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*Tchilat HaDerech*: Studies in Jewish Law (for the Purpose of Reform  
Engagement)

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Thesis Submitted in Partial Fulfillment of Requirements for Ordination

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Los Angeles, California

March 4, 2025  
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## Acknowledgements

This thesis would not have been possible without the support of many individuals over time. I'd like to acknowledge and thank Dr. Leah Hochman, whose courses on Jewish thought and theology gave me the language and helped me to develop the voice with which to state my beliefs and priorities as a participant and creator of Jewish life and practice. I also owe a large measure of thanks to Professor Zohara Pardes-Feinstein of the Jerusalem campus. It was in her Hebrew and Chazal classes 8 years ago that I began to develop the skills to engage Hebrew text effectively and to appreciate the rabbinic thought process.

I also want to thank the stateside professors who helped me cultivate my love for and skill with Rabbinic texts. They are Dr. Jason Kalman, my academic advisor Dr. Reuven Firestone, Rabbi Neal Scheindlin, and Dr. Dvora Weisberg. Dr. Weisberg also gave me permission to change my thesis topic at a late hour, a decision for which I am truly grateful as this has been one of the most rewarding intellectual and practical exercises of my life. I also could not have completed or embarked on this journey of study were it not for my thesis advisor, Dr. Joshua Garroway, who took me on as a late advisee and whose insights and candor have been of great service to me as I have shaped this project and look ahead to how I will continue it.

I also want to thank my (many) parents, my siblings, and my aunt and uncle, who have provided me with so much strength and many resources to make my journey possible. Thank you also to my beloved dog, Mani, who is always a welcome distraction. Lastly, I want to thank my wife, Meg Wells, who has supported and loved me through this grueling process and over the last 5 years. Meg, you are my motivation to walk the *derech* I seek to pave.

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## Introduction

### Mitzvot and Blessings

My fifth-year sermon was on *Parshat Ki Tavo*, so of course I wrote about blessings and curses. I discussed the implications of the theology contained within the extensive list of blessings and curses, the consequences of either following or disobeying God's *mitzvot*. The perhaps natural response to that terrifying section might be to imagine that ours is a God of divine reward and punishment, a God who waits for us to either do right or wrong and then metes out the proper consequence for our action or inaction. I wrote then, and maintain now, that I do not believe that this is the way that God works.

Rather, I posited that we might imagine that section as representative of a truism about the world we steward on behalf of God. Blessings are not given to us, but rather come about as the natural effect of the cause that is fulfilling *mitzvot*. The question in today's world is: How? How do we interpret the mitzvot in a way that is relevant and applicable to our society? For Reform Jews, who may be disconnected from any sense of commanded-ness, there are even more questions. How do we maintain our autonomy while also following *mitzvot*? How do we live distinctly Jewish lives informed by distinctly Jewish values while maintaining our deep involvement within the societies in which we live? To answer these questions, we will need to produce our own halakhic works.

### Contemporary Approaches

In her rabbinic thesis, *Finding Our Way: Creating Liberal Halakhah*, Rabbi Rachel Timoner imagines a process through which groups of Reform Jews might engage in a "Post-

Modern, Liberal, Grassroots Halakhic Process.” Timoner describes and demonstrates a process by which groups of liberal Jews would identify questions in their lives and, together with their rabbi, investigate the personal and cotemporary concerns related to their question. Then the group would study Jewish textual elements that connect to the question and decide what they feel commanded to do or not do in response to their questions.

I am inspired by Rabbi Timoner’s ideas, but I am also skeptical. As much as I want to believe that organically formed groups will come together to do an extended study to deal with pressing issues in their lives, I fear that people may stop before they get to the answer. Timoner herself acknowledges that time will may be an obstacle. At the conclusion of the first case by which she illustrates her idea (Work/Life Balance: Shabbat) she writes that, “It is the rare liberal Jewish community that will have the time to study the full body of literature on Shabbat.”<sup>1</sup> I find it just as rare that a community would have the time to gather and process their questions to the level Rabbi Timoner suggests, even if they only use a subset of texts selected by their rabbi (who perhaps also may not have time to do an intense study by which to inform her congregants). She contends at the end of her first case that, “Guided by the principles they find, the texture of the texts, the conditions of their lives, and the *nomos* they envision, liberal Jews will develop their own halakha on Shabbat.”<sup>2</sup> I remain unconvinced that any significant number will stay through all the way to that point. I am convinced, though, that Reform Jews need a resource that can perhaps expedite some of this process.

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<sup>1</sup>Rachel Timoner, “Finding Our Way: Creating Liberal Halakhah,” Unpublished Rabbinical Thesis, Hebrew Union College-Jewish Institute of Religion, 2009, 66.

<sup>2</sup> Timoner, “Finding Our Way,” 79.

## Halakha as a House

The resource which I seek to model through this Thesis, though meant to aid Reform Jews in creating their Liberal Halakha, is somewhat contrary to Timoner's process. Timoner imagines that the source for the halakhic effort would be grassroots in that it comes from the people who need it. Her approach, though, comes from the top down; it is the issue that drives the investigation. This is in line with the tradition of Jewish responsa literature and best practices for community organizing and improvement. I wonder, though, what may fall through the cracks when we follow this direction while seeking to build a Jewish way of life in which we might seek to follow *mitzvot* to bring blessing into the world. To me, this is like building a house from the roof first. It would be miraculous if that house was ever a truly livable structure (or if anybody ever actually builds it).

To continue the metaphor, I propose that we must build Reform Jewish Halakha from the bottom up. We must build upon the deep foundations of our Torah, erect walls and lay floors with the rabbinic textual tradition, and then lay a roof over top that binds contemporary issues and questions to the rich and comprehensive layers below. This idea goes hand-in-hand with Rabbi Rachel Sabbath Beit-Halachmi's ideas about developing Jewish practice and theology. She writes in a chapter on Liberal Jewish theology that "The study of canonical texts must continue to be the ground from which all Jewish ideas spring. It is that foundation that will continue to sustain and inspire us intellectually and spiritually, as individuals and as the Jewish people in unimaginable ways."<sup>3</sup>

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<sup>3</sup> Sabbath-Beit Halachmi, "Radically Free and Radically Claimed," in *Jewish Theology in Our Time*, ed. Rabbi Elliot J. Cosgrove (Woodstock, VT: Jewish Lights Publishing, 2010), 111.

### Informing Ideology

A Reform Jewish Halakha must also engage contemporary Reform ideals and redefine them. In this sense, I speak mostly about the concept of *tikkun olam*, repairing the world. This may involve incorporating idea from other streams of Judaism who we, as Reform Jews, are free to engage and bring into our own practice. Somewhere in the last 32 years (that's my current lifetime, and it is all I have known) or more, *tikkun olam* became a battle cry for progressive issues. For many Reform Jews, *tikkun olam* exists mainly through protests and posters. We apply the phrase to all sorts of issues: civil rights, environmental justice, wage inequality, public health, immigration, and more. This is not wrong, per se. Certainly many of these issues may be connected to or addressed by the activities meant to participate in *tikkun olam*. However, *tikkun olam*, to truly qualify as Jewish world repair, must be based in more than vague assertions of "Jewish Values." Repairing the world must be based in specifically Jewish actions.

In the introduction to his book, *The Triumph of Life*, Rabbi Irving Greenberg writes that "the method of *tikkun olam* is covenant: a partnership between God and humans and between the generations."<sup>4</sup> He also suggests that "the *Tikkun*" must not be propelled by anger or resentment at the status quo, but rather by love for humans and for God.<sup>5</sup> Both of these ideas should inform the way we think about *tikkun*. We must think of world repair as a partnership with God that is based on love and specifically not based on anger or resentment. This returns us to our metaphor of the house, which we may extend further. If halakha is the structure of the house in which we live our Jewish lives, then we must also live as partners with all of our roommates and with the master of the house.<sup>6</sup>

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<sup>4</sup> Irving Greenberg, *The Triumph of Life*, (Lincoln: University of Nebraska Press, 2024), 5.

<sup>5</sup> Greenberg, *Triumph of Life*, 5.

<sup>6</sup> Read: God (in the language of the Mishna).



However much we prioritize this partnership, we also must do so while simultaneously “Putting God Second” and respecting the primacy of the ethical and its independence from God. These ideas are derived from Rabbi Donniel Hartman’s work *Putting God Second*. In his work, Hartman posits that in order to truly live as partners with God and to do what God wants, we must put God second. What comes first, then, is an autonomous, human ethical framework. Harman writes that “No exceptions, exemptions, or loopholes in the name of God can ever apply.”<sup>7</sup> This means that as we undertake the task of creating Reform Jewish Halakha, we have the ability (and the responsibility) to adjust parts of our Jewish canon where we see service of God and God’s instructions (as perceived previously) as contrary to our sense of good. When we harmonize these parts of our tradition with this value, we can protect all the roommates in the house, which in turn creates peace for the master. Putting God second is a key to unlocking effective *tikkun olam*.

### The Method

The work that follows this introduction is meant to take up the challenge of addressing Halakha from the foundation by beginning with mitzvot as stated in the Torah. Although the chapters that follow are not responsa in the traditional sense, they are formatted as a series of broad questions with a response. The questions, however, remains basically the same: What are the mitzvot implied in a given verse or set of verses, how has the Jewish understanding of these mitzvot changed over time, and how might we as Reform Jews do them? Each response will also interrogate the verse/s through the lens of *Tikkun Olam* and “putting God second.”

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<sup>7</sup> Rabbi Donniel Hartman, *Putting God Second* (Boston: Beacon Press, 2017), 89-90.

To demonstrate the model, I address Leviticus 19:9-10, 19:13, and 19:14. Each of these verses contains important, identity forming mitzvot for the Jewish people. They also allow us to approach contemporary issues from the bottom up. I chose these verses because each represents distinct challenges from one another in formulating a halakhic response, which I hope will serve as a broad proof of concept. The first chapter will address Leviticus 19:9-10, the verses that give us the instructions for how to appropriate parts of our agricultural produce for the poor and hungry. This verse challenges us to consider how to participate in mitzvot to which our circumstances may not engage in any literal sense. The second chapter works with Leviticus 19:13, which gives instructions for how to treat employees and generally one's fellow. The *mitzvot* implied in this verse involve situations that many Reform Jews will likely encounter and compel us to consider the limits of the historical application. The third chapter interrogates Leviticus 19:14 and approaches issues ranging from disability advocacy to being an accessory to criminal activity. Much of the thought process around this verse relies on metaphor, which gives us the opportunity to think creatively and expansively in extending and the protections provided by its *mitzvot*. In each of these chapters various *tikkunim* are made to previous rulings, and contemporary social and ethical issues are raised.

Each chapter begins with the verse from the Torah and any other connected verses where the same or similar command is iterated. I then transition to where these verses are used in the Mishna. I then process several connections to the Talmud. After that I transition to the world of codes. I utilize the *Mishneh Torah* and *Shulchan Arukh* in each chapter, while other medieval and renaissance era halakhic works vary based on content and relevance based on the framing of *tikkun olam* and putting God second. After that, I discuss the evolution of codes in *Haskalah* era works. Then, I do an analysis of modern and contemporary perspectives on legal applications of

the verse through responsa literature. In the last part of each chapter I engage the contemporary Reform perspective, note other secular and societal considerations, and eventually make suggestions for how a Reform Jew today should live out the mitzvot that derive from the verse.

### The Goal

It would be my hope that, should Rabbi Timoner's idea come to fruition, a resource like this would help to give a more comprehensive sense of the related text to the issue with which a group seeking halakha wrestles. However, even without a group effort this resource should be just as useful also to the Jew who encounters the mitzvot in the Torah (perhaps through a weekly Torah study) and wants to know how to follow it while still upholding a contemporary sense of Judaism, society, and ethics. Reform Jews do not yet have our own list of Torah *mitzvot* or how to think about them that is framed by our ideology. It is time that we have a strong resource that not only encourages us to ask questions but gives us a clear path to the answer, if not some of the answers themselves.

At the conclusion of her thesis, Rabbi Timoner writes, "What do we have to lose? Our economy is in shambles, our people are disaffected, and our world is in danger..."<sup>8</sup> This is just as, if not truer today in 2025, as it was when Timoner became a rabbi in 2009. It is like Rabbi Tarfon in the Mishna Avot, who says, "The day is short, the work is plentiful, and the laborers are indolent, and the reward is great, and the master of the house is insistent. In this time of communal, national, and global strife the day feels intensely short, the work feels insurmountable, and we know that we are often too slow in addressing our problems. But the reward is also great. And the master of our halakhic house is insistent. There is no time to wait.

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<sup>8</sup> Timoner, "Finding Our Way," 111.

The last words Timoner writes in her thesis are that, “We have in our tradition the seeds, the process, and the inspiration...Let us begin.”<sup>9</sup> To me, this is an invitation, and though my approach is ultimately different, I hope that with this work I will open the beginning of our Reform Halakhic path. Welcome to *Tchilat HaDerech*.

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<sup>9</sup> Timoner, “Finding Our Way,” 111.

Tchilat Ha'Derech: Pe'ah, Leket, Shich'cha (Leviticus 19:9-10)

Verse:

The text of Leviticus 19:9-10 reads:

(9) וּבְקַצְרְכֶם אֶת־קִצְרֵי אֲרָצְכֶם לֹא תִכְלֶה פֶּאֶת שְׂדֵךְ לַקָּצֵר וְלִקְט קִצְרֵיךָ לֹא תִלְקֹט:

(10) וְכִרְמְךָ לֹא תַעֲזֹלֵל וּפְרִט כִּרְמְךָ לֹא תִלְקֹט לְעִנִּי וְלַגֵּר תַּעֲזֹב אֹתָם אֲנִי יְהוָה אֱלֹהֵיכֶם:

“And when you reap the produce of your land, do not completely harvest your fields’ corner, and do not gather that which may be gleaned from your reaping 10 and do not gather nor glean from [that which falls in] your vineyard, [rather] leave them for the poor and the stranger, I am God your God.”<sup>1</sup>

The mitzvot that come from this verse are related to agriculture, harvest, and treatment of the poor. Aside from the *psbat* (straightforward) meaning of the verse, how has Jewish tradition understood these verses and the mitzvot implied therein? How should a Reform Jew best follow the instructions laid out in these verses and other similar verses that are linked together over time? Is it possible to follow these mitzvot if a person does not engage in agriculture?

