

SETTING YOUR OWN *SHULKHAN*:
A REFORM COMMENTARY TO THE *SHULKHAN ARUCH*

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A Reform Commentary to the *Shulkhan Aruch*

The attitude of Reform Judaism towards the *Halakhah*, Jewish law, has been an ever-evolving relationship. What began with the intricate use of *Halakhah* by European reformers to defend early reforms changed into a fear that the use of *Halakhah* in Reform's early American foundation might lead to the creation of something resembling an authoritative legal code, and eventually this fear progressed into a re-emergence of interest in the role that *Halakhah* could play within a modern, liberal context. The strong history of the CCAR's Responsa Committee shows that over the last hundred years Jewish law has at least been seen as a part of Reform's decision making processes.

This project aims to show how a halakhic code such as the *Shulkhan Aruch* could be used as a starting point from which to teach the halakhic process in a liberal context. While the *Shulkhan Aruch* presents what many see as a unilateral presentation of the halakhic system, by teaching it with reference to the Torah, the Talmud, and the other halakhic sources which lead to its codification the reader can see the pluralism of ideas that exist throughout that process. Additionally, a companion section including "Questions for Today" could show the multitude of areas in which this process could be used as a voice in the liberal Jew's life today.

Beginning with the background of the *Shulkhan Aruch*, continuing with a brief history of the role of *Halakhah* in the Reform movement, and concluding with an introduction to chapter 242 of *Yoreh Deah*, a chapter on the proper relationship between a student of Torah and the student's teacher, and the commentary itself to that chapter, this project provides a snapshot of what a greater project of this sort might resemble.

Table of Contents

Acknowledgments	i
Chapter 1 – Introduction to the <i>Shulkhan Aruch</i> and Codificatory Literature	1
Chapter 2 – The Role of <i>Halakhah</i> in the Reform Movement	13
Introduction to Chapter 242 of <i>Yoreh Deah</i>	30
Setting your own <i>Shulkhan</i> – A Commentary to Chapter 242 of <i>Yoreh Deah</i>	36
Appendix A – Translation of <i>Mishneh Torah Hilkhot Talmud Torah</i> Chapter 5	108
Appendix B – Hebrew Text of <i>Shulkhan Aruch</i> – <i>Yoreh Deah</i> Chapter 242	111
Bibliography	116

Acknowledgments

In studying the chapter of *Shulkhan Aruch* which speaks about *kavod l'rav*, honoring one's teachers, I could not help but be struck with a certain thought. The chapter speaks about a the special relationship between teacher and student, a prohibition against doing the work that one's teachers could do so much better, and the many different ways in which the student should show honor to their teachers. As I think of my own time at the Hebrew Union College – Jewish Institute of Religion and complete the work of this thesis/capstone project, I think of all of my teachers and how these laws apply to them.

As I look back at my relationship with my thesis advisors, Dr. Jonathan Cohen and Dr. Mark Washofsky, my *rabbanim muvhakim*, and add all of those professors and rabbis who have taught me so much over my tenure at the College, I appreciate most that they all took to heart the teaching that the honor for one's student should be as dear to the teacher as their own. The faculty of the Hebrew Union College embodies this value, and the experience of the students is better because of it. The text also teaches that there are limitations to what a student may do in the presence of his teachers, and to say that the study required for this project has been humbling would be an understatement. Dr. Cohen has Jewish law flowing through his blood, and his passion for it is contagious to his students. Dr. Washofsky, as chair of the CCAR Responsa Committee, has changed the way that Reform Jews think about *halakhah* and his influence on the movement and his students is immeasurable. However, while this work would have been more deserving in the hands of any of my professors, I hope that my attempt can serve as a way of honoring them and displaying the love for the text that they have instilled within me.

Mishnah Avot 1:6 says in the name of Yehoshua ben Perachiah, "Make for yourself a teacher, acquire a friend, and judge every person favorably." As the text alludes to, those with whom you study, your friends, can be the greatest teachers of all, and my friends, both in the College community and outside, have served as some of my greatest teachers. Conversations over the value of *halakhah* in today's world, whether in Jerusalem or Cincinnati, have proven to be as valuable as many of the books written on the topic, and I thank you all for all that I have taken from you.

Lastly, we learn from the text that when a parent provides for the education received they take on the respect that is due to the student's primary teacher. To my parents, I thank you for providing every opportunity through which I could grow, learn, and become the rabbi I hope to be. The lessons that I have learned from both of you have made me who I am, and I can never thank you enough for that.

These are my teachers: my rabbis, my professors, my family, and my friends. To you I owe all the honor and all the respect in the world, and I thank you for everything.

Table of Contents

Acknowledgments	i
Chapter 1 – Introduction to the <i>Shulkhan Aruch</i> and Codificatory Literature	1
Chapter 2 – The Role of <i>Halakhah</i> in the Reform Movement	13
Introduction to Chapter 242 of <i>Yoreh Deah</i>	30
Setting your own <i>Shulkhan</i> – A Commentary to Chapter 242 of <i>Yoreh Deah</i>	36
Appendix A – Translation of <i>Mishneh Torah Hilkhot Talmud Torah</i> Chapter 5	108
Appendix B – Hebrew Text of <i>Shulkhan Aruch</i> – <i>Yoreh Deah</i> Chapter 242	111
Bibliography	116

Chapter 1

Introduction to the *Shulkhan Aruch* and Jewish Codificatory Literature

In 1879 the leaders of 30 early Reform Jewish communities met in Augsburg for their second synod.¹ While they discussed issues such as marriage and Shabbat, a Doctor Wasserman proposed a revision of the *Shulkhan Aruch* as a way to harmonize Jewish ritual with the customs of the time. The proposal was met with a strong enthusiasm against it, perhaps best demonstrated by Nehemiah Bruell, a disciple of Abraham Geiger.

We regret that the fluid word of the Talmud codified in the *Shulkhan Aruch* has become petrified and we would not like to see a new edition and revision of this book, a proceeding which could only be injurious to the development of Judaism. Every new revision is a recognition of the book, which as a religious code, has no value for us. I move that we should declare openly that the *Shulkhan Aruch* has no significance for us as a religious code, since the views written down in the *Shulkhan Aruch* never were our theoretical conviction, and never should be such.²

Bruell's semi-hostile response is fueled by the belief that the *Shulkhan Aruch*, which as a code of Jewish law consolidates the *Halakhah* into a unilateral system, is completely antithetical to what Reform Judaism is and thus should be ignored. This belief, which is quite widespread in the Reform world, ignores the ability to look at the *Shulkhan Aruch* differently. As we will see, the *Shulkhan Aruch* is one strand in a web of Jewish law, and if viewed in accordance with its many commentaries and preceding literature, it can be an aid that helps to understand the evolution of Jewish law, ultimately leading to the modern understanding and plurality we strive for today. While a rewriting of the book, as Wasserman suggested, might indeed deem itself antithetical to Reform, as there may be no need for a "code" of Reform practice, presenting a new way to look at the *Shulkhan*

1 These synods are closest to what we see today as the URJ conventions. Rabbis and lay leaders joined together for this conference as opposed to the earlier Rabbinical conferences. Similar to today's URJ conventions, there were propositions put before the entire group.

2 Boaz Cohen. *The Shulhan Aruk as a Guide for Religious Practice Today*. New York, 1940. p. 5

Aruch would allow for the *Halakhah* to become a guide in the modern Jew's decision making processes.

Before looking at the *Shulkhan Aruch* itself it is important to gain a better understanding of what exactly Jewish law is and how it got to the point of being codified in the form we see in the *Shulkhan Aruch*. Jewish law, in comparison with other legal systems, proves itself to be unique. It is a legal system where no one person has the ability to legislate, yet it has continued to develop throughout history. It is a legal system that is both national and religious.³ While the Law is created for a people without a homeland, its roots lie in a claim of divine revelation providing the people with their own roots to establish a home within the body of laws.

