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Yetzer Hara: The Rabbinic Concept
and Its Halakhic Implications

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Thesis submitted in partial fulfillment of the requirements for Ordination

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Referees, Dr. Mark Washofsky and Dr. Richard S. Sarason

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Dedication

I dedicate this thesis to the memory of beloved grandmother, Pauline Mercur Zinn, ז"ל, who lit the spark in my soul and showed me by her example how to be an *or l'yehudim*.

Digest

Yetzer Hara is the evil inclination that God created within humankind, according to the classical rabbinic picture of the world. The Rabbis developed this concept as part of their theological, philosophical, and psychological theories of human nature. These theories are used to explain human behavior, disobedience, and rebellion *vis-a-vis* God. There has been extensive research into these theological, philosophical, and psychological aspects of the concept *yetzer hara*. What I propose to study is how halakhic literature uses notions of human psychology to make legal decisions.

Bialik's famous essay, "Halacha and Aggadah," stressed the relationship between the two. It is a fair presumption that Jewish law would take into account the implications for normative behavior of the rabbinic worldview in the process of rendering decisions.

The first chapter is an overview of the rabbinic concept of *yetzer hara* including the relevant secondary literature. The purpose is to gain a working definition of what *yetzer hara* meant to the post-Talmudic rabbis, who regard the Talmud as the authoritative source of the *halakhah*. After

locating all of the occurrences of the term *yetzer hara* in the Mishneh Torah of Maimonides, the Shulchan Arukh, of Joseph Karo and Moshe Isserles, and the Mishnah Berurah commentary of Rabbi Israel Meir HaKohen Kagan and assessing the quantity and quality of the materials found, I have explored as many of the halakhic issues as I can within the confines of a rabbinic thesis. Chapter two explores the background of each halakhic issue selected through a consideration of the relevant passages of the Talmud, codes, and commentary and describes how the concept of *yetzer hara* figures in the ultimate decisions given. The conclusion is that both Maimonides and Kagan reiterate the usage of *yetzer hara* in some halakhic discussions and at times introduce *yetzer hara* into a particular halakhic debate in order to explain the rationale for a particular law or strengthen one deemed lacking compulsion.

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Introduction

The most vexing aspect of human nature is the inclination to evil. In order to understand the entirety of man, many have studied the forces that pull him both towards goodness and evil. Though continually perplexed by the apparent duality in man's temperament and interest in understanding it, society, in the main, has consigned this area of inquiry to psychology.

"Judaism, as a religion which concerns itself with the total man, also investigates and posits theories about the structure of consciousness, personality and the nature of various psychological mechanisms, drives, and impulses."¹

However, where psychology and rabbinism differ is in the former's inability to move beyond its confined sphere. The latter, on the other hand, goes far beyond the scope of psychological theory and structures by including into the discussion issues of theology and theodicy, philosophy and hermeneutics in order to understand that total man. Moshe Halevi Spero

¹Moshe Halevi Spero, "Thanatos, Id and the Evil Impulse," Tradition: A Journal of Orthodox Thought 15.1-2, (1975): 97.

describes in two of his writings² that *yetzer hara* is not consistent with any of the main Freudian psychological constructs.

"The *yezer ha-ra* is not-

1. an instinct *per se*, because the *yezer ha-ra* is neither an endosomatic construct nor a biological one; 2. Thanatos, because thanatos is an instinct and is purely destructive, regressive, and catabolistic, which does not fit into the overall talmudic world-view; 3. Eros, because Eros is an instinct and does not alone explain destructiveness and aggression; 4. libido, because libido is a somatic energy...; 5. the id, because the id is the reservoir of libido..., the housing of *both* Eros and Thanatos, and a means of primitive phylogenetic drives...³

While aspects of these psychological constructs can be instructive as to aspects of *yetzer hara*, none nor any combination of them complete the picture of what *yetzer hara* was and is in rabbinic thought. Spero adds that while Solomon Schechter believed that *yetzer hara* is an internal instinct, Samson Raphael Hirsch believes that it is not an agent of activity in human affairs, since the grammar of the word *yetzer* implies passive formation. Spero concludes thus:

...*yetzer ha-ra* is an individual's own creation, and indeed, could be equated with the individual himself. Man's *basic* nature *per se* is neutrally growth-oriented and meaning-investing...[A] person's nature can be defined by the type of *yezer*, or route to meaning he has chosen. The Talmud and the Torah, based upon their views of the proper and improper ways to fulfill these needs, make *a priori* assumptions as to what constitutes "good" and "evil." Such descriptive labels can be posted *post hoc* on incidents of behavior. The use of the dual *yezer* model thereby serves to promote a heuristic

²"Thanatos, Id and the Evil Impulse" and Judaism and Psychology: Halakhic Perspectives (New York: KTAV Publishing House, Yeshiva University Press, 1980).

³Spero, Judaism and Psychology: Halakhic Perspectives, 75-76.

metapsychology and a sound educational model.⁴

While the tendency for goodness was of great interest to the Rabbis, they put greater emphasis on and attention to the evil aspect of human nature, which they termed *yetzer hara*. It was this characteristic of the human personality that they believed led to licentious behavior, avarice, idolatry, and every manner of negative activity within a person's reach. Therefore, they sought to understand its origin and purpose in order to have influence over it. The Rabbis, then, constructed what some would call a psychology of human nature based on their observations of people that scholars today term rabbinic psychology. By employing the medium of text they sought to describe and regulate its peculiarities and imperfections.

Rabbi Hayyim David Halevi writes:

תורת הנפש (הפסיכולוגיה), יחסית היא מדע צעיר. מהותה, חקר התהליכים הנפשיים באדם, רגשותיו, חויותיו, תגובותיו, וכדומה. רבות הן ההלכות המבוססות על תכונות נפש והכרת טבע האדם. שכן בכל מקום בה נזכרה "חזקה", אין ספק שיש למצוא שם יסודות של תכונות נפשיות, שהרי ביסודה לא באה "חזקה", אלא כדי לברר מהימנות האיש ומעשיו במקום שאין הוכחה ברורה, מפני שכך נראה לחכמים שידעו והכירו את מהות הנפש.

[The study of the soul, psychology, is a relatively young science. Its essence is the study of the psychological processes in man, his emotions, experiences, reactions, etc. Many *halakhot* are based upon psychological characteristics and understanding of human nature. Indeed every time *hazakah*, typical standard behavior, is mentioned, undoubtedly that you can find there principles of psychological characteristics, since at its base [the concept] *hazakah* is used only in order to clarify a person's reliability and in a situation where there is no clear proof, and therefore it seemed to the Sages that they knew behavior and understood the ways of human nature.]⁵

⁴Spero, *Judaism and Psychology: Halakhic Perspectives*, 80-81.

הלוי, הרב חיים דוד, "מניעים נפשיים [פסיכולוגיים] בהלכה", קיד. 5.

He goes on to say:

חזקה אין אדם חוטא ולא לו

נמצא בתלמוד כמה פעמים. מפורסם בבבא-מציעא ה': בדין מהימנות הרועה. יסוד ההלכה ברור בטעמו: אם כבר יחטא אדם, הרי זה לפחות להנאת עצמו, אך מעולם לא יחטא כדי שמי שהוא אחר יהנה. כלומר בטוחים חכמים בישרו של אדם, אף כי זה יושר מינימלי בלבד, אך עכ"פ מדה נפשית טובה. ברור שירדו חכמים לסוף הכרת מהות נפש האדם טרם הגיעם למסקנה זאת.

[The presumption that a man will not sin unless he benefits from it is found in the Talmud in a number of places. A well-known case is found in Baba Metzia 5b in the law of the reliability of a shepherd. The foundation of the *halakhah* has a clear explanation. If a person is going to sin, he should at least get some personal benefit from it. But, no one will ever sin in order for someone else to benefit. That is, the Sages are confident about the honesty of a person, even though this be the most minimal level of honesty. In any case, it is a worthy trait. It is clear that the Sages penetrated to the bottom of human nature before they arrived at this conclusion.]⁶

According to Spero, *halakhah* does not just respond to psychological needs but corresponds to it. Psychological structures are not primary and *halakhah* secondary. He believes that what the rabbis create should be termed halakhic metapsychology, since

...halakhic metapsychology is designed above all else to realign our perspective on so-called *nonhalakhic* entities or processes and to reinstate such entities as primary precisely because they, too, have intrinsic halakhic identities. If, as the Talmud relates (*Kid.* 30b), God fashioned man's "*yezer*" at the same time as the Torah was created as its antidote, this must mean that the very *a priori* psychological, sociological, and anthropological structures that are to be addressed by the Torah have their own special claim on an *a priori* *halakhah* status. Indeed, these "scientific" structures are implicit in formal halakhic structures at every level and, thus, are part of

הלוי, קיד. 6.

a single language.⁷

In light of this perspective, the first chapter will provide the necessary background in rabbinic thought on *yetzer hara*. I will describe the etymological and theoretical origins of *yetzer hara* as found in scripture. Rabbinic literature will then serve as the medium for discourse about this topic, because it is in these writings that variant interpretations and elucidations are found.⁸ Not only do these writings describe *yetzer hara*, but within some of these passages are contained the laws that the rabbis enacted in order to help people control their baser instincts. "Halakhah, as we know it, reflects an a priori design for the betterment of human existence."⁹ "The consensus of talmudic opinion is that such mastery is not gained by repression of impulses, but rather by rerouting them along acceptable lines."⁹

In the second chapter the focus will shift to an analysis of those sections of the Rambam's Mishneh Torah and Israel Meir Kagan's Mishnah Berurah that utilize the concept of *yetzer hara* in the process of rendering specific halakhic decisions. The first segment of the chapter will introduce the authors and their texts. The second segment of this chapter is how and why Rambam brings the concept of *yetzer hara* into halakhic

⁷Moshe Halevi Spero, Religious Objects as Psychological Structures: A Critical Integration of Object Relations Theory, Psychotherapy, and Judaism (Chicago: University of Chicago Press, 1992) 127.

⁸Spero, Judaism and Psychology: Halakhic Perspectives, 20.

⁹Spero, Judaism and Psychology, 151.

discourse. In light of the Rambam's attraction to rational philosophy, one might expect that his treatment of the subject of *yetzer hara* could deviate significantly from traditional rabbinic understanding. And yet, it is equally true that wherever possible, the Rambam remained true to the established tradition. Therefore, this examination will focus on the Rambam's use of *yetzer hara* in his halakhic discussions to determine whether or not he is simply restating what the Sages already said or shedding new light on a particular subject.

The last section of the second chapter centers on Israel Meir Kagan's use of the concept of *yetzer hara* in his commentary on the Shulchan Arukh, the Mishnah Berurah. Here to, the focus will be to determine whether or not Kagan is remaining true to the rabbinic understanding of particular halakhic decisions, simply restating his predecessors' sentiments, or adding new insight into a halakhic controversy.

Chapter One

Rabbinic Theory on *Yetzer Hara*

In biblical Hebrew, the term *yetzer* means anything formed of or from thought.¹⁰ The term has been variously translated as "inclination," "imagination," "impulse," "striving," or "purpose." The rabbis of the Talmud have used the term *yetzer hara* to designate the evil inclination and *yetzer tov* to designate the good inclination. These inclinations are the opposing forces in man's nature that drive him towards or away from evil. According to Reuven Bulka, "It probably is more correct to look upon these two components, or impulses, as propensities, as potentialities that can be actualized in either direction."¹¹ The rabbis spend most of their energies focussed on *yetzer hara*, since it was the more problematic of the two. Furthermore, since man can utilize it in the service of God, it cannot be

¹⁰Hebrew-English Lexicon of the Bible, (New York: Schocken Books, 1975) 113.

¹¹Rabbi Reuven Bulka, Ph.D., The Jewish Pleasure Principle (New York: Human Services Press, Inc., 1987) 110.

inherently evil.¹² If there is no choice, then being good is of neutral value.¹³ Since free choice is a given, then man must possess the potentiality and possibility to actualize either good or evil.¹⁴

In this chapter I will lay out the various theories, ideas, and suggestions found in classical amoraic literature on this subject. The goal is to see the depth, breadth, and variety of views espoused throughout the ages as a backdrop to understanding how two later interpreters, the Rambam and Israel Meir Kagan, harness this knowledge in setting forth halakhic decisions.

The origin of the concept *yetzer hara* is in the Rabbis' observation of, experience with, and understanding of human nature. They both observe and experience in themselves and others profound appetites and impulses with strong anti-social components. These are the impulses that the social order and God's commandments seek to rein in so that society can endure. Much of rabbinic psychology is therefore telescoped into the expression *yetzer hara*.

The etymological basis of the rabbinic concept of *yetzer hara* is found in Genesis 6:5:

¹²Bulka, The Jewish Pleasure Principle, p. 110.

¹³See also Samuel S. Cohon, "Original Sin," Hebrew Union College Annual 21 (1948): 330.

¹⁴Rabbi Reuven P. Bulka, Critical Psychological Issues - Judaic Perspectives (Lanham, Maryland: University Press of America, Inc., 1992) 113.

וירא ה' כי רבה רעת האדם בארץ וכל יצר מחשבת לבו רע כל היום.

[And God saw how great is the evil of man upon the earth, and every inclination of the thought of his heart is only evil all day.]

The evil in man is described here as related to the formations of thought located in the core of man's being, which was deemed to be the heart. This idea is echoed in Genesis 8:21: כי יצר לב האדם רע מנערי

[...because the inclination of the heart of man is evil from his youth...]

From the biblical usages in Genesis 6:5 and 8:21, the rabbis make a nominative *yetzer hara*, to telegraph a whole host of rabbinic values, ideas, and fears into a single useful phrase. One might think that the rabbis took these verses to mean that man is inherently sinful and therefore is the bearer of original sin. However, the rabbis had a much different view of man's nature. They observed as well that in man there is also a great potential for goodness. The concept of *yetzer tov*, the good inclination, expresses this outlook. *Yetzer tov* is the rabbinic equivalent of the conscience, the internalized restraints learned through socialization. They deemed that *yetzer tov* does not emerge until age 13. By that time, social rules have been internalized sufficiently. Therefore, the Rabbis believed that man has within him the potentialities for both good and evil. They read this outlook back into the text of Genesis 2:7:

וייצר ה' אלהים את האדם עפר מן האדמה ויפח באפיו נשמת חיים ויהי האדם לנפש חיה.

[And the Lord God formed man out of dust from the ground and breathed into his nostrils the breath of life and man became a living soul.]

The Talmudic and Midrashic scholars noted in this verse the variant

spelling of the verb, *yitzer*, with two *yuds*. From this orthographic peculiarity they adduced eisegetically, that God created man with two *yetzerim*, one good and the other evil.¹⁵ A parallel eisegesis is also read into Deuteronomy 6:5. T. Berakhot 7:7 states:

היה ר' מאיר אומר הרי הוא אומר ואהבת את ה' אלהיך בכל לבבך וגומר בשני יצריך
ביצר טוב וביצר רע...

[Rabbi Meir used to say, behold Scripture says, "And you shall love the Lord your God with all your heart," etc. with both your *yetzerim* - with *yetzer tov* and with *yetzer ra*.]¹⁶

Yetzer hara and *yetzer tov* enter into a human being at different times: *yetzer hara* at the moment of birth, while *yetzer tov*, as we noted, enters at age thirteen. The following three passages are characteristic of these ideas. Rabbi Joshua (first, second century) is quoted as saying:

יצר הרע כיצד אמרו שלש עשרה שנה גדול מיצר טוב ממעי אמו של אדם היה גדל
ובא עמו והתחיל מחלל שבתות אין ממחה בידו...לאחרי י"ג שנה נולד יצר טוב
כיון שמחלל שבתות א"ל ריקה הרי הוא אומר (שמות לא) מחלליה מות ימות.

[*Yetzer hara* - what does this mean? It has been said that *yetzer hara* is thirteen years older

¹⁵In order to make this point clearer an aspect of Hebrew grammar and an aspect of midrashic eisegesis must be explained. The first consonant in the verb *yatzar* is a *yud* which classifies this verb as weak. The verb is weak because the prefix added to make the verb in the third person is another *yud* that usually causes the root *yud* to drop out. Occasionally, the verb retains the root *yud* causing a doubled letter and a variant form. However, both forms of the verb are acceptable, as in the example of Genesis 2:7. The doubling of the letter was taken to signify two *yetzerim*, which the rabbis read back into the text. See E. Kautzsch, *Gezenius' Hebrew Grammar*, second English edition (1910; Oxford: Oxford Clarendon Press, 1974) 194.

¹⁶In this version the quotation is ascribed to Rabbi Meir. It can also be found in Mishnah Berakhot 9:5 as an anonymous quotation.

than the *yetzer tov*, because it grows with and accompanies the person from the time it comes out from the mother's womb. If he begins to profane *Shabbat*, it does not deter him...But after thirteen years the *yetzer tov* is born. When he is about to profane *Shabbat* it warns him, 'You fool! Scripture states, "Everyone who profanes it shall surely be put to death."' (Exodus 31:14)]¹⁷

There was some disagreement among the early *tannaim* as to the moment that *yetzer hara* entered human life. Rabbi Reuven b. Itztrobili (second century) stated:

היאך מתרחק אדם מיצר הרע שבמעיו לפי שטיפה ראשונה שאדם מטיל באשה
הוא יצה"ר. ויצר הרע אינו שרוי אלא על מפתחי הלב שנאמר (בראשית ד) לפתח
חטאת רובץ א"ל לאדם בשעה שהתינוק מוטל בעריסה....

[How can man keep far away from *yetzer hara* which is within him, seeing that the first drop that a man injects into a woman is *yetzer hara*. And *yetzer hara* dwells at the entrances of the heart, as it is written, "Sin crouches at the door..." (Genesis 4:7) It speaks to man while he is an infant in the crib.]¹⁸

In b. Sanhedrin 91b we find the famous interchange between Rabbi (second, third century) and Antoninus.

ואמר ליה אנטונינוס לרבי מאימתי יצה"ר שולט באדם משעת יצירה או משעת יציאה
א"ל משעת יצירה א"ל איכ בועט במעי אמו ויוצא אלא משעת יציאה אמר רבי דבר זה
למדני אנטונינוס ומקרא מסייעו שנאמר לפתח חטאת רובץ

[And Antoninus said to Rabbi, 'When does *yetzer hara* take a hold of man? From the moment of conception or the moment of birth?' He responded, 'From the moment of conception.' 'If so, it would rebel in its mother's womb and go forth. Rather, it is from the moment it comes forth.' Rabbi said, 'This thing Antoninus has taught me, and Scripture supports him, for it is written, "Sin crouches at the door..."' (Genesis 4:7)]¹⁹

Urbach interprets this argument to be similar to the idea expressed in

¹⁷Avot D' Rabbi Natan (Version A) 16:2.

¹⁸Avot D'Rabbi Natan (Version A) 16:2.

¹⁹b. Sanhedrin 91b.

Christian theology that there is a separation between the body and the soul, the body containing the baser instincts. While in these last two texts there seems to be evidence that some *tannaim* held a belief in original sin, it is definitely rejected. In fact Urbach points out that even though Rabbi gives credit to Antoninus for the idea, "...both adhere to the view that draws a line of demarcation between the body and the soul. This was not merely the personal opinion of Judah the Patriarch, but a widely held notion."²⁰

Hirsch wrote that *yetzer hara* is not associated with either the body or the soul but only with man in his unique wholeness.²¹

Even if one were to argue the proposition that the human being is naturally evil, this does not in any way relate to original sin. . . . No one may be held accountable for having an evil nature if that is what is normal. One can only be blamed for one's deeds. Judaism rejects the idea that the prior deeds of anyone can condemn a posterity that is essentially innocent of wrongdoing.²²

From amoraic literature the most noteworthy expression of the timing of the entrance of *yetzer hara* comes from Pesikta de Rav Kahana.