Analysis:

In order to develop the full meaning of the *mitzvot* commanded in Leviticus 19:9-10, the Mishna had to consider other verses from which the same or similar *mitzvot* are iterated. The two verses are compounded and restated again in Leviticus 23:22, and then are expanded into more verses with more specific applications in Deuteronomy 24:19-22. Leviticus 23:22 reads:

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<sup>1</sup> Translated by Jeff Silverstein for this chapter.

וּבְקִצְרְכֶם אֶת־קְצִיר אֲרָצְכֶם לֹא־תִכְלֶה פֶּאֶת שְׂדֵךְ בְּקִצְרְךָ וְלִקַּט קְצִירְךָ לֹא תִלְקֹט לְעַנִּי וְלַגֵּר תַּעֲזֹב אֹתָם אֲנִי יְהוָה  
אֱלֹהֵיכֶם:

“And when you reap the produce of your land, do not completely harvest your fields’ corner in your reaping, and do not gather that which may be gleaned from your reaping, leave them for the poor and the stranger, I am God your God.”<sup>2</sup>

Similarly, but in greater detail, Deuteronomy 24:19-22 says:

(19) כִּי תִקְצֹר קְצִירְךָ בְּשִׂדְךָ וְשִׁכַּחְתָּ עֹמֶר בְּשִׂדְךָ לֹא תָשׁוּב לְמַחְלֹל לַגֵּר לִיתֹמוֹם וְלֹא־לְמִנָּה יְהוָה לְמַעַן יְבָרְכְךָ יְהוָה אֱלֹהֶיךָ  
בְּכָל מַעֲשֵׂה יָדֶיךָ:

(20) כִּי תַחֲבֹט גִּיתְךָ לֹא תִפְאֹר אַחֲרֶיהָ לַגֵּר לִיתֹמוֹם וְלֹא־לְמִנָּה יְהוָה:

(21) כִּי תִבְצֹר כֶּרֶמְךָ לֹא תַעֲזֹל אַחֲרֶיהָ לַגֵּר לִיתֹמוֹם וְלֹא־לְמִנָּה יְהוָה:

(22) וְזָכַרְתָּ כִּי־עֶבֶד הָיִיתָ בְּאֶרֶץ מִצְרַיִם עַל־כֵּן אֲנֹכִי מְצֻוֶּה לַעֲשׂוֹת אֶת־הַדָּבָר הַזֶּה:

“(19) when you reap the produce in your fields and you forget a sheave in the field, do not return to take it, it shall [remain] for the stranger, the orphan, and the widow, so that Hashem your God will bless you in all your material work: (20) when you beat your olive trees [for the purpose of causing olives to fall for harvest] do not search through [the branches] after you [harvest], it shall be for the stranger, the poor, and the widow: (21) When you gather grapes [from] your vineyard, do not gather up [that which may be gleaned] after you [harvest], it shall be for the stranger, the orphan, and the widow: (22) You shall remember that you were a slave in the land of Egypt, thus I command you to enact this word.”<sup>3</sup>

<sup>2</sup> Translated by Jeff Silverstein for this chapter.

<sup>3</sup> Translated by Jeff Silverstein for this chapter.

Before embarking into the world of rabbinic text, it is worth noting the significant expansion that has already occurred between Leviticus and Deuteronomy. The iteration of the mitzvot in Deuteronomy expand the range and meaning of the agricultural commandments. First, Deuteronomy 24:19 expands the range of recipients. Where earlier it was the poor and the stranger, now the verse explicitly includes the widow and the orphan into the category of needy people. It also introduces a positive consequence (and possible incentive) in the form of blessings (or perhaps a natural positive effect) that will follow the fulfillment of the *mitzva*, saying “so that Hashem your God will bless you in all your material work.”

Also unique in the Deuteronomic verses is the application of *shich'cha* to the multiple types of harvest. This also expands the area of eligibility and variety of crops for the needy to access. The *pshat* descriptions of the Mitzvah to leave *pe'ah*, *leket*, and *shich'cha* appear mostly to establish rights for the poor and a general theory of practices for people with land and people without. However, as with all commandments, the description in the Torah can only go so far as to guiding specific actions.

Enter the Mishna, which seeks to provide this guidance through a thorough examination of the verses and extension of ideas to the world in which the early sages either lived or desired to live. The rabbis start Mishna Pe'ah by creating a new category of things that are without measure, both quantitatively and qualitatively. This category links the practice of *pe'ah* specifically with bringing first fruits to the temple (for God), performing righteous deeds, and Torah study. Immediately this gives us a sense of the weight of *pe'ah*; feeding the poor is, in some way, similar to bringing your harvest to the temple for God! Practically, this categorization indicates that there is no maximum amount of *pe'ah* that one could leave, nor is there a limit in blessings for the performer or receiver of the mitzvah. According to the rabbis, the one who

performs *pe'ah* (or anything else on this list) receives the “fruits in this world and the cornucopia of plenty in the world to come.”<sup>4</sup>

This first Mishna stands in support of the observance of this *mitzva* in their time and for us. Though it is outside of my theology (and I suppose this is true for many Reform Jews) to perform commandments on a transactional basis with God, I do believe we should note both the weight which the Mishnaic sages placed upon this *mitzva* and the limitlessness of its reward. It may not be that we give *pe'ah* for the sole purpose of receiving blessing, but we may still acknowledge and appreciate the possibility of spiritual and material benefit that comes from the fulfillment of *mitzvot*.

The rabbis seem to acknowledge rather quickly, however, that there could be a whole range of problems if a *mitzva* based on material wealth and property is not quantified. “Everything is according to the size of the field, the number of poor, and the size of the yield.”<sup>5</sup> Thus, the rabbis first decree that the measure for *pe'ah* should be no less than 1/60<sup>th</sup> of the field. There may be no maximums associated with this *mitzva*, but there is a minimum! One should note here that, as the rabbis try to establish the proper method by which to arrive at that area, they depart from the verbs used in the Torah and replace it with their own. In the Torah the positive verb that leads to *pe'ah* is “תעזוב” (*ta'azov*), meaning “leave” (the corners or dropped sheaves). Instead, the Mishna used the verb “נותן” (*noten*), meaning “give” (the amount designated for *pe'ah*). This indicates a certain understanding that although the verb “leave” indicates a passive act, it really means “give” in the active sense.

Once they establish the amount of 1/60<sup>th</sup> that one must actively give, the sages register their opinions about the timing of the giving. The anonymous Mishnaic voice offers first that it

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<sup>4</sup> M. Pe'ah 1:1

<sup>5</sup> M. Pe'ah 1:2



may be done at the beginning or the middle of the reaping, and Rabbi Shimon believes it needs to be given by the end. Rabbi Judah, however, takes a different approach. He believes that must leave at least one stalk in the field in order that what one gives can be counted as *pe'ah*.<sup>6</sup> This is significant because it indicates that even in some of the earliest moments of rabbinic discourse, there is an openness to the idea of fulfilling a *mitzva* differently than literally described in the Torah, so long as one physically references the commandment. When we consider how we might fulfill a *mitzva* like *pe'ah*, where there are so many limiting factors to our literal observance, might the ability to utilize physical symbolism unlock our ability to participate? Perhaps, though we must also remain conscious of the fact that the different practices in the Mishna still result in the same amount of *pe'ah*. This means that even in a symbolic observance, real outcomes are required.

In the next mishnaot, the rabbis also draw a wide boundary around what requires *pe'ah*, essentially including all food that is produced in an agricultural setting.<sup>7</sup> This tells us that an expansive reading of the laws of *pe'ah* is preferred, and that these laws apply directly to food. We also must ask, though, what limitations the rabbis placed on the *mitzvah*. In the third chapter of Mishna *Pe'ah*, four rabbis seek to provide a minimum size for a field to require *pe'ah*, however Rabbi Akiva, who gets the closing word, states that any size plot is liable for *pe'ah*. However, it is Rabbi ben Batera, one of the four, who the Mishna identifies as setting the halacha. Ben Batera stated that it must be big enough for two portions.<sup>8</sup> This may imply that there must be enough for the owner and the poor to have a share, honoring the rights of the

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<sup>6</sup> M. *Pe'ah* 1:3

<sup>7</sup> M. *Pe'ah* 1:4

<sup>8</sup> M. *Pe'ah* 3:6

landowner as much as the needy. It does imply that there are people who may have limited means but are still too poor to be expected to care for the needy.

But who are the needy? Does it matter to whom we give *pe'ah*? In the Torah it appears that we could have no knowledge of who picks up our fallen produce. By the time of the Mishnaic rabbis, the poor ceased to be an abstract concept and were instead real people with relationships to each other and the wealthy. The Mishna therefore asks if one can collect *pe'ah* for a specific poor person. Rabbi Eliezer says yes, but the sages say that the *pe'ah* must be given to the first poor person one finds.<sup>9</sup> This indicates that there when giving food, the sages of the Mishna felt that there should be no preference regarding who of the needy receives it.

Beyond defining the recipient, the Mishna also addresses questions about which parts of a harvest are liable for *pe'ah*, and what to do in status disputes. In addressing situations where there is question as to the status of harvested produce (fallen, forgotten, or dropped?), the tie always goes to the runner. This is to say, the poor receive preference in instances of doubt.<sup>10</sup> It seems that the key to what makes produce count as liable are that the materials are unintentionally lost. Then the owner or the workers must intentionally not recover them. We learn this also in the seventh chapter of Mishna Pe'ah, at which point the rabbis delineate practices that amount to theft of the poor. One is forbidden from trying to redirect or prevent the accidental droppage of food.<sup>11</sup> Accidents must be allowed to happen for the purpose of good.

At this point in studying the Mishna Pe'ah there are multiple questions that arise about the meaning of the construction of these laws and the protections they provide. Are we meant to acknowledge that God is the true and ultimate landowner? Is it because we desire redirecting loss

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<sup>9</sup> M. Pe'ah 4:9

<sup>10</sup> M. Pe'ah 4:11

<sup>11</sup> M. Pe'ah 7:3

towards positivity? Is it to prevent hoarding and price gauging and the absurd accumulation of material wealth?

Perhaps, but even as they protect and advocate for the poor the rabbis are also careful not to cause problems for the property owner. There are many instances in which landowners are explicitly allowed and encouraged to address their own needs. This is exemplified by the permission for an owner to prune both his own grapevines and grapevines that are set aside for the poor.<sup>12</sup> Pruning is necessary for the health of a vineyard, and one need not compromise that for the benefit of others. One could even argue that pruning in this case is for the long-term benefit of the other, as it provides for better, healthier produce and greater longevity of crops.

Mishna Pe'ah concludes with instruction for the poor the method by which they should acquire the agricultural donations. This also, of course, comes with instruction for the landowners, who are instructed to trust the poor when they report on their status and need. The final chapter also details minimum amounts that one might give to different types of poor people.<sup>13</sup> Mishna Pe'ah tells us that we must provide food to the needy and provides actionable advice to the people of their day.

Their parameters, while rich with important insights into the character of the *mitzvot* in Leviticus 19:9-10, may not be the most helpful for us in determining practice today, when so many of us do not produce produce! In order to arrive at a conclusion for our own potential practice, we'll have to continue through the Talmud to see how those rabbis expand upon the ideas of the Mishna.

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<sup>12</sup> M. Pe'ah 7:5

<sup>13</sup> M. Pe'ah 8

First, the idea of idea of physical symbolism, as introduced by Rabbi Judah in the Mishna<sup>14</sup> is also supported in Talmud, even as it may undo some of the flexibility of location reasoned previously. It is taught that Rabbi Shimon gave four reasons why *pe'ah* specifically refers to edges of the fields. Three of these reasons relies on the central idea of visibility of the offering either to the landowner or the poor. One is to make sure that the landowner is not robbing the poor and did, in fact, leave the corners. Another is that if there is not a visibly defined area, the poor may just wait around for the owner to designate which place they may take from. This idleness was not desirable from the perspective of the Talmudic rabbis. The other is so that any passerby may see that the *pe'ah* was left, otherwise one might curse the whole crop!<sup>15</sup> In any of those cases, the protection that is intended by specifically leaving the corners of the field are based on their visibility.

The rabbis in the Talmud also ensure that the *mitzvot* that are established first in Leviticus 19:9-10 can be performed even if the physical symbol or the physical act are not. In Talmud Temurah the rabbis explain that (if not done before at the time of harvest) *pe'ah* must be separated even from the dough made from the grain that was harvested. Abaye explains that this is because the repetition of the word “leave” (*ta'azov*) in Leviticus chapters 19 and 23 is a *yeteira*, an additional superfluous mention. However, since the rabbis believed that there is nothing superfluous in the Torah, they understand a *yeteira* to imply emphasis, which we can understand to mean that one must give *pe'ah* in whichever way is possible.<sup>16</sup>

Elsewhere, this repetition is addressed by Rabbi Yossef, who teaches that the *mitzvot* related to the gleaning of one's harvest only refer to material that is left due to harvest with

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<sup>14</sup> M. Pe'ah 1:3

<sup>15</sup> B. Shabbat 23a, b

<sup>16</sup> B. Temurah 6a

tools.<sup>17</sup> On its face this may seem an insignificant detail, but considerations of tools and technology in the process may serve us well in considering our own contemporary practice.

Another question that the Talmudic rabbis pick up from the Mishna is that of who may be expected to give *pe'ah*, *leket*, and *shich'cha*? The Talmud tells us that one should not deny the poor the ability to participate in this *mitzva* if doing so is feasible in their situation. Maximally, Rav Idi bar Avin cites a *baraita* that states even a poor person is liable to leave *pe'ah*, *leket*, and *shich'cha* of their own produce.<sup>18</sup> We can understand that this *baraita* differentiates between the poor and the destitute; the poor who own property may also give.

