HEBREW UNION COLLEGE – JEWISH INSTITUTE OF RELIGION
Los Angeles School

Mixed Messages Aspects of Compassion and Aversion:

Disabilities in Early Biblical and Rabbinic Literature Viewed through the Lens of Age Cohorts

A Thesis Submitted in Partial Fulfillment of the Requirements for Ordination

by

Sarah René Hronsky

April, 2003

Advisor: Dr. Stephen Passamaneck

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ACKNOWLEDGEMENTS

Writing this thesis has led me to navigate a challenging road taking me deep into Jewish texts, sociological implications, and personal perseverance. I gained extensive insight into the thesis material, as well as myself. I am thankful for having this experience and wish to offer my sincere gratitude and appreciation to the following people who assisted me on this journey.

I am fully aware that the work I accomplished within this thesis would not have been possible without the combined knowledge and skills that I have gained from working with the gifted teachers at the Hebrew Union College – Jewish Institute of Religion. I wish to acknowledge with all sincerity my teachers who endowed me, in just a few short years, with the ability to navigate through diverse texts, to express myself clearly in writing and the practical skills to seek out such an unususal thesis topic.

Special thanks must be extended to Dr. Stephen Passamaneck. As an advisor, he provided me with a great level of support, direction, and encouragement. Dr. Passamaneck helped me to ask the right questions of the Judaic texts, corrected me when I was going astray, and improved the presentation of my written observations. With great sincerity, I extend my gratitude for his compassionate approach and patience throughout this project.

Rabbi Levy and Dr. Bill Cutter also deserve special recognition. They both encouraged me to pursue my passion for this thesis topic, even though it was a

difficult fit into the framework of a typical thesis. They also stood by me throughout the process offering words of wisdom, support, and incredible levels of encouragement. Their special interest in my success brought me great strength.

I also wish to thank me incredible husband, Yuri Hronsky. His enduring love, patience, and belief in me pushed me up and over the many hills and bumps along the way. I could not have completed the writing of this thesis without his selfless giving, especially of his time in terms of caring for our home, our special B.J., and me during the late nights and bouts of illness. Your love and respect nourish me, thank you!

I also would like to thank my family and friends for their constant words of encouragement. My parents listened to me grumble and kept their responses positive, pushing me along. Thank you both for believing in me and providing me with great motivation. I also offer my gratitude to my brothers and extended family for all of their support. I thank my in-laws for their continued interest in all of my endeavors. To my friends, I extend my gratitude for your support, patience, and willingness to accept how distracted I have been while working on this project.

FOREWORD

Today there are over 50 million Americans with disabilities, placing them into one of the largest minority groups and the most stereotyped groups in America.[1] When I take this overwhelming statistic with R. Murphy's statement, "The very old are avoided or treated as infantile, and the disable-bodied are pensioned off or relegated to the status of outsiders," I am profoundly moved.[2] This forces me to consider human beings' natural aversion towards the person who is different as it may lie in juxtaposition with central value of Judaism that of compassion for the other- especially the weakest members of society.

As an active Jew, and a future leader in the Jewish community, I am concerned with how Judaism receives those who are disabled. With initial research into Jewish law as it relates to the disabled, I became aware of a tension between sensitivity to the disabled through the values of compassion, human dignity, and self worth versus the insensitivity that Jewish law may exude in excluding those who are disabled. As Jewish law, functions as a "normative prescription" for human behavior for the traditional Jew, these polar tensions between sensitivity and insensitivity clearly deserve a deeper examination[3].

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[1] Available at www.cabln.org/stats.htm searched (2/5/03). This website is managed and copywritten by the California Business Leadership Network, 1999-2003.
[2] R. Murphy, *The Body Silent*. New York: Holtz, 1922. p. 138
[3] T. Marx, *Halakha and Handicap: Jewish Law and Ethics on Disability*. Jerusalem-Amsterdam: self-published, 1992. p. 6.

Therefore, by investigating the earlier strata of Jewish law, *halakhah*, I hope to decipher some of these conflicting messages of our tradition. In doing so, this text will highlight places of hope and acceptance, as well as, areas for which modern continually-developing Responsa may need to focus upon in order to balance the way Jews serve God, as well as treat their fellow Jew who is disabled.

CHAPTER ONE

A. PROBLEM AND SCOPE

B. METHODOLOGY

C. PRIMARY AND SECONDARY SOURCES

A. PROBLEM AND SCOPE

The disable-bodied in Judaism, as well as within general society, are viewed in the praxis of two polars: compassion and aversion. These polars are universal within society. As opposites, the polars present mixed messages not just for the disable-bodied individual, but also inform the relationships between the able-bodied and the disabled. This thesis, *Mixed Messages: Aspects of Aversion and Compassion Regarding Disabilities in Rabbinic Literature in the Light of Age Differential*, will present examples of problems inherent in the juxtaposition of compassion and aversion within Jewish law. It will also examine those problems in the light of age factors: does the age at which a person acquired a disability affect the degree of compassion and aversion?

1. Universal Outlook on Compassion and Aversion

The World Health Organization (WHO) defines a handicapped individual as one who is either physically or mentally impaired. This impairment may restrict the individual from what is considered normal activity for a human being. If one

considers the WHO's definition of healthy, "A state of complete physical, mental, and social well being, not only the absence of disease or infirmity," the category of who is unhealthy or disabled most likely includes every person at some point in his or her lifetime.[1] Even, if it is not one's self who is disabled, it remains highly likely that every human being will be in contact with or have a relationship with someone who is impaired. Perhaps this is the reason that human nature calls one to feel compassion for the disabled, whether by stirring feelings of sympathy or the inner desire to help.

Even with this compassion, the disable-bodied individual suffers from not only the impairment due to his or her particular disability, but also the effects of stigma that the general society associates with those who are variant. The disabled individual is viewed as the "other," one who does not fit into society's accepted "social identity." One sociologist defines this phenomena as stigma; "The attribution of inferiority and unacceptability by others to someone marked in some way" such as a deformity or being wheelchair bound.[2] In stigmatizing the disabled individual, society discredits that person. A person whose disability is visible to the general populous serves as a metaphor for "fundamental issues of human consciousness and

[1] The World Health Organization, WHO, maintains a website that tracks health-based statistics worldwide, including that of the disabled. Available at www.who.int/en/ (1/15/03)
[2] D. Locker, *Disability and Disadvantage: The Consequence of Chronic Illness.* London and New York, 1983. p. 137-8.

evokes powerful feelings."[3] Therefore, the able-bodied may view the disabled as polluted, a failure, or simply as a reminder of human frailty. The results of such stigma further a pattern of pervasive aversion, which may be expressed through avoidance, fear, and even outright hostility.[4] The pattern of stigma associated with the disabled tends to marginalize the disable-bodied into a status of less than human, leaving him or her in a liminal state, never quite fitting into the general society.[5]

2. Jewish Expression of Compassion

Since, aversion and its counterpart, compassion, are historically universal in terms of how society views the disabled, it is to be expected that Jewish societies have struggled with these same polars. Judaism maintains a basic value system of human worth and dignity, which dictates the compassion one must maintain towards his or her fellow man. This stems from the story of creation in Genesis, where God makes human beings in "God's image, after God's likeness," *Tzelem Elohim*.[6] Being formed in the image of one's creator, places each person on equal footing in terms of his or her potential regardless of one's physical or metal limitations. This

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[3] J. Abrams, *Judaism and Disability: Portrayals in Ancient Texts from the Tanach through the Bavli*. Washington, D.C.: Gaulledet University Press, 1998. p. 74

[4] R. Murphy, *The Body Silent*. New York: Holtz, 1987. p. 114

[5] For further explanation of aversion and stigma see J. Abrams pages 74 and 129. Tzvi Marx, *Halakha and Handicap: Jewish Law and Ethics on Disability*. Jerusalem-Amsterdam: self published, 1992. pages 47-50.
For a full discussion of stigma Erving Goffman's book is a classic work that defines stigma broadly offering first person narratives of those stigmatized due to a disability, religion, or race.
Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity*. New York: Simon and Schuster Inc., 1963.

demonstrates the concept of accepting human beings in their wholeness as dictated by God.[7]

Humanity's link to *Tzelim Elohim* is the grounding force for Judaism's core values of human worth and human dignity. The tradition allows no room for the debasement of one's dignity, even self-inflicted. The Talmud teaches, "Great is the honor (dignity) of mankind as it overrides the negative precepts in the Torah."[8] From this J. David Bleich summarizes that, "Human life regardless of its quality and indeed of its potential for even the minimal fulfillment of *mitzvot* (commandments, precepts, or laws that Jews are obligated to fulfill) is endowed with sanctity."[9] Every person is due dignity, as it is exemplified by Judaism's special emphasis on honoring the dead, giving special status to the reverence of the elderly, and even honoring one's teachers. These core compassionate values are challenged in a halakhic (law abiding) Jewish society when one weighs the dignity of man versus the dignity due God.[10] This concept will be discussed more fully in the section on inclusion or exclusion from halakhah (a system of laws to which traditional Jews are bound and which dictate correct behavior in virtually every aspects of life).

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[6] See Genesis 1:26-27
[7] For further development of this concept of *Tzelim Elohim*, see T. Marx, *op. cit.* p. 113-123.
[8] b. Berachot 19b
[9] J. David Bleich, *Judaism and Healing: Halakhic Perspectives.* New York: K'tav Publishing House, 1981
[10] T. Marx, *op. cit.* p. 646. For development of the concepts of human dignity and worth see T. Marx, *op. cit.* p. 131-146, 457-460, and 646-677.

3. Jewish Coping Mechanisms that Stress Compassion in Light of Humanity's Natural Tendency to Aversion

To preserve human dignity when struggling with the natural force of humanities' aversions, the Jewish tradition offers coping mechanisms that help to mask aversion or aid in times when one encounters the disabled. In the exploration of Jewish texts, these mechanisms will be continually identified and examined. Some of the coping mechanisms include being commanded to wear a pleasant face when confronted by someone who is disabled and the giving of *tzedekah*, charity, to help support the disabled. The tradition, also, offers special liturgical components, as well as, a caveat for the disabled to be able to lead in worship opportunities as long as the individual is well known by his surrounding community.[11]

Some of these mechanisms serve to protect the disabled, while others assist the able-bodied in coping with the variant individual. For example, there is a command to say one of two blessings upon seeing a disabled individual. The first, blesses God for creating "different or varied creatures," and this is said at first time sighting of something unusual such as a strange animal, or more importantly in this case on seeing a disable-bodied or disfigured person. The blessing recognizes that the disabled individual has elicited some kind of feelings from the person reciting the blessing. At the same time, it calls him or her to identify the disabled individual as one of God's creations.

The second blessing is said when one sees a person stricken with a disablement sometime after coming of age of religious responsibility, 13 for males and 12 ½ for females. This blessing recognizes God as being the "true judge." The blessing here distinguishes the disable-bodied as deserving of God's judgement, suggesting that the person acquired their impairment as a punishment from God. The blessing formulas send a mixed message. In the case of divine punishment, the blessing is primarily utilized by others as a method of recognizing their feelings to an uncomfortable sight. It recognizes their natural human aversion. Therefore, the "true judge" blessing is not particularly compassionate towards the disable-bodied individual, but is a compassionate method for expression of an aversion for the non-disabled. While, the blessing over different creatures both recognizes God's greatness, as well as, serves compassionately the disabled-bodied and able-bodied individuals.

In sum, the contrast of compassion and aversion continues to send mixed messages by means of some of the coping mechanisms. It is clear that some mechanisms best serve the disable-bodied, others the able-bodied, and some serve both.

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[11] See T. Marx, *op. cit.* p. 352-373 and 507-521 and J. Abrams, *op. cit.* p. 118-9 for full discussions. Also, refer to m. Berachot 9:1-5, b. Berachot 54b, b. Berachot 58b, m. Megillah 4:7, and t. Megillah 3:29.

4. Compassion and Aversion Expressed as Halakhic Exclusion or Inclusion

Just as some of the coping mechanisms send mixed messages, so too are similar strains expressed by the traditional Jewish society's struggle in relation to the disabled person's inclusion or exclusion from participation in its law bound society. Halakhah, the Jewish legal system, may appear at first to be a clear listing of specific demands to dictate human behavior, a prescription for how to act. Its requirements, however, also send an equivocal signal to people, because it both includes and excludes on the basis of disabilities.

There is a tension regarding whom the *mitzvot* ultimately serve: God alone, the interactions between human beings, both, or do some serve one and others another. With this myriad of possibilities, one locates a possibility for contradiction in halakhah. A disable-bodied person may be excluded out of compassion specifically in regards to his or her limitation, e.g. the Biblical provision that the lame be excused from the journey to the Temple in Jerusalem for participation in a *mitzvah*, as the walk or journey may be too difficult for them. On the other hand, the disabled individual may be excluded from participation due to others' inability to assess the disabled individual's mental status. Mental status, as will be noted further on, is an important element in proper discharge of religious duties lest a lack of attention and intention be insulting to God. A third plausible reason for exclusion of

the disable-bodied is the fact that the impairment might distract others while they are busy fulfilling a *mitzvah*, e.g. while praying next to a disfigured person.

The overarching problem with halakhic inclusion or exclusion of the disabled is its stigmatization of a person in terms of community membership. Every person is called to revere God through *mitzvot*; therefore, the handicapped individual when disqualified is being ruled out of dignified membership in Jewish society.[12] Exclusion from *mitzvot*, may be perceived by the disabled as exclusion from his or her own community. Also, due to Rabbi Hanina's (ca. 220-250 CE, Palestine) statement, "He who is commanded and fulfills (the command), is greater than he who fulfills it though not commanded," is significant. The disabled person who chooses to participate in a *mitzvah* (for the purpose of serving God, for personal satisfaction, or for full membership in the community) has that observance relegated to a lesser status.[13]

5. Summary of Compassion and Aversion Through a Jewish Lens

Clearly compassion and aversion, whether expressed through halakhic inclusion or exclusion or through Jewish coping mechanisms, tends to confuse both the disabled and able-bodied through the sending of mixed messages. One striking example of the root of this dilemma is illustrated in God's relationship to the Israelite's, as expressed by the sages, during redemption from Egypt and revelation at

[12]T. Marx, *op. cit.* p. 171-173.

Sinai. In the case of redemption, God appears accommodating and compassionate to the disabled. In reading Numbers Rabbah 7:1, one learns that when Israel came out of Egypt the vast majority of the people were afflicted with some kind of blemish due to their hard physical labor in harsh conditions. This categorical inclusion of all Israelites as disabled was well described as, "It was good to have suffered. It was a badge of entitlement for God's *hesed* (compassion)".[14]

Yet, if one considers the rest of the narrative in Numbers Rabbah a mixed message is identified. According to the sages, God does not feel the disabled possess a level of dignity that is worthy of Torah, to the receipt of revelation. Instead, the Torah text of Exodus 19:5-6 is expounded upon to give evidence of the notion of "priestly perfection" to every Israelite. According to the sages, God sends the angels down to heal the blind, the lame, and the deaf so that they could stand to receive Torah, hear all that was spoken along with the thunder and shofar, and in order that they be able to see the lightening. Being handicapped was simply not deemed compatible with the dignity of revelation; yet, God who originated both experiences understood being disabled as entitlement for the compassion of redemption.[15] Clearly this example illustrates the true polarity of compassion and aversion.

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[13] See b. Kiddushin 31a
[14] T. Marx. *op. cit.* p. 679.
[15] ibid.

6. Scope of the Compassion and Aversion Problem

The scope of the problems or difficulties for the disabled is universal, and thus also clearly a Jewish problem. Therefore, the scope of the problem may be viewed Jewishly from both a historical perspective or through the lens of values and ethics, making the scope quite vast in terms of research and study. The rich texts of Biblical and rabbinic literature present the problem of how traditionally observant Jewish communities were supposed to view the disabled in the ancient period. This thesis will focus solely on this ancient period, which serves as the foundation from which all later material develops. Also, the materials from this period will place appropriate boundary limits for the pursuit of this topic within the vast amount of legal and non-legal materials regarding the disabled.

a. Biblical View of the Disabled

The disabled in the Hebrew Bible are compared with the model of Temple perfection, which was based on the perfection of the officiating priest and the non-blemished animals that were to be sacrificed. The Hebrew Bible forms a coherent system based around Temple purity and the priestly class. With the Temple at its focus, the Jewish community understood the embodiment of perfect human life, as meaning no blemishes, no defects.[16] The most striking defining example of this perfection is the priest, who as a representative of the people to God through

[16] J. Abrams, *op. cit.* p. 8

sacrificial offerings, had to be non-blemished. As one reads in Leviticus 21: 16-21: any priest that is blind, lame, has a broken limb or a limb of unusual length, is hunchbacked, a dwarf, or a person with a growth in his eye etc., may not serve as a priest who performs Temple rites. The list of defects, *mumim*, found in these verses includes all visible imperfections. Therefore, it is intuitive that a priest's visible defect was no doubt offensive to God and to other observing Jews, distracting them from serving God with full intention. As the Jewish societies during Biblical times focused on wholeness of the individual, the non-blemished, one must conclude the disfigured or impaired individual may not fare well in such a society.

Within the Hebrew Bible, defects such as lameness or blindness are considered stigmatic and humiliating. For example, King David so despises and hates the disabled that they are the first to be stricken down in an attack on the Jebusites.[17] The stigmatic effect in the Hebrew Bible is a result of the theological implication that health and handicap are either a divine reward for virtue or a divine punishment for sin.[18] For example, in the Hebrew Bible one learns that the Sodomites were blinded as a punishment due to their desire to violate Lot's guests, and Sampson, as well as, Zedekiah had their eyes put out as a punishment for their actions.[19] According to Exodus 4:11, it is God that gives humans speech, makes them dumb or deaf, and

[17] See II Samuel 5:8. For other examples of the disabled as stigmatic in Biblical society see I Samuel 12:2, Judges 16:21, and II Kings 25:6-7
[18] T. Marx. *op. cit.* p. 315-321.
[19] Genesis 19:11, Judges 16:21, and II King 25:6-7

seeing or blind; therefore, ultimately it is by God's hand that one remains able-bodied or becomes disabled.

b. Rabbinic View of the Disabled

The Biblical requirements of priestly perfection and theological retribution are important, and thus were maintained even after the Temple no longer stood. Following the destruction of the Temple in 70 CE, Jews dispersed bringing about the emergence of a new culture based on the wisdom of the sages. Life was no longer governed by a priestly cult, focused on a single place and a sacrificial system; rather, it became governed by a blossoming legal system of a halakhic culture. The approaches to this rabbinic system were multiple: through worship in emerging synagogues, intense life long study, and good deeds, as well as other devotional acts.

A physical disability alone may prevent someone from religious participation within this culture; however, the rabbis expanded the concept of blemish and disability to include a significant new element. In order for a person to discharge a religious duty, a person had to do so with a clear and unimpaired intent, *da'at*.[20] This Hebrew term has many nuances, but only one of them is in point here. The relevant nuance is the concept of intention and mental condition that hold a special importance in the rabbinic system. *Da'at* represents a person's cognitive abilities and was a prerequisite for participation in the lifetime learning environment coveted by the

[20] For development of the concept of *da'at* see J. Abrams, *op. cit.* p. 133-136

sages. To assess a person's *da'at* the sages employed a method of questions and answers. Since *da'at* was the measure for participation in the sage's halakhic world those who were mentally handicapped, deaf, or mute stood in counter position to all that the sages revered.

c. Some Categorization of the Disabled by the Sages

The sages, whose wisdom was codified in early rabbinical literature, were concerned with further defining and explaining the halakhah. In doing so, they were attempting to make sense out of their reality. To do this successfully, they were forced to categorize individuals as "in" or "out". One such categorization was exhibited in a three-part collocation of people without full da'at: the *heresh, shoteh,* and *katan*, the deaf-mute, the mentally handicapped and the child (from birth to the age of religious-responsibility). This particular grouping was made due to the perceived lack of cognitive ability for the members of these groups, and the members' ability to understand and perform various religious duties consequently stood in question.

The Hebrew Bible and the Mishnah (rabbinic legal material edited ca. 200 CE) rarely separate the term *heresh* in terms of deaf only, mute only, or both deaf and mute, keeping the term all encompassing. This may leave the reader of rabbinic texts a bit confused as to the actual role of the *heresh* in Jewish traditional societies. The Talmud (comprised of the Mishnah and detailed discussion on it known as the

gemara, compiled ca. 500 CE), however, focuses its discourse on the quality of *da'at* for a *heresh* who is both deaf and mute. According to the Talmud, this lack of *da'at* is a permanent status for the *heresh*, and in general the *heresh* is exempted from *mitzvot*. The person who is deaf only or mute only is viewed merely as limited, similar to a person with a specific physical disability. Therefore, he or she may participate in *mitzvot* on a case-by-case basis.[21]

The *shoteh*, includes all who are mentally ill or mentally deficient, whether this be a person who suffers schizophrenia, epilepsy, manic depression, or are of extremely low intelligence unable to participate in "normal" learning environments. Clearly, this group is the antithesis of the sages' *talmid hacham*, the wise student, and anyone considered a *shoteh* is placed in a category outside of the norm. This is illustrated as the Talmud in two places uses the following metaphor, a fool (*shoteh*) cannot be (or feel) insulted, and the skin of the dead does not feel the scalpel."[22] Thus, the *shoteh* is equated to the dead in a metaphorical sense, and like a corpse has no responsibility for *mitzvot*. Therefore, a mental defect stigmatized the individual to the extent that he or she may be considered dead, causing their exclusion from halakhic duties.

A *katan* is not considered by the tradition as mentally incompetent in all matters; however, he or she is not significantly mature enough to discharge the religious *mitzvot*. Since the *katan's da'at* level is questionable, he or she is exempted

[21] See b. Hagigah 2b and b. Hagigah 8a

from *mitzvot*, until he or she becomes of age (13 or 12 ½ respectively) to be assumed to possess the proper level of knowledge for full inclusion within the bounds of halakhah.

The status of the *katan* and *shoteh* can share one similarity. Just as the *katan* typically grows out of this "lesser" status to a place of inclusion in observance of the halakhah, so too in some circumstances does the *shoteh* have the ability to return to an obligated status. Unlike the *heresh* whose status is permanent, some individuals classified as *shoteh* may have periods of lucidity. The halakhic culture of the sages includes those who have recovered from their mental ailment accepting them as full members of the society, demonstrated by including them in the observance of *mitzvot*.[23]

The sages further categorize individuals by their various physical limitations such as lameness, hunchback, those with skin disease or unusual skin color, and the blind. The sages review on a case by case basis each physical limitation in terms of each halakhah. However, there is much development regarding the category of the blind. Rabbi Judah and Rabbi Meir (ca. 135-170 CE, Palestine) exemplify the extensive disagreement on the qualification of the blind to participate in *mitzvot*, as a matter of Biblical law.[24] Rabbi Judah generally exempts the blind individual from

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[22] See b. Shabbat 13b and p. Ta'anit 66d (3.8)

[23] For this recovery as indicated by the verb *nishtafah* see b. Gittin 23a, b. Bava Kamma 40a, or b. Bava Batra 128a.
Also, for further discussion on this topic see J. Abrams, *op. cit.* p. 139-140 and 398.

[24] Much of their argument can be located in b. Bava Kamma 86b.

civil, criminal, and religious law. Thus, he assesses one's physical limitation of sight as affecting the entire person, similar to the cases where a lack of *da'at* was determined. Rabbi Meir, in the contrary, views the lack of sight as limiting only in terms of specific law, similar to a person who is physically impaired by being lame.[25] The argument regarding halakhah based on Biblical interpretations is never truly resolved. Yet, it appears that the majority of the sages side with Rabbi Judah and exclude the blind from these precepts. The blind individual, however, is required to perform commandments as a matter of rabbinical ordinance rather than Biblical sanction. Just as the able-bodied person with proper *da'at* has Biblical duties to perform, so too does the blind individual perform similar commandments when deemed fit by rabbinical sanctions.[26]

In sum, the rich texts of Biblical and rabbinic literature present the scope of the dilemma facing the disabled, as it is filled with mixed messages stemming from apparently conflicting core values of Judaism. Each human being, no matter how one defines image, is considered to have a component of God within him or her, as one is created *Tzelem Elohim*. To serve God to the fullest one must maintain proper intention, not being distracted from the duty for instance by someone else's physical.

