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THE EVOLUTION OF THE WORD MITZVAH IN CLASSICAL RABBINIC LITERATURE

Alan M. Klein

Thesis submitted in partial fulfillment of
the requirements for the Degree of Master of
Arts In Hebrew Letters and Ordination

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CHAPTER I

INTRODUCTION

Judaism is a religion of mitzvoth. Where Christianity makes lists of doctrines, the Jew has always held his mitzvoth, his religious commandments, to be paramount. Judaism doesn't care so much what a man believes as long as he leads a moral life as defined by the standards of the mitzvoth. In short, Judaism is a religion of deed - not creed. While Dick and Jane go to Church to learn what to believe, Susie and Steve learn in synagogue how to behave.

This is the way Judaism appears in most religious school texts. The statements may serve us well there; they are not untrue; they are merely oversimplified. The accurate truth is that Judaism combined ritual and ethical action with its beliefs in a unique way, so that any distinctions between them, including those above, are imposed and artificial. So when we "state that the Jewish religion is a religion of mitzvoth, (we) certainly intend that those observing the matter see that its mitzvoth precede its beliefs."[1] The mitzvoth are a vital first step to beliefs; they do not replace or obviate beliefs. In fact, Judaism may be more of a religion of belief because of them. The Rabbis, as the unsurpassed educators of the People of Israel,[2] must have known that the mitzvoth would be a uniquely effective way to communicate beliefs to their people. Precisely for the purpose of advancing beliefs were the mitzvoth conceived.

As such, Judaism has found a suitable solution to the problem of how much belief and how much action to include in religion. Clearly a religion must have some beliefs. It must also demand some concrete actions. By using the rite or other action as the carrier of the belief, Judaism solved a problem that has confronted all religions. Look at Christianity. Born of a Paul's emphatic rejection of all "salvation by works," it very soon constructed an elaborate ritual structure. Even when Protestant Christianity attacked this structure, it either

retained it with moderate revisions or substituted a new one of its own. Even Unitarianism has a "mitzvah-system" of liberal political action complete with hymns from popular protest songs.

The manner in which Judaism has integrated beliefs into its mitzvah-system is the subject of a recent article by Hillel ben Shamai. He starts with the premise that "the action is the basis of the entire process and preceeds whatever interpretation attaches itself to the performance of the mitzvah by halacha." Without the action, nothing happens; even thinking about the action isn't enough. Certainly, thinking about the concept involved is not enough. The action is the pivot around which cluster the interpretations and specifications, but those very specifications and interpretations lift the action above the mundane. Ben Shamai uses the example of the Pesach afikomen:

> For example, eating the afikomen at the Passover seder, one immediately understands that religious actions are being talked about and not the normal, well-known physiological action known as eating. The specification of the action proves that it is not merely a matter concerning biological usefulness, as is stated in its specification, "We shall eat it after we are seated." With this, the action emerges from the category of physiological needs, so there is no doubt that this is a religious act, an act of mitzvah.[3]

Thus, the action assumes a religious significance and becomes a kind of catalyst between the Jew and God. This, the mitzvoth have always been for the Jew. As a catalyst enabling him to know his God, they have served Israel throughout its history. Mitzvah was always an action, lighting candles, drinking wine with a blessing, wearing a talit. It always involved beliefs, seldom in a systematic way to be sure, but always beliefs. Lighting shabbat candles involved the whole constellation of beliefs clustering around the sanctity of the Shabbat. Being of crucial importance in Judaism, these mitzvoth were seen as of divine origin. They were decidedly not something a man arrives at by himself. Scholars have gone to great lengths to prove that the mitzvoth are not an early

version of Kant's morality.[4] Whatever we may think, the formulators of the mitzvoth believed at least the foundations of their enterprise to be divinely dictated. This doubtless contributed to the effectiveness of the mitzvah catalysts. Yet another factor was that the catalyst developed a tradition of interpretation and experimentation. It is in this context that the concepts of mitzvah assumed all its many permutations and yet retained its forcefulness.

Mitzvah was not only a catalyst but a slogan word. "It is mitzvah to do such and such" assumed a meaning far beyond whatever its legal or even ethical context dictated. In addition to religious requirements, mitzvah assumed the meaning of an ultimate identification with one's people. There are other words for all of mitzvah's many meanings, but mitzvah alone managed to evoke a very deep response of piety and loyalty on the part of the Jew.

Mitzvah assumed this force during the Rabbinic period. There is no indication that the word in the Hebrew Bible had any similar evocative qualities. The Deuteronomist uses the word as one of the many synonyms for God's Law. In Deuteronomy 6:1, we find a fairly typical usage, "Now this is the commandment (mitzvah), the statutes, and the ordinances which the Lord your God commanded me to teach you..." In various forms the phrase recurs throughout the Book of Deuteronomy. There is nothing in these usages to suggest that mitzvah has any but the restricted meaning of commandment. We must note that in the majority of Deuteronomic cases the commandment involved is from God, but that there are uses in the Writings and even the Prophets where the mitzvah comes not from God but from man. In Jeremiah 35:12-14, we find:

> Then the word of the Lord came to Jeremiah: Thus says the Lord of hosts, the God of Israel: Go and say to the men of Judah and the inhabitants of Jerusalem, Will you not receive instruction and listen to my words? says the Lord. The command which Jonadab, the son of Rechab gave to his sons, to drink no wine, has been kept; and

> they drink none to this day, for they have obeyed their father's command. I have spoken to you persistently, but you have not listened to me.

Here we have the commandment of God compared to the commandment of their fathers, which the Rechabites follow. Mitzvah is thus a neutral term, implying none of the positive value which the Rabbis attached to it. The value of the mitzvah is not inherent in the concept but comes from external factors such as the authority of its commander or the devotion of its followers. Furthermore, mitzvah assumes even more mundane meanings. In Esther, we read of the anger of Haman when Mordecai refused to bow down to him. At Haman's behest the "king's servants" asked Mordecai, "Why do you transgress the king's command (mitzvat hamelech)"?[5] Here, mitzvah is the very opposite of a religious or ethical duty but merely the arbitrary command of a king.

Actually, the Biblical usage of the word mitzvah runs a span from the Deuteronomist to uses such as that in Esther. The Deuteronomist usually intends mitzvah to imply a part of the revelation of God. It is one of the synonyms for a divine command Isaiah uses it as a command not necessarily of divine origin which nonetheless implies some religious overtones. In Esther we find that mitzvah has become so prosaic that it means something opposed to religious obligations.

The Rabbis built on the Deuteronomic meaning, setting aside the other more mundane meanings of Prophets and Writings. In Rabbinic literature, mitzvah always implies divine instruction or at least preference. For the Rabbis, man cannot be the commander of a mitzvah. Indeed, they built on the Deuteronomic meaning to such an extent that mitzvah became at once a slogan and pillar of the Rabbinc system.

CHAPTER II

A CHANGE IN MEANING

During the compilation of the classical rabbinic texts a subtle change came over the word mitzvah. Where it had once been an unquestionable command of a king--human or divine, it now became merely a desirable religious act. This change is one of the most interesting phenomena in the development of the Rabbinic literature. It is scarcely surprising that modern critical interpreters of that literature have devoted so much attention to the change.

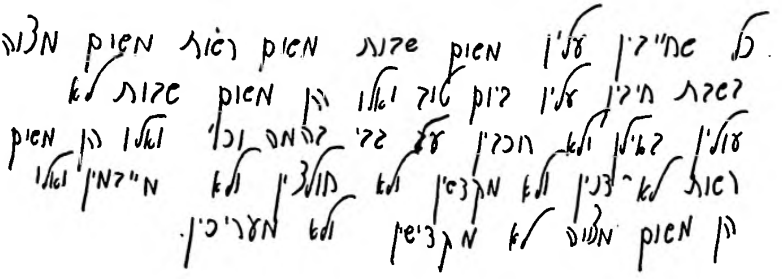
Ephraim Urbach explains that originally a mitzvah was merely a constituent part of the covenant--no more, no less. It was an individual law forming part of the totality of Jewish law, as surely as any individual Roman law as a law. Gradually there emerge some human areas where a person may go beyond the strict requirements of the law. Such areas include the concepts of tikun olam (the improvement of the world) and the various voluntaristic tendencies in the Rabbis' statements. Urbach does, however, point out that such human areas are restricted. Only the habitually pious may go beyond the demands of the law, and the voluntaristic viewpoints are eventually rejected. However, what was a minor sidelight of the definition of mitzvah eventually became one of its primary meanings.[1] Paraphrasing a statement by Rabbi Yochanan in the Pesikta,[2] Urbach explains:

מצוה משמעותה בתחילה לא מעשה אלא ציווי מלכותי בסגנון של פסוק ...
רק בהמשך נוצרה מצוה במשמעות של מעשה טוב ...

> In the use by the Sages of the term mitzvah there occurs a great broadening. No longer restricted to the positive and negative commandments, it comes to include every verse in the Torah.[3]

Eventually even bodily needs are included. Urbach bases his concluding comments on a statement attributed to Hillel in the B version of the Avot de Rabbi Natan. Commenting on the statement in Avot, "May all your acts be for the sake of heaven," the story is told that while on his way to his local latrine, Hillel was asked where he was going. He answered that he was going to perform a mitzvah. When asked to explain, he tells the inquirer that he is motivated by the desire that his body not be contaminated.[4] Following this view, one come to the conclusion that everything a man does is potentially a mitzvah if properly carried out.[5]

Gedaliahu Alon bases his analysis on the relationship of the word mitzvah to the words chovah and reshut.[6] His analysis is based on Mishnah Betzah 5:2 which reads:



> Any act that is culpable on the Sabbath, whether by virtue of the rules concerning Sabbath rest or concerning acts of choice or concerning pious duties, is culpable on a festival-day. And these (acts are culpable) by virtue of the rules concerning Sabbath rest: none may climb a tree or ride a beast or swim on water or clap the hands or slap the thighs or stamp with the feet (all ways of making music). And these (acts are culpable) by virtue of the rules concerning acts of choice: none may sit in judgment or conclude a betrothal or perform halitzah or contract levirite marriage. And these (acts are culpable) by virtue of the rules concerning pius duties: none may dedicate aught or make a valuation...

The passage is part of a discussion of prohibited activities on the festivals. The passage is problematic because the difference between the three categories, Shevut, reshut, and mitzvah, is unclear. Alon suggests that a shift occured in the meaning of the word mitzvah, so that mitzvah and reshut eventually emerge as synonyms7 He gives two examples of the two words being used interchangeably. A first, Sukah 3:14 is a discussion of the offence of carrying a lulav on Shabbat.

רי יוסי אומר: יום טוב הראשון שחל להיות בשבת
והניח את הלולב ברשות הרבים—פטור, מפני שהוא בראוי.

Rabbi Jose says: If the first Festival-day of the Feast fell on a Shabbat and a man forgot and brought out the Lulab into the public domain, he is not culpable since he brought it out (with intent) to fulfill a praiseworthy action.

The last word bereshut (with intent to fulfill a praiseworthy action) is used in such a way that it has virtually the same meaning as would meshum mitzvah (because of a mitzvah,).7 The nuances of meaning are slightly different, but the two expressions are close enough to make Alon's point.[8] The second Pesachim 6:16 is a discussion of various misapporpriations of the Paschal sacrifice.

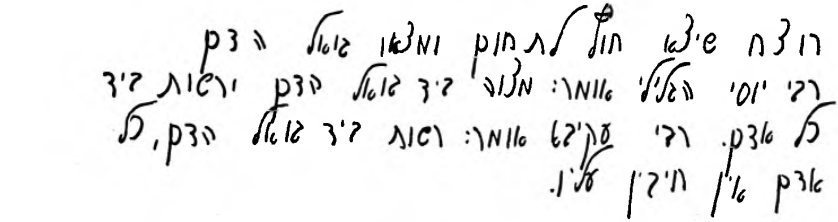
שחטו ונודע שכבר נזרק דמו בשבת, או שאחזו טומאה
פטור מפני שעשוי בראוי

If a man slaughtered (the Passover-offering on the Sabbath) and it then became known that the owners had withdrawn from sharing in the eating of it or had contrated uncleanness, he is not culpable, since he had slaughtered it permissibly.

Here is a second example where one could substiture meshum metzvah with but few changes of meaning. Shevut remains the word for legalistic requirements, but reshut and mitzvah become synonyms meaning a desirable religious act or an expression of acceptable religious motivation.[9]

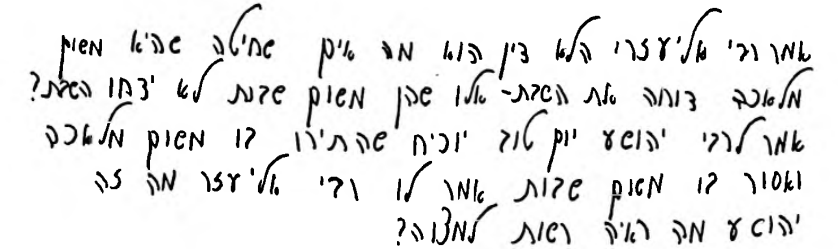
If we now look at some of the uses of mitzvah as obligation, we will

appreciate the depth of the shift. Indeed it is even used as the opposite of reshut. Makot 2:7 is a discussion of blood vengence.



If the manslayer went beyond the Sabbath limit and the avenger of blood found him, R. Jose the Galilean says: It is the duty of the avenger of blood and the right of other men (to kill him). R. Akiba says: The avenger of blood has the right, and the other men are not guilty if they kill him.

In this case reshut is a contrasting lighter form of obligation than mitzvah. Mitzvah means an obligation, so the avenger should kill the murderer. Reshut means mere exemption from punishment, so people generally should not kill the murderer, but if they do, they won't be punished for it. Pesachim 65b is yet another very clear example of the uses of reshut and mitzvah as contrasting legal concepts. The passage is a discussion of whether supplementary sacrificial acts override the Shabbat.