In other places, the discussion about which poor and needy are included takes on a different tone. Where Leviticus expands the category, later discussion and even later *poskim* seek to impose limits. This is true of Maimonides, who specified in his *Mishneh Torah* that when the Mishna and the Torah say the word “ger,” or “stranger,” the word refers to a person who converted to Judaism.<sup>19</sup> This would indicate that only Jews are eligible to collect *pe'ah*. This idea is supported in the *Shulchan Arukh*, in which Caro rules that one need not observe *pe'ah*, *leket*, or *shich'cha* if there are no poor Jews around.<sup>20</sup> We can acknowledge those opinions, and even consider that in their own times the Rambam, Yosef Caro, and many other formative halakhists lived within a world in which they, for the most part, only held intracommunal power. The idea that Jew are broadly able to help non-Jews in the way that many of our communities are able today would be a distant and unlikely reality for a person living in the Middle Ages. Yet, even as he limits the definition for the term “ger” in one place, Maimonides also states that we must

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<sup>17</sup> B. Hullin 137a

<sup>18</sup> B. Hullin 131a

<sup>19</sup> Moses Maimonides, *Mishneh Torah, Hilkhoh Matanot Ani'im* 1:1-9, (Jerusalem: Moznaim Publications, 2986-2007).

<sup>20</sup> Yosef Caro, *Shulchan Arukh, Yoreh De'ah* 332, (Lemberg, 1888).

provide for the poor idolator and Jew alike in another. He writes that we mustn't prevent them from taking *pe'ah*, *leket*, or *shich'cha* on account of *darchei shalom*, the ways of peace.<sup>21</sup>

Even as we can acknowledge the non-Maimonidean conclusions and the circumstances that might inform them, and even as we can be inclusive of and empathize with their inclination to help other Jews, we know that we can not only feed our own people. But we certainly must make sure that our own are also cared for! However, as contemporary Reform Jews we have the ability, and thus the responsibility, to expand our reach towards the universal, while we still actively maintain a particularly Jewish way of life. When we respond to social issues that extend beyond the Jewish community it is imperative that we respond in a way that is specifically Jewish. We also are able to expand our reach by staying within the text and making use of the lexical range of the word “*ger*” (גר). The root carries several meanings that indicate that a person is not a member of the tribe of Israel, i.e., the Jewish people. These include “guest,” “foreigner,”<sup>22</sup> “neighbor,” “protected citizen,” “stranger,”<sup>23</sup> “sojourner,” and “dwellers in Israel with no inherited rights.”<sup>24</sup> Throughout the Torah, the “*ger*” is described as having similar obligations to Israel, with emphasis on the fact that they are fact from a separate people.<sup>25</sup> The majority of definitions place the *ger* outside of the realm of Jewish peoplehood, and many mentions of the “*ger*” in the Tanakh speak to respecting this person's rights and dignity. Therefore, it is easy to stay within the canonical tradition and apply our practice of *pe'ah* broadly to the poor. Even though the “*ger*” is the stranger *in* Israel, given the contemporary status of many Jews, we may find ourselves in the position to help the poor of any identity in any land.

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<sup>21</sup> Maimonides, *Mishneh Torah, Hilkhoh Avodah Zarah*, 10:5

<sup>22</sup> *Strong's Hebrew and Chaldee Dictionary of the Old Testament*, s.v. “גר.”

<sup>23</sup> *The Hebrew and Aramaic Lexicon of the Old Testament*, s.v. “גר.”

<sup>24</sup> *Brown-Driver-Briggs Hebrew and English Lexicon of the Old Testament*, s.v. “גר.”

<sup>25</sup> Leviticus 17

Even without respect to the status of Jews, we as Reform Jews who live proudly in the Jewish and surrounding worlds would still likely find it necessary and meaningful to include others because of *darchei shalom*.

However, even as the category of the poor is expanded to include all, there is a question of how we may arrive to apply the *mitzvot* in Leviticus 19:9-10 to “any land.” The most obvious objection to this practice can source initially back to the Talmud Yerushalmi, which states that *pe’ah* is only applicable in the land of Israel.<sup>26</sup> The sages in Jerusalem conclude that the verses in Leviticus 19 states “your land,” not “outside of your land.” This would mean that, if we live outside of Israel, we are not liable to these *mitzvot*. I am inclined to disagree with this limitation, and fortunately so is much of our tradition. To cycle back through time, in Talmud *Bava Kama* the principle of *yeteira* is invoked again, this time by Rabbi Yishmael. The conclusion is the same, gifts to the poor should be emphasized and prioritized.<sup>27</sup> This is also supported by various codes, including the *Mishneh Torah*, in which Maimonides speaks to providing *pe’ah* for non-Jews. He notes that this is only the practice in exile, whereas in the Land of Israel there would (or should) not be any idolators to consider.<sup>28</sup> This statement implies that there is a requirement to practice *pe’ah* outside of the Land of Israel, and perhaps even that people in the Rambam’s time followed this practice and opened their fields to non-Jews and Jews alike.

A range of opinions from the *Rishonim* to more recent halakhists indicate that, even now in the land of Israel, the biblical requirements for *pe’ah* do not apply and only the rabbinic decrees. Rulings by Rabbi Baruch ben Yitzchak of Worms confirm that the laws governing *pe’ah* require a majority of the Jewish people to live in Israel.<sup>29</sup> This is upheld through the

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<sup>26</sup> Y. Pe’ah 2:5

<sup>27</sup> B. Bava Kama 94a

<sup>28</sup> Maimonides, *Mishneh Torah, Hilkhos Avodah Zarah*, 10:6

<sup>29</sup> Baruch ben Isaac, *Sefer HaTerumah, Hilkhos Eretz Yisrael*.

*Shulchan Arukh* and within the Siftei Kohen's commentary on *Yoreh Deah*.<sup>30</sup> In the 20<sup>th</sup> century the Chazon Ish wrote that no poor people go to the fields to glean anymore, as it is not an economically worthwhile practice for them.<sup>31</sup> Therefore, we must determine alternative practices order to fulfill the obligation and feed the hungry, especially if we seek to follow *mitzvot* as a way to engage in the work of *tikkun olam* and with an intention to work within the framework of the autonomous ethical good.<sup>32</sup>

*Tikkun olam*, as a general rule, requires action. One cannot repair the world if one does not actively work for solutions. The brokenness of the earth, while sometimes metaphorical and emotional, is also a literal, physical reality, and one of the most present forms of brokenness is hunger. In the 21<sup>st</sup> century there is enough food produced on the planet to feed all human beings<sup>33</sup>, yet hunger persists in high levels in societies all over the globe. In order to solve this crisis, and to work to fix that brokenness, it is important that we find a way to fulfill the biblical *mitzvot* of *pe'ah*, *leket*, and *shich'cha*. Let us explore how to translate these mitzvot into a contemporary action through which we can fulfill God's word and heal part of God's world.

As we have seen, there are many sources that support and reject the application of this *Mitzva* today, and we must consider if one is able to employ them to support a contemporary act of *pe'ah*. Certainly, given that most of us are not farmers, I suggest that Reform Jews, irrespective of location, fulfill the *mitzva* of *pe'ah* by making an annual donation in the minimum amount of 1.66% (1/60<sup>th</sup>) of the earned interest from bank accounts, holdings, stocks, bonds, and other asset values that grow on interest. The donation must be specifically related to food and

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<sup>30</sup> Jacob ben Asher, *Arba'ah Turim, Yoreh Deah*, 332, (Vilna, 1923).

<sup>31</sup> Jewish Press Staff, "Leket, Shikcha, and Pe'ah," JewishPress.com, May 12, 2024, <https://www.jewishpress.com/judaism/halacha-hashkafa/leket-shikcha-and-pe'ah/2024/05/12/>.

<sup>32</sup> Rabbi Donniel Hartman, *Putting God Second* (see introduction).

<sup>33</sup> "Can We Feed the World and Ensure No One Goes Hungry? | UN News," United Nations, October 3, 2019, <https://news.un.org/en/story/2019/10/1048452>.



could be made through a variety of approaches to provide food for the needy. This could be achieved by participating in pre-existing food banks and meal programs, or by establishing Jewish community-based funds and institutions that process donations and provide food to clients based on the needs of their specific communities.

The suggestion to give 1.66% from interest is based around an extended metaphor. In the case where a person does not have a field on which they produce food crops, one might consider bank accounts, financial holdings, etc. to be like a person's field. In this case, the principle is the seed from which interest is produced. The total amount of interest, therefore, would be the net amount from which the percentage of *pe'ah* is calculated. We can extend the metaphor further to note that the interest is not accrued naturally or by hand, but that it is the very product of financial tools. Financial accounts that accrue interest are both the tools and the fields that they harvest.

The source material, from the Torah to the present, that relate to these *mitzvot* helps us to set our priorities. For example, the question of whether there is a preference to certain types of donations can be answered through interpretation of the action on the part of the poor. We already know from the Mishna that these donations must be related to food.<sup>34</sup> In the most basic formulation of *pe'ah* as described in the Torah, the poor would move through the fields picking a variety of things. The things that are available are what is available, but each poor person gets to choose what they need. This tells me that we might preference donations of food to organizations that offer a client choice model. In this model, a food bank or sponsoring organization collects food resources and then allows the client to choose (within certain

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<sup>34</sup> M. Pe'ah 1:4

parameters) which food items they take. This process resembles the process of gleaning, especially if financed by money harvested via financial tools.

In any model, I would also suggest that a food bank, a community fund, or even an individual who gives food must take care to effectively publicize the availability of the resource. A physical symbol and the visibility of the food are emphasized in the Mishna and Talmud as ways to ensure that all parties were able to fulfill their obligations and holds the landowners accountable to the poor. So too must we, in our way, make sure that we fulfill our obligation and that the resources we seek to provide make it to their intended destination. Also, the better job we do to publicize the *mitzva*, the more people may choose to participate on either end of giving program, which is a net positive. It was Ben Azzai who stated in the Pirkei Avot that “*mitzva goreret mitzva*,” fulfilling one commandment leads to another.<sup>35</sup>

I believe that this is a good commandment to fulfill, and this contemporary iteration provides a low barrier for entry. It provides actionable substance to the, often vague, desire to participate in the work of *tikkun olam*. It also may bring us some spiritual good and blessing. A modern Israeli Rabbi, with whom I disagree on plenty, Rabbi Eliezer Melamed, suggests that any person who values happiness must first care for the poor, the widow, and the bitter of spirit. He cites Talmud *Chagigah* 27a, in which Rabbi Yochanan and Reish Lakish teach that in the time when the temple stood, the altar atoned for people’s sins. Now, they say, when the temple does not stand, a person’s table is what atones for sins. The implication is that sins are expiated through the deed of feeding the needy. Melamed also cites the appearance of the repetition of *pe’ah* in the 23<sup>rd</sup> chapter of Leviticus as proof of this concept. *Pe’ah*, in that case, comes up in the midst of discussion of festival sacrifices. This confirms what we have understood from the

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<sup>35</sup> M. Avot 4:2

first Mishna in Mishna Pe'ah, that when one gives *pe'ah*, *leket*, and *shich'cha*, it is as if that person built the temple and brought a sacrifice, which for many is considered the ultimate vehicle for atonement and pleasing God.<sup>36</sup>

Reform Jews may not be concerned about the Temple and sacrifices, but we do value happiness. And where we may be uncomfortable speaking too much about atonement, we can acknowledge the implied spiritual benefit that comes with feeding the hungry. If we, as a movement, make efforts to fulfill the *mitzvot* carried within Leviticus 19:9-10 as part of our halakha, there is no telling the amount of broken and empty stomachs we might fill.

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<sup>36</sup> Eliezer Melamed, *Peninei Halacha, Likkutim II*, 7:12, (Har Brakha: Machon Har Brakha, 2011)

Tchilat Ha'Derech: Oppression, Robbery, Holding Workers' Wages (Leviticus 19:13)

Verse:

The text of Leviticus 19:13 reads:

לֹא־תַעֲשֶׂק אֶת־רֵעֶךָ וְלֹא תִגְזֹל לֹא־תִלְוִין פְּעֻלַּת שָׂכִיר אֶתְּךָ עַד־בֹּקֶר:

“You shall not oppress your fellow. You shall not commit robbery. The wages of a laborer shall not remain with you until morning.”<sup>1</sup>

What are the mitzvot that come from this verse? Aside from the *pshat* (straightforward) meaning of the verse, how has Jewish tradition understood this verse and the mitzvot implied therein? How should a Reform Jew best follow the instruction laid out in this verse and other similar verses that are linked together over time?

Analysis:

In formulating its response to the Torah, the Mishna links Leviticus 19:13 with two other verses, Deuteronomy 24:14-15.

(14) לֹא־תַעֲשֶׂק שָׂכִיר עֲנִי וְאֶבְיֹן מֵאַחֶיךָ אוֹ מִגֵּרְךָ אֲשֶׁר בְּאַרְצְךָ בְּשַׁעְרֶיךָ:

(15) בְּיוֹמוֹ תִּתֵּן שְׂכָרוֹ וְלֹא־תָבוֹא עָלָיו הַשְּׁמֶשׁ כִּי עֲנִי הוּא וְאֶלְיוֹ הוּא נָשָׂא אֶת־נַפְשׁוֹ וְלֹא־יִקְרָא עָלֶיךָ אֶל־יְהוָה וְהָיָה כָּךְ

הַטָּא:

(14) You shall not abuse a needy and destitute laborer, whether a fellow Israelite or a stranger in one of the communities of your land. (15) You must pay out the wages due on the same day,

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<sup>1</sup> Translated by Jeff Silverstein for this chapter.

before the sun sets, for they are needy and urgently depend on it; else he will issue a cry to GOD against you and you will incur guilt.<sup>2</sup>

Perhaps because of their inclination to join these verses together (or because oppression and robbery were somehow more obvious to them), the Mishna spends significantly more time understanding the question relating to the latter part of the Levitical iteration, “The wages of a laborer shall not remain with you until morning.” It tackles the subject in *Bava Metzia* chapters 9 and 10.