טוב ילד מסכן וחכם ממלך זקן וכסיל (קהלת ד:יג). אייר נתן טוב ילד מסכן וחכם, זה יצר הטוב. ... ולמה קוריי אותו ילד, לפי שהוא מכון בריית לאורחה טבא. ולמה קוריי אותו מסכן, דלית כל עלמי שמעין ליה. ולמה קוריי אותו חכם, דהוא משניא לבר נשא מייג שנה ולמעלה. ממלך זקן וכסיל, זהו יצר הרע. ולמה קוריי

²⁰Ephraim E. Urbach, The Sages: Their Concepts and Beliefs, Volume I, (1975: Jerusalem: Magnes Press, 1987) 220.

²¹Rabbi W. Hirsch, Rabbinic Psychology: Beliefs about the Soul in Rabbinic Literature of the Tannaitic Period (London: Edward Goldston, 1947)223.

²²Bulka, Critical Psychological Issues, 106.

אותו זקן וכסיל, לפי שהוא מזדווג לבר נשא מן ילדותיה ועד סיבותיה, ... ולמה קורין אותו כסיל, לפי שהוא מכוין לבריתא לאורחא בישא.

[*Better is a poor and wise child than an old and foolish king* (Ecclesiastes 4:13). Rabbi Nathan said: *A poor and wise child* this is the *yetzer tov*. And why is it called *child*? Because the *yetzer tov* begins to guide man in the right path. Why is it called *poor*? Because too few people pay attention to it. Why is it called *wise*? Because it wisely guides a man from the age of thirteen on. The words *an old and foolish king* stand for *yetzer hara*. Why is it called *old*? Because it is part of a man from the time he emerges from his mother's womb to the time he dies... And why is it called *foolish*? Because it directs man in the path of folly.]²³

Another amoraic opinion can be found in y. Berakhot 3:5. In this text the belief that *yetzer hara* enters a man at birth is the final opinion. But we also note here the opinion that a person is not subject to *yetzer hara* until he is weaned.

תני קטן שהוא יכול לאכול כזית דגן פורשים מצואתו וממימי רגליו ד' אמות. ... ד"א בעון קומי רבי אבוב מפני מה פורשים מצואתו וממימי רגליו ארבע אמות אמר לון מפני שמחשבותיו רעות אמרין ליה ולא קטן הוא אמר לון ולא כתיב כי יצר לב האדם רע מנעוריו א"ר יודן מנעוריו כתיב משעה שהוא ננער ויוצא לעולם.

[It was taught: a child who is able to eat an olive's bulk of grain - we must move four cubits away from his excrement and urine [before praying]. . . . They raised the following question to Rabbi Abahu, "Why must we remove ourselves four cubits... He said to them, "Because his thoughts may be evil." They said to him, "But he is just a child!" He said to them, "Is not it written, 'For the imagination of man's heart is evil from his youth'" [Gen. 8:21]? Rabbi Yudan said, "[The word,] *mina'a'ra*, is written, meaning from the time that he moves and comes out into the world.]²⁴

Similar ideas are reflected in the literature from the middle period of midrashic literature. Tanhuma (Buber) gives a slightly different interpretation of Genesis 6:5. "The Holy One said: See what these evil ones have done! I made two natures in people, a good drive and an evil drive." It

²³Pesikta de Rav Kahana, Supplement 3.

²⁴y. Berakhot 3:5.

goes on to relate the Genesis verse to the story in Ecclesiastes 9:14-15.

עיר קטנה ואנשים בה מעט ובא אליה מלך גדול וסבב אתה ובנה עליה מצודים גדלים:
ומצא בה איש מסכן חכם ומלט-הוא את-העיר בחכמתו ואדם לא זכר את-האיש המסכן
ההוא:

[There was a little city with few men in it, and a great king came against it and lay siege upon it, and built great siegeworks against it. And there was found in it a poor wise man, and by his wisdom the city might have been saved, but no one remembered that poor man.]

The little city is likened to the body with the few men being its limbs. The great king who lays siege is *yetzer hara* and the siegeworks are sins. The poor wise man is *yetzer tov*, because through it man is delivered into life eternal away from sin. Those who did not remember the poor man are likened to the generation of the flood, because they did not heed *yetzer tov*.²⁵ Therefore, their *yetzer hara* continually held sway over them, driving them into nothing but sin and leading to their destruction by God. The moral is that *yetzer hara* leads man to sin which in turn leads to death and an eternal existence cut off from God. From the late Byzantine period there are a variety of statements supporting the belief that original sin was rejected. In Midrash Tehillim 9 and 34, Genesis 8:21 is expounded as indicating that *yetzer hara* comes upon man from the moment of birth.

The rabbis stressed that man alone was created with two *yetzerim* to distinguish humanity from both the ministering angels and animals.

From the early amoraic period come the following illustrations:

רבי אבין אמר משל למלך שהיה לו מרתף של יין והושיב בו המלך שומרים מהם
נזירים ומהם שכורים לעת ערב בא ליתן שכרם נתן לשכורים שני חלקים ולנזירים

²⁵Tanhuma (Buber) Genesis 1:6.

חלק אחד אמרו לו אדונינו המלך לא כלנו שמרנו כאחד מפני מה אתה נותן לאלו שני חלקים ולנו חלק אחד אמר להם המלך אלו שכורים הן ודרךן לשתות יין ולפיכך אני נותן לאלו ב' חלקים ולכם חלק אחד כך העליונים לפי שאין יצה"ר מצוי בהם קדושה אחת שנאמר (דניאל ג) ובמאמר קדושים שאלתא אבל התחתונים לפי שיצה"ר שולט בהם הלואי בשתי קדושות יעמדה"ד דבר אל כל עדת בני ישראל וכתוב והתקדשתם והייתם קדושים

[It is like the case of a king who had a cellar full of wine. The king placed watchmen over it, some of them nazirites, and some drunkards. At evening time he came to give them their wages, and gave the drunkards two shares and the nazirites one share. Said they to him: 'Our lord the king! Have we all not watched alike? Why do you give these two shares and us one share?' The king answered them: 'These are drunkards and are accustomed to drink wine, and so I am giving these two shares and you one share'. It is the same with the celestial beings. Since *yetzer hara* is not found in celestial creatures they possess just one sanctity; as it says, *And the sentence by the word of the holy ones* (Daniel 4:14). But, earthly creatures, since *yetzer hara* sways them, O that with two sanctities they would stand against it. Hence it is written, "Speak unto the entire community of Israel" as it is written, *Sanctify yourselves therefore and be ye holy*. (Leviticus 20:7)]²⁶

B. Shabbat 88b-89a relates Rabbi Yehoshua ben Levi's (third century *amora*) story that the ministering angels questioned God about Moses' ascension to heaven to receive the Torah. They wondered why flesh and blood deserved that treasure-trove. God asked Moses to answer but he feared retribution from the angels. As God protected him under the shadow of His divine presence, Moses replied by asking the angels if they had come out of Egypt from bondage, engaged in idol worship, stole, murdered, or had to grapple with *yetzer hara*. Upon hearing Moses' words, the angels conceded and blessed God. What is interesting in these passages is the rabbinic habit of putting words and reasoning into the mouth of God or Moshe Rabbenu. In this way the rabbis project their understanding of man's creation and purpose onto the greatest human that ever was or onto God. In either case,

²⁶Leviticus Rabbah 24:8.

their testimonies are deemed infallible.

Similarly, there are illustrations of how the *yetzer hara* distinguishes man from beast.

יצר טוב ויצר רע. שאילו היה לבהמה ב' יצרים. כיון שהיתה רואה סכין ביד אדם לשחטה. היתה מפחדת ומת. והרי אדם יש לו ב' יצרים. א"ר חנינא בר אידא. (זכריה יב) ויצר רוח אדם בקרבו. מלמד שנפשו של אדם צרורה בקרבו. אלמלא כן. כיון שהיתה הצרה באה עליו. היה שומטה ומשליכה.

[*Yetzer tov u'yetzer ra* : If an animal possessed two *yetzerim*, it would see the knife for slaughtering in a man's hand, become frightened and die. But, behold, man does have there two *yetzerim*. Rabbi Hanina bar Idi said: *He bound up the spirit of man within him* (Zechariah 12:1); which teaches that man's soul is bound up within him - for were that not so, whenever trouble came upon him, he would remove it (his soul) and cast it from him.]²⁷

רבי לויטס איש יבנה...הוא היה אומר בד' דברים הבהמה משונה מן אדם מעי האדם סרוחים. מעי הבהמה אינם סרוחים. אדם יש בו רוח זיעה. ובהמה אין בה רוח זיעה. אדם יש בו יצר הרע. ובהמה אין בה יצר הרע. שנות אדם נתקצרו. ושנות בהמה לא נתקצרו.

[Rabbi Levitas of Yavneh (third generation *tanna*)...used to say, "In four things man differs from beasts. Man's bowels stink; a beasts' bowels do not stink. Man has a sweaty smell; a beast does not have a sweaty smell. Man has within him *yetzer hara*; a beast does not have within it *yetzer hara*. Man's years were cut short; a beast's years were not cut short.]²⁸

While God did create the *yetzer hara* in human beings, He regretted it, because it can lead mankind to transgress God's commandments. Thus y. Taanit 3:4:

רבי יהושע בן יאיר בשם רבי פינחס בן יאיר שלשה ברא הקדוש ברוך הוא ותהא שבראן ואלו הן כשדים וישמעלים ויצר הרע.

[R. Yehoshua ben Yair said in the name of Rabbi Pinchas ben Yair (fifth generation

²⁷Genesis Rabbah 14:4.

²⁸Avot D' Rabbi Natan (Version B), chapter 34.

tanna): "There were three things that the Holy One, blessed be He, created and regretted that he had created them, and they are: the Chaldeans, the Ishmaelites, and *yetzer hara*."]

From the amoraic period come mixed statements on *yetzer hara*.

The belief that *yetzer hara* can be quite positive and in fact necessary to human survival is the majority opinion in rabbinic literature as a whole. Sanhedrin 64a relates a story in which the people prayed for the *yetzer* of idolatry to be cast out from within them, and God cast it away. They figured that since the hour was ripe, they would also pray that the *yetzer* of illicit sexual sin be cast out. God made it so, but when they looked for a fresh egg, none was to be found. It was then that the people realized how vital *yetzer hara* is for propagation. They decided that if they prayed for only partial diminution of its power, God would not comply. So, the people

"...כחלינהו לעיניה..." [...blinded its eyes with rouge .]. The result is that a Jew no longer desires intercourse with one's forbidden relations.

In Genesis Rabbah 9:7 it states:

רבי נחמן בר שמואל בר נחמן בשם רב שמואל בר נחמן אמר הנה טוב מאד זה יצר
טוב והנה טוב מאד זה יצר רע. וכי יצר הרע טוב מאד. אתמהא. אלא שאלולי יצר
הרע לא בנה אדם בית ולא נשא אשה. ולא הוליד ולא נשא ונתן.

[Rabbi Nahman son of Shmuel son of Nahman said in the name of Shmuel son of Nahman, "Behold it was very good - this is *yetzer tov*. And behold it was very good - this is *yetzer hara*. But how can *yetzer hara* be very good! Rather, without *yetzer hara* a man would not build a house, take a wife, beget children, or transact business.]

There is an even clearer version of this found in Ecclesiastes Rabbah, dating from the late Byzantine period, that construes the word *tov* as referring to *yetzer tov* and *tov m'od* as referring to *yetzer hara*. In this vein it is easy to see that the rabbis not only concentrated more heavily on *yetzer*

hara, but they were also trying to emphasize its usefulness over and above *yetzer tov*. People cannot help but use *yetzer tov* for goodly purposes; for goodness is the only possible outcome. With *yetzer hara* it is much more difficult to utilize it to good ends, requiring more effort and attention. However, there is a minority opinion that sees it as entirely negative for mankind. Avot D'Rabbi Natan (Version B) it relates that there were ten punishments exacted by God against Adam, Eve, the snake and the land after the incident of eating from the tree of knowledge. Against Adam, הששית שיש בו יצר הרע. [The sixth is that within him dwells *yetzer hara*.]²⁹

The rabbis emphasized in their writings that *yetzer hara* led man to commit two cardinal sins: idolatry and forbidden sexual unions. Because they saw *yetzer hara*'s influence in these matters, and these two sins led to *karet* (cutting off the soul of the Jew from God), the rabbis wrote extensively on these two particular sins in order to warn individuals of the power of the *yetzer* in regard to these matters and to instruct them on what to do to avoid it.

Two passages from Tosefta are telling. T. Avodah Zarah 6(7):17 likens one who honors a wicked person to one who worships an idol. The text goes on to say that just as one who tosses a stone before a statue of Mercury becomes liable for his life, so, too,

כל המשתמש ביצרו הרי זה מתחייב בנפשו

[...someone who utilizes his *yetzer* becomes liable for his life.]

²⁹Avot D'Rabbi Natan (Version B), chapter 42.

Thus sexual immorality is equivalent to idolatry.³⁰ In t. Horayot 1:5 there is a discussion on the definitions of apostasy and idolatry. The rabbis feared that apostasy would lead to idolatry. Therefore, in connection with apostasy

ר' שמעון בן אלעזר אומ' אף העושה דבר שאין היצר תאב לו

Stuart renders this text as follows: "R. Simon b. Eleazar (...2nd century) says: even he who does something only because his *yesser* longs for it [is considered to be an apostate]."³¹

This serves to warn men to guard against the longings of the *yetzer*, because it can lead to forbidden things.

Also from the tannaitic period comes a well-known *baraita* from Shabbat 105b. Variants can also be found in Avot D'Rabbi Nathan Versions A and B. In Version B it is not attributed to anyone. According to Saldarini, Version A attributes the quotation to Rabbi Akiva.³²

ר"ש בן אלעזר אומר משום חליפא בר אגרא שאמר משום ר' יוחנן בן נורי המקרה בגדיו בחמתו והמשבר כליו בחמתו והמפור מעות יובחמתו יהא בעיניך כעובד ע"ז בגדיו בחמתו והמשבר כליו בחמתו והמפור מעותיו בחמתו יהא בעיניך כעובד ע"ז שכך אומנתו של יצה"ר היום אומר לו עשה כך ולמחר אומר לו עשה כך עד שאומר לו עובד ע"ז והולך ועובד א"ר אבין מאי קרא לא יהיה בך אל זר ולא שתחזה לאל נכר איזהו אל זר שיש בגופו של אדם הוי אומר זה יצר הרע.

³⁰G. H. Cohen Stuart, The Struggle in Man Between Good and Evil: An Inquiry into the Origin of the Rabbinic Concept of Yesser Hara' (Kampen: Uitgeversmaatschappij H. H. Kok, 1984) 33.

³¹Stuart, 35.

³²Anthony J. Saldarini, S. J., The Fathers According to Rabbi Nathan (Abot de Rabbi Nathan) Version B (Leiden, Netherlands: E. J. Brill, 1975) 53, footnote 13.

[Rabbi Shimon ben Elazar (fifth generation *tanna*) said in the name of Chailfa bar Agra who said in the name of Rabbi Yochanan ben Nuri (third generation *tanna*), "One who rends his clothes in anger, breaks his dishes in anger, and scatters his money in anger, he should be in your eyes as an idolater, because such are the ways of *yetzer hara*: today it says to him, 'Do this'; tomorrow it says to him, 'Do that,' until it says to him, 'Serve idols,' and he goes and serves idols." Rabbi Abin (third and fourth or fifth? generation *amora*) said, "What verse suggests this? 'There shall be no strange god in you; nor shall you worship any strange god.' (Joshua 24:31) What is the strange god that is within man's body?" One must say, "This is *yetzer hara*."]]

In y. Nedarim 9:1 Rabbi Yannai (first generation *amora*) states that by merely giving in to *yetzer hara* one is considered an idol worshipper, in accord with the Joshua verse cited above. He goes on to state that if the thing you find within you is strange do not make it as a king over you; do not let it rule you.

Selections from early amoraic and late Byzantine *midrashim* bring to bear the belief that *yetzer hara* was the force that led the Israelites to worship the golden calf. Rabbi Meir (fourth generation *tanna*) said that the Israelites said that *yetzer hara* influenced them much like wine and caused them to worship the calf.³³ It is also in this literature that God is held to have said that He is the one who got rid of the desire in Jews for *avodah zarah*. Song of Songs Rabbah 7:8,1 and 1:17,2 come to this conclusion stating that it was at the time of the Babylonian exile. However, Sanhedrin 64a sets the time at the end of the exile.

The only thing more problematic than the *yetzer*'s desire for idolatry is its desire for sex. While many people believe that Judaism is ascetic and

³³Song of Songs Rabbah 2:4,1. See also Ecclesiastes Rabbah 9:15,6.

"...incompatible with pleasure,"³⁴ this is far from the truth. The rabbis believed that sex and passion were natural and created by God. Their chief concern was the proper expression of passion and sexuality. Since the urge for illicit expression was so strong, the rabbis pondered extensively about the resultant evil ends of sexual immorality. Biale writes:

If for the Bible, sex was always an issue of bodily practices and their cultic implications, for the rabbis, the problem was not the body as such, but desire, the psychic state of the passions, that might overpower the body. Where biblical culture had taken desire for granted, rabbinic culture made desire itself the subject of much discussion.³⁵

Unlike other religious traditions, the goal was not suppression but proper channeling. According to Amsel, this was a matter of extent, timing, and mode. Marriage was the only acceptable framework for the expression of sexual urges. Sexual expression before or outside of wedlock, homosexuality, and masturbation were forbidden and carried with them varying degrees of punishment.³⁶ "While the Babylonian tradition tended to emphasize the emotional blessings of marriage, the Palestinian focused

³⁴Abraham Amsel, Judaism and Psychology (New York: Philipp Feldheim, Inc., 1969) 99.

³⁵David Biale, Eros and the Jews: From Biblical Israel to Contemporary America (New York: Basic Books, A Division of HarperCollins Publishers, Inc., 1992) 35.

³⁶Eliyahu Rosenheim, "Sexuality in Judaism" in A Psychology-Judaism Reader, Reuven P. Bulka and Moshe Halevi Spero, eds. (Springfield, Illinois: Charles C. Thomas Publisher, 1982) 156.

more on marriage as a utilitarian defense against sexual temptation."³⁷

Rabbi Sidney Brichto writes,

"The Rabbis of the Talmud reveal a profound respect for the sexual instincts in man. This respect has its root in fear. These elemental passions, if left unchecked, drag their victim down into the depths of moral degradation and material impoverishment."³⁸

Regulation and moderation are key. Therefore, as is stated in Sotah 47a and Sanhedrin 107b, people are supposed to both push the *yetzer* away, on the one hand, yet draw it close, on the other. In this way the rules can be upheld and asceticism is avoided.³⁹ Spero writes of "...the need for becoming a *gebor* or master over one's impulses. The consensus of talmudic opinion is that such mastery is not gained by repression of the impulses, but rather by rerouting them along acceptable lines."⁴⁰

"...Halakhah not only gives value judgements but also establishes preventative guidelines grounded in empirical probability and in an understanding of human strengths and weaknesses."⁴¹

In Yoma 9b an anonymous tradition holds that the first Temple was

³⁷Biale, 48-49.

³⁸Sidney Brichto, "Some Aspects of Sexual Morality in the Babylonian Talmud," Rabbinic thesis, Hebrew Union College-Jewish Institute of Religion, New York, 1961, 1.

³⁹Hirsch, 227.

⁴⁰Moshe Halevi Spero, Judaism and Psychology (New York: KTAV Publishing House, Inc. and Yeshiva University Press, 1980) 151.

⁴¹Spero, Judaism and Psychology, 132.

destroyed because the people committed idolatry, sexual immorality, and murder. With respect to sexual immorality, Rabbi Yitzchak said:

שהיו מביאות מור ואפרסמון ומיהות במנעליהן וכשמגיעות אצל בחורי ישראל בועטות ומתזות עליהן ומכניסין בהן יצה"ר כארס.