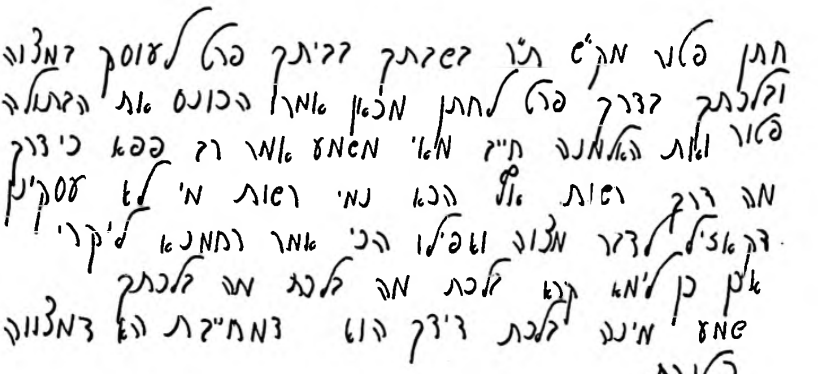
Rabbi Eliezar stated, "Is it not the case that since slaughtering which is a major kind of work overrides the Shabbat, these (preparations) which are lessor kinds of work would surely over ride the Shabbat?

Rabbi Joshua replied, "The case of the festival provides a proof, since in that case they did indeed allow greater work and forbid

lesser types of work.

Rabbi Eliezar replied, "What is this, Joshua? You're bringing proof from the case of an optional action and applying it to an obligation.

Here mitzvah is one thing--a binding obligation. Reshut is another classification--a desirable action done in addition to strictly legal obligations. Yet another clear example is Berachot 16a. The discussion is about whether a man who has married a widow is exempt from saying the Shema on the morning after his wedding if he has not yet consumated the marriage.

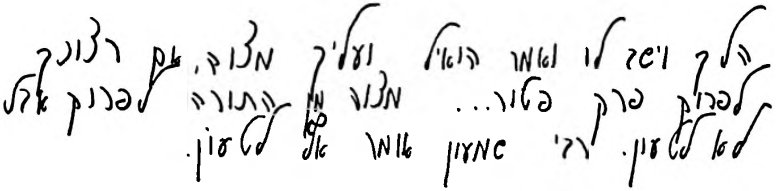


A bridegroom is exempt from reciting the Shema. Our rabbis taught: "When though sittest in thy house": this excludes one engaged in the performance of a religious duty. "And when thou walkest by the way": this excludes a bridegroom. Hence they deduced the rule that one who marries a virgin is exempt, while one who marries a widow is not exempt. How is this derived? R. Papa said: (The sitting in the house) is compared to the way: just as the way is optional, so here it must be optional. But are we not dealing (in the words "walkest by the way") with one who goes to perform a religious duty, and even so the All-Merciful said that he should recite? If that were so, the text should say, "in going." What is meant by "in thy going"? This teaches that it is in thy going that thou art under obligation, and in going for a religious obligation, thou art exempt.

Here the expression lidvar mitzvah is used to mean something mandatory as opposed to derech reshut--something optional.

Moreover, the word mitzvah is used in various formulations where the clear intent is obligation. When one names a certain obligation, it is called the mitzvah of doing such-and-such, as for instance in Bekorot 1:7 where it is stated, " מצות פדיון קודמת למצות ערפה The mitzvah of redemption preceeds the mitzvah of breaking its neck." The discussion is of the proper order of the various procedures relating to the first-born among cattle. The statement is made that the obligation of redemption should be fulfilled prior to that of breaking its neck. One can also speak of a mitzvah being upon someone to perform, meaning that it is his obligation. In Bekorot 8:6 the phrase occurs, " בנו קודמת מצוה של אביו ומצות בנו עליו His son comes before him, since the duty of redeeming him rested upon his father, and the duty of redeeming his son rests upon him." This means that it is the father's obligation to perform the ceremony of the redemption of the first born for his son. We also see things referred to as "of a mitzvah." In Shabbat 150a we find " חשבונות של מצוה מותר לחשבן בשבת Countings related to a mitzvah are permitted on the Shabbat." The intent is countings related to a religious purpose and not a count related to a righteous purpose. "Countings of mitzvah" is thus a carefully restricted term. It is yet another use of mitzvah as formal obligation.

The uses of mitzvah as a desirable religious action are equally varied. They are almost exclusively Amoraic in origin. In discussing lost livestock, Baba Metzia 2:10 uses the word in both its meanings.



If the owner went and sat him down and said (to his fellow), "Since a commandment is laid upon thee, if thou desirest to unload, unload!", he is not bound (to unload it), for it is written, with him. But if the owner was aged of sick, he is bound (to help him). It is a religious duty enjoined in the Law to unload--but not to load. R. Simeon says: To load also.

The first sentence refers to an optional action and is prefaced by the words, "if thou desirest to..." The last sentence clearly refers to a legal specification with all the accompanying precision. In Ketubot 91b we find the phrase mitzvah la'asot mashehu, used to mean, "It is better to do such and such." The discussion is of a deceased who had survived two wives. The question is whether the children get the ketubah amount. As part of the argument that they should, the argument is made that it is a good idea to carry out the wishes of the deceased, "מצוה על היתומין לעשות דברי אביהם

It is a mitzvah for the surviving children to carry out their father's words." This is not a legal argument. There simply could not be a law requiring that every such wish be carried out. What we have here is merely an expression of a preference. Likewise, there cannot be a legal requirement based on a prooftext from the Writings. We find in Berachot 4b:

אמר יהושע בן לוי אע"פ שקרא אדם ק"ש בביתו
בבוקר, מצוה עליו לקרות עליה משיאמר בי' יום
תהלים ד' רגזו ואל תחטאו אמרו לבבכם על משכבכם ודומו סלה

R. Joshua ben Levi says: Though a man has recited the Shema in the synagogue, it is a religious act to recite it again upon his bed. R. Assi says: What is the scriptural basis of this proposition? "Tremble and sin not; commune with your own hear upon your bed, and be still." (Psalms 4:5)

The prooftext is from Writings so the recitation of the Shema at bedtime is merely a desirable thing to do--not a formal requirement. One of the clearest of these

examples is Sanhedrin 21b. It is a discussion of the desirability of writing your own Torah scroll. In refutation of the view that an inherited scroll suffices, it is stated. " אע"פ שהניחו אבותיו לא חסך מלבו לכתוב לו Even though his ancestors left him (a scroll), it is a mitzvah for him to write out his own." That is as if to say, "Sure, it's enough to use Grandpa's Torah, but if you really want to do the pious thing, you would write your own." In a related discussion in Menachot 30a, we findan enumeration of the various substitutes for writing your own Torah scroll, including the now common one of completing spaces in letters at the end of Deuteronomy. Here we find a development of a sort of point system where one can "gain a mitzvah." That means one gains credit for having done something especially pious such as writing a Torah scroll. The phrase,"gain a mitzvah," is used as follows:

הלוקח ס"ת מן השוק כמוכר מצוה מן השוק
כותבו מעלה עליו הכתוב קרא מעיר סיני.

The one who takes a Torah scroll from the market is the one who gains a mitzvah. He who writes one is regarded as if he received it from Mount Sinai.

The fact that there is a system of superpiety necessitates a system for computing who gets credit for having performed these desirable but superfluous mitzvoth. Similar development occurs in Pesachim 118b, Avodah Zarah 2a, and Berachot 57b. Pesachim 118b is a midrashic section. One of the prayers included in a sermon by Raba begins with the sentence, " אע"פ שאני רמאה במצות אף על פי כן שלי הוא לרוץ. Even though I am inconsequential in mitzvoth, I am Yours, and it is fitting that I should be saved." The prayer is supposedly said by the congregation of Israel. In it they tell God that even though they have not done too well on their mitzvah scorecard, still they ought to be dealt with leniently. Berachot 57a includes a the proto-Hasidic statement that, " אפילו

תלמידי שאפילו עמי הארצות מלאים מצות כרימון. Even the ignoramuses of Israel are as full of mitzvoth as a pomegranate." Other speculations apply the accumulation of mitzvoth to the world to come. Avoda Zara 2a is an example

כל מצות שישראל עושין בעולם הזה אינן מועילין להם לעולם הבא.

All the mitzvoth that Israel does in this world come in testimony for them in the world to come." So there are even direct practical consequences to doing these desirable religious actions. The concept departs from the legalistic definition of mitzvah in several other striking ways. It need not be an action at all. In Berachot 6a we find the statement

אמר רב אשי כל המהרהר במצוה ולא עשאה נחשב לו כאילו עשאה.

Rav Ashi said concerning a person who thought about doing a mitzvah and was forced not to that he is regarded as if he had actually done it." A person gets mitzvah-credit for something he merely thought about doing. A conception of mitzvah as a strict religious requirement would make such a dispensation unlikely.

We have started to see how the concept and the word mitzvah changed meanings. From a purely legalistic concept, it became merely a desirable religious action. The implicatinns of this shift in meaning are quite broad. Urbach summarizes them:

אנו עומדים לפני מחלוקת עקרונית... יכול אדם לעשות כל מעשיו לשם שמים, אפילו דברים שבין אדם לחבירו... אבל אם כל מעשה מצוה נעשה לשם שמים, אין זה מוריד ערכה של המצוה?[10]

We stand before a basic dispute. A man could do all things--even manners--for the sake of Heaven. He may even therefore be commanded to do so. If, however, all actions are done with divine intentions, doesn't that remove something of the absolute value from the mitzvah?[10]

Put in another way, mitzvah had been an awesome and lofty concept. It now became

a close, familiar one. The close and familiar can be very appealing, but there is a place for the awesome in religion, and something of that was lost when this key word became soemthing other than awesome. The word had developed a force of its own such that whatever its meaning was, it would be an important concept in Jewish religious thought.

CHAPTER III

LIGHT AND WEIGHTY MITZVOT

There occur in Classical Rabbinic literature various references to something called mitzvah kalah and various denials that the distinction between lighter and weighty mitzvoth is important. This presents us with something of a problem. What is this concept of a mitzvah kalah? Are not all mitzvoth by their very nature chamurot or weighty? Is not the idea of an unimportant mitzvah a contradiction in terms? If the entire system is God-given, is it not blasphemy to speak of a lighter commandment? Furthermore, why set up a category like mitzvah kalah and then deny that it has any validity? Let us look first at the reasons why such a distinction must exist and then look at the reasons why the distinction should be limited.

Why is it that Jews in every age have dismissed some of the mitzvoth as lighter or not really so important? Some dismiss one requirement; some another. The distinction is hardly a logical one, but it seems to accompany the mitzvah system in every age. For one thing, the demands are formidable enough to make such distinctions natural and even necessary. When the demands run into hundreds, there is nothing more normal than to do some sorting. For one things, conflicts arise. Does one practice mourning on shabbat? Carry a lulav? Perform a brit milah? In time all these questions were answered. The process of arriving at an answer required that one set up milah as a basic commandment, the shabbat as only slightly less basic, and av eilut as still less basic. Without this line of thinking, there would be no way to resolve questions such as those presented above. It is, furthermore, a human tendency to categorize. People are eternally looking for an easier way to do something--for ways to save time and effort. Jews,

being human, have inevitably looked for ways to whittle away at the extensive demands of the mitzvah system. In 1974, only the very pious indeed refrain for the practice of dismissing some requirements of Judaism as minor. There is yet another reason for this distinction between important commandments and not so important commandments. Being rich as it is in ritual, Judaism runs the danger of being top-heavy with rites. Jews need to highlight some rituals and deemphasize others. People cannot focus on all the mitzvoth with the same emotional intensity. Some guidelines are needed to help the average Jew know where to invest the most emotional involvement. A distinction between mitzvoth kalot and mitzvoth chamurot is of assistance in doing this.

So then, why the care to defuse the distinction? Why not permanently label some mitzvoth as lighter and others as weighty? The problem is that such a system of distinction can easily get out of hand, presenting a danger of gradual attrition.[1] After all, the system is believed to be entirely of divine origin. Under such a system of ranking, certain commandments will eventually become expendable at the whim of the individual. Then all one need do is find a good reason to violate a commandment, and the distiction gives him the license he needs to declare himself patur (exempt). Such reasons are very easy to find. Those of us involved with liberal with liberal forms of Judaism know this only too well. There is no reason to believe finding excuses was any less easy in the age during which the Rabbis wrote. They, as we, must have been confronted by people whose Judaism consisted largely of excuses. They, as we, much have at times felt themselves slipping into the same trap. It was for this reason that they went to such effort to restrict categorization. It is, however, very important to note that neither their restriction nor the categorization itself was ever formalized. One never finds an explicit discussion of categorization. By, on the one hand, categorizing and on the other warning about its dangers, the Rabbis felt that

they had arrived at a balance. That they did not specify the nature of that balance did not in any way demean the value of that balance.

Skillful systematizers of the Rabbis' thought have, as a rule, appreciated this. One of the most perceptive is Michael Guttmann. He begins his discussion by stating that we find various groups of commandments enumerated in the Mishnah and the Bareitot and these are by and large based on the punishment applied to those who violate the commandment. He then limits this statement by pointing out that this criterion can only be applied to negative commandments, since only two positive commandments have punishments applied to them;

> In reality only two positive commandments are listed in categories of punishments. They are Pesach and circumcision which are punished by divine extirpation.[2]

Kareit is a punishment by adverse divine intervention into a person's life. Courts would often interpret it to mean corporal punishment.[3] Guttmann points out that this is hardly a systematic method of classification. For one thing, the classification is not at all based on any one set of standards but consists largely of lists and haphazard statements. Guttmann considers Mishnan Yoma 8:9 as one such list.