The question of how one pays wages is first considered in the context of a day laborer. The rabbis want to understand the specific point at which one must pay his employees who earn their money on a daily basis. (We might think of this as a non-salaried, hourly employee). How long is too long to hold onto a worker’s unpaid wages, and from when do we start the count? Additionally, what if the laborer worked at night and not during the day? What if the worker was hired on a weekly, monthly, yearly, or even seven-year basis? How does one determine when to pay?<sup>3</sup>

The answers to these questions are non-specific; the rabbis write that the day laborer collects wages “all night” and the night laborer collects their wages “all day.” An hourly laborer collects “all night and all day,” and the other categories of laborers who are hired for extended periods collect based on what time of day they complete their work. If those laborers finish during the day, they collect “all day,” and if they finish at night they collect “all night and all day.”<sup>4</sup>

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<sup>2</sup> JPS 2023 Revised Translation, accessed on Sefaria.org

<sup>3</sup> M. Bava Metzia 9:11

<sup>4</sup> M. Bava Metzia 9:11

The meaning of temporal terms like “all day” and “all night” may have been obvious in the context of the society in which our sages lived, but for us this explanation of when a worker’s wages are due are unclear. We might think that those periods refer to the period immediately following the time during which the laborer was employed, but there are no parameters nor confirmation to that within this text. It is also possible that the rabbis did not feel it necessary to provide a specific window.

In the following Mishna<sup>5</sup> the onus is placed upon the laborer to claim payment within the appropriate time frame based on the parameters. If the laborer does not claim payment, the hiring party does not transgress the negative commandments found in Leviticus 19:13 or Deuteronomy 24:15. It is not clear from where the rabbis derive this opinion regarding the necessity of the claim by the laborer, and it marks a moment where it seems the rabbis of this period favor the employer over the employee. Additionally, the hiring party does not transgress the commandment at any point if they transferred the payment (within the appropriate time frame) through an agent.

This same mishna also addresses the issue of a wage dispute. The rabbis say that if a laborer comes to claim wages, but the hiring party says that he or she already paid, the laborer may swear an oath and then collect the wages. However, if a non-specific but inappropriate length of time elapsed between the work and the dispute, the laborer is not believed and the hiring party has no obligation to pay. If it turns out that there are witnesses who can confirm that the laborer had made the claim at the right time, the hiring party owes the laborer. Later, the Mishna also includes rules around the material of payment. If a laborer works with hay and

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<sup>5</sup> M. Bava Metzia 9:12

straw, for example, the employer is forbidden from paying the laborer in those materials on which he or she labored. Laborers are entitled to cash payment.

In their treatment of the mitzvot that one derives from Leviticus 19:13, the rabbis of the Mishna establish a few crucial parameters. They note that there are different time periods for which a laborer may work or be hired, and they ensure that in any case there is an appointed time at which they should be paid. They also solidify the responsibility on the part of the laborer to request payment and make an assessment about the appropriate way to deal with and think about wage disputes. Yet, where the rabbis of the Mishna set initial standards relating to withholding a laborer's wages, they seem to ignore the other two elements of the verse: oppression and robbery.

For those issues, one must turn to the Talmud. In addition to addressing the topic of wages from Leviticus 19:13, the rabbis identify a situation in which one might transgress the second part of the verse, "you shall not commit robbery." Within a larger discussion about lost goods and money, Rava states that a person who sees a *sela* (coin in the Talmudic period) fall from another (perhaps from a pocket or a bag) and takes the coin to steal it before the owner is able to give up on finding it, violates multiple commandments. Primarily, "you shall not commit robbery."<sup>6</sup> This tells us that on some level, the Talmudic rabbis consider "robbery" to be when a person literally takes money that belongs to another person.

Later, in the same vein, the rabbis draw a direct connection between the issue of robbery and oppression. The Talmud poses the question: "what is oppression and what is robbery?"<sup>7</sup> Rav Hisda provides the answer by way of example. One who tells a laborer to come and go (perhaps to work) multiple times and does not pay, that is oppression. One who is known to owe a laborer

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<sup>6</sup> B. Bava Metzia 26b

<sup>7</sup> B. Bava Metzia 111a

money and refuses to pay is considered to have committed robbery. Rav Sheshet corrects this interpretation as far as oppression, stating that one commits this violation when they claim to have already paid the laborer. Abaye disagrees, saying that a case of oppression occurs when one claims to have never hired the laborer in the first place, while robbery is when one claims to have already paid the laborer. Ultimately, Rava has the last word and removes the distinction between the two, stating that what is oppression is robbery, and that they are only separated so that one will violate two prohibitions instead of just one. This also fits within the logic of the preceding *sugya* in which the sages state that one who withholds wages violates five negative prohibitions and one positive.

Three of the five negative mitzvot are derived from Leviticus 19:13 and the other two and the positive mitzvot come from Deuteronomy 24:14-15.<sup>8</sup> The continued unification of the Leviticus verse and the two verses from Deuteronomy is addressed in the Talmud via explanation of the reasoning for their connection in the same Mishna. The sages taught that the idea that a day laborer collects wages all night comes from Leviticus 19:13 and the idea that a night laborer collects wages all day is derived from Deuteronomy 24:15.<sup>9</sup>

Fortunately, the Talmudic rabbis also address the confusing time frames laid out in the Mishna. To the (reasonable) question of why the time of labor and the time of payment are written as opposites, the *Gemara* teaches that the period in which the hiring party is obligated to pay only begins at the end of the period of labor. Additionally, though the hiring party is encouraged to pay as quickly as possible after the transgression has occurred, the rabbis clarify that the negative mitzvah of holding over wages (Leviticus 19:13) is only violated once, and rather the delay would then cause the one who owes to violate the commandment not to delay

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<sup>8</sup> B. Bava Metzia 111a

<sup>9</sup> B. Bava Metzia 110b



(Deuteronomy 24:14).<sup>10</sup> However, the Talmudic rabbis seem to have a more expansive definition of what type of labor is covered by these commandments, or at least a greater awareness of the narrow scope of economic activity described in the Mishna and the difficulty this might place on people in different industries. Rabba bar Rav Huna introduces the idea of marketplace workers who hire laborers. He explains that those employers do not violate the mitzvot based on time parameters; they rely on the market day schedule to make their money.

Rabba bar Rav Huna also takes care to limit the flexibility and adds that the employers do violate the commandment of not delaying (Deuteronomy 24:14) beyond market day. In this way he protects both the marketplace employer from transgressing impossible mitzvot and the laborer from unreasonable delays on payment.<sup>11</sup> Other opinions in the Talmud also seem to protect the laborer and the business owner both financially and from transgression of the mitzvot in question. For example, if a person hires a worker but shows that worker the wrong field to work in, the employer must still pay the worker but is also entitled to go to the owner of the field in which the worker worked and collect reimbursement for the labor cost.<sup>12</sup>

In contrast, there are other moments in Talmudic discussions about wages in which the rabbis give what we might understand as an excessive amount of leeway to the employer. One might recall that the Mishna states that the responsibility for on time payment lies with the worker, who must request their wages during the appropriate window of time post-work. The Talmud upholds this opinion and provides their source: Leviticus 19:13. According to the sages, the word “אִתְּךָ” (*itakh*), meaning “with you,” gives us the reason that “with you” means “to your knowledge,” which implies that if the laborer does not request their wage, the employer will not

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<sup>10</sup> B. Bava Metzia 110b

<sup>11</sup> B. Bava Metzia 111a

<sup>12</sup> B. Bava Metzia 111a

know that they owe. Further, the rabbis use this same word to absolve the employer of transgression even if he or she simply does not have the money; “with you” means that the money must be with you too. To the contemporary ear, these allowances might sound ridiculous, and perhaps too easy to abuse. Certainly, a hiring party is aware of what is owed to the laborer. We might also think that laborers have a reasonable expectation that their employer will be able to furnish the capital for their salary. Yet, there could feasibly be a scenario in which the capital is not available by no fault of the employer (perhaps it was guaranteed but delivery was delayed by some act of God), which is not an example of abuse if the laborer is paid as soon as possible once the employer receives the money.

A more reasonable use of the same logic regarding “with you” is also applied to the employer who gave money to a third-party agent to pay the laborer. In this last case the employer clearly made efforts to pay the laborer, and there is also one opinion from Rabba who believes that the laborer who is not paid by the agent has the right to return to his employer to ask for payment. However, in the previous two situations it seems that at the end of a (hard worked) day, the rabbis prioritize distancing people from transgressing commandments over ensuring workers are paid on time.<sup>13</sup>

There is also an extended discussion in tractate *Bava Kama*<sup>14</sup> regarding contracted work and commissioned artisanship by a craftsperson and at what point a person owes the craftsperson for their work. The *baraita* upon which the discussion is based states that a person has ten days from the point at which they are notified of the work’s completion to collect and pay the craftsperson. The person does not violate the prohibition of holding over wages until the sun sets on the day the work is collected. The related question that the rabbis consider in relation to this

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<sup>13</sup> B. Bava Metzia 112b

<sup>14</sup> B. Bava Kama 99a

idea is at what point the obligation to pay at all is incurred. The decision is nearly unanimous (and later is identified as unanimous) that the obligation to pay the craftsperson (at whichever appropriate point) is established from the beginning of the hiring period and not only after the work is complete. From this (and from the earlier marketplace example) we understand that the rabbis of the Talmud were aware of nuances for different industries and felt compelled to expand on practical observance of the *mitzvot*, despite the limited scope of their source material in the Mishna.

The rabbis of the Talmud also cite the source of what amounts to the theoretical basis for expansion of the Mishnaic scope and the moments in which the laborer *is* protected. Once again linking the Levitical and Deuteronomic prohibitions, the rabbis identify that the laborer “sets his soul upon it,”<sup>15</sup> where “it” represents their work and wages. The rabbis explain that this is both literal – the work that laborers do can be dangerous to life and limb – and figurative – the laborer relies on wages to maintain life.<sup>16</sup> The inclusion of this verse and argument reveals, and suggests to the reader, an inclination towards sympathy. On the same page of Talmud, the rabbis use an earlier part of the same verse to indicate a preference for caring for the poor before others in wage related matters. Despite the problematic instances in which the rabbis give a wide range for an employer to avoid culpability for non-payment, they do make multiple statements that put workers’ needs first.

But perhaps not all workers. A disappointing facet of the Talmudic sages’ assessment of the laws implied by Leviticus 19:13 is the specificity around who is included in the protections provided by the prohibitions. In this sense, the Talmudic rabbis uphold the ideas of the Mishnaic rabbis (which I did not address) and exclude non-Jews from many of the protections. In one

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<sup>15</sup> Deuteronomy 24:15

<sup>16</sup> B. Bava Metzia 111b-112a

moment, the rabbis explicitly state that, through the use of the word “רֵעֵךְ,” (which we often translate as “neighbor”)<sup>17</sup> in Leviticus 19:13, and the use of the word “אֶחָיִךְ,” (“your brothers”) in Deuteronomy 24:14, the Torah not only excludes gentiles but explicitly permits what is prohibited in Leviticus and Deuteronomy with regards to holding over wages, oppression, and robbery.<sup>18</sup> Although the Mishna, Talmud, and later sources continue to apply these rules either explicitly or implicitly, this is the point at which this chapter will cease to cover the issue. To borrow from the sages’ own playbook, despite there being only an obligation to follow the mitzvot from Leviticus 19:13 with other Jews, one should treat every employee or otherwise contracted individual according to the mitzvot as equals out of concern for *darchei shalom*, the ways of peace. Our responsibility as Reform Jews to *tikkun olam* cannot be fulfilled and realized if we do not apply our holy handbook to the whole of it.

The original handbook was, of course, the Torah upon which all others are based. Named as a sequel (though appearing in the 12<sup>th</sup> century *and* utilizing every preceding iteration), the *Mishneh Torah* is Maimonides’ major contribution to the Jewish understanding of how to follow mitzvot. He addresses the mitzvot contained within Leviticus 19:13 in the eleventh chapter of the section that deals with hiring laws. What Maimonides provides with his treatment is a condensing of the ideas from the Talmud, and in some cases, he provides further clarification. He does not, however, change or question any of the logic or ideology embodied by the earlier sages.

Still, Maimonides’ work represents a step forward in time and thought process, especially in the sense of order. Maimonides references the idea of laborers “putting their souls” in their work and wages in the second halacha of this chapter. In the same breath (so to speak) he

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<sup>17</sup> Strong’s *Hebrew and Chaldee Dictionary of the Old Testament*, s.v. “רֵעֵךְ.”

<sup>18</sup> B. Bava Metzia 111b

reiterates that the laborer who works the day can collect wages in the night that follows and that the laborer who works the nights can collect wages in the day that follows, thus closing any gaps still left over by the Mishna's description of time. He also teaches that the laborer hired for an extended period should collect during the same period (day or night) during which the work was completed.<sup>19</sup>

In terms of commissioned craftwork, Maimonides also states the rules more simply than in the Talmud. From him we learn that one can wait 10 days to pick up an item, and one will not transgress the mitzvah as long as the item remains with the craftsperson. However, once the item is returned, the hiring party must pay almost immediately; if the item is returned at mid-day, the fee must be paid by sunset. Maimonides states it clearly: "their receiving is [governed] by the laws of hired labor and one must give them [their pay] at the appropriate time."<sup>20</sup> In this statement Maimonides continues to utilize the idea that the literal application of laws can be stretched to accommodate for different industries and circumstances for the benefit of the laborer.

The laborer is also protected by Maimonides' ruling that an employer who has missed paying on time must pay immediately upon learning of his transgression. Even though, in accordance with the Talmud, the prohibition is only violated once, Maimonides explains that one who delays may further violate a rabbinic commandment.<sup>21</sup> Violation of commandments, *d'oraita* and *d'rabanan*, is still the main concern for rabbinic thought through the Middle Ages, as represented by *Mishneh Torah*, and one may notice that this is still the prevailing concern in some Jewish communities still today.

