

ABSTRACT:

Striving for the proper harmony and balance between Ethical, intellectual, and spiritual virtue (*arête*) is viewed by some philosophers *wie das Wesen des Judentum*. i.e. *the essence of Judaism*. Judaism is infused with being ethical, *in Wesen die sind die Selbe*. Jewish law in its moral concern safeguards and mandates ethical behavior. Many ceremonial and ritual laws, in fact are interpreted as having ethical symbolic if not theurgic significance in Lurianic Kabbalah, which describes doing mitzvot as a way of "*gathering the sparks*" to make a Tikkun. Also in the area of intellectual Litvishe attainment of Talmudic wisdom, age old *Halakhic* principles are the vehicles by which *Jewish law* is able to apply *guidance* for behaving morally and striving to navigate our lives on the *sea of life* by the compass of Torah. The primary importance of *ethical behavior* is noted in the sugya in *Maseket Shabbat* (which opened my paper at the AJL Seattle conference) in which clairvoyantly the rabbis imagine the liminal moment of being before the *beit din memalah*, after we all go upstairs to the *Eberster's* heavenly court, and our lives are evaluated in the divine scales of justice, for the mitzvot and (*aveirot*) we may or may not do, and our reward is based on truth, fairness, justice, and righteousness. The first question asked *there* (Da/ là / דא/ εκεί / там/ allí, is "How, why, where, and with what motivation *did you conduct your life with excellent business ethics and moral behavior?* Giving primacy to the ethical domain as the first area of evaluation [over the intellectual and spiritual] may suggest that this sugya considers that our very reward in the *olam ha-bah* is primarily dependent on our ethical behavior [and intellectual & spiritual accomplishments] in *olam hazeh*. Our existence, from the word *Dasein*, meaning literally "*there-being*," is affirmed as a life lived ethically when we behave with moral integrity and this paper shows how Jewish law can guide us in navigating the problems that arise with the appearance of some new technologies.

Rabbinic law intends through its regulations to safeguard against the sanctity of our striving for ethical-intellectual-spiritual virtue and to foster and develop and enforce respect and dignity for each Jewish *neshama*. If the Jewish community is to be intellectually vibrant, compassionate, caring, attain spiritual growth to achieve holiness, it needs to conduct lives in the spirit of humility, respect, justice, truth, kindness, striving for honesty, fairness, compassion, integrity, moral fiber, & strength of character. In *Maseket Makkot* 24a with echoes in *Tehillim* 15, we find a list of behaviors that are the essence of *the taryag mitzvot*, when DovidHaMelekh says that the 613 commandments can be reduced to 11 principles: (1) walk in perfect innocence, (2) work righteously, (3) speak the truth, (4) have no slander on your tongue, (5) Do no harm to your fellow, (6) cast no disgrace on someone else, (7) find no person contemptible, (8) Honor those who fear G-d, (9) keep your word in an oath, (10) lend money with good will, (11) take no bribes against the innocent. Isaiah makes the list of 11 ethical principles even smaller by formulating 6 moral principles: (1) walk righteously, (2) speak with fairness, (3) spurn illicit gain, (4) take no bribes, (5) seal your ears from hearing of violence, (6) shut your eyes from seeing evil acts. Hazel reduce the list even further by turning to three principles found in the navi Micah. "It hath been told thee, O man, what is good, and what the LORD doth require of thee: only to do justly, and to love mercy, and to walk humbly with thy G-d." Isaiah (56:1) slims down the fundamental ethical principles of the torah still further to two concepts: (1) observe Justice, (2) Act with righteousness. Heading the musar of one's father *bis hundred und zwanzig lemeah ve-ezreim*, and the torah of one's mother (zl) is expressed in Mishlei Keep your father's commandments. Do not forsake your mother's teaching. Tie them over your heart always. Bind them around your throat. When you walk it will lead you. When you lie down it will watch over you; and when you are awake (i.e. resurrection) it will talk with you. For the commandment is a lamp, the teaching is a light. As with the ethical behavior these moral teachings are principles that serve as the ethical compass by which G-d wants us to live morally and be ethical accountable human beings. These moral principles provide an anchor in the stormy seas of life, and discipline for which all of us must strive to become better morally and ethically as G-d's agents on this earth striving to attain kedusha, holiness. Holiness can be achieved *bain Adam LiMakom*, i.e. by serving in the BeitHaMikdash being G-d intoxicated there where His Shekhinah dwells, , and in *bain Adam liHavero*, in the ways we interact with other human beings, *das Zwischenmenschliche*, i.e. not clipping coins, having a just epha and hin tzedek, not murdering, cheating, committing adultery, coveting what may belong to others, etc.