For dating of these and other rabbi's see: A. Steinsaltz, *The Talmud the Steinsaltz Edition: A Reference Guide*. New York: Random House, 1989. p. 30-33.

[25] For a clear and detailed explanation of the categorization of the blind in terms of halakhah see T. Marx, *op. cit.* p. 382-394.

[26] Later halakhic authorities debate this statement of rabbinic obligation as they imagine the quandary of those blind from birth versus those who have fully participated in *mitzvot* until they acquire blindness due to the weakening of the eyes as one ages.
For discussion on these later authorities see T. Marx. *op. cit.* p. 388-392.

impairment. Intention to serve God, also means possession of an appropriate level of *da'at*. Finally, it goes without saying one must be physically able to perform a *mitzvah* in order to participate fully in one's society. This thesis will attempt to elucidate further many of the dilemmas suggested, not particularly in an attempt to resolve issues, but rather to point out places of hope and places that may still need further debate through the lens of modern Jewish legal and ethical interpretation

B. METHODOLOGY

1. Existing Approaches

Two main methods have been utilized to assess the vast scope of this problem and the textual material regarding those with disabilities. Some have emphasized the legal implications for specific disabilities or for entire categories of disabled, while others may focus on what constitutes the able-bodied in terms of the Biblical period, Rabbinic period, and Modern period.

One of the approaches is presented by Tzvi Marx in his book, *Halakha and Handicap: Jewish Law and Ethics on Disability*, who explores the disabled in terms of how the community of "normals" perceived and treated the disable-bodied in their society from the viewpoint of core Jewish values.[27] He also illustrates extensively the role of the handicap through participation in or exclusion from the expanse of

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[27] The book itself, aside from its scope, will be discussed further on in section C of chapter one: see p. 23-24.

halakhot. His methodology is certainly valid, as Marx carefully grounds all of his work within rabbinic texts. Because he is so thorough, offering nearly 1,000 pages worth of material, the collection of textual material is so broad and diverse that a reader is easily overwhelmed. Thus, the limitation in this thesis to the textual materials of the early period.

Another approach is that of Judith Abrams in *Judaism and Disability: Portrayals in Ancient Texts from the Tanach Through the Bavli*.[28] In this book, the reader comes to understand the disabled in Jewish society through a historical treatment. Abram's approach develops the role of the disabled from Biblical times to rabbinic, with a brief summary of modern understandings of the disabled. Just as with Marx, Abram's approach is valid, and it is organized by one schema so that the reader is left with a clear view of the disabled throughout ancient times.

2. A Different Approach

Both of these methods attempt to categorize the disabled in order to present an overarching understanding of the disable-bodied in Jewish tradition. While reviewing this material a third possibility for examining the material emerged. This thesis develops another focus, as it emphasizes the matter of age differential, concerning itself with the time of onset of a disability in terms of how it significantly impacts the praxis of aversion and compassion or the inclusion and exclusion polarity. The point

[28] This book also will be discussed further, outside of its scope, in section C of chapter one: see p. 24

of this approach is simply to uncover new views on the material, raise new question and conclusions that might result in some rethinking of the text's treatment of the disable-bodied whether this reconsideration brings a positive or negative result.

The approach from the view of age differential breaks new ground by looking at the disabled in terms of when the disability is acquired: at birth, post the age of religious responsibility through adult maturity, and finally the elderly stage. For example, as Marx and Abrams approached disabilities as a symbol of God's divine wrath, they posed an ethical problem for the child who is born with a cleft lip or disfigured limb. In an attempt to resolve this ethical dilemma, this thesis will consider the issue of divine retribution first in terms of the innocent child, second in regards to the person of religious-majority age - who appears to be leading an exemplary life, and finally for the elderly whose body may be physically deteriorating simply as a function of aging.

Each age period exhibits a different possibility or frequency of disability. In infancy, it is a rare occurrence for a child to be born with a clear physical or mental disability. Yet from puberty to middle age, one's working years, a person's chance of becoming disabled increases by 20%.[29] One can become lame, be marked by a significant scar, or have one's body damaged due to physical efforts such as lifting heavy objects or repetitive physical actions while at work. The chance of becoming disabled only continues to increase as one ages. As one becomes elderly, acquiring a

disability moves further away from the rarity of being born disabled, to the possible of gaining a disability during one's working years, to the probable or inevitable. The aging process involves a slowing down of the physical body, exemplified for some by a loss of hearing, decreased mobility, and even mental instability such as failing memory or dementia.

There are two questions to keep in mind on the basis of this paradigm of age. One question concerns the disabled person as an individual: does the halakhah reserve special or different treatment, or status, depending on the age at which the person becomes disabled? The other question concerns the reactions of the community surrounding the disabled: does the halakhah, in terms of the time of acquisition of an impairment, dictate the "normal" group's mode of interaction with the disabled?

On the basis of these guiding questions, concerning halakhah through the lens of age differential, this thesis may uncover a fresh view regarding the disabled. This view will highlight the ethical dilemmas of Judaism with respect to the disabled, and perhaps suggest elements of hope, comfort, solace, or support to the disabled in the Jewish community of today.

[29] Statistics on acquisition of disability over time are available at: www.cabln.org/stats.htm (2/5/03). A

C. PRIMARY AND SECONDARY SOURCES

1. Primary Sources

Because the span of Jewish literature is as vast as the religion is historic, a limitation was necessary – as has been noted- to limit its scope and approach in order to handle the material adequately. To explore the questions raised in terms of the disabled, the primary source material concentrated upon is the Biblical and early rabbinic texts - up to approximately 500 CE . Cases of expressed stigmatization of the less than able-bodied, as well as times where the texts dictate coping mechanisms for encounters with the disabled, will be sought within the bounds of this textual material. Within each of the three age categories, the author intends to examine the texts in terms of where aversions are expressed or muted and how this impacts on ethical imperatives of the traditional Jewish society. Because the rabbinic literature used here comes from the earlier periods of this literature, some of the material might appear offensive by today's standards. Even in these cases where modern taste might be offended, one can decipher the struggle with compassion and aversion. The Biblical and rabbinic material clearly outline much of Judaism's foundational law and ethical dilemmas present in working with the disabled within Jewish traditional society.

As noted earlier, venturing into textual material recorded after the Talmudic period would too vastly expand the scope of this thesis. However, one should note

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website that is managed by the California Business Leadership Network.

that the halakhic material continued to develop after the Talmudic period. Many law codes were compiled such as Maimonide's *Mishneh Torah* (Egypt, 12th Century), the *Arba'a Turim* of Jacob ben Asher (Spain, 14th Century), the *Shulhan Arukh* of Joseph Karo (Ottoman Empire, 16th Century), as well as a literature of legal inquiry and answer, the Responsa and learned Talmudic commentary. These materials, although relevant, go beyond the boundaries of this thesis. If one were interested in a particular textual citation in this document, one could simply trace the law as it developed to modern time, through the apparatus of cross-references provided in the Talmud and e.g. *Shulhan Arukh*.[30] The process of responsa and commentary continue unabated to the current day.

The rabbinic literature of the ancient time period stems outward from the fundamental convenantal code of Judaism, the Hebrew Bible. As mentioned above, following the destruction of the Temple in 70 CE, Jewish society began to change dramatically from that of a priestly based society to one based on the wisdom of the sages. From 70 CE until about 550 CE, one finds the codification of the Mishnah (basically black letter legal texts), followed by it's additions - the Tosefta (recorded commentary made to the *mishnayot* a generation later ca. 220-300 CE). Paralleling the recording of the Mishnah was the development of Tanaitic Midrash, which includes halakhic and aggadic midrashim. These texts further relate rabbinic laws to

[30] A survey of Responsa over the last 100 years reveals that technological development, alternative modes of communication, and medical treatments have dramatically impacted the halakhah. The

the texts of the Hebrew Bible, and were redacted until the year 550 CE. Finally the most extensive pieces of rabbinic literature developed directly from the foundation material of the sages, the Mishnah. The *gemara*, an exercise of discussions and debates of the Mishnah and its kindred material, was redacted into two versions of the Talmud. These are referred to as the Talmud Yerushalmi or the Palestinian Talmud, and the Talmud Bavli or Babylonian Talmud.[31]

This rabbinic literature is a record of oral traditions and debates that were framed into what one might call "law codes" or more simply an overarching life manual. These materials served later generations of rabbinic sages who attempted to identity the actions of man that would lead to an ideal world. Therefore, some of the texts portray only the ideal and not the actual practices of, or treatment of, the disabled.[32]

2. Secondary Sources

The research and presentation of Tzvi Marx and Judith Abrams greatly impacted the development of this thesis. Marx's book attempts to collect all halakhic

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traditional Jewish society is being forced to consider stretching boundaries, and where able redefining the categories of inclusion and exclusion regarding specific disabilities.

[31] J. Abrams, *op. cit.* p. 10-14. For a brief and coherent summary concerning the time-line of codification and a brief description of each of these sources see these four pages in Abrams. For a more extensive discussion one should consider reviewing: N.S. Hecht, et. al., eds. *An Introduction to the History and Sources of Jewish Law*. London: Oxford Press, 1996. Or see the introductory material in Steinsaltz, Adin. *op. cit.* p. 1-24

[32] J. Abrams, *op. cit.* p. 10.

material regarding the disabled.[33] He reveals halakhic texts ranging from Biblical times to modern responsa. Marx utilizes a multi-unit mode, with several chapters in each, to instruct on ethical imperatives, aversion techniques, the perception of the disabled, the halakhic exclusion and inclusion of the disable-bodied, and the role of liturgy and synagogue life for the handicapped individual. This work is far encompassing and a vital resource for all matters of Judaic law regarding the disabled. Marx's book provides a sound basis for a thorough halakhic review; therefore, the author will adopt many of Marx's characterizations, and often send the reader via footnotes to this work for further explanations of a concept.

Judith Abram's work, similar to Marx's, is a vital resource for anyone interested in the perception of the Jewish disabled. Her approach differs from Marx; yet, she utilizes many of the same textual basis to draw her conclusions. Abram's conclusions often differ from Marx or add an additional level of material to which this author may refer. Abram's approach to the disabled compares the disabled person to a chronological expression of the "normals" or even "heroes" of Jewish societies, whether it be priestly perfection or the studious and righteous sage. Essentially, Abrams' breakdown compares the disabled individual (the person considered to be of a less desirable kind) to the cookie cutter image of the "perfect" active member of the society. This author is indebted to Abrams' extensive research and presentation as it brings much strength to this thesis.

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[33] For full bibliographical material, refer to previous notes in chapter one: Abrams #3 and Marx #5.

The third major secondary resource that will be utilized is Erving Goffman's, *Stigma: Notes on the Management of Spoiled Identity*.[34] Goffman's classical work on stigma, written in 1963, does not seem to date itself. It serves as a prime basis for understanding the contextual role for society's views of the disabled. He also clearly develops how the disabled individual views him or herself in relationship to those around him or her, whether it be to others who fit into the category of disabled or those who fit into the "normal" category. Goffman offers sociological background for natural aversions, as well as, primary narrative accounts of those who feel stigmatized. His research encompasses those who are stigmatized by a disability, religion, or race.

The next three chapters develop material drawn from both primary and secondary sources in terms of compassion and aversion assessed from the point of view of age differential: at birth, post the age of religious responsibility, and the aged. This task awaits our attention.

[34] For full bibliographical material, see previous footnote in chapter one, #5.

CHAPTER TWO: BEING BORN WITH A DISABILITY

A. INTRODUCTION

B. MATERIALS WITH NEGATIVE IMPLICATIONS

C. MATERIALS WITH POSITIVE IMPLICATIONS

D. ELEMENTS OF AGE DIFFERENTIAL

A. INTRODUCTION

Rarely is a child born with a clearly identifiable disability, such as blindness, hearing impairment, or lameness. Yet, the *katan*, the child, is brought into the world with an imperfect level of *da'at*. Thus, due to this cognitive level the rabbinic system everyone is born with a disability, but has the ability to grow out of this state. This categorization means the minor is limited only in terms of discharging religious precepts. It does not limit the *katan* in terms of societal membership. According to the Talmud, no person shall be murdered and this includes the one-day-old child.[35] This exemplifies the provision of human dignity and worth being equal for the newborn and a person of any other age. This chapter will examine some of the material within Biblical and rabbinic law concerning children born with disabilities.

According to the Talmud, there are three partners who join together to create a child: the man, the woman, and God.[36] Man gives the child all white substances such as the whites of the eyes, the bones, the brains, the sinews and the nails; while the

[35] b. Niddah 44b

woman provides all red substances such as blood, skin, flesh and hair. What does this leave God? God provides the spirit, the breath, the beauty of the face, seeing eyes, hearing ears, walking legs, understanding and insight.[37] God provides the faculties of cognitive and sensory function, while man and woman provide the general flow of the physical body. Therefore, not only is God an essential component in the creation of a new life, but responsible for either the giving or withholding of faculties. Outside of the rabbinic status of imperfect *da'at*, it is God alone who is responsible for determining whether a child is born physically or mentally disabled.

B. NEGATIVE PERCEPTIONS REGARDING THOSE BORN DISABLED

1. Parental Role in the Disability

Jewish texts perceive God as the ultimate cause of a disability or defect at birth. As, Jews maintain a core value that God is just; it is reasonable to conclude that God would not randomly choose to withhold faculties from one baby and not another without reason. The material presents the ultimate reason for being born with a disability as God's method to enact punishment for a sin. The question arises, is it the sin of the newborn innocent child? Or is it the sin of the parents?

Abrams points out the similarities between Jewish texts to the stories found in Roman culture, which link a parent's improper sex acts to the child who is born

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[36] b. Niddah 31a and b. Kiddushin 30b
[37] ibid.

disabled.[38] The majority of the Jewish sources point that those who are disabled from birth receive this punishment due to their parent's sin. In b. Nedarim 20a-b, one reads,

> Rabbi Johanan b. Dahabai said: The Ministering Angels told me four things: people are born lame because they (their parents) overturned their table (i.e. practiced unnatural cohabitation); dumb, because they kiss 'that place'; deaf, because they converse during cohabitation; blind, because they look at 'that place'.[39]

Clearly, in this case sexual intercourse with less than the appropriate decorum, whether it is a matter of physical place or the action of parents engaging in the wandering of an eye, hand, or stray word, is a sin. Perhaps, God perceives these parental acts as a breakdown in the partnership amongst all three. Therefore, the consequence of the sin imparted by God is the birth of a child with disabilities.

Another very similar example of inappropriate sex leading to the birth of a disabled child is found in Ketubot 60b. In this case, if a parent has sex in a mill or on the floor a child may be born with epilepsy or with a long neck. In both of the above cases, the individual disabled from birth is the sole result of his or her parent's sinful activity. As, these two texts are found within the Talmud, it is possible that the sages were merely attempting to set parameters for appropriate sexual conduct. As Abrams

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[38] See J. Abrams, *op. cit.* p. 105-108.

[39] English translation drawn from: Rabbi H. Freedman and Rabbi I Epstein, Editor. *The Babylonian Talmud: Seder Nashim, Tractate Nedarim.* (English only edition) The Soncino Press: London, 1936. p. 57.

states, "While the sages could not legislate the most decorous sort of behavior during sexual intercourse, they could encourage it by the most strenuous means."[40]

Reading on in the text from Ketubot 60b, one learns that it is not always inappropriate sexual unions that lead to a child being born disabled. It could be due to the sin or simply everyday actions of the mother that occur while she is carrying the child in the womb. For example, if the woman steps on the menstrual blood of a donkey, than she will have scabby children, a woman who eats mustard will have intemperate children, one who eats cress will have blear-eyed children, or one who eats the clay of the earth will have ugly children.[41] Although eating these items or walking on a path behind a donkey may not be sinful acts, the woman's actions are still held responsible for the withholding of functions by God. One may guess that this particular wisdom of the sages was based on the folk wisdom that women had exchanged amongst themselves to serve as a forewarning. Yet, beyond the above reasoning, the true reason for the punishment of these seemingly everyday actions remains unclear, leaving an ethical dilemma.

2. Child's Role in the Disability

The ethical dilemma of a birth defect as a result of a parent's sin seems rather unjust. Since God is perceived by traditional Jewish society as the "true judge," how

[40] J. Abrams, *op. cit.* p. 117.
[41] See note 4 above.

is it possible to punish the innocent, instead of directly punishing those who committed the sinful act?

The collection *Otzar Hamidrashim* by J.D. Einstien and the ancient *Tanna de-bei Eliyahu Zuta* (ca. 640-900 CE), answer the question concerning congenital disabilities by removing the blame from parents and placing it on the children.[42] The rabbis are asked to explain the justification for those born mute, blind or lame. In return they quote the verse, "Yea all His ways are just" (Deuteronomy 32:4), is quoted. In doing so, the midrash recognizes God as truly just in all matters. The rabbis continue to expound that God knows the future of these children, including their future sins. It is for these anticipated sins that God imposes a punishment, that indeed strikes the modern reader unfamiliar with rabbinic thought as unjust.

3. Summary of Negative Materials

Primarily the negative textual material on children born with disabilities determines that defects are the consequence for an act of sinning. The formation of a child is seen as an act dependent on a man, woman, and God together in partnership. If man or woman sin within the cohabitation during their moment of creation, or if the woman sins or acts inappropriately while carrying a child, God appears to hold back from the giving of full functions whether cognitive, sensory, or physical. Perhaps, it

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[42] J.D. Einstein. *Otzar Hamidrashim al HaTorah.* 2 vols. New York, Grossman Book Store: 1956 p. 319 and Ish Shalom, ed. *Tana de-Bei Eliyahu. (Seder Eliyahu Raba v'Seder Eliyahu Zuta).* Vienna, 1902. par. 23

is due to a betrayal of this triad's full partnership. On the other hand, this could merely be a ploy by the sages to dictate appropriate levels of behavior through imposing or pointing out the consequences of one's actions. This may be an instance where the sages incorporate folk wisdom into their legal materials.

The midrash from *Tanna de bei Eliyahu Zuta*, in putting to rest the ethical problem of a child receiving a punishment for parent's sins, points up further ethical problems. Since the child has already been punished for a future sin, it appears that he or she has already lost the ability to repent for the sin, which contradicts the Jewish sense of one's ability to atone. Is it fair or just of God to punish an innocent baby for what he or she will do in the future? Why not punish them during or following the sinful act, linking the action to the consequence? All in all, the sages clearly attempt to offer explanations that will end any doubt regarding God's role. From this literature, one derives that no case may exist where the deity is left standing in the wrong.

C. POSTIVE REFLECTIONS

In an attempt to mask human nature's tendency towards aversion, the Biblical and rabbinic literature offers several coping mechanisms, which reflect positively upon those born with disabilities. These coping mechanisms include positive portrayals of the disabled, one's physical response to seeing the disabled, guides for one's physical response, as well as special liturgical components e.g. blessings.

1. Moses as a Role Model

One of the more positive representations of those who acquired a disability at birth or in the first few years of life is exemplified through our Biblical texts with the story of Moses. Moses was called to lead the Jewish people out of Egypt under God's command. When God called him, Moses complained that he was not qualified due to his speech impediment. In Exodus 4:10, one learns that Moses was *cabed peh and cabed lashon*, heavy or slow of mouth and tongue. Typically a speech impediment is evident in a person's early years; Moses defect was either present at birth or acquired through an accident early on. As Moses declared:

> 'Please, O Lord, I have never been a man of words, wither in *times past or now* that You have spoken to Your servant; *I am slow of speech and slow of tongue*.' And the Lord said to him, 'Who gives man speech? Who makes him dumb or deaf, seeing or blind? Is it not I, the Lord?' Exodus 4: 10-11[43]

According to our Biblical text, Moses had such a speech impediment, and it is unclear whether it was present at birth "I have never been a man of words" or as a popular midrash suggests from a very early age as a toddler.

> The magicians of Egypt sat there and said, 'We are afraid of him who is taking off the crown and placing it upon his own head, lest he be the one of whom we prophesy that he will take away the kingdom from thee.' Some of them counseled to slay him and others to burn him, but Jethro was present among them and he said to them: 'This boy has no sense. However, test him by placing before him a gold vessel and a

[43] English text of the Hebrew drawn from *JPS Hebrew-English Tanakh*, Philadelphia: Jewish Publication Society, 1999. p. 119

> live coal; if he stretch forth his hand for the gold, then he has sense and you can slay him, but if he make for the live coal, then he has no sense and there can be no sentence of death upon him.' So they brought these things before him, and he was about to reach forth for the gold when Gabriel came and thrust his hand aside so that it seized the coal, and he thrust his hand with the live coal into his mouth, to that his tongue was burnt, with the result that he became slow of speech and tongue.[44]

In all certainty, this great leader had a speech impediment, which God recognized as God given. Yet, God deems Moses worthy of a leadership opportunity of enormous importance. Moses did not suffer the humiliation that would generally accompany one who is disabled; rather, he was chosen by God to serve as a leader in spilt of (or perhaps because of) his impairment. Tzvi Marx entitles this special portrayal of one who is disabled as a morale builder for all those who are disabled.[45] Moses serves as a true role model.

2. Liturgical Observances

An individual who is speech impaired, similar to Moses, is deemed worthy of being called to the Torah to offer the blessing before its reading, an *aliyah*. This is a great honor where one calls out a blessing and the congregation responds with "amen". A person born with a speech impediment could conceivably be excluded from such an honor, for if one cannot understand the words the person utters, how can the congregation respond with "amen"?

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[44] m. Rabbah Shemot 1:26 *va'yagdal ha'yeled*

The tradition holds that the person with a speech impediment can recite the blessings without being responsible for what is called an "orphaned amen" (this occurs when the "amen" is offered in situations where the blessing itself was not heard, but the individual responds merely because he or she heard others answering with "amen").[46] To support this decision the tradition refers to b. Sukkah 51a, which offers an illustration that at first glance might be considered an "orphaned amen." The "amen" is acceptable, however, because the congregation knew to which blessing it was responding. In this particular case, a great synagogue in Alexandria had a physical expanse so large that some in the congregation could not hear the service leader. Thus a mediator was employed to signal the congregation. This person stood in the middle of the great sanctuary with a scarf in hand. At the point in which an "amen" was to be uttered, the individual signaled the congregation with the wave of the scarf.[47]

From this example, it is deduced that a person with a speech impediment may be called for an *aliyah*.[48] As in the synagogue of Alexandria, it was not required that the community actually hear the blessing, it was enough that they knew the blessing

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[45] T. Marx, *op. cit.* p. 336.
[46] See b. Berachot 47a, For more examples of "orphaned amen" see Shulhan Arukh, Orach Hayiim 124:8.
[47] See b. Sukkah 51a
[48] Later halakhic sources place specific limitations on the speech impaired person, requiring that at least ten people or the majority of six in the *minyan* (the ten individuals required for the most sacred of prayers, which includes the blessings before and after the reading of Torah) be able to understand the speech of the impaired individual. See Shulhan Arukh Orah Haim 135:10, 141:5, and 143:1.
For a full discussion of the speech impaired in terms of Torah reading, and its accompanying blessings refer to T. Marx, *op. cit.* p. 523-4

was recited. So too, when a speech impaired individual is called for an *aliyah*, the community knows the blessing to which the individual is reciting, and the community can answer "amen" with appropriate intention.

Another liturgical area for which a person born with a speech impairment or deafness is included occurs with the recitation of the prayer, *Shema* (a prayer that is to be recited twice daily and proclaims God's oneness, a central tenant of Judaism). Rabbi Jose and Rabbi Yehuda (contemporaries in Palestine, mid 2nd century CE) debate whether one has fulfilled his obligation of reciting the *Shema*, in the cases where one does not enunciate each letter or word and when one cannot actually hear the blessing being uttered.[49] The argument for both the hearing and speech impaired focuses on the first phrase of the *shema*, which requires one to "hear" the blessing. "Hear, O Israel, the Lord is our God, the Lord alone" (Deuteronomy 6:4). The phrase must be uttered literally by one's own lips and not symbolically reflected upon in one's heart. Rabbi Jose holds that one must audibly recite the prayer and literally "hear" it in order to fulfill the *mitzvah* of reciting the *Shema*. The Talmud, however, sides with Rabbi Yehuda on this matter when he declared that even an inaudible recitation suffices for fulfilling the *mitzvah*. Thus, Rabbi Yehuda opened the door to the deaf community's recitation of this important blessing. He understands the term "hear" not necessarily to mean the physical act of hearing but rather to mean "understand". In this case, Rabbi Jose is strict and Rabbi Yehuda is lenient.