> If a man said, "I will sin and repent, and sin again and repent", he will be given no chance to repent. (If he said,) "I will sin and the Day of Atonement will effect atonement", then the Day of Atonement effects no atonement. For transgressions between man and his fellow

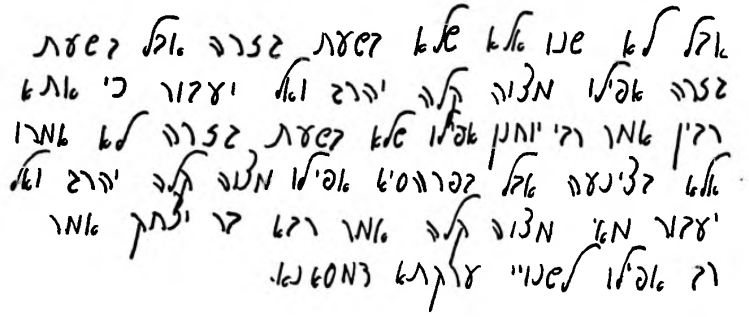
> the Day of Atonement effects atonement only if he has appeased his fellow.

The example certainly supports the point. It is not very systematic, but it serves as a practical list of criteria for dealing with the abuses of the doctrine of repentance. According to Guttmann, it is by means of such lists that the rabbis deal with the classification of the mitzvoth. He adds that there are certain preeminent mitzvoth, such as shabbat and milah.[4] What emerges is a very unsystematic approach. It is, however, an approach which can be understood. For all its lack of system and consistency, it can be seen working in its own sources.

Urbach discusses three possible criteria, that of the punishment on transgressors, that of univerality of application, and that of the degree of self-sacrifice required in the performance of the mitzvah. As an example of a universally applicable mitzvah, Urbach cites respect for parents, which is doubtless as universal as one can get. He cites tzitzit, shabbat, and milah as examples of mitzvoth which gain importance because of the self-sacrifice required. He further explains that after the destruction of the Temple cult, mitzvoth such as Shabbat and milah gained added importance because they helped to take up some of the slack in Jewish ritual. He concludes with two observations. First, he points out that for obvious reasons, the prohibition of chilul hashem is the most weighty of all. The man who blasphemes God's name is, after all, a sort of religious traitor, whom Rabbinic Judaism never felt contrained to tolerate. Urbach also contends that Classical Judaism never emphasized the Ten Commandments and it is only later that the prominence they enjoy in the Pentateuch was emphasized .[5]

Let us now look at some rabbinic efforts to define the desirable extent and type of categorization. As we have stated, the rabbis addressed themselves to restricting the abuses of categorization of mitzvoth. They must have accepted the

idea of categorization itself as inevitable. They exercised what limits were possible by appealing to man's native interests, by citing his lack of understanding of the implications of his actions and the accompanying punishments, and by pointing out the possibility of punishment in the World to Come. A notable example of a passage dealing in the Jew's native national interest is the passage in Sanhedrin 74a dealing with the times when a Jew should become a martyr. The various categories enumerated make sense. A Jew should avoid matyrdom whenever he can do so without damaging the morale of fellow Jews sharing the persecution with him. If his acquiescence will endanger group morale, then even the sort of shoes he wears are a justified cause for martyrdom.



At a time of persecution even a minor commandment is justifiable cause to be martyr rather than break it.

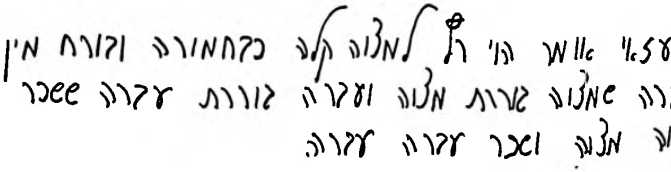
When Rabbin came Rabbin Yohanan said even when there is no persecution, while one might break some commandment in private, in public even a minor commandment is cause to be killed rather than break it.

What is a minor commandment?

Rabba bar Yitzchak said that Rav said that it could even be changing one's shoelaces.

National morale can be tied to a minor mitzvah as easily as to a major one, therefore it is important to observe even minor mitzvoth.

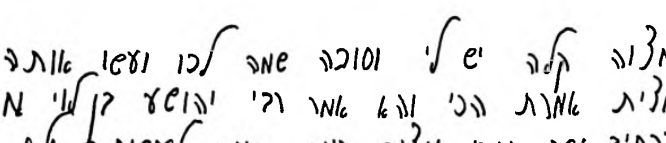
Another rather clever appeal to human experience is a passage in Pirke Avot 4;2 which merely points out the way in which a man forms a pattern by his observance or lack of it.



Ben Azzai said: Run to fulfill the lightest duty even as the weightiest, and flee from transgression; for one duty draws another duty in its train, and one transgression draws another transgression in its train; for the reward of a duty (done) is a duty (to be done), and the reward of one transgression is (another) transgression.

Even a light mitzvah will get you an opportunity to perform yet another mitzvah, and a minor transgression will merely lead you to another.

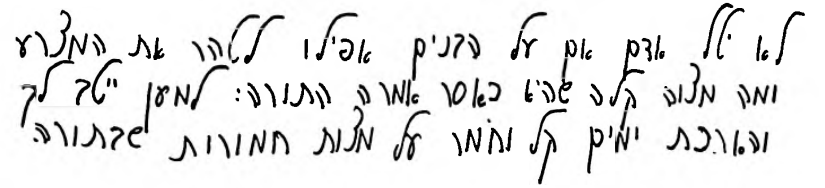
The Rabbis realized that ultimately human experience would not serve as an adequate rationale for the minor portions of the mitzvah system. So we find many passages which emphasize man's inability to appreciate the necessity for observance of the mitzvoth kalot. In this passage from Avoda Zara 3a dealing with the minor mitzvah of the Sukah, we find a warning that the reward doesn't follow like clockwork.



I know of a light precept called the Suka, so go forth and perform it!

Should you inquire as to its Biblical rationale, Rabbi Joshua ben Levi said that since it is written, "Which I command you this day..." Deuteronomy 6:6) This day is the day to do them--not tomorrow. This day is the day to do them--not the day to receive reward.

If a person tries too hard to figure out why a minor observance like the Sukah is important, he will become impatient. There is, however, the promise of some far-off day when the benefits of building a Sukah will be manifest. In the meantime, it is very important to build a Sukah--minor mitzvah though it be. A similar line of argument is used in Mishnah Chulin 12:5.



A man may not take the dam and her young even for the sake of cleansing the leper. If then of so light a precept concerning what is worth but an issar the Law has said "that it may be well with thee and that thou mayest prolong thy days," (Deuteronomy 22:7) how much more (shall the like reward be given) for (the fulfillment of) the weightier precepts of the Law!

Weighty or light, they're all mitzvoth nonetheless. We even find the Shabbat 55b a statement that Adam's death, and by implication all human death, is due to violation to the lighter mitzvoth, "מצוה קלה נתתי ועבר עליה" I gave him a light mitzvah and he violated it." There is then a delightful homily told in Menachot 44a about a talmid chacham who went to the biggest fanciest "house of pleasure" he could find. Just as he was about to enjoy himself, the whole thing was spoiled. He noticed his tzitzit hanging there, and was thereby reminded that what he was about to do was out of keeping with Israel's covenant with God. He thereupon starts to leave. Now the story could end there except that the girl

began to ply him with all sorts of questions. He started telling her about Judaism and she was so impressed that she became a Jew herself. The author ends the story with this statement:

אין לך מצוה קלה שכתובה בתורה שאין מתן שכרה
לא בעולם הזה ולא לעתיד לבוא כמה.

> There is not a single light mitzvah written in the Torah that does not have an earthly reward and also a reward in the World to Come, the extent of which we cannot grasp.

A person cannot even begin to grasp the importance of a mitzvah kalah in this world--much less in the World to Come. Of course, this is the ultimate appeal. When a man deals in mitzvoth, he is really dealing in a realm which he cannot begin to comprehend, and he would be prudent not to rely too heavily on his reason.

CHAPTER IV

THE JOY OF MITZVAH

Say you and I had a tank full of dolphins. Having read the current literature on dolphins, we became fully appreciative of their intelligence. Being good Reform Jews, we decided to bring these dolphins of ours into the pale of ethical monotheism. So we set up our dolphin-mission to formulate a suitable religion for those dolphins. We would of course formulate some beliefs, but we would also have to provide for some form of discipline. We might very well decide to use some form of ritual to achieve the desired discipline. We would soon discover that it is not easy to strike a balance between the two. If we overemphasized belief and emotional commitment, we would find that our religion was in an accelerating process of abstracting itself out of existence. Some of our dolphins might wonder what they needed our religion for anyway. Yet if we demanded too much diligence to a system of rituals, we would run into equally serious difficulty. Some of our dolphins might complain that the diligence we demanded was too much for them. It might even seem ill-suited to their needs. A good means would not be easy to find.

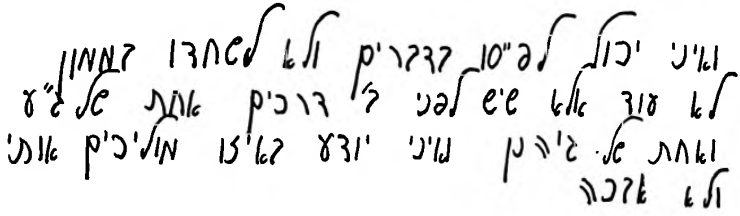
In Judaism the emotional satisfaction of observance is sometimes called simchah shel mitzvah, the joy of mitzvah. At various times primarily in response to Christian attacks on the mitzvah-system, interpreters of Judaism have stressed this concept. However, equally important in the equation of the Jewish religion has been the necessity of effort in performance of the mitzvoth. This is sometimes called zerizut l'mitzvah. To a large extent Jewish legal history has been the story of the Jews' attempt to balance these two extremes. On one pole Judaism could become so taken with simchah shel mitzvah that it could degenerate into pure

enthusiasm. On the other pole, few people are capable of really intense zerizut l'mitzvah. While a religion based on tight ritual discipline might satisfy these few, it would run the risk of alienating those who failed to attain the required diligence. Eventually all but this few would either begin to complain or to abandon the entire enterprise.

Man's craving for simchah shel mitzvah is strong enough to make attacking seemingly excessive demands of observance relatively easy. Such attackers have a number of possible routes. They can attack the mitzvah system intellectually and philosophically. One might ask what all this effort really accomplishes. Does maintaining the proper sort of observance really change the "inner man"? Does there not lurk the danger of hypocrisy. Performance of all the demands could have no effect at all. One could then go on to paint disgusting caricatures of seemingly pious people who are in actuality pretty wretched. All of this would form a more or less abtract argument which one could reinforce quite handily by pointing to the onerous nature of the mitzvah system. To really come across, one might focus on some particularly difficult requirements. The demands of the mitzvah system are sufficiently heavy that this dual line of reasoning can be very effective. It appeals to the selfish desire to evade these demands and supplies a philosophical justification for this laziness. Such idealogical justifications for laziness are seldom unsuccessful. One might even include in this polemic a devatating general picture of the mitzvah-observant Jew. He derives no satisfaction from the observance which he can only partially keep and scarcely understands. He is tormented with his lack of success in keeping the law and at the same time weighted down by his efforts to maintain that observance. He is a tormented man--a religious failure. The commandments have not made him happy by any stretch of the imagination.

There are even passages in Rabbinic literature which seem to support this

picture. In a discussion of deathbed prayers and statements in Berachot 28b, we find the picture of Rabbi Yochanan ben Zakai weeping in his deathbed because he is afraid to face God. When his students call upon him to explain his actions, he explains:

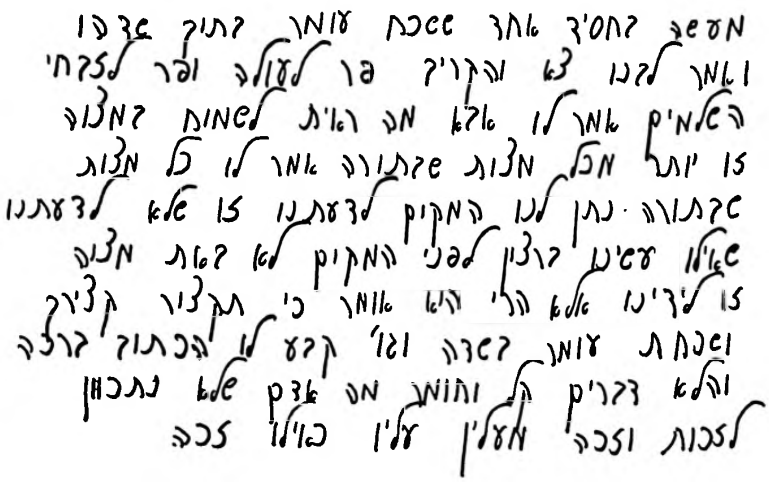


I cannot pacify Him by talking to Him nor can I bribe him with money. Not only that, but I have before me two paths--one of Paradise and the other of purgatory. I don't even know on which one God will lead me. So why shouldn't I cry?

Christian interpretation of this passage would run as follows. Here we have a quite pathetic picture of a man who was probably one of the most observant of Jews. He can't even face his own death with equanimity. How could an average person who observed the same mitzvoth hope to go to his death with any self-assurance whatever? Christians might further say that had Yochanan ben Zaccai known about Christ, then he wouldn't have had any qualms about death, for he could have been justified through faith.[1]

Schechter devotes a very carefully documented section of his work Aspects of Rabbinic Theology to the concept of simchah shel mitzvah, which he says is largely ignored by Christian writers on Judaism. His essential point is that Jews considered the Law a blessing. He discusses a number of Rabbinic passages to prove this.[2] One of the most interesting is a story about a man so pious he gave a special sacrifice to celebrate the fact that he had the opportunity to perform a procedure calledShichechah, the forgotten sheaf. He had inadvertently left a sheaf of wheat in his field and was obligated by that prodedure not to recover

it. The prodedure is based on Deuteronomy 24:19.