Where does Jewish law come from? Before the *Mishnah* was compiled, the Torah was the source of Jewish legal decisions, however "as the Talmudic literature became complete, the written Torah continued to be the 'constitution' of Jewish law, but the Talmudic literature – the *Mishnah*, the halakhic *midrashim*, the *baraitot*, and the Talmuds – became the exclusive sources for deriving the *Halakhah*."⁴ While the Torah obviously remained important, it was the understanding of the Torah by the Rabbis that would ultimately decide how Judaism was lived out. Many of the practices that most people consider to be at the roots of Judaism do not occur in the Torah but rather come from the Rabbinic literature: Shabbat observance, Chanukah, the Passover seder etc...

The potential negative consequence of having such a wealth of text dictating lifestyle is that it becomes less accessible to a general public, and there came to be a

3 Menachem Elon. *Jewish Law: History, Sources, and Principles – Volume 3*. Philadelphia, The Jewish Publication Society, 1994. p. 4

4 Elon 40

point, as Jewish dispersion spread throughout Christian Europe, that Jews were no longer able to hold a Jewish court. Consequently, many communities were losing their knowledge of Jewish law. This is expressed by Rambam in a letter to Phinehas of Alexandria:

All the Jews who live in the cities of the Christians, even the great scholars among them, do not have expert knowledge of the laws, because they do not customarily use them ... and when a case comes before them... they are unable to master the matter until they have engaged in a long search through the Talmud.⁵

With the vast amount of Talmudic material and post-Talmudic commentary creating the corpus of Jewish law, the task of finding a halakhic answer to a daily question became a difficult task for the common Jewish community. As a result fewer and fewer people were leading Jewish lives, which led to the creation of a new type of literature in the Jewish legal world: the code. While there were codes written in the Geonic period,⁶ they were mostly *sifrei halakhot* rather than *sifrei p'sakim* and were written for different reasons than the codes that followed.

As we look at the *Shulkhan Aruch* and the codes that preceded it, this difference between *sifrei halakhot* and *sifrei p'sakim* will become extremely important, and as we look at the potential impact of a code of Jewish law in the Reform world today, this difference will also prove to be an imperative distinction. The earliest codes that we see are *sifrei halakhot*. These "books of *halakhah*" serve as companions to Talmud study. They will usually give "the" *halakhah*, but they precede that final decision with a

5 Elon 50

6 The period after the Rabbis of the Gemara - 7th-11th centuries C.E. This period of Rabbinic thought is said to have ended as Jews left the center of Babylon to the North of Africa and Europe, and intellectually with the leadership of Rabbi Isaac Alfasi who will be discussed momentarily.

discussion of the sources that lead up to that decision along with the occasional minority opinion that disagrees with the ultimate decision. Later in history we see the introduction *sifrei p'sakim* which eliminate the discussion of sources in order to create a clear and concise presentation of the Law. The *sefer p'sakim* has the benefit of being the most easily accessible, however the unfortunate consequence is a presentation of a unilateral system that was not always so unilateral.

Having introduced the genre of codificatory literature, we will now look at the three codes that most strongly influenced the *Shulkhan Aruch: Sefer ha-Halakhot* of Rabbi Isaac Alfasi, the *Mishneh Torah* of Rabbi Moses ben Maimon, and *Piskei ha-Rosh* of Rabbi Asher ben Yehiel.

***Sefer ha-Halakhot* – Rabbi Isaac ben Jacob ha-Kohen Alfasi (1013-1103)**

The first code after the Geonic period was *Sefer ha-Halakhot* written by Isaac Alfasi (the Rif). This code of law, as implied by the title, followed the model of the Geonic codes as a *sefer halakhot*, in that it included sources and discussion of those sources before giving the halakhic conclusion. Another important characteristic of Alfasi is that he only included those points of the *Halakhah* that were applicable to his time period.⁷

Alfasi, living just after the last of the Babylonian *Geonim* had died, lived in Algeria until he was banished by the government and moved to Spain. Once there, he became the head of the *Yeshivah* in Lucena. Alfasi's goals in his *Sefer-ha-Halakhot* were

⁷ That is, he did not include any laws pertaining to sacrifice or any other laws that lost their relevance after the destruction of the Temple.

by no means to replace the Talmud, but rather to provide an aid of study *to* the Talmud. He would often quote the Talmud heavily in his discourse as he would pull from other halakhic sources as well. Alfasi presents the Talmud only with those sections applicable to life at his time, and even further, only those sections which directly pertained to the halakhic decision, including sections which disagreed with the ultimate decision. He also would comment when the *Geonim*, those scholars who preceded him, had arguments regarding their interpretation of the *Halakhah*. In this way, he hoped to create an atmosphere in which Talmud study could take place.

As time continues, we continue to see a decline in the ability of Jews to access the Talmud in order to make halakhic decisions. Joseph ibn Migash, a student of Alfasi, was asked if one who does not know the Talmud but has studied the codes may make legal decisions, and he answered that this person is more qualified than many people who think they understand Talmud.⁸ This shows a growing acceptance of the use of codes when complete access and understanding to the fuller corpus of texts was not realistic. It was also comments like this one that opened the door for Rabbi Moses ben Maimon to write his *Mishneh Torah*.

***Mishneh Torah* – Rabbi Moses ben Maimon (Maimonides, Rambam) (1135-1205)**

As we have seen, we are looking at a time when Jewish literacy of legal texts was at a low, and even the *sifrei halakhot*, codes of law inclusive of detail such as those of Alfasi, were difficult for the common Jew to navigate. While the presence of sources and discussion were valuable for knowledge, looking merely from a point of view of

⁸ Elon 1181-1182

practicality and usability, there was still another possible step. Rambam took this step with the *Mishneh Torah*.

At the present time, when dire calamities keep following one another and the needs of the moment brush aside all things, our wise men have lost their wisdom, and the understanding of our astute people is hidden. Hence, the commentaries, the codes of law, and the responsa that were written by the *Geonim*, who strove to make them easily intelligible, have presented difficulties in our days, so that only a few are capable of understanding them properly... Therefore, I, Moses ben Maimon, the Sephardi, bestirred myself and, relying upon the Creator, blessed be He, have made a thorough study of all these books, and have determined to compose a work containing the results derived from all these books concerning what is prohibited or permitted, unclean or clean, as well as the other laws of the Torah.⁹

The goal was that of all the codes prior to Rambam, to make the *Halakhah* accessible to all Jews, but he recognized that to do that at his time an even greater step was necessary. Therefore, we find the *Mishneh Torah* which is organized not by the tractates of the Talmud, as many of the codes preceding it, but rather topically in fourteen books of subjects with sub-topics divided accordingly.

While the decisions of Rambam are based on the Babylonian Talmud and codes such as that of Alfasi, there are no citations to declare as such, and the *Halakhah* is presented in a unilateral way with almost no discussion of minority opinions or alternate readings. In making the text accessible, Rambam took ibn Migash's observation to a new level by claiming that this book could provide halakhic answers to the point that no other work would be needed. His lack of citations was accompanied by claims that could be perceived as claims of supersession of historical texts. This combination led to criticism from historical peers.¹⁰ Eventually these criticisms would become the roots of criticism

9 From the Introduction to the *Mishneh Torah* as found in Elon 1185

10 The Rabad said "He sought to improve but he did not improve, for he has forsaken the method of all authors who preceded him; they adduced proof and cited the authority for their statements... This is simply overweening pride in him" (Elon 1206).

from liberal streams of Judaism not only against the codes, but against a practice of a legal and ritual system that was based on them.¹¹ That being said, the *Mishneh Torah* was widely accepted and used, in spite of the criticism, making it perhaps the greatest single work of *halakhah* as well as the most widely used until the acceptance of the *Shulkhan Aruch*.

***Piskei Ha-Rosh* – Rabbi Asher ben Yehiel (1250-1327)**

One of the strongest critics of Rambam's *Mishneh Torah* came a generation after him. Rabbi Asher ben Yehiel (Asheri or the Rosh) saw severe problems with the study of *halakhah* promoted by the *Mishneh Torah* as he reviewed a case that had been decided based on Rambam's work. The judge apparently misunderstood Rambam, and because he did not have the ability to confirm his decision in the Talmud, he judged incorrectly. Asheri strongly preferred the style of code written by Alfasi. He felt that the style of the *sifrei halakhot* served the Jewish community better than the *sifrei p'sakim*. He felt that a code of Jewish law should serve as a companion to Talmud study rather than its replacement, and his work demonstrated this opinion.