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<sup>19</sup> Maimonides, *Mishneh Torah, Hilkhhot Schirot*, 11:2

<sup>20</sup> Maimonides, *Mishneh Torah, Hilkhhot Schirot*, 11:3

<sup>21</sup> Maimonides, *Mishneh Torah, Hilkhhot Schirot*, 11:5

In the next century after Maimonides completed his halachic guide, other rabbinic sources deal with the mitzvot implied by Leviticus 19:13 outside of direct reference to the ideas of the sages of the Talmud or Mishna. In some cases, the *Mishneh Torah* becomes the source material, including the case of the 13<sup>th</sup> century *Sefer Mitzvot Gadol* (composed in France), also known as the SeMaG. For example, the SeMaG refers to Maimonides' Laws of Robbery and Lost Property in its reference to the Levitical commandment to not commit robbery. In this work, as the Talmud did, the author clarifies the differences between robbery and oppression. However, rather than connect these terms directly into the issue of labor and wages (as the verse might dictate), the SeMaG explains the different methods of acquiring money that would amount to each transgression.<sup>22</sup>

Around the same time, in Spain, *Sefer HaChinukh* recorded ideas related to the Talmudic explication of mitzvot around hiring and wages. In one explanation, it refers back to the discussion in *Bava Metzia* about the difference between robbery and oppression and seeks to clarify the final opinion of Rava. Rava had stated that there is no practical difference between the two because one who does either act transgresses both commandments, because the outcome for the victim is the same.<sup>23</sup> *Sefer HaChinukh* also considers the victim of the transgression in determining that the roots of the commandment not to withhold wages comes from so high a place as God's desire for the preservation of human life. Delaying wages delays nourishment, and for this reason the Torah states that it is urgent (in Deuteronomy 24:15).<sup>24</sup>

Where the SeMaG tries to understand the details of transgressions and *Sefer HaChinukh* looks to the ideological underpinnings, in 13<sup>th</sup> century German Rabbi Meir of Rothenburg (the

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<sup>22</sup> Moses of Coucy, *Sefer Mitzvot Gadol, Mitzvot Lo Ta'aseh*, 157, (Munkatch, 1901)

<sup>23</sup> Anonymous, *Sefer HaChinukh*, 229

<sup>24</sup> Anonymous, *Sefer haChinukh*, 230

Maharam) crafted responsa to questions which reveal additional insight around labor and wages. The Maharam deals with these issues through multiple questions related to the hiring of tutors. Before going through his responses, this question already reveals yet another industry in which rabbinic authorities take an interest to bundle into the conceptual framework of Leviticus 19:13 (and Deuteronomy 24:14-15).

Each question to which the Maharam responds addresses a layer we have not previously considered. What happens when a person is hired but the employer cuts the contract early? In the cases taken by the Maharam, the child of a person who hired a tutor becomes ill and cannot learn.<sup>25</sup> In another, the family who hires the tutor decides to travel for almost half of the year and the child is not engaged in lessons<sup>26</sup>, and in another a person hires a tutor and the student simply quits<sup>27</sup>. In each case, except where the student is rarely ill and for a short period, the tutor is paid. Even if the tutor is sick, the employer must still pay! It seems the Maharam may have just invented paid sick leave! In all cases, the Maharam recognizes tutoring as skilled labor and should be counted in the same consideration as craftwork.

The mindset represented by the Maharam is notably progressive to the contemporary reader, especially in contrast with some of the moments in rabbinic thought that seem to provide undue leeway to the employer. In contrast, despite coming later, Yosef Karo's Halachic work the *Shulchan Arukh*, seems like a step back towards the more troubling thought processes of the earlier sources. An example of this is clear in his explanation of the laws surrounding hiring through an agent. The Talmud, *Mishneh Torah*, and others all leave open a strange loophole when it comes to this practice. The halacha (paraphrased from its multiple sources) states that if

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<sup>25</sup> Meir ben Barukh, *Teshuvot Maharam* (Cremona Edition), Siman 2 (Philadelphia, 1947)

<sup>26</sup> Meir ben Barukh, *Teshuvot Maharam* (Prague Edition), Siman 833 (Budapest 1894)

<sup>27</sup> Meir ben Barukh, *Teshuvot Maharam* (Berlin Edition), Part II, Siman 335 (Philadelphia, 1947)

an employer hires workers through an agent and the agent tell the workers that the employer is responsible for the payment, neither the agent nor the employer transgresses the prohibition of holding over wages if the payment is late because the employer did not hire the workers and the agent does not benefit from their work. However, if the agent did not state that the employer would be responsible, the agent will unintentionally transgress the prohibition. This, again, seems like another moment in rabbinic thought in which the concern for transgressing mitzvot is placed above the concern for the timely compensation of workers.<sup>28</sup>

In other part of the *Shulchan Arukh*, Karo makes an additional comment regarding the mitzvah that connects the idea of tax evasion with stealing. This falls under both the category of “*dina d’malkhuta dina*” and the general understanding that withholding money from taxes is withholding money owed either to the king or to the public benefit.<sup>29</sup> The idea that withholding money from a government or a public fund, even from a secular government, is robbery and forbidden may tell us that the rabbis are aware that they do not have the power to make legal or financial decisions over the rulers of the society in which they live. One may also choose to read this halakha as one that reveals an interest in human concerns that becomes increasingly common as trends in rabbinic thought approach the contemporary moment.

A couple of hundred years after Karo writes the *Shulkhan Arukh*, the founding Lubavitcher (Alter) Rebbe Shneur Zalman of Liadi approaches the content from two angles. From one, he confirms challenging interpretations, including the loophole around hiring through an agent. From the other, he makes clear statements about which practices are preferable. In some cases, this amounts to an encouragement towards employers to take additional steps to protect themselves from transgressing *mitzvot*. In some, the encouragement amounts to more

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<sup>28</sup> Yosef Karo, *Shulchan Arukh, Hoshen Mispat*, 339:7

<sup>29</sup> Yosef Karo, *Shulchan Arukh, Hoshen Mishpat*, 369:6



protections for workers. We'll use the example of hiring through an agent. Because of the language that allows both the employer and the agent to delay payment without transgressing the prohibition of holding over wages, the Alter Rebbe states clearly that it is preferable to hire that way. However, if it not possible, he suggests that the employer stipulate with the employees that they may not be paid on time in a number of cases, including a case in which the employer lacks liquid capital with which to pay. However, the Alter Rebbe also writes that it would be considered pious for an employer, in this case, to take a loan with which to pay the employees their wages.<sup>30</sup> In this preferencing we see that the Alter Rebbe, too, is stuck between the inclination to stave off transgressions and the inclination to show preference for the poor and the worker. In this the reader may see echoes of the *teshuvot* written by the Maharam, who suggests greater fidelity to the tutor who one hires than to the possible loopholes that allow one to hold back wages. As in the 13<sup>th</sup> century, the rabbinic minds of the 18<sup>th</sup> century also react to the possible injustices to the worker that may be implied by permissions to the employer.

In the 19<sup>th</sup> century, the Chafetz Chaim (Rabbi Israel Meir Kagan) also addresses this issue and creates additional guidance to protect workers. In his work, *Ahavat Chesed*, he considers the idea that an employer does not transgress the prohibition of holding over wages until the worker requests them. Where earlier rabbis took this concept at face value, the Chafetz Chaim considers whether the employee actually intends to waive their right by not claiming payment. He also names that, despite the permissions, one should pay workers on time even if they haven't been claimed. Also, he tells us that one must pay a young person by the same rules

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<sup>30</sup> Shneur Zalman of Liadi, *Shulchan Arukh haRav, Hoshen Mishpat, Dinei Sh'ilah u'Schirot vaHasima*, 18, (Belarus, 1805)

as an adult.<sup>31</sup> In this section, it is clear that the Chafetz Chaim and his sources seek to distance the employer from transgression, but it also has a positive benefit for the worker.

Questions of how to avoid transgression likely inform more contemporary questions related to wages, but the responses are now grounded more in a sense of ethics that may transcend the literal interpretation of halacha. For example, in a 2009 responsum for the Orthodox Union, Rabbi Yosef Fleischman answers a question relating to the payment of babysitters. The questioner asks: “I hired a babysitter to watch my children. Must I pay the babysitter as soon as I return? Does it make a difference if the babysitter asks for the money or not and if she is a child or an adult?” The asker already seems aware of the halakhot related to paying workers on time; the question is informed already in the nuances of the worker requesting payment. In response, Fleischman follows a similar timeline to this responsum, beginning with Leviticus 19:13 and Deuteronomy 24:14-15, and lays out the various penalties one might incur for violating the related prohibitions. Then Fleischman goes farther than any other previous source and suggests that one must pay the babysitter on time, regardless of whether she (in his language) requests her wages. He considers that young people may not always have the confidence to request payment, and also may not have the authority to actually waive their rights to payment. Further, Fleischman states unequivocally (in reference to *Ahavat Chesed*) that the rules around paying workers are the same for children and adults. He even goes as far as to pose a hypothetical where payment was agreed to take place at a later date and suggests that even in that case the employer should pay when the job is complete, at least leave money for the

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<sup>31</sup> Israel Meir Kagan, *Ahavat Chesed*, Part I, *Hilkhot Schirot*, Chapter 9

babysitter so that he (my language) has the option of taking the money if he changes his mind about the original agreement.<sup>32</sup>

Another contemporary analysis of the issue of withholding wages also comes from the Orthodox Union does not deal with the possible loopholes at all. Rather, Rabbi Dr. Asher Meir introduces another implication of withholding wages that serves to bolster his claim that paying wages and debts to workers should be given special priority. In his explanation, Rabbi Meir explains that when a worker provides a service for an employer and there is an agreed-upon wage, this amounts to a free exchange among equals. However, when the employer withholds wages, this creates a social status change on the part of the worker, who essentially becomes enslaved as the worker has provided a service for free and is being oppressed by the employer.<sup>33</sup> In other words, it seems that both Rabbis Fleischman and Meir say, “Use your common sense and pay your employees on time!”

When it comes to the contemporary reform response to the *mitzvot* implied in Leviticus 19:13, this is also my general sentiment. When it comes to paying workers, robbery, or oppression, I believe that we must intentionally use the idea of the ethical autonomous good to motivate us to take the Torah literally, and to let go of loopholes that will protect you from transgressing *mitzvot*.<sup>34</sup> Thinking first about robbery and oppression, it seems that the initial Mishnaic inclination to largely ignore those parts of the verse is reasonable. For the contemporary Reform Jew (or ideally anybody, actually) one should refrain from any activity that is defined as robbery or stealing in any sense, either rabbinic or contemporary and secular.

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<sup>32</sup> Rabbi Yosef Fleischman, “Paying Babysitters on Time: Jewish Law,” OU Life, November 29, 2016, [https://www.ou.org/life/torah/paying\\_babysitters\\_on\\_time/](https://www.ou.org/life/torah/paying_babysitters_on_time/)

<sup>33</sup> Rabbi Dr. Asher Meir, “Paying Workers on Time - Jewish Ethicist,” OU Torah, June 22, 2014, <https://outorah.org/p/19884/>

<sup>34</sup> Rabbi Donniel Hartman, *Putting God Second*, 90

And the protections implied by these prohibitions must apply to everybody, regardless of race, religion, or creed. The basis of our laws must be particular- the Torah and our rabbis are specifically Jewish texts- but the application must be universal.

In some cases, depending on where a person lives and works, our secular law already prevents us from violating these prohibitions and provides penalties. There the concept *dina d'malkhuta dina* make these questions somewhat obsolete. For example, the state of California Labor code lays out periods of work and the corresponding pay periods. The state also amended the labor code in 2019 to stipulate the right of an employee to receive financial compensation from their employer in the form of penalties for late wage payment.<sup>35</sup> For members of the Jewish community who own licensed businesses with employees, one should follow the state guidelines. Despite that the biweekly pay period was not discussed directly by any of the preceding rabbinic material, we can justify the use of the state mandated times as continuing the tradition of adjusting to include various industries and types of labor in the protections implied by these mitzvot.

One should consider situations in which our hiring practices fall outside of state protection, however. Many people today hire regular or semi-regular workers outside of direct state control or knowledge. When one hires domestic workers, like individual house cleaners, gardeners, babysitters, etc., one should ideally pay the worker at the end of his shift and do so in the closest conformity to whatever local, state, or federal laws may govern wages and taxation.

In a departure from some of the earlier rabbinic thought, one should also pay on time when the worker was hired through an agent, regardless of what the agent says to the worker as far as who is responsible. If one is in a position to hire another, given that the workers “set their

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<sup>35</sup> Labor Code Amendment, AB No. 673, Section 210 (2019).

souls upon it,” that person is responsible for providing for the worker with their wages in a timely sense. Even though the person did not directly hire the worker, it is their word that begins the process by which the worker has been contracted and now expects compensation. We, as contemporary reform Jews, should reject this loophole that suggests otherwise. If one is truly concerned to distance oneself from transgression, one should pay on time rather than find a reason not to. We might especially consider ideas about the timidity of workers and their ability to request.<sup>36</sup> One could easily imagine a situation in which one is hired through an agent and is either confused about who to ask for payment or, given the separation the employer already created between himself and the worker, the worker could easily feel that he or she is not entitled to interact with the employer directly.

Another challenging element from the classical interpretation of these laws is the one by which an employer who does not have the money to pay a worker is not liable to transgress the prohibition of holding over wages. This is another rabbinic innovation that the contemporary Reform Jew should be ready to leave behind. It seems more ethical not to hire a person, who might be able to find profitable work elsewhere, without being sure of the ability to pay. We might also follow the opinion of the Alter Rebbe<sup>37</sup> and turn it into a rule for ourselves, that if you hire somebody and, for whatever reason, are not able to pay them, you must take a loan or credit to be able to pay your employee.

This sense of ethics and a responsibility to use the current technology and resources to protect the needs of the worker is characteristic of the way that the Reform Jew today should interact with the *mitzvot* implied by Leviticus 19:13. We must follow the inclination of the sages to link this verse with others, especially those that indicate the high level of significance of the

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<sup>36</sup> Rabbi Yosef Fleischman, “Paying Babysitters on Time: Jewish Law”

<sup>37</sup> Shneur Zalman of Liadi, *Shulchan Arukh haRav, Dinei Sh'ilah u'Schirot vaHasima*, 18

workers' wages on his or her survival. We must also seek to apply our Jewish guidance to the broader communities in which we participate. In the case of this verse, when we follow the *mitzvot* implied as Reform Jews, we may find ourselves in abidance of their *pshat* meaning, and sometimes that's okay!

Tchilat Ha'Derech: Insulting the Deaf, Placing A Stumbling Block Before the Blind  
(Leviticus 19:14)

Verse:

The text of Leviticus 19:14 reads:

לֹא־תִקְלֹל חֵרֶשׁ וְלִפְגִּי עֹזֵר לֹא תָתִין מִכְשָׁל וְנִרְאֵתָ מֵאַלְמָנָה אֲנִי יְהוָה:

“You shall not insult the deaf nor place a stumbling block before the blind. You shall fear your God: I am Adonai.”<sup>1</sup>

The *mitzvot* that come from this verse are quite obvious and must certainly be taken literally, but the opportunity or inclination to transgress either of these seems quite rare. Are there other ways that Jews are meant to observe the prohibitions against insulting the deaf and placing obstacles before or obstructing the blind? How does Jewish tradition approach this verse from a practical standpoint and from the standpoint of ethics and values? How should a Reform Jew today best mind the prohibitions laid out in this verse?

