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NITZAVIM VAYELECH 5786

Do Not Despair

RABBI YISSOCHER FRAND (Aish.com)

Immediately after enumerating the long litany of 98 curses they would face if they disobeyed Hashem, Moshe called together the Jewish people and said, "You are all standing here today." What is the significance of this sequence of events?

The Midrash, quoted by Rashi, explains that when the Jewish people heard the curses they turned green. "Who can withstand all these curses?" they moaned despondently. "What will become of us?"

Therefore, Moshe called them together to calm them down. "Don't be so worried," he said. "You are all standing here today. After forty turbulent years in the desert, after angering Hashem so many times – with the Golden Calf, the Spies, the complainers – you are still here today. Hashem has not destroyed you. So you see, you do not need to despair."

The commentators are puzzled. Moshe seems to be taking the wind out of his own sails. First, he read off all the horrible curses to scare the Jewish people into obedience, to put "the fear of the Lord" into them. The threat of the curses accomplished their purpose. The people were terrified. Then all of sudden, he relented and told them that it's not so bad. They don't have to be so terrified. Wasn't he defeating his whole purpose by taking the sting out of the Rebuke?

The answer is that there is a vast difference between healthy fear and hopelessness. It is a good thing to be realistically apprehensive about the future. It is unhealthy to live in a fool's paradise, believing you can do as you please without suffering any consequences. But hopelessness is destructive. It demoralizes, debilitates and reduces a person to a bowl of quaking jelly.

Moshe saw that the Jewish people had gone beyond fear when they heard the curses. They lost hope and threw in the towel. Therefore, he had to calm them down until they recovered their hope and all they felt was a healthy fear.

Our Sages tell us (Bava Metzia 59a) that after the destruction of the Temple "all the gates of prayer were closed, except for the Gates of Tears." The Gates of Tears are the channel of last resort for prayers, and they are never closed.

But if they are never closed, asks the Kotzker Rebbe, why is there a need for gates at all? Why not remove the gates and leave the entranceway wide open?

There are some tears that do not get through, says the Kotzker Rebbe. The gates screen out tears of desperation and hopelessness. Despair is not considered a prayer to the Almighty. If a person is in a state of helplessness and desperation, if he feels backed into a corner so that Hashem is his only hope of salvation, if he calls forth his innermost feelings and thoughts, if he wrings out the perspiration of his heart and soul and sends his hope-laden tears heavenward, there are no barriers in Heaven to a prayer of this sort. It travels directly to the Heavenly Throne.

The Izhbitzer Rebbe connects this concept with the very essence of Jewish identity. The name Jew is derived from the tribe of Judah, as is the Hebrew name Yehudi. Why are all Jews known by the name of one tribe? Because when the brothers stood accused of theft before Yosef in Egypt, the Torah

tells us (Bereishis 44:18) that Yehudah "stepped up" to argue in their defense. When all seemed to be lost, when faced with the overwhelming weight of evidence against them, Yehudah never gave up hope. That is the definition of a Jew, a person who knows that the Almighty will never abandon him. A person who never gives up hope.

Why Be Jewish?

RABBI LORD JONATHAN SACKS (Aish.com)

In the last days of his life Moshe renews the covenant between G-d and Israel. The entire book of Devarim has been an account of the covenant - how it came about, what its terms and conditions are, why it is the core of Israel's identity as an am kadosh, a holy people, and so on. Now comes the moment of renewal itself, a kind of national referendum as it were.

Moshe, however, is careful not to limit his words to those who are actually present. About to die, he wants to ensure that no future generation can say, "Moshe made a covenant with our ancestors but not with us. We didn't give our consent. We are not bound." To preclude this he says these words:

It is not with you alone that I am making this sworn covenant, but with whoever is standing here with us today before the LORD our G-d, and with whoever is not here with us today. (29:13-14)

As the commentators point out, the phrase "whoever is not here" cannot refer to Israelites alive at the time who happened to be somewhere else. That cannot be since the entire nation was assembled there. It can only mean "generations not yet born." The covenant bound all Jews from that day to this. As the Talmud says: we are all *mushba ve-omed me-har Sinai*, foresworn from Sinai (Yoma 73b, Nedarim 8a). By agreeing to be G-d's people, subject to G-d's laws, our ancestors obligated us.

Hence one of the most fundamental facts about Judaism. Converts excepted, we do not choose to be Jews. We are born as Jews. We become legal adults, subject to the commands and responsible for our actions, at the age of twelve for girls, thirteen for boys. But we are part of the covenant from birth. A bat or bar mitzvah is not a "confirmation." It involves no voluntary acceptance of Jewish identity. That choice took place more than three thousand years ago when Moshe said "It is not with you alone that I am making this sworn covenant, but with ... whoever is not here with us today," meaning all future generations including us.

But how can this be so? Surely a fundamental principle of Judaism is that there is no obligation without consent. How can we be bound by an agreement to which we were not parties? How can we be subject to a covenant on the basis of a decision taken long ago and far away by our distant ancestors?

The sages, after all, raised a similar question about the wilderness generation in the days of Moshe who were actually there and did give their assent. The Talmud suggests that they were not entirely free to say No. "The holy one blessed be he suspended the mountain over them like a barrel and said: If you say Yes, all will be well, but if you say No, this will be your burial-place" (Shabbat 88b). On this, R. Acha bar Yaakov said: "This constitutes a fundamental challenge to the legitimacy of the covenant." The Talmud replies that even though the agreement may not have been entirely free at the time, Jews asserted their identity voluntarily in the days of Ahasuerus, as suggested by the book of Esther.

This is not the place to discuss this particular passage, but the essential point is clear. The sages believed with great force that an agreement must

be free to be binding. Yet we did not agree to be Jews. We were, most of us, born Jews. We were not there in Moshe's day when the agreement was made. We did not yet exist. How then can we be bound by the covenant?

This is not a small question. It is the question on which all others turn. How can Jewish identity be passed on from parent to child? If Jewish identity were merely racial or ethnic, we could understand it. We inherit many things from our parents - most obviously our genes. But being Jewish is not a genetic condition, it is a set of religious obligations. There is an halakhic principle, *zakchin le-adam shelo be-fanav*: "You can confer a benefit on someone else without their knowledge or consent." And though it is doubtless a benefit to be a Jew, it is also in some sense a liability, a restriction on our range of legitimate choices. Had we not been Jewish, we could have worked on Shabbat, eaten non-kosher food, and so on. You can confer a benefit, but not a liability, on someone without their consent.

In short, this is the question of questions of Jewish identity. How can we be bound by Jewish law, without our choice, merely because our ancestors agreed on our behalf?

In my book *Radical Then, Radical Now* (published in America as *A Letter in the Scroll*) I pointed out how fascinating it is to trace exactly when and where this question was asked. Despite the fact that everything else depends on it, it was not asked often. For the most part, Jews did not ask the question, "Why be Jewish?" The answer was obvious. My parents are Jewish. My grandparents were Jewish. So I am Jewish. Identity is something most people in most ages take for granted.

It did, however, become an issue during the Babylonian exile. The prophet Ezekiel says, "What is in your mind shall never happen-the thought, 'Let us be like the nations, like the tribes of the countries, and worship wood and stone.'" (Ez. 20:32). This is the first reference to Jews actively seeking to abandon their identity.

It happened again in rabbinic times. We know that in the second century BCE there were Jews who Hellenised, seeking to become Greek rather than Jewish. There were others who, under Roman rule, sought to become Roman. Some even underwent an operation known as epispasm to reverse the effects of circumcision (in Hebrew they were known as meshukhim) to hide the fact that they were Jews. (This is what R. Elazar of Modiin means when he refers to one who "nullifies the covenant of our father Abraham", *Avot* 3:15.)