His work was organized by tractate of the Talmud, and with regard to the amount of material and sources cited, he exceeded that of Alfasi. Asheri not only gave the Talmudic references, but he also gave the advances that had been made in his time along with differences between *Ashkenazi* and *Sephardi* tradition. This move away from the style of the *sifrei p'sakim* made Asheri even more authoritative than Rambam in some circles and enforced Asheri's position that a code of law can only be successful if it

¹¹ *Supra* 1

guides the reader back to the Talmud for proper halakhic discourse.¹²

These three codes of Alfasi, Rambam, and Asheri, although written in different styles, were all respected as authoritative sources of *halakhah*, and when the *Shulkhan Aruch* was eventually written, Joseph Caro, with some exceptions, would take any decision held by two of the three sources as the definitive *halakhah*:

Since I concluded that the three pillars of instruction upon which the House of Israel rests are Alfasi, Rambam, and Asher... I resolved that when two of them agree on any point I will determine the law in accordance with their view.¹³

The *Beit Yosef* and The *Shulkhan Aruch* – Joseph ben Ephraim Caro (1488-1575)

Joseph Caro was born in Spain just before the expulsion of 1492, and his family went to Turkey. Caro eventually ended up in Israel in the city of Safed where he served as a head of the Jewish court. Halakhically, Caro would take on a challenge that he deemed necessary based on the over 400 years of codificatory history preceding him, but a challenge that, while it had been alluded to before, had never been completed successfully.¹⁴ Caro hoped to create a code that existed in two parts, one a *sefer halakhot* and one a *sefer p'sakim*: one that provided a detailed description of the Law and its sources and one that presented a clear, concise telling of the *Halakhah*. These two volumes, used together, would hopefully create the kind of study and resources for judging in which the previous codes had been lacking.

The *Beit Yosef* was Caro's opus. It was written as a commentary to yet another

¹² Elon 1253

¹³ *Ibid.* As found in the *Beit Yosef* to the *Tur Orech Hayim*.

¹⁴ Rabbi Solomon ben Abraham (Rashba) wrote such a bipedal code called *Torah ha-Bayit*, containing two coexisting books. One, a *sefer halakha*, contained all the Talmudic discussion and following sages' commentaries while the other, a *sefer p'sakim*, was a much more concise book of the *Halakhah* in a simple, accessible form. This book, however, was not inclusive of the entire halakhic system and did not become as wide spread as the other codes mentioned.

code, Jacob ben Asher's *Sefer ha-Turim*, also called the *Tur*. Jacob ben Asher was Asher ben Yehiel's son, and his *Tur* served as another response to his father's own criticism of Rambam's *Mishneh Torah*. The *Tur* was written concisely as a *sefer p'sakim*, using Alfasi as his main halakhic influence, but when Rambam or Asheri disagreed with Alfasi he would include those alternate opinions as well. Rather than attempt to put together a work that was both a *sefer halakhot* and a *sefer p'sakim*, Jacob ben Asher attempted to turn the *Tur* into something that would lie somewhere between the two.

The structure of the *Tur* diverges from all the codes prior to it, and it is important as it inherently becomes the structure of the *Beit Yosef* and the *Shulkhan Aruch*. The *Tur* is also called the *Arba'ah Turim*, the four rows, as it contains four sections.¹⁵

1. *Orach Chayim* (The Path of Life) These *halakhot* address issues of daily life: prayer, ritual garb, Shabbat, festivals etc...
2. *Yoreh De'ah* (It will Teach Knowledge) These *halakhot* address issues of religious law: *kashrut*, idolatry, menstruation, circumcision, burial, mourning etc...
3. *Even ha-Ezer* (The Stone of the Helper) These *halakhot* address issues of family law: procreation, marriage, divorce, sexual relations etc...
4. *Choshen Mishpat* (The Breastplate of Decision) These *halakhot* address civil and criminal law: courts and judges, business, theft, torts, civil conflicts etc...

The *Beit Yosef*, written as Caro's *sefer halakhot*, was written as a commentary to the *Tur*. As a *sefer halakhot*, the goal was:

To compose a work that includes all the laws currently applicable, together with

¹⁵ Descriptions of the *Tur* are abbreviated from Elon 1289-1292

an explanation of their roots and origins in the Talmud, as well as an exposition of the different opinions of all the authorities, omitting none¹⁶

While this seems like a lofty goal, it is the epitome of the *sefer halakhot*. In order to truly understand the *Halakhah*, one must truly understand the multitudes of opinions that went into it. Caro's goal of "omitting none" of the applicable authorities shows the importance of this effort, and his product shows the grandeur of the undertaking. Ultimately, this discussion of sources leads to a halakhic decision, and Caro based his decision on the three codes described above: Alfasi's *Sefer ha-Halakhah*, Rambam's *Mishneh Torah*, and Asheri's *Piskei ha-Rosh*. When two of them agreed on a *halakhah*, that too would be the conclusion of the *Beit Yosef*, except for "those few instances when all or most [of the other] halakhic authorities disagree with that view and a contrary practice has therefore become widespread."¹⁷

Finally we come to the *Shulkhan Aruch*. This was the second part of Caro's plan, but it is important to remember that the *Beit Yosef* came first, and the two were not meant to exist separately from each other. Caro believed fully in the importance of the *sefer halakhot*, but he also understood, as did Rambam, the depleting nature of the Jewish community's ability to study from more difficult texts, necessitating a companion volume to the more detailed work in the form of a *sefer p'sakim*. This book does not contain sources, but it is structured according to the *Tur*, and accordingly to the *Beit Yosef*, so that one can easily find the correlating section and the necessary sources.

Living as a contemporary with Caro was Moses Isserles, a rabbi and halakhic scholar in Poland. Isserles was working on a commentary to the *Tur* simultaneously with

¹⁶ Elon 1313 – translation of Caro's introduction to *Beit Yosef to Orech Chayim*.

¹⁷ Elon 1317 – from Caro's introduction

Caro, and both respected each other and each other's opinions. Isserles' commentary, *Darkhei Moshe*, attempted to be slightly more concise than the *Beit Yosef*, but still existed as a *sefer halakhot*.¹⁸ In addition, Isserles, living in Poland, had access to the halakhic texts and traditions of the *Ashkenazim* to which Caro did not. In fact, many of the *Ashkenazi* traditions were in contradiction to Caro's method of taking from the "three pillars of instruction."¹⁹ Isserles, who had received criticism from his peers for often relying solely on the opinions of Alfasi, Rambam, and Asheri, found the need to include the halakhic opinions of newer halakhists, and this would become the most important factor in Isserles' eventual additions to the *Shulkhan Aruch*.²⁰

Upon encountering Caro's *Shulkhan Arukh*, Isserles felt that Caro's "set table" was missing the tablecloth of *Ashkenazi* tradition and the halakhic opinions of the time. Therefore, just as Caro took the main points from the *Beit Yosef* and rewrote them in the *Shulkhan Aruch*, Isserles took the main points from his *Darkhei Moshe* and rewrote them as glosses to Caro's *Shulkhan Aruch*.²¹

When someone mentions the *Shulkhan Aruch* today, that general term includes the *mapa*, the tablecloth, of Isserles. The addition of the *mapa* allowed for a more universal acceptance of the *Shulkhan Aruch* as an authoritative code of Jewish law and generated a tradition that retains it as the preeminent code of Jewish law today. Isadore Twersky reminds us that the term *Shulkhan Aruch* represents not only the work of Caro and Isserles, but also the wealth of commentaries and codes that have been created around it,

18 Elon 1353

19 *Supra* footnote 13

20 Isadore Twersky. *Studies in Jewish Law and Philosophy*. New York, KTAV Publishing House, Inc. 1982. p. 145

21 Elon 1359-60

creating a “multi-dimensional, multi-generational, ever expanding folio volume – a fact which attests the resiliency and buoyancy of the halakhic tradition in Judaism.”²² This is a resiliency and buoyancy of our tradition in which the liberal movements can also play a part.