[...that they (i.e. the women of Israel) would put myrrh and balsam in their shoes, and when they came to the young men of Israel, they would kick making the balsam squirt them and *yetzer hara* rose within them like the poison of an adder.]⁴²

In Haggigah 11b Rav Ashi (sixth generation *amora*) said that the subject of *isurei biyah*, forbidden sexual relations, cannot be expounded to three people, because while the first student will converse with the instructor, and the second will listen attentively, the third will not pay attention, and may in the end permit a forbidden union. Then, the Talmud states that if that is the case, the rule should apply to the entirety of learning. The *tannaim* remark that robbery and forbidden relations are similar in that one's soul lusts for them. But, the conclusion is reached that forbidden relations are always desired by men, whether the opportunity is at hand or not. However, robbery is only lusted for when the opportunity is present.

One example of this constant desire is discussed in y. Kiddushin and b. Kiddushin 80b. In both places Abba Saul (*tanna*) states that at the time of the death of a loved one grief is stronger than lust, but the rabbis believed that lust was always stronger than grief. They told of a woman carrying out a child ostensibly for burial, so that she would not be suspected. But in

⁴²b. Yoma 9b. See also b. Shabbat 62b.

fact it was a live child, and she went with the men to the graveyard to satisfy her lust.⁴³

They were also concerned with mundane actions that could lead to the possibility of transgression. In Niddah 13a the question is raised whether or not a man is permitted to hold his penis or testicles while urinating. On 13b Rav states:

המקשה עצמו לדעת יהא בגדוי ולימא אסור דקמגרי יצה"ר אנפשיה ורבי אמר נקרא עבריין שכך אומנתו של יצר הרע היום אומר לו עשה כך ולמחר אומר לו עשה כך ולמחר אומר לו לך עובד עבודת כוכבים והולך ועובד

[One who makes himself have an erection should be put under a ban.' But why didn't he say that it is forbidden? Because he has only aroused his *yetzer hara* against himself. But Rabbi Ammi said, 'He is called a renegade, for this is the way of *yetzer hara*.' Today, it says to him, 'Do this,' and tomorrow it says to him, 'Do that,' and then after that it says to him, 'Go worship idols,' and he goes and does it.]

The passage continues with the statement of Rabbi Eleazar that masturbation can be likened to murder. Rabbi Ishmael states that masturbation is akin to adultery and that a man is forbidden to masturbate with his hands or his feet.⁴⁴

Yetzer hara can lead men to do outrageous things. It was said of Herod in Baba Batra 3b that he wanted to marry a maiden in his household, but when she committed suicide, he preserved her body in honey to satisfy his lust through necrophilia.

In Midrash on Proverbs chapter 11, Rabbi Eliezar is quoted as saying,

⁴³b. Kiddushin 80b.

⁴⁴b. Niddah 13b.

אבל רעש...הולך אצל זונה ומשביע לה בשבועה בשביל לעשות [תאות]
יצרו, ואחר כך עובר לשבועה. ורוח הקדש משיבה ואומרת לו, רשע לא דיך שעברת
אלא הזכרת את שמי בדברי שקר. חיד לא תקנה מדינה של גיהנם.

[However, a wicked person... will go to a prostitute and swear an oath to pay her the price so he can satisfy his *yetzer*, and then breach his contract. The holy spirit will respond and say to him, 'Wicked man, it is not enough that you have transgressed, but you also invoked My Name in your lying words! Your life will not go unpunished from the judgement of Gehenna!']

Stuart believes that there are subtle differences in the rabbis' beliefs about the *yetzer*. In the early tannaitic writings, some of the passages explicitly regard the *yetzer* in sexual terms, while others do not. Traditions from the period of Rabban Gamaliel II suggest that there were two distinct *yetzerim*. In the generation of Rabbi Akiva there was greater breadth to the usage of the term. It often meant generalized desire and often appeared as יצרו. "...[T]he range of *yesev* widens itself to include all the aspects of inner drives in man: sexuality, anger, temperance."⁴⁵ In the generation of Rabbi Meir there appears to be a consistent usage of the term *yetzer hara*. In the last tannaitic generation, Stuart finds no explicit reference to *yetzer tov*.⁴⁶

Given the types of forbidden things that *yetzer hara* longs for, it is easy to see how difficult it is for man to win the internal struggle. *Yetzer hara* is devious, methodical, and persistent. In fact *yetzer hara* delights in using our own weaknesses against us. Amsel writes that the *yetzer's*

⁴⁵Stuart, 206.

⁴⁶Stuart, 201-206.

...greatest strength is its ability to deceive, to color things in its own hues, to make the subjective seem objective, to make falsehood seem truth, and truth falsehood. It preys upon man's selfish instincts, spurring him to gratify all of his desires, and at the same time, filling him with a sense of his own altruism . . .⁴⁷

This depiction of the *yetzer* further suggests the theological implications of this concept for the rabbis. They use *yetzer hara* to denote not only man's intrinsic passions and urges, but represent it also as an external agency, a quasi-metaphysical entity whose business it is to lead the living astray, and to incite them to what is evil.⁴⁸ Therefore, *yetzer hara* is compared to Satan and the Angel of Death in a variety of places.⁴⁹ It is also compared to an external spirit that overwhelms man and robs him of his mind, his reason.⁵⁰

In Sifra there is a discussion about not following the laws of others and only following the laws God has given to us, whether or not they make any sense to us. With respect to not following the laws of others, *yetzer hara* takes it upon itself to quibble and say that their laws and traditions are nicer than ours.

עדיין יש תקוה ליצר הרע להרהר ולומר שלהם נאים משלנו...

⁴⁷Amsel, 102.

⁴⁸Hirsch, 216.

⁴⁹See b. Baba Batra 16a and Pirkei de Rabbi Eliezar 13. See also Urbach's discussion of this idea on p. 472.

⁵⁰Hirsch, 213. See b. Sotah 3a, Numbers Rabbah 9, and b. Yoma 39a.

[Still, *yetzer hara* squabbles and says, "Theirs are nicer than ours."]⁵¹

Some of the ordinances that *yetzer hara* raises doubt against are the prohibition against eating pork, *shatnes*, *chalitzah*, purification of the leper, and the scapegoat.⁵² From the early amoraic period comes a similar statement.

ר' יהושע דיכנין בשם ר' לוי ארבעה דברים יצר הרע משיב עליהם, ובכולהון כתיב חוקה. ואילו הן, אשת אח, וכלאים, ושעיר המשתלח, ופרה.

[Rabbi Yehoshua of Siknin said in the name of R. Levi, there are four things that the Impulse to evil impugns about which it is written that they are statutes. And they are: a man marrying his brother's wife, mixtures of "diverse kinds", the scapegoat, and the Red Heifer.]⁵³

In fact there is an admonition in Sifre Deuteronomy, Piska 43 to guard oneself against *yetzer hara*, because it could lead a person to detach himself from Torah and attach himself to idolatry.

There is a discussion in Sotah 8a about a suspected adulteress. The reason given for not putting her to the test naked is that if she is innocent and therefore not stoned, the priests may become aroused through her, because according to Rabba (third generation *amora*)

...דאין יצר הרע שולט אלא במה שעניו ראות.

[*yetzer hara* only takes hold through what his eyes see.]

Not only does it want what it sees, but more specifically *yetzer hara* desires

⁵¹Sifra 9:13.

⁵²Sifra 9:13.

⁵³Pesikta De Rav Kahana, Piska 4:6. This quotation also appears in Numbers Rabbah 19:5 and Pesikta Rabbati, Piska 14.

only that which is forbidden.⁵⁴

Here are two examples of one of *yetzer hara's* methods. The first comes from the amoraic period, the second from the late Byzantine period.

והיה יצרו מקטרגו ואומר לו דיד דרכן של מלכים להיות השחר מעוררין ואת אמר
אעירה שחר דרכן של מלכים להיות ישינין עד שלש שעות ואת אמר חצות לילה
אקום והוא אומר על משפטי צדקך.

[...But [David's] *yetzer* tried to seduce him. And it would say to him, "David, it is the custom of kings that the dawn wakes them up. And you say, 'I will wake the dawn.' It is the custom of kings that they sleep until the third hour. And you say, 'In the middle of the night I arise,'" And [David] used to say, "[I wake up early,] 'in accordance with Your righteous laws'" [Psalm 119:62]⁵⁵

ואם היה יצר הרע בא להטעותי שלא לילך ולנחם את האבילים לומר שאני אדם גדול,
לא הייתי שומע. אלא [כאשר] אבילים ינחם. למה. שהייתי אומר אין אני טוב
מבוראי. . . . והוא בכבודו מנחם את ישראל...

[And if *yetzer hara* came to lead me astray from going to comfort the mourners, saying that I was too great a man, I did not pay attention, rather I was *one who comforts the mourners*. Why? Because I used to say that I am not better than my Creator, and . . . He in His glory comforts Israel...]⁵⁶

In both cases *yetzer hara* tries to lead a person to sin by trying to convince him that he does not need to do the will of God. *Pesikta Rabbati*, Piska 9, even notes about *yetzer hara* that it labors to prevent man from doing *mitzvot*, and quite often it succeeds in preventing their fulfillment. In Sukkah 52b Rabbi Shmuel b. Nahmani quotes R. Johanan (first generation *tanna*) saying that:

⁵⁴y. Yoma 6:5.

⁵⁵y. Berakhot 1:1.

⁵⁶*Pesikta Rabbati*, Piska 33:2.

יצר הרע מסיתו לאדם בעוה"ז ומעיד לעולם הבא...

[*Yetzer hara* entices man in this world and testifies against him in the world to come...]

Because, as Rav Assi stated on 52a,

יצה"ר בתחילה דומה לחוט של בוכיא ולבסוף דומה כעבותות העגלה

[In the beginning *yetzer hara* is like a spider's thread, but in the end is like cart ropes.]

With all its wiles, *yetzer hara* can cause a great deal of tumult within a person. It is very difficult to resist, and the internal struggle is ongoing throughout the course of one's lifetime.

ת"ר קשה יצר הרע שאפילו יוצרו קראו רע...אמר רב יצחק יצרו של אדם מתחדש עליו בכל יום...ואמר ר"ש בן לוי יצרו של אדם מתגבר עליו בכל יום...

[Our rabbis taught: *Yetzer hara* is difficult, since even its Creator calls it evil...Rabbi Yitzchak (fourth generation *tanna*) said: "Man's *yetzer* renews itself against him every day..." and Rabbi Shimon ben Levi said "Man's *yetzer* makes itself stronger against him every day..."⁵⁷

In Berakhot 61b and Eruvin 18a Rabbi Shimon b. Pazzi is quoted as saying,

"Woe to me because of my *yetzer hara* ; woe to me because of my Creator."

He thereby sums up the feelings of most pious Jews. *Yetzer hara* is a God-given vexation leading man to sin and is both tiring and worrisome.

In order to encourage people in their ongoing struggles with *yetzer hara* the rabbis tell numerous stories about people who succeeded in fulfilling God's *mitzvot* by overcoming the temptation of *yetzer hara* . From the early amoraic period comes the belief that Joseph, David, and Boaz were the three men who withstood the power of their *yetzer hara* through taking

⁵⁷b. Kiddushin 30b.

an oath in order not to commit the sin of adultery.⁵⁸ But Gittin 57a has a more extraordinary story.

מעשה בארוס וארוסתו שנשבו לבין העובדי כוכבים והשיאום זה לזה אמרה לו
בבקשה אל תגע בי שאין לי כתובה ממך ולא נגע בה עד יום מותו וכשמת אמרה להן
סיפדו לזה שפטפט ביצרו יותר מיוסף דאילו ביוסף לא הוה אלא חדא שעתא
והאי כל יומא...

[...About a betrothed couple who were carried off by idol worshippers who married them to each other. She said to him, 'Please do not touch me, since I do not have a *ketubah* from you. And he did not touch her until the day of his death. When he died she said to them, mourn for this man who kept a check on his *yetzer hara* more than Joseph, for Joseph was exposed to temptation only once, but this man every day. ...]

From the late Byzantine period:

אבא תחנה חסידא נכנס לעירו ערב שבת עם חשיכה. וחבילתו מונחת לו על כתפו ומצא
מוכה שחין אחד מוטל בפרשת דרכים. אמר ליה ר' עשה עמי צדקה והכניסני לעיר. אמר
אם אני מניח חבילתי מהיכן אתפרנס אני וביתי. ואם אני מניח את מוכה שחין אני
מתחייב בנפשי. מה עשה המליך יצר טוב על יצר רע והכניסו למוכת שחין לעיר.

[Abba Tachnah the pious was entering his city on *erev Shabbat* at dusk with his package slung over his shoulder, when he met a man afflicted with boils lying at the cross-roads. He (the afflicted man) said to him, 'Rabbi, do me a righteous act and carry me to the city.' He said, 'If I leave my package, from where shall I and my household get our sustenance? But if I leave this afflicted man I will forfeit my soul!' What did he do? He made his *yetzer tov* master his *yetzer ra*, and carried the afflicted man to the city.]⁵⁹

Numbers Rabbah 10:10 explains the Nazirite vow's prohibition against shaving and drinking wine, suggesting that without wine the Nazir would not succumb to lewdness and by not shaving he would become uncomfortable and repulsive, thereby keeping his *yetzer hara* from overcoming him.

⁵⁸Leviticus Rabbah 23:11.

⁵⁹Ecclesiastes Rabbah 9:7,1.

To the rabbis these people were paradigmatic of how far one can go in resisting the temptations of *yetzer hara*. In addition to providing "role models," the rabbis pointed out to people specific ways in which to overcome the power of *yetzer hara*. Ben Zoma (third generation *tanna*) stated

איזהו גבור הכובש את יצרו שנאמר טוב ארך אפים מגבור (משלי ט"ז ל"ב)

[Who is mighty? One who controls his *yetzer*, as it is written, *One who is slow to anger is better than one who captures a city.*]⁶⁰

The advice given in this selection from the amoraic period is to keep one's anger and spirit in check. This same idea is also found in Song of Songs Rabbah 4:4, 3.

In a number of noteworthy cases, the rabbis make a point of saying that the reason for a particular law is to discipline one's *yetzer hara* or to keep it in check. According to Rosenheim, "Numerous restrictive rules were established as protective 'fences' against such stimulation." Examples include keeping the sexes separate, women covering their hair, the admonition against staring at or talking overmuch with women.⁶¹ The underlying belief is that individuals both together and alone will not behave well, and therefore, laws protect people from themselves and one another.⁶²

In *Sukkah* 51b-52a we learn that women used to sit within the court in the Temple and the men outside it, but since it led to levity the men were

⁶⁰Avot D'Rabbi Natan (Version B), chapter 33.

⁶¹Rosenheim, 157.

⁶²Bulka, Critical Psychological Issues, 124.

made to sit within and the women outside. This again led to levity, so the women were made to sit above the men. The reason given is

...לעתיד לבא שעוסקין בהספד ואין יצר הרע שולט בהם אמרה תורה אנשים לבד ונשים לבד עכשיו שעוסקין בשמחה ויצה"ר שולט בהם אל אחת כמה וכמה...

[...In the future when they are mourning and *yetzer hara* does not hold sway over them, the Torah says 'men alone and women alone'. Now, when they are busy with merriment and *yetzer hara* does hold sway over them, how much the moreso...]

It is a widely held belief among the rabbis that men cannot control their passions. A woman's mere presence may be enough to cause their thoughts to stray. With one's *yetzer* in control, he would thereby be unable to properly fulfill the *mitzvot* God has set out for him to do. Knowing this, the rabbis made a fence around the law to keep people from even coming near to transgressing God's laws.

A *baraita* in Baba Metzia 32b informs us about a person's obligations to assist another with the loading and unloading of an animal in accord with the relevant Biblical precepts. The Talmud covers every case conceivable.

ת"ש אוהב לפרוק ושונא לטעון מצוה בשונא כדי לכוף את יצרו ואי סלקא דעתך צער בעלי חיים דאורייתא הא עדיף ליה אפ"ה כדי לכוף את יצרו עדיף.

[Come and hear: in the case where a friend needs help unloading and an enemy loading, the first obligation is to the enemy in order to subdue his *yetzer hara*. And if you should think that because relieving the suffering of the animal is biblically commanded, the first is to be preferred, [I can retort that] despite this, the argument for subduing one's *yetzer* is more compelling.]

We learn in this case that while the ruling might seem to violate Biblical

law, subduing one's *yetzer* is more important rabbinically. This example is a true indication of how seriously the rabbis took the facts of human nature and made legislation based on it and in order to control it. In fact Torah is seen as a guide to obtaining eternal life in the world to come and release from the insidious dealings of one's *yetzer*.

כדרכן זה שמכוין את הפרה כדי לחרוש וכדי ליתן חיים לבעליה. כך דברי תורה מכוונים את לב לומדיהם מדרכי מיתה לדרכי חיים. . . . מה לפרתו אדם עושה דרכן. ליצרו שמסיתו מן העולם הזה ומן העולם הבא על אחת כמה וכמה.

[As the goad guides a cow so that it ploughs and provides a living for its owner, so too the words of Torah guide the heart of those who study them from the ways of death to the ways of life. . . . If a man makes a goad for his cow, how much the more so should he make one for his *yetzer* which seduces him from this world and the World to Come!]⁶³

Torah is then necessary to keep man on the path of righteousness, guiding and restraining the *yetzer*. Rabbi Dennis Math states in reference to this passage that the latter *tannaim* and *amoraim* believed that subduing *yetzer hara* was a praiseworthy endeavor. "This represents the first step in the effort to make the ideology of the *yetzer hara* comply with the system of mitzvot."⁶⁴ "[The] Rabbis attempt to make the *yetzer hara* fit their own purposes."⁶⁵

Not only does Torah restrain the *yetzer* as a goad does a cow, it is the

⁶³Ecclesiastes Rabbah 12:11,1. See also y. Sanhedrin 10:1 and Leviticus Rabbah 29:7.

⁶⁴Dennis N. Math, "The Ideological Development of the Yetzer Hara and the Yetzer Tov," Rabbinic thesis, Hebrew Union College-Jewish Institute of Religion, New York, 1972, 6.

⁶⁵Math, 8.

remedy to the power of the *yetzer*.

הקב"ה אמר להם לישראל בני בראתי יצר הרע ובראתי לו תורה תבלין ואם
אתם עוסקים בתורה אין אתם נמסרים בידו... ואם אין אתם עוסקים בתורה אתם
נמסרים בידו

[The Holy One, blessed be He, said to Israel: 'My children! I created the Evil Desire, but I created the Torah as the antidote. If you busy yourselves with Torah, you will not be delivered into its hand. . . . But if you do not busy yourselves with the Torah, you will be delivered into its hand' . . .]⁶⁶

Other tannaitic statements reinforce this idea. Rabbi Nehorai (fourth generation, second century *tanna*) said,

שאם נכנס אדם לידי חולי או לידי זקנה או לידי מידה של ייסורין ואינו יכול לעסוק
במלאכתו הרי הוא מת ומוטל ברעב אבל התורה אינו כן אלא משמרתו מכל רע
בנערותו ונותנת לו אחרית ותקוה בזקנותו...

[When a man gets sick or old or has pains and cannot do his job, behold, he dies of starvation. But with the Torah it is not that way. Rather, it keeps him from all evil when he is young, and it gives him a future and a hope when he is old.]⁶⁷

Here the ideas of Torah as remedy and as vehicle to enable man to enter the world to come are combined. The following passage lists those evils from which the Torah will protect us.

רבי חנניה סגן הכהנים אומר כל הנותן ד"ת על לבו מבטלין ממנו הרהורי חרב הרהורי רעב
הרהורי שטות הרהורי זנות הרהורי יצר הרע הרהורי אשת איש הרהורי דברים בטלים
הרהורי עול בשר ודם... וכל שאינו נותן דברי תורה על לבו נותנין לו...

[Rabbi Hananiah, the deputy High Priest, said, "He who takes the words of *Torah* upon his heart will be delivered from the anxieties of the sword, hunger, insanity, immodesty, *yetzer hara*, adultery, vanity, and the yoke of mortality... But he who does not take the

⁶⁶b. Kiddushin 30b. See also Sifre Deuteronomy, Piska 45.