The third time was in Spain in the fifteenth century. That is where we find two Bible commentators, R. Isaac Arama and R. Isaac Abarbanel, raising precisely the question we have raised about how the covenant can bind Jews today. The reason they ask it while earlier commentators did not was that in their time - between 1391 and 1492 - there was immense pressure on Spanish Jews to convert to Christianity, and as many as a third may have done so (they were known in Hebrew as the anusim, in Spanish as the conversos, and derogatively as marranos, "swine"). The question "Why stay Jewish?" was real.

The answers given were different at different times. Ezekiel's answer was blunt: "As I live, declares the Lord G-d, surely with a mighty hand and an outstretched arm and with wrath poured out I will be king over you." In other words, Jews might try to escape their destiny but they would fail. Even against their will they would be known as Jews. That, tragically, is what happened during the two great ages of assimilation, fifteenth century Spain and nineteenth and early twentieth century Europe. In both cases, racial anti-Semitism persisted, and Jews continued to be persecuted.

The sages answered the question mystically. They said, even the souls of Jews not yet born were present at Sinai and ratified the covenant (*Exodus Rabbah* 28:6). Every Jew, in other words, did give his or her consent in the days of Moshe even though they had not yet been born. Demystifying this, perhaps the sages meant that in his or her innermost heart even the most assimilated Jew knew that he or she was still a Jew. That seems to have been the case with figures like Heinrich Heine and Benjamin Disraeli, who lived as Christians but often wrote and thought as Jews.

The fifteenth century Spanish commentators found this answer problematic. As Arama said, we are each of us both body and soul. How then is it sufficient to say that our soul was present at Sinai? How can the soul obligate the body? Of course the soul agrees to the covenant. Spiritually, to be a Jew is a privilege, and you can confer a privilege on someone without their consent. But for the body, the covenant is a burden. It involves all sorts of restrictions on physical pleasures. Therefore if the souls of future generations were present but not their bodies, this would not constitute consent.

Radical Then, Radical Now is my answer to this question. But perhaps there is a simpler one. Not every obligation that binds us is one to which we have freely given our assent. There are obligations that come with birth. The classic example is a crown prince. To be the heir to a throne involves a set of duties and a life of service to others. It is possible to neglect these duties. In extreme circumstances it is possible for even a king to abdicate. But no one chooses to be royal. That is a fate, a destiny, that comes with birth.

The people of whom G-d himself said, "My child, my firstborn, Israel" (*Ex. 4:22*) knows itself to be royalty. That may be a privilege. It may be a burden. It may be both. It is a peculiar post-Enlightenment delusion to think that the only significant things about us are those we choose. For the truth is some of the most important facts about us, we did not choose. We did not choose to be born. We did not choose our parents. We did not choose the time and place of our birth. Yet each of these affects who we are and what we are called on to do.

We are part of a story that began long before we were born and will continue long after we are no longer here, and the question for all of us is: will we continue the story? The hopes of a hundred generations of our ancestors rest on our willingness to do so. Deep in our collective memory the words of Moshe continue to resonate. "It is not with you alone that I am making this sworn covenant, but with ... whoever is not here with us today." We are part of that story. We can live it. We can abandon it. But it is a choice we cannot avoid and it has immense consequences. The future of the covenant rests with us.

After the Ashes

RABBI MORDECHAI KAMENETZKY (Torah.org)

As his final days draw near, Moshe in his capacity as compassionate leader qua reproving prophet warns his nation to adhere to the mitzvot even after they leave his watch. He warns of those who may be smug in their complacency, and overtly defy G-d's will. "Perhaps there is among you a man or woman, or a family or tribe, whose heart turns away today from being with Hashem, our G-d, to go and serve the gods of those nations; perhaps there is among you a root flourishing with gall and wormwood. And it will be that when he hears the words of this forewarning, he will bless himself in his heart, saying, "Peace will be with me, though I walk as my heart sees fit" — thereby adding the watered upon the thirsty" (29:17-18).

Moshe warns the Jews of the wrath of Hashem at such overt rebellion and apathy. "Sulfur and salt, a conflagration of the entire Land, it cannot be sown and it cannot sprout, and no grass shall rise up on it; like the upheaval of Sodom and Gomorrah, Admah and Zeboiim, which Hashem overturned in His anger and wrath." (*ibid* v. 20). Moshe continues his predictions of obliteration and doom, presciently foretelling of tragedies strikingly similar to those that befell Jewish communities beginning with the Babylonian Exile to the apocalyptic destruction of European Jewry to perhaps the daily acts of devastations that seem to permeate our sense of normalcy on a daily basis.

But in a verse that seems paradoxically both cryptic and revealing, Moshe comforts his flock with the words, "The hidden is for Hashem, our G-d, but the revealed are for us and our children forever, to carry out all the words of this Torah" (*ibid* v. 28). What does that mean? Do we not know that only G-d can see hidden actions. Is that a message of hope or a warning to vision-limited mortals?

Rabbi Berel Wein relates the story of Chief Rabbi Isaac Herzog's visit to Chicago, Illinois following World War II. The entire Torah-revering community gathered at the airport. All the day schools and Yeshivos sent their students to greet the Rabbi, and many prominent lay leaders left their businesses to join as well.

Rabbi Herzog, his distinguished frame, unbent from the enduring pain of the plight of his brothers and sisters, in Europe and Palestine, walked upstanding and tall down the silver airplane steps, his silver tipped cane in one hand, his head majestically adorned with his signature top hat.

He was led to a podium from which he delivered a lecture on a complicated portion of the Talmud.

When he finished, his face immediately lost its radiance, and became somber and staid.

"I come not from Jerusalem," he told the assembled, "I come from Rome. I have just met with Pope Pious.

During the terrible war, many children were sheltered in monasteries across Europe. The kind Christians saved them from the Nazis. I asked him to release

those children, back to their heritage. Let them be raised as Jews.” Suddenly, to the shock of the children and the awe of the adults, the Rabbi began to cry. “The Pope did not acquiesce. He said that once a child is baptized, he can never be returned.”

Rabbi Herzog trembled as he continued to sob uncontrollably. He looked at the assembled children

“My dear children,” he wailed, “We lost them! Then his demeanor changed, as a ray of hope sparked from his eyes. “We lost them,” he repeated, “but,” he continued, as he locked his eyes at the young faces, who stared directly at his teary eyes, “WE HAVE YOU! WE HAVE YOU!”

Moshe warns his kinsman that Jews will one day go astray; they will be exiled, with calamitous results. Perhaps his next prescient words imply rhetorical answers to the questions of faith we will have about the innocent victims of those calamitous conquests, crusades, and crematoriums, and contrived calamities.

Moshe tells us that there are no all-encompassing answers for mortal minds. The answers are hidden. Similar to the souls in question, the answers are with G-d. And so, after warning of doom and disaster, Moshe explains, “The hidden is for Hashem, our G-d.”

We, those remaining, however, must deal with what we do know. We must comfort and place our hopes with the remnants of the charred edifices and face the future. We must build from the ashes of our despair, whether it be the ashes of Auschwitz or the embers of eateries in Jerusalem, or the scarred skeletons of a skyline. For those we lose are now “hidden, with Hashem,” but as Moshe taught us, “the revealed are for us and our children forever, to carry out all the words of this Torah.”

Prison Break

RABBI ELISHA GREENBAUM (Chabad.org)

There is a well-known fable of a man in distress looking up to G-d; "G-d, You promised to walk besides me, but when I look behind me I see only one set of footprints trodden into the sands of my life?"

And a caring, compassionate voice responds, "My son, those footprints you see are Mine, carrying you as you travelled along your journey."

We read this Shabbat how, after the foretold galut (exile) which we are currently suffering, (and if we think we're not suffering that just shows how blinded to the realities of our unnatural existence we've become), "G-d will return home..." Note: not "G-d will return you home"; rather He, too, is in exile, as it were, and the future redemption will see G-d Himself resume His rightful place, as it were, in our common homeland.

