man*, pp. 337-338.

51. Heschel, *God in Search of Man*, p. 283. A similar downplaying of the importance of consequences is evident in the thought of other Jewish writers of this tradition, such as the Orthodox thinker Joseph B. Soloveitchik. The entirety of *Halachic Man* is dedicated to the implications of the halachic norm from the individual’s own subjective perspective, rather than within the historical world. In some respects, Soloveitchik’s perspective is more extreme than even Buber’s, as when he declares that the “halachic man” is concerned more with the decision to undertake an action than with the carrying out of the action itself. Soloveitchik, *Halachic Man*, pp. 63-64. It is telling that of all the religious types articulated in Soloveitchik’s writings, the only one that is fully dedicated to a concern for the consequences of action is “Adam the first” from *Lonely Man of Faith*—a figure who is not considered by Soloveitchik to care for good or evil: “Adam the first is always

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an esthete, whether engaged in an intellectual or in an ethical performance. His conscience is energized not by the idea of the good, but by that of the beautiful. His mind is questing not for the true, but for the pleasant and functional, which are rooted in the esthetical, not the noetic-ethical, sphere.” Joseph B. Soloveitchik, *The Lonely Man of Faith* (New York: Doubleday, 1992), p. 19.

52. Eliezer Berkovits, *God, Man, and History: A Jewish Interpretation* (New York: Jonathan David, 1959), p. 134.

53. Eliezer Berkovits, “Faith and Law,” in Berkovits, *Major Themes*, pp. 140-141.

54. Max Weber, “Politics as a Vocation,” in H.H. Gerth and C. Wright Mills, eds., *From Max Weber: Essays in Sociology* (New York: Oxford, 1946), pp. 117f.

55. See Immanuel Kant, *Grounding for the Metaphysics of Morals*, trans. James W. Ellington (Indianapolis: Hackett, 1981), p. 3; there Kant determines that “in the case of what is to be morally good, that it conforms to the moral law is not enough; it must also be done for the sake of the moral law.”

56. Put another way, the moral reasoning inherent in an ethic of responsibility calls into question another of the basic assumptions of ethical philosophy in the Kantian tradition: That all morality can or should be reduced to formulated rules of action. According to Kant, the aim of ethical thought is to make order out of our vague and conflicting values and intuitions by translating them into clear principles based in reason—in his words, to move “from popular [moral] philosophy, which goes no further than it can get by groping about with the help of examples, to metaphysics... which, inasmuch as it must survey the whole extent of rational knowledge of this kind, goes right up to ideas....” Kant, *Grounding*, p. 23; cf. Kant, *Grounding*, pp. 21f. In an ethic of responsibility, however, the flexibility and “impurity” of common-sense morality reflect not an insufficient degree of understanding, but the non-delineated nature of moral values that are geared toward advancing a state of affairs.

This is a crucial point in distinguishing between Berkovits’ moral approach and that of the “consequentialist” movement in ethical thought. Like Berkovits, consequentialists view consequences as crucial; however, they accept the Kantian approach which reduces morality to the effort to articulate a single, absolute formula for predetermining morality—as in the phrasing of Samuel Scheffler, who defines consequentialism as the belief that “the right act in any given situation is the one that will produce the best overall outcome, as judged from an impersonal standpoint which gives equal weight to the interests of everyone.” Samuel Scheffler, ed., *Consequentialism and its Critics* (Oxford: Oxford, 1988), p. 1. While there are different schools of consequentialist thought, each offering its own formulations, what they all have in common is the Kantian reductionism of searching for a

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categorical imperative as the test of moral behavior. Such an effort is notably absent in Berkovits, as it is in Weber as well.

57. Berkovits singles out the writings of Jean-Paul Sartre and Martin Buber as susceptible to this problem. Eliezer Berkovits, "The New Morality," in Berkovits, *Crisis and Faith*, pp. 23-33; Eliezer Berkovits, "Martin Buber's Religion of the Dialogue," in Berkovits, *Major Themes*, pp. 68-137.