⁶⁷y. Kiddushin 4:12.

words of *Torah* into his heart he will be given over to... (all these anxieties)]⁶⁸

The rabbis note here that if the *Torah* is not taken to heart, one is delivered over to the power of the *yetzer*, which has profoundly negative consequences now and in the world to come.

The statements from the amoraic period about *Torah* in relation to *yetzer hara* expand on the tannaitic ideas. Not only is *Torah* the remedy for the *yetzer*, it can keep the *yetzer* from taking hold of a person.

שכל זמן שדברי תורה נכנסים ומוצאים חדרי[הלב] פנויים הן נכנסים
ושורים בתוכו ואין יצה"ר שולט ביניהם ואין אדם יכול להוציאם מתוכו.

[Every time the words of *Torah* enter and find the chambers (of the heart) empty, they enter and dwell within them, and *yetzer hara* cannot take hold and no man can force them out from within himself.]⁶⁹

Similarly, in *Genesis Rabbah* 22:6:

רבי חנינא בר פפא אמר אם בא יצרך להשחיקך דחהו בדברי תורה... רבי סימון אמר אם
בא יצרך להשחיקך שמחהו בדברי תורה... ואם עשית כן מעלה אני עליך כאילו בראת
את שני העולמות....

[Rabbi Hanina bar Papa (third generation *amora*) said, "If your *yetzer* comes to make you do frivolous things, strike him down with words of *Torah*... Rabbi Simon (second and third generation *amora*) said, "If your *yetzer* comes to make you do frivolous things, make him happy with words of *Torah*...and if you do this, I will account merit to you as though you created two worlds..."]

In *Leviticus Rabbah* 35:5, Rabbi Levi (second and third generation *amora*) states that since the *Torah* and *yetzer hara* are both like a stone,

⁶⁸Avot D'Rabbi Natan (Version A) 20:1. See also Tanna debe Eliyahu Zuta chapter 16.

⁶⁹Avot D'Rabbi Natan (Version B), chapter 13. See also Midrash on Proverbs, chapter 24.

the one should watch or guard against the other. Another interpretation of the stone motif comes from *Genesis Rabbah* 70:8. With regard to moving the stone back and forth from the well in *parashat Vayetze*, the rabbis remark that the great stone is like *yetzer hara* and the flock at the well, *kehilat Yisrael*. When the people roll away the "stone" which is the impediment, they learn Torah, but when they roll it back, the *yetzer* returns to menacing them.⁷⁰

Not only will Torah help to protect a person from his *yetzer*, but prayer can have a significant role, too. In *Sifre Numbers* 40, there is a discussion about the Priestly Benediction. Rabbi Yitzchak (fourth generation *tanna*) interprets *v'yishmarecha* to mean that one prays that God will guard him from *yetzer hara*. At times the rabbis prayed specifically for protection from *yetzer hara*. Urbach notes that the *amoraim* frequently include in their prayers specific requests for help in conquering and suppressing *yetzer hara*.⁷¹

Some examples follow:

ר' תנחום בר איסבלוסטיקא מצלי ויהי רצון מלפניך ה' אלהי ואלהי אבותי שתשבור
ותשבית עולו של יצר הרע מלבינו שכך בראתנו לעשות רצונו ואנו חייבים לעשות
רצונך את חפץ ואנו חפצים ומי מעכב שאור שבעיסה גלוי וידוע לפניך שאין בנו
לעמוד בו אלא יר"מ אלהי ואלהי אבותי שתשביתנו מעלינו ותכניענו ונעשו רצונך
כרצונו בלבב שלם

⁷⁰ In general, the later references to Torah as the antidote to *yetzer hara* are restatements that can be found in other texts.

⁷¹ Urbach, 480.

[Rabbi Tanhum bar Scholasticus prayed, "And may it be your will, Lord my God and God of my fathers, that you break the yoke of *yetzer hara* and purge it from our hearts. Because you created us to do Your will and we are obligated to do Your will. You desire [that we do your will] and we desire [to do your will]. And what prevents us? That leaven which is in the dough [*yetzer hara*]. It is obvious and known to you that we do not have the strength to stand up to it. So let it be Your will, O Lord my God and God of my fathers, that You purge it from us and subdue it, that we may do Your will as our will with a whole heart."]⁷²

In Exodus Rabbah 19:2 of the late amoraic period King David is said to have prayed this following prayer:

אמר דוד רבון העולם כשאני עוסק בחקיד לא יהא רשות ליצה"ר להציץ בי...
שלא יטעה אותי יצה"ר ואני מתבייש מן הצדיקים ועוד שמתוך שהוא מטעה אותי
אני מונע עצמי מד"ת ואני בא להשמיע תלמודי לפניך וקטנים ממני, הם משיבין
ואומרים אינו כך ואני מתבייש אלא עשה לבי אחד כדי שיהא עסוק בתורה בתמות

[David said, "Master of the universe when I busy myself with your laws, do not let *yetzer hara*'s power influence me... that *yetzer hara* may not lead me astray and shame me before the righteous. And moreover, if he leads me astray I will neglect my study of *Torah*, that when I come to recite my studies before You people of lesser distinction will come and say, 'It is not so,' and I will be shamed. Rather, make my heart singleminded, undivided in order that I may busy myself with *Torah* fully."]

From the late Byzantine period:

אמר ר' אליעזר [בר יעקב] בשם ר' פנחס בן יאיר אמר הקב"ה אני עשיתי את יצר הרע,
זהר שלא יחטיאך, משהחטיאך הוי זהיר לעשות תשובה, ואז אשא עונך...

[Rabbi Eliezar bar Yaacov (fourth generation *tanna*) said in the name of Rabbi Pinchas ben Yair (fifth? generation *tanna*) that the Holy One, blessed be He, said: "I made the Inclination-to-evil. Be careful that it does not bring you to sin. Should it bring you to sin, take care to make repentance, and I will relieve you of your sin..."⁷³

בוא וראה שאין מכה בעולם שאין לה רפואה ומה היא רפואתו של יצר"ר תשובה דאמר
ר"י ב"ר שלום בשם ר"א ג' דברים מבטלין גזרה קשה אלו הן תשובה ותפלה וצדקה.

⁷²y. Berakhot 4:2.

⁷³Midrash on Psalms, Psalm 32. This same theme is illustrated in Tanhuma (Buber) Genesis 2:1 and Tanna debe Eliyahu Rabbah 14.

[Come and see that there is no hardship in the world that has no cure. And what is the cure for *yetzer hara*? Repentance. Rabbi Judah bar Shalom said in the name of Rabbi Eliezar: Three things revoke a severe decree. And they are prayer, repentance, and charity.]⁷⁴

Tanna debe Eliyahu Rabbah 14 notes that God regrets having created *yetzer hara* because it divides man. However, at the same time He created repentance as the means to overcome it.

It is interesting to note that in one instance the role of prayer was not completely helpful. The story in Sanhedrin 64a relates the people's prayer for removal of the *yetzer*. While they were successful in getting rid of the impulse to idolatry through prayer, they were only able to reduce the power of the *yetzer* for illicit sex, realizing that life could not continue without the *yetzer* for sex. Here, too, the resolution is not elimination of sexual desire, but its sublimation. The secondary literature provides different interpretations of this text. Hirsch takes the position that beside explaining the disappearance of idolatry from Israel and the desire for illicit sex, the passage deals with more than just natural impulses. To him it is Satan or a test of God's loyalty.⁷⁵ Boyarin comments:

The crucial sentence in the story is that halfway prayers are not answered. It is this which gives us the central clue to the rabbinic psychology and their concept of Evil Desire. In order for there to be desire and thus sexuality at all, they are saying, there must also be the possibility of illicit desire. Desire is one, and killing off desire for illicit sex will also kill off the desire for illicit sex, which is necessary for the continuation of life. Unlike the desire for idolatry, which serves no useful purpose other than testing resistance, the desire for sex is itself productive and vital - but it has destructive and negative

⁷⁴Tanhuma (Buber) Genesis 2:8.

⁷⁵Hirsch, 217, 219.

concomitants.⁷⁶

Urbach states that the rabbis believed that Torah was not enough to cast away the *yetzer*. While they were confident that it would help man resist the *yetzer's* powers and help man stay on the right path, it is only through God's compassion and grace that *yetzer hara* will be uprooted in the world to come.⁷⁷ As Porter remarks, "Prayer and divine help are recognized as necessary to man's victory over the *yecer*."⁷⁸

Ultimately, prayers for the removal of the *yetzer* will come to fruition. God will remove *yetzer hara* from people's hearts in the time to come.

כך אמרו ישראל לפני הקב"ה רבון העולם בראת בנו יצר הרע מנעורינו...
והוא גורם לחטוא לפניך ואין אתה מסלק ממנו את החטיא אלא בבקשה ממך
העבירהו ממנו כדי שנהא עושים רצונך. אמר להם כך אני עושה לע"ל...

[Thus Israel pleaded before the Holy One, Blessed be He: 'Master of the Universe! You have created in us *yetzer hara* from our youth, and it causes us to sin before You, because You have not removed from us the cause to sin. Remove it from us, we pray, so that we may do Your will.' He said to them: 'This will I do in the Time to Come'...]⁷⁹

Similarly in Pesikta de Rav Kahana:

⁷⁶Daniel Boyarin, Carnal Israel: Reading Sex in Talmudic Culture (Berkeley: University of California Press, 1993) 62.

⁷⁷Urbach, 472-473.

⁷⁸Frank Chamberlain Porter, "The Yecer Hara: A Study in the Jewish Doctrine of Sin" in Biblical and Semitic Studies: Critical and Historical Essays (New York: C. Scribner's Sons, 1901) 129.

⁷⁹Exodus Rabbah 46:4.

כך א' הקב"ה לישר' בניי יצר הרע מכשול גדול הוא לעולם אלא סתתו בו קימאה קימאה
עד שתבוא השעה ואני מעבירו מן העולם

[Thus said the Holy One, Blessed be He, to Israel: "My children, *yetzer hara* is the great stumbling block for the world. Just continue to chip away at it until the time comes for Me to remove it from the world."]80

The Rabbis also envisioned what life would be like after *yetzer hara* is removed:

אמר הקב"ה למשה בעוה"ז ע"י שהיה בהם יצה"ר עושין עבודת כוכבים אבל לע"ל אני
עוקר מהם יצר הרע ונותן להם לב בשר

["God said to Moses: 'In this world they made idols because *yetzer hara* is in them, but in the time to come, I will uproot *yetzer hara* and give them a heart of flesh..."]81

אמר הקב"ה בעולם הזה על ידי שהיה יצר הרע מצוי היו הוגרים אלו את אלו ומתים אבל
לעתיד לבא אני עוקר יצר הרע מכם ואין מיתה בעולם...

["God said: 'In this world, because *yetzer hara* is present, men kill each other and die, but in the time to come I will uproot *yetzer hara* from your midst and there will be no death in the world."]82

This theme also occurs in Tanna debe Eliyahu Rabbah,⁸³ Pesikta Rabbati,⁸⁴

⁸⁰Pesikta De Rav Kahana, Piska 24:17.

⁸¹Exodus Rabbah 41:7.

⁸²Deuteronomy Rabbah 2:30. See also Genesis Rabbah 89:1 in which death and the shadow of darkness will be removed.

⁸³Tanna debe Eliyahu Rabbah, chapter 4.

⁸⁴Pesikta Rabbati, Piska 37:2.

and Tanhuma (Buber) Genesis.^{85 86}

Another opinion dating from between the tenth and eleventh centuries is that *yetzer hara* is removed from the individual at the time of death, but it is not rejoined to man at the time of resurrection at the end of days. יצר הרע שהוא הולך עמו ולא בא עמו...

[...*Yetzer hara* comes with a man (during his lifetime) will not come with him (at the time of the resurrection of the dead)].⁸⁷

While this is not altogether different from the previous statements, it changes the emphasis from the collective removal of *yetzer hara* from *klal yisrael* to its removal from the individual.

The overall picture of *yetzer hara* in rabbinic literature is a multifaceted mural of interconnecting and at times contradictory statements. Nonetheless, the destructive potentialities of *yetzer hara* is a consistent theme. Whether the rabbis are talking about *yetzer hara* as sexual drive, idolatry, anger or generalized desire, their efforts were directed to warning people of the *yetzer*'s power, framing laws to assist people in their struggle, and emphasizing that the struggle is what is crucial. The reward for fighting the power of *yetzer hara* is its ultimate removal by God at the end of days. With these ideas in mind the rest of this thesis will examine the

⁸⁵Tanhuma (Buber) Genesis 3:7.

⁸⁶These texts were redacted between the fifth and late ninth centuries.

⁸⁷Midrash on Psalms 103:15. See also Midrash on Psalms 78:8.

use of the concept *yetzer hara* in the halakhic decisions formulated by Rambam in the Mishneh Torah and Israel Meir HaKohen Kagan in the Mishnah Berurah.

Chapter Two

Yetzer Hara in Post-Talmudic Halakhic Literature

A: The Mishnah Torah, Mishnah Berurah, and their Authors

The Rambam, Rabbi Moses ben Maimon, lived in Spain from 1135 to 1204. He wrote the Mishneh Torah by compiling all the halakhic material from the Talmud, both Palestinian and Babylonian, Sifre, Sifra, and Tosefta and arranging the work topically. He organized all of the *dinim*, laws, into one comprehensive work so that no one or nothing else need be consulted. One of his innovations in presentation of *halakhah* was that he did not reference the sources or opposing views. His desire in undertaking this monumental task was to spell out the laws so clearly that it would be accessible to young and old alike. Spero states that the Rambam relies on his intuition and exegetical expertise in order to give rationale to the *mitzvot*, while at the same time maintaining that the *mitzvot* are of divine origin and beyond human intellectual capacity.

Soloveitchek argues that Maimonides in his Code adopts what are, at best, subjective correlatives for *mitzvot* as opposed to any form of explanation that posits a necessary cause or basis in phenomena or systematic properties to be considered primary

over Halakhah.⁸⁸

According to Menachem Elon, the Rambam "...incorporated and stressed the religious-ethical grounding of the legal rules he expounded..."⁸⁹

Israel Meir HaKohen Kagan, the Chafetz Chayyim, lived in Lithuania from 1893 to 1933. He wrote extensively on the laws of gossip and slander and on matters that he deemed were in need of attention. Where there was a hole, he sought to fill it. Kagan was a man of renowned piety, humility, and morality. He wrote a commentary to the Shulchan Arukh, Orach Chayyim, entitled the Mishnah Berurah which is widely accepted as authoritative in matters of everyday *halakhah*. The Shulchan Arukh, "the prepared table," is the name of Joseph Karo's concisely written code of Jewish law. Karo lived from 1488-1575. He was born in Toledo, and after the expulsion from Spain, he and his family went to Turkey. The first section of the code is entitled the Orach Chayyim and concerns the *halakhot* of Shabbat, the festivals, and daily *mitzvot*.

The main purpose of this chapter is to explore the places in which *yetzer hara* appears for halakhic purposes in the Mishneh Torah and Mishnah Berurah. By analyzing the context of these occurrences, it will be possible to ascertain how each commentator utilizing the concept of *yetzer hara* in halakhic discourse.

⁸⁸Spero, Religious Objects as Psychological Structures, 126.

⁸⁹Menachem Elon, Jewish Law: History, Sources, Principles (Ha-Mishpat Ha-Ivri), Volume III (Philadelphia: The Jewish Publication Society, 1994) 1192.

B: Analysis of *Halakhot* in the Mishneh Torah

הלכות איסורי ביאה פרק כב:

In chapter 22 of *Hilkhot Isurei Bi'ah* Rambam sets forth the list of forbidden and permitted types of *yichud*, privacy with another. The concept of *yichud* is derived from Deuteronomy 13:7:

כי יסיתך אחיך בן-אמך או-בנך או-בתך אשת חיקך או רעך אשר כנפשו בסתר לאמר
נלכה ונעבדה אלהים אחרים אשר לא ידעת אתה ואבותיך.

[If your brother, your mother's son, or your son or your daughter or your beloved wife or your friend that is as your own soul, entice you in secret saying, "Let's go serve other gods," which you or your ancestors have not known.]

In Kiddushin 80b the *stam* Mishnah states that a man is not permitted to be alone with two women, but a woman is permitted to be alone with two men. Rabbi Simeon adds that a man can be alone with two women, if his wife is with them. He is permitted to sleep with them in an inn, since his wife will watch over him. He is permitted to be secluded with his mother and daughter and is allowed to sleep with them naked in the same bed. However, when they are grown, they must wear bed clothes.⁹⁰

The Gemara begins by asking why. The answer, a *baraita*, states that women are easily persuaded by circumstances to succumb to temptation even in the presence of another. Rabbi Johanan states in the name of Rabbi Ishmael that this comes from the allusion to *yichud* in

⁹⁰Rabbi Dr. I. Epstein, ed. Hebrew-English Edition of the Babylonian Talmud, Kiddushin 80b. Footnote a(7) clarifies that the previous statement regards "...a young boy with his mother and a young girl with her father."

Deuteronomy 13:7. The question then arises, why would Torah mention a man's mother's son specifically and leave out the possibility that a father's son might entice one, too. The reason given comes from Abaye: a man and his father's son will generally have an antithetical relationship and give evil counsel, since they are in competition.

What follows is a list of extreme conditions that serve as further proof why seclusion is prohibited. The story of the woman who carries out a live child pretending it is dead, suggests that she was trying to satisfy her desires without being suspect.⁹¹ This illustration implies that the prohibition against *yichud* is not derived solely from the words בן אמן, your mother's son, but also from the word בסתר, in secret. So, not only is a person prohibited from being alone with certain relations, he or she is also prohibited from seclusion with anyone of the opposite sex.

The commentary on a woman being alone with two men explicates the circumstances under which this is permitted and forbidden, the punishment for the offense, and illustrations from rabbinic lore to substantiate the decision rendered. What is interesting in these stories is that the righteous fear temptation not from within but from without by the Tempter (Satan). Though in reality Rabbi Hiyya b. Ashi was being tempted by his wife, his intention was evil, because he thought the woman before him was another.

⁹¹ Hebrew-English Edition of the Babylonian Talmud, Kiddushin 80b. Rashi's commentary as explained in footnote b(16). Rashi, Rabbi Solomon ben Isaac, lived in France (1040-1105).

The next section, 81b, discusses the rule concerning whether a man is permitted to be alone with his mother and daughter. There is a disagreement between the *amoraim* on this ruling. Samuel seems to disagree with the statement by Rav Judah said in Rav Assi's name that a man is permitted to be secluded with his sister and dwell with his mother and daughter secluded. Samuel said that a man cannot be alone with anyone on the prohibited list found in Torah; however, it is permitted if there are witnesses. But, Rabbi Meir said: "Guard me from my daughter; Rabbi Tarfon said: Guard me from my daughter-in-law."⁹² Raba adds that a man is permitted to be secluded with two women who would have a contentious relationship, because they would fear the other telling of an indiscretion, and also with a woman and a child who is old enough to talk about intercourse but in whom there is no desire for it at this stage in life.

The last section of commentary on 81b deals with the rule concerning a boy or girl who has grown up and sleeps with a parent of the opposite sex. The Mishnah states that each must be clothed. The specific age at which garments must be worn for sleeping is debatable, but it is when the signs of puberty are visible. Ezekiel 16:7 is the proof-text:

...שדים נכנו ושערך צמח ואת ערם ועריה:

[... your breasts were firm, and your hair was grown.]

⁹²Kiddushin 81b.

It was believed that sexual desire was not present until then.⁹³ However, Rafram ben Papa said in the name of Rabbi Hisda that the preceding statement only applies if the girl is embarrassed to be seen naked by her father, for her modesty indicates that she possesses sexual awareness.