The *Beit Yoel*?: A Guide to Setting Your own *Shulkhan*:

After looking at a brief history of the codes, it is hard to deny that we are facing a similar predicament to the Jewish world today as during these various times in history. Most of the Jews in America (and the world) do not have the skills necessary to go to the Talmud when they have a question. Orthodoxy continues to accept the validity of the *Shulkhan Aruch* while most liberal Jews will rarely even approach the *Halakha* as an option when making decisions in their lives. The fact that *Halakhah* has come to be presented to the public almost entirely in the form of *sifrei p'sakim*, as legal principles that seem to have been created in a vacuum and should be taken without an intellectual process that includes historical perspectives of the *Halakhah*, is a significant reason for its dismissal. However, if we were to take an approach similar to Caro's original intent, providing a clear presentation of the *Halakhah* as it has been accepted accompanied *with* a more detailed description of how it came to be, and an added dimension of areas in today's world where these same ideas might be able to be applied, we might have a different result. Before jumping into the project at hand, however, it is important to look at the evolution of how Reform Judaism, both institutionally and practically, has looked at *Halakhah* over the last 150 years.

22 Twersky 141

Chapter 2 The Role of *Halakhah* in the Reform Movement

At twenty-five years old, I am still somewhat in the rebellious phase in my relationship with my parents. They are involved in some of my decisions, and with others, they do not even know that I am going through them. My brother, on the other hand, at thirty, speaks to my parents nearly every day. While the ultimate decision is still his, they are at least informed and included in most of what he is going through. Both of us are willing and eager to learn from their wisdom and their experience, but we do so at different levels. As opposed to childhood, it is not simply a choice of either doing what parents say or not but rather a matter of to what degree the adult allows their parents to penetrate into their adult lives. More than the actual words of advice that we receive from our parents, it is what we learn from the way in which they lived their lives that most influences our lives. Things that we have seen our parents do that we may not even remember impact the decisions that we make.

So it is with the Jewish people and their tradition, namely the *Halakhah*. Mordecai Kaplan's famous quote tells us that the *Halakhah* has a vote, not a veto, but it is not fair to narrow the options to these two. Within the traditional *Halakhah* comes the potential to learn from a family history. Within the traditional *Halakhah* lies an opportunity to take from the values of our tradition and instill them into the very breath that keeps us living. Within the traditional *Halakhah* we find the potential to learn from not only the halakhic decisions themselves but perhaps more importantly from the *process* in which our predecessors came to those decisions. It is more than a vote or a

veto. It is the ability for the tradition be an authority in every aspect of our lives while we maintain the autonomy of choosing the degree.

This question of authority vs. autonomy as it relates to Jewish law is not a new one, neither in Reform Judaism nor in the other movements. How does one measure the degree to which the *Halakhah* possesses authority, and once that is determined, how does that authority balance with an individual's own personal autonomy? As we look at the history of the attitude towards *Halakhah* within the Reform movement, beginning in Europe and moving to America, we will see all spots on the spectrum covered, and perhaps we will see the door open for this new stage in progressive *Halakhah*.

The following pages will look at this progression in attitude towards *Halakhah* throughout the history of Reform in four stages, adding an analysis of how this work branches out of that history:

1. European Beginnings of Reform – The *Halakhah* as an Apologetic Discourse
2. Classical Reform in America – *Halakhah* as an Internal Explanation
3. The Freehof Era – Finding the Ethical Intent of the *Halakhah*
4. A New Century of American Reform – *Halakhah* as “Rhetorical Discourse”
5. The Future – Embedding the Voice of *Halakhah* into our Lives

For today's progressive Jew, the *Halakhah* is neither a vote nor a veto. Like the adult's relationship to his/her parents, the *Halakhah* can impact everything we do, but not necessarily in a traditional understanding. Once made accessible, the values of the *Halakhah* and the process in which it came to be melt together into a consciousness that becomes a part of our way of life.

European Beginnings of Reform – The *Halakhah* as an Apologetic Discourse

In its European conception, Reform Judaism could not simply disregard the

Halakhah. On the contrary, the majority of what the early reformers did had to have some kind of halakhic basis, whether it was accepted by their opponents or not. While the earliest Reformers of Holland spoke of *okeir Halakhah*, the uprooting of the Law, the first German Reformers took a different approach. Led by Israel Jacobson, the Westphalian consistory made the *Halakha* a part of their defense of Reform. One of the first issues of argument was when the consistory ordered in 1810 that "in accordance with religious law, every Israelite is allowed, and may therefore with good conscience be permitted, to consume on Passover such legumes as peas, beans and lentils, as well as rice and millet," going against *Ashkenazi* custom as viewed through Isserles' gloss in the *Shulkhan Aruch*.²³ The result was Rabbi Menahem Mendel Steinhardt's *Divrei Iggeret*, a responsum explaining, upon other things, the halakhic basis for allowing such legumes during Passover. This was followed by Eliezer Lieberman who, during his time in Berlin, compiled a volume of responsa in defense of Reform. *Nogah ha-Tsedek* was a compilation of responsa addressing issues from organs in the synagogue to use of the vernacular, and it was published in 1819 along with *Or Nogah*, Lieberman's own defense of the work of the reformers.²⁴

It is important to note that the early reformers were not attempting to create a separate movement. They felt that they were moving Judaism in a direction in which all of Judaism should go, and therefore they had to present their argument in a way that they felt all of Judaism would respond to, and that was found in the text. By using the Talmud, the *Mishneh Torah*, and the *Shulkhan Aruch* as basis for the reforms, they felt

23 Michael A. Meyer. *Response to Modernity – A History of the Reform Movement in Judaism*. Detroit, Wayne State University Press, 1988. p. 36

24 Meyer 50-51

they could fuel their "revolution," but their opposition would turn to those same texts in their own responsa, proving why their reforming counterparts did not, in fact, have a basis for what they were doing.

European reformers did not give up their use of the *Halakhah* after Liebermann, but its use was rapidly declining. However, one reformer, Michael Creizenach, embarked on a journey that is quite relevant to this work. In 1833, Creizenach, in an effort to show the importance of maintaining a Jewish ritual life based on the Biblical *mitzvot*, and to some degree their Rabbinic understanding as seen through the *Halakhah*, published the first volume of his own four volume *Shulkhan Aruch*.²⁵ With an organization based on the 613 Biblical commandments, Creizenach showed how Rabbinic stringencies and leniencies combined to pave the way for what could be Reform Judaism in 1830's Germany. He argued that the *Halakhah* was never intended to be a stagnant document, but rather was meant to be reapplied and reevaluated throughout the generations. While recognizing that the Talmud contained discourse that was primarily intended for its own historical context, Creizenach tried to instill a feeling that the Talmud, when harmonized with a modern sensibility, could still be a source of guidance and inspiration.

The intention of the law was that the Israelite ritual system should never sink into the state of an old amorphous mass of stone, but rather that it preserve itself with everlasting vitality and that it develop continually according to the needs circumstances, and educational levels of succeeding generations... The [Rabbis of the Talmud] were far from expecting the slavish obedience we give them in ritual matters... [and] wherever they deemed it necessary, they introduced such significant relaxations of the rules that our rabbis of today would recoil if they were expected to introduce such measures... It is only due to ignorance and the excessive anxiety of later days that our religion has taken on a mummy-like appearance... This, however, does not mean that all measures and decisions of the ancient scribes should be disregarded. To do so would rob us of all those useful

25 Meyer 120-121

means in the observance of the Pentateuch which we owe the Talmud, and would put us into the labyrinth in which the Karaites have found themselves for many centuries... We regard the Talmud as being, at least for the present, a serviceable means for the interpretation of those ritual commandments which, according to the individual concepts of each man, are binding to this day; and we adhere to these interpretations in observing them within the already established boundaries.²⁶

The ultimate result, however, of European Reform Jewry was one that did not contain a strong tradition of responsa. Reform rabbis were either traditionalists who would, in fact, go straight to halakhic texts like the *Shulkhan Aruch*, or they were radical anti-talmudists who did not feel a need to support their moves from within the tradition, but with a few exceptions, neither groups were writing much with regards to halakhic material.