Somewhat surprisingly, in the case of a speech impaired person who is not mute, but rather may have trouble enunciating, the two Rabbis change positions: Rabbi Jose becomes lenient and Yehuda strict. According to Rabbi Jose, even if one was not meticulous in enunciation of the words, he has still discharged his duty; whereas Rabbi Yehuda says this person has not fulfilled his obligation.[50]

Nevertheless, the Talmud's rulings open the door for participation in and inclusion of both those who are hearing or speech impaired whether acquired at birth or at another stage in life. This positive expression of inclusion means that one who stutters and the one who may not hear even his own voice are each allowed to participate in public and private worship. These individuals are included within their Jewish community.

3. Coping Mechanisms for the Able-Bodied

There are two examples in which great sages encounter individuals who are displeasing to the eyes. As indicated earlier, the process of creating a human being is through a partnership between man, woman, and God. Therefore, when a child is born and continues to grow up as "ugly", this is the output of the function of this partnership. In terms of ugliness, one of the texts point to the woman who eats clay

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[49] See b. Berakhot 51a For a review and synopsis of this section of Talmud please see T. Marx, *op. cit.* p. 523-524.

[50] The arguments between Rabbis Jose and Yehuda are often understood in the cor*ext of "after the fact". Meaning that one should probably not choose to recite the *shema*, if he or she is hearing or

while pregnant, but nevertheless there is the concept of *Tzelim Elohim*.[51] As the image of God is found within every human, each person is bestowed with a level of dignity or worth. Therefore, it seems logical that the sages would find appropriate coping mechanisms to mask their aversions to individuals who cross their path that are in some way disfigured.

In the first case, the houses of study of Hillel and Shamai (ca. 30 BCE- 10 CE, Palestine) discuss how to praise and celebrate the bride at her wedding.[52] One is commanded to dance before the bride and state, "Beautiful and graceful bride". Questions were raised, what if the bride is lame or blind making her not beautiful, what does one do? Or as in the cases from Palestine where the bride did not beautify herself through the use of cosmetics such as powder or face paint, should one say they are beautiful anyway even though their appearance was not enhanced? In this case, the rabbi's compare the groom's state of mind to a man who just purchased something in the market. Others may find this purchase questionable; yet, they do not derogate the man's acquisition within his presence. Likewise, the sages concluded that in the eyes of the groom the bride was deemed appropriate and perhaps even beautiful, so should they likewise praise her. At the end of this passage the Talmud recounts that the sages said, "Always should the disposition of man be pleasant with

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speech impaired. However, if it has already been done then he or she has fulfilled or not fulfilled their duty (depending on the rabbi) in terms of reciting the *shema*.

[51] For clay reference refer to page 3 of this chapter or b. Ketuboth 60b. For the *Tzelim Elohim* reference see pages 3-4 in chapter one regarding human dignity and worth.

[52] See b. Ketuboth 16b-17a

people."[53] The lesson of maintaining a pleasant disposition teaches the able-bodied individual to respect the dignity of each person regardless of his or her appearance.

In another case, Rabbi Elazar son of Rabbi Shimon (ca. 170-200 CE, Palestine) was riding along a path feeling happy as he reflected on the great amounts of Torah that he had studied that day.[54] Along his way he met up with an exceedingly ugly man who greeted him. Their discourse speaks for itself,

> (The ugly man said) 'Peace be upon you, Sir.' He (Rabbi Elazar), however, did not return his salutation but instead said to him, '*Raca* (empty one-good for nothing) how ugly you are. Are all your fellow citizens as ugly as your are?' The man replied, 'I do not know, but go and tell the craftsman who made me, How ugly is the vessel which you have made.'[55]

Rabbi Elazar, the great scholar and teacher, quickly understood the chastisement by the ugly man, and realized he was wrong to make such disparaging statements. In doing so, he was not just insulting this particular individual, but also insulting the ultimate creator, God. Recognizing this mistake, Elazar dismounted his donkey and begged the man for forgiveness. Yet, he was not forgiven until he followed the ugly man to his town and begged forgiveness from God in front of the townsfolk. Rabbi Elazar than proceeded to teach this encounter in his house of study

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[53] ibid.
[54] See b. Ta'anith 20a-20b
[55] ibid. English translation drawn from, Reverand J. Rabbinowitz, and Rabbi I Epstein, Editor. *The Babylonian Talmud: Seder Mo'ed, Tractates Rosh Hashanah, Ta'anith, and Shekalim.* (English Only Edition) The Soncino Press: London, 1938. p. 100.

concluding it with the phrase, "A man should always be gentle as the reed and let him never be unyielding as the cedar."[56]

These stories teach that in all encounters with one who is disabled or born ugly, is still a human being deserving of being treated with dignity. One's natural tendency towards aversion, must be held in check with either of the compassionate coping mechanisms of maintaining a pleasant disposition or by being as gentle and flexible as the reed.

4. Liturgical

Biblical and rabbinic categories of the disabled include everything from skin conditions such as leprosy or having unusual pigmentation, to physical ailments like being hunchback, blind, or mentally impaired. As the majority of these disabilities are visible, the able-bodied person may respond to these conditions with indifference or even fear. Mishnah Berachot 9:1-3 outlines blessings to be said over various creations, such as at the sight of remarkable things. A person who is "disabled" could be considered a remarkable phenomenon. The blessing over remarkable things calls the able-bodied observer to attention, asking him or her to take note of this special occurrence in a positive manner. The blessing over the distinctive appearance of the disable-bodied not only points out that the disabled are human beings and part of God's creation, but at the same time manages to address the feelings of the observer.

[56] ibid.

There are, however, two benedictions that may be recited over seeing the disabled. The first reads, "Blessed are you Lord our God, Ruler of the Universe who creates such (*m'shaneh ha'briyot*) varied creatures." While the other reads, "Blessed are you Lord our God, Ruler of the universe (*da'yan ha'emet*) the true Judge," which applies to people who become disabled after childhood.[57]

The Mishnah distinguishes the times for recitation of each blessing by linking the "varied creatures" to those who are physically distinctive, while the other should be said over those who are ill or disabled as a punishment from God.[58] The Talmud discusses this Mishnah and further clarifies when each blessing is appropriate to recite.[59] The blessing over varied creatures is reserved solely for those whose affliction have been present, "since (emerging from) his mother's stomach;" whereas the other blessing is required for conditions that emerge after one's birth throughout the life span.[60]

In terms of the positive implication, children born with a disability are categorized into the grouping of all of God's varied creatures. No negative value judgement is placed on a child born with physically distinctive attributes. The use of this blessing recognizes the child within the realm of "normal", yet exceptional,

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[57] Interestingly, the blessing that ends in "true judge" is reserved for those who acquire a disability, as well as at times when one hears bad tidings. Clearly, this is not the most positive of blessings to have recited over the disabled, as it indicates that the disability was acquired as a punishment from God. The concept of divine punishment and the use of the benediction "true judge" will be further developed in chapter three.

[58] m Berachot 9:1-3. Also, see J. Abrams, *op. cit.* p. 118-119.

[59] See b. Berakhot 58b

[60] ibid.

creatures that God has chosen to create.[61] The proper employment of this blessing suggests that the blessor either knows the disabled person from birth, a place of familiarity. Or when encountering a young child, e.g. a blind four-year-old, one would offer the "varied creature" benediction which implies that a person should lean toward a more positive view of the child.

For children who are born disabled, the blessing given by the able-bodied does not command them to think the individual is aesthetically beautiful, rather just to note their wonder over such an unusual sight. By linking the disabled child to being simply one of God's creations, the blessing provides the means for the able-bodied person to appreciate the disabled child. It enables the able-bodied in overcoming aversions of fear that might lead to alienating the handicapped child. As Marx states, "Blessing God for such experiencing is an expression of acceptance."[62] In the end, the employment of this blessing dictates that young children are not deemed as deserving of punishment.

D. AGE DIFFERENTIAL

1. Sociological Implications

It is a sociological norm for parents of a disabled child to shelter their "special" child. Erving Goffman extends this pattern of sheltering beyond the

[61] For discussion on "normal" vs. "punishment" see the distinctions drawn by the Talmud Yerushalmi. y. Berakhot 9:1
[62] T. Marx, *op. cit.* p. 357.

parents, to the immediate family and further to include the local neighborhood or township. All of these cohorts try to form a protective capsule for the very young congenitally disabled.[63] In doing so, they shelter the child from the harsh realities often faced by the disable-bodied, alleviating some of the stigma attached to the impairment. Therefore, a child with an impairment has the ability to pass in his social circle in a "special" way, as parents and friends protect him or her with a pattern of domestic acceptance.[64] This status of initial acceptance, however, can and will diminish after the child comes of age to learn that he or she is not socially qualified for full inclusion, or if he or she moves from that locale.

Perhaps this need to protect led the authors and creators of early Jewish literature to offer a primarily positive portrayal of those who are born disabled, outside of the negative elements regarding the disability as a consequence of sin. To accommodate for this initial status, practical concessions in terms of sociological acceptance, as well as within halakhah, stretch to include this individual as much as possible. Yet the social reality, outside of the sheltering capsule, fully recognizes the limitations of any whom are disabled. Therefore, boundaries are drawn in specific relation to this group of disable-bodied.

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[63] E. Goffman, *op. cit.* p. 32 For full bibliographical details see p. 3 note #5 in chapter one. Also, his work was discussed in chapter one within the section on secondary resources see p. 25.
[64] ibid. p. 90-91

2. Psychological Support for Those Born with Disabilities.

The tradition provides a certain level of psychological support for the child who is born disabled. Perhaps acknowledging that a disability might make one resentful or unsure of their position with God, the tradition allows for an open-ended period of time for a child born with disabilities to demonstrate his or her embrace of God.

In Deuteronomy 32:39, one reads, "See then, that I, I am He; There is no god besides Me. I deal death and give life; I wounded and I will heal."[65] This verse clearly defines God as the sole entity responsible for not just giving and taking life, but for wounding and healing. When this verse is taken into account within the paradigm of the trio responsible for creating a child, it is clear that God is the one giving the breath of life, as well as the wounds of disability. It is difficult to imagine just how psychologically debilitating the rationale of punishment is upon a child when it has been imposed upon him or her as a newborn. Especially as this child grows into his or her cognitive abilities; and thus his or her relationship to God.

If there comes a point in time that the child grows beyond the normal range of emotions such as rage and bitter sentiment, he or she may choose to offer the blessing of *birkhat ha'gomel* (a blessing of gratitude that acknowledges escaping from a

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[65] English drawn from *JPS Hebrew-English Tanakh,* Philadelphia: Jewish Publication Society, 1999. p. 448-449.

dangerous situation).[66] For a child born with a disability, he or she may discharge the duty of this benediction at any stage in his or her life. Unlike other situations, there is no time limitation for this category of individual. When or if this individual is able to recognize God as providing joy in his or her life, that would be an appropriate time to fulfill the *mitzvah* of expressing gratitude. God who has "wounded" this person, can also bring much happiness even a sense of healing to this person's life. Allowing no time limit for such a benediction leaves the tradition in a position of psychological support of the disable-bodied from birth throughout their lifetime.[67]

3. Mixed Message on a Child who is Disabled

The tradition suggests that there is no one fixed way to view the child who is born disabled. As mentioned in the opening section of this chapter, all children are born with a less than optimal level of *da'at*, which precludes them from full participation in religious *mitzvot* until they have reached the age of religious-majority. A minor may understand God and fulfill many of the precepts, but his or her status is still deemed liminal until he or she matures. Therefore, the tradition remains open-minded about the "mentally impaired" status of a child, allowing for growth into full inclusion within the halakhic community.

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[66] For development of range of emotions one might harbor due to being disabled, specifically one who is born disabled see R. Murphy, *The Body Silent*. New York: Holtz, 1987. p. 106.
[67] For discussion of *birkhat ha'gomel* see T. Marx, *op. cit.* p. 518-520. Also refer to b Berakhot 54b, Mishneh Torah (M.T.) Berakhot 10:8, and Shulhan Arukh Orah Haim 219

For children who are born with additional handicaps, outside of the general status of being a *katan*, such as blind or lame, the tradition does not always maintain such a benign view. One can examine this through the consideration of the blind *katan*. Within the halakhic community, the blind individual is required to perform commandments as a matter of rabbinical ordinance, with a few minor exclusions, rather than Biblical sanction.[68] The justification for this extreme inclusionary measure is, "otherwise he will be like a gentile since he does not conduct himself according to Israel's Torah".[69] Thus, the Talmud dictates that the blind should be seen as a whole person, able to perform *mitzvot*, and completely socially acceptable.

This particular legislation does not, however, apply to persons *born* with blindness. Rather it is the operative rule only for those who acquired blindness either late in childhood or in adulthood; where the individual would have had a period of time to develop the ability and actually to perform the *mitzvot*. Individuals blind from birth remain excluded from rabbinically ordained *mitzvot*.[70]

Just as the tradition treats the *katan* with true respect, allowing him or her to participate in many religious duties as an education for adulthood, thus demonstrating acceptance of this "temporarily" disabled child, so too does it send a mixed message when it excludes children with additional handicaps from the fulfillment of religious obligations.

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[68] Refer to b. Bava Kamma 87a
[69] ibid.
[70] See T. Marx, *op. cit.* p. 391-395 in regards to the blind and halakhic obligation.

4. The Ethical Dilemma of Childhood Disability

The ethical dilemma of being born disabled is troublesome. It has been explained by Biblical and rabbinic texts as a punishment for sin. Yet, how can one punish the innocent child at birth with a disability when he or she has had no chance to commit a sin? Several sources attributed the sin to the parents, but the punishment was afflicted upon the child. This still leaving the pervasive question of where justness lies in this matter.

When discussing the texts regarding the disabled, one must note the non-systematic, after the fact, development of the material in an attempt to harmonize this pervasive question of justness. These texts were developed over a period of many years and reflect the opinions of many different authorities. For example, in the case of the midrashic text from *Tanna de-Bei Eliyahu Zuta* an attempt to resolve the problem of justness is made by confirming God's role as "true judge". It utilizes the text from Deuteronomy 32 that all God's ways are just. Thus, the midrash deduces that the sin being punished is not that of the parents, but in actuality the punishment is being imposed for future sins that he or she will commit.

When considering the disability as a function of either the parent's sin or child's future sin, one may wonder why the blessing recited upon seeing a newborn child with a disability praises God for making varied creatures. Logic might dictate that the blessing of God as "true judge", which corresponds to seeing the disabled as

punished individuals, would be a more appropriate blessing for this instance. Yet, the mixed message remains, as a punishment is portrayed in the positive light of "varied creatures," leaving one bit confused as to just how those born disabled are to be perceived by a traditional Jewish society.

This ethical dilemma receives a classically rabbinic form of resolution in a collection of minor midrash.[71]

> How can one reconcile divine justice with the fact that God causes the sinless and guiltless people to suffer, like those born with handicaps, the blind, the lame, deaf, or dumb? They are without sin. Is this not wrong? Rabbi Joshua replies, 'Indeed the righteous among them He caused to suffer so as to increase their reward in the future world.'

If one were to take this passage literally, the child born disable-bodied should not be perceived as a punishment, but rather as a great gift. God has indeed chosen these individuals as special, deserving God's divine mark, in order that their position in the future world will be fruitful and strong. One can imagine that this attempt by tradition to harmonize the justness of this particular matter may or may not provide comfort to the child or family.

All in all messages remain mixed. At times the tradition suggests some rather positive messages, but at other times divine justice must simply be acknowledged. According to the rabbis, clearly their God can never be in the wrong; thus, some of the negative messages. The confusion may lay in the simple fact that the traditional views were not part of a unified system, even in regards to infants and children. The

most positive view in reference to this age cohort is the support and comfort given by the family and community to the child, as well as given to the family by the community.

[71] See Ad. Jellinek's classic collection of minor midrashic works, *Bet Ha-Midrasch*, Jerusalem: Bamberger and Wharmann, 1938. Vol. 5, p. 132.

CHAPTER THREE: DISABILITY AFTER THE AGE OF RELIGIOUS RESPONSIBILITY

A. INTRODUCTION

1. General Considerations

A child arrives at the place of religious responsibility at 13 for males and 12 ½ for females. He or she is not longer a *katan*. At this age, the tradition assumes that the vast majority of people have gained the appropriate level of *da'at* to participate fully in Jewish society.

The case of a child being born with a disability is rare; but becoming disabled during adult life, during active working years, is entirely possible, when we take into account that day to day living involves a variety of elements. These elements may lead to illness and accidents that leave a person impaired for instance industrial accidents. An example of work related injury occurs in Numbers Rabbah 7:1:

> When Israel came out of Egypt the vast majority of them were afflicted with some blemish. Why? Because they had been working in clay and bricks and climbing to the tops of buildings. Those who were engaged on building became maimed through climbing to the top of

the layers of stone; either a stone fell and cut off the worker's hand or a beam or some clay got into his eyes and he was blinded.[72]

This group from 12 ½ or 13 years of age to the start of one's elderly years is a less specific and broader time span for the categories of age differential. The statistic for acquisition of an impairment during one's working years increases 20%.[73] As many individuals will cope with the impact of gaining a disability, this category is worthy of assessment in terms of one's role in society.

2. Sociological Overview for this Age Cohort

Certainly acquiring an impairment during adulthood causes great upheaval in a person's life. As Marx states, "One widespread effect of disablement is the reorganization of one's resources, the discovery of limitations, and the necessity of making hard choices as to its most efficient use."[74] Up to the moment of acquisition the person was part of the "normal" group and was included within general society. When he or she became disabled, all of a sudden a new status of the "other" became applicable to him or her. Prior to this point, the individual may have feared or even looked down upon people who had previously fit into the category of the "other," such as with people with mental deficiencies, or wheelchair bound, or with paralysis in one arm. These "others" suffer the stigma associated with the particular

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[72] English translation taken from: Rabbi H. Freedman and Maurice Simon. editors. Judah Slotki. translator. *Midrash Rabbah: Numbers*. Vol. 1. London: The Soncino Press, 1939. p. 178.
[73] See chapter one p. 19. Or refer to: www.cabln.org/stats.htm (2/5/03).
[74] T. Marx. *op. cit.* p. 36

impairment. Thus, for the cognitively sound person who gains a disability, he or she must quickly realize that the stigma this person once associated with a disability is now being imparted upon him or her.

Goffman speaks to the impact of the sudden acquisition of a defect. He states, "It is very difficult to understand how individuals who sustain a sudden transformation of their life from that of a normal to that of a stigmatized person can survive the change psychologically".[75] The impact of a gaining a disability serves as a catalyst for a perceived change in personality, as the affected individual is placed into a new position in terms of face to face interactions.[76] Within these encounters the newly impaired individual strives to employ new strategies of interaction, as this individual keeps in mind his or her former frame of reference. This difficulty is further enhanced when taking into account that society perceives a stigma as something that can spread outward from an individual to his close connections. Due to this, the newly disabled may find bonds of friendship being terminated or simply avoided.[77] Goffman summarizes the position of the person with a suddenly acquired disablement, "The painfulness, then, of sudden stigmatization can come not from the individual's confusion about identity, but from his knowing too well what he has become."[78]

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[75] E. Goffman, *op. cit.* p. 132.
[76] ibid.
[77] ibid. p. 30
[78] ibid. p. 132-133.

It will be helpful to keep this sociological background in mind as one proceeds through the chapter. This chapter will consider both Biblical and rabbinic sources for this age cohort using the same methodology that was employed in chapter two. Negative materials will be followed by those depicting a positive slant, and the final section will look at items specific to age differential including mixed messages for this cohort.

B. Materials with Negative Implications: Handicap is a Punishment

Jewish tradition holds a belief system of a binding partnership between human's actions and divine retribution. As one reads in Deuteronomy Rabbah,

> From the time that God uttered this on Sinai it has been laid down that 'Out of the mouth of the Most High proceeds not evil and good (Lamentations 3:38);' but evil comes on its account to those who do it, and good comes to those who do good.[79]

The tradition maintains a connection between one's actions and one's fate: if you do good you receive good, if you do bad you receive bad. The extent of the retribution is described in the Mishnah, "With what measure a man metes it shall be measured to him again".[80] This is understood colloquially today as *middah k'neged middah*, measure for measure. Thus, it can be deduced that a person, who suddenly acquires a handicap, after he or she has come of age of religious responsibility, has

[79] Deuteronomy Rabbah 4:3. English translation taken from: Rabbi H. Freedman and Maurice Simon. editors. Rev. J. Rabbinowitz. translation. *Midrash Rabbah: Deuteronomy and Lamentations*. London: The Soncino Press, 1951. p. 91.

been impacted by God's retribution in the form of punishment. The midrash further exemplifies this:

> 'All that the Lord has spoken will we do, and obey (Exodus 24:7),' at that moment there were among them neither persons with issue or lepers nor lame nor blind, no dumb and no deaf, no lunatics and no imbeciles, no dullards and no doubters. With reference to that moment it says, 'You are my beloved.' *After they sinned* not many days passed before there were among them *persons with issue and lepers, lame and blind, dumb and deaf, lunatics and dullards.*[81]

An ethical difficulty is inherent in teaching that acquired disabilities post the age of religious responsibility, are a punishment. In addition to the social cohort being forced to consider the individual in light of his or her new impairment, the community is further pushed to look for some specific action or sin on which to blame the disability. The additional element of sin as punishment requires the newly impaired individual's family, friends, and community members to see him or her as a sinner. People who were stricken are therefore forced not only to redefine themselves in terms of the new impairment, but also faces the scrutiny of their behavior by their peers. When the handicap is perceived as divine punishment, the impaired person obviously labors and suffers under a significant level of guilt.

[80] m. Sotah 1:7. Translation taken from: Herbert Danby. *The Mishnah*. London: Oxford University Press, 1958. p. 294.

1. Biblical Texts: Disabilities as Punishment

In terms of punishment, the handicapped individual in this society will wonder what he or she did wrong. The Biblical case of Job is a classic example of this.[82] In the first verse of the book of Job, one learns that he was a blameless person who lived an upright life. Yet, he is tried and tested and in 2:7, he becomes afflicted with severe boils from his foot to the crown of his head. Throughout his travails, Job insists on his guiltlessness; yet, his friends seem less than convinced. At the end of the chapter two, Job's three friends came together to console their afflicted friend, but on meeting with him they start to mourn by weeping and tearing their clothes. They sit with him on the ground for seven days, but say not a word to him. His three friends are certainly mourning the tragedy that has befallen their once "upright" friend. The story of Job continues, with Job expressing the extent of the psychological toil he undergoes as a matter of being afflicted. He even curses the day he was born.[83]

As mentioned in the previous chapter God alone endows the human being with specific sensory characteristics, Exodus 4:11: "And the Lord said to him, Who gives man speech? Who makes him dumb or deaf, seeing or blind? Is it not I, the

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[81] Songs Rabbah 4:7. Rabbi H. Freedman and Maurice Simon. editors. Maurice Simon. Translation. *Midrash Rabbah: Esther and Song of Songs.* London: The Soncino Press, 1951. p. 202

[82] To get a sense of the case of Job reading the first two chapters of the Book of Job may suffice. Yet, the poetic format of the other 40 chapters not only pleads his case, but also depicts the extent to which the newly disabled suffers.

[83] Job 3:1.

Lord?"[84] Within the Hebrew Bible, the situation of sin leading to punishment occurs over and over again.

For example with leprosy, the texts teach of illness as a punishment. The leper suffered a skin ailment, which caused the atrophy of extremities including fingers, toes, limbs, and facial features. This disease was profoundly stigmatized in the ancient world well into the 20th century. In fact the term "leper" has come to indicate social outcast. This is most likely due to the fact, that as the Bible illustrates in Leviticus the priests judged the spiritual status of the leper, and if he or she was found to possess this disease, the individual was removed from society.[85] Lepers could not participate in Temple rituals, and in many cases were cast to the outskirts of the city or beyond the city walls. Thus, one reads of this impairment as being equated with the dead. "Four are regarded as dead: the leper, the blind, he who is childless, and he who has become impoverished."[86] Clearly, this disease not only carried the potential of debilitating its carrier, through the loss of extremities etc., but was also debilitating in terms of being excluded from one's social system.