Analysis:

The earliest recorded discussions about the *mitzvot* implied in Leviticus 19:14 immediately extend the idea of cursing the deaf and obstructing the blind beyond the realm of the literal act. This is probably due to the clarity in the *pshat* meaning, but there may also be a conflation with the meaning of the verse in Deuteronomy that the rabbis connect with the Levitical prohibitions. In Deuteronomy 27:18 it says:

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<sup>1</sup> JPS 2023 Revised Translation, accessed on Sefaria.org

אָרױר מײַסגה עױר בײַדעך וואָמער פֿלײַהעם אָמין:

“Cursed be the one who misdirects a blind person who is underway. —And all the people shall say, Amen.”<sup>2</sup>

Here, the blind (as a category) are also the subject of the verse’s protection from a different, yet related, act. Creating an obstruction in front of or misdirecting a blind person literally prevents that person from progressing on their proper path, potentially causing them to incur all manner of harm. The Mishna took this logic in metaphor and applied it to their understanding of path (*derech*) not as a physical entity but as the manner and rules by which one lives life. As such, the rabbis sought to prevent any interruption to a person’s progress along the *derech*.

They illustrate this point at the end of a discussion about lending with interest (another prohibited act).<sup>3</sup> When discussing who is guilty in a situation in which one Jew lends to another Jew with interest, they establish that the lender, the borrower, the guarantor, the witness, and the scribe all violate at least one prohibition, which include Leviticus 19:14, specifically citing the latter part of the verse including the blind<sup>4</sup>, excluding the prohibition over cursing the deaf. This tells us that our rabbis felt that participating in this transgression is akin to placing a stumbling block before the blind. However, it is not clear which party they think is guilty and for what reason they connect lending or borrowing to this specific transgression, and whether this logic applies to participation in other transgressions as well.

In contrast, the Mishna treats the subject of cursing the deaf in terms that more closely reflect a relationship to the *pshat*, but without reference to the deaf or citing the actual verse. The

<sup>2</sup> JPS 2023 Revised Translation, accessed on Sefaria.org

<sup>3</sup> Leviticus 25:36-37, Exodus 22:24

<sup>4</sup> M. Bava Metzia 5:11



sages assert that “One who curses himself or his fellow by [the use of] any of these [previously mentioned names of God] violates a prohibition.”<sup>5</sup> In his commentary on this mishna, Chanoch Albeck explains that the “prohibition” in question here is the mitzva not to curse the deaf in Leviticus 19:14<sup>6</sup>, though it seems that it would not be possible to arrive at this conclusion without referencing Midrash *Sifra Kedoshim*.

Fortunately, in both cases by which these *mitzvot* are applied in the Mishna, the rabbis of the Talmud found it worthwhile to directly respond, however the scope and clarity of the additional lens varies. In Mishna *Bava Metzia* the sages tell us that the prohibition against obstructing the blind is violated in some way by somebody who is involved lending or borrowing with interest. In tractate *Bava Metzia*, Abaye clarifies that it is the lender and the borrower both violate multiple prohibitions, including obstructing the blind.<sup>7</sup> The reasoning is still not explained, though it is notable that the two parties we might typically consider to be the perpetrator and the victim both transgress this (and other) *mitzvot*. This informs us of a different perspective on justice, in which both parties can be perpetrators against and victims of each other. Both parties are also guilty before God. This nuance helps bring the metaphor into focus; the rabbis associate causing one to stumble with enabling another person to violate mitzvot.

This is a similar case to the corresponding *Gemara* for Mishna *Shevuot* 4:13. In Talmud *Shevuot*, the rabbis discuss of oaths and which iterations of God’s name make them official. This turns into a discussion about curses by the name of God. The Talmud here expands on the Mishna only ever-so-slightly and provides a distinction: The prohibition against cursing oneself is derived from a different verse but that the prohibition to curse another is derived from

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<sup>5</sup> M. Shevuot 4:13, translated by Jeff Silverstein for this chapter

<sup>6</sup> M. Shevuot 4:13, (Albeck Commentary, *Seder Nezikin*, page 258)

<sup>7</sup> B. Bava Metzia 75b

Leviticus 19:14.<sup>8</sup> It seems here that the addition of Talmudic material is necessary to understand the reasoning that informs the metaphor between cursing another broadly with cursing the deaf specifically.

Elsewhere, in Talmud *Sanhedrin*<sup>9</sup>, the rabbis engage in a discussion specifically related to the appropriate consequences for cursing one's parents. The rabbis wanted to know if the person is liable to be executed, and whether it matters if they cursed them with any formulation of God's name (or at all). Once they exhaust that part of the discussion, the *Gemara* then asks from where the prohibition to curse parents comes. The rabbis work to offer possible answers. The first is that it could derive from a verse in Exodus<sup>10</sup> that prohibits cursing judges and chiefs. If the person's father was a judge or a chief, they reason, he would be included in that prohibition. The obvious problem with this source is that the person's father may be neither a judge nor a chief and would therefore lack protection from the prohibition. To get around this, the rabbis try to establish the similar characteristics that would warrant naming judges and chiefs in the same prohibition, given that they have different powers and roles. They suppose that perhaps the uniting factor between the two is that they are both part of "עַמְךָ" (*amcha*), meaning "your people," and cursing that entire broad category is prohibited as well.

Although this factor will eventually bring us back to Leviticus 19:14, the rabbis dismiss this assertion as poor reasoning. They note that a person who has attained the role of judge or chief has attained a level above the broad category of *amcha*. The rabbis now introduce the Leviticus verse and the prohibition against cursing the deaf. Here the rabbis teach that when the verse says "the deaf," it refers to the "broken down" or "crushed" among "*amcha*."

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<sup>8</sup> B. Shevuot 36a

<sup>9</sup> B. Sanhedrin 66a

<sup>10</sup> Exodus 22:27

From our contemporary perspective, in which hearing impaired people play an important (and importantly) normalized role in our communities, we must certainly take issue with this description. Certainly “the deaf” are not “wretched” as some translations would provide.

However, we also must not take the rabbis’ understanding of these individuals as a deliberate insult, but rather a reflection of the limited resources and understanding available to them. It also may provide a window into how people with disabilities were treated at the time, protected but scorned. In any case, we must encounter and engage their logic even as we would reject it to understand both how they used it and how we might incorporate its application.

The *Gemara* next wonders what causes this prohibition against cursing the deaf, the lowly among *amcha*, is it in fact their deafness that leads to it? And if so, how does it follow that the judge and the chief’s high status would lead to the prohibition against cursing them? Rather, one must consider what is common between the deaf and judges and kings, which is that they are all part of *amcha*, and so cursing anybody is prohibited, including parents. There is a moment where the sages almost change their minds, thinking that perhaps this means that one is only prohibited from cursing an unusual person, but this is quickly dismissed, as neither verse on its own would cover the other. Therefore, one can understand that when Leviticus 19:14 prohibits cursing the deaf, it applies (in conjunction with Exodus 22:27) to all of *amcha*, from the “lowest” to the “highest.”<sup>11</sup>

To clarify the rabbis’ metaphor for obstructing the blind, we must also look elsewhere in the Talmud. Previously the rabbis connected this prohibition with the issue of lending and borrowing with interest, however, we may only understand the metaphor that the rabbis employ by briefly examining another case in which they invoke the prohibition against obstructing the

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<sup>11</sup> This is also confirmed in B. Temurah 4a which suggests that the prohibition to curse “one’s fellow” is derived from Leviticus 19:14.

blind. This case is really two; it first introduces the question of doing business with gentiles and then leads into a proof regarding the offering of wine to a Nazirite.

In Talmud *Avodah Zarah*<sup>12</sup>, the rabbis consider a *baraita* that seems to indicate it is forbidden to do business with pagans for three days in proximity to their festivals. The specifics of which are the three days to which the Mishna refers is the primary topic of contention, but then the rabbis seek to understand why this is prohibited. The Talmud asks whether the prohibition on doing business with pagans in the specified time period is forbidden because of the potential profit (which Rashi later suggests would cause the person to then go give thanks to their false God), or because of the prohibition against obstructing the blind in Leviticus 19:14. To differentiate the meaning of each possible reason, the rabbis introduce a test case in which the pagan already owns an animal and a Jew does business with him. Contextually we can understand that the business in question must involve selling an animal. If the reason for the prohibition is the profit gained and the thanks given as a response, the Jew still causes the pagan to profit and to thank one or more gods (by sacrificing one of the animals). However, if the reason is because of the prohibition to obstruct the blind, then the Jew is not responsible. The person already has an animal that they will sacrifice, so the Jew did not facilitate that act even by selling an animal.

The rabbis do not seem comfortable with this answer, and so they challenge to suggest that, even in the case where the pagan already has an animal, the Jew has transgressed the prohibition against obstructing the blind. The solution comes from a *baraita* in which Rabbi Natan teaches that the Levitical verse is the reason why a person may not extend a cup of wine to a Nazirite nor a limb from a living animal to a descendant of Noah. The significance of these acts

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<sup>12</sup> B. *Avodah Zarah* 6a-b

reveals the meaning of the metaphor we have been meandering towards. A Nazirite is described (by God) in the Torah as a person who has taken a vow not to eat or drink anything from grapes, cut their hair, or come into contact with corpses, while accepting certain responsibilities to the service of God.<sup>13</sup> Extending wine to Nazirites is akin to helping them to break their vows. So too is extending a limb from a living animal to “descendant of Noah” or, rather, of the peoples who follow the Noahide commandments. One of those commandments includes the prohibition to eat a limb from a live animal, meaning that the one who offers it is helping them to break one of the commandments. These two examples, taken with the previous cases around lending with interest and doing business with pagans (and even without), unlock the rabbinic metaphor. Causing or contributing to a person’s transgression of *mitzva* is, to the rabbis, the same thing as placing a stumbling block in front of the blind.

This logic is applied in many other cases throughout the Talmud, but there are three in particular that provide details which define the dimensions by which something might be measured as contributing to somebody’s transgressing a *mitzva*. The first comes from later in the same tractate as the previous proof, *Avodah Zarah*, and therefore continues to deal with questions about Jewish relations with pagans and other types of gentiles. In this case, the question is in regard to selling frankincense to gentiles who might use it for sacrifices. According to Rabbi Yitzchak, Rabbi Shimon ben Lakish (Reish Lakish) says that one is allowed to sell a large (Rabbi Yehuda ben Beteira says at least 300 dinars weight!) bundle to gentiles. The *Gemara* raises a concern: “What if the buyer goes and sells to another who sacrifices it?” Abaye provides the solution, noting that Leviticus 19:14 forbids placing a stumbling block before the blind, not before the one who places it before the blind.<sup>14</sup> This means that one can sell to a

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<sup>13</sup> Numbers 6:1-21

<sup>14</sup> B. *Avodah Zarah* 14a

person even if that person will sell those same goods to another who will use them to transgress *mitzvot*. In today's terms, we might understand that this allows wholesaling, even if the tertiary buyer might commit a crime with the product.

The second detail comes from a story in which a maidservant witnesses a man strike his adult son. She believed the man should be excommunicated because he transgressed the prohibition against obstructing the blind which, according to a *baraita*, the verse speaks of one who strikes his adult son. In this case additional commentary is helpful, not to understand the metaphor but to understand the implication of a man striking an adult son.<sup>15</sup> Rashi explains that this is an obstacle because this might cause the adult son to strike his father in violation of another prohibition. From this case we understand that it is not only directly causing a person to sin which is considered in violation of the Levitical *mitzva*, but also provocation.

The third detail comes from a discussion around the allowance of marking graves during the intervening days of a festival (*khol hamoed*). The Rabbis note that this halakha, and the marking of graves generally seems to be derived from a verse from Ezekiel and not from Torah. They reason, however, that Ezekiel makes reference to the Torah in his opinion, citing Leviticus 13:45, which directs the leper to identify their impurity and instruct passersby to keep safe distance. Relating to this and back to the issue of marking graves, Abaye says that it comes from Leviticus 19:14.<sup>16</sup> Other rabbis connect this issue to other verses which also reference stumbling blocks, walking and ways for walking, and distance from impurity.<sup>17</sup> From these connections and this particular case regarding marking graves, we can learn that the rabbis also considered

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<sup>15</sup> B. Moed Katan 17a

<sup>16</sup> B. Moed Katan 5a

<sup>17</sup> Isaiah 57:14, Exodus 18:20, Leviticus 15:31

causing or not preventing somebody from encountering impurity is also included within the prohibition against obstructing the blind.

While the Talmudic examples I have chosen to examine do not cover the entire breadth of the rabbis' utilization of Leviticus 19:14 in terms of obstructing the blind or cursing the deaf, they do provide a solid basis for how the verse has been understood. The meaning extracted from these examples informs the later rabbis and their understanding of the mitzvot as they engaged in writing halakhic codes. This is reflected heavily in the *Mishneh Torah*.

Maimonides, in the fashion of the Mishna and the Talmud, spends significantly less time on the “do not curse the deaf” part of Leviticus 19:14 than the “do not place a stumbling block before the blind” part. In his *Mishneh Torah*, in which the previous Talmudic discussions (and other source material) are distilled into (somewhat) practical rules, he directly references this part of the verse a few times, of which we will reference three. He does this first in his list of negative *mitzvot*, of which *mitzva* number 317 states “Not to curse any Jewish person, as it says, ‘do not curse the deaf.’”<sup>18</sup> Plain and simple, and most likely informed by the reasoning in Talmud *Sanhedrin* that the mention of the deaf implies any member of *amcha*. The other two halakhot he establishes correspond to our Talmud, including the prohibition against cursing parents<sup>19</sup> and the prohibition against cursing judges or chiefs<sup>20</sup>, which are also informed by this same reasoning.