In *Hilkhot Isurei Bi'ah* chapter 22 Rambam condenses the information from the previously cited texts in a logical and easy to understand list. He extends the prohibitions to include heathens, following the rulings of Shammai and Hillel and in the name of David in *halakhot* 5-7, thus restating the rulings from the Gemara in *Avodah Zarah* 46b. This includes the prohibition of lodging any animals with heathens, because they are suspected of bestiality, and the prohibition against leaving a child to learn with heathens since they are suspected of sodomy.

Rambam's statements in the latter part of this chapter appear to cover all possibilities and circumstances in order that a Jew could not find him or herself in any situation that could lead to *isurei bi'ah*. For example, in *halakhah* 12 he goes beyond the statement that a woman may be secluded with a man if her husband is in town, because she fears him and because of the likelihood of being walked in on. Rambam states that a woman is forbidden to be secluded with a man with whom she is quite familiar even if her husband is in town. It seems that the concern is that her guard is down and she may be more easily coerced. *Kiddushin* 81a states that the reason for this prohibition is that one would not want to cause people to

⁹³Hebrew -English Edition of the Babylonian Talmud, Kiddushin 81b, footnote c(4).

think that her children could be *mamzerim*. *Halakhah* 13 declares that single individuals should not be teaching children for fear that when the parent of the opposite sex comes to school, desire could be aroused. In *halakhah* 17 Rambam states emphatically that the teaching of these laws must be done in a ratio of 1 master to 2 students in order that they pay attention and not miss any information that could result in a lenient decision about a most important topic.

Halakhah 18 states that Jews find the matter of forbidden union the most difficult of God's commandments. Therefore, we read in note 20 that a man must:

לפיכך ראוי לו לאדם לכופ יצרו בדבר זה ולהרגיל עצמו בקדושה יתירה ובמחשבה טהורה
ובדעה נכונה כדי להנצל מהן. ויזהר מן הייחוד שהוא הגורם הגדול.

[Therefore, it is especially important for man to subdue his *yetzer* in these matters and to shore himself up with holy activities, pure thought, and proper attitude, in order to be saved from them. And he needs guard himself from inappropriate seclusion, it is the great instigator.]

The Rambam goes on to quote the sayings of Rabbi Meir and Rabbi Tarfon found in Kiddushin 80b, explaining that the purpose of these words was to teach their students that they need not feel embarrassed discussing these subjects and to encourage them to avoid *yichud*.

הלכות אישות פרק ט:יד

In tractate Kiddushin 63b, the Mishnah presents the case of what to do if a man betroths his daughter but does not know to whom he betrothed her. If a man comes before the father to say that he is the one to whom she is betrothed, he is to be believed. If two men present themselves claiming rights to the woman, each must write her a *get*, or if they choose, one can write her a *get*, and the other may marry her.

In the Gemara Rav declares that a man is believed in his claim on a woman, if he is going to divorce her, because a man would not sinfully lie if there is no gain for him, and a divorce would cost him money. However, a man is not believed if he is going to take her in marriage, because יצררו תוקפו - his evil inclination may have overtaken him. As regards the first case, R. Assi states that he is believed even to marry her. But, in the case that she does not know to whom she is betrothed, and a man comes to state that it is he who betrothed her, he is not believed if his goal is to marry her.

In the second case, two men claim one woman, and both agree that one will divorce her and the other marry her. This appears to refute Rav's statement that a man is not believed in order to marry her. Rav's statement was made regarding the first case and does not refute the second, because the one making a fraudulent claim will fear being discovered and will not challenge the claim of the one to whom she is actually betrothed. If a man

is believed in his claim and marries the girl, but another comes later to lay claim to her, the latter man cannot forbid the first to her. However, if the woman does not know to whom she is betrothed, and a man comes to claim her, he should not be believed, because she will protect him.

In Hilkhos Eishut chapter 9 Rambam spells out the circumstances and requirements for acceptable and unacceptable betrothals. A man may not simultaneously betroth two women, if they are among the forbidden ones. If he tries to betroth a number of women at the same time and among them there exists a forbidden relationship, none are betrothed, but if he specifies that he wants to be betrothed to only those women he is permitted to, then all of the permitted ones are betrothed to him. If he tries to betroth two sisters or one of a man's daughters by saying that only one is betrothed but does not specify, he must give all of them *gittin* and is forbidden to all of them.

In a betrothal through agency in which the agent accidentally also betroths another woman who is a close female relative of the first woman, a *get* must be given, and the husband is forbidden to consummate the marriage. Of course, if two betrothals are made for the same woman and it is not known which came first, then one can choose to divorce her and the other to marry her as long as these two men are not father and son or any other forbidden situation. In this latter case both must give a *get*, and both are forbidden to her. If the agent dies before it is ascertained whether or not he accomplished his mission, the presumption is that he completed the

task and the betrothal is effected. If it is not known which woman was betrothed to the man who hired the agent, any woman with female relatives that would be forbidden to him are forbidden. If this woman had a female relative who was ineligible for betrothal at the time of the agent's appointment but is permitted now, the betrothal is valid.

A man may validly betroth a minor daughter, thereby making all other men forbidden to her. If the father does not know to whom she is betrothed, she is forever forbidden to all men, until the time when he states to whom she is betrothed. *Halakhot* 12-14 restate what has already been explicated in Kiddushin 63b. In *halakhah* 14 we read that when a woman states that she does not know to whom she is betrothed and a man comes to say that she is betrothed to him, he is believed to the extent that he must write a *get*. He is not able to marry her, because there exists the possibility that he is lying under the influence of lustful temptation, and she is misleading him in order to be permitted to him. The logical question is why would she mislead him into marrying her? The obvious answer is that she fears that her rightful one may never appear, and she does not want to grow old without a husband and children to care for her.

In *halakhah* 15 Rambam describes situations in which a man and woman disagree about who is betrothed to whom. Whoever states the false claim is not permitted to the other's kin, but the one telling the truth is permitted to the other's kin. The rest of the chapter primarily deals with the necessity of witnesses to a betrothal, and how their testimonies can effect the validity of a betrothal.

The rabbis understood human nature so well that they drew legal decisions based on this information. It could have been that if two men claimed the right of a woman, the one who arrived first was given the honor, and the other must divorce her. But they knew the inner workings of the heart. A man would fear his lie being discovered and concede to the rightful claimant. Also, a man would not lie to claim a woman from whom he could derive no benefit and who would actually cause him a loss. Therefore, the understanding of human nature had a direct impact on the laws set forth by the rabbis in this matter.

הלכות רוצח ושמירת נפש פרק יג:

This chapter in the Mishneh Torah deals with the proper treatment of laden animals in a variety of circumstances. Torah teaches in Exodus 23:5:

כי-תראה חמור שנאך רבץ תחת משאו וחדלת מעזב לו עזב תעזב עמו

[If you see the ass of a man that hates you lying under its burden, and you would consider not unloading it, you will surely unload it with him.]

Baba Metzia 32 states that a man is obligated to help unload an animal no matter how many times the men repeat the process of unloading and loading because of the positive biblical commandment. However, if the animal's owner refuses to help, stating that it is the passerby's obligation, the passerby is exempt, since the commandment specifically states that the passerby is assisting the owner. But, if the owner is old or ill, the passerby

must unload the animal alone. While the biblical precept may only appear to refer to unloading, Rabbi Simeon states that the man is bound to load also. Rabbi Jose the Galilean adds the codicil that the man is only obliged to help load, if the animal can bear the burden. If the load is too heavy for the animal, the passerby is not obligated to help load the animal with an unfair burden.

The Gemara states that Deuteronomy 22:4 is the proof-text to justify the obligation to load animals the well.

לא-תראה את-חמור אחיך או שורו נפלים בדרך והתעלמת מהם הקם תקים עמו

[You shall not see your brother's ass or his ox fall down by the way, and hide yourself from them: you will surely help him to lift them up.]

Another interpretation is that this comes to teach us that we must treat animals fairly and not over-burden them. In fact the Mishnah teaches that we are obligated to help others with their animals if it is fair and kind to the animal. We are not to assist in the abuse of livestock, thereby it is hoped that by refusing to unduly burden an animal the owner will see the error of his ways. The interpretation given is that people are commanded to unload without remuneration but load for remuneration only. Rabbi Simeon said that we should also load without payment. The rabbis and Rabbi Simeon argue this point a while longer. At the top of 32b Raba states that the point is to relieve the suffering of the animal. The Gemara says that the main point of this argument is really the issue of financial loss. The point of Rabbi Jose the Galilean is the proof for relieving the suffering of animals. The rabbis do not interpret it that way. While

relieving the suffering of animals is a positive commandment, we do not get it through this line of argumentation. Ultimately, the ruling in the Gemara is that a man is obliged to relieve the suffering of animals. While a man may be exempt from helping an owner relieving the suffering of a laden animal without payment if the owner is capable of helping and refuses to do so, the passerby is nonetheless obligated to relieve the animal's suffering and may be paid for his efforts.

In the case of a heathen owner, an Israelite should still help relieve the animal's suffering so as not to arouse hatred from the heathens. However, an Israelite has no obligation to load an animal with heathen wine sacks. In general a man should assist another with a burdened animal. More specifically the *baraita* states, if one meets two owners with their animals on the road, the friend's ass requiring unloading and the enemy's requiring loading, he is obligated to help his enemy first in order to subdue his evil inclination. You might infer that relieving the suffering of an animal is not biblically commanded by this statement, but this is not the case. It is simply that subduing one's evil inclination is a more compelling argument. This reason is found in the *Tosefta*. Why? "to break his heart." The *baraita* that follows says that the enemy mentioned in the previous *baraita* is an Israelite enemy not a heathen enemy. The rest of the commentary focuses on whether or not the animal is one that habitually lies down and a person's obligation in either case and at what distance a person "sees" as in the biblical verse.

The Rambam concisely lists the responsibilities one has to another

person's animals in chapter 13. He begins with the example of one person encountering one other person and proceeds from there in order. Note 13 clearly states that the duty of a person to others' animals is one of relieving the burdened one, unless the two encountered each have a different status with the passerby. An enemy's animal is helped before a friend's animal regardless of the animals needs, because training a person's character takes precedence. The rabbis saw an opportunity in this specific case to enforce character training. This ruling could be seen as arbitrary, since in the first case the status of the animal's burden took precedence. Therefore, should not the status of the animal's burden always take precedence? In this case no, because the rabbis had another agenda and were seeking to find places and ways that they could use the law to call a person's attention to higher virtues.

הלכות תשובה פרק ז:ד

The significant issue from this chapter is that a *baal teshuvah* is considered to be superior to one who has not sinned. Chapter 57 of Isaiah speaks of those who turn away from God and what will happen to them. However, if one repents, things will be well with him. God will bring peace to those who possess contrite hearts, but the wicked shall never experience peace. In verse 19 it states:

שלום שלום לרחוק ולקרוב אמר ה'

[Peace, peace, for both far and near, says the Lord.]

In Berakhot 34b Rabbi Abbahu said concerning this case:

מקום שבעלי תשובה עומדים צדיקים גמורים אינם עומדים

[In the place where the repentant stand not even the wholly righteous can stand there.]

However, Rabbi Yochanan disagrees and interprets the Isaiah verse as follows:

מאי רחוק שהיה רחוק מדבר עבירה מעיקרי ומאי קרוב שהיה קרוב לדבר עבירה
ונתרחק ממנו השתא.

[What is meant by 'far'? Someone who was far from transgression in the beginning. And what is meant by 'near'? He was near to transgression and now is far from it.]

Rabbi Yochanan believes that prophetic rebuke was only intended for the repentant, because the wholly righteous were not in need of it.

Rambam opens this chapter by stating that as humans possessing free will, we should strive to repent and stay far from sin in order to die penitent and be worthy of *olam haba*, the world to come. Therefore, a person should anticipate death at any moment and repent immediately, so that regardless of the time of death, the man will die without being in a sinful state. Not only should one repent for sinful deeds but also for one's less admirable qualities such as bad temper and argumentativeness, since these are personality traits that are difficult to purge from oneself.⁹⁴

Rambam favors the position of Rabbi Abbahu. In note 4 Rambam gives comfort to the repentant by saying that the repentant need not fear that they have attained a lesser spiritual status than the wholly righteous.

⁹⁴Mishneh Torah, Hilkhoh Teshuvah 7:1-3.

ולא עוד אלא ששכרו הרבה שהרי טעם טעם החטא ופירש ממנו וכבש יצרו

[Moreover his reward is great, that behold, he has tasted sin, and renounced it, and overcame his evil passions.]

He quotes Abbahu's statement from Berakhot 34b and interprets this phrase to mean that the penitents have actually attained a higher spiritual status, since they have put forth greater effort to subdue their inclinations to evil. The last half of the chapter is devoted to how great repentance leads to redemption, how importance it is to God, and finally, the proper demeanor for a repentant person.

The rabbis are making a remarkable statement about human nature at this juncture. The implication of their statements is that no one, not even God, expects a human being to be perfect. Perfection is God's realm. Part of striving to be close to God is recognizing one's sins, repenting, and staying far from it. Human nature is the struggle to be good when temptation is so strong and so natural, because both forces are central. Having a repentant heart and serving God with all of oneself is the ideal.

הלכות תלמוד תורה פרק א:ה

Rambam opens his book on the laws concerning Torah study by stating the two positive *mitzvot* associated therewith. First, one must study Torah, and second, one must honor his instructors and those versed in its teachings. Chapter 1 opens with the statement that women and slaves are

exempt from studying, a rule stated in Kiddushin 29a and Ketubot 28a. A father is obligated to teach Torah to sons under the age of puberty, because it says in Deuteronomy 11:19:

ולמדתם אתם את-בניכם

[And you shall teach them your children...]

Since the commandment to teach children the law is clearly in the masculine, the rabbis took the statement to mean that men are obligated to instruct young boys. Women are not obligated to teach sons, because one who is not obligated to study cannot be obligated to teach.⁹⁵ A man's obligation extends to his grandsons because Deuteronomy 4:9 says:

והודעתם לבינך ולבני בניך

[...and you shall teach your sons and the sons of your sons.]

If a man cannot teach the son, he is obliged to pay a teacher to train him. Rambam concentrates on the issues of timing, precedence, duration, and finances that can affect the study of Torah.

Therefore, it is no surprise that Rambam is concerned with a man's ability to fulfill the commandments of studying and marrying without one adversely affecting the other. Truly, this is an issue of timing. In the Gemara on Kiddushin 29b it states:

ת"ר ללמוד תורה ולישא אשה ילמוד תורה ואח"כ ישא אשה ואם א"א
לו בלא אשה ישא אשה לאח"כ ילמוד תורה אמר רב יהודה אמר
שמואל הלכה נושא אשה ואח"כ ילמוד תורה ר' יוחנן אמר ריחיים

⁹⁵Kiddushin 29a-b.

בצוארו ויעסוק בתורה ולא פליגי הא לן והא להו

[Our rabbis taught. If a man has to study Torah and to marry a wife, he should first study then marry. But if he cannot live without a wife, he should first marry and then study. Rab Judah said in Shmuel's name: The *halachah* is, first a man marries and then he studies. Rabbi Johanan said: With a millstone around the neck, will he study Torah! But, they do not differ: one refers to us (the Babylonian scholars) and the other to them (the Palestinian scholars).]

Rashi clarifies this last statement by stating:

בני בבל הולכין וגורסין משניות התנאים בא"י ומתוך שלומדים חוץ למקומם אין צרכי הבית מוטלין עליו נושא אשה דהוה בלא הרהור ואח"כ הולך ולומד תורה.

[The children of Babylonia used to go and study the *mishnayot* of the *tannaim* in *Eretz Yisrael*, and while studying away from their homes they did not have daily household worries to distract them. By marrying first they did not have lustful thoughts, and afterwards they went to study Torah.]

Therefore, it was normal for the Babylonian scholars to marry first and then travel to Palestine to study. In this way the scholars would not be burdened with daily family matters or be possessed by lustful thoughts that might lead them into transgression. The Palestinians studied while living at home, trying to balance their duties at home. However, under these circumstances, the Palestinian scholars were unable to progress in their studies, so it became their custom to study prior to marriage. Here Rashi then cites two possible difficulties that men may have in pursuing their studies: a) without a wife, an adult male might have problematic lustful thoughts, or b) by having to study while living with one's family, the distractions could prove to be too great.

In the Rambam's rendering of the *halakhah* he clearly centers his argument on the problem of the *yetzer*, excluding the problem of balancing familial responsibilities with study. He does this by changing the wording.

Instead of saying,

וְאִם אִ"א לֹו בְּלֹא אִשָּׁה

[...but if he cannot live without a wife... (lit., if it is impossible for him without a wife)]

Rambam states it thus:

וְאִם הִיָּה יִצְרוֹ מִתְגַּבֵּר עָלָיו עַד שֶׁנִּמְצָא שְׁאִין לְבוֹ פְּנוּי

[...and if his *yetzer* is so overwhelming that it consumes his thoughts...]

Also, by using the word יִצְרוֹ, Rambam is presenting us with the opportunity to tune into his understanding of human needs. While Rambam is explicit about the *yetzer*, the Talmud is not. However, both are saying the same thing.

הלכות מלכים פרק ח:ב,ד

Chapter 8 deals with the laws concerning the actions of invading armies in wars against pagan nations: what they are permitted and forbidden to do. In Deuteronomy 21:11-13 it is written that a soldier who sees a beautiful woman among the captives, may take her to wife under certain prescribed conditions.

וְרָאִיתָ בְּשִׁבְיָהּ אִשָּׁה יְפֵה-תָאֵר וְחִשְׁקָתָהּ בָּהּ וְלָקַחְתָּ לָּךְ לְאִשָּׁה: וְהִבֵּאתָהּ אֶל-תּוֹךְ בֵּיתְךָ וְגִלַּחְתָּהּ אֶת-רֹאשָׁהּ וְעָשְׂתָהּ אֶת-צִפְרָנֶיהָ: וְהִסִּירָהּ אֶת-שְׂמֹלֶת שִׁבְיָהּ מֵעַלֶיהָ וְיֹשְׁבָהּ בְּבֵיתְךָ וּבִכְתָּהּ אֶת-אֲבִיהָ וְאֶת-אִמָּהּ יָרֵחַ יָמִים וְאַחֲרָיִם כֵּן תָּבוֹא אֵלֶיהָ וּבִעַלְתָּהּ וְהָיְתָה לָּךְ לְאִשָּׁה:

[And you see among the captive women a pretty woman and desire her and want to take her to be for you a wife, you will take her into your house, and she will cut her hair and trim her nails, and throw out her clothes. And she will dwell in your house mourning for her parents for one month, and after that you may come upon her, be master over her, and she will be your wife.]

The Mishnah on Kiddushin 14b concerns the ways in which a Hebrew slave is acquired. On 21b the question arises as to whether or not a priest who is a Hebrew slave can be given a heathen slave to wife. The answer is no. Next, the question arises as to whether or not a priest is permitted to 'take a woman of goodly form'. Rav and Samuel become wrapped in a disagreement. They agree that with regard to a first intercourse with a captive woman, a priest is permitted, because

דלא דברה תורה אלא כנגד יצר הרע.

[It is not written in the Torah except as a means against *yetzer hara*.]

Meaning, he would do it anyway, because of his *yetzer*. Therefore, the Torah makes a concession to this inevitable behavior. However, as regards a second intercourse, a priest is not permitted, because he is not allowed to marry a proselyte. In general, an Israelite man may take a captive woman regardless of her heathen marital status to become his wife. The Torah specifically uses the singular feminine article, which the rabbis take as an indication that a man is not permitted to take more than one captive woman for himself or designate a woman for another man. The Talmud passage further states that since the Torah explicitly states that a man must take the captive into his home, he may not have intercourse with her in the open.

Rambam further clarifies the Talmud text, when he states, "He may

not, however, leave her after cohabiting with her. He must take her into his house." This is in accordance with the Deuteronomy text. Furthermore, a man may not cohabit with her a second time, until he marries her.⁹⁶ In note 4 Rambam reiterates the law concerning priests. In both segments of the Mishneh Torah text, the reason that coition with a heathen is permitted is as a concession to *yetzer hara*.