That G-d accompanies us on every step and stage of our lives, neither abandoning nor rejecting a single Jew, is self-understood and even expected. The theology-shattering implication of the above verse is, that in some way, G-d waits and hopes for our redemption when He too will "come home."

Prisoners can't escape without help from the outside. Someone's got to smuggle in the file, bribe the guards or drive the getaway car. Leaving exile is no different. We rely on G-d to break the boundaries of our separation and remove obstacles both physical (anti-Semites, bus-bombs etc.) and psychological (greed, football) between the way we are and the way we should be.

G-d however, prepared the escape-route, as it were, from before our expulsion and exile. We are guaranteed that G-d is prepared, willing and waiting, to redeem and rejoin us and lead us by the hand to resume our natural state—freedom to be true Jews and truly Jewish.

CHOOSING LIFE FOR A PURPOSE

AVROHOM YAAKOV

In Parashas Nitzavim, Moshe presents one of the Torah's most famous challenges:

“Behold, I have set before you today life and good, and death and evil.” (Devarim 30:15)

Rashi explains that the two are linked: good leads to life, and evil leads to death. At first glance, however, the verse seems backwards. If good is the cause and life is the result, should it not say “good and life” and then “evil and death” rather than “life and good”?

The Kli Yakar offers a profound insight. The Torah intentionally places life before good to teach us that we should not pursue goodness merely as a means of gaining life, success, blessing, or reward. Rather, we should seek life itself as an opportunity to do good.

Many people today ask: How can I live longer? How can I be healthier, wealthier, more successful? We track our steps, monitor our sleep, and look for the next breakthrough that will extend our lifespan.

The Torah's question is different: What are you extending your life for?

A Jew should not say, “I will do mitzvot so that I will live.” Instead, he should say, “I want to live so that I can do mitzvot and fulfill the will of Hashem.”

In other words, life is not the prize. Life is the mission.

Modern society often treats life as an end in itself. Survival, comfort, and self-preservation become the highest values. Yet a life focused only on itself eventually feels empty. People long not only for years in their lives, but for meaning in their years.

Victor Frankl famously observed that human beings can endure almost any circumstance if they have a compelling why. The Torah expressed this truth thousands of years earlier. Life gains its deepest significance when it is dedicated to something beyond oneself.

This is particularly relevant as we approach Rosh Hashana. We naturally pray for life: *Zochreinu l'chaim, Kosveinu b'sefer hachaim* – remember us for life and enscribe us in the Book of Life.

But perhaps the Torah asks us to reflect on an additional question:

If Hashem grants us another year of life, what will we do with it?

What acts of kindness will we perform? What relationships will we strengthen? What Torah will we learn? What difference will we make in the lives of others?

Moshe's choice is therefore not merely between life and death. It is between two ways of living. One sees life as something to consume. The other sees life as something to dedicate.

"Choose life" means more than staying alive. It means choosing a life that serves a purpose.

When we do that, we discover that life and good are not separate at all. The good we do gives life meaning, and a life filled with meaning becomes the truest form of life.

A Little Bit of Moshe

RABBI YAAKOV ASHER SINCLAIR (Ohr.edu)

“And Moshe went...” (31:1)

At the Sixth Zionist Congress at Basel on August 26, 1903, Theodore Herzl proposed an idea that Uganda should be a temporary refuge for Russian Jews. The Russian delegation stormed out of the conference chamber in fury. These delegates were by no means deeply religious individuals, but it was self-evident to them that this compromise might spell the end of a Jewish State in Palestine; instinctively they knew that the only place that the State of Israel could be established was in The Land of Israel.

At the beginning of Parshat Va'etchanan, G-d tells Moshe, “Ascend to the top of the cliff, and raise your eyes westward and northward, southward and eastward and see with your eyes, for you shall not cross this Jordan River.”

Imagine how Moshe felt as he stood on top of that cliff, gazing out over the land that he longed to enter. The Land of Israel stretched out in front of him like a map.

So close.

G-d knew how much Moshe wanted to go into Eretz Yisrael, so why did He “tantalize” him in this way?

Each of the Avot, the Patriarchs, is associated with a specific quality: Avraham with chesed, kindness; Yitzchak with gevurah, self-control; Yaakov with tiferes, beauty. The quality associated with Moshe is netzach, eternity. Everything that Moshe did was forever.

It was for this reason that Hashem gave the Torah through Moshe—because the Torah is eternal. Had Moshe entered the Land of Israel with the Jewish people, their entry would have been an “eternal entry”, after such an entry, the Jewish people could never again leave the land; but Hashem knew that the Jewish people would have to be exiled because they would not be able to maintain the high spiritual standards that the Land demands.

If they couldn't leave, and they couldn't stay, they would be caught, as it were, in a spiritual vise, and they would face the danger of annihilation.

It was for this reason that Moshe could not enter Eretz Yisrael. But Hashem wasn't tantalizing Moshe: that feeling of longing that Moshe had when he stood on that cliff gazing into the Land, that feeling entered the collective consciousness of the Jewish People for all time, so that even those delegates at the Zionist conference in Basle thousands of years later knew

instinctively that only place that the State of Israel could be was in the Land of Israel.

“And Moshe went...”

The verse doesn’t tell us where Moshe went. The spiritual masters tell that Moshe ‘went’ into the heart of every Jew in every generation in every place. A little bit of Moshe Rabbeinu in the heart of every Jew longs for the Land. Throughout our long, long night of exile, the Jewish people have never lost that same longing for Eretz Yisrael that Moshe felt when he stood on the top of the cliff and gazed upon the land that he was not to enter.

Looking Ahead

RABBI JAY KELMAN (TorahinMotion.org)

Imagine being told on your deathbed that your life’s work may be for naught. Moshe Rabbeinu put heart and soul into forming a nation that would set up a model state serving G-d in the land of Israel. He literally gave his life for his people, and yet because of them, was denied his greatest wish. “G-d was angry at me because of you, saying you, too, shall not come there [to the land of Israel]” (Devarim 1:37).

Nonetheless, Moshe spent the last five weeks of his life exhorting the people to follow in G-d’s ways, and not in the ways of the idolaters who inhabited the land. Their destiny, and hence, Moshe’s legacy, was dependent on their obedience to the G-d who took them from the land of Egypt. While Moshe would not accompany his beloved (and mostly unappreciative) people, at least his people would fulfill their mission. Moshe knew it would not be easy—hence, his detailed instructions to the people—but at least he could die with a sense of hope that his message might resonate. But such was not to be his fate.

“And G-d said to Moshe: Behold, the day is close that you shall die... and this people will rise and stray after the gods of the foreigners of the land... they will annul My covenant...and I will forsake them” (Devarim 31:16). Talk about hitting somebody when he is down! Moshe, despite all you have done, not only can’t you enter the land of Israel, I will forsake the Jewish people and they will be exiled from the land. Wow! And thus G-d approaches Moshe: Here is what I want you to do on this your last day on this earth. “Write down this song, and teach it to the Jewish people; put it in their mouths, so that this song be a witness against the children of Israel” (Devarim 31:19). So that when the Jewish people come to the land and rebel and annul the covenant, and I punish them—there can be no complaints. Our deal is right here in writing: you follow Me, great; if not, bad things are going to happen.

These are striking and startling words, and seem to be at odds with the G-d who is “kind, merciful, patient, and forgiving”, who promises never to forsake the Jewish people. Yet these are the words—incomplete as they may be—with which G-d instructs Moshe to address the people on the last day of his life.

And what does Moshe do? Exactly as G-d commanded, with nary a word of complaint. Moshe had no compunction about arguing with G-d on so many other occasions; yet here, he is strangely silent. He writes the Torah and calls the Levites to place it in the Ark of the Covenant, so that it can serve as a witness. Moshe acknowledges that the Jewish people are going to ignore the words of the Torah, yet, “he spoke the words of this song into the ears of the entire nation”. And then the last we hear of Moshe is when he gathers the people and blesses each tribe, with a blessing appropriate to each.