It once happened that a particularly pious Jew forgot an omer of grain in his field. He told his son, "Go get a bullock for a burnt offering and another for a peace offering."

His son asked him, "Father, what is it that makes you rejoice so in this mitzvah more than any other in the Torah."

The father answered, "All the other mitzvot in the Torah were given by the Omnipresent for us to do with intention. There are some not given to be done with intention, and if we perform those with intention, we don't get credit for them. As Scripture says, "When you reap your harvest in your field, and have forgotten a sheaf in the field, you shall not go back to get it; it shall be for the sojourner, the fatherless, and the widow; that the Lord your God may bless you in all the work of your hands." (Deuteronomy 24:19) So Scripture fixes a special blessing for this. Does it not follow that if a man doesn't even intend to obtain a reward, he would be rewarded all the same.[3]

This story takes a potentially bothersome mitzvah and tells how certain Jews made

it into a blessing.[4] The man did, after all, sustain a financial loss as a result of the mitzvah of Shichechah. This loss would have caused a less dedicated Jew considerable remorse. The loss is even due to the man's own negligence. It is certainly of note that he overcame all this potential remorse and transformed the loss into an occasion for celebration. It would be as if a man rejoiced at an automobile accident, since by repairing his car, he could show his solidarity with his family.

Another interesting passage which Schechter discusses is a Midrash on Psalm 19:9, "The precepts of the Lord are right, rejoicing the heart." The verse seems to contradict Psalm 18:31, which the Midrashic author takes to mean, "The word of the Lord is a trial." The conflict is resolved by the statement, "

כיון שמצאו לו כיצד צורפו

If the man deserves it, it is a source of blessing; if not, it is a trial."[5] Schecter interpretes this as follows:

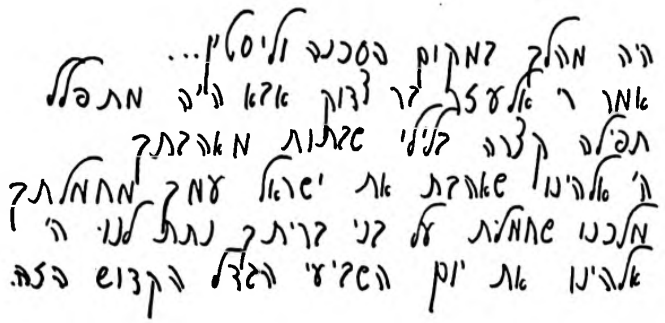
> Naturally, it is the religionist of high standard, or as the Rabbis express it, "the man who deserves it," who realises this joy in the discharge of all religious functions, whilst to him "who deserves it not" it may become a trial of purification. But the ideal is to obtain this quality of joy, or "to deserve it." The truly righteous rejoice almost unconsciously, joy being a gift of heaven to them...[6]

In addition to being deserved, this joy is neither flighty not irreverent. Rather, a man should "tremble with joy when (he) is about to fulfill a commandment."[7] A late midrash describes the components of simchah shel mitzvah.

כל דרכיך ירו לשם שמים הוי אומרים אל תביאם
ירגו מן השמים הוי חגך וכו שלא כל המצוות.

> Let all your ways be for the sake of God. Love God; fear God, and tremble with joy at each mitzvah.[8]

Yet another element that Schechter stresses is the idea that the mitzvoth are a gift from God. After describing a history of Christian defamation of the Shabbat from the Gospels to contemporary Christian scholars, he emphasizes that the Shabbat is an especial gift by citing a Shabbat-eve prayer by Rabbi Zadok, which was reported by his son.

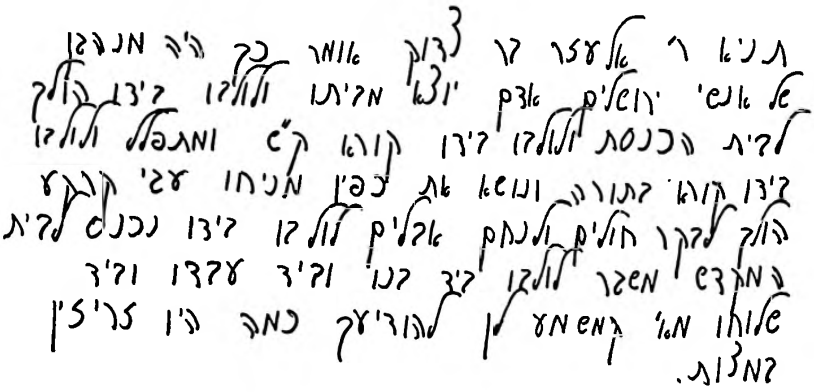


> Through the love with which thou, O Lord our God, lovest they people Israel, and the mercy which thou has shown to the children of they covenant, thou has given us in love this great and holy seventh day.[9]

Schechter comments, "This Rabbi, clearly, regarded the Sabbath as a gift from heaven, an expression of the infinite love and mercy of God, which he manifested toward his beloved children."[10] The prayer is a short version of the Amidah to be said "in a place of danger and robbers." It is indeed remarkable that even under the worst of conditions, this sort of spirit persisted.

Schechter is very persuasive, but out of a desire to refute Christian claims, he may have overstated the case. The mitzvah system could not survive if it did not include demands for effort. The Rabbis certainly realized this. The same

Eleazar Bar Zadok who reported his father's prayer of thanksgiving for the Shabbot also described the diligence required to carry a lulav around Jerusalem. The story illustrates that diligence.



There is a Bariata to the effect that Rabbi Eleazar Bar Zadok used to say, "Thus was the custom of the Jews of Jerusalem. Each would emerge from his home with his lulav in his hand, walk to synagogue with the lulav still in his hand, and say the Sh'ma and the Amida with his lulav still in his hand. When, however, he read from the Torah and said the priestly benediction, he placed it on the ground. When he went to visit the sick or comfort the mourners, he had that lulav in his hand, but when he entered a study hall, he would entrust his lulav with his son or his servant or his messenger. Why all this? To teach you how diligent they were in their observance of the mitzvoth.[11]

A Jew could get awfully tired carrying around his lulav. At the end of a hot Palestinian Sukkoth day, it must have seemed very heavy and scratchy. For these reasons, both enthusiasm and discipline are required to perform such a rite. Doubtless the Jews of Jerusalem must have rejoiced in God's commandment to carry a lulav. Had you asked them about Sukkoth, they would have described it as an altogether enjoyable occasion. They might, however, also have told you that they were happy to be able to get rid of that lulav on Hoshana Rabah. They realized as many insightful Jews of all ages have realized that the religion of mitzvoth

must be a balance between the joy of the mitzvoth and their demands for diligence and discipline.

In our own day, the founders of Reform Judaism made this quest for balance one of the primary goals of their changes in Jewish ritual. Kaufmann Kohler includes in this Jewish Theology a chapter called "The Synagogue and Its Institutions." There could be no more elequent defence of Jewish ritual than Kohler presents. He lists each holiday along with logical reasons why it deserves a place in the contemporary synagogue.[12] He summarizes his findings by saying, "Altogether, the Synagogue gave to the annual cycle of the Jewish life a beautiful rhythm in its alternation of joy and sorrow, lending a higher solemnity to general experience."[13] Being something of a radical reformer, he could not leave it at that. He must list the deficiencies of Jewish ritual. He finds two. The first is Orientalism which leads to the lowered status of women in traditinnal ritual. The second is formalism. what we might call the absence of simcha shel mitzvah.

> Another shortcoming of the Synagogue and of Rabinical Judaism in general was its formalism. To much stress was laid upon the perfunctory "discharge of duty," the outward performance of the letter of the law, and not enough upon the spiritual basis of the Jewish religion. The form obscured the spirit, even though it never quite succeeded in throttling it.[14]

CHAPTER V

REWARD OF MITZVAH

Is the mitzvah system a divine system or a human system? There can be no answer to a question such as this. Answering it either way would be an oversimplification. To be sure, the mitzvah system is, in classic rabbinic Judaism, believed to be of divine origin. God is the metzaveh, the issuing agent. Without God, there can be no mitzvah system as it existed in Classical Rabbinic Judaism. But equally certain is the fact that the mitzvoth assume human society very much as we know it. A vital precondition of the mitzvoth is people to perform them. With them, all is lost. The metzaveh would be a kol korei b'midbar, a voice with no listeners. In this, as in other areas, what is important is not which element, human or godly, is more important but rather how the two elements interrelate. This interrelation of man and God in the mitzvah system is the crucial thing to understand. For myself, I always like to think in this regard of a homily I once heard on Psalm 14:2

יְיָ מִשָּׁמַיִם הִשְׁקִיף עַל־בְּנֵי אָדָם לִרְאוֹת הֲיֵשׁ מַשְׂכִּיל דֹּרֵשׁ אֶת־אֱלֹהִים׃

The verse is normally translated, "The Lord looks down from heaven upon the children of men so that he can see if there can be any that act wisely and that seek after God." If one modifies the punctuation a little, it is possible to reinterprete the verse to mean, "The Lord looks down from heaven. It is up to man to decide if he acts wisely by seeking God." The moral governance of society is up to man--not God. It is seen by Judaism as the Jew's greatest responsibility to assist in that governance in a special and unique way. The mitzvah system is intended to help the Jew in this vocation.

The vocation might seem a great burden--too much for man to do. It is precisely for this reason that the mitzvah system came into being. It is an opportunity for man to do something in consonance with God. The vocation is divided up into manageable tasks--mitzvoth. By performing these in the proper combinations, man gives God the opportunity to reward him. We find a clear enunciation of this doctrin in Mishnah Makot 3:16 and the accompanying Gemara. The mishnah reads as follows:

רי חנניה בן עקשיא אומר: הקב"ה לזכות את
ישראל לפיכך הרבה להם תורה ומצות שנאמר ה' חפץ
למען צדקו יגדיל תורה ויאדיר:

R. Hananiah b. Akashya says: "The Holy One, blessed is he was minded to grant merit to Israel; therefore hath he multiplied for them the Law and commandments, as it is written, "It pleased the Lord for his righteousness' sake to magnify the Law and make it honorable." (Isaiah 42:21)

The Gemara on page 23b is the famous statement that there are 613 commandments.

דרש רי שמלאי בשם רבי אלעזר אומר למה נאמר
לאדם שלש מאות שישים וחמש לאוין כנגד ימות החמה
ומאתים וארבעים ושמונה עשה כנגד אבריו של אדם.
אמר רב הונא מאי קרא תורה צוה לנו משה
מורשה קהלת יעקב. מה ירושה שתים מקרא אחד

> Rabbi Simlai expounded, "Six hundred thirteen" mitzvoth were spoken to Moses: "Three hundred sixty-five negative mitzvoth which corresponds to the number of days in the year and two hundred forty-eight positive mitzvoth which corresponds to the parts of man's body."
>
> Rav Hamnuha said, "What is the scriptural basis for the number 613?" The answer is Deuteronomy 33:4, "Moses commanded us the Torah." Torah in the numerical value of its letters is 611. That leaves "I am the Lord thy God," and "You shall not have any gods before me," which were heard directly from the All Powerful.

This passage has often been taken literally. Mainonides and others sought to enumerate the 613 commandments, one by one. As earnestas these efforts are, they take the passage in other than the literal meaning intended by Simlai. Simlai preaches a sermon on the Mishnah. The Holy One was so inclinded to grant favor to Israel that he gave them lots and lots of mitzvoth so they would have an opportunity to gain that favor each and every day with each and every limb of their body.

It is most unlikely that Simlai actually sat down and counted the mitzvoth in the Pentateuch, arriving at the total of 613. We must seek the source of this number elsewhere. Simlai says that there are 365 negative mitzvoth, corresponding to the days of the year, and 248 positive commandments, corresponding to the number of limbs of the body by Rabbinic count. The total of 365 and 248 is 613. Yet another explanation of the number 613 is supplied, Deuteronomy 33:4 reads, "

תורה צוה לנו משה

Moses commanded us the Torah." The numberical value of the letters in the Hebrew word Torah is 611, so one might read Deuteronomy 33:4 as, "Moses commanded us 611 mitzvoth." Two more are needed to bring the number up to 613. The first two of the ten commandments, which depict God speaking in the first person, conveniently fill the void. Schechter gives a similar interpretation.

> The words with which the sayings of Rabbi Simlai is introduced are, "He preached," or "he interpreted," and they somewhat suggest that

these numbers were in some way a subject for edification, deriving from them some moral lesson. The lesson that these numbers were intended to convey was, first, that each day brings its new temptation only to be resisted by a firm Do Not; and, on the other hand, that the whole man stands in the service of God, each limb or member of his body being entrusted with the execution of its respective functions.[1]

There are other expressions of mitzvah as a reward--a God-given opportunity for God to bestow merit on Israel. In tractate Sotah 17A we find the following homily together with the description of the Sotah procedure.

זכות שאמר אברהם אנכי ואנכי עפר ואפר הכא תנן לה. מצות אפר פרה ואפר סוטה.

Because Abraham said, "Behold, I have taken upon myself to speak to the Lord, I, who am but dust and ashes," his descendents merited the two mitzvoth of the dust of the suspected adulteress and the ashes of red heifer.

Let us also recall the statement in Avot 4:2 that, " מצוה גוררת מצוה ועבירה גוררת עבירה. The reward of a mitzvah is another mitzvah; the reward of a transgression is another transgression." In these and other passages mitzvah becomes the equivalent of the English word godsend. A godsend is a desirable thing that arrives unexpectedly as if sent by God. It comes from the Middle English goddess sand which means God's message. Both mitzvah and god send mean a gift and a message from God. That this gift is also a message and entails an element of responsibility. Man has to use the godsend well or it vanishes as quickly as it had appeared. For all this the godsend is always intended to help man. Albeck points this out in his comment on Mishnah Makot 3:15. The Mishnah reads:

אף על פי שהזהיר עליהן משה נזקק עמהן ללמדן

מצוה גוררת מצוה וכמה שכרן של רבים.