Classical Reform in America— *Halakhah* as an Internal Explanation

Isaac Meyer Wise is by many considered the father of American Reform Judaism, but in the beginning, he too pictured his vision of Reform Judaism as one that would be accepted by all American Jews, as viewed by the title of his written Prayer Book, *Minhag America*. However, the acceptance of the Pittsburgh Platform in 1885 served as the culmination of several events that proved that this would not be the case as the Conservative Movement was founded with the establishment of the Jewish Theological Seminary in 1887. The Pittsburgh Platform said the following regarding Jewish ritual and *Halakhah*:

Third – We recognize in the Mosaic legislation a system of training the Jewish people for its mission during its national life in Palestine, and today we accept as binding only the moral laws and maintain only such ceremonies as elevate and sanctify our lives, but reject all such as are not adapted to the views and habits of modern civilization.

26 W. Gunther Plaut. *The Rise of Reform Judaism – A Sourcebook of Its European Origins*. New York, World Union for Progressive Judaism, Ltd, 1963. Translation from Creizenach's *Shulkhan Aruch* (Frankfort 1833-1839) vol. II, pp 69 ff.

Fourth - We hold that all such Mosaic and Rabbinical laws as regulate diet, priestly purity, and dress originated in ages and under the influence of ideas altogether foreign to our present mental and spiritual state. They fail to impress the modern Jew with a spirit of priestly holiness; their observance in our day is apt rather to obstruct than to further modern spiritual elevation.

While some will argue that Wise was giving in to the radical wing, led by Kaufmann Kohler who was the main voice behind the Pittsburgh Platform, Wise himself showed his radical tendencies in his inaugural address to the CCAR in 1890. In speaking about the need to separate the spirit of Judaism from its various forms, Wise said,

Again the development of Judaism signifies the liberation of its universal spirit from all antiquated, meaningless, tribal, merely national and merely local paraphernalia, which impress it with the appearance of one-sidedness and awkwardness, as a stranger in the land of the living, a foreigner in its own home, and to provide forms and institutions for the manifestation of the spirit, which are at least approximately universal and nearest to the understanding and feelings, the cogitation and sentiment of the largest community.²⁷

Wise went on to say that "The Conference is the lawful authority in all matters of form," showing that his regard for the historical halakhic texts was replaced with the will of the rabbinic leadership of the time.²⁸

However, there were those who were still concerned about going overboard in their disregard of the tradition. In 1893, Reverend E. N. Calisch sermonized the following in his address to the Conference:

We are glorying in what is cut down. We cry reform and we boast in reform. We have cut off the dead branches. We have pruned away the lifeless leaves, we have

²⁷ *Yearbook*, CCAR, Vol. 1, 1890-91, p. 19.

Although citations are taken directly from the CCAR Yearbook, this section is guided heavily by Walter Jacob's article "The Influence on Reform *Halakhah* and Biblical Study" found in his volume *The Changing World of Reform Judaism: The Pittsburgh Platform in Retrospect*, Rodef Shalom Congregation, 1985.

²⁸ It would be possible to compare this view to that of Zacharias Frankel. Frankel, whose ideology foreshadowed today's Conservative movement, argued that while modern *halakhah* was dependent upon halakhic precedent, it was also important to take the collective will of the people into consideration (see Meyer 87-88). What separates Frankel from Wise was Frankel's insistence that this be the "collective" will of the people, and not simply the rabbinic leadership's understanding of that will.

stripped the withered wisps of worthless, decayed and untimely ceremonies. We have emancipated Judaism, we cry; emancipated it from the clogging and cloying clothing of Rabbinism and mystic ritual – *but are we not in danger of making emancipated Judaism an emasculated Judaism?* We have taken away the dead, do we hold up the living?²⁹

Calisch's concerns that American Reform was watering down Judaism to the point that it could almost no longer be considered Judaism was echoed by others, and ultimately lead to a report answering the question, "What is our relation in all religious matters to our own Post-Biblical, our Patristic literature, including the Talmud, casuists, responses and commentaries."³⁰ While acknowledging that these texts were a "treasure-house in which the successive ages deposited their conceptions of the great and fundamental principles of Judaism," and admitting that that "we, too, have to contribute to the enlargement of this treasure house," they qualified that "we have to do it in our own way, as the spirit of our time directs, without any slavish imitation of the past."³¹ An attempt to show appreciation for the halakhic works in question ends with a hostile approach to them, and the ultimate conclusion embodies the anti-talmudic, anti-halakhic sentiments of the early reformers:

To have awakened the consciousness of this historic fact is the great merit of Reform Judaism; and the more this consciousness grows upon our mind, the more the conditions and environments of our modern life force it upon us, the more persistently we have to assert: *that our relations in all religious matters are in no way authoritatively and finally determined by any portion of our Post-Biblical and Patristic literature.*³²

It was in this light that the early American reformers saw the halakhic text as "religious literature" which was interesting to look at, but "in no way" authoritative.

²⁹ *Yearbook*, CCAR, Vol. 4 1893, p. 53. (Italics added for emphasis)

³⁰ *Yearbook*, CCAR, Vol. 6 1895, p. 63

³¹ *Ibid.*

³² *Ibid.*

However, a decade later they did feel a need to address why they were doing certain things the way they were doing them. There was a proposal for a book of "Halakot" that would appear in the *Jewish Ministers' Handbook*.³³ As opposed to the apologetics of Europe, these were intended to provide ill-advised rabbis with "information upon certain mooted ritualistic matters [for which] they have felt that they were not quite in a position to give the information."³⁴ While acknowledging that the rabbis were in no way compelled to follow its decision, Rabbi Shanfarber concluded by recommending that "there should be a committee appointed who are thoroughly conversant with the 'Halakot' and their historical development."³⁵

The Conference decided that including the "Halakot" in the hand book would give it too prominent a place. In fact, they were concerned that by placing *halakhot* into a handbook, they would in some way be creating their own code, their own *Shulkhan Aruch*, but that did not mean that the discourse was not an important one. The discussion of 1906 ended with the "code" being left out of the handbook, but a future president of the conference, Rabbi Julian Morganstern, made an important statement:

We all recognize Dr. Kohler and Dr. Deutsch are proper authorities when they are written to, but it is a different thing for them to formulate the material for this Handbook. While, therefore, I think it would be expedient and wise to recognize the authority and wisdom of these gentlemen when written to, I do not think that any two persons should be permitted to formulate the Halakot. They might keep all of their letters and finally publish a Book of Responsa for practical guidance.³⁶

Sure enough, the following year, the Conference founded a "Standing Committee on

33 Comparable to today's *Rabbis' Manual*

34 *Yearbook*, CCAR, Vol. 16 1906, p. 59 – From the remarks of Rabbi Schanfarber, the original chair of the Committee on Ministers' Hand Book in response to a question from Rabbi Phillipson, "Just what is this Agenda to contain, and what is meant by the term Halakot that has been used?"

35 *Ibid.*

36 *Ibid.* p. 62

Responsa," chaired surprisingly by the radical Kaufmann Kohler. Rabbi Samuel

Schulman expressed the views of the Conference:

Our recommendation is that if any of the younger men are in doubt upon a question of practice they should do what has been done from time immemorial in Israel: write to older men and men of learning and experience for an answer, and, of course, they will be guided in their conduct with due deference and reverence for such authority and such information; and as such answers may be valuable, it is thought that they should receive some form of permanence in our Year Book. Moreover, such responsa are in accord with the principle of Reform; they do not become crystalized; they remain traditional. According to my interpretation of Reform, it is impossible for Reform to write a new Shulhan Aruk; for, it asserts primarily the right of the individual, the liberty of his reason and his conscience, a liberty that should be modified with due reverence for learning, character and position.³⁷

While Schulman related the Responsa Committee to traditional responsa, the responsa of the Committee under Kohler were far from traditional. Kohler and those on his committee were more likely to cite 19th century German reformers and philosophers than the Talmud, and often would simply rely on their own rationale without providing any textual basis.³⁸

Kohler chaired the committee from its inception in 1908 until 1922. With the exception of Jacob Lauterbach (1923-1933) his successors, Jacob Mann (1934-1939) and Israel Betten (1940-1954) took a similar approach to the responsa, predominantly writing from an ethical and theological position without much citation from the halakhic text. Jacob Lauterbach, however, did take care to find basis for his arguments in the text, and that attitude would be taken by one of his students as well, as Solomon B. Freehof would begin to change the way that Reform Judaism looked at the *Halakhah*.