This sequence of events requires much study and reflection. But when all is said and done, man, no matter how great, can only do his best. We must always strive to push ourselves and others higher—even if we know we will not be fully successful. We must act, and let G-d worry about the result.

Yes, there were many disappointments—and it is those we, and even the Torah, tend to dwell on. But here we are, 3,400 years later, with a strong and flourishing Jewish state, the most moral and ethical country in the world, studying the song the Moshe wrote down so many years ago. Moshe and the Jewish people live on as a testament to the eternal covenant between G-d and the Jewish people.

News & Views

The ‘Times’ and the BBC are ignoring an Amnesty report on Hamas

MAIA ZELKHA (JNS.org 31-8-26)

Amnesty International has been anything but a marginal source in BBC and New York Times coverage of the Gaza Strip. From October 2023 to October 2025, Amnesty International was among the top three most heavily cited organizations in reporting by the two mainstream media outlets on the Hamas-Israel conflict.

Yet these leading media outlets, which are otherwise highly attentive to NGO reports detailing Gaza Strip fatalities or crises, strikingly failed to note Amnesty’s new report on Hamas’s extrajudicial killings.

On Aug. 21, Amnesty International published an extensive report condemning Hamas’s extrajudicial executions in Gaza and called for justice for the victims. It documented nine cases in which Hamas-affiliated authorities and forces carried out extrajudicial executions and one unlawful killing, most of them in the immediate aftermath of the October 2025 ceasefire.

One particularly shocking case was the public execution of eight members of the Dughmush family from the Al-Sabra neighborhood of Gaza, accused of collaborating with Israel. Family members who attended the burial of the eight victims told Amnesty International that the victims’ bodies bore visible signs of torture.

The report also documented the killing of Hisham al-Saftawi, 57, in Al-Bureij Refugee camp in October 2025. Thirty masked men, who identified themselves as members of Hamas’s Al-Qassam Brigades, stormed al-Saftawi’s home and shot him in the back after he refused to comply with arrest orders.

The report cited a U.N. Commission of Inquiry finding 249 cases of extrajudicial executions and severe violence in Gaza between August 2024 and January 2026. At least 60 of them are attributable to Hamas-affiliated forces.

The total silence at the BBC and The New York Times on these killings is noteworthy given the two media outlets’ history of heavily relying upon Amnesty in their obsessive coverage of the humanitarian issues in the coastal enclave.

A single Amnesty statement on humanitarian conditions in Gaza routinely generates several articles within each outlet, which often reuses the identical quoted language across different pieces published days or weeks apart. When Amnesty International became the first human-rights organization to accuse Israel of genocide in December 2024, that single finding went on to anchor more than a dozen separate articles over the following nine months. Whenever Amnesty speaks about Israel, both outlets use their reports to create content for months or even years afterwards.

Across two years of coverage, the Times uncritically cited dozens of NGOs in Israel-related coverage hundreds of times. More than one-third of their Amnesty-specific citations were related to Israel, and some 65% of all NGO citations in its coverage of the period’s global conflicts concerned Israel’s conduct. Against that volume, the paper’s total lack of coverage on Amnesty’s newest report on Hamas crimes makes clear whose conduct is treated as newsworthy and whose is not.

The New York Times constantly returned, long after they were published, to several questionable Amnesty charges about Israeli misbehavior: its allegation that Israel illegally used white phosphorus in Lebanon; the accusation that Israel was operating “automated apartheid” through facial recognition technology; the controversial report on mass graves near Nasser Hospital in the southern part of the Gaza Strip; and its description of Israeli evacuation warnings as “inadequate.” Given the paper’s extensive use of Amnesty reports as they relate to Gaza, this newest report detailing Hamas’s killings is precisely the kind of information one would expect it to cover.

Yet in this two-year period, only two New York Times articles used an NGO finding to substantiate an accusation against Hamas. They cited a 2014 Amnesty report about how Hamas used Al-Shifa Hospital in Gaza City to “detain, interrogate, torture and otherwise ill-treat suspects,” pairing it with scrutiny over Israel’s bombing of the hospital.

Like the New York Times, the BBC’s use of Amnesty statements in its Israel coverage also took many forms. It extensively and uncritically covered Amnesty’s characterization of Greta Thunberg’s flotilla as “an indictment” of Israel’s blockade. It reported on Amnesty’s campaign to lobby FIFA and UEFA to suspend Israel from competing in international soccer tournaments. When the United Kingdom partially suspended arms sales to Israel in September 2024, the BBC quoted Amnesty calling the move

“gesture politics” and “riddled with loopholes” across three separate articles in a single day.

Within this two-year period of BBC coverage, the only NGO citation that condemned Hamas was a Human Rights Watch report that stated Hamas and other groups committed war crimes on Oct. 7, 2023—published more than nine months after the massacre occurred.

Outlets like the Times and BBC treat Amnesty International reports as gospel to be detailed and amplified in hundreds of articles, legitimizing the gravest of accusations against Israel. Publishing follow-up articles on such reports about Gaza is the usual pattern in their coverage of the conflict.

Yet neither outlet has touched this rare report condemning Hamas’s abuse; it simply does not fit the story they have chosen to tell about this war.

Gain-of-function antisemitism

ALAN NEWMAN (JNS.org 2-9-26)

There is a new way to think about the people who relentlessly incite hatred of Jews and Israel: “gain-of-function antisemitism.” The phrase borrows from the COVID-19 pandemic; specifically, former chief medical advisor to the president Anthony Fauci’s misguided funding of gain-of-function transmissibility and virulence research at China’s Wuhan Institute of Virology.

Fauci has been accused of facilitating a process that enhanced existing biological characteristics of a virus, making it more powerful and dangerous. Similarly, with the rise in antisemitism, old prejudices have been opportunistically amplified, repackaged, given a new language and spread through powerful new channels. Like a deadly re-engineered contagion, the new Jew-hate is released to a wider audience until what was once fringe becomes dangerously normalized.

This is where the “gain-of-function” metaphor becomes useful. An inflammatory podcaster or politician does not necessarily invent hatred from scratch. Instead, he or she takes an existing grievance, strips away nuance, adds sensational accusations, and with the power of AI bots, repeats them relentlessly.

Thus, Israel becomes not merely a country whose government can be criticized, but the hyperbolic embodiment of everything supposedly evil in the world. Jews thousands of miles away may then be treated as responsible for the actions of a government they neither control nor represent.

Like a virus, antisemitism has always mutated into various forms. In the past, antisemites accused Jews of controlling finance, governments, the press and world events. Today, some of those same ideas have been repackaged using words and phrases like “Zionists,” “globalists,” “colonialists” or “Jewish power.”

The vocabulary changes, but the underlying accusation can remain remarkably familiar: Jews are uniquely powerful, uniquely evil, collectively guilty and secretly responsible for society’s problems. The International Holocaust Remembrance Alliance’s (IHRA) working definition of antisemitism specifically identifies conspiracy theories, collective blame, demonization and claims of Jewish control as the foundations of hatred and bigotry.

Wealthy individuals, foundations, charities, media ventures and state-linked networks from several countries have heavily invested in antisemitic advocacy, campus programming, lobbying and digital messaging. They promote narratives that erase Jewish history, excuse terrorism and portray Israel as uniquely illegitimate. For decades, Qatar and other Islamic nations have funneled billions into American educational institutions, amplifying hatred while concealing their sources. Funds from far-leftists like George Soros further enhance the spread of the disease.