מלמד: שאדם עושה מצוה אחת בעולמו.

Moreover, R. Hanina b. Gamaliel said: "If he that commits one transgression thereby forfeits his soul, how much more if he performs one religious duty, shall his sould be restored to him!

Albeck comments that there is an assumption implicit in this statement that, "The measure of benefit is always in excess of the measure of punishment." Mitzvoth are generally for man's benefit, even if the results of a transgression may occasionally work to his detriment.

It would, however, be misleading to suggest that sechar-mitzvah, the reward of a mitzvah, was entirely intrinsic. Moore give the most convincing explanation and justification of the extrinsic motives.

> Reward and punishment are the motives to which the mass of mankind is most amenable, and the Jewish teachers, though well aware that they are not the highest, do not scruple on that account to appeal to them. It was better to lead a man to obey the Law of God from an inferior motive then that he should not obey it; and, as is frequently observed, if he is diligent in keeping the Law from a lower motive, he may come to do it from a higher.[2]

This being the case, a debate emerges whether this extrinsic reward is tendered in this world or in the World to Come. From a psychological point of view, reward in this world has the advantage of immediacy--a crucial advantage in retribution. Reward in the World to Come, by contrast, has the theological advantage of fairness, since no one (in Judaism at least) has yet gone and checked up, and come back.

Much of the speculation on this topic clusters around Mishna Kidushin 1:10, in which we find the following vague statement:

כל העושה מצוה אחת מצליחין לו ומאריכין לו ימיו
וניתנת את הארץ וכל שאינו עושה מצוה אחת אין
מצליחין לו ואין מאריכין לו ימיו ואינו נוחל את הארץ.

If a man performs but a single commandment it shall be well with him and he shall have length of days and shall inherit the Land; but if he neglects a single commandment it shall be ill with him and he shall not have length of days and shall not inherit the Land.....

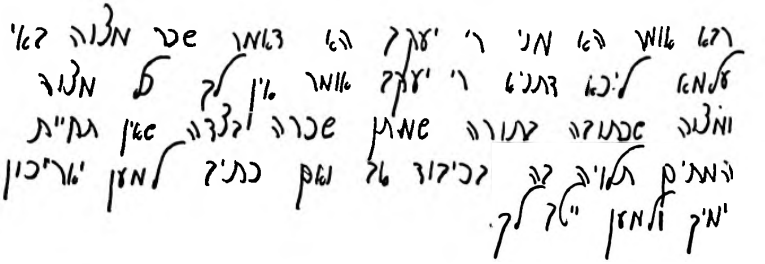
This is a rather vague passage, so, of course, the Amoraim try to clarify it The clarification comes in three parts. First we find an enumeration of mitzvoth which are rewarded in both worlds.

ואלו דברים שאדם אוכל פירותיהן בעולם הזה
וקרן קיימת לו לעולם הבא כיבוד אב ואם גמילות
חסדים והכנסת אורחים ובקור חולים והבאת שלום
בין אדם לחבירו ותלמוד כנגד כולם.

These are things which a man enjoys the fruits of in this world and the principle remains for him in the World to Come: honor of father and mother, deeds of lovingkindness, hospitality to deserving guests, and furtherance of peace between man and his neighbors. Study is equivalent to all of them (or perhaps "leads to all of them").

So we solve the problem very neatly--at least, concerning our list. These things are accumulated like money in an investment and they pay interest in this world, and in the World to Come the principle remains. Never to stop at one answer, however ingenious, the Gemara continues its speculation. This time the problem addressed is what precisely the phrase"one mitzvah"means.

Does it mean literally one mitzvah? The conclusion reached is that this is the mitzvah that tips the balance between a good person and a bad one. Then the discussion of the place of reward continues. This time the problem of which world is the place of recompence is faced directly.



Rava says Rabbi Jacob used to teach and this is what he said, There is no reward of a mitzvah in this world, for there is a bareita which says, "There is not any mitzvah written in the Torah which does have a reward enunciated next to it involving the ressurection of the dead."

For example, concerning respect for parents, you find written, "So that your days be long," (Exodus 20:12) and "So that it be well with you." (Deuteronomy 6:18)

Since one generally finds a reward specified in Scripture, and that reward can be understood to refer to the World to Come, this was proof for the author that the reward for the mitzvoth was in the World to Come. Of course, the concept of the World to Come is a Rabbinic one and not a Biblical one, whatever be the Bible's view of the afterlife.

One of the most convincing arguments for reward in the World to Come is that one can postulate absolute fairness, in a way that one simply cannot do in this world. This argument was not lost on the Rabbis who apply it both to the righteous and evil-doers, as in this passage in Sotah 3b:

אלפסי חולכת לפניו לומר לו שעשה עמהם טובות
ובלבד שיהא בלבו שכל מצוה שעשה בעוה"ז
מוטב שיעשה אדם מצוה אחת ותהא מוטלת לפני
על שתעמוד לו בעת שיבוא לידי ספק ואין כל מצוה
בכך אלא שתגין עליו מפני הספק שלא יבוא לידי עבירה

Rabbi Samuel Bar Nachmani says that Rabbi Yohana says, "Anyone who performs one mitzvah in this world, that mitzvah preceeds him and goes before him to the World to Come, as is written in the Scripture, "Your righteousness shall go before you." (Isaiah 58:8). Likewise, anyone who performs a transgression in this world, it clings to him and goes before him to the day of judgment as it is written in Scripture, "The caravans turn aside from their course; they go up into the waste, and perish." (Job 6:18)

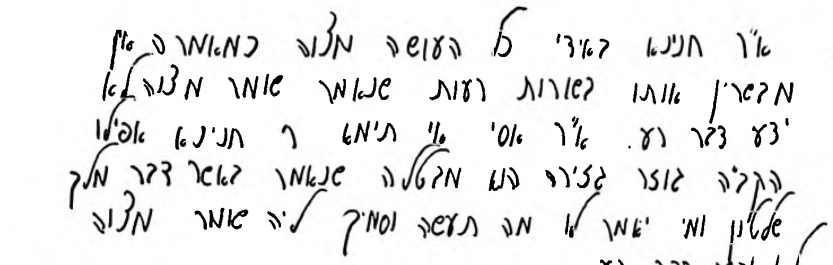
This is a very satisfying reassurance. Each and every mitzvah that a man does receives its proper reward. One can hence deduce that the World to Come is fair--almost mechanically fair. This is surely among the most satisfying of beliefs, and it is scarcely surprising that this fairness is often seen by way of contrast to the obvious unfairness of this world. In Ta'anit 11a, we find the idea that the righteous are punished in this world for the few sins they do commit, but in the world to come they are rewarded just as the evil-doers are punished. Olam Haba the world to come is characterized by perfect justice, and that is one of its primary appeals. The passage is a midrash on Deuteronomy 32:4.

על מנת לקבל שכר. משנה: כל המקיים מצוה אחת בעולם הזה זוכה והולך לו לעולם הבא. וכל העובר עבירה אחת בעולם הזה קטגור מתלה לו לעולם הבא. מנין למצוה שמתלה לו לעולם הבא? שנאמר "צדקך לפניך יהלך כבוד ה' יאספך". מנין לעבירה שמתלה לו לעולם הבא? שנאמר "שיירות ארחות תימא הביטו אורחות שבא קוו למו".

"A God of faithfulness and without iniquity, just and right is he." Why is He "a God of faithfulness"? Because punishment is exacted from the evil-doers in the World to Come even for a minor transgressions that they commit and likewise punishment is extracted from the righteous in this world for any transgression that they do commit. Why is He "without iniquity"? Because he deals out a reward to the righteous in the World to Come for even a minor mitzvah, so he pays a reward to the evil-doers in this world even for the minor mitzvoth that they perform.

This world is the extreme of unfairness. The righteous are punished, and the evil-doers rewarded. The World to Come, which is far more important, reverses all that. It is perfectly fair.

One of the reasons why this world cannot achieve perfect justice becomes apparent when reading those Rabbinic passages which attempt to prove the fairness of this world. Shabbat 63a is an enumeration of the rewards of doing the mitzvoth properly as a result of proper study.



Rabbi Chanina Ben Iddi says, "There is no bad news delivered to him who performs a mitzvah according to its specification, as it is said, "He who obeys a command will meet no harm..."(Ecclesiastes 8:5)

Rabbi Assi says, "Would you not say, Rabbi Hanina, that even if the Holy One Blessed Be He has issued an evil decree against the one who performs a mitzvah, he cancels it, as it is said, "For the word of the king is supreme, and who may say to him, "What are you doing? (Ecclesiastes 8:5)" This is right before "He who obeys a command will meet no harm."

The problem with these passages is that in the process of proving how really fair things are, the mitzvoth become almost coercive on God. At the very least, man exercises a very heavy influence on God. The Shabbat passage is extremely unsystematic, so this problem does not come up. Were one to develop the thinking the passage too far, one would have to ask oneself whether any attempt to prove God's fairness does not of necessity demean His indepndence. Moore addresses this problem:

> From the point of view of retribution, (the Jewish teachers) believed that wrong-doing deserved the punishment God threatened, and no less that good deeds deserved the favor of God and the reward he promised....
>
> The reflection may be made that man's good deeds do not of themselves lay God under obligation; God does not owe him a recompence for doing his duty. But God has put himself under obligation by promise of reward, and in this sense man, in doing what God requires, deserves the recompense. Judaism has no hesitation about recognizing the merit of good works, or in exhorting men to acquire it and to accumulate a store of merit for the hereafter. [3]

CHAPTER VI

MET MITZVAH

Included in the laws of war in Deuteronomy we find the following provision for expiating the guilt attached to a body found in an open field.

> If, in the land which the Lord your God gives you to possess, any one is found slain, lying in the open country, and it is not known who killed him, then your elders and your judges shall come forth, and they shall measure the distance to the cities which are around him that is slain; and the elders of the city which is nearest to the slain man shall take a heifer which has never been worked and which has not pulled in the yoke. And the elders of that city shall bring the heifer down to the valley with running water, which is neither plowed nor sown, and shall break the heifer's neck there in the valley. And the priests, the sons of Levi, shall come forward, for the Lord your God has chosen them to minister to him and to bless the name of the Lord, and by their word every dispute and every assault shall be settled. And all the elders of that city nearest to the slain man shall wash their hands over the heifer whose neck was broken in the valley; and they shall testify, "Our hands did not shed this blood, neither did our eyes see it shed. Forgive, O Lord, thy people Israel, whom thou has redeemed, and set not the guilt of innocent blood be forgiven them." So shall you purge the guilt of innocent blood from your midst, when you do what is right in the sight of the Lord. (Deuteronomy 21: 1-9)

Several things emerge from this passage. First the body was the responsibility of the nearest city. A procedure is outlined for fulfilling the responsibility and removing any possible guilt from that city. Why did this procedure come into being? If we look at the above passage by itself, we will doubtless come to the conclusion that the murderer of the man found dead was presumed to be in the city closest to the scene of his death. Thus, that city would live in the anxiety provoking belief that there is an unpunished murderer among them. The procedure outlined is meant to remove any guilt that might attach itself to the city as a whole and thereby relieve, at least, some of the anxiety. It might possibly even catch a murderer reluctant to swear his innocence. That is one very possible explanation.

There is, however, another explanation--one which brings this law very close to the subsequent Rabbinic law of met mitzvah. The passage occurs in a section of Deuteronomy which is concerned primarily with laws of warfare. When this passage is seen in that light another explanation emerges. The person was slain by one of the enemies of Israel, and it is only appropriate that the city nearest him give him every possible sign of respect, including all the procedure mentioned. The Biblical law of Eglah Arufah is thus, like the Rabbinic law of met mitzvah, an expression of strong group solidarity in a time of danger. What precisely the link between these two concepts is would be difficult to determine, but it seems not unreasonable to suppose that the Biblical law of Eglah Arufah was to a greater or lesser degree prominent in the minds of those who developed the Rabbinic concepts of met mitzvah.

Met Mitzvah in Rabbinic literature means a body left unattended with no one to bury it. The rabbis considered it an urgent obligation of anyone coming across such an abandoned body bury it promptly. Not to do so would be to subject the deceased to even more indignity than he had already suffered as a result of the lack of timely burial. As Kohler explained it, "While it was incumbent upon the relatives to bury the dead, it was regarded as one of the laws of humanity not to let anyone lie unburied." The rabbis call it חיוב מת (an obligation to the dead claiming the service of the finder). Burial of an unattended corpse may have been one of the "laws of humanity," but it is discussed in contexts which compel the conclusion that it only applied to Jewish bodies. Otherwise there would be no problem with priestly contamination.

Rabbinic literature, even in the Mishnah, is often not in any sort of codal form. Thus it should not surprise us that we find neither a clear discussion of met mitzvah as such nor any discussion of the concept in passages dealing with

burial customs. These are clearly the places where such a discussion logically belongs. Rabbinic literature is such that we find the passages dealing with met Mitzvah in two other places. First met mitzvah is discussed in the context of shabbat, so as to explore whether one may violate the shabbat in order to bury a met mitzvah. The eventual conclusion is that one may. Secondly, met mitzvah is discussed in the context of nazirite and by implication priestly purity. May the kohen or the nazir contract impurity by touching the met mitzvah? The conclusion is that he can. That such exceptions were allowed for the met mitzvah indicates that the requirement is hardly a minor one in spite of the fact that we cannot find any explicit discussion of its specifications or importance. For such a discussion we have to go to the Apocrypha to the book of Tobit.