The rabbis expounded upon the case of the leper by attributing the disease to specific sins.

> And these are they: *haughty eyes, a lying tongue, hand that shed innocent blood, a heart (mind) that devises wicked thoughts, feet that are swift in running to evil, a false witness that breaths lies, and the*

[84] English from: *JPS, Hebrew-English Tanakh. op. cit.* p. 119.
[85] See Leviticus chapters 12-15 for description of leprous conditions, the treatment of the leper, and the priest's role in determining the spiritual status of the leper within Jewish society.
[86] Genesis Rabbah 71.6, English taken from: H. Freedman and M. Simon. *op. cit.* p. 657

one who sows discord amongst brothers (Proverbs 6:16-19). Rabbi Johanan said: All these are punished by leprosy.[87]

Rabbi Johanan, (post 200 CE, Palestine) continues in the text to provide cases where each of these seven sins was exemplified by a case of leprosy. For example, the daughters of Zion in Isaiah 3:16 were haughty and thus struck with leprosy. Or the case of Miriam in Numbers 12:1-9, where she and her brother spoke out against Moses. The text deduces this as a "lving tongue". In verse 11, the divine cloud over the tent of meeting moved off revealing that Miriam had been made white with leprosy, divine retribution.

Sin leading to punishment is further illustrated through cases of inflicted blindness. This disability, like leprosy, is not taken lightly, as one reads in Lamentations 3:6, "He has made me dwell in darkness, Like those long dead." Losing one's sight not only makes the world appear dark, but in fact is equated with being dead.[88]

There are three cases of blindness to be explored. In Genesis chapter 19, Lot invited two men that he knew to be angels, to dwell with him over night. The people of Sodom, Lot's city, young and old, went to Lot's house that very evening and demanded that Lot put these two men out of his home. The Sodomites' desire

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[87] Leviticus Rabbah 16:1, English taken from, Rabbi H. Freedman and Maurice Simon. editors. Judah Slotki. translator *Midrash Rabbah: Leviticus* London: Soncino Press, 1951. p. 199.
See also b. Arakin 16a

[88] Yet, this particular punishment might be understood as compassionate, as the person can still function within the halakhic boundaries of the traditional Jewish society. He or she is truly wounded, but not completely removed from participation.

appears to have had a sexual character. Thus, Lot refuses to put the men out, but the people persisted, backing Lot into his doorway. At that moment, Lot's two guests pulled him into the house, and the Sodomites who were gathered outside were struck with blindness. Perhaps, God judged that the Sodomites' eyes that led them to desire these two particular individuals, and as they had physically committed no other sin, in this specific case, the measured reward was to strike their eyes blind.

In another case with Samson, a Biblical character who was chosen by God before he was even conceived to be of great deliverer of Israel from the Philistines, he too suffers the fate of being blinded. Yet, even this great man had faults, one of which appears to be that he was led by his eyes and went in the direction of his lusts. Whether it was his marriage to a Philistine woman, or his union with the harlot known as Delilah or more simply his thirst to hurt the Philistines, one can not be sure which incident led to his punishment. In Judges 16:21, however, one reads that the Philistines caught up with him, "seized him and gouged out his eyes". This punishment was, however, imposed by one human to another, causing one to wonder if this was truly divine punishment? In the Biblical world-view, the matter was clearly divine punishment. Just as God brought Samson into the world whole and destined for greatness, so too did God have the power to cause the Philistines to exact this punishment, and not to protect Samson from them.[89]

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[89] For the story of Samson read Judges chapters 13-16.

Further, as one reads in Psalms, it is God who opens the eyes of the blind or restores their sight.[90] If God disagreed with the Philistines' actions, then God could have chosen to restore Samson's sight.

The third example of blindness as punishment occurs in II Kings with King Zedekiah. According to II Kings 24:19, "He did what was displeasing to the Lord, just as Jehoiakim had done."[91] Only a few verses later, II Kings 25:7, one reads, "They slaughtered Zedekiah's sons before his eyes; then Zedekiah's eyes were put out."[92] In the Bible's method of looking at history, Zedekiah's son's fate may simply have been due to political astuteness. Sparing Zedekiah's life, however, while blinding him is attributed to the displeasure he brought to God.

2. Rabbinic Texts: Disabilies as Punishment

The Bible contains several references to a more metaphorical sense of blindness, which the rabbinic texts expound upon. This is the blindness that is equated with wisdom, knowledge, and the ability to reason. The blindness in this regard clearly presents the case of *middah k'neged middah*. In Exodus 23:8 and again in Deuteronomy 16:19, it is written:

> Do not take bribes, for bribes blind the clear-sighted and upset the pleas of those who are right (Exodus).' And, 'You shall not judge unfairly: you shall show no partiality; you shall not take bribes, for

[90] Psalms 146:8
[91] English from: *JPS, Hebrew-English Tanakh op. cit.* p. 839.
[92] II Kings 25:7, ibid. p. 839

> bribes blind the eyes of the discerning and upset the plea of the just (Deuteronomy).[93]

The burden of both of these cases is that taking a bribe leads to blindness. In general, it is not a literal blindness, but rather a case of ones wisdom, *da'at*, being blurred.

The Mekhilta challenges the metaphoric sense of punishment by reading the blinding of the eyes literally. "Whomsoever takes money and perverts judgement will not leave this world before the light of his eyes will be diminished."[94] In any case, those who take bribes have a clearly diminished capacity to judge fairly, and thus suffer a punishment, measure per measure, whether it is metaphorical or physical.

Lest one think that all traditional examples of disability as punishment center on the blind, one might wish to consider the following cases where the rabbinic literature expands on Biblical encounters to indicate other forms of impairment due to sin.

Pharaoh, on advice of his counselors, orders Moses to be captured and be put to death. The counselors, who instructed Pharaoh to kill Moses, were stricken with either dumbness, deafness, or blindness. Again, disability appears to be an instrument of God, to be wielded as God sees fit. As the rabbi's state,

> R. Joshua b. Levi (ca. 220-250 CE, Palestine) said: Of all the counselors who sat before Pharaoh became some dumb, others deaf,

[93] ibid. p. 162, and 411. See also Sifre Deuteronomy 144.
[94] Mekhilta de Rabbi Yishmael, Kaspa 3.

> and others blind. When he said to the dumb: 'Where is Moses? There was no reply.' When he spoke to the deaf, they did not hear; to the blind, they did not see. This is what God said to Moses: '*Who has made man's mouth*?' (Exodus 4:11), namely, who made a mouth unto Pharaoh that he should say: 'Bring Moses to he scaffold to be slain.' '*Or who makes a man dumb*? (ibid.)' 'Who made the chiefs (counselors) mute, deaf, and blind that they should not fetch thee to him? And who made thee clever enough to escape? *Is it not I, the Lord*? (ibid.) I was with thee, and today, I stand by thee.'[95]

According to the rabbis, God saw fit to impose punishment for what apparently God deemed an abuse of faculties by the counselors. Thus, God struck each of them in particular to the faculty that he had abused, with punishments of deafness, muteness, mental impairedness, and again blindness.[96]

The rabbis build upon exploits and fables of Biblical characters that were punished for lustful desires. In the case of Potiphar, a servant and eunuch of Pharaoh to whom the Middianites sold Joseph, suffers divine retribution for his sexual desire.[97] The midrash expounds:

> *A eunuch of Pharaoh*. This intimates that he was castrated, thus teaching that he (Potiphar) purchased him for the purpose of sodomy, whereupon the Holy One, blessed be He emasculated him.[98]

Potiphar's sexual desire was considered a sin that needed to be punished. Therefore, as measure for measure dictated, Potiphar was castrated, preventing any future sin. Castration is an impairment; in particular in Jewish life there is a core

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[95] Exodus Rabbah 1:31. English taken from: Rabbi H. Freedman and Maurice Simon. editors. Rabbi S.M. Lehrman, translator *Midrash Rabbah: Exodus*. London: The Soncino Press, 1951. p. 39.
[96] See also, p. Berakhot 9:1.
[97] See Genesis chapter 37:36
[98] Genesis Rabbah 86:3

value is that of being fruitful and multiplying. Meaning that God not only desires but commands humans to procreate. In the case of punishments like Potiphar's, this individual is left unable to fulfill this commandment, a clear sign that he was halkhically excluded and thus most likely socially excluded.

Adultery by a woman is marked by the tradition as a case for sin leading to punishment. Mishnah Sotah reads, "With what measure a man metes it shall be measured to him again, she bedecked herself for transgression and the Almighty brought her to shame etc."[99] This text refers to the transgression of adultery that a woman committed, and must therefore be punished for her actions in the *middah k'neged middah* format. The extent of her punishment depended solely upon the extent of her sin. Thus, when the text reads, "the thigh shall suffer first and afterward the belly" may indicate that the woman exposed her thigh and other portions of her body while committing adultery.[100] This may or may not indicate a permanent disability; however, it does suggest that the woman was made lame and possibly barren. Nevertheless, the punishment for sin resulted in a physical penalty handed down by God.

Two more cases also directly indicate the acquisition of a physical disability as retribution for sin. The first case appears in the Mishnah Peah 8:9:

> And if a man is not lame or dumb or blind or halting; yet makes himself like to one of them, he shall not die in old age before he comes

[99] m. Sotah 1:7, English taken from: H. Danby, *op. cit.* p. 294.
[100] ibid.

like to one of them, as it is written, 'But he that search after mischief it shall come unto him (Proverbs 11:27).'

By pretending to be disabled in order to receive charity, specifically in regard to the leftover gleanings in the corners of the fields, the person pretending will be forced to suffer the fate of those he or she was imitating.[101]

Although the cases of sin, which leads to disability, are numerous, the last illustration of the negative implication of disability as punishment offered here involves individuals who pretend to be disabled. Perhaps, based on m. Peah 8:9, these individuals who pretend to be disabled must therefore suffer that fate.

> Our rabbis taught: If a man pretends to have a blind eye, a swollen belly or a shrunken leg, he will not pass out from this world before actually coming into such a condition. If a man accepts charity and is not in need of it, his end (will be that) he will not pass out of the world before he comes to such a condition.[102]

Whether a person's sin is punished with blindness, lameness, deafness, leprosy, or even emasculation, it is clear that divine retribution is the consequence for one's actions. The question that persists is why must a person acquire a disability as punishment for sin? Why is the gaining of an impairment the true *middah k'neged middah*, measure for measure? One must wonder if some other form of punishment could atone for one's sin, as the acquired disability (post the age of religious

[101] For background on the concept of *peah*, leaving the corners of your field for the poor, see Leviticus 19:9-10 and 27. See also, Exodus 27: 9.
[102] b. Ketuboth 68a, English taken from: Rabbi I Epstein. editor. *The Babylonian Talmud: Seder Nashim, Tractate Ketuboth.* (English Only) London: The Soncino Press, 1936. p. 415.

responsibility) is a clear indication for the community to look for blame and the disabled individual to feel the burden of guilt.

3. Disability from Industrial Accidents and Mayhem

Interestingly, outside of the text about the Jews becoming disabled while building the pyramids, cases of impairment from mayhem, battery, military action, or even industrial accidents are really not emphasized in Biblical and rabbinic texts. This noted absence does not hide the mixed message that resides in divine punishment versus the disability caused by one human to another, i.e. while fighting or while employed by another.

In cases of injury due to natural disasters such as earthquakes and tornadoes, one can easily see how they may be attributed to God. If a hurricane knocks down a wall of a home, which lands on a person causing him or her to be lame, many would believe this to be a clear case of divine intervention. For other kinds of disabilities such as those related to stroke, leprosy, tuberculosis etc., one can still make the logical leap to point to a theological argument about their source. Illness "comes from God," as it were. Whether or not one subscribes to the theory of a punishing God or not, the argument is at least clear. However, what about the other cases of impairment or wounds, which do not clearly point to God at its source?

These cases include mayhem and industrial accidents, which clearly do not fit into the theological paradigm. In these cases, one can fix blame on another; and

therefore the person who caused the damage is liable for pecuniary payments. These cases are called *dine mamon* in the Jewish legal system.[103] The mishnah defines five payments all or some of which may be imposed in cases of intentional battery, mayhem, or wounding: payment for injury, pain, medical expenses, time lost from work, and any shame suffered by the victim.[104]

The act of financial restitution is adjudicated in terms of *middah k'neged middah*, just as in the cases of divine punishment. The financial restitution, however, does not fully atone for the act of violence. The observant Jew was required to function within a community, in order to fulfill the community-based *mitzvot*; therefore, maintaining order was integral to the functioning of these societies.[105] It would not be conducive for a person to carry a grudge against another person.

> Consequently, the halakhah insists that when violence and injury have torn the community's social fabric, the parties are duty-bound to seek and grant pardon which restores as much as possible harmony of the group: 'thou shall not bear a grudge (Leviticus 19:18).[106]

It is not enough to pay someone for the damages that one has inflicted upon him or her, but one also has to ask for forgiveness. Pecuniary compensation covers the serious offense of the action, but this person also transgressed "morally and theologically," even though the act took place between one human and another, not

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[103] Stephen M. Passamaneck, "Mayhem, Homicide, Pardon, and Forgiveness" *Hebrew Union College Annual* Volumes 80-81. Cincinnati: The Hebrew Union College, 1999-2000. p. 311.
[104] See m. Bava Kamma 8:6 and b. Bava Kamma 85b-86b. See also, S. Passamaneck, *op. cit.* p.312.
[105] See S. Passamaneck, *op. cit.* p. 321
[106] ibid.

between human and God alone.[107] Thus, the financial restitution can not fully atone for the action, and the person must seek and receive forgiveness for full cleansing from the sin.

The implication of being purged from one's sin by asking for forgiveness and providing pecuniary compensation raises the question of the justness of disability as divine punishment from sin. It would appear that the afflicted individual does not receive have the opportunity to seek pardon. Rather, he or she is stricken with an impairment, which is often permanent. The person whose eyes are gouged out or who loses a leg appears to be atoning every day of his or her life for a sin, never to be fully purged from its burden. Having the ability to apologize undercuts the idea of the disabled person as sinner, but this is only true in cases of humans afflicting wounds on humans. The especially mixed message remains in terms of why some sins are punished by God in a manner that never truly resolves the sin.

The category of disabilities attained through military service similarly shares a mixed message. In many of these cases, people were wounded while fighting for the nation of Israel, God's chosen nation. In the ancient world a person who is fighting for Israel or on behalf of his or her belief in one God may have been severely wounded. The wounding could leave a person with a permanent disability. As military service is rendered during the time span of this age cohort, the logical deduction remains that any disability is a mark of sin. Thus again a mixed message,

[107] ibid. p. 320.

while serving God through military action, a seemingly righteous act, a person could emerge from service disabled and marked as a sinner.

C. MATERIALS WITH POSITIVE IMPLICATIONS

1. Disability as a Sign from God

The texts so far indicate that adult onset disabilities are often understood as divine punishment. Yet, there are several cases where the opposite may be observed. Perhaps, drawing on the Talmud's teaching: "Rabbi Simeon b. Yohai (ca 135-170 CE, Palestine) says, 'The Holy One blessed be He, gave Israel three precious gifts, and all of them were given only through suffering. These are Torah, the Land of Israel, and the world to come."[108] This teaching suggests that one must suffer to obtain fully these fundamentally valued items within Judaism. One may have to pay a price to achieve a higher level of living. Could the suffering come through the acquisition of a disability? Tzvi Marx believes this is surely possible. The individual with the new impairment is not only touched by God, but may be left with a mark or divine symbol to serve as a reminder of this encounter.[109]

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[108] b. Berakhot 5a, English taken from: Rabbi I. Epstein. editor. Maurice Simon. translation. *The Babylonian Talmud: Seder Zera'im, Tractate Berakhot.* (English Only Edition) London: The Soncino Press, 1948.

a. The Case of Jacob

To exemplify this theory, consider the case of Jacob's limp in the book of Genesis. When Jacob emerges from the womb, he is found to be holding his twin brother's heel, which clearly indicates that Jacob was born after his brother Esau.[110] Jacob then swindles his brother asking Esau, who was famished, to sell his birthright in order to receive some stew. The two brothers go their separate ways, and after some time had past Jacob, at the urging of his mother, further swindles his father, whose eyesight was failing, into bestowing the blessing upon him.[111] Following this episode, Jacob leaves his home fearing that his brother would take his life.[112] The brother's are separated for several years and just before they re-unite; Jacob is found to be wrestling with a stranger, an angel. During this battle, the stranger, "wrenches Jacob's hip at its socket."[113] From the wrenching, Jacob contracts a limp, "The sun rose upon him as he passed Penuel, limping on his hip."[114]

Jacob's lameness may be understood as a measure for measure punishment for stealing his brother's birthright, as he came out of the womb holding onto his brother's ankle. Is it not ironic that it is Jacob's leg that forever expresses this divine interaction?

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[109] For expansion of this idea see T. Marx, *op. cit.* p. 318-319.
[110] For details of Jacob's story please see Genesis chapter 25-36.
[111] Genesis 27:1
[112] Genesis 32:12
[113] Genesis 32:26, English taken from, *JPS, Hebrew-English Tanakh. op. cit.* p. 68
[114] Genesis 32:32 ibid.

Marx, however, does not read this particular acquisition of a disability in this manner. Rather, he sees the impairment as a positive symbol from God, as the resulting disability serves as a perpetuating symbol for the divine encounter. The limp is linked with Jacob's name change to "Israel", making his disability a "source of pride and status".[115] In this case, the limp is a small price to pay as Jacob gains the return of his brother and is able to move forward into the nation of Israel.

Although Marx does not per se recognize the impairment as punishment for sin, Judith Abrams does. She, however, does believe this particular punishment is for a positive purpose. Abram's theological paradigm stresses that an acquired handicap atones for the person's sin, leaving them in a better state.[116] She stresses that when Jacob fled from home, he did so with a flawed moral character, having stole his brother's birthright and blessing. In Abram's opinion Jacob could not have returned until his sin had been resolved, and symmetry returned to the Biblical story, as she summarizes:

> Jacob's disability is accompanied by a blessing. His flawed moral state has finally been made manifest in his physical state and he is, somehow, released from his sin of tricking his father and brother. At this point, he can assume a new name and a new role as patriarch of a family in the land of Israel. Israel, then, in its first incarnation is physically disabled. In this case the disability itself, by finally becoming manifest and fulfilling the narrative's demand for symmetry, allows Jacob to move forward as a character and a nation.[117]

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[115] T. Marx. *op. cit.* p. 318
[116] See J. Abrams, *op. cit.* chapter four: "Disabilities, Atonement, and Individuals"
[117] J. Abrams, *op. cit.* p. 85.

One may take issue with Abram's paradigm, as indicated in the previous section a divine punishment of disability remains Jacob's permanent state. As he is forever lame, does his atonement every cease? Is it truly resolved? Suffering a disability in order not only to atone, but also to be perceived as touched by God, may simply be overkill. Yet, one should not that for both Abram's and Marx, Jacob's disability was truly a positive expression, as it came from God accompanied by blessing. The blessing for Abram's is combined with full atonement, and for Marx is found in the status of Jacob's name change which plays on the context of his disability.

b. Barren Women

There are many cases in the Hebrew Bible where women are childless. This is clearly a disability, as the woman may not be considered whole in their society, unless she can follow the advice in Genesis of *pru urvu*, being fruitful and multiplying.[118] Logic might dictate that a person is born with the impairment of infertility. Yet, until one comes of childbearing age this predicament of infertility is not established. If one credits the notion of divine retribution than one is left to argue that the woman deserved or earned this impairment. Let us, then, consider the slightly ambiguous case of infertility as an "acquired" disability.

[118] Genesis 1:28

The Biblical cases of Sarah, Rebecca, Rachel, and Samson's and Samuel's mothers, might lead one to argue that in becoming pregnant these women produced children that stand as a divine symbol. In these cases, being barren and all of a sudden becoming fertile may be related to the statement in b. Berakhot 5a, about suffering leading to three gifts: Torah, the Land of Israel, and the world to come. It is intriguing to consider that these women suffered the inability to reproduce, which placed them on the outskirts of their social community, and were later cured of their disability by divine fiat in order to conceive children that played such a significant role in the development of the nation of Israel. This surely presents a mixed message, as barrenness in retrospect becomes a symbol of divine notice.

As Sarah, Rebecca and Rachel are three of the four founding mothers of Judaism, perhaps these cases of conception followed by the birth of male children, do truly represent a divinely imparted sign.[119] In the case of Sarah, her belated pregnancy appears to point to a special covenant that God was making with Abraham through this specific child, Isaac.[120] Rebecca is able to conceive only after her husband, Isaac, pleaded and prayed on her behalf. He did this action *le'nokhah ishto*, in front of his wife. This phrase indicates that Isaac included Rebecca in his prayer activity, which was not necessary. Marx claims that Isaac's actions demonstrate his ability to empathize with disabled as he includes the impaired person in the

[119] Leah is missing from this listing of the foremothers, because she did not suffer from barrenness.
[120] See Genesis chapters 16-21.

fulfillment of his duties.[121] After this period of prayer, Rebecca conceived the famous twins, Jacob and Esau.

In the case of Samson and Samuel, their mothers conceived children dependent on conditions. Samson's birth was conditioned by God that the child would become a Nazarite:

> You are barren ad have borne no children; but you shall conceive and bear a son. Now be careful not to drink wine or other intoxicant, or to eat anything unclean. For you are going to conceive and bear a son; let no razor touch his head, for the boy is to be a Nazirite to God from the womb on. He shall be the first to deliver Israel from the Philistines.[122]

It is clear in Samson's case that the reward for suffering barrenness is not only to be cured of this condition by divine will, but also to bear a child who will greatly impact the future of Israel. Similarly with Samuel's mother Hannah, one reads that "the Lord had closed her womb" (I Samuel 1:5). Samuel's mother prays to God promising the following, "...if You will grant Your maidservant a male child, I will dedicate him to the Lord for all the days of his life; and no razor shall ever touch his head" (I Samuel 1:11). She offered conditions for conception, and God responds by letting her conceive Samuel. Whom she later offers up to God in service, and he does so under Eli the priest.[123]

With both of these women, their positive mark of bearing a child was clearly based on their willingness to dedicate their children to God. God truly is the great

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[121] T. Marx, *op. cit.* p. 323.
[122] Judges 13:3-4 English taken from: *JPS, Hebrew-English Tanakh, op. cit.* p. 547.

opener of the womb. This allows for the suggestion that this form of disability in the Biblical context is a sign of divine working in the affairs of human beings, which may become a positive phenomena.

Rachel's case of barrenness clearly demonstrates the receipt of disability as punishment. "The Lord saw that Leah was unloved and he opened her womb; but Rachel was barren (Genesis 29:31). Her condition only leads to further jealousy with her sister Leah, "When Rachel saw that she had borne Jacob no children, she became envious of her sister; and Rachel said to Jacob, 'Give me children, or I shall die."[124] In light of Abram's paradigm, it seems that Rachel does not conceive and bear her own child until she has atoned for her sin against Leah. Only after she offers Jacob to Leah for an overnight visit, a time for Leah to feel loved, does Rachel eventually conceive.[125] This text's symmetry appears to resolve the conflict between Rachel and Leah and has a certain attractiveness to conclude that barrenness is a result of sin. This sin must be atoned for in order to bear a child. This is no more reasonable, however, than saying for whatever reasons the deity may have barrenness is a temporary phenomena, if God wishes. In that case, this impairment may not be seen as a complete disability, as it is often lifted providing a divine symbol. The cases above demonstrate that in Scripture barrenness is lifted for certain women from

[123] See the first few chapters of I Samuel.
[124] Genesis 30:1. Also, English for the verses in this paragraph were taken from: *JPS, Hebrew-English Tanakh, op. cit.* p. 58-60.
[125] See Genesis chapter 30.

whom children will be produced who impact greatly on the future of the tradition and carry Jewish life forward.