At the same time, a long list of Hollywood A-listers, such as actor Mark Ruffalo, have expressed their hypercritical opinions of Israel for years. We wish they had to maintain a six-foot distance and cover their faces with masks, but the bright lights of the entertainment industry give them an unrivaled platform.

In American politics, critics often talk about a “Red-Green Alliance” between far-left activists and Islamists, who otherwise disagree on many issues. Indeed, the likes of “The Squad,” Sen. Bernie Sanders (I-Vt.) and New York City Mayor Zohran Mamdani are the Typhoid Marys of the disease of antisemitism. When the Democratic leadership turns a blind eye, it becomes a carrier of the contagion.

In this alliance, revolutionary rhetoric about capitalism, colonialism or race can merge with Islamist narratives that demonize Jews and deny Israel’s

legitimacy. Its influence can be seen in protests, social media campaigns, campus coalitions and electoral politics. At the same time, critics wrongly question AIPAC’s constitutional right to lobby and support congressional candidates.

Examples of people and organizations accused by researchers, journalists and Jewish communal groups of amplifying antisemitic narratives include David Duke, a former Ku Klux Klan leader; Nick Fuentes, whose “Groyper” movement promotes white-nationalist and antisemitic conspiracy theories; and political commentators and podcasters Hasan Piker on the left, and Tucker Carlson and Candace Owens on the right, who have made widely condemned antisemitic statements.

Extremist organizations such as the Ku Klux Klan, the National Socialist Movement, Hamas, Hezbollah and the Nation of Islam have also been associated with rhetoric that demonizes Jews or promotes conspiracy theories about Jewish power.

Online networks, including Der Stürmer, Stormfront and certain anonymous social-media channels, have helped circulate Holocaust denial, antisemitic libels and incitement to violence.

New York City Zohran Mamdani, Michigan Senate candidate Dr. Abdul El-Sayed, Sen. Bernie Sanders (I-Vt.), and Reps. Ilhan Omar (D-Minn.) and Rashida Tlaib (D-Mich.) are just a few of the noisiest haters on the left.

To those who intentionally foster Jew-hatred: Recognize the impact of your actions. Words have consequences. When you label Jews or Israelis genocidal, parasites, conspirators, Nazis or otherwise uniquely evil, you are not just sharing an opinion. You are contributing to a moral climate in which discrimination, intimidation and ultimately violence become more likely. Dehumanization can turn hatred from something shameful into something its adherents see as virtuous.

“Gain-of-function” antisemitism is hatred that has been engineered to spread, mutate and strengthen. The remedy must be equally deliberate: expose the old myths hiding behind new slogans, follow the money poisoning entire communities, distinguish legitimate criticism from collective demonization, challenge conspiracy theories and refuse to let hatred masquerade as courage.

The lesson is simple: When hatred is the pathogen, silence and ignorance are not a cure. Ambivalent or apathetic Jews won’t be protected from the threat. The infection can spread anywhere. Truth, context and moral clarity are the antidotes.

As Jewish as a Ham Sandwich

RABBI EFREM GOLDBERG (RabbiEfremGoldberg.org 31-8-26)

A fascinating debate broke out online last week over a question that sounds semantic but is actually profound. Though it wasn’t framed this way, to me, the question being debated was essentially: is there a difference between being a Jew and being Jewish?

It began when comedian Hannah Einbinder expressed views sharply critical of Israel (not for the first time). Ben Shapiro responded, “Hannah Einbinder is about as Jewish as a ham sandwich.” He added, “If you believe that these people represent Jews or Judaism, then you believe Madonna represents Catholics or Catholicism.”

When someone, whether a celebrity or grassroots activist, invokes the “as a Jew” card to lend credibility to an argument or position that he regards as anti-Jewish, Ben’s response on several occasions has essentially been: Don’t use your Jewish identity to validate an argument that is antithetical to Judaism or harmful to the Jewish people.

Rabbi Mordechai Lightstone of Chabad.org pushed back. “There are many ways to criticize bad arguments,” he wrote. “Saying people who are indeed Jewish are about as Jewish as a ham sandwich is simply not it.” Shapiro responded: “Wrong. Using the mantle of Jewishness, something Einbinder and company demonstrate zero actual commitment to, in order to promote anti-Judaic insanity is fundamentally un-Jewish and ought to be called out as such.”

Then Rabbi Shais Taub joined the fray. “Torah is the final arbiter of all matters, including Jewish status,” he wrote. “You cannot revoke someone’s Jewishness even if you believe they are using that very status to advance ideas that are to the detriment of the Jewish people.” Rather than push such Jews away, he argued, we should devote ourselves to bringing our brothers and sisters back into the fold.

So who is right? When a Jew invokes “as a Jew” while advancing ideas we believe are deeply damaging to Judaism, Israel, or the Jewish people, do we say, “You’re about as Jewish as a ham sandwich”? Or is a Jew a Jew now

and forever, and our responsibility is always to love them, embrace them, and try to bring them closer? The answer may be both.

The Gemara in Sanhedrin famously describes the sin of Achan, who disobeyed Hashem's command not to take from the spoils of Yericho, with the words, **ישראל אף על פי שחטא ישראל הוא**, even though a Jew has sinned, he remains a Jew. The Gemara offers a beautiful metaphor: A myrtle standing among thorns remains a myrtle and is still called a myrtle. Achan's crime was devastating and damaging: he had not merely committed some private aveirah, rather his actions brought catastrophe upon the Jewish people. Nevertheless, Chazal insist that his essential identity remained unchanged.

The Gemara in Yevamos takes this even further. A convert who properly completes the conversion process is **k'Yisrael l'chol devarav**, Jewish in every respect. What happens if that convert later abandons Judaism? He remains a Jew. If he marries and decides to abandon Yiddishkeit, his kiddushin remains valid because he is now a Yisrael mumar, an apostate Jew, but a Jew nonetheless. The Rambam codifies the same principle regarding someone born Jewish who converts to another religion. Even if he willingly worships idols, his kiddushin remain fully binding. There is no reverse conversion. There are no backsies. Once you are a Jew, you are a Jew forever.

The Gemara in Kiddushin adds another dimension. The Torah says, **בנים אתם**, **לה' אלקיכם**, “You are children of Hashem your G-d.” Rabbi Yehuda understands this conditionally: Only when we behave like Hashem's children are we called His children. When we do not, we lose that designation. Rabbi Meir disagrees: **אתם קרויים בנים**, **בין כך ובין כך אתם קרויים בנים**, either way, you are called children. The Gemara supports Rabbi Meir with a series of pesukim describing Jews as foolish children, faithless children, even destructive children. The Torah is telling us something: at times we may act like terrible children, but we remain children.

Remarkably, the Rashba writes that although we ordinarily follow Rabbi Yehuda in a dispute between Rabbi Yehuda and Rabbi Meir, here the halacha follows Rabbi Meir because the pesukim brought by the Gemara support him. As any parent can relate to, no matter what we do to upset our Father in Heaven, we remain Hashem's children.

That is particularly important as we enter Elul and approach Rosh Hashanah and Yom Kippur. Some of us look back at the year and feel inadequate. We have made the same mistakes again. We have disappointed ourselves and Hashem. Maybe we wonder whether we have exhausted His patience. But still we pasken like Rabbi Meir. **Banim atem laHashem Elokeichem**. You are still His child and will always be his child.

Rebbe Mordechai of Kuzmir finds a beautiful allusion in the unusual formulation **banim atem**. Why does the Torah need the word **atem**? Elsewhere, regarding the rabbinic authority over the Jewish calendar, Chazal derive from the word **osam**: **אתם אפילו מזדיין אתם אפילו שוגגין**, **אתם אפילו מוטעין**—even when you err unintentionally, even deliberately, even when you are mistaken. Rebbe Mordechai takes the same word with different vowelization – “**Atem**” – and reads the same message here: **Banim atem**. You remain Hashem's children **afilu shogegin**, **afilu mezidin**, **afilu mut'in**. When we make mistakes, when we knowingly make the wrong choices, even when we are confused and lost, Hashem has not given up on us.