³⁷ *Yearbook*, CCAR, Vol 17 1907, p. 121-121

³⁸ Walter Jacob's article "*Pesikah* and American Reform Responsa" found in *Dynamic Jewish Law: Progressive Halakhah – Essence and Application* Rodef Shalom Press 1991 goes through all of the earliest responsa and includes a discussion of the citations included

The Freehof Era – Finding the Ethical Intent of the *Halakhah*

Jacob Lauterbach's 1927 responsum on birth control looks quite different from those of Kohler, Mann, and Bettan. The use of Hebrew phrases, including Talmudic citations and references to the *Tosafot*, *Shulkhan Aruch*, and other later codes, shows Lauterbach's attempt, similar to his European predecessors, to ground his apparent leniency in the "Talmudic-Rabbinic attitudes" he describes.³⁹

This interest in the tradition was passed on to Lauterbach's student, Solomon B. Freehof, who would chair the Responsa Committee from 1955 to 1976. Freehof looked at Reform Judaism of his day and felt that the majority of the leadership was being overzealous in its disregard of the *Halakhah*. While acknowledging the problems with claims of divinity to all aspects of Jewish law, Freehof found claims of Reform as "prophetic Judaism" without regard to Rabbinic contributions ridiculous. Our liturgy and ritual observance, while changed, is a product of Rabbinic Judaism, and Freehof insisted that that cannot be ignored. Despite Reform's attempt to separate from its past, that past continued to play a dominant role. There is no Jewish life without the law that established it. His inaugural lecture of the Louis Caplan Lectureship on Jewish Law makes an interesting comparison to America's history:

The true relationship of Reform to the law might be compared to the relationship of the American colonies to the British legal system. In order to establish a new nation the colonies had to declare that they were now independent of the decrees of the King of England and of the legislation of the British Parliament. This Declaration of Independence seemed forthright and clean-cut. King and Parliament were rejected; nevertheless the separation from the British system was far from complete. The English common Law, the decisions of past English jurists and the practice of the English courts, continued to dominate American

39 "156. Birth Control." Vol. XXXVII, 1927, pp. 369-384. Also found in *American Reform Responsa* p. 485-499.

legal practice. That is just how it was in the Reform movement. The earlier Reformers declared that the classic legal codes, the Shulchan Aruch, had no authority over their lives. Yet in actual practice, Jewish law and customs continued to control much of the daily living in Reform Judaism... We might say the Jewish common law, if indeed it does not actually *rule*, at least shapes the life of the average Reform Jew.⁴⁰

In the third installment of the lecture series cited above, Freehof states a need to “reestablish a bond of reconciliation with the great Jewish legal experience,” as part of what his title calls an overall “Reform revaluation of Jewish law.”⁴¹ Freehof saw an ability for Reform to gain an understanding of the *Halakhah* that was not available to their Conservative and Orthodox counterparts. Because Reform did not view the *Halakhah* as authoritative and there was no inherent guilt with its non-observance, Reform Jews had the ability to approach the *Halakhah* in a new light, seeking what he calls the “ethical motivation of our legal literature.”⁴² Citing his teacher, Dr. Lauterbach, Freehof argues that the “essential and even the *conscious* aim of the entire Talmudic legal system was to inculcate into the habits of daily life the highest idealism of the prophetic readings.”⁴³ In other words, the ethics of the “prophetic Judaism” that Reform claimed to embody were actually encompassed by the ethical intent of the *Halakhah*.

For Freehof, authentic Judaism was reliant on the tradition, and similar to Geiger he believed that no portion of the history could be ignored. By finding the ethical intent of the *Halakhah* at various points in history and combining them with the ethical convictions of the day, the reforms of the Reform Movement could be part of the

40 Solomon B. Freehof. *Reform Judaism and the Law*. Hebrew Union College Press. Cincinnati, 1967. p. 16-17. For more analysis of this article, see “Solomon B. Freehof and Reform *Halakhah*” Mark Washofsky, Inaugural Lecture, Freehof Chair of Jewish Law and Practice. November 19, 2006.

41 Solomon B. Freehof. *Reform Revaluation of Jewish Law*. Hebrew Union College Press. Cincinnati, 1972. p. 11.

42 *Ibid.* p. 15

43 *Ibid.* p. 14

halakhic chain, a next step in Jewish history. With Freehof we see, for the first time since the European responsa, an attempt to discuss Reform with halakhic language and within a halakhic framework, but there was still room to grow, and that growth occurred over the 30 years that followed.

A New Century of American Reform – *Halakhah* as “Rhetorical Practice”

The Responsa Committees of Walter Jacob (1977-1989), Gunther Plaut (1990 -1995) and Mark Washofsky (1996 - present) continue the movement initiated by Freehof. Halakhic basis remains to be an extremely important part of the responsa of the past thirty years. There were, however, changes in method and approach. Two of these can be viewed as most significant.

First of all, beginning with Walter Jacob, the work of the Responsa Committee truly became the work of a committee. The early American reformers' concerns of committee approval leading to a feeling of authoritative codification were no longer existent for Jacob's committee, and that manifested itself in a new process for writing responsa. While there are still questions that will simply be answered by the chair of the Committee or one of its members, for issues of broad interest, the issue is opened for discussion among the members of the Committee. Walter Jacob's statement in the introduction to 1983's *American Reform Responsa* could not have been written prior to his Committee:

The authority of the Central Conference of American Rabbis and its Responsa Committee lies in its ability to persuade and reach a consensus. Halachic discussions will bring us closer to consensus and agreement on basic principles. As often in the past, we will proceed inductively, and specific statements will evolve into general principles.⁴⁴

⁴⁴ Walter Jacob, ed. *American Reform Responsa*. Central Conference of American Rabbis, 1983. p. xviii

While not claiming directly to be authoritative, simply using the word authority is an innovation of this period. Previously, individual responsum were written by one person, be it the Committee chair or one of its members, and riding on the original charge of the Responsa Committee, this kept the responsa from "officially" representing the Conference. This changes with an attempt to find committee consensus as the decisions now may be perceived to carry more weight.

Mark Washofsky insists that authority, however, is not the goal of the Committee, but rather persuasion: an exercise in rhetorical discourse. In explaining that traditional responsa were also not necessarily authoritative, as the petitioner could either follow the answer or send their question to another scholar for a second opinion, Washofsky writes the following of Reform responsa:

Each responsum is therefore an exercise in argumentation, an essay which seeks to elicit the agreement of a particular Jewish audience that shares the religious values of its author. As such, no responsum can possibly represent the "last word" on a given issue... If such is the case with traditional responsa, it is certainly true of our own. Reform responsa are best understood as individual building-blocks in a structure of ongoing argument. Our answers therefore claim no finality. We argue our positions, and we realize that others can respond with arguments of their own. The provisional nature of our work, however, in no way diminishes from the importance we attribute to it.⁴⁵

Washofsky goes on to echo Freehof's sentiment.

As Jews, we cannot live without community; as a community, we cannot survive without making religious judgments. Responsa are therefore extraordinarily useful to us, for as carefully reasoned arguments on individual issues of religious life, they are the means by which we Jews have always made those judgments and

45 W. Gunther Plaut and Mark Washofsky, ed. *Teshuvot for the Nineties*. Central Conference of American Rabbis, 1997. p. xxi. Washofsky also writes about responsa as rhetoric in "Taking Precedent Seriously: On *Halakhah* as a Rhetorical Practice" in Jacob's *Re-examining Progressive Halakhah*, "Responsa and the Art of Writing: Three Examples from the *Teshuvot* of Rabbi Moshe Feinstein," in *A Festschrift for Walter Jacob*, and "Responsa and Rhetoric: On Law, Literature, and the Rabbinic Decision," in *Pursuing the Text: Studies in Honor of Ben Zion Wacholder*

determined the necessary and inevitable limits upon our freedom of choice.⁴⁶

While not seeking authority, however, the responsa as a product of an entire committee do hold more persuasive power than the individual works they follow.