All of these women suffered under the impairment of childlessness, during their fruitful years. As previously noted, the mixed message lies in the suffering and humiliation these women faced in being childless, only later to be provided with the gift of life as a symbol from God. Overcoming this particular disability is interpreted positively by the rabbis in the midrash:

> Similarly, if Sarah was remembered, what did it matter to others? But when the matriarch Sarah was remembered (gave birth), many other barren women were remembered with her; many deaf gained their hearing; many blind had their eyes opened, many insane became sane.[126]

Clearly, Sarah's impairment of barrenness became a positive sign of godliness as she conceived Isaac. Her personal victory over the disability seemed to be contagious, spreading good to other handicapped individuals around her. The theological implication for this positive expression of the divine striking a person with a disability in order to in the end leave them with a divine symbol of Godliness is profound. This stands in direct opposite to the concept of disability as divine punishment; the mixed messages continue to remain unresolved.

The cases of barrenness in this chapter focused on specific women whose wombs were opened by God to produce future leaders of the people of Israel. These women, however, were not the only cases of barrenness. Many other women are

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[126] Genesis Rabbah 53:8. English translation taken from: H. Freedman and M. Simon, *op. cit.* p.467.

barren and are not intended to have such destined children. Some never receive the positive touch of God, that Sarah, Rebecca, Rachel and Samson's and Samuel's mothers received. What about these other women?

The commandment for *pru urvu*, "be fruitful and multiply" (Genesis 1:28), is incumbent upon men and not women. Thus, the tradition resolves the general case of barrenness with a focus on the men.

> No man may abstain from keeping the law *be fruitful and multiply*... If he married a woman and lived with her ten years and she bare no child, it is not permitted him to abstain (from fulfilling the commandment). If he divorced her she may be married to another and the second husband may live with her for ten years. If she had a miscarriage the space (of ten years) is reckoned from the time of the miscarriage. The duty to be fruitful and multiply falls on the man but not the woman.[127]

The rabbis declared that a man could not sit idly by without producing a child. Marrying another woman in order to fulfill the *mitzvah* was both acceptable and rabbinically ordained. This is illustrated in Sarah's experience with her maidservant Hagar and in Rebecca's experience with her maid Bilhah.[128]

The mishnah, here, may be seen in terms of both the negative and positive messages it suggests. The negative side is that the rabbis instruct the husband of the barren woman essentially to discard her. Her disability, if not devastating enough on its own, is also grounds for divorce. It goes without saying that divorce can be tragic.

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[127] m. Yevamoth 6:6. English taken from: H. Danby, *op. cit.* p. 227.
[128] See Genesis chapters 16 and 30.

On the other hand, the woman is not responsible for the *mitzvah* of being fruitful and multiplying. She is exempted from this responsibility, and the rabbis show further compassion by allowing her to marry a second time. This opportunity suggests another positive message in that the rabbis acknowledge that the underlying cause for barrenness may not solely be the woman's problem; or the implication may be that something was wrong with the match in the first place. Therefore, both parties are allowed to marry again in hopes that the second marriage will produce children.

However, if the woman marries a man in her second marriage, who has not already fulfilled his obligation of *pru urvu*, the ten-year limit is again applied to the barren woman. The circumstances the mishnah addresses doubtlessly occurred far more often than the Biblical cases of barrenness which, in later years, were seen as having a special divine purpose.

2. Disability Draws One Closer to God

a. The Story of Nahum Ish Gamzu

Nahum Ish Gamzu was a righteous man who lived circa 80-110CE. According to b. Sanhedrin 108b, his name derived from his ability to say, "this too is good" for all that befell him. He had a positive attitude for any encounter even in negative situations.

Nahum's story is one of self-inflicted punishment that left him incredibly impaired. Abram's considers his form of punishment as an atoning for sin, which indicates a measure for measure quality.[129] Both the Palestinian and Bavli Talmud tell the story of Nahum Ish Gamzu, differing only slightly in terms of details. The Palestinian Talmud recalls that Nahum was on his way to visit his father-in-law bringing many gifts. Before he reached his destination, however, a man afflicted with boils came across his path and asked for charity. Nahum replied that when he returned on his trip home he would bring the man something. Nahum returned only to find the man had already died. Bystanders rebuked Nahum. To this he responded, "May my eyes that saw and did not give go blind; may my hands that did not extend a small gift be cut off; may my feet that did not run to give alms be broken. And so it came to pass."[130]

His story comes within a set of three stories, which depict just how far one must go on account of providing charity. Nahum's story is fairly dramatic as he takes responsibility for his sin bringing on his own suffering. Abrams believes that Nahum's self-inflicted punishment does not constitute divine retribution. She also points out an interesting characteristic of Nahum's punishment:

> He does not, however, cures himself with deafness, muteness, or mental illness- disabilities that would have stigmatized him in the sages' system- although such curses could have followed the same

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[129] For Abram's discussion on Nahum Ish Gamzu see: J. Abrams, *op. cit.* p. 97-103.
[130] p. Peah 8:9. English taken from: William Green and Calvin Goldsheider. editors. Roger Brooks. translation. *The Talmud of the Land of Israel: A Preliminary Translation and Explanation: Peah.* Vol. 2. Chicago and London: The University of Chicago Press, 1990. p. 335.

> logic; he could have curse his ears that did not hear, or his mouth that did not answer correctly, or his mind that was not more thoughtful.[131]

Yet, it is the conversation between Rabbi Akiva (ca. 110-135 CE, Palestine) and Nahum Ish Gamzu that sheds light on the positive nature of the righteous man who suffers. Rabbi Akiva on his deathbed explains to his teacher, Rabbi Eliezer (ca. 110-135 CE, Palestine), that sufferings are precious. In fact, as Rabbi Akiva is being burned at the stake he offers a blessing, which re-affirms his commitment to Judaism, and the texts clearly indicate that his suffering is not about rebelling, but rather about a redemptive experience. Redemption here is a form of being brought closer to God.[132]

The presentation of Nahum's story in the Talmud Bavli emphasizes the origin of suffering (for present purposes an impairment) and it is this righteousness that draws one closer to God. The story of Nahum in the Palestinian Talmud is in the context of several stories regarding charity and measured punishment. These stories are extreme in nature where, "miracles are wrought as reward for righteousness, all of which reflect the principle of measure for measure."[133]

In b. Ta'anith 20b, Nahum Ish Gamzu was blind in both eyes, his hands were cut off, his legs amputated, and his body was covered in boils. He is found lying in bed with his house falling down around him. The structure's lack of sturdiness poses

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[131] J. Abrams, *op. cit.* p. 99.
[132] See Sifre Deuteronomy, Piska 32 and b. Sanhedrin 101a. See also, b. Berakhot 13:b and y. Sotah 5:7.
[133] J. Abrams, *op. cit.*, p. 100.

a danger to Nahum, his students and his community. Yet, he instructed his student to take out everything else in the house before they removed him and his bed. Nahum reassured them that as long as he was in the house it would remain standing. The students did as they were instructed, and just after they removed him, the house collapsed.

Nahum's students recognized this miracle, and said to him, "Master since you are wholly righteous, why has all this befallen you? He replied, I brought it all upon myself".[134] At this point Nahum Ish Gamzu recalls for his students the incident with the man covered in boils who asks for charity. In this version of the story, Nahum is journeying when the encounter happens, but here he stops to give charity immediately. While dismounting his donkey, however, he takes too long, and the man dies. Without anyone rebuking him, Nahum immediately punishes himself adding one extra disability, that of boils.[135] It is difficult to imagine such a righteous man being left unable to walk, feed himself, or even read, and on top of this stricken with boils. Yet, his insurmountable tragedy was self-inflicted, to which he would declare "this also is for the best".

Nahum's reward for all of these disabilities appears to be the status of "wholly righteousness". A term that designates a level of righteousness so significant that it is very rarely applied to even the greatest of the tradition's sages.

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[134] b. Ta'anith 20b. English from: Rabbi I. Epstein. editor. Rev. J. Rabbinowitz. translation. *The Babylonian Talmud: Seder Moed, Tractates: Rosh Hashannah, Ta'anith, and Shekalim.* London: The Soncino Press, 1938. p. 104.

One might find the logic in this story troubling, as a man suffers great and permanent disability, when his true intention was to give charity. The punishment may seem too severe, and the reward of being ultimately righteous not sufficient. It is possible that the story was a tool used by the rabbis to illustrate the concept of *middah k'neged middah*. He gives his eyes for seeing the man's state but not giving charity, his hands since they did not extend any charity, his feet for not making his return swift enough, and in the Talmud Bavli he suffers boils just like the man whom he failed. Furthermore, they might have been using this folk tale of a righteous man to illustrate and serve as a role model for how a person should accept his or her disability with a positive attitude. Nahum, however, was a special person who certainly goes beyond what the average individual could.

b. Mentally Impaired Receive Prophecy

In this next illustration, those who are mentally impaired are depicted as having a close relationship to God, as this group will receive God's prophecy. "Rabbi Johanan said: 'Since the Temple was destroyed prophecy has been taken from prophets and given to fools (*shotim* plural for *shoteh*) and to children (*k'tanot* plural for *katan*).'"[136] In this text, the *shotim* are presumed to be adults.[137]

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[135] See b. Ta'anith 21a.

[136] b. Bava Batra 12b. English from: Rabbi I. Epstein. editor. Maurice Simon. translation. *The Babylonian Talmud: Seder Nezikin, Tractate Bava Batra.* Vol. 1 (English Only Edition) London: The Soncino Press, 1935. p. 60.

The text continues on to portray examples of the prophecy. A mentally impaired person exclaims loudly in a public space the name of the individual who would become the next elected head of the academy in Matha Mehasia. In the end this prophecy comes true. The *shoteh's da'at* level is clearly impaired and thus questionable. Yet, it is through this impairment that the mentally disabled are able to serve as a conduit for God to the people of Israel.

It is certainly a positive portrayal of the *shoteh* to be chosen for such a significant duty, making him or her comparable with other prophets such as Moses, Hosea, and Zechariah. As with most of our materials, however, there is a mixed message in this giving of prophecy. The understanding is that one whose mind is impaired speaks without personal motivations, and thus he or she is less likely to change any of God's words. They can be direct conduits not tainting any of God's words.[138] It is these individuals' special stigmatized status that allows for this desirable attribute of unawareness making them trustworthy by God, as Goffman suggests:

> The person with a stigma is not quite human... We tend to impute a wide range of imperfections on the basis of the original one, and at the same time to impute some desirable but undesired attributes, often of supernatural cast, such as 'sixth sense,' or 'understanding.'

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[137] Although, the text includes the *katan*, this age cohort was discussed extensively in chapter two and will not be further developed here. The *shoteh* is presumed to be an adult, otherwise he or she would have fallen into the category of *katan*.

[138] For full discussion of the *shoteh* and prophecy see J. Abrams, *op. cit.* p. 142-144.

Because of the questionable or imperfect level of *da'at* that the *shoteh* possesses, they are understood to have a desirable attribute. It is doubtful the rabbis would have thought it to be a 'sixth sense' or even a level of 'understanding.' Yet, these two groups receive the honor of being a conduit for God's words.

3. Positive Portrayals of the Blind Person

The tradition offers much commentary on the disabled category of the blind. Why is there so much material on the blind? One might speculate that there were a great number of blind individuals with the society; therefore, the halakhic material was required to provide life instructions to this group. Or, unlike other disabilities such as the deformity of a limb that could be covered by clothing or even a mental impairment that may not be evident until one converses with that individual, blindness is readily identifiable by the sighted. The blind person walking in the market clearly stands out in the crowd. Perhaps, these are the reasons the tradition offers so much commentary on this group.

Or, it might be due to the fact that the blind person, as stated earlier, is obligated to perform commandments as a matter of rabbinical ordinance rather than Biblical sanction.[139] Therefore, with each rabbinical ordinance the case of the blind individuals' halakhic inclusion must have been raised. This is by no means and exhausted list of reasons for the extensive material on the blind. Blind as punishment

[139] For discussion on the blind and halakhic inclusion see chapter one pages 15-16.

was developed earlier in this chapter with several case studies, but blindness here will be shown in a more positive light.

a. Rav Sheshet

Rav Sheshet (ca. 290-320 CE) was a respected and prominent sage of Babylonia, quoted often in early rabbinic literature. According to b. Berakhot 57b, Rav Sheshet was not born blind, but rather he gains this impairment at a later time in life. Even though he lacks in faculties, this does not impair his perceptive ability:

> R. Sheshet was blind. Once all the people went out to see the king, and R. Sheshet arose and went with them. A certain Sadducean came across him ad said to him: 'The whole pitchers go to the river, but where do the broken ones go to?' He replied: 'I will show you that I know more than you.' The first troop passed by and a shout arose. Said the Sadducean: 'The king is coming.' 'He is not coming,' replied R. Sheshet. A second troop passed by and when a shout arose, the Sadducean said: 'Now the king is coming.' R. Sheshet replied: 'The king is not coming.' A third troop passed by and there was silence. Said R. Sheshet: 'Now indeed the king is coming.' The Sadducean said to him: 'How did you know this?' He replied: 'Because the earthly royalty is like the heavenly. For it is written: *Go forth and stand upon the mount before the Lord. And behold, the Lord passed by and a great and strong wind rent the mountains, and broke in pieces the rocks before the Lord; but the Lord was not in the wind; and after the wind an earthquake; but the Lord was not in the earthquake; and after the earthquake a fire; but the Lord was not in the fire; and after the fire a still small voice* (I Kings 19:11).'
> When the king came, R. Sheshet said the blessing over him. The Sadducean said to him: 'You say a blessing for one whom you do not see?' What happened to that Sadducean? Some say that his companions put his eyes out; others say that R. Sheshet cast his eyes upon him and he became a heap of bones.[140]

[140] b. Berakoth 58a, English from: Rabbi I. Epstein. editor. M. Simon. translation, *op. cit.* p. 361.

In this case, Rav Sheshet's wisdom stretches beyond his blindness, which allows him to outsmart the Sadducean. Rav Sheshet understood that it was not noise that would signal the king's arrival, but rather the sound of silence. Abram's comments on symmetry found in this story; noting that the Sadducean perceives that sight is a prerequisite for insight, but just as he was wrong in regards to sound indicating the king's arrival so too is he wrong in terms of the blind.[141] Rav Sheshet may have lost his sight, but the text clearly indicates that he never lost his perceptive abilities. As far as the punishment of the Sadducean, it goes without saying that the text indicates a measure for measure punishment by either making him blind, just like the person he mocked, or by killing him for the shame he tried to place on another individual.

The case of Rav Sheshet, like the *shoteh* with the receipt of prophecy.[142] In this case, the additional attribute may be understood as heightened compensatory function. For example, the blind individual may be able to rely on a more acute sense of smell or hearing. Our sages recognize this phenomena in the case of a child who is born blind. In b. Ketuboth 60a, the sages argue the age at when a child can visually identify its mother. They eventually ask how does a blind child recognize his mother? They answer, "by the smell and the taste."[143] Clearly, the child does not identify the mother through the same faculties as seeing children; yet this child's

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[141] J. Abrams, *op. cit.* p. 96
[142] See pages 79-80 of this chapter.
[143] b. Ketuboth 60a

perceptive abilities are heightened in other ways. So with Rav Sheshet, who uses his mental acuity in combination with his sense of hearing to correctly identify the approach of the king. Rav Sheshet appears to have a 'sixth sense.'

With Rav Sheshet there is another example to bring forward in terms of the positive portrayal of the blind. In this case, God shows deference to a human being, specifically in the case of the blind.

> The fathers of Samuel and Levi were sitting in the synagogue, which moved and settled in Nehardea. The Shechinah (God's divine presence) came, and they heard a sound of tumult and rose and went out. R. Sheshet was once sitting in the synagogue, which moved and settled in Nehardea, when the Shechinah came. He did not go out, and the ministering angels came and threatened him. He turned to them and said: 'Sovereign of the Universe, if one is afflicted and one is not afflicted, who gives way to whom?' God thereupon said to them: 'Leave him.'[144]

Although Rav. Sheshet calls his condition "afflicted" or "wretched," it is his disability that permits him to stay in the presence of God. The other two gentlemen, fathers of Samuel and Levi, were probably no less worthy than Rav Sheshet was, yet they left the synagogue. God's presence is so powerful that they must have feared the consequences, such as death, of being present before God. Through the angels, Rav Sheshet boldly asks for mercy or relief from this burden of going out from the synagogue, and God grants it. It is possible that God acted out of compassion, recognizing the difficulty that may arise for blind individuals to flee from before

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[144] b. Megillah 29a, English from: Rabbi I. Epstein, editor. M. Simon, translation. *The Babylonian Talmud: Seder Mo'ed, Tractates Megillah, Mo'ed Katan, and Hagigah.* (English Only Edition) London: The Soncino Press, 1938. p. 175-176

God's presence. In any case, God defers to Rav. Sheshet, illustrating compassion for the blind.

Finally in the case of Rav Sheshet, a compassionate euphemism is employed to refer to his blindness. The use of complimentary language demonstrates consideration for the feelings of the handicapped individual.[145] Rather than call Rav. Sheshet an *evar, suma*, or even *sh'aino roeh ma'rosh* (unable to see from his head), Rav Sheshet is referred to as *segai nahor*, literally "full of light or with excess light."[146] Imagine peering into the bright light of the sun, one literally loses sight of the images before him or her. The tradition employs this compassionate language in p. Ketuboth 1:1, when Rabbi Zechariah (post 220 CE, Babylonia), son-in-law of R. Levi, said: "... as people call blind men, full of light".

In the case of Rav Sheshet, the tradition utilizes this term in a positive manner while referring to a great sage. Perhaps, the rabbis were suggesting that due to his great wisdom he was filled with light, a light so bright that he was literally blinded by it. Carl Astor, author of *Who Makes People Different*, further acknowledges the rabbis for their use of euphemisms in relationship to the disabled stating, "...an external condition, not in any way affecting the worth of the individual or the respect due to him."[147] In any event, the rabbis use of an alternative sensitive term for the

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[145] For further discussion on the use of euphemism, see T. Marx, *op. cit.* p. 302-303.
[146] b. Berakhot 58a
[147] Carl Astor, *Who Makes People Different: Jewish Perspectives on the Disabled.* New York: United Synagogues of America, Department of Youth Activities, 1985. p. 135.

blind sends a message of acceptance of the blind individual regardless of his or her physical limitations.

b. Inclusion in Mitzvot

1. Rabbinically Obligated to Perform Mitzvot

As discussed previously, within the halakhic community, the blind individual is required to perform commandments as a matter of rabbinical ordinance, rather than Biblical sanction (there are a few minor exclusions to this rule).[148] The justification for this extreme inclusionary measure is, "otherwise he will be like a gentile since he does not conduct himself according to Israel's Torah".[149] Thus, the Talmud dictates that the blind individual should be seen as a whole person, able to perform *mitzvot*, and completely socially acceptable.

This particular legislation, however, applies only to those individuals who have acquired blindness and were not born with it. This acquisition may have occurred in late childhood or adulthood, providing the individual with a period of time to have developed the ability to and even perform some of the *mitzvot*.[150] Some of the obligations are exemplified within the next section on liturgical inclusion.

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[148] See chapter two page 45. Refer to b. Bava Kamma 87a
Also, for further discussion see T. Marx, *op. cit.* p. 377-395.

[149] b. Bava Kamma 87a

[150] Medieval discussion on halakhah and the blind offer a variety of opinions in terms of inclusion and exclusion. For example, R. Yom Tov Ashbili, a 12-13th Century halakhist, further delineates for the individual who has acquired blindness, that he or she is obligated only in terms of *mitzvot* that can be done orally i.e. not requiring vision.

2. Liturgical Inclusions

a. Participation in Prayer

One of the traditional requirements for the recitation of certain Jewish prayers involves facing the direction of the city, Jerusalem. This is evident in m. Berakhot 4:5,

> If he was riding on an ass, he should dismount (to pray). But if he cannot dismount, he should turn his face (towards the east). And if he cannot turn his face, he should *direct his heart toward the chamber of the Holy of Holies.*[151]

Thus, a person should dismount his donkey to pray in the appropriate fashion, but if he could not find a place of safe keeping for his donkey than he was permitted to pray from on top of the animal as long as he turned toward the east. If this too was difficult he could turn his heart towards the Holy of Holies.

If all of these exceptions were made for the individual who was on a journey, one must wonder if there were similar arrangements for the blind? According to b. Berakhot 30a, the blind person is fully provided with the opportunity to pray. "Our rabbis taught: A blind man or one who cannot tell the cardinal points should direct his heart towards his Father in Heaven, as it says, *And they pray unto the Lord* (I Kings

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Also, David ibn Abu Zimra, a 16th Century halakhist, finds the blind to be scripturally obligated except in a few cases where the *mitzvot* are peculiar and the Talmudic sources make it explicit that the blind shall not participate. Refer to T. Marx, *op. cit.* p. 392-395 for further development.

[151] English taken from, J. Neusner, *op. cit.* p. 8.

8:44)."[152] Therefore, the blind person appears to be obligated to pray regardless of his or her ability to visually determine the direction of Jerusalem. It is possible to conclude that the rabbis are instilling an attribute of virtue to the blind person, as they appear to overlook the disability and recognize the blind person's ability to turn inward in prayer. It is as if the blind do not require the tool that aids the "seeing" in directing the intention of his or her prayer.

Marx cautions, that since prayer is personal supplication not necessarily the fulfillment of a *mitzvah*, that the blind person's inclusion is not so extraordinary.[153] Yet, this Talmudic statement clearly indicates that a blind person, a disabled individual, should not be held back from his or her fulfillment of personal religious experience.

This being said, there are several blessings offered in liturgy that seem dependent upon ones visual ability. As the blind are included in terms of prayer, can he or she recite blessings related to visual observances? According to b. Berakhot 33a, a person who recites blessings that is irrelevant to him or her is equated to taking God's name in vain, truly a sin. If one cannot distinguish light from dark, can he or she bless the *Havdalah* light, the candle lit and extinguished as a blessing is recited over it using the light and darkness to distinguish between Shabbat and the rest of the week. The positive tendency towards inclusion in regard to directing one's heart

[152] English taken from: Rabbi I Epstein. editor. M. Simon. translation, *op. cit.* p. 182.
[153] See T. Marx, *op. cit.* p. 526

towards God is tested by blessings that are visually based. The rabbis, however, reason that those who have come into a state of blindness may recite these prayers.[154]

As attested to in Mishnah Megillah 4:6. "A blind man recites the *Shema* and translates. Rabbi Yehudah (ca 135-170 CE, Babylonia) says, 'Whoever in his entire life has never seen the light does not recite the *Shema*.'" Rabbi Yehudah is therefore of the belief that one may not have only a metaphoric understanding of light, but must have had a chance to physically appreciate the dawning of a new day, the morning light. Therefore, drawing upon past experience, the blind person who was not so from birth is allowed to recite this blessing.[155]

Marx summarizes that:

> While there is some resistance to the blind person's suitability for reciting benedictions that testify to visual experience on the grounds that he cannot personally experience the lights, fire, etc., there are enough alternative views to warrant his legitimate participation.[156]

Interestingly, Marx draws his comment by utilizing more modern halakhic sources and stretches the boundary of acquired blindness after birth to simply include all who are blind. All in all, the blind person is clearly meant to be included in prayer; his or her *da'at* level is not questioned nor his or her ability to direct true

[154] For development of the blind persons role in liturgy read T. Marx, *op. cit.* p. 510-515. He cites many halakhic words post 550 CE, such as Maimonides *Hilchot Torah*, *Shulhan Arukh*, and collections of *Responsa*. This material is well worth reading and researching.

[155] There are those who disagree with Rabbi Yehuda's strict sense of physical experience, believing that the disabled individual can enjoy the benefits of a sensory opportunity even if indirectly. For example, the blind person who uses a lantern at night so that others may guide him or her away from potholes (b. Megillah 24b).