58. Obviously this does not exhaust the shades of Western ethical thought, and Berkovits himself cites three thinkers (Spinoza, Marx, and Bergson) who understood on some level the problem with ignoring the body. Eliezer Berkovits, *Essential Essays on Judaism*, ed. David Hazony (Jerusalem: Shalem, 2001), pp. 11-12, 19-20.

59. Berkovits, *Essential Essays*, pp. 17-18.

60. One example appears in Genesis Raba 8:11: "R. Tafdai said in the name of R. Aha: The higher things (*ha'elyonim*) were created in the likeness and image of God, but cannot be fruitful and multiply; the lower things (*batahtonim*) can be fruitful and multiply, but were not created in the likeness and image of God. Said the Holy One, 'I will make him [i.e., man] in the likeness and image, with the higher things, and able to be fruitful and multiply, with the lower things.' R. Tafdai further said in the name of R. Aha: Said the Holy One, 'If I make him of the higher things, he will live and not die; if I make him of the lower things, he will die and not live. Therefore, I will make him from both the higher and the lower things. If he sin, he will die; if he does not sin, he will live.'" See also Genesis Raba 14:4. For additional sources, cf. Ephraim E. Urbach, *The Sages: The World and Wisdom of the Rabbis of the Talmud* (Cambridge: Harvard, 1979), pp. 221f.

61. Berkovits, *Essential Essays*, p. 18.

62. Berkovits, *Essential Essays*, p. 18.

63. Berkovits, *Essential Essays*, p. 19. In particular, Berkovits points to Aristotle, whose understanding of practical wisdom demands an appreciation of the ethical significance of emotions and appetites.

64. Berkovits, *Essential Essays*, p. 21.

65. Berkovits, *Essential Essays*, p. 13.

66. See note 60 above.

67. Cf., most notably, R. Jonah Gerondi's thirteenth-century work *The Gates of Repentance*, as well as the writings of the musar movement of the late nineteenth century, which had a decisive influence on much of the Lithuanian yeshiva world. Berkovits' description of Judaism foreshadowed in no small measure the emergence of the idea of "Carnal Israel," a belief popularized by Daniel Boyarin's

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*Carnal Israel: Reading Sex in Talmudic Culture* (Berkeley: University of California, 1993). The central theme of Boyarin's argument is that whereas the ancient Greeks viewed man as essentially a soul and the body as its vessel, rabbinic Judaism assumed the reverse, that man is essentially a body animated by a soul. Berkovits does not go as far as Boyarin, instead placing the body on equal footing with the soul, or more accurately, pointing out their moral interdependence and their great differences in nature. Berkovits' view fits better with the midrashic material cited in note 60 above.

68. Berkovits, *Essential Essays*, pp. 21-22.

69. Berkovits, *Essential Essays*, pp. 23-24.

70. Berkovits, *Essential Essays*, pp. 24-25.

71. Berkovits, *God, Man, and History*, pp. 115-130. Cf. Berkovits, *Essential Essays*, pp. 26-38.

72. Soloveitchik, *Lonely Man of Faith*, p. 57; cf. Soloveitchik, *Lonely Man of Faith*, p. 74 n. 1.

73. Abraham Joshua Heschel, *Man's Quest for God: Studies in Prayer and Symbolism* (New York: Charles Scribner's Sons, 1954), p. 53; cited in Arnold Eisen, "Rereading Heschel on the Commandments," *Modern Judaism* 9:1, February 1989, p. 20.

74. Berkovits, *Essential Essays*, p. 25. Berkovits cites a passage in the Talmud in which the automatic, habituated bowing which the body undertakes during the *modim* blessing in prayer, even in the absence of proper intention, should be a cause for our gratitude. Jerusalem Brachot 2:10.

75. Buber, *Hasidism and Modern Man*, p. 151. Cf. Heschel: "The body without the spirit is a corpse; the spirit without the body is a ghost." Heschel, *God in Search of Man*, p. 341.

76. It is central to Buber's neo-Hasidic approach that redemption is the result of man's inner repair, reflected in the purification of his own intentions and its reflection in his relations with others, and that only through such repair will the world, somehow, be redeemed. Buber, *Hasidism and Modern Man*, pp. 98-108; Buber, *On Judaism*, pp. 83-87.