While one could argue that structurally the responsa do not change drastically from Freehof through the past thirty years,⁴⁷ the second difference is one of purpose. In response to demands for autonomy, the halakhic voice of the Reform movement has attempted to provide some kind of consensus of standards for what fits as Judaism within the auspices of Reform. Again in the introduction to *Teshuvot for the Nineties*, Dr. Washofsky gives the hypothetical example of a congregation of "Jews for Jesus" seeking entrance into the Union for Reform Judaism. While they could argue that their autonomy allows them to define Judaism in their own way, Washofsky argues that "autonomy must be exercised within a Jewish context that we accept, that we understand, and that we as a community determine in advance."⁴⁸

Although arguing against claims of authoritative stature, the attempt to create a notion of boundaries is done so in a more explicit way than it had been done before. In an attempt to avoid a world of autonomous chaos, the Responsa Committee attempts to use the *Halakhah* as a place from which to find some kind of agreement of a starting point. Without any grounds of enforcement this is far from authoritative, but again, what is important to note is a continuing change of attitude. Dr. Washofsky defines Jewish law

⁴⁶ *Ibid.*

⁴⁷ Gunther Plaut's preface to *Teshuvot for the Nineties* gives us the two questions that recent responsa have attempted to answer. 1) How might tradition answer this question? and 2) After exploring this aspect, we ask: Are there reasons why, as Reform Jews, we cannot agree? If so, can our disagreement be grounded in identifiable Reform policy? These questions, while not directly expressed, seem to be the primary questions for Freehof as well.

⁴⁸ *Ibid.* xix

as “a healthy and creative tension between a respect for precedent and a readiness to innovate”⁴⁹ and this historic tension is embodied by the CCAR Responsa Committee of the last thirty years.

The Future of Progressive *Halakhah* – Embedding the Voice of *Halakhah* into our Lives

It is important to note that through all of these periods of Reform there was opposition to looking to the halakhic tradition and even having a Responsa Committee. The idea of responsa, according to many, is antithetical to the notion of Reform. The arguments of Nehemiah Bruell⁵⁰ along with the early reformers in this country are still echoed today, viewing halakhic codes as fascist documents that have no place in a Reform context.⁵¹ While Washofsky writes that the responsa do not provide an answer but an argument, many still view the responsa as an attempt at providing a Reform answer, and thus react negatively to the discourse as a whole.

These voices that respond negatively to the responsa would most likely respond even more so to the idea of a Reform commentary to a code such as the *Shulkhan Aruch*. As we have seen, regardless of approach, the most salient issue throughout Reform has been absolute avoidance of anything that resembles a code. Even the guides that have been published over the last decades have been extremely careful to show that they are presenting an option for observance rather than a code of law.

49 Mark Washofsky. “Taking Precedent Seriously: On *Halakhah* as a Rhetorical Practice” Walter Jacob and Moshe Zemer ed. *Re-examining Progressive Halakhah*, New York, Berghahn Books, 2002.

50 Supra. Chapter 1 p. 1

51 An interesting discourse can be viewed between Philip Cohen and Mark Washofsky. In the area of a view on Reform bioethics, Cohen writes that “Reform from its inception to the present day does not and, by definition, cannot grant the *Halakhah* commanding authority over Reform decision-making. His article, “Toward a Methodology of Reform Jewish Bioethics” *CCAR Journal* 52:3 (Summer, 2005), pp. 3-21 is rebutted by Washofsky the following year. “Halachah, Aggadah, and Reform Jewish Bioethics: A Response” *CCAR Journal* 53:3 (Summer, 2006) pp 81-106.

We currently stand one hundred years since the creation of the CCAR Responsa Committee, and in this anniversary year it is time for Reform Judaism to open itself once again to a new way of looking at the *Halakhah*. The responsa continue to be a crucial aspect of Reform Judaism, and it is time for Reform Jews to take the next step in presenting halakhic literature to other Reform Jews. The proposed work, *Setting your own Shulkhan: A Reform Commentary to the Shulkhan Aruch*, is not in itself a code. The goal of the work is to use the *Shulkhan Aruch* as a starting point in study. As Freehof attests to, it is often the study of the Law that becomes more important than the Law itself, and as was said earlier, we can learn so much from the halakhic process, the way in which the multitude of opinions are presented and ultimately boiled down to one understanding of the *Halakhah*. Why was the law needed? Why did different opinions exist? What compromises were made? What is the ethical intent of the law itself? Unfortunately, the legal material that portrays this process is not accessible to America's liberal Jews. The only commentaries written to the Talmud are done from an Orthodox point of view, and the *Shulkhan Aruch* does not even exist in full translation, let alone a translation and commentary from a liberal perspective. As written in the previous chapter, if a *sefer halakhot*, a halakhic commentary explaining the background of a *sefer p'sakim*, a book containing a succinct presentation of the traditional understanding of the *Halakhah*, could be written for a liberal audience, the results could transform the understanding of *Halakhah* and its authority in a liberal autonomous world.

This commentary is not giving backing to a unilateral halakhic system. The goal of the commentary is to turn that unilateral system on its head by taking the reader

through the halakhic process. Similar to the adult's relationship with his/her parents, progressive Jews can develop a mature relationship with the *Halakhah*, one where we learn from the *Halakhah* itself, its ethical intent, and the halakhic process of its history. Ultimately, we create a halakhic consciousness within the Reform Jew. While not necessarily needed as apologetic discourse, although undeniably helpful for a sense of *k'lal Yisrael*, this halakhic awareness creates the potential for halakhic rhetorical discourse to become a part of our lives, for Jewish tradition to be embedded into our decisions through a changed approach to life's decisions. Such a work could create a liberal Jewry that has the tools to know how to set their own table, their own *shulkhan*, exercising their autonomy while respecting the authority of a 3000 year old tradition.

הלכות כבוד רבו ות"ח

Laws of Honoring One's Rav

רמב"ם: שלא להורות בפני הרב ודין רב שמחל על כבודו

242 - That One Should not Make Judgments in Front of his Rav for it Renounces his Honor

We could say that it is common sense to respect a teacher. We read in the Torah *V'shinantam L'vanecha*, teach them to your children, and throughout Jewish history and tradition we see the importance of education. However, we find a halakhic question of how, exactly, one goes about respecting their teacher, and to what degree that respect exists. The chapter of the *Shulkhan Aruch* is specifically referring to the rabbi, referred to as the *rav*⁵².

Before diving into this section, it is important to discuss what exactly is meant by *rav*.⁵³ We would often translate the term as rabbi or teacher, but neither of those would fully describe the word as it is used in the text. A *rav*, coming from the Hebrew word for great, was originally used to refer to a master of a slave. However, it eventually became understood as someone whose *knowledge* was great. That is to say, they held the greatest knowledge of the Law as it had been developed up to their time. Traditionally *s'michah*, ordination, was the procedure by which one would become a *rabi*, like today's word rabbi, but with the destruction of the Second Temple and a second expulsion from the Land, the tradition of *s'michah* was also halted. These sages of Babylonia were now called *rav* to differentiate them from the *rabi* of Palestine. A rabbi as we think of it today, whose job includes leading services, giving sermons, and providing pastoral care is a different image from what we are looking at in the following *halakhot*.

Therefore there is some difficulty in translating the word *l'horot*.⁵⁴ In modern Hebrew we would translate the word as "to teach," which was part of the job of the *rav* as well. However, the word in this section applies more to the tradition of *rav* as judge. A *rav* would be the main source for making halakhic judgments within his constituency. Was an oven kosher for use? Was a certain tradition suitable for a community celebration? Whenever a member of the community had such a question they would go to their *rav*. As we look at the following chapter of the *Shulkhan Aruch* we will see the questions of defining *hora'ah* addressed. Is *hora'ah* limited to judging a specific case or is it inclusive of teaching the laws that would apply to that case? (*halakhah* 7) Are there cases so simple that a student may judge without referring to his *rav*? (*halakhah* 8)

The *rav* also has the job, as was mentioned, of teaching. Each *rav* has *talmidim*, students, who study under that *rav*, learning the *Halakhah* so that they too may someday serve as *rav* for a community. They too would receive *s'michah*. This *s'michah* was different

52 רב

53 See *halakhah* 1 and 30

54 להורות

from the *s'michah* of Palestine, but rather permission to be a judge, to have students, to be a *rav*. We will also see the term *natal reshut*, which means to have received permission, referring to the same process.