[156] T. Marx, *op. cit.* p. 516.

intention towards God. Thus, even the person who was blinded as a divine punishment is afforded the opportunity of personal prayer.

b. Blind Persons Wearing of Fringes and Pesach Seder

In terms of other liturgical observances, the disabled category of the blind continues to demonstrate the positive attribute of inclusion. The first example demonstrated here concerns the wearing of *tzitzit*, the knotted fringes located on the four corners of a traditionally observant Jews garments that serve as a reminder of all the *mitzvot*. In b. Menahoth 43a it reads,

> It was taught: *That you may look upon it* (it = the *tzitzit*, Numbers 15:39), this excludes the night garment. You say it excludes the night garment, but perhaps this is not so, but it excludes rather a blind man's garment? The verse, when it says, *Wherewith you cover yourself* (Deuteronomy 22:12), clearly includes a blind man's garment; how then must I explain the verse, *that you may look upon it* (Numbers 25:39)? As excluding the night garment. And why do you choose to include the blind man's garment and exclude a night garment? I include the blind man's garment since it is looked upon by others, while I exclude a night garment since it can't be looked upon by others.[157]

This is a slightly mixed message, as this sage is defining the wearing of *tzitzit* for others' benefit and not the blind persons. Yet, one might argue that the blind individual who is aware of this commandment, might feel a positive sense of belonging as he can wear a religious symbol daily similar to all other males in his

[157] English from: Rabbi I Epstein. editor. Eli Cashdan. translation. *The Babylonian Talmud: Seder Kodashim, Tractate Menahoth*. (English Only Edition) London: The Soncino Press, 1948. p. 260-261.

society. This acceptance and inclusion must have remit some positive reward to the blind person.

The observance of the Passover *seder*, the meal at which the recitation of the story of the Jew's Exodus from Egypt is recited in the order of the experience, might be problematic for individuals with disabilities.[158] The primary responsibility of the person leading the seder is the oral recitation of the story. A blind person is not typically speech impaired; yet, there remains a question as to his or her ability to lead the *seder*.

Using the rabbinic tool of *gezerah shevah*, a method that takes a word or phrase from one text and equates its meaning in that context to a different text where that word or phrase repeats, the rabbis argue against the participation of the blind individual.

> Rabbi Aha b. Jacob (ca 290-320 CE, Babylonia) said: A blind person is exempt from reciting the *haggadah* (the Passover story). Here it is written, *It is because of that* (*zeh*), while elsewhere it is written, *This* (*zeh*) *our son* (Deuteronomy 21:20): just as there (meaning in the case of the rebellious son- where the parent literally points to the child) blind are excluded; so here too the blind are excluded.[159]

In this case Rabbi Aha argues that due to the blind person's inability to "show" the story, literally point out the special elements on the Passover table, he or

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[158] For the category disabled that are speech impaired in terms of the Passover *seder*, see T. Marx, *op. cit.* p. 548-549. For your information, the oral recitation of this particular religious observance does not hold back the speech impaired from leading the seder, as they are most likely a person for whom the other participants in the *seder* are familiar with. Thus, they understand his or her particular speech pattern.

she may not recount the story. Interestingly, the verse from Deuteronomy also includes other disabled people such as the parent without a hand or finger and the lame or mute parent.[160] Rabbi Aha does not include these kind of disabilities here. The text in Pesahim continues:

> But that is not so, for Meremar (ca. 417-432 CE, Babylonia) said: I asked the scholars of the School of R. Joseph, Who recites the *Aggadah* (the story) at R. Joseph's? And they told me, R. Joseph; Who recites the *Aggadah* at R. Sheshet's? And they told me, R. Sheshet.[161]

It is the case that both Rabbi Joseph and Rabbi Sheshet, two prominent sages, were blind. As Meramar points out in this Talmudic passage, these blind sages led their *seder*; thus, any blind person should be able to lead a *seder*. Recognizing Rabbi Aha's Biblically based argument as sound, the rabbis still had to side with Meramar as his opposition brought forth real cases of the blind leading *sedarim*, plural for *seder*.

Even though the *seder* is an oral recitation of a story, there is an emphasis placed on "showing" the story through the use of props. Thus the concept that the goal is for every individual to be able to visualize him or herself as having just departed from Egypt.[162] Even though, the blind person may be limited in his or her

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[159] b. Pesahim 116b. English from: Rabbi I. Epstein. editor. Rabbi H. Freedman. translation. *The Babylonian Talmud: Seder Mo'ed, Tractate Pesahim.* (English Only Edition) London: The Soncino Press, 1938. p. 597.
[160] T. Marx, *op. cit.* p. 551.
[161] b. Pesahim 116b. See note 159.
[162] See Maimonides *Hilchot Talmud: Hametz U'matzah.*

ability to point out the props on the *seder* table, he or she clearly is still validated as a person to lead the recounting of the Exodus from Egypt.

c. The Blind- A Brief Summation

Within this chapter acquired blindness has been labeled as a punishment; yet, this disability has been cast in a positive light due to the blind individuals inclusion in many halakhic activities, the sensitive language that may be employed when referring to the blind, and simply by the fact that great sages were given their due respect regardless of the acquisition of blindness at some point in life. There is clearly a mixed message in the case of the blind.

The strong statement linking the blind to the dead found in both Biblical and rabbinic literature surely casts a negative light in the case of blindness.[163] Marx recognizes the pejorative nature of this: "the devastating judgement made of the blind that, on the face of it, seems to undermine all the bolstering that one gathered from other parts of the tradition."[164]

Yet, the positive seems to outweigh. For example, blindness is considered a less severe punishment than the receipt of other disabilities. According to b. Yoma 69b,

> They said: 'Since this is a time of Grace, let us pray for mercy,' and he was handed over to them. He (God) said to them: 'Realize that if you

[163] See Genesis Rabbah 71:6 and Lamentations 3:6

[164] T. Marx, *op. cit.* p. 312. Marx develops the sense of mixed messages and the blind over the next few pages, as well.

> kill him (evil inclination), the world goes down.' They imprisoned him for three days, then looked in the whole land of Israel for a fresh egg and could not fine it. Thereupon they said: 'What shall we do now? Shall we kill him? The world would then go down. Shall we beg for mercy? They do not grant 'halves' (half mercy) in heaven.' They put out his eyes and let him go. It helped inasmuch as he no more entices men.[165]

In this case, the concept of punishment for "Evil Inclination" by death is not allowed; and, the text does not offer the severe punishment of deafness or mental illness. If one is blind, he or she still can function in the community; thus, "Evil Inclination" remains alive and functioning, just as the world remains. How does one know that blindness is a less severe form of punishment? Sifra, Kedoshim 3:13-14,

> *Do not curse a deaf (heresh) person.* I have here nothing but a deaf person. From whence (do I know) to augment (the verse to refer to) every person? Scripture says, *Judges you shall not curse nor a price of your people shall you revile* (Exodus 22:27). If so, why is it said, "a deaf person"? A deaf person is distinctive in (that he is) still alive. This excludes the dead person who is not alive.
> *And before a blind person do not place a stumbling block.* Blind in a thing (i.e. a blind spot). If a man came and said to you, 'The daughter of so-and-so, how is she (fit to marry into) the priesthood?...[166]

The midrash uses the deaf or mute person to indicate that no human being should be cursed. The *heresh* is closest to the dead, and thus the lowest form of human being. The use of the stumbling block with the blind is expounded on in a metaphorical light, not literally like with the *heresh*. The metaphoric use indicates

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[165] English from: Rabbi I. Epstein. editor. Rabbi Leo Jung. translation. *The Babylonian Talmud: Seder Mo'ed, Tractate Yoma.* (English Only Edition) London: The Soncino Press, 1938. p. 328.
[166] See also, b. Temurah 4a and b. Shevuot 36a.

any kind of vulnerability, which might impair a person.[167] Thus, in this text people with the disability of blindness refers to all people who might be vulnerable to a stumbling block. This text, therefore, compares the blind person to all people, suggesting that the blind individual remains a functioning member of society. Abrams summarizes this well.

> Unlike the *heresh*, *shoteh*, and *katan*, persons with visual disabilities were barely considered to be disabled be the sages; indeed, several blind sages excelled in that culture. Blindness is presented as an impediment only in a few, specific situations in which vision is deemed necessary; it does not become a master status for the sightless person.[168]

Taking the blind person's full functioning status into account with their halakhic inclusion, the fact that there were blind sages, and all of the liturgical inclusions, surely paint the disability of blindness in a fairly positive light. This by no means should minimize the blind person's sense of suffering.[169]

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[167] See J. Abrams, *op. cit.* p. 42-43, for discussion of the text from *Sifra, Kedoshim*.
[168] J. Abrams, *op. cit.* p. 190
[169] R. Joseph, a blind sage, in b. Yoma 74b, illustrates this sense of suffering. "You cannot compare one who has bread in his basket with one who has none, the other said: 'You cannot compare one who sees what he eats with one who does not see what he is eating.' R. Joseph said: This is an allusion to (the reason) why blind people eat continually without being satisfied." Clearly there is an eternal state of not feeling fulfilled or satisfied.

D. ELEMENTS OF AGE DIFFERENTIAL

1. Blessing of "True Judge"

As previously discussed in chapter two, there are two benedictions that may be recited by the able-bodied when they encounter the handicapped individual.[170] M. Berachot 9:1-3 outlines blessings to be offered over various creations including the disabled individual. The benediction uttered upon contact with the disabled depends on the age at which the disability was acquired, as clearly defined in b. Berachot 58b:

> R. Joshua b. Levi (ca. 220-250 CE, Palestine) said; 'On seeing pock-marked persons one says: Blessed be He who makes strange creature (*mishaneh ha'briyot*).' An objection was raised: 'If one sees a negro, a very red or very white person, a hunchback, a dwarf or a dropsical person, he says: Blessed be He who makes strange creatures. If he sees one with an amputated limb, or blind, or flat-headed, or lame, or smitten with boils, or pock-marked, he says: Blessed be the true Judge (*dayan ha'emet*).' There is no contradiction; one blessing is said if he is so from birth, the other if he became so afterwards. A proof of this is that he is placed in the same category as one with amputated limbs; this proves it.[171]

Here, the Talmud notes impairments that one is born with such as skin discoloration or dwarfism, and for these individuals the benediction that is reserved is one that thanks God for creating a variety of creatures. This reflects positively for those who are born with physically distinctive attributes as they are categorized into the grouping of all of God's various creatures, with no value judgement being placed upon them.

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[170] See pages 39-41, for discussion of the positive reflection of the appropriate benediction said over seeing a disabled child.

[171] English taken from: Rabbi I. Epstein. editor. M. Simon. translation. *op. cit.* p. 365.

The blessing reserved for those who acquire a disability after early childhood years reflects less positively on these individuals. The blessing that ends in "true Judge" is usually recited by those who have suffered a great tragedy, such as being informed of a relative's death, or any other bad tiding.[172] Marx believes that this blessing is reserved for those who acquire a disability, because he or she has suffered such a tremendous psychological experience that feelings of tragedy and grief surely abound for this individual.[173] Although Marx does not sight the following text, it lends support to his theory. "This teaching (to say the blessing "true Judge") applies (to those people who were born) whole and later changed. But if (ones sees a person who) was born that way he says, 'Blessed ... varied creatures."[174] This Talmudic text distinguishes the loss felt at no longer being a "whole" individual. The one who acquires a disability remains forever as less than complete.

Marx's reasoning lends a positive slant to the "true judge" blessing. It is not the disabled person, however, who recites the blessing, but rather the able-bodied person upon encountering the disabled. Therefore, whose grief or loss is being recognized by the blessing? It is possible that the able-bodied person feels grief over the loss of their fully functioning friend, such as the loss of his or her walking companion or the great empathy he or he might extend to a friend suffering from the

[172] m. Berachot 9:2
[173] T. Marx, *op. cit.* p. 354-355.
[174] p. Berakhot 9:1, J. Abrams sites this text in her work. J. Abrams, *op. cit.* p. 119.

physical pains of leprosy. This being said, the one who truly grieves or suffers is the person who is no longer whole, not the outside person who recites the blessing.

Marx's reasoning is weak. The rabbinic texts make no such attempt to render a positive slant to the blessing. In fact, one sees the blessing of "true Judge" being recounted specifically because of an acquired disability due to divine punishment. B. Berakoth 54b reads, "We understand (why the blessing should be said over) all the others, because they are miracles, but the transformation of Lot's wife was a punishment. One should say on seeing it, 'Blessed be the true Judge.'"[175]

Therefore, if a person is born without an impairment and only later acquires one, the disability is clearly a symbol of divine punishment.[176] The able-bodied person then notes this divine retribution, at the time that he or she encounters the disable-bodied individual. One should note that the blessing is to be recited only on the first encounter with the disabled individual, acknowledging the wonder at the unusual sight.[177]

Since both of these benedictions are reserved for the able-bodied to recite, one might find less than genuine that the able-bodied determine the sense of loss. Meaning that if one is born with a disability they have suffered no loss versus those who acquire a disability and become less whole. It is hard to believe that a child who is blind or lame does not feel some sense of loss, punishment, or psychological

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[175] English taken from: Rabbi I. Epstein. editor. Maurice Simon. translation. *op. cit.* p. 332.
[176] J. Abrams, *op. cit.* p. 119.
[177] T. Marx, *op. cit.* p. 355.

damage. In fact, this is counterintuitive when one takes into the account the life long opportunity the born disabled have to recite *birkhat ha'gomel*, the benediction of gratitude, that can only be recited after the child has overcome the usual range of emotions that includes bitter resentment.[178]

Furthermore, as discussed earlier in the chapter, the stigma associated with the person who acquires a disability is only that much more severe.[179] If cognitively sound, he or she realizes that they no longer belong to the "normal" category. This person is forced to suffer the great amount of guilt associated with disability as punishment, not to mention the weight of the scrutiny of their peers who try to pinpoint the sin for which this person has become disabled.

The benediction for those born with the disability reflects a more positive acceptance of these particular individuals versus the benediction that is reserved for the receipt of bad tidings, which is employed upon seeing those who become disabled later in life. This particular difference by age differential leaves little to be desired for those individuals who fall into the parameters of this chapter.

2. Summary

Just as in the previous chapter, the message the tradition offers in terms of those who acquire disabilities in adulthood is mixed. The negative overtones of divine punishment for sin can hardly be forgotten, even in the light of numerous

[178] For full discussion on *birkhat ha'gomel* turn to chapter two pages 43-44.

positive elements for this age cohort. For example, in this chapter those who come into a disability could do so as a sign of a gift from God or even to bring one closer to God. Also, there are prominent sages who acquire blindness, and individuals who come into the disability of blindness maintain the ability for halakhic participation.

This broad age cohort appears to be the "unprotected" group. The child with a disability is protected both by the blessing over varied creatures, and by the sheltering of his or her parents, extended family, and village.[180] (The elderly cohort, as will be examined in chapter four, has its own protective mechanisms.) But, the age group post religious majority through the working years has little of such protection.

The texts hint that adulthood is the period of time that one must absorb all of life's triumphs, tribulations, and even disabilities, as they come. As the blessing *dayan ha'emet*, true judge, indicates, the stricken adult must simply accept his or her fate. According to traditional theology, these individuals are at the hands of divine mercy. Therefore, regardless of anger, bitterness, or resentment that arises upon the acquisition of a disability, one must simply accept his or her punishment regardless of whether he or she can reason out the sin that brought this consequence.

Traditional theology cannot allow God to be in the wrong. Thus, for this age cohort acceptance of the disability remains at the core. Perhaps, this is why folk tales

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[179] See pages 50-52 of this chapter.
[180] Refer to "sociological implications" on pages 42-43 in chapter two.

grew up surrounding Nahum Ish Gamzu.[181] He was the great sage, who served as a role model for accepting one's fate. Even though he was trying to perform an act of generosity, he failed. In Nahum's eyes, this was a sin for which he self-imposed punishment. He suffered greatly with amputated hands and feet, blindness and boils, for something that many would not necessarily see as a sin. Nahum does not simply suffer; he is a role model. For even though his disabilities were extensive, he lives up to the translation of his name, and says: 'this too is also good.'[182] Nahum's level of acceptance of his impairments is extraordinary, and the rabbis use it to serve as the best example for acceptance of divine judgement.

Therefore, the theological argument is clear: God is just. This, however, does not resolve the ethical dilemma of a just deity that punishes for "unknown" transgressions. Being forced to accept punishment in these cases where the "sin" is unknown is all but intolerable. How much the more so in the case where one has been given both financial restitution by the batterer and a sincere verbal apology. The individual still suffers under the weight of the disability and the theological notion that God is punishing him or her. The underlying message still remains mixed and cold for this age cohort. As the sages might reason, God got you for something, now accept it.

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[181] See section on Nahum Ish Gamzu in this chapter pages 75-79. See also p. Peah 8:9 and b. Ta'anith 20b

[182] b. Sanhedrin 108b

CHAPTER FOUR: DISABILITIES AND THE AGED

A. INTRODUCTION

B. MATERIALS WITH NEGATIVE IMPLICATIONS

C. MATERIALS WITH POSITIVE IMPLICATIONS

D. AGE DIFFERENTIAL

A. Introduction

Practically everyone experiences a decline in physical functioning with advancing age. The decline may be in the loss of fine motor skills, difficulties with locomotion, hearing difficulties, and loss of sight, to name just a few. Mental impairments may also occur as one ages; there is a possibility for deteriorating memory skills, either short or long term, and, for some, senile dementia. All of these declines are accompanied by psychological struggles, as one learns to cope with them.

As noted in the previous chapter, the new impairment brings with it a wide range of emotions as it affects everyday living.[183] The newly impaired elderly individual is forced to re-evaluate him or herself, as the body is a set of relationships that link the outside world and the mind into a system.[184] The disabled elderly must reassesses how the newly acquired disabilities affect his or her relationships to the outer world. The disabled elderly must cope with the transition from the "normal"

[183] See pages 50-51, the sociological overview in the chapter of adult onset disabilities.

and vibrant category, to a category that he or she knows is socially stigmatized by society. For many, the defining psychological factor is the association that aging has with death. This means that the "normal" group sees the elderly person in a negative light, and the elderly individual begins to cope with the concept of mortality.

Murphy comments on how American culture appears to value life, "The very old are avoided or treated as infantile, and the disable-bodied are pensioned off or relegated to the status of outsiders."[185] In communities where "wholeness" of body is important, such as the Jewish communities of the Biblical and rabbinic periods, the process of aging is a challenge. For the Biblical period, the Jewish leader and prophet Moses best exemplifies the preference for a long and healthy life. Moses lives to be 120 years of age, and dies without the diminishing of any of his capacities. "Moses was one hundred and twenty years old when he died; his eyes were undimmed and his vigor unabated (Deuteronomy 34:7)."[186] Moses is therefore set as the ideal, to which Jews today continue referring to in offering blessings on a birthday, "May you live 120 years" (a long life like Moses with great health until the last day). The case of Moses demonstrates that the Jews valued "wholeness" of body in the Biblical period.

The rabbis adopted the figure of Moses as an example of healthy long life as well. The value of "wholeness" of the individual, however, had a special meaning in

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[184] R. Murphy, *op. cit.* p. 113

[185] ibid. p. 114. This is not unique to American culture, it includes multiple societies such as Japan and some European societies. However, this is not universal to all societies, i.e. the Chinese show great reverence to the elderly.

[186] English from: *JPS English-Hebrew Tanakh, op. cit.* p. 454.

the rabbinic system. This period emphasized *da'at*, life long learning, and living a halakhic life. The loss of mental function and physical strains on the body generally affects one's ability to fulfill *mitzvot* and remain a vibrant member in this community. The challenge of aging accompanied by loss of faculties surely raises challenges to the observant Jew. Thus, the early halakhic literature provides commentary on the role of the elderly disabled within Jewish society.

Jewish societies, however, maintain a value that commands each person to "revere the elderly." This value is challenged, because in many societies, including Jewish societies, people find it difficult to cope with the aged.[187] The natural aversion to the elderly stems from the ever present reminder for the younger generations of death. The process of aging, and natural deterioration, is difficult then for both the "normal" group and the person who is aging and entering into his or her elderly years. As Marx notes, "It takes a rare combination of intelligence, courage, and persistence to conquer the mental and physical quarantine thrown up around the disabled by a society that secretly sees in them its own epitaph."[188]

Clarifying what constitutes "elderly" within early halakhic literature is difficult. From, the case of Moses, one knows the Biblical literature prizes long life. This is further demonstrated by early Biblical characters, of archaic and mythical nature, such as Adam and his son Seth who lived 930 years and 912 years,

[187] This value will be discussed later in the chapter under positive materials. Also, this value is emphasized in Israel's modern society. The buses in Israel all have signs on them that ask riders to "rise before the elderly" i.e. give up the seat out of respect for an elderly person.

respectively.[189] Genesis chapter five lists many Biblical characters whose lives totaled 700-960 years. Yet, throughout the text of the Bible life spans begin to decrease, but still remaining relatively long. For example, Abraham lived 175 years, "And Abraham breathed his last, dying at a good ripe age, old and contented," while his son Isaac lived 180 years.[190] At least in theory, the Biblical elderly meant living to great age, such as the revered Moses (120). Yet, the most realistic picture of old age is depicted in Psalms 90:10, "The span of our life is seventy years, or, given the strength, eighty years."[191]

The rabbinic materials move on from the definition of the length of our days found in Psalms. In m. Avot 5:21, a list of ages is followed by a description of one's status in life:

> At five years old (one is fit) for Scripture,
> At ten years for the Mishnah,
> At thirteen for the commandments,
> At fifteen for the Talmud,
> At eighteen for the bride-chamber,
> At twenty for pursuing (a calling),
> At thirty for authority,
> At forty for discernment,
> At fifty for counsel,
> At sixty (fit for) being an elder (old age),
> At seventy for gray-hairs,
> At eighty for special strength,
> At ninety for bowed back,

[188] ibid. p. 161
[189] Genesis 5:5, and 5:8
[190] Genesis 25:7-8 and 35:28, and Deuteronomy 34:7
[191] English from: *JPS Hebrew-English Tanakh, op. cit.* p. 1527.

> And at one-hundred a man is as one that has (already) died and passed away and ceased from the world.[192]

In the rabbinic system ones sees that wisdom and knowledge peaks for people who are forty and fifty. At the age of sixty, he or she has reached the elderly status, or old age. If one lives to seventy, physical signs of aging are clearly evident with gray hair, and a life of eighty years was doubtless unusual. Thus, those who reached this age were held to possess a special level of strength. By ninety, the physical impairment of a crooked back is surely emblematic of the disabilities of the very old. If one lives to one-hundred, quality of life has surely so diminished that it is as if the person has already died! This is an indication that physical or mental impairments are so severely limiting that the person is no longer a functioning member of society.

The process of aging in Psalms and m. Avot set a more realistic age for the definition of the elderly. By the age of sixty, one begins to experience physical decline, whether it is the decreased speed at which one heals or the beginning of the loss of hearing. The possibility of becoming impaired increases as the years increase becoming a probable fate. It is difficult to pin-point exactly the age at which one is considered elderly, but certainly the process of aging is evident by one's seventies and the elderly years are clearly present for those eighty and above. All in all a person was probably considered "getting on in years" by the age of sixty.

Reviewing the traditional materials pertaining to those who acquire a disability in the elderly years will define the inherent difficulties in approaching the

[192] English from: H. Danby, *op. cit.*, p. 458.

concept of mortality, the value of "revering the elderly" in the face of desired "wholeness" of a person, and the psychological stress that the physical impairments of aging place on a person who has lived an upright life.

B. MATERIALS WITH NEGATIVE IMPLICATIONS

1. Mortality as Disability

"The sentence of death as a basic and permanent disability upon humankind is my (Marx) preferred reading of the verse, 'for on the day you eat of it, you shall surely die (Genesis 2:17).'"[193] Marx develops the concept of "original disability," meaning that human's mortality is the true congenital disability shared by all humankind. God forewarned Adam and Eve, telling them not to eat from the Tree of Knowledge in the Garden of Eden. Yet, Adam and Eve chose to ignore God's restriction, even though God warns them in the same verse that death would be the consequence for disobedience.[194]

In disobeying God, they defy deity. This brings Marx to describe their actions not as a moral failure but as a theological failure.[195] Marx fails to clearly distinguish the difference between moral and theological failures. Some might argue that theology is the structural basis from which cultures build their sense of morality.

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[193] T. Marx, *op. cit.* p. 290. The concept of "original disability" is taken from Marx's work pages 290-292.
[194] Genesis 2:17

Needless to say, in failing God, Adam and Eve suffer several punishments, the worst of which may have been the "infliction of this ultimate disability, death."[196] Adam's punishment is described in Genesis 3:19, "By the sweat of your brow shall you get bread to eat, until you return to the ground- for from it you were taken. For dust you are, and to dust shall you return."[197] For his lack of respect of divine power, Adam must work the land, and it is clear that he will eventually be returning to the earth in his death. Interestingly, God does not strike Adam and Eve with immediate death. Adam's lifelong punishment of working the land and Eve's of painful childbirth clearly indicates that God's intention for them was to live a full life until the age of mortality drew near.[198] Also, the Bible tells us that Adam lived 930 years (Genesis 5:5), so although death would be eventual, he had time to reach his elderly years before suffering his ultimate disability, death.