Obviously, the rabbis knew that when a man is in battle, the power, rage, anger, and desire to overtake a woman are inextricably linked psychologically. Forbidding these natural impulses would not work, so they took their knowledge of what people would do and made rules accordingly. In this case the rabbi knew that men would violate the laws of *isurei bi'ah* anyway, so they decided that it would be better to regulate their behavior, and avoid setting up laws that no one could possibly keep. In this respect, there could be no *mitzvah* for man, if it was something he would be unable to keep. The example given on Kiddushin 21b-22a illustrates this point.

לא דברה תורה אלא כנגד יצר הרע - מוטב שיאכלו ישראל בשר תמותות שחוטות ואל
יאכלו בשר תמותות נבילות

[The Torah speaks only against *yetzer hara* : better that the Israelites should eat meat of an animal that is about to die but was ritually slaughtered than meat of an animal that is already dead and not ritually slaughtered.]

The Torah Temimah on Deuteronomy 21:10 reiterates this point and states that this leniency was only allowed in the case of men engaged in battle. In

⁹⁶Mishneh Torah, Hilkhoh Melachim 7:2.

general, if there is a law that permits a forbidden action solely because it will be violated, then the entire legal system is open to attack. Therefore, the Torah Temimah makes a point of stating that the circumvention of these *mitzvot* are only permitted during wartime. Therefore, you do not abandon the preservation of each mitzvah. As it was written:

הלא לפי"ז לא שבקית קיום לכל מצוה....וי"ל דלא נאמר כלל זה אלא מלחמה

In general men are not to have intercourse with or marry heathens. But in the case of wartime, when *yetzer hara* is all too powerful, men will do it anyway. So, the rabbis had a choice: keep the law as it is written (which would cause men to transgress a command they could not possibly keep and subject them to severe punishment) or relax the law in only this case to accommodate *yetzer hara*. They chose the lesser of two evils and legalized it with definable, controllable parameters.

הלכות ערכין וחרמין פ"ח

This book deals with oaths to donate to the Temple and estimating a person's value. In chapter 27 of Leviticus we find the list of values for human lives. The price for a human life depends on the gender and age of the person. If a person is too poor, a priest will set the value. If a person brings an unclean offering, then redeems it, he shall add a fifth to its value. All of these valuing were done in connection to the rules for the sabbatical and jubilee years and mortgaging oneself or one's property.

This Mishnah in Arachin 2a states that all may evaluate the worth of another, be subject to evaluation, vow the worth of another person, or have their worth vowed by someone else. Then, it states the exceptions which include restrictions on hermaphrodites, people of indeterminant sex, deaf-mutes, imbeciles, and minors. The Gemara goes on to debate and expand on the Mishnah to enable the student to understand the rationale behind the shorthand, give definitions, and clarify points easily misunderstood.

The Gemara in Hullin 2a connects the previous Mishnah to itself in order to define to whom the "all" refers. It asks why Mishnah Arachin 2a states that all may vow if Deuteronomy 23:23 states that if a person does not vow, it will not be a sin. Also, it states in Ecclesiastes 5:4 that it is better if a person does not vow the worth of someone or something, than to vow and not pay. Rabbi Meir states in the Gemara in Hullin that it is best not to vow at all. However, Rabbi Judah states that it is best if someone vows and pays.

Rambam discusses the redemption of consecrated items in chapter 8. In accordance with the statements in Deuteronomy 27, he discusses the ins and outs of adding a fifth to the value of a consecrated thing in order to redeem it from the Temple. In *halakhah* 12 he states that although these laws are *mitzvot*,

ראוי לו לאדם להנהיג עצמו בדברים אלו כדי לכוף יצרו ולא יהיה כילי וקיים מה שצוו נביאים כבד את ה' מהונך. אעפ"כ אם לא הקדיש ולא העריך ולא החרים מעולם אין בכך כלום. הרי התורה העידה ואמרה וכי תחדל לנדור לא יהיה בך חטא.

[...it is proper for him to comport himself in these things so as to subdue his *yetzer* and avoid stinginess, so he fulfills the prophetic command to *Honor the Lord with your substance* (Proverbs 3:9). But despite this, if he does not make any of these types of vows, it

does not matter. Behold the Torah bears witness to this and says *And if you forego making vows it will not be a sin on you* (Deuteronomy 23:23).]

The people did not need to worry if they did not make any vows, since Deuteronomy 23:23 includes the halakhic loophole for such cases.

It is important to note in this instance that neither the Hullin nor the Arakhin passages mention anything about the *yetzer*. Therefore, Rambam is bringing in the concept of the *yetzer* of his own accord. He does so to point out that humans are inherently greedy creatures and do not give up their money or possessions easily. He draws our attention to this less than admirable aspect of ourselves in order for us to greatly consider the honest value of something being vowed to God.

The rabbis wanted people to take their own value, the value of another's life, and the process of consecrating and redeeming seriously. Therefore, a person must not consecrate something carelessly, thinking he can buy it back for what it's worth 'retail'. He must value the consecrated thing so much so that it is worth it to him to be willing to buy it back for cost plus a fifth of its value. Also, they did not want people to fear that they have sinned by not making any vows of these types. It is truly a credit to the rabbis that they knew so well how the mind of a person works that they would include a disclaimer of this type. It is also very noteworthy that the value of a life was standardized to such a degree, that a person could not be worth more or less than a peer. Since humans are so judgmental about physical abilities and mental prowess, it is reassuring that the rabbis constructed the laws in such a way that these issues were irrelevant.

הלכות גרושין פרק ב:כ

In Mishnah Gittin 88b it states that if a man gives a *get* while being coerced by an Israelite court, the *get* is valid. If a *get* is given while the person is being coerced by a heathen court, it is not valid. If the heathen court flogs a man saying, "Do what the Israelite authorities tell you!", it is valid. The Gemara makes clearer distinctions in the laws. Nahman said in Samuel's name that the coercion must be done for good legal reasons as listed in Ketubot 77a in order for the *get* to be valid. If the coercion for a *get* is not based upon the reasons listed in Ketubot 77a, the *get* is invalid, but it will disqualify a woman for a priest. If the coercion is based on solid legal grounds by a heathen court, it is invalid and disqualifies a woman for a priest, but if based on invalid reasons, it is invalid and does not disqualify a woman from a priest. The question arises, how can this be? The reason is that it is okay if a decision from an Israelite court and a heathen court might be confused if based on valid legal reasons, but without valid legal grounds, it is important that the Israelite court and the heathen court's views be noticeably different.

Chapter 2 of Hilkhot Gerushin contains a list of the circumstances under which the giving of a *get* is valid or invalid. In note 20 it states that in the case of a person who refuses to divorce his wife and may be legally compelled to divorce her, an Israelite court may force him until the man says that he will divorce her. When he writes the *get*, it's valid. If heathens whip him and say do what the Israelites tell you, and the

pressure comes from the Israelites through the heathens, the *get* is valid. If the heathens exert pressure on a man to divorce his wife of their own volition, even if there are legal grounds for it, the *get* is considered defective. The important theoretical question is: why are *gittin* given under duress valid, irrespective of who is compelling it? The reason is that duress can only apply to a case when someone is being forced to do something that the Torah does not require. Plus, if a person's *yetzer hara* compels him to transgress a commandment or commit an *averah* he is not a victim of duress; he has brought himself under duress by succumbing to his *yetzer hara*. On Baba Batra 48a it states that the reason a man can be forced by the *beit din* to write a *get* is that it is a *mitzvah* to listen to the instructions of the sages. [מצוה לשמוע דברי חכמים] Since any rational Jew would want to do that which the law commands and remain amongst the community of Israelites, it is the evil inclination that has driven such a man to refuse to divorce his wife if the *beit din* has ordered him to do so. The flogging weakens the grasp of the *yetzer hara* on a person, so that the person will do that which the Torah wishes him to do. Therefore, it is as if he had agreed to give the *get* voluntarily. Next, Rambam states that if the court mistakenly authorizes the use of force to compel the divorce from him, and they flog him, the divorce is invalid. However, since it was Jews pressuring him, he should see that it is the right thing to do and freely choose to grant the divorce. Here, Rambam is injecting the idea of reasonableness into the discussion, when the court is in error.

לא היה הדין נותן שכופין אותו לגרש וטעו בית דין של ישראל או שהיו הדיוטות ואנסוהו עד שגרש הרי זה גט פסול הואיל וישראל אנסוהו יגמור ויגרש.

[If reason does not require that he should be flogged and an Israelite *beit din* groundlessly flogs him or if they were lay folk (i.e. not judges) who pressure him until he consents to divorce her, behold, the *get* is invalid. But, since it was Israelites that pressured him, he should consent and divorce.]⁹⁷

The Rambam introduces the concept of *yetzer hara* into the discussion to explain why one does not need the command of the Sages. One merely needs to recognize that obstinacy in such a case is the result of the workings of the *yetzer* and adjust his behavior accordingly. The flogging on the part of the *beit din* is the community's assistance in helping someone to loosen the force of the *yetzer*.

הלכות איסורי המזבח פרק ז

Chapter 7 opens with the statement by Rambam that not everything that was valid for offering in the Temple was offered, because all offerings had to be of the best one has to offer to God. To merely state that a leaner, less attractive animal was valid, because it contained no blemish was unacceptable. One would be seen as having dealt "craftily" in such a circumstance. (Malachi 1:14). Next there are lists of what types of offerings were acceptable and detailed descriptions of the process for rendering meal, wine, and oil offerings. These offerings are given ranks of

⁹⁷Mishneh Torah, Hilkhot Gerushin 2:20.

superiority and inferiority. While all meal offerings were valid, olive oil had to come from a first pressing in order to be valid for Temple use. Although all meal offerings were valid, they were ranked, so that a person would know which is superior and which inferior. In this case the person is given an opportunity to train his *yetzer hara*, by forcing himself to choose the best of all valid meal offering choices. Rambam goes on to say that this principle of choosing from the best for God applies in all cases. One should choose the best of one's portion to feed the poor, clothe the naked, give to the house of prayer, etc. It is for this reason that it states in Leviticus 3:16, "all the fat is the Lord's."

הלכות תמורה פרק ד'

Chapter 4 deals exclusively with the rules concerning the status of an offering's offspring. Rambam delineates the rules very clearly in these matters, citing all possible circumstances: each type of offering, its substitute, its offspring and its offspring's offspring, which offerings go with which, the case of the offspring of a blemished beast, when and if an animal may be dedicated, etc. The main thrust of his arguments is that you can not change the sanctity of an unborn or born animal, except the firstling, which acquires its status at birth.

Rambam's conclusion to this chapter is fascinating. He states that all of these laws are divine, but it is good to think about the reasons behind

them. By utilizing two prooftexts, Leviticus 27:10 and 15, he comes to the following conclusion.

ירדה תורה לסוף מחשבת האדם וקצת יצר הרע. שטבע של אדם נוטה להרבות קנייניו ולחוס על ממנו ואע"פ שנדר והקדיש אפשר שחזר בו וניחם ויפדה בפחות משוויי אמרה תורה אם פדה לעצמו יוסיף חומש. וכן אם הקדיש בהמה קדושת הגוף שמא יחזור בו וכיון שאינו יכול לפדותה יחליפנה בפחותה ממנה. ואם תתן לו רשות להחליף הרע ביפה יחליף היפה ברע ויאמר טוב הוא. לפיכך סתם הכתוב בפניו שלא יחליף וקנסו אם החליף ואמר והיה הוא ותמורתו יהיה קדש. וכל אלו הדברים כדי לכוף את יצרו ולתקן דעותיו. ורוב דיני התורה אינן אלא עצות מרחוק מגדול העצה לתקן הדעות וליישר כל המעשים.

[...the Law has plumbed the depth of man's mind and the extremity of his evil impulse. For it is man's nature to increase his possessions and to be sparing of his wealth. Even though a man has made a vow and dedicated something, it may be that later he drew back and repented and would now redeem it with something less than its value. But the Law has said, "If he redeems it for himself he shall add the fifth." So, too, if a man dedicated a beast in its body, perchance he might draw back, and since he cannot redeem it, would change it for something of less worth. And if the right was given to him to change the bad for the good he would change the good for the bad and say, "It is good." Therefore, Scripture has stopped the way against him so that he should not change it, and has penalized him if he should change it and has said: *Both it and that for which it was changed shall be holy*. And both these laws serve to suppress man's natural tendency and correct his moral qualities. And the greater part of the rules in the Law are but *counsels from of old* (Isa. 25:1), from Him who is *great in counsel* (Jer. 32:19), to correct our moral qualities and to keep straight all our doings.]⁹⁸

This is strictly Rambam's usage of the term *yetzer hara* in this context. No one else uses this term with reference to this particular subject. He believes quite strongly in the power of reason. It is his contention that if one applies reason to the study of divine, inexplicable law, the individual can add humanly derived explanations that will prove helpful to the study, understanding, and ability to follow said law.

⁹⁸Mishneh Torah, Hilkhoh Temurah 4:13.

הלכות שבת י"י

The Mishnah on Shabbat 73a states that making and untying knots and sewing two stitches or tearing in order to sew two stitches are forbidden on Shabbat, because they are listed among the primary labors. These are the topics the Rambam takes up in chapter 10 of Hilkot Shabbat. In the Mishnah on 105b two related examples are considered. What if a person tears something on Shabbat in mourning for a deceased relative or out of anger? Should the person be considered to have desecrated Shabbat and thereby be culpable? The Gemara states that these people would be culpable, because in both cases the act has positive value for the tearer. In the case of someone grieving over a deceased, if the person is of the categories of near relative, fulfillment of the obligation to rend one's garment is positive and therefore he is culpable for desecrating Shabbat. The Gemara then goes on to discuss to whose dead the statement refers. The decision is that it does not refer to a person who witnessed a death and who must rend or a sage for whom all decent and honorable men would rend their clothing, but it refers to someone for whom there is no obligation to rend clothing, therefore Shabbat has thereby been desecrated.

In note 10 Rambam elevates the reasoning behind these laws to a new level. He states that causing damage to a garment for purely destructive purposes does not constitute desecration of Shabbat. However, rending a garment for a deceased relative or tearing out of anger is a desecration of Shabbat:

מפני שמיישב את דעתו בדבר זה וינוח יצרו והואיל וחמתו שוככת בדבר זה הרי
הוא כמתקן וחייב.

[...because this relieves his mind and calms his *yetzer*. Since his anger subsides, it is a constructive act, and therefore, he is accountable.]⁹⁹

It is with these statements that the Rambam a) transforms the argument from one of action to an issue of the result of the action, and b) adds to the equation the issue of the *yetzer*. He is the first to interject this notion into the issue at hand. To the Rambam, mere action was not as important an issue as the psychological effect the action has on the person doing the action. Because there is a psychological benefit for the person who rends on Shabbat for the dead or tears out of anger, the action is forbidden and makes the tearer חייב. It is the knowledge that the Rambam has of the ways of the human psyche that is influencing his rendering and interpretation of the law. It is also interesting to note that his explanation is more tenable and understandable than the Mishnah or Gemara.

⁹⁹Mishneh Torah, Hilkhhot Shabbat 10:10.

C: Analysis of *Halakhot* in the Mishneh Berurah

שלחן ערוך אורח ש"ז: Laws of Shabbat Concerning Talking Notes 59 & 62

In this chapter of the Shulchan Arukh what can and cannot be discussed on Shabbat is presented. The chapter opens with a reminder from Shabbat 113a and b that the reference in Isaiah 58:13 to honoring Shabbat and not speaking your own [וְדַבַּר דָּבָר] words means that a person's talk on Shabbat should not be like one's talk during weekdays. There is a dispute between Rashi and the *Tosafot* over the extent of the prohibition implied by Isaiah 58:13. Rashi on 113b believes that the word דָּבָר in the verse means "commerce." One is not to speak of business on Shabbat let alone do any business on Shabbat. The *Tosafot* disagree on the grounds that the prohibition comes from the words מִמְצוֹא וּמִפֶּסַח in the same verse. Therefore, the words וְדַבַּר דָּבָר imply the prohibition of all types of unnecessary talking. Here, the Shulchan Arukh (307:1) combines these two interpretations; Isserles¹⁰⁰ relaxes the second prohibition. So, if you enjoy idle chatter, it falls under the rubric of עוֹנֵה שֶׁבֶת and is therefore permitted. Note 5 of this chapter quotes Rabbi Yeshayahu Horowitz. He

¹⁰⁰Rabbi Moshe Isserles, Rema, lived in Poland (1530-1572).

wrote in the *Shelah* ¹⁰¹ that a person should not say “good morning” on Shabbat to another person but rather “Shabbat Shalom”, which fulfills the requirement on Exodus 20:8:

זכור את יום השבת

[Remember the Sabbath day...]

Literally, mention that today is Shabbat.

Following is a list of the types of things one may or may not discuss on Shabbat. *Halakhah* 16 of this chapter states:

מלצות ומשלים של שיחת חולין ודברי חשק כגון ספר עמנואל וכן ספרי מלחמות אסור לקרות בהם בשבת ואף בחול אסור משום מושב לצים

[It is forbidden to read secular proverbs or parables, erotic literature such as the book by Emmanuel¹⁰² and books about wars on Shabbat. It is even forbidden to read them on weekdays, because of the prohibition against participation in a gathering of scoffers.] (cf. Psalms 1:1)

The Mishnah Berurah comments on this passage by saying that these secular things are prohibited in the Talmud in Avodah Zarah 18b. In 16a the Gemara begins discussing implications of the Mishnaic statement that a Jew should not sell the gentiles bears, lions or anything that could harm people. Jews can help gentiles build certain types of structures but not others. In 18b the discussion has turned to attending such events that include wild animals. One point is that a Jew should not attend such an

¹⁰¹Shnei Luchot Ha'Brit, a seventeenth century text.

¹⁰²Emmanuel ben Shlomo lived during the fourteenth century and wrote Machberot.

event because of the potential presence of idolatry. Rabbi Simeon ben Pazi's *drash* on Psalm 1:1 is that if a Jew spends time with idolaters in time the Jew could become one, too.

Kagan states in note 59 that the people of his time were quite sinful and “unrestrained” about going to theaters and circuses and the like, despite the warnings against secular rejoicing in Hosea 9:1. He also points out that by enjoying such activities, a person is transgressing the commandment not to incite his evil inclination, the result of which is falling into *Gehenna*, as stated in Avodah Zarah 18b. The reason given for the prohibitions and resulting penalties is that these activities divert one's attention from studying Torah.

The Shulchan Arukh goes on to make the point stated above about inciting one's inclination. In Leviticus 19:4 one is prohibited from turning to *elilim*, which Rashi says means *chalalim* or hollows, which refers to the heart. This interpretation stems from Rabbi Hanina's *drash* on Leviticus 19:4 found in Shabbat 149a. In this passage of the Talmud one is enjoined not to read the labels under pictures or images on Shabbat. The image itself is not to be looked at even during the week because of the prohibition in Leviticus. While *yetzer hara* is not explicitly mentioned in the *drash* or Rashi's commentary, this explanation is introduced by Joseph Karo in the Shulchan Arukh. His source for the prohibition is Rabbenu Yonah Gerondi (13th century). Rabbi Asher ben Yechiel's citation of Gerondi can be found in Hilkhot HaRosh, Shabbat 23:1. He, too, does not explicitly mention *yetzer hara*.

By reading erotic literature one incites the *yetzer hara*, but if one writes, copies, or prints it, that person causes the public to sin, which is yet another transgression. On this matter Isserles states that secular materials are prohibited only if written in a foreign language, but secular things written in *lashon hakodesh*, the holy tongue, are permitted. For example an *igeret shalom* would be permissible, because it can teach one Hebrew and aid the mastery of sacred texts. This conclusion was reached by the author's reading of the *Tosafot* on Shabbat 116b.

The Mishnah Berurah commentary to this passage states that it is absolutely forbidden by all authorities to read erotic literature that incites one's evil inclination regardless of the language in which it's written. In note 64 The Taz, Bach and other *achronim* are referred to as saying that if something is forbidden to be read, it is even forbidden to touch it on Shabbat.