The obligatinn to bury a met mitzvah overrides the Shabbat. This conclusion is, of course, not arrived at without some discussion. It is in the course of one of these discussions in Erubin 17b that we find a Tannatic definition of met mitzvah:

תנינ חציה את אומר מת אין לו קורין קוראין
שואלין זה את זה אין לו ואחרים קורין

There is a Tannaitic statement that says, "which is a met mitzvah? Anyone who has no one to bury him. If the one who finds him calls and others answer, then it is not a met mitzvah."

The reason for the definitions being cited at all is so that the extents of this particular exception to the Shabbat prohibitions can be clearly delineated. A passage carrying this delineation yet farther is found both here and in the following very similar form in Baba Kama 81b. That a met mitzvah is buried on the

spot is quoted on page 81a as one of the ten stipulations of Joshua on Israel's entry into Israel. We then find this comment:

זאת אומרת קבר אחיו ואמו. במאי אוקימתא
אי דמטרח אפטרח ליה לשמאל ימין ואי דמטרח
ואזיל ניחא אפטרח ליה לצד זה וצד זה
אפטרח ליה לצד זה ניחא צד זה ניר וצד זה
אתיד צורת אתיד ניר ה"נ אתיד צורת ניר
אתיד צורת אפטרח למקום שירצה אשר לא כ"ש
למקום שירצה. אמר שמואל בדוגמא אפטרח ליה

(Joshua taught) "that a met mitzvah should be buried on the spot." A contradiction could be found. If one finds a dead person lying on the road, he may remove him to the right side of the road or to the left side of the road. If on the one side of the road there is an uncultivated field and on the other a fallow field, he should remove him to the uncultivated field; so also, where on the one side there is a fallow field but on the other, a field with seeds, he should remove him to the fallow field. But if both of them are the same, he may remove him to any place he pleases. Said Rabbi Bibi, "The dead person under consideration was lying broadway across the road and since permission was required to move him, he can be placed anywhere.

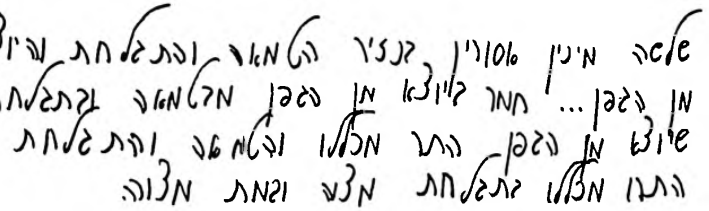
In Chapter 8 of Derech Eretz Zuta, we find a case history and a debate about the exemption for met mitzvah. Rabbi Akiva explains that he was walking one Shabbat when the following occurred:

ומצאתי את מצוה שלפתי לו כתרצה מילין
עד שהיתיו למקום בית הקברות וקברתיו.

I found a met mitzvah, so I carried him four miles until I brought him to a cemetery where I buried him.

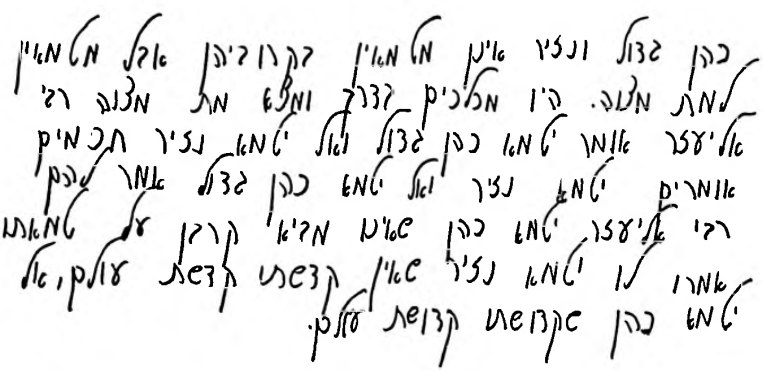
The major mishnaic discussions of met mitzvah occur in Tractate Nazir. As part of his nazirite vows, the nazir undertakes to avoid contact with impurity,

including Jewish corpses... The relevant passages discuss various exceptions to the Nazirite vows, including met mitzvah. The passages also deal with a Kohen who is under a similar prohibition of contact with the Jewish dead. Mishnah Nazir 6:5 is part of a general discussion of Nazirite vows, including the exceptions to same.



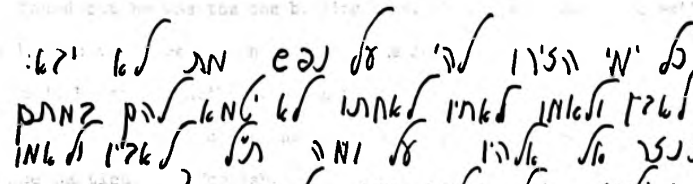
Three things are forbidden to the Nazirite; uncleanness, cutting off the hair, and aught that comes from the vine. Greater stringency applies to what comes from the vine than to uncleanness and cutting off the hair, in that for what comes from the vine no exception is permitted, but for uncleanness and cutting off the hair exceptions are permitted, as when cutting off the hair or burying of a corpse are enjoined in the Law.

"Mitzvah hair-cutting" is the hair-cut required of a leper. The nazir is permitted to cut his hair if he has leprosy and to bury a met mitzvah. The latter point is expanded upon in Mishnah Nazir 7:1. Here the nazir is compared to a high priest and the met mitzvah is compared to close relatives.



A High Priest or a Nazirite may not contract uncleanness because of their (dead) kindred, but they may contract uncleanness because of a neglected corpse. R. Eliezer says: The High Priest may contract uncleanness but the Nazirite may not contract uncleanness. But the Sages say: The Nazirite may contract uncleanness but the High Priest may not contract uncleanness. R. Eliezer says to them: Rather let the priest contract uncleanness for he needs not to bring an offering because of his uncleanness, and let the Nazirite not contract uncleanness because he must bring an offering because of his uncleanness. They answered: Rather let the Nazirite contract uncleanness, for his sacntity is not a lifelong sanctity, and let not the priest contract uncleanness , for his sanctity is a lifelong sanctity.

The nazir and the High Priest may contaminate themselves for the met mitzvah—but not for their own relatives. This alone is an indication of the importance attached to the burying of a met mitzvah, a point further elaborated upon by Sifre Numbers 26.



> "All the days that he separates himself to the Loard he shall not go near a dead body. Neither for his father, nor for his mother, nor for his brother or sister, if they die, shall he make himself unclean; because his separation to God is upon his head." (Numbers 6:6-7) What does Scripture say? "Neither for his father, nor for his mother shall he make himself unclean," but for the met mitzvah he should make himself unclean.

The only explicit discussion of met mitzvah from the Rabbinic period is found in the Aprocryphal book of Tobit, An historical novel written in the First or Second Century of the Common Era.[2] Tobit begins his wanderings by twice resisting the Assyrian King Sennachrib and burying metei mitzvah.[3] The story is interesting because it gives us a clearer impression of the sort of circumstances that led to the development of the custom. Tobit buried people whom Senacharib had killed and thereby might have deprieved the Assyrian king of much desired trophies. Otherwise, why would Sennacharib have sought the bodies and Tobit himself when he found out he was the one burying them. Tobit twice went into exile to evade the king's vengence for his burying the Jewish bodies. After the first time he returned, he found another body in the course of his Shevuoth celebration, and he buried it to the jeers of his neighbors who regarded this repetition of a capital offence particularly foolish.

Tobit and the Apocrypa are scarcely infallible sources from which to glean Rabbinic thinking on a given topic such as met mitzvah, but in this case they add a vital element to our understanding. The Rabbinic sources never discuss the reasons lying behind the development of the concept. Tobit does. We find out that those buried were usually killed by one of the many persecutors of the Jews, that the slayers frequently prized the bodies of those whom they had slain, and that Jews regarded it as an especially great mitzvah to deny them those bodies and instead to give the bodies a proper burial immediately upon finding them. It was in this way that even in times of dire persecution such as those pictured in Tobit . Jews

responded to the heavily felt need to give the victims among them a Jewish grave.

There, thus, develops a kind of superlative mitzvah. The mitzvah or obligation is clear enough. Let us look at the relevant section of Leviticus (21:1-3, 10-11). That is the literal mitzvah. First, concerning the regular priest we find:

> And the Lord said to Moses, "Speak to the priests, the sons of Aaron, and say to them that none of them shall defile himself for the dead among his people, except for his nearest of kin, his mother, his father, his son, his daughter, his brother, or his virgin sister who is near to him because she had no husband; for him, he may defile himself."[4]

There is no provision here for any other exceptions at all and certainly not for burying a total stranger whom the priest happens upon. Concerning the high priest, we find an even stronger statement:

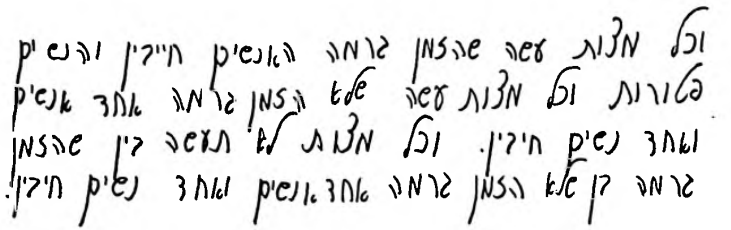
> The priest who is chief among his brethren, upon whose head the anointing oil is poured, and who has been consecrated to wear the garments, shall not let the hair of his head hang loose, nor rend his clothes; he shall not go in to any dead body, nor defile himself, even for his father or for his mother....[5]

Here there are no exeptions allowed whatever. The mitzvah, the obligation from Scripture, explicitly states such, but the law of met mitzvah, the superlative mitzvah, requires even the High Priest to bury a complete stranger when he is a met mitzvah so ethical and national considerations dictate the abrogation of the literal mitzvah for the higher mitzvah of proper burial. Burial of the met mitzvah is such a pressing ethical need and such a pivot of national feeling that violation of the Levitical mitzvah becomes the higher mitzvah of met mitzvah.

CHAPTER VII

POSITIVE AND NEGATIVE MITZVOTH

The distinction between positive and negative mitzvoth is a fairly simple one to delineate. It is first and foremost based on language. Any mitzvah which contains the word not or its Hebrew equivalent is a negative mitzvah or mitzvat lo-ta'aseh. All others are positive mitzvoth or mitzvoth aseh. Put as simply a possible, a positive mitzvah tells a person to do something while a negative mitzvah tells him not to do something. There is also a difference in applicability. The basic text describing the applicability of positive and negative mitzvoth is Mishnah Kidushin 1:7.



The observance of all the positive ordinances that depend on a set time (Danby: the time of the year) is incumbent on men but not on women, and the observance of all the positive ordinances that do not depend on a set time (Danby: the time of the year) is incumbent both on men and women. The observance of all the negative ordinances, whether they are set in time (Danby: depend on the time of the year) or not, is incumbent both on men and women...

Some exceptions are then listed. The information in this mishnah is easily summarized. Men are obligated to perform almost all mitzvoth at all times. The situation regarding women is best understood by means of a simple chart:

	Positive mitzvoth	Negative mitzvoth
Time-bound	Exempt	Obligated
Not time-bound	Obligated	Obligated

The qualification must be added that women are exempt on from time-bound, positive, biblical mitzvoth. The exemption does not apply to rabbinic commandments. In Berachot 20b we find two specific mitzvoth discussed--Kidush over wine on Erev Shabbat and the Grace After Meals. The thinking regarding the Kidush is especially instructive. There is an attempt to decide whether Kidush is biblical or rabbinic and then the conclusion that since women are obligated to refrain from work they ought to observe the rite associated with that observance.

אמר רב אבדימי בר חיקוה משום רבי יוסי
בר חנינא אמאי אשה שומעת ברכת המזון
מפני שאינה בת חיובא בקידוש היום
ואמאי אינה בת חיובא משום דכתיב זכור
ושמור בדיבור אחד נאמר מה שמור
האמור בשמור אף זכור האמור בשמור
אף על פי שאינה בת חיובא בשמור
אינה בת חיובא בזכור אמר רבא
לאביי מנלן דמאן דכר שמיה
דשבתא בעי קדושא ומאן דכר
שמיה דשבתא בעי זכירה
ומנלן דזכירה דאורייתא
דכתיב זכור את יום השבת
לקדשו.

R. Adda b. Ahabah said: Women are under obligation to sanctify the the (Sabbath) day by ordinance of the Torah. But why should this be? It is a positive precept for which there is a definite time, and women are exempt from all positive precepts for which there is a definite time?--Abaye said: The obligation is only Rabbincal. Said Raba to him: But it says, 'By an ordinance of the Torah'? And further, on this

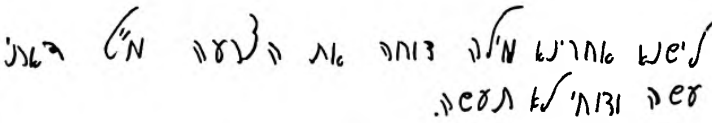
> ground we could subject them to all positive precepts by Rabinnical authority? Rather, said Raba, the texts says Remember and Observe. Whoever has to 'observe' has to 'remember'; and since these women have to 'observe', they also have to 'remember'.

The discussion of the Grace after meals asks what the point of all this is and then comes to the conclusion that the importance lies in the decision whether women can perform the action on behalf of others. A person who is not bound to perform a rite cannot in Jewish practice perform that action on behalf of others. To give a simple example of how this works, let us consider the question of whether women are obligated to wear tsitsit on four-cornered garments. This is a positive mitzvah, so the crucial question is whether it is time-bound. Tsitsit are worn only during the day, so the mitzvah to wear them is time-bound and women are exempt, in spite of the fact that tsitsit are otherwise a universal mitzvah.[1]

This exclusion of women from the positive mitzvoth has been a continuing source of controversy since the inception of the Reform Movement. Kaufmann Kohler regarded the subjegation of women as an especially shameful expression of the Orientalism of the synagogue.[2] The extensive Jewish participation in the contemporary women's-rights movement has led it to echo Kohler's sentiments, with several variations. The objections have a logical validity which would prove utterly compelling--were it not for the fact that the positive, time-bound mitzvoth are concentrated in the area of ritual, an area which is to a large degree impervious to logical arguments. A talit looks funny on a woman, and if one of the purposes for wearing it is to affirm one's identity with the Jewish past, the novelty involved may work at cross-purposes with this affirmation. In any case, an age which has seen a considerable diminution of Jewish ritual practice might want to direct its attention to more substantive issues.