From this promise of death every human being knows that no matter how healthy one strives to be, or how physically fit one is, the disability of mortality will still be every person's reality. "Indeed, for most of us, the process of this deterioration is experienced in stages, as we age at different rates for different functions of the body: vision, hearing, sexual vigor, locomotion, reflexes, etc."[199]

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[195] T. Marx, *op. cit.* p. 290
[196] ibid.
[197] English taken from: *JPS Hebrew-English Tanakh, op. cit.* p. 6.
[198] Adam's punishment Genesis 3:19. Eve's punishment Genesis 3:16
[199] T. Marx, *op. cit.* p. 290-291.

Acceptance of this fate of body deterioration is demonstrated in b. Shabbat 151b:

> *And the clouds return after the rain* (Ecclesiastes12:2) This is the light of man's eyes (his eyesight), which is lost after weeping.[200] Samuel (ca. 220-250 CE, Babylonia) said: 'For tears, until the age of forty there is a recovery, but thenceforth there is no recovery.' And R. Nahum (ca. 80-110 CE) said: 'As for kohl (an eye-salve), until the age of forty it improves (the eyesight), but there after, even if the paint-stick is as thick (with paint – eye-salve) as a weaver's pin, it may indeed stay (ravages of time), but will certainly not improve (the eyesight).'[201]

The rabbis note one form of age-related impairment starting at age forty. The recognition of tears weakening the eyes after forty indicates the natural deterioration of the eyes with the aging process. Rav Nahum does believe that treating the eyes with medication at this point can help to keep one from going blind but will never actually restore healing, "wholeness," to the eyes.

The rabbinic literature does not only comment on the physical ailments with age decline, but also notes the inherent psychological difficulties in aging:

> It was taught, R. Jose b. Kisma (ca. 110-135 CE, Babylonia) said: 'Two are better than three, and woe for the one thing that goes and does not return.' What is that? Said R. Hisda (ca 290-320 CE, Babylonia): 'One's youth.' When R. Dimi (ca 300-340 CE, Babylonia) came, he said: 'Youth is a crown of roses; old age is a crown of willow-rods.'[202]

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[200] The Soncino explanation of this phrase in the footnote reads, "The weeping of old age – caused by trouble and sickness- impairs or destroys the eyesight." This refers to runny eyes that were most likely a sign of eye-disease that led to deterioration of sight.

[201] b. Shabbat 151b. English taken from: Rabbi I. Epstein. editor. Rabbi H. Freedman. translation. *The Babylonian Talmud: Seder Mo'ed, Tractate Shabbat*. Vol. 2 (English Only Edition) London: The Soncino Press, 1938. p. 776

[202] b. Shabbat 152a. English taken from: ibid. p. 775

Each of these three sages comments on the struggles of aging. Rabbi Jose refers to a "third" leg. The extra leg indicates the necessity for the use of a cane, a support system. The second part of his statement indicates why a cane was necessary, "woe for the one thing that goes and does not return."[203] Rav Hisda makes clear this cryptic message by saying that the use of a cane comes when one's youth has slipped past, never to return. Finally, Rav Dimi enters this philosophical discussion on aging. He recounts the blooms of roses that crown a person in their youth. The crown speaks to the kingly empowered sense one has in his or her youth. The use of roses may also hint at the blossoms of spring or youth, or the fact that rose bushes bloom over and over again. When a person is young, he or she feels this renewed blossoming throughout the seasons of his or her life. But, Rav Dimi did not end there; he calls old age "a crown of willow-rods."[204] By this, he is referring to a heavy-load or great weight that one's body is forced to struggle to uphold.

Another rabbinic text explores the hardships of aging on one's mental capacity.

> Elisha b. Abuyah (ca. 110-135 CE) says, 'He who learns when a child- what is he like? Ink put down on a clean piece of paper. And he who learns when he is an old man- what is he like? Ink put down on a paper full of erasures.'[205]

The modern expression "an old dog can not learn new tricks" is suggested by this rabbinic text. According to the mishnah, at a certain point, life long learning is

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[203] ibid.
[204] ibid.

brought to an end, because the elderly can no longer learn. Elisha b. Abuyah readily identifies the page of the elderly to be blank, while the young can absorb and record the information.

The rabbinic attitude towards aging clearly recognizes the reality of aging. The Talmud illustrates this when it takes into account the physical deterioration and mental deterioration of the elderly as it results in neediness. B. Kiddushin 82b states, "Every profession in the world is of help to a person only in one's youth, but in one's old age, one is exposed to hunger."[206]

In any event, the picture of aging is not pleasant. The sages indirectly comment on what Marx calls the "original disability" by recognizing the deterioration of the body and the struggle one faces with aging. Accepting one's new limitations remains difficult, whether acquired in adulthood or in the elderly years. The person is forced to reassess him or herself in terms of relationships with others, in an attempt to accept the new limitations. The inevitable process of aging is aptly described in Ecclesiastes:

> So appreciate your vigor in the days of your youth, before those days of sorrow come and those years arrive of which you will say, 'I have no pleasure in them,' before sun and light and moon and stars grow dark, and the clouds come back again after the rain: When the guards of the house (i.e. the arms) become shaky, And the men of valor (i.e. the legs) are bent, And the maids that grind (i.e. the teeth), grown few

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[205] m. Avot 4:20. English from: J. Neusner, *op. cit.* p. 684

[206] Some materials from this chapter, including this quote, were der ed from a teacher's resource book concerning the teaching of *mitzvot*. The section on Honoring the Elderly is found in pages 119-122. Barbara Kadden and Bruce Kadden. *Teaching Mitzvot: Concepts, Values, and Activities*. Denver: ARE Publishing, 1996.

> are idle, And the doors to the street (i.e. the ears) are shut with the noise of the hand mill growing fainter...[207]

The process of aging and its accompanying impairments were a reality in Biblical and early rabbinic periods, as much so as they are today. For those in traditional Jewish society that subscribe to a just God, as they must, Adam and Eve's theological or moral failure resulting in death may mark the root cause for the universal process of aging that humankind undergoes.

2. Blessing of "True Judge"

As already discussed, there are two benedictions to be recited by the able-bodied upon seeing a person with disabilities. The benediction utilized depends on the age at which one acquires the impairment.

> R. Joshua b. Levi (ca. 220-250 CE, Palestine) said; 'On seeing pock-marked persons one says: Blessed be He who makes strange creature (*mishaneh ha'briyot*).' An objection was raised: 'If one sees a negro, a very red or very white person, a hunchback, a dwarf or a dropsical person, he says: Blessed be He who makes strange creatures. If he sees one with an amputated limb, or blind, or flat-headed, or lame, or smitten with boils, or pock-marked, he says: Blessed be the true Judge (*dayan ha'emet*).' There is no contradiction; one blessing is said if he is so from birth, the other if he became so afterwards. A proof of this is that he is placed in the same category as one with amputated limbs; this proves it.[208]

The Talmud applies the benediction that thanks God for a "variety of creatures," to individual's who are born with impairments, such as skin discoloration

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[207] Ecclesiastes 12:1-4. English taken from: *JPS English-Hebrew Tanakh, op. cit.* p. 1782-1783.
[208] b. Berakhot 58b. English taken from: Rabbi I. Epstein. editor. M. Simon. translation. *op. cit.* p. 365.

or dwarfism.[209] This reflects positively for those who are born with physically distinctive attributes as they are categorized into the grouping of all of God's various creatures, with no value judgement being placed upon them.

The other blessing is reserved for those who acquire a disability after childhood, reflects less positively on these individuals.[210] The blessing that ends in "true Judge" is usually recited by those who have suffered a great tragedy, such as being informed of a relative's death, or any other bad tiding.[211] The blessing of "true Judge" is specifically recounted, because of the traditional belief that acquired disability in adulthood is the consequence of divine retribution for sin.[212] B. Berakoth 54b reads, "We understand (why the blessing should be said over) all the others, because they are miracles, but the transformation of Lot's wife was a punishment. One should say on seeing it, 'Blessed be the true Judge.'"[213] According to this passage, one who does good receives good, but the one who does bad receives bad, so one must recite the blessing of "true judge."

Marx illustrates sin leading to blindness in old age through the Biblical character Isaac.[214] "When Isaac was old and his eyes were too dim to see... (Genesis 27:1)," clearly this phrase links blindness to increasing age. Marx believes the root cause of Isaac's blindness is not particularly his own sin, but either his mother's or

[209] This benediction and its positive nature is discussed completely in chapter 2 pages 39-41, in terms of those who are born with disabilities.
[210] The blessing of "true judge" has been discussed completely in chapter 3 pages 96-99.
[211] m. Berakhot 9:2
[212] Sin leading to divine punishment is discussed in chapter three pages 52-62.

the deceit by Rebecca and Jacob.[215] Isaac's mother, Sarah, laughed when she was told that her barrenness would end, and she would conceive a child (Genesis 18:11-15). She thought herself to old to conceive and doubted the deity. When confronted about her laughter, Sarah lies saying, "I did not laugh (Genesis 18:15)." Sarah bearing a child in her old age, while doubting God's justness, is symmetrically connected to Isaac's blindness in old age. As seen in chapter two, a parent's sin can result in divine retribution being imposed upon the child.[216]

Sin is also linked to Isaac's blindness through the collusion of Jacob and Rebecca, in order that Jacob, not his twin Esau, receive his father's blessing. Jacob and Rebecca were taking advantage of Isaac's weakened eyesight (Genesis 27). This means that the consequence of blindness had already occurred, prior to the act of deceit, making this theory questionable. Since he was already blind, how can Isaac's blindness be a result of this particular sin? The only logic to be applied here is found in the midrash *Tanna de'Bei Eliyahu,* where children born with disabilities is resovled by the sages as the true justness of God who knows these children's future sins.[217] Perhaps, God blinded Isaac when God foresaw his future.

The logic of Isaac's blindness imposed for sin may not be absolute; yet, his acquisition of blindness in old age makes him a candidate for the blessing of "true

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[213] English taken from: Rabbi I. Epstein. editor. M. Simon. translation. *op. cit.* p. 332.
[214] T. Marx, *op. cit.* p. 317-318.
[215] ibid. p. 317
[216] See chapter two pages 27-29.
[217] *Tana de-Bei Eliyahu. (Seder Eliyahu Raba v'Seder Eliyahu Zuta). op. cit.* par. 23

judge." According to traditional society, the justness of the deity is not to be questioned here or in any case, just merely accepted. Isaac's fate is divine retribution whatever the sin: whether it was his mother's sin of laughing, Isaac's hidden sin only known by the deity, the sin of Rebecca's and Jacob's collusion, or simply the aging process accredited to the sins of Adam and Eve. The concept that everyone sins, even hidden sins, and suffers the consequences of divine justice is stated directly in Psalms 90:8-11:

> You have set our iniquities before You, our *hidden sins* in the light of Your face. All our days pass away in Your wrath; we spend our years like a sigh. The span of our life is seventy years, or, given the strength, eighty years; but the best of them are trouble and sorrow. They pass by speedily and we are in darkness. Who can know Your furious anger? Your wrath matches the fear of You.[218]

Therefore, with Isaac or any other elderly person who suffers impairments as the body degenerates, all are subject to the benediction of "true judge." God is the ultimate justice who imposes the ultimate disability of mortality and all that accompanies it as the body draws near to the age of seventy or eighty years.

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[218] English from: *JPS Hebrew-English Tanakh, op. cit.* p. 1527.

C. Materials with Positive Implications

1. Acceptance of the Disabilities Associated with Aging

Abrams rejects this notion of "mortality as disability" suggested by Marx. She believes that there are several cases where disabilities simply come as a product of old age, where no sin involved.[219] Thus, the disability atones for nothing, including hidden sins. Her proof texts are found in the cases of Ahiya the prophet and Rabbi Shimon ben Halafta (ca. 170-200 CE, Babylonia). Sighting the text in I Kings 14:4, "Now Ahiya could not see, for his eyes had become sightless with age," Abram's concludes that this element of blindness was vital for the symmetry of the text and actually helps the prophet to function with greater perception.[220] Ahiya's diminished sight according to the Biblical text is a matter of aging, without any mention of punishment or sin attached to the explanation of age.

In light of the requirement to recite the benediction "true judge", Abram's argument may not be so convincing. She, however, does use another text from the rabbinic material to support the idea that aging should be an accepted occurrence not as a sin, but simply as an expected process. Aging and its accompanying signs of physical deterioration should be considered normal and acknowledged as such by the person who is aging as well as those around him or her.

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[219] J. Abrams, *op. cit.* p. 114-115

[220] For all of the story of Ahiya read chapter fourteen if I Kings. J. Abrams, *op. cit.* p. 87

> R. Simeon b. Halafta went to greet Rabbi (Rabbi Yehuda HaNasi, ca. 170-200 CE, Babylonia) every new moon. When he had grown old he was no longer able to go. One day he did go. Rabbi asked him: 'What is the matter that you have not been coming up to me as you were wont?' R. Simeon answered: 'The distant has become near and the near distant, two have turned into three, that which makes peace I the home has ceased.' (An explanation of the foregoing): 'The distant has become near' means: The eyes which used to see at a distance do not now see even near; 'The near has become distant' means: The ears which heard the first time, do not now hear even at the hundredth time (of speaking); 'Two have turned into three' means: a stick in addition to two legs; 'That which makes peace between husband and wife' means: (carnal desire or sexual desire). *Because man goes to his eternal home* (Ecclesiastes 12:5). It says not 'eternal home,' but 'his eternal home' which teaches us that every righteous man has an eternity of his own.[221]

This text illustrates a sage lamenting on his difficulties with the process of aging.[222] The signs of aging include problems with his eyes, ability to walk, hearing loss, and he even mentions sexual vigor. According to Abrams this midrash illustrates that, "disease or disability can be seen as punishment for sin when they occur in youth or in the prime of life, when they appear in old age disabilities are viewed quite differently."[223] She reasons this because of the last sentiment that the midrash expresses regarding the righteousness of human beings. The two individuals in the text are revered as wise sages, they clearly lived halakhic and upright lives making them righteous. And as the text promises, for each person who lives a righteous life he or she will have his or her eternal home or reward represented by the

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[221] Leviticus Rabbah 18:1. Rabbi H. Freedman and Maurice Simon, editors. Rev. J. Israelstam and Judith Slotki, translators. Midrash *Rabbah: Leviticus*. London: The Soncino Press, 1939. p. 225
[222] See J. Abrams, *op. cit.* p. 114-115 for her fuller explanation of this text.
[223] ibid. p. 114

world to come. Thus, a picture of aging that relates disabilities to the expected processes of the body over time and not as a measure of atonement.

2. Revering the Elderly

One of the core values of Judaism is human dignity. Every human deserves dignity, and respect, because *tzelem Elohim* (the image of God) is within each person. All are responsible for honoring or revering the other: m. Avot 4:1 recognizes the universal nature of this command when it states, "Who is honored? He who honors everybody." Also, m. Avot continues to reason why dignity and respect are so important,

> He would say, 'Do not despise anybody and do not treat anything as unlikely. For you have no one who does not have his time, and you have nothing which does not have its place.'[224]

This statement is typically rendered in English as, "do not despise any person, as there is no one who does not have his hour." When this concept of dignity is applied to the aging, it is certainly clear that any negative feelings or natural aversions one might harbor towards the elderly should not be upheld. It is inevitable that the majority of humans will suffer the similar fate of aging; therefore, do not despise now what one will ultimately become.

The Jewish tradition calls for a special level of reverence for certain people, such as one's teachers, parents, and the elderly. Leviticus 19:32 reads,

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[224] m. Avot 4:3. English taken from: J. Neusner, *op. cit.* p. 682

> You shall rise before the aged and show deference (reverence) to the old, you shall fear your God, I am Adonai."[225]

This command is found in what Jewish tradition calls the "holiness code." The code instructs humankind on how to live holy lives in honor of the holiness reserved for God. As God is revered, so too should humans, who are created in God's image, be revered.

The elderly are singled out from the universal message of dignity for all, in this holiness code. This may be accredited to the fact that caring for the aged can be difficult and trying; thus, there is a command to remind each person to act appropriately in regards to the elderly. Also, it could simply be due to the fact that one who lives to a ripe age deserves great dignity and respect. The life spent learning, performing *mitzvot*, and living a life dedicated to God, is a great feat deserving of special recognition. In fact, reverence of the elderly is so important that Jewish tradition blames the lack of it for one of its greatest catastrophes. The destruction of the Temple occurred for several reasons, one of which was the lack of reverence for the elderly.[226] The reverence due the elderly is suggested further by the rabbis in Midrash Rabbah, when it states that the aged are the ones who uphold Israel.[227]

The honor of the elderly affords this age cohort some special privileges or treatments. For example, ordinarily a person must return a lost article to its rightful

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[225] English from: *JPS Hebrew-English Tanakh*, *op. cit.* p. 253
[226] Lamentations 5:12

owner and the person who lost the property should seek it out, as well. The elderly, however, are exempted from seeking out a lost article, in times when this is consistent with the person's dignity.[228] Here the tradition places the dignity of the elderly before physical property. This is further demonstrated in a text from b. Kiddushin 32a. In this case, the text questions just how far a child must extend himself in honoring his or her parents. The answer is that even if one's father throws his wallet into the sea, the son may not shame his father.[229] The son in this case is presumed to be an adult who is losing his potential inheritance. The motivation of the father, whether it derives from anger or senility, does not matter. Regardless of the reason, the son may not rebuke his elderly parent. This story further illustrates the difficulty of working with the aging person, a possible reason for the specific command of revering the elderly in Leviticus.

The other possible reason for reverence of the elderly was in recognition of the life that he or she has lived up to this point.

> R. Yose b. R. Judah of Kefar Habbabli (ca 170-200 CE) says, 'He who learns from children- what is he like? One who eats sour grapes and drinks fresh wine. And he who learns from old men- what is he like? He who eats ripe grapes and drinks vintage wine.'[230]

Aged wine is more valuable having a deeper flavor, versus the fresh wine, which tastes as sour as freshly squeezed grapes. Thus, the text instructs the reader of

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[227] Midrash Rabbah: Exodus 38,
[228] b. Berakhot 1ɔb
[229] b. Kiddushin 32a. For details of an adult child revering his or her parents refer to Maimonides, *M.T. Hilchot Mamrim* chapter six.

the value of learning from the wisdom of those who are elderly, who have lived a deep and rich life. The elderly persons' understanding of life is deeper and worthy of learning from.

Human dignity is universal in nature; yet, in the case of the elderly the tradition maintains a special level of reverence. This is demonstrated through the respect of the lifetime of wisdom that he or she has accumulated, the instruction that even when an adult child has reason to lose patience with a parent he or she may not shame the elderly parent, and through other compassionate coping mechanisms to be utilized with the elderly.

3. Halakhic Inclusion

When a person gains a disability due to aging, it appears that living a halakhic life prior to old age is taken into account in terms of inclusion within traditional observance. In some cases, the halakhah seems to broaden its scope to include the elderly.

Similarly, as in the case of the blind, those who acquire a disability in adulthood receive credit for having both exposure to and participation in the *mitzvot*.[231] An example of this occurs in the case of *terumah*, a heave-offering. This is the special religious taxation posed on food that Jews were obligated to bring as an

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[230] m. Avot 4:20. English from: J. Neusner, *op. cit.* p. 684
[231] See chapter three page 86-93.

offering for the priests at the Temple.[232] The offering required one to be able to decipher the best of one's gleanings from his or her fields and bringing them to the Temple. Many obstacles exist for the disabled in the fulfillment of this *mitzvah*, such as the visual acuity to decipher the best quality produce and the physical capacity to travel to the Temple etc.

In the case of the *heresh*, the deaf-mute, the Tosefta on the mishnah decides that the person who loses hearing at some point in his or her life is still able to participate in the *mitzvah* of *terumah*:

> Rabban Simeon b. Gamliel (ca. 140-165 CE, Palestine) says, 'Who is the deaf-mute whose heave-offering is not valid (questions stems from m. Terumah 1:1)? Anyone who is was a deaf-mute from birth. But if he was of sound mind and became a deaf-mute, he may write (indicating his intention to separate a heave offering), and they may validate it for him... And each of these is equivalent to a person of sound mind in every respect.[233]

Essentially, this text applies to the elderly individual who loses their hearing as they age. The skills this person acquired prior to his or her present condition carries over permitting him or her to offer *terumah*. The lack of hearing, which is equated in many of the traditional texts with an impaired level of *da'at*, is not applied in this particular case of acquired hearing loss.[234] In fact, the impairment of the loss of hearing is linked solely to the person's physical functioning and not at all to a

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[232] See Deuteronomy 18:3-5

[233] t. Terumot 1:2. English from: Jacob Neusner and Richard Saranson. editors. Alan J. Avery-Peck. translator. *The Tosefta: Translated from the Hebrew First Division Zeraim*. New Jersey, Ktav Publishing House Inc., 1986. p. 129.

[234] See pages 13-14 in chapter one.

mental dysfunction, as the last phrase in the Tosefta indicates. This is an act of respect being extended to the person who is aging and whose physical functions are deteriorating. As aging is often assumed to be accompanied by deterioration of the mind, it would have been easy for the rabbis to have assumed mental deterioration, but Rabban Simeon ben Gamliel clarified the physical loss solely in terms of the body and not mind.

D. Age Differential

1. Overview of the Aging Process

As established earlier, m. Avot 5:21 lists the traditional view of the aging process:

> At five years old (one is fit) for Scripture,
> At ten years for the Mishnah,
> At thirteen for the commandments,
> At fifteen for the Talmud,
> At eighteen for the bride-chamber,
> At twenty for pursuing (a calling),
> At thirty for authority,
> At forty for discernment,
> At fifty for counsel,
> At sixty (fit for) being an elder (old age),
> At seventy for gray-hairs,
> At eighty for special strength,
> At ninety for bowed back,
> And at one-hundred a man is as one that has (already) died and passed away and ceased from the world.[235]

Clearly there is a natural process. The child begins to acquire his or her knowledge of the tradition, then fully enters into the responsibilities of adulthood,

such as full halakhic responsibility, marriage, and work. Eventually, more time passes and the person is deemed to have learned enough to be of significant wisdom and good counsel. Finally the aging process sets in with physical deterioration of the body, and eventually of the mind at the ripe age of one-hundred.

The mishnah helps one to understand the differences between the age cohorts. Before thirteen, the child is learning and not responsible. During the middle-age years, the adult shifts from basic living skills of marriage and work to peak in one's powers by thirty. These individuals are still valuable for the next several years, in terms of utilizing them for their extensive knowledge and ability to reason. However, by the time one reaches the elderly years, sixty onward, the mishnah indicates that there is not much learning left to be done and simply the body suffers under the weight of physical deterioration. The mishnah does not discredit the elderly persons' knowledge level nor is it disrespectful of the elderly, but it is honest in terms of the natural aging process.

This natural process is not only reaffirmed by the text concerning Rabbi Shimon ben Halafta, but it also teaches that impairments due to aging do not have to be linked with sin. This text bears repeating:

> R. Simeon b. Halafta (ca. 170-200 CE, Babylonia) went to greet Rabbi (Rabbi Yehuda HaNasi, ca. 170-200 CE, Babylonia) every new moon. When he had grown old he was no longer able to go. One day he did go. Rabbi asked him: 'What is the matter that you have not been coming up to me as you were wont?' R. Simeon answered: 'The distant has become near and the near distant, two have turned into

[235] English from: H. Danby, *op. cit.*, p. 458.

> three, that which makes peace I the home has ceased.' (An explanation of the foregoing): 'The distant has become near' means: The eyes which used to see at a distance do not now see even near; 'The near has become distant' means: The ears which heard the first time, do not now hear even at the hundredth time (of speaking); 'Two have turned into three' means: a stick in addition to two legs; 'That which makes peace between husband and wife' means: (carnal desire or sexual desire). *Because man goes to his eternal home* (Ecclesiastes 12:5). It says not 'eternal home,' but 'his eternal home' which teaches us that every righteous man has an eternity of his own.[236]

Standing in opposition to Marx's reasoning concerning the disability of mortality, both the Avot text and the Shimon ben Halafta midrashic story paint the simple picture of an expected deterioration of the body over time. The texts recognize the physical difficulties of aging, but do not discredit the elderly person's expertise gained over his or her lifetime. Disabilities for this age cohort appear to be a normal and natural phenomenon.