The Talmudic reasoning behind the rabbis' application of the prohibition against obstructing the blind is also carried through by Maimonides. He codifies several halakhot in which that prohibition is invoked as part of or the entire reasoning for why one should refrain

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<sup>18</sup> Maimonides, *Mishneh Torah, Mitzvot Lo Taaseh* 317

<sup>19</sup> Maimonides *Mishneh Torah, Hilkhhot Mamrim* 5:4

<sup>20</sup> Maimonides, *Mishneh Torah, Hilkhhot Sanhedrin v'HaOneshin HaM'surin Lahem* 26:1

from a behavior or activity. He also introduces another possible metaphorical meaning for the idea of placing a stumbling block before the blind.

Just like the Talmud, Maimonides warns about issues related to lending. In the issue of lending with interest, he upholds the Talmudic ruling that the lender and the borrower both violate the stumbling block prohibition and adds that a broker/third party between the lender and borrower would also be liable to that transgression.<sup>21</sup> In a similarly reflexive case, he also rules that judges who take bribes and the person who offers the bribe also both transgress the prohibition.<sup>22</sup> He also writes a halakha based on another Talmudic discussion<sup>23</sup> of the stumbling block prohibition in which states it is forbidden to lend without witnesses or collateral.<sup>24</sup>

Also, in line with another example brought earlier from the Talmud, Maimonides states that one is liable to the prohibition against obstructing the blind if one causes a Nazirite to become impure. In the Talmud we learned this rule in relation to offering the Nazirite wine (thus breaking their vow), not about causing impurity. In this case, where it is about impurity, one is only liable if the Nazirite allows it or does so intentionally. The reasoning for this is a bit fuzzy, but it is based on a verse that implies that in terms of impurity, one is only liable if they cause themselves to become impure.<sup>25</sup> This would mean that, in the case where a Nazirite man becomes impure accidentally, he did not cause it to himself and therefore has not broken his vow. For this same reason the one who causes the impurity is not liable to the prohibition because ultimately no law was broken.

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<sup>21</sup> Maimonides, *Mishneh Torah, Hilkhhot M'laveh v'Livah* 4:2

<sup>22</sup> Maimonides, *Mishneh Torah, Hilkhhot Sanhedrin v'HaOneshin* 23:1-2

<sup>23</sup> B. Bava Metzia 75b

<sup>24</sup> Maimonides, *Mishneh Torah, Hilkhhot M'laveh v'Livah* 2:7

<sup>25</sup> Maimonides, *Mishneh Torah, Hilkhhot Nazirut* 5:20



This is somewhat like a halakha from *Hilkhot Kilayim* (the laws regarding mixtures broadly related to agricultural) which affirms the liability for a person who dresses another in mixed threads if the wearer does so intentionally. However, in this case he also places liability on the one who dresses another person in mixed threads when the wearer is not aware.<sup>26</sup> This is because the prohibition that would be broken by the wearer does not rely on intent or any reflexive language in the corresponding verse - the dresser causes the wearer to commit a transgression no matter what.

We also learn from Maimonides that one can transgress the prohibition against obstruction without causing another person to sin (or without literally placing a stumbling block in front of somebody who is visually impaired). Returning to the list of negative commandments, Maimonides lists number 299 as “Not to cause a simple (or perhaps innocent) person to stumble on their way, as it is said ‘Do not place a stumbling block before the blind.’”<sup>27</sup> Although this may be interpreted as has been previously, it also provides a new dimension, though it may not be immediately clear what. Could there be a literal injunction against tripping a person or somehow interrupting a physical journey? Or is there something more?

Fortunately, Maimonides answers this question elsewhere in his work. In the section dedicated to the laws related to murderers and the preservation of life, he writes (in line with the old logic) that anything forbidden to sell to idolators may also not be sold to Jewish robbers, because it “strengthens the hands of the transgressor and causes him to stumble.” Maimonides continues in the same halakha to say that anybody who causes a person who is blind in a certain matter to stumble by giving improper advice also transgresses the commandment. He follows

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<sup>26</sup> Maimonides, *Mishneh Torah, Hilkhot Kilayim* 10:31

<sup>27</sup> Maimonides, *Mishneh Torah, Mitzvot Lo Ta'aseh* 299

this up with an imperative: when one comes to you for advice, give them proper counsel.<sup>28</sup> This reasoning seems to also apply in every *posek's* favorite halakha, in which Maimonides states that “A wise one who is worthy of rendering halakhic judgements but does not teach is obstructing Torah and placing a stumbling block before the blind.”<sup>29</sup> Maimonides, while taking logical and metaphorical cues from the Talmudic sages before him, definitely stretches the original text of Leviticus 19:14 further yet.

This malleability is accepted by subsequent generations of rabbis who continued the work of creating standards and rules and teaching the ethics and values that accompany them. One item in this halakhic and educational genre is the anonymous medieval Spanish work, *Sefer HaChinukh*, which details the 613 mitzvot and explains some of the reasoning behind them. The *mitzvot* implied by Leviticus 19:14 are his number 231 and 232, which are (in his language) not to curse another Jew, whether man or woman, and not to cause an innocent person to stumble on the way.

*Sefer's* explanation of the reasoning for not cursing another Jew follows the earlier Talmudic logic, however it adds the idea that “the deaf” are specified to indicate that the dead are excluded from the prohibition. This means you are only forbidden from cursing the living, though this includes all of the living. Additionally, *Sefer HaChinukh* takes care to discuss the potential power that words have when spoken by human beings and the impact they can have. The author also expresses concern that curses spoken away from somebody may travel to a person (maybe via birds) and they will hear it and take injury. Lastly, the author states (presumably) his belief that Maimonides was not concerned about the injury to the cursed, but rather that the one who curses not become accustomed to anger and lowly traits. These details

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<sup>28</sup> Maimonides, *Mishneh Torah, Hilkhhot Rotzeah v'Shmirat Nefesh* 12:14

<sup>29</sup> Maimonides, *Mishneh Torah, Hilkhhot Talmud Torah* 5:4

give additional color to the various spiritual feelings and concerns which characterize the prohibition from cursing.<sup>30</sup>

In terms of the prohibition against obstructing the blind, *Sefer HaChinukh* mostly restates halakhot that Maimonides stated, but it does add two ideas that may become important for our contemporary context. In regard to the root of the commandment, the author of *Sefer HaChinukh* writes that it is well known, since guidance and good advice for people is necessary for *tikkun olam* and the ordering of civilization. Additionally, the author applies the prohibition to selling weapons or anything that can injure the public, which are forbidden unless they are meant for defense.<sup>31</sup>

About 300 years later Yosef Karo made his effort at codifying halakha in his *Shulchan Arukh*, in which he also addressed the various elements of mitzvot that come from Leviticus 19:14. In most cases the logic and applications from the Talmud and Maimonides are either upheld or consolidated, however there are some meaningful evolutions in thought and practice. For example, when discussing the prohibition of cursing the deaf, Karo maintains the previous rules about who must not be cursed and why and details the punishment. He then goes on to explain that even though cursing without using God's name, cursing the dead, or shaming a simple person is not liable to the same punishment, these actions are still prohibited.<sup>32</sup>

With regard to the prohibition against obstructing the blind, Karo expands the concern for what it might mean to lead another to transgress mitzvot. In one case, he writes about the ritual of washing hands before eating. He explains that, although one who feeds another does not need to wash their hands (ritually, of course, but still sort of gross), the one who eats it must even if

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<sup>30</sup> Anonymous, *Sefer haChinukh*, 231

<sup>31</sup> Anonymous, *Sefer haChinukh*, 232

<sup>32</sup> Yosef Karo, *Shulkhan Arukh, Hoshen Misphat* 27

they eat with a utensil. The gloss on this halakha by Rabbeinu Yonah explains that it indicates that it is also forbidden to feed a person who does not wash (and therefore transgresses), because of the prohibition of obstructing the blind.<sup>33</sup> Previously concerns about leading one astray have been in direct violation of halakhic prohibitions or in terms of counsel, but here the rabbinic thought process enters the realm of ritual observance (or rather non-observance) of rabbinically innovated or expanded rules.

Jumping forward another 300 years or so from the realm of the *Rishonim* to the *Acharonim* we see additional dimensions to which the mitzvot derived from Leviticus 19:14 extend. The Chafetz Chaim (Rabbi Israel Mair Kagan), in his 19<sup>th</sup> century halakhic work, *Chafetz Chaim*, writes about both mitzvot in his introduction to the laws of *lashon hara* (harmful speech) and *rekhilut* (gossip). In the introduction he lists the commandments that apply to these subjects. In Negative Commandment number four he explains that both the listener and the speaker of *lashon hara* and *rekhilut* transgress the prohibition against obstructing the blind. The Chafetz Chaim also provides his reasoning; both parties cause the other to transgress multiple prohibitions from the Torah! Further, the more people who hear the person engage in ill-natured speech, the more stumbling blocks are placed!<sup>34</sup> The prohibition against cursing the deaf is also implicated in *lashon hara* and *rekhilut*, but not as regularly or unavoidably as the former. The Chafetz Chaim writes that sometimes a person might speak *lashon hara* in anger, thereby cursing their target at the same time. In this situation one transgresses the absolute negative *mitzva* of cursing the deaf.<sup>35</sup>

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<sup>33</sup> Yosef Karo, *Shulchan Arukh, Orakh Hayim* 163

<sup>34</sup> Israel Kagan, *Chafetz Chaim, Introduction, Negative Mitzvot* 4, (Sefaria.org)

<sup>35</sup> Israel Kagan, *Chafetz Chaim, Introduction, Negative Mitzvot* 17

In the early 20<sup>th</sup> century, the Chafetz Chaim also composed a halakhic work which enumerated and briefly explained all of the mitzvot which are applicable without a centralized temple in Jerusalem and outside of the Land of Israel. None of the *mitzvot* he lists (negative *mitzvot* numbers 45, 53, 55, 71, and 76) that derive from Leviticus 19:14 are drastically different from how they appear previously, but the addition of individual words or brief phrases does provide a certain color to his explanation. For example, when the Chafetz Chaim writes that it is forbidden to curse another Jew he specifies that this person is *kasher*, or kosher. This implies a certain status and perhaps lifestyle of the Jews who he includes in this prohibition. This begs additional questions and clarity for who is *kasher* or what makes somebody not *kasher*. This commandment has already been exclusive in that previous generations of rabbis applied it only to Jews, but the qualification of *kasher* is a further limiting factor. The Chafetz Chaim describes this rule as a *ributa*, an expansion on the *pshat*, because we apply it broadly when the verse only refers to the deaf literally.<sup>36</sup> However, given his additional restriction on which Jews are protected by the negative mitzva, he in effect causes a *miyuta*, a reduction on previous halakhic interpretations.

The issue that the Chafetz Chaim begins to incorporate, the varying levels of observance (or *kashrut*) of Jews, continues in contemporary halakhic discourse. The 21<sup>st</sup> century halakhic work *Gray Matter* approaches several issues which all relate back to the negative mitzvot derived from Leviticus 19:14, including how observant Jews and secular Jews interact. One question that the authors encounter is whether an observant Jew may invite a non-observant Jew to Shabbat or Yom Tov dinner, specifically knowing that the non-observant Jew will drive. The first opinion registered is by Rabbi Moshe Feinstein. He takes a hardline approach; one may not invite non-

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<sup>36</sup> Israel Kagan, *Sefer HaMitzvot HaKatzar, Negative Mitzvot 45*, (Sefad, 2004), Sefaria.org

observant Jews to join them at meals or even to come pray at synagogue if it will result in the non-observant Jew violating Shabbat or *Chag*. One who does this violates the prohibition of obstructing the blind, or worse! However, Rabbi Moshe Shternbuch permits these invitations. He reasons that one only violates the prohibition against obstructing the blind if the person seeks to harm the other party, and in the case of inviting a non-observant Jew to a meal or synagogue the person is actually helping the other party (by bringing them closer to Jewish ritual, *mitzvot*, and God).<sup>37</sup>

Other contemporary Orthodox interpretations of the prohibition against placing a stumbling block relate to the issue of matchmaking. This expands the dimensions of this *mitzva* further still, as today's rabbis try to consider the ways in which a person may be led astray or obstructed on their path to marriage and children (presumably). In the Israeli responsa collection *B'Mareh HaBazak*, a question is posed about whether it is permissible for one to lie about age or other relevant details for the purpose of making a match. The response follows our common sense (hopefully); it is forbidden and would be a violation of the prohibition against obstructing the blind (among other reasons).<sup>38</sup> Similarly, in *Gray Matter Volume II*, an opinion by Rabbi Yaakov Breisch is cited in which he ruled that a doctor must inform a bride-to-be of her groom's terminal illness (in that case, cancer with a maximum prognosis of two years). Failure to inform, he wrote, would violate the prohibition of placing a stumbling block before the blind.<sup>39</sup> This ruling also assigns a positive action that the doctor must take in order to avoid transgressing a negative *mitzva*.

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<sup>37</sup> Chaim Jachter, *Gray Matter Volume IV, Non-Observant Jews, Inviting a Non-Observant Jew for a Shabbat or Yom Tov Meal*, (Teaneck, NJ: Kol Torah Publications, 2000-2012)

<sup>38</sup> Kollel Eretz Chemda, *B'Mareh haBazak Volume VI*, 94, (Jerusalem: Machon Eretz Hemdah, 2006-2016)

<sup>39</sup> Chaim Jachter, *Gray Matter Volume II, Family Matters, Revealing Flaws of potential marriage partners*, 44

Other contemporary questions relating to health produce a similar blend of contemporary scientific understanding and halakhic observance. In multiple contemporary halakhic works, there are questions about children who care for their parents in their old age or poor health. The question is generally this: does a child have to honor a parent's request to purchase cigarettes for them? Despite the *mitzva* to honor one's parents (famously one of the ten<sup>40</sup>, though also iterated in Leviticus 19)<sup>41</sup>, contemporary rabbis rule that the child should not purchase the cigarettes, especially if a doctor has advised against it. This also goes for serving the parent unhealthy food against doctors' advice. The prohibition that the purchaser or server of these harmful goods violates is against placing a stumbling block before the blind.<sup>4243</sup> The ancient rabbinic metaphor of transgressing mitzvot here is wrapped up, seemingly inextricably, with disobeying medical advice and instruction, and causing a person bodily harm.