This is why the Gemara says that a communal fast that does not include the sinners of Israel is not a proper fast. It is why, before Kol Nidrei, we announce, **אנו מתירין להתפלל עם העבריינים**, we permit ourselves to pray together with the transgressors. And who are the transgressors? We might imagine we are welcoming the Jew who drove to shul on Yom Kippur. But if we are honest, we are also talking about ourselves. We are all the **avaryanim**. None of us should imagine that we are so perfect that we automatically deserve a place in the room.

This is a running theme throughout much of Jewish law and thought. The **chelbenah**, the malodorous spice, was nevertheless essential to the ketores. The **aravah** has neither taste nor fragrance, yet without it there are no complete **arba minim**. **Klal Yisrael** includes Jews who are distant, confused, alienated, and sinful. The very word we use to describe a community, **צבור - Tzibbur**,” many point out, stands for “**Tzaddikim**, **Beinonim**, **V'R'shaim**.”

These sources certainly sound like they support the approach of Rabbis Lightstone and Taub. A Jew is a Jew, always a child of Hashem.

So was Ben Shapiro simply wrong, is his approach extreme, unforgiving and maybe even inaccurate? Not necessarily. The Rishonim introduce another category that changes the conversation. There is Yisrael, and there is

“**Achicha**.” Yisrael describes who you fundamentally are. Achicha, your brother, describes how you participate in the covenantal fraternity of the Jewish people and how we relate to you.

The Maharam Mi'Rutenburg distinguishes between the two. Certain Halachos are based simply on being Jewish. Gittin and kiddushin, marriage and divorce, for example, remain fully operative even for an apostate Jew. But other mitzvos are explicitly formulated in terms of achicha. The Torah commands us to return **aveidas achicha**, our brother's lost object. We may not charge our brother interest. Somebody can therefore remain Yisrael while forfeiting aspects of achva. There are times we are instructed, even obligated, to treat a Jew as if he was not a Jew.

There are, in other words, two levels: **דרגת ישראל ודרגת אחוה**. When it comes to Jewish identity, Hashem decides who is a Jew. And a Jew is a Jew is a Jew. But achva describes the way we relate to and behave toward our fellow Jews. If someone deliberately removes himself from the Jewish people and works against them, the Rishonim recognize that those choices can affect that status and that status affects the privileges he or she enjoys and how we relate to him or her.

This is where the conversation becomes especially relevant today. The Rambam describes the **poreish midarkei tzibbur**, one who separates himself from the Jewish community, in startling language: **אף על פי שלא עבר עבירות**, even though he has committed no aveiros. Imagine someone who keeps Shabbos, is meticulous about kashrus and is personally scrupulous about halacha. But he is **nivdal mei'adas Yisrael**, he separates himself from the Jewish people. Continues the Rambam, **ולא נכנס בצרתו**, he does not enter into their suffering. He does not feel their pain. Their enemies are not his enemies. Their danger is not his danger. Their destiny is not his destiny. He conducts himself, says the Rambam, **k'ilu einu meihem**, as though he is not one of them. That is itself a profound religious failure and it impacts his place in the community in this world and his very entrance to the next one.

We need to be exceedingly careful here. Criticizing Israel or its government, leaders, or officers does not make someone an enemy of the Jewish people. Advocating for Palestinians does not remove someone from achva. There is plenty about Israel and about the Jewish community that can legitimately be criticized. Where exactly the line is crossed is a serious and complicated halachic question, and labels such as **mumar**, **moser**, and **poreish midarkei tzibbur** (and more modern terminology like “**Kapo**” or “**self-hating Jew**”) should not be thrown around casually. But there is a difference between criticizing policies and leveling blood libels against the Jewish state. There is a difference between advocating for another people and actively undermining the safety and security of your own, a clear distinction between disagreement and disassociation.

Moshe Rabbeinu provides the opposite model: **ויגדל משה ויצא אל אחיו וירא**, **בסבלותם**, Moshe went out to his brothers and saw their suffering. What helped make Moshe the quintessential leader of the Jewish people was precisely achva. He saw other Jews as his brothers. Rashi tells us that he placed his eyes and heart upon their suffering. Jewishness is not only what you eat, how you observe Shabbos, or which mitzvos you perform. It is also whose pain you feel, whose fate you share, and whom you call your brother.

And that brings us back to Ben Shapiro's ham sandwich. Perhaps what the conversation is missing is distinguishing between the noun Jew and the adjective Jewish. Jew is an identity. Jewish is a description. A Jew you are forever. Yisrael **af al pi shechata**, Yisrael **hu**. Even if you espouse ideas as non-kosher as a ham sandwich, you remain a Jew. Only Hashem determines Jewish identity, and no tweet, political position, or personal rebellion can undo it.

But are your ideas Jewish? Are your actions Jewish? Are you behaving Jewishly? Are you a representative of the Jewish people? Are you living with achva, seeing other Jews as achicha? That is a different question. In that sense, Ben's formulation can be understood differently, and to me is compelling. He was not, to me, saying that such a person is no longer a Jew. He was saying that invoking “**as a Jew**” does not magically make an argument Jewish. You can be a Jew while espousing profoundly un-Jewish ideas.

Indeed, when espousing un-Jewish and anti-Jewish ideas with the introduction “**as a Jew**,” it is particularly dangerous and damaging. Historically, apostate Jews often walked away and disavowed their Jewish identity. They sought to assimilate, integrate, and erase their status as Jews. Today, by contrast, some of the most vociferous voices leveling false accusations against Israel have abandoned the Rambam's basic criteria for

being worthy of achva status, all while prominently waving the “as a Jew” card.

In that sense, perhaps the ham sandwich metaphor is particularly fitting. Chazal describe the pig as stretching out its split hooves, as if to announce, “Look, I am kosher,” while concealing the fact that it does not chew its cud and is therefore not kosher at all. The pig is a symbol not merely of what is forbidden, but of the hypocrisy of publicly displaying the credential that suggests legitimacy while behaving in a way that contradicts it. There is something similarly troubling about invoking one’s Jewish identity not as a source of responsibility to the Jewish people, but as a credential to lend greater legitimacy to those who attack them. The repeated declaration “as a Jew” can become the outstretched hoof, holding up Jewish identity precisely while advancing ideas profoundly at odds with Jewish solidarity and responsibility.

Rav Soloveitchik’s famous distinction between Bris Avos and Bris Sinai helps illuminate this further. Before Sinai, we already had a covenant. We were the descendants of Avraham, Yitzchak and Yaakov. Bris Avos makes us a family. It gives us a common history, identity, belonging, loyalty, and destiny. Then came Bris Sinai. At Sinai we said na’aseh v’nishma. We accepted Torah, Halacha, and mitzvos.

This distinction is embedded in Birchas HaTorah: אשר בחר בנו מכל העמים ונתן לנו את תורתו. First, barcha banu—He chose us, a people. Then, v’nasan lanu es Toraso—He gave us the Torah. Peoplehood precedes obligation. Bris Avos precedes Bris Sinai.

Tragically, much of the Jewish world today shares our Bris Avos but not our Bris Sinai. They may not observe Shabbos or kashrus, may not believe in Torah min HaShamayim, and may know little about mitzvos. But they identify passionately with the Jewish people. Israel matters to them. Jewish suffering hurts them. Jewish celebrations move them. We may desperately want to help them discover Bris Sinai, but we already share Bris Avos.

There are also Jews with whom we share Bris Sinai but who seem strangely disconnected from Bris Avos, from the larger Jewish family and its collective fate. And then there is the most painful possibility: someone who seems to reject both. Neither Bris Sinai nor Bris Avos. Neither the covenant of Torah nor identification with the fate and family of the Jewish people. Perhaps that is the person the Rambam describes as k’ilu ein meihem—someone who behaves as though he is not one of us.