Interestingly, one of the responsibilities of all traditional Jews is to participate in the study of Torah. This includes those who are poor or rich, those who are young and those who are *very old and feeble*. No matter one's condition or age he or she is responsible for the study of Torah all the days of his or her life.[237] As study is not always linked to physical participation, even the physically disabled elderly are obligated in the pursuit of study and devotion to God. The wisdom of this age cohort was noted earlier in the chapter when learning from the aged was compared to

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[236] Leviticus Rabbah 18:1. Rabbi H. Freedman and Maurice Simon. editors. Rev. J. Israelstam and Judith Slotki. translators. Midrash *Rabbah: Leviticus.* London: The Soncino Press, 1939. p. 225

[237] See b. Ta'anith 27b, b. Bava Metzia 84a, and Maimonides *Hilchot Talmud Torah* 1:8-9

partaking of good wine versus learning from the young, which is like eating sour grapes.[238]

Another element belonging to this age cohort is the ability of those who age together to have natural sympathy for the other. This was illustrated earlier with the sharing of one's physical struggles between Rabbi Shimon ben Halafta and Rabbi Yehuda HaNasi in the midrash and the recorded conversation between Rabbi Yose, Rav Hisda, and Rav Dimi in the Talmud.[239] Erving Goffman calls this *cognitive recognition*, meaning that the individual is categorized by his or her particular social identity.[240] Typically the elderly person has aged within a circle of friends making him or her a familiar presence to the others. These social relationships, or social identity, determine how a person is received by those around him or her. Since, the "normal" group typically stigmatizes the elderly; he or she may feel isolated and rejected by general society. But, as the elderly person ages within his or her own age-cohort the familiarity with the suffering of impairments and the knowledge of the whole person, meaning what he or she was like in earlier years, affords them a more fuller social identity. The elderly impaired person amongst his or her peers is therefore not perceived as the "sinner" unlike the person in the adult age-cohort that acquires a disability. Rather, this age cohort provides a protective shield from others' misperceptions and anxiety surrounding the process of aging. The elderly age cohort

[238] See m. Avot 4:20 and p. 120 of this chapter.
[239] See Midrash Leviticus Rabbah 18:1 and b. Shabbat 152a, respectively. One can also refer to the texts in this chapter on pages 109-110 and 117.

uses the familiarity with the entire life of the aging person to look beyond impairments offering a natural level of sympathy, support, and respect for the disabled elderly recognizing the entire person's life history.

2. Respect for the Aged: A Coping Mechanism

Revering the elderly is commanded in Leviticus 19:32, "You shall rise before the aged and show deference (reverence) to the old, you shall fear your God, I am Adonai."[241] Yet, this concept needs further expansion here, because the special reverence for this age cohort is exhibited through compassionate coping mechanisms. First, however, the tradition clearly delineates what occurs when the younger generations fail to show respect for the elderly. Before the Messiah can appear, the Jewish tradition believes the world will be experiencing its utmost worst of times: lawlessness, disorder, and utter chaos. Such disastrous times or troubled days, according to b. Sotah 49b, will be occurring when the young show their elders a lack of respect and courtesy. This text finds further support in Isaiah 3:5, 'So the people shall oppress one another- each oppressing his fellow: *the young shall bully the old*..."[242] Clearly, the tradition places a significant level of importance on treating the elderly with respect, as the worst of times are due to the youths' lack of respect for, or the bullying of, the elderly.

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[240] E. Goffman, *op. cit.* p. 67.
[241] English from: *JPS Hebrew-English Tanakh*, *op. cit.* p. 253, This was established earlier in the chapter, see pages 118-119.

a. Compassionate Exclusion from Halakhah

Although, the disabled elderly are obligated to perform *mitzvot*, the tradition does recognize that some *mitzvot* are dependent on one's physical abilities. The tradition respects the elderly persons' desire to be a full functioning member of his or her Jewish society; yet, out of compassion it excuses him or her from certain halakhic duties. This is apparent in terms of who is obligated to appear at the Temple during "pilgrimage holidays". During these three-yearly holidays, all are asked to make a trip to the Temple to bring offerings, rejoice, and celebrate. According to m. Hagigah 1:1,

> All are subject to the command to appear, excepting a deaf-mute, an imbecile, a child, one of doubtful sex, one of double sex, women, slaves that have not been freed, a man that is lame or blind or sick or *aged*, and one that cannot go up (to Jerusalem) on his feet.[243]

According to the Talmud Yerushalmi, the dispensation for the aged is due to his potential inability to come by foot.[244] Because, it is a "pilgrimage holiday," the Talmud does not hold the elderly, whose locomotion ability might be deteriorating to such an arduous task. According to Rabbi Yose (ca. 135-170 CE) the intent of this exclusion is to impose a lenient ruling for the categories of the sick and elderly only.[245] The tradition offering a reason for the exclusion of a group of people from

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[242] English from: *JPS Hebrew-English Tanakh*, *op. cit.* p. 850
[243] H. Danby, *op. cit.*, p. 211.
[244] y. Hagigah 1:1
[245] ibid.

obligation of performing a *mitzvah* is a new innovation.[246] Excepting the reasons that one might intuit, up to this point exclusions were made in the tradition without the definition of any clear reason. Thus, this move towards leniency shows a great level of compassion for this age cohort.

b. Strategy for the Adult-Child to Revere the Aging Parent

The Jewish tradition maintains that the adult-child must revere his or her parents as commanded in the Ten Commandments and reiterated in the "holiness code" in Leviticus 19:3. This command of honoring is then related by the rabbis to the honor due to God in Proverbs 3:9, which reads "to honor God with your wealth." Therefore, an adult-child's respect for his or her aging parent is also demonstrated through the provision of care and services including food, shelter, and clothing. In other words, children are commanded to attend to their parent's needs.[247]

Furthermore, according to Gerald Blidstein, "The principle behind this pattern is clear: nothing is to be done that might diminish the dignity, and hence the feeling of worth, of one's parents."[248] Thus, the use of the text earlier from b. Kiddushin

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[246] J. Abrams, *op. cit.* p. 53

[247] Ruth Langer, "Honor Your Father and Mother: Care Giving as a Halakhic Responsibility" *Aging and the Aged in Jewish Law: Essays and Responsa.* Edited by Walter Jacob and Moshe Zemer. Pittsburg: Freehof Institute of Progressive Halakhah-Rodef Shalom Press, 1998.

[248] Professor, Blidstein of Ben Gurion University wrote a scholarly work on the command to revere one's parents.
Gerald Blidstein, *Honor Thy Father and Mother: Filial Responsibility in Jewish Law and Ethics.* New York: K'tav Publishing, 1975. p. 39

32b, which forbids the child from rebuking his parent even when the parent appears to be irrationally throwing his money into the sea.[249]

Furthermore, in Kiddushin 31a, Rav Assi (ca. 220-250 CE, Babylonia) was caring for his elderly mother whose physical requests became overwhelming. Her mental condition was deteriorating, and she demanded not only jewels, but she also expressed an unseemly desire towards her son. The sages deemed Rav Assi had fulfilled the command to revere as he indulge his mother's needs to the best of his ability, all but her final requests. In the end, however, Rav Assi is excused from personally caring for his mother and is instructed to hire someone else to oversee his mother's care.[250]

At first glance, the elderly person in this story appears to be abandoned in a time of great need, demonstrating a lack of compassion. The compassionate part of this coping mechanism, however, provides the adult-child with an opportunity for space from the mentally disabled aged. This space can assist the child in actually providing better support for, or reverence of, the aged. The tradition appears to recognize that a level of burnout may occur in this relationship, and protects the important values of human dignity and self-worth for both the aged parent and adult-child.

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[249] See page 120.

3. Judgment Day

As established in the negative materials of this chapter, the elderly who acquire disabilities are subject to the blessing of "divine judge." From this theological perspective, God is seen as just; and thus, the acquisition of impairments during the aging process is solely due to the sins during one's life. Yet, another day of divine justice is fast approaching for this age cohort, as mortality draws near.

The impairments one faces towards the end of life are often severe and debilitating. Yet, the length of time the impairments are suffered is shorter than any of the other age cohorts. It also seems that for those who lived a righteous life, God takes that fact into account upon the person's death. It is said in Genesis Rabbah 95:1, that God will heal the blind, deaf, lame, and the mute upon resurrection. Humankind will be restored to the ideal "wholeness," the same state that the role model of Moses left the earth. The disabled elderly are thus promised a return to their previous physical state as soon as his or her day of reckoning comes to fruition.

Furthermore, a traditional text teaches that God adjudicates the disabled person as an entire individual, the physical body and the soul. If one dedicated him or herself to the pursuit of a halakhic life through the study of Torah, this will be weighed in accordance with the sins during his or her lifetime. Therefore, even if

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[250] This text is further developed in Maimonides *Hilchot Mamrim* 6:1

someone is disabled, the mark of imposed punishment for sin, these will be taken into account with the intentions of that person's soul. This is illustrated in a parable:

> The body and the soul can both free themselves from judgement. Thus, the body can plead: The soul has sinned, that from the day it left me, I lie like a dumb stone in the grave. Whilst the soul can say: The body has sinned, that from the day I departed from it. I fly about in the air like a bird.' He replied: 'I will tell thee a parable. To what may this be compared? To a human king who owned a beautiful orchard which contained splendid figs. Now, he appointed two watchmen therein, one lame and the other blind. The lame man said to the blind, 'I see beautiful figs in the orchard. Come and take me upon your should, that we may procure and eat them.' So the lame bestrode the blind, procured and ate them. Some time after, the owner of the orchard came and inquired of them, 'Where are those beautiful figs?' The lame man replied, 'Have I then feet to walk with?' The blind man replied: 'Have I then eyes to see with?' What did he do? He placed the lame upon the blind and judged them together. So will the Holy One blessed be He, bring the soul, place it in the body, and judge them together, as it is written, *He will call to the heavens from above, and the earth, that he may judge his people* (Psalms 50:4). *He will call to the heavens from above*- this refers to the soul; *and to the earth that he may judge his people*- to the body.[251]

The parable makes explicit the unity of the body and the soul as they work in partnership. These two components must work together to commit a sin, and are thus judged together. Abram's makes an interesting deduction from this text, "A body without a soul is as disabled as a soul without a body."[252]

Therefore for the aged, it does not really seem to matter whether the impairments that come with aging are simply a process of aging or a result of sin.

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[251] b. Sanhedrin 91a-91b. English from: Rabbi I. Epstein. editor. Rabbi H. Freedman. translation. *The Babylonian Talmud: Seder Nezikin, Tractate Sanhedrin.* (English Only Version) Vol. 2. London: The Soncino Press, 1935. p. 611

[252] J. Abrams, *op. cit.*, p. 114

During the judgement day upon one's death, the body should be returned to its state of wholeness and the soul reunited with it. At this time, God will judge the entire person, as a "whole" being.

Although this return to "wholeness" appears to be compassionate and perhaps even something to look forward to, this most likely provides little comfort for the elderly person who feels the strains of the aging process with the deterioration of his or her body. This is a difficult time for the elderly as described in Ecclesiastes 12:1-4:

> So appreciate your vigor in the days of your youth, before those days of sorrow come and those years arrive of which you will say, 'I have no pleasure in them,' before sun and light and moon and stars grow dark, and the clouds come back again after the rain: When the guards of the house (i.e. the arms) become shaky, And the men of valor (i.e. the legs) are bent, And the maids that grind (i.e. the teeth), grown few are idle, And the doors to the street (i.e. the ears) are shut with the noise of the hand mill growing fainter...[253]

The disabled elderly must endure the physical pains, as well as the stigma and fear that the young associate with the aged. Even though living to a ripe old age is revered by the tradition i.e. the traditional birthday blessing to live a long life just like Moses, this idealistic attitude strongly contrasts with the reality reflected in the Biblical and rabbinic texts. This juxtaposition of the reality and the ideal manifests in the life circumstances faced by the elderly. Ideally, comforts for the disabled aged lie in the respect that the tradition demands for them, the inclusion in halakhic life to the extent that he or she is physically and mentally able, and the knowledge of a shared

fate amongst other members of this age cohort. Yet, the reality of the deterioration of the body is clearly understood as a harbinger of the end of life. The aches, pains, and physical impairments hurt no less because of the traditional requirements of respect and compassion from the young.

[253] Ecclesiastes 12:1-4. English taken from: *JPS English-Hebrew Tanakh*, *op. cit.* p. 1782-1783.

CHAPTER FIVE: SUMMATION

A. *TZELIM ELOHIM* AND A JUST GOD

B. SUMMATIVE REVIEW OF THE CHAPTERS

C. HALAKHAH AS CONTINUALLY DEVELOPING

A. *Tzelim Elohim* and a Just God

The Jewish tradition views, and accommodates, the disabled through the values of *tzelim Elohim*, the image of God, and human dignity[254]. *Tzelim Elohim* calls for each person to be excepted in his or her wholeness, as humans are a reflection of God, "their maker." Therefore, everyone no matter what his or her physical or mental limitations, deserves respect and human dignity. *Tzelim Elohim* places all of humanity on equal footing. Human dignity and worth are so valued that the tradition teaches that out of the honor for any individual one may supersede the negative precepts of the Torah.[255] The tradition clearly recognizes the value of human life and strives to prevent any person from being reduced to the level of an object.

Tzelim Elohim serves as a bridge towards one's natural inclination of compassion for those in society who are vulnerable, weak, or disabled. Yet, one must recognize the opposite trend of aversion, which is just as prominent. There exits a

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[254] See Genesis 1:26-27
[255] b. Berackot 19b

natural tendency towards fear, distancing, and even revulsion in terms of those whom one considers "different" from the norm. The Jewish tradition faces these two poles of compassion and aversion tendencies head-on with the use of coping methods and the inclusion (or exclusion) of the disabled in social life and in religious dutues.

Perhaps it is one's natural aversions that prompts the questions, why with the understood notion of *tzelim Elohim* are some humans created with disabilities? As clearly demonstrated, the tradition views disability as a matter of punishment for sin. Although, each human is infused with the image of his or her creator, the divine is also responsible for the appearance of disabilities. The tradition, therefore, makes the assumption that God is holy, just, righteous, all-powerful, and active in history. God has a plan for all of humanity and is active in the day to day. The disability comes from God, whether we understand why is really irrelevant from a strictly traditional point of view.

Thus, God's interaction or treatment of each person is subject to God's divine plan, which is not dependent at all upon the tradition's value of *tzelim Elohim*. Rather, this core value of *tzelim Elohim* and human dignity appears to be reserved for how each human being treats the other, not for how God relates to each person. The Jewish tradition's call for human worth is essential in bridging the poles of compassion and aversion between humans. God as the divine One is not subject to this. The ideas of a just, all powerful, and holy God are found on every page of the tradition and are simply inescapable. Such theology may not be conducive to the

modern theological mind, but regardless, the tradition dictates that divine punishment may be expressed through the imposing of disability whether or not one thinks it is reasonable or just. God is the "true judge," *dayan ha'emet*. Therefore, one must accept the impositions of a disability as a part of God's divine plan for the human, as is correct and absolute. Nothing that the human does can change this plan and indeed a human may even suffer punishment as a result of another's sin, e.g. one's parents.

B. Summative Review of the Chapters

It is important to note that materials regarding disability in the tradition, as reviewed in the previous chapters, are presented throughout the Biblical and early rabbinic literature in a hap-hazard pattern. The tradition does not review disability in a comprehensive and logical manner. The variety of texts, therefore, required an organizational system. The imposed logic on the materials, here look at disabilities in terms of age cohorts to see if this factor had any affect on how the disabled are perceived in the Jewish tradition. While there are some interesting variations in the tradition's perceptions, the continuing and underlying theme is that God is just in imposing punishment, despite humanity's difficulty with this idea, it must be accepted.

For those born with disabilities, the natural inclination towards compassion leads to protection, comfort and shielding of the child by his or her family, friends,

and even neighbors. The disabled child receives the benefit of being considered a unique and unusual creation of God with the blessing "*mishaneh habriyot.*" This blessing limits the potential for stigmatization of the disabled child. Despite these protective mechanisms, however, a child's disability is explained by the tradition in ways all leading back to the just God. For example, the tradition reviews folk wisdom as reasons for the child's disability, i.e. the particular circumstaces in which a child was conceived or the actions of the mother while carrying the child. Thus, the parents' sin leads to the child's disability. The tradition also suggested that the child was being punished for his or her future sins, which God clearly has the ability to foresee and to punish.

Perhaps because these two reasons for the disablement of the helpless child offer little comfort, the tradition also suggests the child suffers the disability early on for the rewards to be found in the world to come. Clearly all three of these reasons undercut the tradition's general rejection of "original sin." These handicapped children are tainted from birth because of sin.

The rewards of the world to come, the protective elements of the society, and even the kindness found in the blessing of *mishaneh habriyot* certainly offer minimal or even cold comfort to this age group. Suffering under the weight of a debilitating disease or a lifetime without seeing the world most certainly weigh more heavily for the child than these compassionate tendencies used to protect the child in his or her

early years. Simply, the child, just as the adult, must accept God's justness. God cannot be wrong.

Disabilities acquired during one's adult years are psychologically challenging to an extreme degree. This age cohort is forced to reassess itself in terms of functioning in society, whether because of the physical limitations or the newly acquired stigmatized status amongst a person's peers. Disabilities for this group are seen as a measure for measure punishment, *middah k'neged middah*, for sin. The sin may be clear or hidden, regardless one must suffer the imposed justness of God.

On the other hand, the tradition does present a few cases where the disabled adult serves as a model for how a disability can draw one closer to God. This was illustrated with Nahum Ish Gamzu, who saw his self-inflicted physical impairments as a rightful punishment that was "good." He was able to continue conducting his life in a righteous manner even though he had sinned. Another symbol of the relationship with God and a disability, was the infliction and curing of barrenness in women by the deity.

In general, this age cohort receives little protection. Being disabled as an adult forces one into the category requiring the blessing of *dayan ha'emet* and prompts others to scrutinize the person as an overt or covert sinner. This unprotected age group must simply absorb life's triumphs alongside its bumps and tribulations. One must accept his or her lumps, just as he or she accepts the justness of God.

In terms of the elderly cohort, the tradition speaks of the ideal, but offers less in terms of the reality. The ideal is to live a long life, leaving the earth just as whole as one was born, i.e. Moses. Yet, texts from the Bible, the Mishnah, and Talmud, offer illustrations of the impairments one faces as the body deteriorates in old age, whether it be the need for a cane, loss of eyesight, senile dementia etc. Aging is depicted as a normal process that must be accepted, and it is also viewed in terms of punishment for sin, as it was with the other age cohorts. This is demonstrated by the required use of the blessing *dayan ha'emet*, and the concept that one must suffer the punishments in life but will be made "whole" again for the ultimate judgement day. Furthermore, the mortality of Adam and Eve was a punishment for the sin they committed in the Garden of Eden. The two were set to live full lives, but a time of death would eventually arrive. This disability of mortality leaves the door open for the natural processes of deterioration of the body, as one ages.

Unlike the adult cohort, however, this elderly cohort receives some protective and compassionate mechanisms. For example, the young are commanded to revere or honor the elderly, this includes standing before them, respecting the wisdom that each person gained over his or her lifetime, and caring for the aged in terms of their physical needs. Needless to say the reality of the aging process hurts no less, in spite of the fact that the tradition requires acts of compassion and respect. The ideal of long life remains in juxtaposition with the reality of the deterioration of the body.

While there is a clear attempt at compassion for the disabled, especially in terms of the very young and very old, the overriding value of traditional Jewish theology is that God is absolutely just. A disability stems from this source of justness; it is merely a reflection of the mysteries of the divine calculus that leads to punishment. This theological argument leaves no room for argument; however, humanity's ability to treat the disabled as persons created *b'tzelim Elohim* is praiseworthy. God's justness is between the human and God, but one's feelings towards the other are dictated by the tradition in terms of the value of human dignity and human worth.

C. Halakhah as Continually Developing

One overriding challenge for the disabled in terms of halakhah is the inclusion in or exclusion from the *mitzvot*. The observance of the commandments is essential for full and authentic participation in traditional Jewish culture. When excluded, the disabled person may feel a sense of exclusion from his or her community. Therefore, the overriding question remains can the disabled individual ever earn a dignified place in the Jewish community?

The material analyzed here comes only from the earlier periods and by and large no materials after 550CE have been included, but the Jewish tradition continued to develop its legal and ethical material. The next 1500 years brought about

about Maimonides *Mishneh Torah*, the *Tur*, and the *Shulhan Aruch*. These legal codes continued to decipher the role each person has in terms of halakhic responsibility, and so did the many works of commentary and *Responsa* literature including the views of contemporary authors such as Moshe Feinstein and Avraham S. Avraham. Joseph Albo (15th Century) summarizes the continually developing nature of halakhah,

> The Torah could not be complete in such a manner that should be adequate for all times. New details are continually occurring in the affairs of men in customs and action, too many to be included in a book. Therefore, God revealed to Moses orally some general principles, only briefly alluded to (i.e. in the written Torah), so that, with their help, the sages in *each generation* may deduce the new particulars.[256]

Thus, the charge to continue the development of the tradition, in each succeeding generation. Today, this includes taking into account modern technological advances utilized by the disabled, such as electric wheelchairs, battery powered hearing devices, and even sign-language- which can be used to demonstrate one's *da'at* level.[257]

Although not explored in this thesis, this ever developing halakhic material presents much more flexibility in terms of inclusion. The value of inclusion appears to precede exclusion whenever possible. Abrams accounts for this newer tendency

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[256] Marx cites this text in terms of taking responsibility for interpreting the tradition. T. Marx, *op. cit.* p. 205. He quotes J. Albo, *Sefer ha-Ikkarim*. Vol. 3, chpt. 23, p. 203.

[257] In fact, Bleich notes the modern changes of communication in the deaf community as making the category of *heresh* essentially irrelevant. "The ability to speak (i.e. hand signals or actual speaking

towards compassionate inclusion as a rejection by the general Jewish community of disabilities as a product of sin.[258] Further evidence of this inclusive nature is demonstrated when the modern *responsa* use the text from b. Gittin 60a: "Here, too, since it cannot be dispensed with, we say, '*when it is a time to work for the Lord, they break Your Torah* (Psalm 119:126).'"[259] This text is consistently cited to include children with mental, visual, or auditory impairments in the rites of a *b'nai mitzvah* (the religious ceremony that distinguishes the child's acceptance of the *mitzvot* as an adult).[260]

Clearly, the sources surveyed within these chapters depict a just God who imposes disabilities as punishment for sin. For many modern minds this is a difficult theological stance to maintain: accepting that one suffers as atonement for the sin that may or may not be readily evident. Many may choose to believe that there is no credence to such a theological base. Yet, this author maintains that one must understand the past literature in order to participate in the continually developing halakhic debates. One must engage the works of the past and begin to understand the depth of the material so that one can traverse into the modern pathways to more inclusive rulings. Only with knowledge of the past can the Jewish tradition begin

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patterns), no matter how acquired and even if the speech acquired is imperfect is yet sufficient to establish full competence in all areas of halakhah." J. Bleich, *op. cit.* p. 80.

[258] J. Abrams, *op. cit.*, p. 203.

[259] b. Gittin 60a. English from: Rabbi I. Epstein. editor. Maurice Simon. translation. *The Babylonian Talmud: Seder Nashim, Tractate Gittin.* (English Only Edition) London: The Soncino Press, 1936. p. 281.

[260] See J. Abrams, *op. cit.* p. 203-205 for development of this particular concept.

May all of us continue to recognize the *tzelim elohim* in each of our fellows, recognizing his or her abilities, the wholeness of the person, and each human being's deserved right for dignity!

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[259] b. Gittin 60a English from: Rabbi I. Epstein. editor. Maurice Simon. translation. *The Babylonian Talmud: Seder Nashim, Tractate Gittin.* (English Only Edition) London: The Soncino Press, 1936. p. 281.

[260] See J. Abrams, *op. cit.* p. 203-205 for development of this particular concept.

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