With regard to items written in *lashon hakodesh*, Kagan states the opinion of Isserles in note 63 that since the language itself is holy and one can learn from it, certain types of writing are permitted on Shabbat. Letters, regardless of knowledge of their contents, are permitted, since one can learn Hebrew and words of Torah from them. A *get* is permitted to be read, regardless of the language it is written in, because one can ascertain the laws pertaining to a *get*. But if accounting statements are written in Hebrew they are prohibited, because of the overriding concerns for Shabbat sanctity and divorcing oneself from work. According to Kagan in note 64 most *achronim* prohibit the reading of newspapers on Shabbat, because there are always business matters discussed in them. However, he states

that Jacob ben Joseph Reicher's ruling in his 18th century work, Shevut Yaacov, is lenient with regard to reading newspapers on Shabbat.

The main issue here is prohibiting activities that incite the *yetzer hara* and could cause a person to more gravely sin. Since the *yetzer hara* is often seen as the sexual impulse, Karo is trying to prevent unnecessary and profane stirrings of one's libido by prohibiting erotic literature on this basis. Sexuality has always been regarded by the rabbis as a holy enterprise confined to the marital bed at only the appropriate times. Sex is to be engaged in with proper sanctity and holy intentions. Lascivious writings lead to lascivious thoughts and feelings which run counter to the desired outcome. This type of literature could potentially lead a man to approach his wife out of lust and not love, approach her during the period of niddah, force himself on her, or cause him to seek inappropriate and forbidden sexual release.

Here, Karo adds the mention of *yetzer hara* in order to strengthen the *issur*. While one verse mentioned by one *rishon* may not be a strong enough prohibition, we all know that inciting one's *yetzer* is always prohibited. Therefore, the *issur* is now supported by appeal to common-sense morality, שכל, as well as by a proof-text.

שלחן ערוך או"ח שט"ז: Shabbat: Forbidden/Permitted Trapping, Note 30

In this chapter types and circumstances concerning the trapping of creatures is discussed. M. Shabbat 7:2 and Shabbat 106a-107a state that trapping an animal on Shabbat is considered one of the major categories of work. The issue under consideration is whether or not wounding an animal on Shabbat constitutes a violation of *halakhah*. If a person wounds an animal and no blood comes forth from the wound, the person is still liable if the wound results in the collection of blood beneath the surface of the skin. Kagan explains in note 29 that a person is Toraitically liable for wounding a creature because of *nitilat nifshah*, taking away its life.¹⁰³ Even though the animal does not die as a result of the wound, blood equals life, and any blood that comes from a wound or pools because of a wound is considered taking of life from that place on the animal.

The idea that blood equals life comes from Deuteronomy 12:23:

כי הדם הוא הנפש

[...because the blood is the life...]

The context of the Biblical quote is God commanding the people that when they enter the land and the borders are increased, they can eat meat to their hearts' content, because they have so longed for the taste of meat. But, they are not to eat the blood of an animal along with its flesh, because the blood is the life. In order for all to be well for them and their children this

¹⁰³Kagan takes this point from the Magen Avraham to this passage in the Shulchan Arukh.

restriction is repeated several times in the text that follows. Specifically, the taking of life from a spot on an animal is defined as a sub-category of *shechitah* (slaughtering), one of the 39 labors prohibited on Shabbat listed in m. Shabbat 7:2. Mishnah Shabbat 13:3 (105b) states that all who cause damage on Shabbat are exempt. Rambam on Hilkhhot Shabbat 1:17 states:

כל המקלקלין פטורין. כיצד הרי שחבל בחבירו או בבהמה דרך השחתה וכן אם קרע בגדים או שרפן או שבר כלים דרך השחתה הרי זה פטור.

[All who cause an impairment are exempt. For example, behold, a person who wounds his friend or an animal in an harmful way, or if he rends clothing, or burns them, or breaks utensils in a detrimental fashion, behold, he is exempt.]

Thus, destruction is not *melachah*, prohibited activity. However, in the Gemara there is a *baraita* that states that destroying in a fit of anger makes one חייב, liable, because the action constructively relieves one's temper.

א"ר אבין האי נמי מתקן הוא דקעביד נחת רוח ליצרו

[Rabbi Abin said, "This man makes a constructive act, because it calms his *yetzer*."]104

In Mishnah Berurah note 30 Kagan discusses the issue of wounding a person or another person's animal or bird out of revenge that results in the spilling or pooling of blood. According to Rambam (Hilkhhot Shabbat 12:1,8:8) a person is Toraitically liable. The wounding process is not considered destructive but constructive, because the release that is achieved through the action calms *yetzer hara*, as stated in the *baraita*. This case resembles the issue of tearing something on Shabbat out of anger with the

104b. Shabbat 105b.

resultant quiescence. According to Rambam (Hilkhos Shabbat 10:10) the person is Toraitically liable for this transgression as well.

הקורע בחמתו או על מת שהוא חייב לקרוע עליו חייב מפני שמיישב את דעתו בדבר זה וינוח יצרו והואיל וחמתו שוככת בדבר זה הרי הוא כמתקן וחייב.

[One who makes a tear in his anger or in mourning for a relative at whose death he is obliged to rend his garments, he is liable, because this relieves his mind and calms his *yetzer*. Since his anger subsides because of this action, behold it is a constructive action, and therefore, he is liable.]

While Ra'avad believes that a person is not Toraitically liable for transgression in these cases, he and the other later authorities believe that at the very least a rabbinic prohibition has been violated in keeping with the concept of *אסור אבל פטור*. Just because an act may be Toraitically prohibited and not necessitate death or sacrifice for atonement, it does not follow that the act is permitted. Therefore, Kagan warns people not to strike any living thing on Shabbat with a blow that could cause a wound, for there is at least a Rabbinical transgression involved in this according to all of the authorities. He goes on to state that hitting living creatures is one that many people are likely to transgress.

It appears that *yetzer hara* can incite a person to unnecessarily harm another person or animal out of anger. In the case of Sabbath laws constructive labor is a Toraitic prohibition. The technical question is whether or not a particular labor produces a constructive effect. If it does, one is *חייב מיתה או קרבן*, punishable by death or required to bring a sacrifice. If the action merely calms someone, it is *אסור אבל פטור*,

forbidden but not punishable by death, or if it is done unintentionally, requires a sacrifice. Here, the rabbis are showing us their awareness that destructive behavior is a useful outlet for aggression; it's a *tikkun*, remedy for the *yetzer* and therefore constructive.

שלחן ערוך אורח גי: Conduct in a Bathroom, Notes 27 & 28

The major concerns at the beginning of this chapter of the Shulchan Arukh are modesty, not urinating or excreting in an east or west direction, avoiding the dangers of witchcraft, and avoiding actions that could cause one bodily/medical harm. Paragraph 14 states that a man should not hold his penis when urinating unless he holds it from the glans down in order to avoid the sin of Onan. Although the Shulchan Arukh says that a married man is permitted to hold himself during urination, it also states that it is more pious not to do so, and a married man is not allowed to rub his penis. Both married and single men are allowed to hold their testicles.

The Mishnah Berurah note 26 states that the reason to avoid touching the penis during urination is that touch leads to arousal and sensual thoughts which can lead to ejaculation. The basis for this conclusion is m. Niddah 2:1.

כל היד המרבה לבדוק בנשים משובחת ובאנשים תקצץ

[Any hand that frequently makes examination in the case of women is praiseworthy, but in the case of men it (the hand) should be cut off.]

Rashi and Bartenura comment on ובאנשים that a man who always

(Bartenura's term) or regularly (Rashi's term) examines his penis with his hand should have the hand cut off, lest he ejaculates. Hilkhot Isurei Bi'ah 21:23 states:

ואסור לאדם שאינו נשוי לשלוח ידו במבושין שלא יבוא לידי הרהור. ואפילו מתחת
 טיבורו לא יכניס ידו שמא יבוא הרהור. ואם השתין מים לא יאחוז באמה וישתין.
 ואם היה נשוי מותר. ובין נשוי ובין שאינו נשוי לא יושיט ידו לאמה כלל אלא בשעה
 שהוא צריך לנקביו:

[An unmarried man is forbidden to grasp his private parts, so that he is not overcome by impure thoughts. He should not even place his hand below his navel, so that he will not be overcome by impure thoughts. When he urinates, he should not grasp his member and urinate, but if he is married, he is permitted. Whether or not he is married, he should not place his hand to his member, except when he needs to relieve himself.]

The sin of Onan is a grave one (Mishnah Berurah 27 citing Even Ha-Ezer section 23, par. 4). If the man is married he is permitted to hold his penis in the prescribed manner for the purpose of urination, because if he becomes aroused he can satisfy his urge in a proper way within the confines of the marital bed, and therefore his *yetzer hara* cannot overwhelm him. This is Karo's ruling in the Beit Yosef based on the passage in Niddah 13a. The ruling in the Tur is that even a married man may not hold himself, but Karo states that this ruling is according to the standard of *midat hasidut*, a stringency of the ultra-orthodox. If however the man's wife is in niddah or he is travelling, he may not hold his penis, because the arousal could lead him to spill his seed or seek other illicit means of sexual gratification.

Mishnah Berurah note 28 states that a man may hold his organ, when he is urinating if he fears falling. In the Gemara on Niddah 13a

Rabbah replied that the fear a man might have while trying to urinate off the roof is the fear of falling off the roof. The rationale of Abaye is that a man who is fearful is like a troop who would be too fearful to offer libations, and thus the man on the roof will not have unchaste thoughts.

A man may support his testicles when urinating, because he will not cause himself arousal by doing so. A man may not rub his penis, because it will cause excitement and potentially lead to semen spillage. However, he may comb the pubic hair as long as the penis is not touched. There is a disagreement among the halakhic authorities as to whether or not a man may grasp his penis with a thick cloth. Grasping by the undershirt is not permitted.

The rabbis are concerned with a man avoiding unnecessary arousal of his sexual passions. In the case of urination, the penis is exposed and accessible to touch. The rabbis set up these laws as a fence around the prohibition of spilling one's seed. The only person who is allowed to touch himself even slightly during urination is a married man who at that time must have legitimate access to his wife to relieve an arousal should it occur. *Yetzer hara* is given considerable power here by the rabbis. They fear its ability to overwhelm men, even under the most mundane circumstances. The rabbis do not trust themselves much less others to control their sexuality, and therefore set up ways to avoid enticing it.

Kagan is the first one to use the term *yetzer hara* with regard to this subject. While the Talmud did not explicitly use this term, he uses it in this context to express the power of the sexual impulse. Laws are therefore

necessary to aid the average person in dealing with the problem of the *yetzer*. The laws set forth in this section assist the person in not enticing it.

שלחן ערוך או"ח א': Laws for Rising in the Morning, Note 1

This chapter opens with, "One should strengthen himself like a lion to get up in the morning for the service of his Creator." Note 1 in the Mishnah Berurah states that man was created for the purpose of serving God, as it states in Isaiah 43:7, "Everything that is called by My Name and I created for My glory..." Thus, we declare this purpose from the instant we arise in the morning. A person should not tarry or get up too late to *daven shacharit*. Beginning here and continuing through the chapter a narrative of human existence is woven together from aggadic imagery and halakhic minutia to show the continual struggle that mankind undergoes to attain holiness against the power of temptation that seeks to undermine man's efforts.

The commentary states that one's *yetzer hara* might entice him to stay in bed longer giving excuses such as 'it's too cold' or 'you have not slept enough.' This notion is taken from the Tur. It says that a Jew is to get up like a lion arises in order to do the will of his Creator. But, his *yetzer* will tempt him by saying that it is too cold. It seems that we all have a natural desire to be lazy and lounge in bed in the morning. The Bach commentary to the Tur (Rabbi Yoel Sirkes, 17th century) takes this idea one step further in order to describe how sophisticated the *yetzer* can be. The *yetzer* knows

that a Jew is essentially good and wants to do God's will, and it uses this knowledge as a means to lead man unwittingly astray. It will say to him that not only is it too cold, but the cold would interfere with one's *kavannah*, which is required. Man is told to subdue his inclination in order to faithfully do God's will. A *kal v'chomer* is utilized to show that if a man can subdue his inclination for the purpose of serving a king of flesh and blood, than all the more should he get up promptly do the will of the King of kings. The sophistication of the *yetzer* is in its knowledge of the desires of the good Jew. Each person is vulnerable to his *yetzer*, and it knows a person's particular weaknesses. Obviously, this is a bit of rabbinic psychology at work. The rabbis know how hard it is to get up and moving in the morning, that it is human nature according to the *stam Tur* to want to rest and lounge around a bit. By blaming *yetzer hara* for these feelings the Bach and therefore Kagan is saying to people, 'We know you only want to do God's will, but this pesky temptation keeps after you. Here is a way to think about what you have to do, so that you'll be able to prevail over your impulses and do that which you know you must do.'

The next item of interest in this chapter is that it is deemed preferable to say fewer *tachanunim* with *kavannah* than to say many *tachanunim* without *kavannah*. The Mishnah Berurah goes through the reasoning behind the preferability of saying less with intention. Basically, God is said to be more concerned with quality than quantity, but if a man can say more with the proper *kavannah* than he should do the most of which he is capable. Kagan then comments that a scholar can free himself

from saying much of *tachanun*, because his time is better spent on studying Torah. Then, men are encouraged to study some amount of *musar* literature every day. The reason is that the more learned or pious, the stronger one's *yetzer hara*. For men of learning only the rebukings of the rabbis will keep *yetzer hara* in check. The rabbis believed that there is a direct proportional relationship between the level of learning or piety and the strength the *yetzer*. It is obvious that a weak man is tempted by little things and a stronger man can only be tempted by really enticing things. According to the Shaar HaTziun, the Hayyei Adam¹⁰⁵ and Birkhei Yosef¹⁰⁶ state that if the *yetzer* is as cagey and sophisticated as it is portrayed by the Bach (above), it will surely figure out how to ensnare even the greatest scholar or *tzadik*, unless the person arms himself with the proper defense weapons. Therefore, the *yetzer* is personified, for only a being with human-like intelligence could threaten man's relationship with God. No one is safe; the struggle against the *yetzer* is constant, beginning in the morning upon arising and does not stop. In fact note 7 in the Shaar Teshuvah states that the Birkei Yosef recommends *musar* study, because it is a תבלין, an "antidote", for *yetzer hara*.

Kagan is probably bringing in this concept at this point in his commentary as a means of reinforcing Karo's point that you are not

¹⁰⁵Abraham Danzig (1748-1820) wrote Hayyei Adam.

¹⁰⁶Chayyim Joseph David Azulai (Hida) (1724-1866) wrote Birkei Yosef.

permitted to pray less if you feel like it. You must pray and study to the maximum of your capabilities on a regular basis or you will open yourself up to temptation and sin.

Third, the daily reading of *Akeidat Yitzchak* (Genesis 22) is said to be desirable. The reason is stated in note 13 that a person should daily read the Binding of Isaac to remind him not only of the merit of our forefathers but to remind him again that controlling one's impulses enables one to serve God. Isaac is seen as the quintessential example of one who controlled his impulses in order to do God's will.¹⁰⁷ Normally, people are being asked to control greed, hatred, and lust. But, look at Isaac - he had to control every fiber of his being to subdue his survival instinct in order to become the perfect sacrifice to *Hashem*! "Father, bind me tightly so that I do not move and thereby disqualify the sacrifice." So, if he can do that, surely you can control your impulses. There is also another tradition that Isaac was 37 years old at the time of that incident, and therefore old enough to have a *yetzer*.¹⁰⁸

שלחן ערוך אורח חיים: Conduct Pertaining to Marital Relations, Note 7

The Shulchan Arukh states at the beginning of this chapter that, "...a married person should not be overly familiar with his wife, but should

¹⁰⁷The story is found in *Genesis Rabbah* 56:8, *Midrash Tanhuma* 23, and *Pirkei De Rabbi Eliezer* 31.

¹⁰⁸*Exodus Rabbah* 1:1.

only have marital relations with her at the times referred to by the Torah.” Karo then goes on to stipulate how often men of certain professions should be intimate with their wives. Every man is obligated to be intimate with his wife on the night she goes to the *mikvah* and before he leaves on a journey that is not *mitzvah* related. A man is not to have his pleasure in mind at the time of intimacy. He is obligated to please his wife.

If a man's *yetzer* (lust) is the reason he desires intimacy with his wife, it is deemed better that he should subdue his inclination at that time. A man will be more satisfied if the desire is detained until the proper attitude is achieved rather than giving into temptation which leads to more temptation. But, a man should not willfully have an erection to satisfy his desire, if it is not a time he is obligated to have relations with his wife. This type of behavior is the result of giving in to one's *yetzer*. Karo states that giving in to one's inclination as regards lust will lead the inclination to get him to transgress something prohibited.

The Tur expands on this topic through a quotation from Sha'ar HaKedushah, a section of Ravad's Ba'aley Nefesh, a twelfth century commentary on Hilkhos Niddah. The Tur states that Ravad believed there were four distinct levels of praiseworthy intent for a man who has relations with his wife. The lowest level is לדחות את יצריו, to control one's *yetzer*. One engages in this type of *kavanat bi'ah* in order to satisfy lust and avoid temptation to forbidden intercourse. This type is deemed less commendable than subduing one's *yetzer*. Ravad's theory is based on the passage in

Sukkah 52b which states that man is better off consistently not satiating his hunger for sex, because the more he gives into it the more he will desire it. The idea is that if you force yourself to go without, the satisfaction when you do will be heightened, but if you continually indulge, the appetite for sex will become all consuming and lead to illicit intercourse.

Modesty in marital relations is crucial. Therefore, men should not gaze upon the female genitalia, because it is considered shameless behavior. One who can be shamed will not transgress God's laws. However, gazing upon a woman's genitalia will cause a man's *yetzer* to arise against him. To kiss a woman there is even more shameful and transgresses the command in Leviticus 20:25 to not be abominable. Certain positions are said to be undesirable, and the amount of bodily exposure is discussed. The last sections of the chapter deal with proper and improper times and situations for having relations. For example, one is not to have intercourse during famine years or comparable catastrophes, unless that man has no children.

In note 7 certain extra stringencies are mentioned with regard to marital relations. These are not legal rulings. The rule is that a wife is entitled to intimacy at *עונתה*, specific time periods, which differ according to a man's occupation. The conjugal and maintenance rights of a woman are outlined in Exodus 21:10 and Ketubot 47b. A woman is always entitled to intimacy on *leyl tevillah*, the night of her immersion in the *mikvah*. Sexual intimacy is only prohibited on Yom Kippur and Tisha B'Av. These

stringencies listed in note 7 are only to impose levels of *tzniut* and *kedushah* upon Jewish marital relations by prohibiting in part that which is otherwise permitted. Nachmanides on Leviticus 19:2 comments that it is important to practice self-restraint in all matter as a means to attain holiness. He goes on to say,

The Torah has admonished us against immorality and forbidden foods, but permitted sexual intercourse between man and his wife...If so, a man of desire could consider this permission to be passionately addicted to sexual intercourse with his wife...and thus he will become a sordid person within the permissible realm of Torah! Therefore, after having listed the matters which He prohibited altogether, Scripture follows them up by a general command that we practice moderation even in matters which are permitted,...: One should minimize sexual intercourse,...and he should not engage in it except as required in fulfillment of the commandment thereof.¹⁰⁹

Marital relations are to be undertaken in service of one's obligations to a spouse and not in service of the *yetzer*, except when the power of the *yetzer* overwhelms these controls. This segment of the law is truly a sex ethic.

According to Resh Lakish,

אסור לאדם לשמש מטתו בשני רעבון...חסוכי בנים משמשין מטותיהן בשני רעבון

[Men are prohibited from having sexual relations in years of famine. However, a *Tanna* taught that childless couples are permitted to have sexual relations during years of famine.]