So who is right, Ben Shapiro or Rabbis Lightstone and Taub? Rabbis Lightstone and Taub are unquestionably right about the Jew. Yisrael af al pi shechata, Yisrael hu. A Jew is a Jew. We don’t give up on another Jew because Hashem doesn’t give up on another Jew. Banim atem laHashem Elokeichem. We should reach out, invite, educate, inspire, put on tefillin together, share a Shabbos table, and try to awaken the Jewish soul that remains present no matter how deeply buried.

But Ben is right about the word Jewish. Being born a Jew does not make everything one says a Jewish position. Invoking “as a Jew” does not give Torah credibility to an idea. Jewish identity is unconditional but living Jewishly is not. A Jew is never a treif piece of ham but an idea, even if said by a Jew, can be and sometimes it is necessary to point that out, protest and set the record straight.

You can never stop being a Jew. But you can certainly stop acting very Jewish. And perhaps the challenge is not merely to decide which description applies to someone else.

Elul asks each of us the same question. Hashem has already decided that we are His children. Nothing can change that. The question we have to answer is: How Jewishly are we choosing to live?

Kosher & Halacha Korner

The following article may be at variance to local Kashrus Agencies. When in doubt, contact your local reputable Agency. In Australia, direct any questions to info@kosher.org.au or visit www.kosher.org.au

Is Civet Coffee Kosher?

RABBI YIRMI KAGANOFF (RabbiKaganoff.com)

Question #1: Is civet coffee kosher?

Question #2: Is Black Ivory coffee kosher?

Question #3: Is it permitted to catch these species in order to use them for coffee production?

Question #4: What is the difference between “bird coffee” and “bird friendly coffee?”

Among the non-kosher smaller mammals that Noach brought into his teivah was a southeast Asian creature called a civet that has been described as looking like a cross between a cat and a mongoose. Our article will discuss the kashrus issues involved in several new varieties of gourmet coffee that involve civets, elephants and other non-kosher animals.

HAILED AS “THE MOST EXOTIC BEVERAGE ON THE PLANET,” civet coffee, also known as kopi luwak, is a delicacy, a unique coffee made from coffee cherries (also called “berries”) that pass through the gut of the civet before being brewed. It is described as smooth and chocolaty, with a subtle taste of caramel. One of the most pronounced characteristics of kopi luwak beans is their natural lack of acid bitterness. They have been discovered to be low in both tannin and acid. Furthermore, it is claimed that they contain a plethora of other health advantages not found in other coffees.

Kopi is the word for “coffee” and luwak is the name for the civet in the local Indonesian language where this “delicacy” was discovered.

The civet loves coffee berries, but cannot digest the beans, which emerge whole. When the civets eat ripe coffee cherries, the beans pass through their digestive system, undergoing a natural fermentation process. The beans are collected, cleaned, dried, and roasted to produce the final coffee. Yes, you are very correct, it sounds gross. And there are several halachic issues that require addressing.

BLACK IVORY COFFEE

Once mankind discovered that predigesting whole coffee beans might tenderize the bitterness in coffee and add flavor profiles, people experimented with using the digestive systems of other animals. “Black Ivory Coffee” was developed by a Canadian businessman in 2012 and involves coffee beans refined by elephants. Perhaps one advantage to this brew over kopi luwak is that elephants are readily available in captivity, both in Africa and in India, which makes it easier to produce and harvest the product “in bulk,” and, as we will soon see, might resolve one of the halachic problems involved in kopi luwak. The founder of the company that produces this specialty brew contends that the fermentation in the elephant’s gut strips the coffee bean of its bitterness and adds notes of chocolate, cacao nibs, light peach, malt, tamarind, spice and black tea, flavored in part by whatever else is in the herbivore’s stomach. The company producing “Black Ivory Coffee” also claims that their product has major health benefits because the coffee is rich in antioxidants and minerals.

Potentially, different varieties of this product can be made by varying the diet of the elephants. At one point, there might be an “Apricot Flavored Black Ivory Coffee,” one with “Natural Vanilla Flavor,” a “cashew infused” selection, “lemon and mint,” perhaps even an “esrog-hadas-date” flavor in honor of Sukkos — as many varieties as at Baskin-Robbins. Can’t you just see the wide selection available in the Pesach aisle of your upscale local kosher supermarket? The choices are endless – but is the coffee kosher?

BIRD COFFEE

Another type of specialty beverage is made from coffee cherries eaten by a variety of wild bird, the jacu. Jacu is the Portuguese name for one variety of birds, usually called guan, that are large tree-dwelling birds predominantly of tropical South American rainforests. It is claimed that this beverage is sweet, full-bodied, and smooth, with unique tasting notes of cinnamon, maple syrup, aniseed, and even hints of brown bread.

THE HISTORY OF KOPI LUWAK

First imported from Indonesia in the 1990s, kopi luwak aficionados contend that acids and enzymes in the civet’s gut alter the protein content of the beans. It is also possible that the flavor is influenced by the civets’ preference for certain types of berries over others. As we will soon see, this factor may vary significantly by the type of kopi luwak drunk. They are roasted very lightly to preserve their complex flavors.

It is important to note that not everyone is convinced that the differences in flavor, if they even exist, are an improvement. It hasn’t fared well in expert tasting tests either. In the words of one coffee industry expert, kopi luwak is “a gimmick, a fairy tale fabricated to sell gullible consumers bad coffee at extraordinarily inflated prices.”

The cost of wild kopi luwak fluctuates between \$20 and \$100 per cup. To increase availability and bring down the price of this specialty beverage, an industry of farmed kopi luwak has developed in which the civets have been trapped, bred and fed coffee (and, presumably, other nutrients, since man, civets and even students in finals week cannot live on coffee alone). For

those who want to buy kopi luwak by the bag (in bulk, no pun intended), wild kopi luwak costs significantly more, since it tastes better and is an ethical alternative to farmed kopi luwak.

Of course, when there is money to be made, there will be scandals. A BBC investigation discovered that “wild” kopi luwak being sold in Britain was in fact produced by civets being held in tiny cages in Sumatra, one of the larger islands of Indonesia. The gentleman who first imported kopi luwak to the West now regrets his involvement in what he describes as a “hideous trade.”

Our article is not a review of coffee variants, even if caffeine is the most common addicting substance in the western world. Our articles are about halacha, and we will discuss several halachic issues to determine whether this delicacy is kosher or not.

POTENTIAL HALACHIC ISSUES

What halachic issues must be clarified to determine whether these coffees are kosher? There are several:

1. Yotzei min hatamei

Since civets and elephants have neither split hooves nor chew their cud, they are not kosher. Do the enzymes and other digestive processes that the coffee bean absorbs in their guts render it yotzei min hatamei, something emanating from a non-kosher animal, like the milk or eggs of non-kosher species?

Similarly, we will have the same question regarding the jacu specialty. Since there is no mesorah that the jacu or guan is a kosher bird, we must assume that it is not. In other words, since elephant and civet milk and jacu eggs are not kosher, must we assume that the coffee beans that they have digested are also not kosher?

2. Bal teshaktsu

Based on a pasuk (Vayikra 20:25), the Gemara prohibits eating something that people find repulsive (Shabbos 90b; Makkos 16b).

3. Tza'ar ba'alei chayim

Is there a halachic concern of tza'ar ba'alei chayim because an animal that naturally roams is being kept in small boxes and fed an artificial diet?

We will discuss these issues one at a time.

Yotzei min hatamei

According to all opinions, honey produced by bees is kosher, notwithstanding that it is very obvious that the bees do something to the nectar that they intake to make it into honey. The tanna'im dispute why is bee honey kosher.