Rambam provides a coherent deontological ethical theory and praxis (see *HilchotDeot & Shemoneh Perakhim*) that strives for the mean, i.e. the right mean balance and proportion [avoiding the extremes of excess and deficiency] of courage (*andreia*), temperance (*sophrosune*), compassion (*rachamim*), magnanimity (*megaloprepeia*), proper ambition, patience (*savlanut/praores*), truthfulness (*emes/aletheia/veritas/wahrheit/verite*), wittiness (*eutrapelia*), friendliness (*philia*), modesty (*aidos*), and righteous indignation (*nemesi*), although we must strive go to the extremes in being very humble (Moshe was *anuvmoed*) and never getting angry (i.e. the Avot simulated anger but always remained calm, cool, and responded with quietude). This subject (Rambam's understanding of Virtue, *middot tovot*, and the difference between a *bayoni*, *Tzadik*, and *Hasid* in the Maimonidean *oeuvre* is treated in a paper submitted to Dr. Isadore Twerski (ztsl). Rambam argues we should strive via *imatatio dei* to perform Hashem's positive attributes of compassion, graciousness, mercy, kindness, and slower to anger. Yet with regards to Hashem's transcendent non mimetic traits within the limits of human beings, i.e. Hashem's attributes of omniscience, infinity, and not being a body, etc. we must employ a method of negative theology positing that Hashem is not a body (*ayn lo demuthagufve-einuguf*), Hashem is not ignorant (it would be *chutzpah* to assume human knowledge can ever attain total divine omniscience, although the *kesher* between the finite human intellect and divine intellect is the *sekelhapoel*), and not finite i.e. *aynsot*. The enlightened philosopher King is internally balanced, morally virtuous, wise, just, ruled by reason, and careful to distinguish between appearance and true reality i.e. the messiah will judge not by "the assumptions of the eyes and the assumptions of the ears" (Isaiah 11). As Aaron Levine has shown, Rabbinic case law, however must apply halakhic concepts, to situations that are often complex. Poskim who are qualified to give a *psak din*, must with a quickness of mind deploy the treasury of Rabbinic wisdom, understanding, knowledge, and learning to marshal appropriate *puskim*, *halakhic* principles, and rabbinic precedents, to deal with difficult unique individual cases of today in evolving oral torah, many of which include *gray areas*, where there are no easy answers. Works like *Mishpat Ivri* by Menachem Elon, [trans. By M. Sykes] are important, for giving one an overview of the historical development of Jewish law across the millennium.

There is a growing body of rabbinic texts on the questions regarding *Halakhic* ethical concerns of the online environment. The *shealotve-teshuvot*, *Responsa* genre draws Jewish law from the past by analogizing *halakhic* principles that apply to questions regarding the new technologies. We will identify some of these ethical concerns and classify them. Some of the many *halakhic* issues treated in this paper include: **(1)** the ***CheremRabbenuGershom*** forbidding reading others' letters, and invading privacy rights [classified in 4 categories: (a) visual privacy, i.e. ***Hezeqre'iyya***, (harm caused by seeing) (b) privacy of one's residence against trespassers i.e., אַם-בְּמַחְתָּרֵת יִמְצֵא הַגָּבֵב (c) privacy of one's communications (d) prohibition of disclosure of *nistarot* and *tailbearing*, הוֹלֵךְ רַכִּיל, מְגִלָּה-סוּד; וְנֶאֱמַן-רוּחַ, מְכַסֶּה דָבָר, thereby transgressing against the ChofetzChaim's laws of *shemiratloshon* (lashonharah, and motzhishem rah), and by extension the *isur* on reading by spying on another person's emails, a warning against which can include the phrase: גַּמָּה בַחֲרָם דְּרַבְנָנוּ גֵרְשׁוּם מֵאוּר הַגּוּלָה: meaning *heremd/rabbeinuGershom*, or ***pagi'im***, פֶּגַע an acronym for נַשְׁכָּנוּ נַחֲשֵׁי) **(2)** The sanctity of *Hashem's* name and the prohibitions of erasing the name (***mechikatHashem***) based on Devarim 12:2-3, and does this apply on a computer screen i.e. ***lo ta'asum ken*** is an ***issurchaftza***, a prohibition pivoting around a physical object (a *sefer Torah* and sacred texts qualifying for *Shemos in a geniza*) with a specific *halakhic* status, written by a *sofer* who has *teveledn* a *mikvah* and written the name with ***yiratshamayim*** (haikkarve-takhlit ha-adam) and ***kavanah*** **(3)** internet commerce on *Shabbat*, **(4)** social network *listserves*, *blogs*, *wikis*, etc. by which Orthodox Jews can construct "cyber" communities **(5)** employing filters for screening out "***pritzus***, ***narishkeit***, and ***stius***, **(6)** spyware and cookies that marketers use to target consumer groups, who may not wish these marketing techniques be used to waste their time, ***bitulzeman***, **(7)** *davoning* from a kindle or ipod obviously not on *Shabbos*, **(8)** cyber *minyanim* and *mizumem*?, **(9)** permissibility of censoring hate literature on the web, **(10)** computer crimes of abuse and fraud by which one piggy-backs on another's *Wi-fi* unsecured signals without authorization or permission to access to a computer network, contracted by others, possibly harming the network and damaging others' data, and also diminishing bandwidth which can effect speed of connection for the paying subscriber, ergo

constituting *geneiva* and violating Shmuel's pronouncement of **Dina De'Malchuta Dina, (11)** illegal film and music downloading causing financial loss to royalties of copyrighted works, despite *minhagoshelolam* (normative practice) and *hamotzil'oryodeahmizeh* (the author knew full well upon making the work public how it might be abused, i.e. *umdenah* (common assumption) **(12)** ethical concern with author copyright within 5 halakhic categories: A. *Hasagatgevul*- unfair competition; B. *Haskamot*- approbations; C. *Dina d'malkhutadina*- secular law; D. *Shiurb'kinyan*- withholding the right to copy and copyright; E. sighting a law in the name of one's Rebbe who learned it from his Rebbe, a reason Rabbi Yosef Karo wrote the *pirush Kesef Mishnah* on Rambam's *Sefer Mishnah Torah, MT*. i.e. *(omerdavar bshemomro)* i.e. *Rabbi Yosef Karo in Kesef Mishna to Rambam's MT*. see: *משנה מסכת אבות פרק ו' & Megilah 15a) explicating Esther 2:22*

וידוע הדבר למרדכי, ויגד לאסתר המלכה; ות אמר אסתר למלך, בשם מרדכי

This presentation attempts to outline and gather some of the basic frameworks of the halakhic approaches and principles to online ethical issues, for practical guidance please consult a qualified halakhic authority credentialed to field sheolos.