Rashi says that childless couples are those who have not fulfilled the *mitzvah* to be fruitful and multiply, פריה ורביה.¹¹⁰ Kagan says in note 47 that

¹⁰⁹Rabbi Dr. Charles B. Chavel, Rambam (Nachmanides) Commentary on the Torah: Leviticus (New York: Shilo Publishing House, Inc., 1974) 282-283.

¹¹⁰b. Ta'anit 11a.

if they have many sons but no daughters, they are permitted. This suggests that the couple must have at least one boy and one girl to have fulfilled the *mitzvah*. Isserles adds that this rule is also in effect when there are communal troubles comparable in severity to a famine. Kagan notes in 48 that the Rema states that section 574, paragraph 4 of the Shulchan Arukh permits relations during famine years on the eve of a woman's immersion in the *mikvah*. The Mishnah Berurah states in note 46 that if a man's *yetzer hara* is becoming too powerful, and it is believed that he might commit the sin of Onan, then he may have marital relations.

The rabbis here are recognizing that men cannot abstain from intercourse indefinitely, regardless of the circumstances. The instinct for sexual release is very powerful. Therefore, allowances are made, so that a man does not transgress the commandment of the Lord. It is a case of rabbinic priority setting.

שלחן ערוך או"ח קכ"ח: The Raising of the Hands in Blessing, Note 10

The Shulchan Arukh deals with the topics of how a *kohen* should bless the people and the factors that can disqualify a *kohen*. In the section under consideration, the *kohanim* should turn to face the *kahal* for the purpose of blessing the people. The Mishnah Berurah commentary points out that this practice is derived from a *baraita* and its anonymous proof-text found in the Gemara on Sotah 38a. In 37b the Mishnah states, 'How was the Priestly Benediction done?' In 38a the priests and high priest raise the

their hands above their heads. An anonymous *baraita* asks, 'Were the priests face to face with the *kahal*?' The answer is found in Numbers 6:23, "You will say to them," i.e. like a man who talks to his companion.

The Mishnah Berurah, note 37, states that if the congregation hates a particular kohen or visa versa, the *kohen* should leave the sanctuary before the *birkat avodah*, the *Retzei*. If the situation is of the first type, it is dangerous for the *kohen* to try to bless the people. If the situation is of the second type, the priest saying the *brachah* would make the *brachah* a *brachah l'vatalah*. For, as the Mishnah Berurah notes, the *nusach habrachah* is:

אקב"ו לברך את עמך ישראל באהבה

[...to bless your people Israel with love...]

Therefore, a *kohen* who does not love the community cannot fulfill the *mitzvah* of that *brachah*. The Torah commands the priest to bless the people, making no allowances for the priests' feelings. In note 20 the Be'air Heitev states that the Magen Avraham bases his interpretation on the Zohar, part 3, p. 147b. He understands the rabbinic ordinance as adding a qualifying factor: the blessing indicates that, unless the *kohen* is free of the taint of hatred, he has no business blessing the congregation, no matter what the Torah commands him to do. In this case, the existence of *yetzer hara* forces the rabbis to severely modify the scope of a Toraitic commandment. The priest, who is חייב, liable, by a *mitzvat asei*, positive commandment, to say the blessing, is denied the opportunity to fulfill that

requirement because of the *yetzer*.

This is a rather significant example of this psychological force adjusting and influencing our understanding of the law. Kagan adds to this ruling that the *kohen* "should leave the synagogue if he is unable to subdue his *yetzer* and remove the hatred from his heart." Here, the *yetzer* is utilized to creatively explain and expand the *halakhah*.

It is believed that the priests want to fulfill their duties with full hearts, and only an evil outside force could have the power to override their desire to bless the people with love. Realistically, I believe that it has more to do with the possibility of heresy for a priest to be administering a blessing that would be a lie of the heart and soul. What kind of role models would they be for the congregation. These rules seem to protect the sanctity of the occasion and social orderliness.

שלחן ערוך אור"ח קט"ו: Shemona Esrei Prayer for Understanding, Note 1

Megillah 17b states that there is a logical order for the *Tefillah*. The Mishnah states that the person reading the Megillah has not fulfilled the obligation if he has read it backwards or in a language other than Hebrew. The ruling is derived from Ester 9:27 in which it states that the Jews took upon themselves the obligation to observe the holiday of Purim exactly as it was written. An anonymous tannaitic source is quoted as saying that the same ruling applies to the recitation of *Hallel*, *Shema*, and the *Amidah*. In the discussion about the *Amidah*, Shimon HaPakuli is credited with stating

the proper order for the benedictions in the presence of Rabbi Gamaliel.

The order is then explained with the appropriate prooftexts.

In the *Amidah* the first three blessings are praise, the middle ones are petitionary, and the concluding three are of thanksgiving. In the Shulchan Arukh, *Hilkhot Tefillah*, the reasons for the *Shemona Esrei* are given. The subjects under discussion in this chapter are the existence and order of the fourth blessing of the *Shemona Esrei*. The blessing is:

אתה חונן לאדם דעת ומלמד לאנוש בינה. חננו מאתך דעה בינה והשכל. בא"מ
חונן הדעת.

[You endow man with knowledge and teach mankind understanding. Grant us from Your knowledge, understanding, and wisdom. Blessed are You, Lord, the One who grants knowledge.]

Kagan writes that the reason for the blessing 'You endow...' is because man is greater than each and every creature, and the Wise One determined it. The blessing 'You endow' is the head of moderation. For if there is no understanding, there can be no prayer.

In the Mishnah Berurah, Kagan writes that another reason for the order of the blessings is written in Sefer Seder HaYom. Then he states that first of all without the wisdom and knowledge God implanted in man, the goodness within him would fall apart. Therefore, he needs to have proper intention. This is the essence of the question: that man needs to ask from the Creator to give him wisdom and knowledge to straighten out that which has been blemished with evil and to make it better with goodness. The *HaShiveinu* comes after the request for knowledge because his sin is on his

mind, and he directs this blessing to God, requesting that He immediately subdue and humiliate his *yetzer*. Then, Kagan goes on to discuss that the prayer for forgiveness comes after the prayer for repentance. It is necessary that God arise over the hearts of sinners and criminals. The prayer for healing comes after the prayer for redemption. It is a request that God heal us in order that we will be strong enough to occupy ourselves with Torah and remember all the mitzvot, as it should be.

שלחן ערוך או"ח כ"ד: Laws of Tzitzit, Note 2

The origin for the commandment to wear tzitzit can be found in Numbers 15:38.

דבר אל-בני ישראל ואמרת אליהם ועשו להם ציצת על-כנפי בגדיהם לזררתם ונתנו על-ציצת הכנף פתיל תכלת:

[Speak to the children of Israel and tell them to make fringes upon the corners of their clothes for all generations and attach on the corner of the fringe a blue cord.]

Verse 39 explains the purpose of the commandment.

והיה לכם לציצת וראיתם אתם וזכרתם את-צל-מצות ה' ועשיתם אתם ולא תתורו אחרי לבבכם ואחרי עיניכם אשר-אתם זנים אחריהם:

[And it will your fringes to look at them and remember all of the commandments of the Lord and do them, so you will not follow after your heart and eyes in lustfulness.]

The Shulchan Arukh states that one is supposed to hold the *tzitzit* in the left hand which is opposite the heart when reciting the *Shema*, because of the line in the *V'ahavta* that they be on your heart. Kagan states that the heart is actually on the left side of the body. He then goes on to state that

this *mitzvah* delivers the wearer from sin by being able to deliver one from *yetzer hara*. In this respect the *mitzvah* of *tzitzit* is superior to all other mitzvot. His prooftext is to be found in Menachot 44a. In this chapter of Menachot the opening discussions surround the minutia of the commandment to wear *tzitzit*: what garments are subject to *tzitzit*, how are they to be made, etc. At the end of this section of the chapter the story is related about the reward enjoyed in this world by wearers *tzitzit*. It is this story that serves as Kagan's prooftext.

A student of Rabbi Hiyya heard about a renowned harlot in another city, prepaid the fee, and went to be with her. As he proceeded to climb up to the bed upon which she laid, his *tzitzit* hit him in the face, reminding him that what he was about to do was a sin. He removed himself from the bed, and the harlot questioned his change of heart. She proceeded to find out where and with whom he studied. She then went to the *beit midrash* to inquire how to convert. Rabbi Hiyya then allowed her to marry the student. For forgoing the sin, she was then permitted to him in sanctity.

In relation to *tzitzit* Kagan is the first person to state that this commandment has the power to subdue *yetzer hara*. It is truly his invention.

שלחן ערוך אורח חיים תש"ו: Laws of Yom Kippur, Note 1

It is decreed in Leviticus 23:27 that the tenth day of Tishrei will be the Day of Atonement for the entire community of Israel. In tractate Yoma of

the Talmud, we find the rabbinic expansions. The entire temple service is described in the Mishnah with *aggadah* and extensions added in the Gemara. Near the end of the final mishnah of this tractate, Rabbi Eleazar ben Azariah makes the following statement about Yom Kippur.

מכל חטאתיכם לפני ה' תטהרו עבירות שבין אדם למקום יוה"כ מכפר עבירות שבין אדם לחבירו אין יוה"כ מכפר עד שירצה את חבירו.

[Yom Kippur atones for those sins committed between man and God from all the sins before God, but Yom Kippur will not atone for those sins committed between man and his friend until he appeases his friend.]

In the Shulchan Arukh, the chapter opens with the quotation from Yoma 85b.

עבירות שבין אדם לחבירו אין יוה"כ מכפר עד שיפייסנו ואפי' לא הקניטו אלא בדברים צריך לפייסו ואם אינו מתפייס בראשונה יחזור וילך פעם שניה ושלישית ובכל פעם יקח עמו ג' אנשים ואם אינו מתפייס בג"פ אינו זקוק לו

[For transgressions that are between a person and his friend, Yom Kippur does not atone until he appeases his friend. And even if he only provokes him with words, he must appease him. And if he does not appease him on the first try, he must return and go a second time and a third time, and with each time he must take with him three people, and if he does not appease him on the third try, he is not under any obligation to him.]

Kagan comments on the issue of appeasing one's friend even if you only used harsh words by stating:

צריך לפייסו. דגם בזה עבר על איסור דאונאת דברים והנה אע"פ שגם בשאר ימות השנה מחוייב לפייס למי שפשע כנגדו מ"מ אם אין לו פנאי הוא ממתין לפייסו על יום אחד אבל בעיוה"כ מחוייב לתקן הכל כדי שיטהר מכל עונותיו כדכתיב כי ביום הזה יכפר עליכם מכל הטאתיכם וגו' וכ"ש אם יש בידו מן הגזל ואונאה וכל דבר הנוגע בממון יראה לתקן. [דזהו המקטרג הגדול על האדם כמו שאחז"ל סאה מלא עונות מי מקטרג גזל מקטרג בראש] ואם יש לחבירו בידו ממון שיש לו תביעה עליהם יודיענו אע"פ שחבירו לא ידע מזה כלל ועכ"פ יסדר לפני הרב ומ"ן הענין

בשלימות ובאמת בלא שקר ולשאול האיד להתנהג. כללו של דבר כל דבר שבממון לא יסמוך על הוראתו כי היצה"ר יש לו התירים הרבה [ח"א].

[In this case it is also a transgression against the prohibition of verbal abuse. And behold, even though he is obligated to appease the one he sinned against every other day of the year, nonetheless, if he doesn't have the time he may wait to appease him another day. But every erev Yom Kippur he is obligated to repair everything in order that he may be purified from all of his sins, as it is written, "Because on this day atonement will be made for you for all of your sins..." All the moreso if there is on his record the sin of stealing or defrauding or any other type of wrongdoing in monetary matters he will see to fix them. [That this is the great denouncer against man, as the sages of blessed memory used to say, 'A full measure of sin-who will denounce you first? The sin of stealing will denounce you first.'] And if his friend has money in his hand that belongs to him to which he lays claim, he should make it known to him, despite the fact that his friend doesn't know about it at all. Nonetheless, he should set the case before the rav or the town rav completely and truthfully, without lying and ask him how he should behave. The general rule in this matter and all money matters is that he should not rely on his own judgement because his *yetzer hara* will say that all kinds of things are permissible.]

Kagan brings in the idea of *yetzer hara* in this passage to warn the reader of the danger that relying on one's own judgement can have on the soul. Better that one should rely on the expertise and judgement of a rav, who can be objective and help a person observe the laws scrupulously, than to give the *yetzer* a chance to cloud one's judgement with false statements and be led astray.

שלחן ערוך או"ח תק"ס: Tisha B'Av, Note 13

The central issue of this chapter is how Jews may best remember the destruction of the Temple at all times. In section 3, the question arises: is it permissible to sing over wine and rejoice? The *stam* Mishnah (Sotah 48a) states that when the Sanhedrin ceased to exist, songs ceased to be sung in places of feasting, because Isaiah 24:9 states:

בשיר לא ישתו-יין...

[They will not drink wine with song...]

However, in the Gemara Rabbi Huna said that sailors and ploughmen may sing but weavers may not. The reason is that singing aids the former in their work, while the latter sing for entertainment. Rav Yosef adds that women joining men in song leads to unrestrained sexuality, and men joining in singing with women arises men's sexual passions. Rabbi Yochanan stated that drinking while music is playing brings the following punishments upon the world: captivity, hunger, forgetting Torah, *hilul HaShem*, and humiliation of Israel.

The Shulchan Arukh states that you do not play musical instruments and sing songs, because all who hear the songs will rejoice in them. It diverts a person's attention from God. Therefore, it is forbidden to listen to them because of the destruction of the Temple. Drinking songs are forbidden, as it is written, "Do not drink wine with song."

Note 13 focuses on the issue of drinking songs. The Bach (Rabbi Joel Sirkes, 17th century commentator to the Tur) pronounced that even drinking songs without wine are forbidden. It is written in the Gemara, that the songs of ship traffic controllers and cowboys that are work related, therefore, they are permitted. However, singing while one is idle is forbidden, because it is only entertainment, but if not, do not make an issue of it. Thus, the Shulchan Arukh shows us that liturgical music is permissible, but music for pleasure is not permitted. This is a rabbinic

gezera, decree, enacted in accordance with their desire to have us remember the *Churban*, destruction of the Temple, soberly and seriously.

To summarize, Kagan does not mention *yetzer hara* in his Mishnah Berurah commentary to the Shulchan Arukh. However, he does raise the issue in his other commentary to the Shulchan Arukh, the Sha'ar Ha'Tziun. In note 25 of the Sha'ar Ha'Tziun it states:

ואם מזמרות כדי לישן התינוק ש"ד וגם הלא מדבר¹ ש"ע משמע דאינו אסור בפה אלא על היין הלכך אין לדקדק כ"כ [אכן אם יש אנשים אחרים בבית יש לזהר משום קול באשה ערוה] ומיהו כבר הזהיר השל"ה ושאר ספרי מוסר שלא לזמר שירי עגבים לתינוק שזה מוליד לתינוק טבע רע ובלא"ה נמי איכא איסורא בשירי עגבים ודברי נבלות דקא מגרי יצה"ר בנפשיה ושומר נפשו ירחק מזה ויזהיר לבני ביתו על זה [מאמר מרדכי]:

[If the songs are for the purpose of putting a baby to sleep, then they are of no consequence. And also surely from the words of the Shulchan Arukh we learn, can infer that only singing over wine is forbidden. Therefore, do not be too stringent with doubtful cases. (However, if there are other people in the house, be careful, because the voice of a woman is *ervah*.) Nonetheless, Shnei Luchot HaBrit and the other *musar* books remind us not to sing popular songs to a baby because this could cause the child to have a bad temperament. In addition, there is a prohibition against popular songs and foolish things, because these fortify the *yetzer hara* within him, and one who guards his soul will keep himself far from this and will warn the members of his household about this. (Mordecai)]

Kagan does not place his comments about the *yetzer hara* in the Mishnah Berurah, possibly because he feels that it is not directly related to, or taken from the text. However, he feels that it is an important enough issue to raise it in the same place that he raises Bach's *machloket* about singing popular songs, whether or not over wine. He chooses to introduce Bach's position because Bach was known to be quite stringent in his interpretation of the law. Therefore, if he says not to be too strict in doubtful cases, one should not be so strict. Kagan balances the argument with the

opinion expressed in *musar* literature that the stringency in the case of singing popular songs to children could cause an *averaḥ*, in this case a man overhearing a woman singing, and that popular music could have a negative affect on a child's disposition.

Conclusion

Yetzer hara is a rabbinic concept developed through eisegetical interpretation. The Rabbis telescoped a variety of ideas into this nominative. *Yetzer hara* is not evil *qua* evil. Rather, it is an element of human nature that contains within it the possibility of evil. If either goodness or evil were the natural state of mankind, then they would be value neutral. By virtue of man having been granted free will, it is necessary for man to choose between good and evil. It is only after we have made a choice to follow either *yetzer tov* or *yetzer hara* that we may be judged as being good or evil.

Many people have attempted to equate *yetzer hara* with psychological terms such as id, libido, or eros. None of these psychoanalytical terms encompasses *yetzer hara*. While psychological structures can inform our understanding of the *yetzer*, one needs to take into account the relevant theological constructs in Judaism. *Halakhah* is concomitant with the *yetzer*. It informs our understanding of *yetzer hara* and responds to it.

The Rabbis believed that *yetzer hara* is an essential aspect of human nature. Without it man would cease to pro-create or conduct business.

Recognizing the necessity for *yetzer hara* and the potential for evil, the Rabbis wrote extensively about the destructive aspects of *yetzer hara* and ways to channel and control it. They entreated man to utilize his *yetzer* for good and touted the rewards for proper behavior and punishments for violations of the laws. The Rabbis insisted that Torah was the guide to life and the antidote for the *yetzer hara*.

Rambam utilizes the concept of *yetzer hara*, following the example set forth in the Talmud or in a *baraita* in five out of eleven cases. In the case of forbidden intercourse he is also extending the prohibition to make an extra fence around the law. Regarding the obligation to study Torah, the Talmud merely states the specific obligations. He focuses on the ability of the *yetzer* to distract a man from his obligation to study. Regarding the offering of guarantees for oaths and Temple tithes, Rambam believes that men are greedy and will, therefore, either devalue something, or donate a less worthy offering to the Temple. It is the *yetzer's* doing. Therefore, he believes the laws are written to train one's *yetzer*. At the conclusion of *Hilkhot Temurah*, Rambam declares that while the *mitzvot* are of divine origin, applying one's intellect to discern the reasons behind the laws will enable one to better fulfill them. With reference to Shabbat, Rambam changes the focus of the argument about the rabbinic prohibition against tearing from a discussion on the act of tearing as physical destruction, to an emphasis on the psychological effect of the action.

In utilizing the concept of *yetzer hara*, Kagan also follows the line of argumentation set forth in prior texts in four out of ten cases. However, he

brings the *yetzer* into halakhic discourse in several places that the Talmud does not. With respect to talking on Shabbat, he brings in the concept of the *yetzer* to reinforce the prohibition against certain kinds of speech.

Concerning the laws upon arising in the morning, Kagan blames the *yetzer* for inciting a man to tarry from his obligations. He also argues that since the *yetzer* is responsible for man's greed, one should always rely on a third party to settle monetary disputes in order to avoid inciting the *yetzer*. In the case of Tisha B'Av Kagan brings the subject of *yetzer hara* in the discussion in his other commentary, the Sha'ar Ha'Tziun, not the Mishnah Berurah. Kagan, like Rambam, believes that certain laws exist to train one's *yetzer*.

At times both commentators reiterate the statements of their predecessors in their usage of *yetzer hara*. They also introduce *yetzer hara* into various halakhic discussions of their own accord in order to explain the purpose of the law or fortify a law they believe lacks compulsion. While they remain true to the classical rabbinic tradition, they were nevertheless scholars of their own times. That being the case, their expansion of the use of *yetzer hara* in halakhic discourse was directed toward the needs of their less literate contemporaries, assuring that both the Oral and Written Torah continue to be relevant moral guides in all times and geographic locations.

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