Positive mitzvoth generally override negative ones. This principle is developed on Shabbat 132b. It occurs in a discussion about whether it is permissible

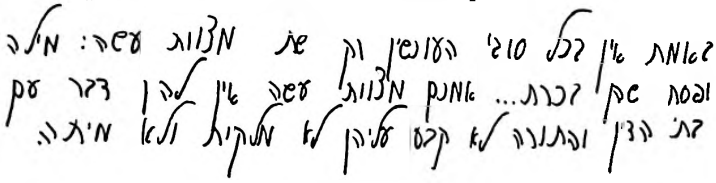
to circumcise a man or boy with leprosy. There is a prohibition of removing leperous sores, and the circumcision might remove one such sore on the foreskin. The conclusion is reached that the circumcision is a positive commandment and hence overrides the negative commandment of not cutting away the sore.



> There is another way of saying that. Circumcision overrides the prohibitions of leprocy. Why? It is a positive mitzvah and pushes aside the negative mitzvah.

There then follows a discussion of just how negative these leprosy mitzvoth really are. This reinforces the point since all the discussants seem to accept that idea that a positive mitzvah overrides a negative one.

There is a considerable difference in the way punishment is prescribed for the two types of mitzvoth. Michael Guttmann explains:



> Actually in all the variations of punishment there are only two positive mitzvoth specified. They are circumcision and Pesach, which are punished by kareit... Indeed, positive mitzvoth are not the business of the courts and the Torah has prescribed neither death nor stripes for their violators.[3]

One important aspect of the negative mitzvoth is their universality. They

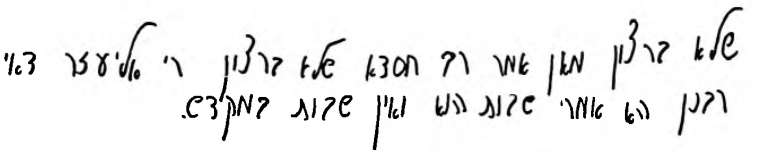
apply to everyone at all times. This should give us some idea of the seriousness with which the Rabbis took them. They viewed some things as so undesirable that they must be absolutely prohibited. This view has attracted considerable scorn of late from those who group themselves loosely under the banner of "situation ethics." One such thinker is Joseph Fletcher who outlines a system opposed to the "legalism" of traditional religions.[4] He gives "the ancient Jews" ample credit for the development of this legalism.[5] In Fletcher's system, morality is based not on laws or prohibitions but on principles which serve to illuminate, but certainly not direct one's life.[6] For Fletcher, the primary such principle is Christian love, a constuct imputed to embody all that is desirable, emphatically including justice. The chapter headings include, "Love is Always Good," "Love is the Only Norm," "Love and Justice Are the Same," and "Love is not Liking," "Love Justifies Its Means," "Love Decides There and Then."

Fletcher summarizes his points in a point-by-point attack on the Ten Commandments, emphasizing the counter-productive nature of the prohibitions. For example, he comments on the second commandment:

> As to the second prohibition, "You shall not make for yourself a graven image... of anything," if it is taken to be a prohibition of idolatry, love might technically, i.e. in a false way, violate it... If it commands aniconic worship (no images), Catholic and Eastern Christians have always broken the law! Jesus is constantly shown in Christian worship, even though God as transcendent escapes being depicted. And there is some evidence that the Jews themselves used sacred images, even under Moses...It if means there is to be no pictorial art at all (sculpture, painting, photography), as many strict Jews have interpreted it to the impoverishment of their culture, then we might reasonably and lovingly say it is a bad law indeed. Who would disagree?[7]

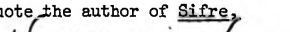
So it goes. Murder is equated with warfare and thus becomes only partially evil. Summarizing his treatment of the Ten Commandments, Fletcher tells us, "...Situation ethics has good reason to hold it as a duty in some situations to break them, any or all of them."[8]

Contrary to what Fletcher states, the Rabbis quite often took up his basic method of thought. We have already seen how legalism was set aside in the case of the met mitzvah. Even the Shabbat was set aside for a circumcision on the eighth day of a baby boy's life.[9] It was set aside for other reasons as well such as the Temple cult. On Pesachim 65a we find a discussion of this very point. The mishnah (5:8) states that the priest performed the Paschal sacrifice on Shabbat exactly as they did on other days over the objections of the Sages, a point which the gemara explains as follows:



Without whose consent?--Said R. Chisda, "Without the consent of R. Eliezer; for if (the ruling of) the Rabbis (is regarded), surely they maintain that it is a Rabbinic prohibition, which does not apply in the Temple.

The mitzvoth, even the negative mitzvoth, are open to modification as circumstances and principles demand. It would not be too difficult to construct a system of "situation ethics" in line with Rabbinic thinking.[10] The problem with Fletcher's system is that its view of the human psyche is entirely too optimistic for the Rabbis. The way they saw man, he was a combination of good and evil, and the evil had to be contained. One of the ways of doing this was the negative commandments. Far from being part of a constraining legalism, the negative mitzvoth were thought to hold the evil inclination in control, and thereby enable man to realize his potential. To quote the author of Sifre,



"The Torah would not speak except against the evil inclination."[11] This is the function of the mitzvoth lo-ta'asech--to speak against the evil inclination. The Rabbis and the Bible before them saw some things as so objectionable to merit the liberal use of prohibitions.

CHAPTER VIII

MITZVOTH DEPENDENT ON THE LAND OF ISRAEL

The Pentateuchal conception of mitzvah often involves the Land of Israel. Even such a seemingly universal mitzvah as honoring mother and father finds the phrase " למען יאריכון ימיך על האדמה אשר ה' אלהיך נתן לך That your days may be long in the land which the Lord your God gives you," (Exodus 20:12) added onto the end. It should therefore not surprise us that in a passage like the Holiness Code (Leviticus 19) we find agricultural mitzvoth mixed with many other sorts which are not dependent on the Land. That a distinction between mitzvoth which could be performed anywhere and those which could only be performed on the Land of Israel was at all possible seemed scarcely to have occured to Israelites living in the Land. There was simply no need for such a distinction. The need arose with the destruction of the Temple and more importantly with the increasing propensity of vast segments of the Jewish people to live beyond the confines of Palestine.

Such Jews faced three alternatives. They could have demanded the impossible of themselves, failed, and accepted the requisite guilt. Such a solution would clearly have been unsatisfactory--especially in the long run. They could have taken the Pentateuch at face value and abandoned the entire mitzvah-system as not being applicable to them. As we shall see, this is not an altogether unlikely solution. It is indeed fortunate for the survival of Judaism that it was not adopted and that instead a compromise was reached between the two possible extreme solutions. Some of the mitzvoth were deemed to be תלויות בארץ or dependent on the land and were therefore temporarily laid aside until such time as restoration to the Land would make their practice possible again. Others were deemed not to depend on the Land and their continued practice was strongly

mandated.

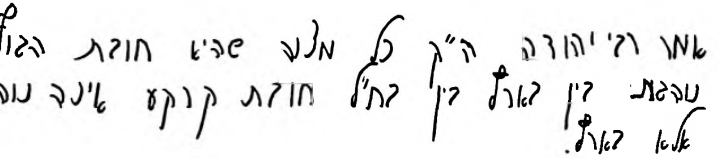
The basic text that spells all this out is Mishnah Kidushin 1:9. It also gives us as clear an idea as we can obtain of the origin in time of this distinction. Rabbi Eliezer Ben Hyrcanus, the differing tana in our mishnah lived and worked during the last decades of the First Century and the first decades of the Second.[1] The distinction must have been known to him or he could not have discussed it. It is likely that a concept such as this one existed for some period of years before it was codified. It therefore seems likely that the distinction grew out of some very practical decision which Jews had to make during the period of the last part of the First Century. Rabbi Eliezer and others saw these adjustments, approved of them, and codified them as follows:

כל מצוה שניתנה לארץ בארץ בזמן שהיא תלויה בארץ בחוצה לארץ בזמן שאינה תלויה בארץ חוץ מן הערלה והכלאים. רבי אליעזר אומר אף הנוטע.

Any mitzvah that depends on the Land applies only in the Land; a mitzvah which does not depend on the Land applies both within and without the Land, except for the Laws of the Orlah fruit and of diverse kinds. Rabbi Eliezer says: Also the new produce.

Albeck defines a mitzvah which is dependent on the Land as "an obligation of the soil." He defines a mitzvah which is dependent of the Land as "one based not on soil but on the body of man, such as Shabbat." Albeck outlines the distinction based on the Bavli on this mishnah, which we find in Kidushin 37a. In it we find the

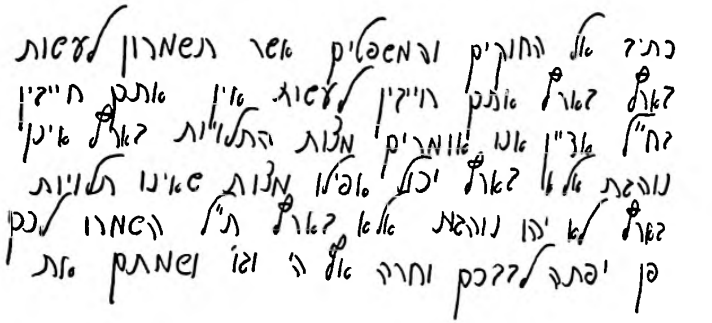
the Amoraic definition of the distinction.



Rabbi Judah says, "Any mitzvah that is an obligation of the body applies both within and without the Land, while an obligation of soil applies only within the Land.

According to the Rabbis, some mitzvoth are so dependent on the Land of Israel that their observance must be suspended while in exile from the Land. Not to do so would be on the one hand unrealistic and on the other a denial of the seriousness of the exile. There are, however, other mitzvoth which are dependent not on the Land of Israel but on each Jew individually. These must be observed by Jews in all places and at all times.

To see some of the thinking behind this distinction, we can go to the Talmud Jerusalem on this mishnah. In it we find the alternatives we have outlined discussed. The discussion is of tefilin, which is used as an example of a mitzvah dependent not on the soil but on the Jew himself.



זכרו אלה חוקים ומשפטים את תשמרו לעשות בארץ אשר לכם
נאמר נפשכם או שיהא כאן בזמן שהן נוהגין אף בחוצה לארץ
ת"ל השמרו פן יפתה לבבכם וסרתם ועבדתם אלהים אחרים
והשתחויתם להם ואף כאן בזמן שהן נוהגין בחוצה לארץ

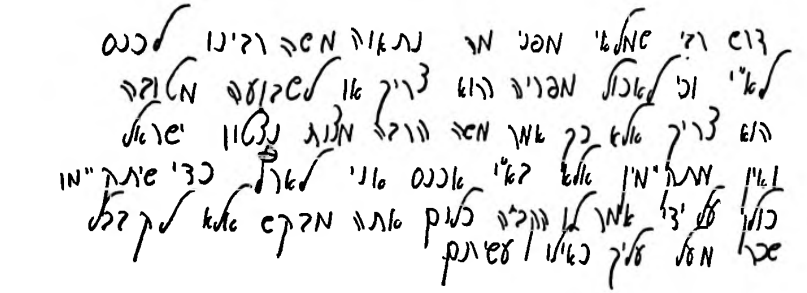
It is written, "These are the statues and ordinances which you shall be careful to do in the Land.."(Deuteronomy 12:1) It is "in the Land" that you are obligated to do them, but you are not obligated to do them outside the Land. Yet we say that mitzvoth dependent on the Land are only binding in the Land. It could be that even mitzvoth which are not dependent on the Land would not apply except in the Land Scripture says (to refute this view), "Take heed lest your heart be deceived, and you turn aside and serve other gods and worship them, and the anger of the Lord be kindled against you, and he shut up the heavens, so that there be no rain, and the land yield no fruit, and you perish quickly off the good land which the Lord gives you. You shall therefore lay up these words of mine in your heart and in your soul.. (Deuteronomy 11: 16-18) "You shall therefore lay up these words," applies even to those in exile. The passage discusses tefilin and Torah study as an example; just a tefilin and Torah study which are not dependent on the Land apply both inside the Land and outside, so anything not dependent on the Land applies both inside and outside the Land.[2]

This discussion of Land-bound mitzvoth reaches the conclusion that they do not apply outside the Land of Israel. The tana then turns around and suggests that it might follow that no mitzvoth whatsoever apply outside the Land. This is rejected by a proof text from Deuteronomy. Even though the proof text discusses the Land (in the portion not quoted), tefilin apply everywhere, so by implication the mitzvoth that are not bound to the land have universal applicability.

The importance of this distinction for the subsequent survival of Judaism cannot be overestimated. Suppose the Rabbis had decided that the mitzvoth do not apply outside of the Land and had said by implication that the continuation of Judaism outside the land was an impossibility. This decision would have been a self-fulfilling prophecy, and Judaism would have passed from the stage of history. Instead, Judaism was reduced in scope a bit but enabled to continue.

This is not to say that the Land and the mitzvoth associated with it ceased

to play a role in the Jewish consciousness. They were merely reduced in importance so as not to be debilitating. In Sotah 14a Rabbi Simlai explains how Moses longed to enter the Land. Here, it seems far more likely that Rabbi Simlai intended Moses to be an allegorical symbol of Israel than that he was trying to recreate the psyche of Moses. So by implication, all Jews long with Moses to fulfill the Land-bound mitzvoth.