The majority opinion, that of the Chachamim, is that the processing of nectar into honey is not significant enough to be considered yotzei min hatamei. Borrowing terminology of the Gemara, we could describe this as “sugar in, sugar out.” A minority opinion, that of Rabbi Yaakov, rules that honey of bees is kosher because of a gezeiras hakasuv, a halachic derivation from a verse, and this will include only the honey of bees (Bechoros 7b, as explained by Rabbeinu Tam in Sefer Hayashar #529-531, and many others).

The Gemara (Bechoros 7b) teaches that there is a practical halachic difference resulting from the dispute between these tanna'im: What is the kashrus status of honey-like substances that come from insects other than bees? According to the Chachamim, honey manufactured by wasps or the honeydew made by aphids is kosher. Notwithstanding that there are changes because of the input of these insects, the resultant product remains kosher. This is also the opinion of the Mishnah (Machshirim 6:4), which quotes no disputing view.

How do we rule?

The Rambam and Rabbeinu Tam rule according to the Mishnah and the majority opinion among the tanna'im that wasp honey and aphid honeydew are fully kosher. Because of a Talmudic inference (in Bechoros 7b), the Ramban and the Rosh (in their respective halachic compendia in Bechoros) rule like Rabbi Yaakov that these products are non-kosher. The Shulchan Aruch cites both opinions, but considers the lenient opinion to be the primary one (Yoreh Deah 81:9).

Let us now compare the coffee that has passed through the digestive tract of a civet, elephant or bird to wasp honey or aphid honeydew. According to the Chachamim, this coffee should certainly be permitted since the change rendered by the digestion of these creatures is far less noticeable than the change that wasps and aphids (or bees for that matter) do to nectar to make it honey. Honey neither looks nor tastes like nectar, nor does it have the same viscosity, but no visible difference appears in coffee beans after their passing through the digestive tract of these non-kosher animals. The

differences in taste are extremely subtle and should be included under the heter of the Chachamim (see also Shu"t Igros Moshe, Yoreh Deah 2:24).

The question is whether Rabbi Yaakov agrees. In his opinion, honey is considered a different substance from the nectar that was ingested, and therefore only bee honey is kosher. However, there is a very strong logic to argue that even Rabbi Yaakov permits kopi luwak, Black Ivory and jacu coffee since the coffee bean appears unchanged after its digestion.

There is another reason to permit these specialty coffees even according to Rabbi Yaakov. The Mishnah (Bechoros 7b) teaches that when a non-kosher fish swallows a kosher fish, the kosher fish remains kosher, and the Gemara (Bechoros 7b) says this is true even after it has passed through the entire digestive tract of the non-kosher fish. Many rishonim contend that something that passes through whole, or that remains hard when it is finished being digested (see Menachos 69b; Rash, Ohalos 11:7; Tosafos, Bechoros 7b), is considered no different halachically from what it was prior to digestion. According to this approach, Rabbi Yaakov would permit these varieties of coffee.

Bal teshaktsu

Based on a pasuk (Vayikra 20:25), the Gemara prohibits eating something that people consider repulsive (Shabbos 90b; Makkos 16b). This prohibition is called bal teshaktsu. Our question is whether I may eat something that I do not consider vile, but other people do. The Pri Chadash (Yoreh Deah 84:3) rallies much proof that individuals who are not revolted by a particular food may eat it, even when most people are. This author is unaware of any other halachic authorities who discuss this question. Although the Be'er Heiteiv refers to this Pri Chadash, he does not discuss or analyze it. According to this Pri Chadash, someone not disgusted by the past history of this expensive brew in front of him may drink it. There is also no reason to mention the background of the beverage to someone who is oblivious to its history.

There is other evidence that these beverages should not be prohibited because of bal teshaktsu. While discussing the rules of food being susceptible to tumah, the Tosefta (Taharos Chapter 9) and the Gemara (Menachos 69a) rule that wheat and barley kernels removed from cattle, donkey or camel manure are considered food if an individual decides that he would eat them. This implies that there is no prohibition of bal teshaktsu.

Tza'ar ba'alei chayim

At this point, I refer to the third of our opening questions: Is it permitted to catch civets in order to use them for coffee production?

The question relates probably only to farmed kopi luwak, since the captured civets are now caged and this is a species that usually lives in the wild.

One may use an animal to service people, even when doing so inflicts pain on the animal (Terumas Hadeshen 2:105; Rema, Even Ha'ezer 5:14; these authorities base their rulings on Talmudic sources — see Shabbos 154b, Avodah Zarah 13b). The rationale provided is that animals and the rest of creation were created in order to service mankind (Terumas Hadeshen, based on Kiddushin 82a).

On the other hand, all authorities prohibit causing animals to suffer unnecessarily, such as to strike an animal out of anger or frustration (Sefer Chassidim #666). If an animal that is normally well-behaved and responsive to its vocation refuses to work one day, one should not beat it to get it to cooperate – rather, one should consider the possibility that it might be ill (Sefer Chassidim #668). Animals do get sick and, as we see from the story of Bilaam, they may have difficulty expressing themselves.

More specifically, it is prohibited to raise livestock in an inhumane way, such as by feeding them an unusual diet or depriving them of proper ventilation or exercise. However, although farmers may violate tza'ar ba'alei chayim when they raise their livestock, I am unaware of any authority who prohibits using a product that resulted from tza'ar ba'alei chayim. The prohibition is on the one who raises the livestock. In practice, many animals that we shecht and eat are raised in less than optimal circumstances, yet poskim have not ruled that we should avoid using such animals, or that we are required to inspect how these animals are handled prior to our purchasing meat that comes from them.

One can ask this question relative to many modern techniques of fur and fish farming and animals used for research. The question is whether the techniques used are indispensable for mankind to gain the benefits. For example, research testing on animals to see whether beneficial drugs are safe for mankind is certainly permitted, provided that no unnecessary pain is inflicted upon the animals. This is far less obvious when we are researching the safety of cosmetic items, particularly when others are

readily available. In the case of kopi luwak, does this coffee really taste so much better that there is a necessity to keep civets in cages? And, why can't those who really want this specific brew purchase wild kopi luwak.

I will also note that civets are farmed already for use as a flavor enhancer in food production. They are one of the reasons why products containing "natural flavors" must have a proper kosher certification. I am unaware of the conditions in which civets are raised for these purposes, but these are not within the parameters of this article.

BIRD FRIENDLY

At this point, let us examine the last of our opening questions:

What is the difference between "bird coffee" and "bird friendly coffee?"

Bird Friendly® coffee has nothing to do with jacus or the digestion of coffee beans by a mammal. Coffee growing is a massive industry and requires tropical and subtropical areas for production. Unfortunately, coffee farms usually destroy natural habitat that was previously used by birds, either migratory or regional. Bird Friendly® farms provide a shade cover for habitat for both migratory and resident birds in their tropical landscapes. The term Bird Friendly® is a registered trademark of the Smithsonian Institute used to endorse farmers who qualify for its certification and research program.

CONCLUSION

Shelomoh Hamelech teaches (in Mishlei 12:10) Rachamei re'sha'im achzari, the compassion of the evil is cruelty. What does this mean, particularly since the context of the pasuk implies that it is discussing the care one takes of his animals? The example chosen by the Sefer Chassidim (#669) is of an evil person who feeds his animal well, but then expects it to perform beyond its capabilities – after all, he treated it so nicely. When the owner's expectations are not realized, he beats the animal mercilessly. It turns out that his initial compassion causes him to be cruel.

To quote the Tosefta (Bava Kama, end of Chapter 9): Rabbi Yehudah said in the name of Rabban Gamliel, "Recognize this: As long as you act with mercy, Hashem will have mercy on you." Sefer Chassidim #666 notes: If we are merciful to our animals, Hashem and others will be merciful to us. We should always hope and pray that the food we eat fulfills all the halachos that the Torah commands us.

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