We have seen multiple metaphors and logical extensions employed for what the Torah means by cursing the deaf and obstructing the blind which give us many categories of law with which to consider the impact of our actions or inaction on others. However, likely due to the simplicity in the *pshat* of the texts, we have not encountered discussion on how to apply these mitzvot to the hearing or visually impaired among us. For that, we will go back in time slightly to the 20<sup>th</sup> century when multiple Reform responsa include Leviticus 19:14 in their discussions of issues related to access and inclusion of community members with disabilities.

The general Reform position is stated simply in the end of a response to a question submitted by Rabbi Stanley M. Davids in 1988. Rabbi Davids wrote in relation to his synagogue's addition of handicapped access, and asked "what responsibilities does a synagogue

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<sup>40</sup> Exodus 20:12

<sup>41</sup> Leviticus 19:3

<sup>42</sup> Chaim Jachter, *Gray Matter Volume III, Medical Issues, Prohibition to Smoke*, 46-47

<sup>43</sup> Eliezer Melamed, *Peninei Halakha, Family*, 1:20:7

have toward handicapped congregants? What does tradition say about this matter?” The response to this question mentions Leviticus 19:14 not to discuss the prohibitions but to clarify the classical categories of “the blind” and “the deaf.” However, the notion that we may notice that *not* placing a stumbling block sometimes requires action is employed in their conclusion. “It is an obligation for us to serve all segments of the community and to provide access to our synagogues for those who are handicapped.”<sup>44</sup>

A few years later, the CCAR Committee on Justice and Peace asked almost the same question but with a broader lens. The committee looked beyond the synagogue to the community generally to determine obligations towards physically and mentally disabled persons. The response breaks up the different types of disabilities and describes the historical understanding and treatment of the individuals who live with them. The Committee cites Leviticus 19:14 to state that one is supposed to give special consideration to the visually impaired. The full conclusion of this responsa is that we must encourage and “aim for the maximum inclusion of the disabled in the life of our communities.”<sup>45</sup>

In relation to the issues of included disabled community members, we may take a harder line than our predecessors. Where they acknowledged the obligation to include and “aim[ed] for the maximum,” we must go farther and require our communities to provide maximum access. Although the mitzvot we encounter in Leviticus 19:14 are negative, it has been demonstrated by other contemporary sources that avoiding transgression may include a positive act. When we

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<sup>44</sup> Rabbi Walter Jacob, “Handicapped Access,” essay, in *Questions and Reform Jewish Answers: New American Reform Responsa* (New York, New York: CCAR, 1992), 70–71.

<sup>45</sup> Rabbi W. Gunther Plaut and Rabbi Mark Washofsky, “Disabled Persons (5752.5),” essay, in *Teshuvot for the Nineties: Reform Judaism’s Answers to Today’s Dilemmas* (New York: CCAR, 1997), 297–304.



deal with individuals with disabilities, we must not simply refrain from obstructing their way or cursing them, but rather we must actively clear their path and bless them.

Other applications that have been explained for these negative mitzvot are also good for the contemporary Reform Jew to follow. There is no ideological issue that would prevent us from giving good advice and not giving bad advice, nor should we take any issue with the idea that one should not lend or borrow with interest (and that both violate the prohibition if they do). Also reasonable is the idea that one should not purchase stolen goods or sell forbidden items to avoid complicity in crime or strengthening the hand of the robber. However, there are some places where our lives and circumstances today require us to adjust our application of these rules.

First, any place in which these prohibitions have been applied to only protect Jews (kosher or not) must be extended to all people. This is because of *darchei shalom*, the universal nature of the “*olam*” in *tikkun olam*, and for the preservation of the public image of the Jew. Too often non-Jewish people consider Jews to be a threat because of our insularity or preference for our own community. We can combat this perception by sharing what makes us particular and particularly Jewish with the rest of God’s human family.

Second, we must be very careful in considering the ancient and medieval rulings that the prohibition is against “placing a stumbling block before the blind, not before the one who might place it before the blind.” The question that relates to this principle in the Talmud was about selling incense to person who would not sacrifice it to pagan Gods himself, but who might sell it to people who would use it for sacrifice. The Talmud allows this type of sale.<sup>46</sup> This specific situation is innocuous enough, but we can extend it to subjects and materials that are not. We might think about a pharmaceutical company selling opioids to doctors who will sell them to

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<sup>46</sup> B. Avodah Zarah 14a

patients who may abuse them or die. If we follow the Talmudic logic, there is theoretically no transgression. However, legal courts in the United States and the apparent court of public opinion indicate otherwise and place some liability with the original seller.<sup>47</sup>

This idea is also reflected in a state law in California<sup>48</sup> that makes it possible to sue gun manufacturers for liability for instances of harm caused by their products, though this is not applied equally in all states or cases. In this case the medieval rabbis may have disagreed with applying the previous Talmudic logic, as we saw earlier in the prohibition against selling weapons for anything other than defense.<sup>49</sup> The contemporary reform Jew should lean more towards the latter position than the former and avoid engaging in business that can, at some level, lead to death or other types of harm. This does not mean, for example, that a Jewish doctor may not prescribe opioids to a patient with a clear need, but that the doctor must be extremely cautious not to support addictive behavior or narcotics trafficking. The prohibition against obstructing the blind is meant to distance one from causing harm to another, and we must act with this intention in mind.

In summary, the Rabbis of our tradition do not necessarily think of “the deaf” and “the blind” in Leviticus 19:14 literally. However, their extension of metaphors for who is referenced produces a complex structure of protection against many forms of spiritual and physical harm. As Reform Jews we must follow this extension and apply these protections to all who we encounter, not just our fellow Jews. Beyond that, we must actively support “the deaf” and “the blind” (both literally and metaphorically) and clear the way for their inclusion in our communities. Let us also be sure not curse the deaf, or anybody. When we follow *mitzvot* that

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<sup>47</sup> William K. Harrington, *United States Trustee, Region 2, Petitioner v. Purdue Pharma L.P., Et Al*, 63 US (2024).

<sup>48</sup> Firearm Industry Responsibility Act, AB No. 1594, Section 3273.50 (2022).

<sup>49</sup> Anonymous, *Sefer haChinukh*, 232

protect others from harm, we not only contribute to *tikkun olam*, but we actively prevent its further fracture.

## Conclusion

My hope in creating these studies is to provide Reform Jews with a sense of how to engage in Torah-based *tikkun olam*, give guidelines and examples for how to make authentically Jewish choices while remaining integrated into the wider societies around them, and to bring Reform Jews closer to the study and living of torah. The chapters included here are both part of that resource and a proof of concept, but they are only the beginning. It seems obvious that the next step for this project is to continue until I have studied and extrapolated each verse in the Torah which contains a *mitzva*. The question is from where to continue. Should I look forward or backwards and complete Leviticus chapter 19? And then what? Alternatively, should I go back to the beginning of Torah and work from there? First, let us consider the rationale behind my choice of the verses included in this work.

The selections that I chose to deal with in the preceding chapters were chosen because they, on their surface, appeared to present different challenges with which to deal halakhically. Leviticus 19:9-10, which give us the *leket*, *pe'ah*, and *shich'cha*, force us to consider mitzvot which may not always apply depending on a person's circumstances. These Torah directs these mitzvot towards people who work the land in the Land of Israel. When considered from a contemporary lens, these restrictions place limits on the range of our positive influence and care for the needy. This also compels one to wrestle with the question of how to extend limited mitzvot for maximum positivity and maximum blessings in the world.

The question of the range of application for mitzvot is a common feature of each of the verses I examined, but is especially relevant in Leviticus 19:13, which makes us consider the ways in which we operate in business and commerce. This verse brings us into conversation with different types of labor and employment and brings up questions about fair treatment of workers.

These commandments are interpersonal commandments with a specific eye towards money, property, and material capital. We are forced to consider how we relate to another when there is a clear imbalance of power.

The mention of two types of disability in Leviticus 19:14 also invokes the idea of power imbalance. It also causes us think about literal and figurative language in mitzvot, and how we might utilize metaphor to guide our understanding of Torah and to inform our actions. We are compelled by this verse mitzvot to consider the way we behave within various levels of interpersonal relationships, and to consider multiple variations on the theoretical and practical meanings of cause and effect.

It is not lost on me that this is somewhat contrary to my assertion that Reform halakha must be built from the bottom up, given that on some level I used larger, overarching issues to guide my selection. This is still an access point to the method; a Reform Jew may have a practical question that prompts a search in the Torah and initiates the process. It was also important to demonstrate the viability of the method when tested against different types of mitzvot, and to demonstrate that Reform Jews can connect and find contemporary use for all sorts of different *mitzvot*. Still, the purest form of this resource for Reform Jews should ideally begin in Torah and should work through the commandments in order of their appearance. This is the answer to the question of where to go next; I intend to continue this study by going back to the beginning and starting with the Torah's first *mitzva*. The only trouble is, which verse is that?

According to rabbinic thought there are several candidates for what constitutes the first mitzva. In their lists, multiple halakhic works including the *Mishneh Torah*, the *Sefer Mitzvot Gadol* (Semag) and the *Sefer Mitzvot Katan* (Semak) each begin their sections on positive mitzvot with the first mitzva in the famous 10. Their interpretation of the verse ranges from

minimalist like Maimonides, who writes that the commandment is to know that there is a God<sup>1</sup>, to maximalist interpretations like Rabbi Moses of Coucy's opinion in the Semag which states that the commandment is to believe that the God who gives Torah is the same God who brought the Israelite people out of Egypt<sup>2</sup>. Similarly, both of these works also cite the first negative mitzva as the command not to think that there is any other God. Despite the fact that these mitzvot are listed as first for some of the rabbis, it is hard to imagine (and easy to disprove) that these two mitzvot from the 20<sup>th</sup> chapter in Exodus are actually the first that appear in the Torah. The order of appearance does not seem to have been a consideration. Rather, the rabbis sought to formulate their lists in order of importance.

Fortunately (for me), the *Sefer haChinukh* approaches the mitzvot and introduces them in order of *parashot* in which they appear. The *Sefer* begins with the very first *parsha* in the Torah, *Bereishit*. The author writes that there is one positive commandment in *Bereishit*, to be fruitful and multiply.<sup>3</sup> The *Sefer* cites Genesis 1:28 as the source for this mitzva, and there is agreement that procreation is commanded, there is not consensus as to whether this is the verse from which it derives. The mitzva also appears in Genesis 9:1 and 9:7, the latter of which the rabbis cite as the source in Talmud Avodah Zarah (among other places).<sup>4</sup> Maimonides also cites Genesis 9:7 as the source for the mitzva (though he numbers it as 212!).<sup>5</sup>

Based on the two possible verses, and true to my commitment to build from the Torah up and in order of appearance, I believe the best way forward is to start with “פרו ורבו” “Be fruitful and multiply.” This should be another rich exercise filled with challenges to our Reform Jewish

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<sup>1</sup> Maimonides, *Mishneh Torah, Mitzvot A'seh* 1

<sup>2</sup> Moses of Coucy, *Sefer Mitzvot Gadol, Mitzvot A'seh* 1

<sup>3</sup> Anonymous, *Sefer HaChinukh* 1

<sup>4</sup> B. Avodah Zarah 5a

<sup>5</sup> Maimonides, *Mishneh Torah, Mitzvot A'she* 212

senses of autonomy and gender, our scientific knowledge of a planet in the throes of climate challenges, and other relevant complications which are indeed numerous. I will follow the model of the *Sefer haChinukh* and begin with the earliest iteration (Genesis 1:28) and investigate its connections through time. Ultimately, however, I will treat both.

It is likely that the chapter will refer forward to Genesis 9:7, whose chapter will also necessarily refer backward. This will necessarily also be the case for the many verses which provide identical or similar instruction. Although the risk of redundancy is real, the ability to refer back and forth between verses with fluidity should serve to provide comprehensive coverage of each mitzva. I suppose there is also a possibility, likely depending on the nuances I uncover through my continued study, of combining multiple verses with a great deal of shared material into a single chapter. The possibilities for the shape of the final form of this resource are still very much open and may yet be informed by additional learning and reception by lay Reform Jews.

The three chapters which make up this project as of now are truly only the beginning. The title of this resource is *Tchilat haDerech*, which translates to “the beginning of the path.” The *derech*, colloquially, refers to a living a life of halakha or traditional observance. It is not my intention to propose that Reform Jews adopt lives of traditional observance. It is my intention to help Reform Jews follow the mitzvot in a way that is compatible with our lives. When God said, “All these blessings shall come upon you and take effect, if you will but heed the word of God your God...”<sup>6</sup> it was not a simple promise to give something to the Israelites! Rather, it was a statement of cause and effect! If we follow these commandments blessings will come, they will

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<sup>6</sup> Deuteronomy 28:2

affect us, and it will be because we listened. It is my hope that our ears will remain open to the call, and that our minds will be remain open to the possibilities of a better, repaired world.

The work ahead is monumental; It is not easy to build a home or lay a path. Yet, as we have continued to build and maintain God's world, we have learned that we must construct both. I look forward to building many houses of Reform Halakha all the way up from their foundations, and to walking the *derech* between them together.



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### Chapter 1

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B. Hullin 135b

B. Nedarim 6b

M. Pe'ah 1:5-6

M. Pe'ah 2:7-8

M. Pe'ah 4:6-10

M. Pe'ah 6:6

M. Niddah 6:6

*Mishneh Torah, Hilkhhot Matanot Aniyim 1:10-13*

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T. Pe'ah 1:11

Y. Pe'ah 1:4

Chapter 2

B. Hullin 141a

Ibn Ezra commentary on Leviticus 19:13

M. Bava Metzia 10:5

*Mishneh Torah, Hilkhot Schirot* 11:4

Rashbam commentary on Leviticus 19:13

*Sefer HaChinukh* 228

*Sefer HaMitzvot HaKatzar, Mitzvot Lo Ta'aseh*, 35-38

*Shulchan Arukh, Hoshen Mishpat* 339:3

T. Bava Metzia 10:1

Y. Bava Metzia 9:11

Chapter 3

B. Avodah Zarah 21a

B. Avodah Zarah 22a

B. Bava Metzia 5b

B. Bava Metzia 90b

B. Hullin 7b

B. Kallah Rabbati 10:5

B. Kiddushin 32a

B. Nedarim 62b

B. Pesachim 22b

B. Shevuot 35a