Rabbi Simlai expounded, "Why was Moses eager to enter the Land of Israel? Was it to eat its native fruit or to be satisfied from its goodness that he needed to enter? Rather Moses stated, "There are many mitzvoth which Israel is commanded that cannot be fulfilled except in the Land of Israel. I would enter the Land so that they may all be fulfilled by my hand."

The Holy One Blessed be He said to him, "You seek nothing except to receive the reward, so I shall count it for you as if you had done them."

In this passage Israel personified as Moses making his death wish expresses a love of Zion based on the fact that restoration to the Land would enable Israel to restore the Land-bound mitzvoth to their proper place.

The development of the distinction is a meaningful one for the modern Jew. We have seen that there were three alternatives, the path of blind retention at any cost, the path of abolition, and the path of logical and considered distinctions. By choosing the latter path, the Rabbis preserved the mitzvoth. They had to

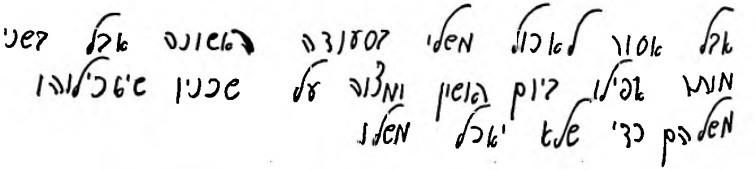
create a new distinction having little Biblical precedent. Yet the distinction they made was of considerable value for it prevented exile from becoming a license for wholesale abolition. Is this not precisely what we try to do when faced with mitzvoth whose continued validity is questionable? We face the same three choices. We can retain the mitzvah at any cost; we can decide that the questionable validity of one mitzvah should enable us to eliminate all mitzvoth, or we can try to make reasonable decisions and distinctions. Most modern Jews have chosen the third alternative with all its problems, because it seems to them to offer the best possibility of meaningful Jewish survival.

CHAPTER IX

CONTEMPORARY USES OF THE WORD MITZVAH

One of the unique features of the word mitzvah is that its development continues up to our own day in American Jewish usage. We shall examine this later. First, let us look at some aspects of the word's development since the Rabbinic period.

The Shulchan Aruch makes use of the word. Most of the uses we have discussed are repeated somewhere in its pages. One does, however, note the use as a desirable religious action which becomes the most frequent use. An example is the description of the Meal of Consolation. A man is not supposed to make his own food immediately after returning from the funeral of a close relative, so the code explains that it is a mitzvah for his neighbors to help him.



A mourner is forbidden to eat his own food at the first meal after the burial, but at the second meal it is permissible for him to eat his own meal. It is a mitzvah for the neighbors to feed him their food so that he not eat his own.[1]

It is unlikely indeed that Joseph Caro intended this to be a legal obligation of the neighbors. Rather, he is giving his opinion that the neighbors ought to feed the mourners the Meal of Consolation. This is born out by the noninclusion of this mitzvah in Maimondes' list of the 613 mitzvoth. The only one that is at all related is Positive Commandment #37, an injunction that priests should defile themselves for close deceased relatives. By implication, the injunction commands Israelites to practice mourning, but it does not mention the Meal of Consolation.[2]

This usage is fairly typical of the way in which the Shulchan Aruch uses mitzvah.

Before we go on to comtemporary uses of the word mitzvah, we note two deviations. Moses Maimonides in the introduction to his code the Mishneh Torah states that mitzvah means the Oral Law.[3] This particular definition had little if any influence on the subsequent meaning of the word.

Yet another deviation is the development of a concept called mitzvah habbah ba' aveirah, a mitzvah gotten by a transgression. In the Talmud this concept is a limited legal nicety. It is applied to such things as stolen lulavim. In Sukah 30a we find that the Rabbis discuss and eventually disqualify a stolen lulav because it is a mitzvah habaah ba' aveirah. In the Middle Ages what was a legal nicety becomes a major theological concept, used by the followers of Sabbatai Zevi to defend his violations of Rabbinic law and his subsequent apostacy. As Gershom Scholem explains:

> It was at this point that a radically new context was bestowed upon the old rabbinic concept of mitzvah ha-ba 'ah ba-averah, literally, "a commandment which is fulfilled by means of a transgression." Once it could be claimed that the Messiah's apostasy was in no way a transgression but was rather a fulfillment of the commandment of God, "for it is known throughout Israel that the prophets can do and command things which are not in accord with the Torah and its laws," the entire question of the continued validity of the Laws had reached a critical stage. We know that even before his apostasy Sabbatai Zevi violated several of the commandments by eating the fat of animals and administering it to others, directing that the paschal sacrifice be performed outside the Land of Israel, and cancelling the fast days. His followers soon began to seek explanations for these acts, and here began a division which was to lead eventually to an open split in the movement.
>
> The new doctrine of necessary apostasy of the Messiah was accepted by all the "believers."[4]

It is indeed curious that such was the strength of the hold of the word mitzvah on the Jewish people that even the Sabbatean movement found it desirable to use it as a slogan.

That hold continues to this day. Leo Rosten in the Joys of Yiddish describes the contemporary meanings of mitzvah. The book is really a treasury of American Jewish folklore. He gives a summary of the religious meanings of the word and then says rather succinctly, "If you do something honorable, especially kind or considerate, a Jew may beam, 'Oh, that was a mitzva!' or 'You performed a real mitzva!'" He then tells the following story to illustrate what a mitzvah is:

> At the end of a pier in Tel Aviv, a man was about to jump into the sea when a policeman came running up to him. "No, no!" he cried. "How can a man like you, in the prime of life think of jumping into the water?"
>
> "Because I can't stand it any more! I don't want to live!"
>
> "But listen, mister, please. If you jump in the water, I'll have to jump in after you, to save you. Right? Well, it so happens, I can't swim. Do you know what that means? I have a wife and four children, and in the line of duty I would drown! Would you want to have such a terrible thing on your conscience? No, I'm sure. So be a good Jew and do a real mitzva. Go home. And in the privacy and comfort of your own home, hang yourself."[5]

Such is a mitzvah to that policeman who could not swim, but the use of the word mitzvah in American Jewry is at once more accepted and more profound than this anecdote would indicate. Mitzvah is listed in Webster's as:

1) Jewish religion: a biblical or rabbinic commandment
2) Jewish religion: a meritorious performance (as of a religious or civic duty or a humanitarian or charitable act); a good deed.[6]

So mitzvah is an English word, at least in the context of the Jewish religion. American Jews certainly use it that way. Most of these uses are in conversation, but some are in print. One such is the recent Shabbat Manual of the Central Conference of American Rabbis. In the chapter called "Guidelines to Shabbat Mitzvot," we find a definition of mitzvah for the Reform Jew.[7] This is followed by a list of modern Shabbat mitzvothsuch as, "It is a mitzvah for the family to prepare for Shabbat and to celebrate it together," or "It is a mitzvah to join

the congregation in worship."[8] So from jokes to religious observance the word mitzvah pervades American Jewish speech.

Is the concept equally widespread? That is a difficult question, but at least it gets a push everytime a parent asks a child to do a favor by telling him, "Do me a mitzvah."

FOOTNOTES FOR CHAPTER I:

1. Meir Hillel Ben Shamai, Mitzva BeYahadut Mahi, Deot -42 , February, 1973, p. 101.
2. Isaac, Heinemann, La Loi dans la Pensee juive (Paris: Editions Albin Michel, 1962) p.31.
3. Ben Shamai, op. cit., p. 99
4. Heinemann, op. cit., p. 22.
5. Esther 3:3

FOOTNOTES FOR CHAPTER II

1. Ephraim E. Urbach, Chazal (Jerusalem: Magnes:, 1969) pp. 279-295.
2. Pesikta de Rav Cahana, Buber (ed.) (Wilna Rom, 1925) p. 51a.
3. Urbach, op. cit., p. 296.
4. Avot de Rabbi Natan, B version, (Solomon Schechter, ed.) p. 3. (New York: Feldheim, 1967) p. 336.
5. Urbach, op. cit., p. 298.
6. Gedaliahu Alon, Mechkarim beToldot Yisrael (Tel Aviv: Hakibutz HaMeuchad, 1970) p. 111.
7. Alon, op. cit., pp. 111-117
8. Alon, op. cit., p. 114.
9. Alon, op. cit., p. 114.
10. Urbach, op. cit., p. 299.

FOOTNOTES FOR CHAPTER III

1. Yitzchak Heinemann, Ta'amai HaMitzvot beSifrut Yisrael (Jerusalem: Religious Department of the Zionist Union, 1949), pp. 18-19

FOOTNOTES FOR CHAPTER III: Continued

2. Michael Guttmann, Bechinat Kiyum HaMitzvot (Breslau: Jewish Theological Seminary, 1931_, p. 19.

3. Urbach, op. cit., pp. 304-320.

4. Guttmann, op. cit. , p. 19.

5. Ibid., pp. 19-20.

FOOTNOTES FOR CHAPTER IV

1. Paul Volz, Die Eschatologie der Judischen Gemeinde (Tubingen: J. C. B. Mohr, 1934), pp. 100f.

2. Solomon Schechter, Aspects of Rabbinic Theology (New York: Schocken, 1961), p. 147.

3. Tosefta Peah 3:8

4. Schechter, op. cit., p. 149.

5. Yoma 72b.

6. Schechter, op. cit., p. 150.

7. Ibid., p. 150f.

8. Derech Eretz Zuta, S. Hagen (ed.), (Kaeville: 1807), Chapter 2.

9. Tosefta Berachot 3:7.

10. Schechter, op. cit., p. 153.

11. Suka 41b.

12. K. Kohler, Jewish Theology (New York: Ktav, 1968), pp. 447-476.

13. Ibid., p. 469.

14. Ibid., p. 473.

FOOTNOTES FOR CHAPTER V

1. Schechter, op. cit., p. 139.

2. George Foot Moore, Judaism (New York: Schocken, 1971), p. 89ff.

3. Moore, op. cit., p. 90.

FOOTNOTES FOR CHAPTER VI

1. Kaufmann Kohler, "Burial," Jewish Encyclopedia, 3:432-437 (New York: Funk & Wagnalls, 1901).

2. H. Neil Richardson, "The Book of Tobit," The Interpreter's One Volume Commentary on the Bible (Nashville: Abington, 1971), p. 527.

3. Kohler, op. cit.

4. Leviticus 21: 1-3.

5. Leviticus 21: 10-11.

FOOTNOTES FOR CHAPTER VII

1. Menachot 43a.

2. K. Kohler, Jewish Theology (New York: Ktav, 1968), p. 472.

3. Michael Guttmann, Bechinat Kiyum Hamitzvot (Breslau: Jewish Theological Seminary, 1931), p. 19.

4. Joseph Fletcher, Situation Ethics (Philadelphia: Westminster, 1966), p. 18.

5. Ibid., p. 18.

6. Ibid., p. 31.

7. Ibid., pp. 71-72.

8. Ibid., p. 74

9. Shabbat 132a.

10. Jakob J. Petuchowski, "Rabbinic 'Situation Ethics'" (unpublished: 1969-70). p. 6.

11. Sifre Devarim, David Horwitz (ed.) (Luneville: 1807), Chapter 222.

FOOTNOTES FOR CHAPTER VIII

1. "Eliezer Ben Hyrcanus" Encyclopedia Judiaca; 6:619-627, (Jerusalem - McMillan, 1971).

2. Jerusalem Talmud, Kiddushin 1:8 (Vilna pp. 21b-22a).

FOOTNOTES FOR CHAPTER IX

1. Shulchan Aruch, Yoreh Deah 375: 1.

2. Moses Maimonides, Sefer Hamitzvot, Positive Commandment #37

3. Maimonides, Misheh Torah, Introduction.

4. Gershom Scholem, The Messianic Idea in Judaism (New York: Schocken, 1971), pp. 99 (quoting Inyanei Shabtai Zevi, p. 91)

5. Leo Rosten, The Joys of Yiddish (New York: McGraw-Hill, 1968) ; p. 253.

6. Webster's Third New International Dictionary (Springfield, Massachusetts: G. & C. Merriam Company, 1961) p. 1448.

7. Central Conference of American Rabbis, A Shabbat Manual (New York: Ktav, 1972) p. 7.

8. Ibid., p. 9-10.

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DIGEST OF CONTENTS

This thesis concerns itself with the ways in which the word mitzvah was used in Classical Rabbinic literature. As a background, it discusses the influence of the concept of mitzvah on the Jewish religion----------and also the uses of the word in the Hebrew Bible. The next topic is the development of the meaning of mitzvah as a desirable but not necessarily legally required act on the part of the Jew. Mitzvah, which in the Bible is always a binding command, becomes in the Talmud and Mishnah sometimes a legal commandment, but equally often a desirable act of piety. There also emerges a distinction between a light and weighty mitzvah. This distinction presents something of a problem, since the Rabbis repeatedly stress the importance of the light mitzvoth, and thus to a large extent negate the distinction. Then, we explore the concept of the joy associated with performing a mitzvah and its implications, as well as the diligence which is doubtless also necessary. The next topic is the reward associated with the mitzvoth be it in olam hazeh or olam haba.

The case of met mitzvah provides an interesting case study in this area. A priest coming across a Jewish corpse is supposed to bury it immediately even though it is normally forbidden for him to touch a Jewish corpse. Likewise, the Shabbot must be violated for this purpose. Why? The rabbis realized that the ethical and national considerations implicit in giving this body a prompt burial would compel one to set aside even the most cherished portions of Jewish law. We next deal with the distinctions between negative and positive mitzvoth and their implications for Judaism. Finally, we discuss uses of the word mitzvah since the Classical Rabbinic period and finish with a discussion of contemporary American Jewish usage of the word.