Therefore when the *Halakhah* says *sh'lo l'horot bifnei rabo*, that one should not "*l'horot*" in the presence of his *rav*, we will either use the term *hora'ah* or use the translation "to make halakhic judgments," or "to issue halakhic rulings," however, it seems that sometimes there is more tied into the term.

Salient Issues of Chapter 242

As we look beyond the terms used in the chapter we can begin to see the overarching themes that are present throughout. These most salient issues will guide us to find the ethical intent of the *halakhot* and ultimately assist us in incorporating those values into our daily lives.

1) Honoring for Honor's Sake vs. Honoring for Other's Perception of Your Honor

While it is important to honor the *rav* simply because he has earned the honor and respect of his students, we find another rationality for why one should honor the *rav*. As we will see, it is imperative in the *halakhah* that the outside world is aware of the honoring that is taking place, and at times, the methods in which one shows honor changes in public from a private space.

The first case could be described as "vertical honor." This would be the honor that is inherent in the teacher/student relationship. While it might take place in the public domain, it exists solely within the realm of the *rav* and the student.

The second case could be described as "horizontal honor." This is the honor that exists for those who may perceive the *rav* and his student to be colleagues. In this case, it is important that the student make it publicly known that he has been taught by the *rav* and owes his knowledge and ability to the *rav*. This kind of honor leads us to the next issue.

2) Honor with Regard to Competition

As mentioned above, "horizontal honor" exists so that the public can see the honor being given. It is important to remember that from the Talmudic age through today there is a commercial element to the rabbinate. In other words, while one may wish to view the rabbinate as being above elements related to a "job," such as competition and finances, rabbis today and rabbis throughout history have had to be concerned about such issues.

Therefore, one element of the *halakhot* regarding a student honoring his *rav* is ensuring that that first *rav* does not lose his "job" because of the student in whom he has invested his time to teach and train. It is important, according to the *Halakhah*, that the public is

aware of the hierarchy that exists and that whenever possible the *rav* is involved in the decision of when his student is ready to engage in *hora'ah* and ultimately be a *rav* himself.

3) The Rav as a Parent

Outside of the "horizontal" honor described above lies the "vertical" honor also discussed previously. However, in defining that element of the respect due to the *rav* many comparisons are made to a parent.⁵⁵ Be it in life or at his death, there is quite a bit of parallel between father and *rav* in the way in which they are shown honor and respect, and in some situations the father receives it to a greater degree, and in others it is the *rav*, but in both cases there is an understanding that both are extremely important in the life of the student.

4) Creating a Hierarchy of Honor

Within the realm of all of the *halakhot* discussed in this chapter there is a question of level of student and level of *rav*. There is the acknowledgment of the potential that everyone may be a student of everyone they encounter, but that said, there are certain people from whom we learn more than from others. Therefore, when looking at laws and customs of honoring the *rav* it is important to acknowledge these different levels of teachers. As we are introduced to the term *rav muvhak*⁵⁶ we will see that the student has a *primary* teacher, and while all of his teachers earn respect and honor, that primary teacher receives it to a different level.

Division of Chapter 242

Chapter 242 of *Yore Deah* can be roughly divided into five sections of how one should go about honoring their *rav*.

1) Introduction to Concept – Halakhot 1-3

In *Baba Metzia* we see the *rav* as some kind of holy parent. "his father brings him into this world (*olam ha-zeh*) but his *rav* brings him into the world to come (*olam ha-ba*)."⁵⁵ Therefore, as we are commanded to honor our parents, even more so are we commanded to honor our teachers. The introductory *halakhot* of the chapter will establish this principle and create an atmosphere in which the *halakhot* that follow may exist.

2) Limitations/Prohibition Against Hora'ah (Issuing Halakhic Judgments)

In many ways this is referring to the horizontal level of honoring the *rav* and the issue of competition.

⁵⁵ See *halakhot* 1, 15, 16, 25-28, 34-35

⁵⁶ See *halakhot* 1, 6, 30, 32, 34

This topic has quite a bit of backing in the Talmudic literature, but one of the first places to look is in chapter six of *Eruvin* (63a). The chapter begins with two conflicting opinions in the *Mishnah*, one of which belongs to R. Eliezer b. Ya'akov.⁵⁷ We are told that whenever R. Eliezer b. Ya'akov gives an opinion in the *Mishnah*, that is the *halakhah*.

With such a clear statement, Abaye then asks if a student may make a judgment based on R. Eliezer's *halakhah* in the near vicinity of his *rav*. This shows that the tradition would not usually allow a student to do so, but in this case, the answer is obvious and does not require any judgment on the part of the student. Rav Yosef answers Abaye with the following story: He went to ask Rav Chisda a simple question.⁵⁸ Rav Chisda would not answer the question because his *rav*, Rav Huna, was still alive. While there is dispute as to the simplicity of the question (see previous footnote), the *gemara* continues by citing other examples where a disciple would not answer a simple question giving Rav Chisda as their reason.

Immediately following, however, we read that Rav Chisda did, in fact, give a judgment during the lifetime of Rav Huna in the town of Kafri, which Rashi tells us was a place far from Rav Huna. We also see one of Rav Chisda's students, Rav Hamnuna teaching during his lifetime in another town.

The *gemara* continues with a discussion typical of what we would see in other halakhic arguments. Ravina is reprimanded by his *rav*, Rav Ashi, for making a halakhic judgment. Ravina uses Rav Hamnuna (who we just read about) as precedent for why he could do as such, and Rav Ashi answers that the text actually says that Rav Hamnuna *did not* make judgments.⁵⁹ Ravina shows his knowledge by saying that Rav Hamnuna both did make judgments and did not. He did not make judgments while Rav Chisda's *rav*, Rav Huna, was living, but he did make judgments while his *rav*, Rav Chisda, was living, for he was a *Talmid Chaver* to Rav Chisda, a student equal or surpassing in knowledge to his *rav*.

57 The question concerns carrying from the public domain to the private domain on Shabbat, something which is allowed assuming the presence of an *eruv*. However, the question is whether or not living with an idolater or someone who does not recognize the *eruv* in your private property limits your ability to carry on Shabbat. (*Eruvin* 62a-b)

One opinion is not cited and the other belongs to R. Eliezer b. Ya'akov. We read in Gittin 4a and Sanhedrin 86a that an unattributed *mishnah* is attributed to either R. Meir or R. Sheishess, both of whom would be giving the opinion of their teacher, R. Akiva. R. Eliezer b. Ya'akov was also a student of R. Akiva. Therefore, when the *gemara* states that the *halakhah* agrees with R. Eliezer b. Ya'akov, it is siding with a student over his teacher. In fact, we are told that whenever R. Eliezer b. Ya'akov gives an opinion, that opinion is the *halakhah*.

58 Regarding whether or not a disciple may answer the dietary question of eating an egg with a *kutcha* (a preserve consisting of sour milk, bread-crusts, and salt). Rashi views this as an obvious question, as although you may not halakhically eat chicken with milk, there is no problem with eggs. The *Tosafot*, however, say this is not such a simple question, as the egg was an egg that had not yet been laid, found in a chicken. See *halakhah* 8 for more on this issue.

59 We often see a statement that was just made questioned with the questioner saying the statement was actually the opposite. We usually find that in some way, both answers are correct.

According to Ravina, this is his status with relation to Rav Ashi.

By simply looking at the Talmud, we see the complexity of the issue of competition with one's *rav* and realize that there is no final answer in the Talmud. We see arguments and conflicting examples. The only thing that is clear is that there are limitations to what a student may do, with or without permission, while their *rav* is still living. With no answer, however, we are left with several questions:

5. How exactly are we supposed to understand *hora'ah*?
6. How does a *rav* go about giving his student permission to make halakhic judgments?
 1. What was the understanding of *s'michah* at that time, and how do we understand it today?
7. Are there different levels of students?
8. Are there different levels of teachers?
 1. Does a student have one *rav* that is more important than the others?
9. What exactly constitutes making a judgment?
10. What role does distance from the *rav* play in whether or not a student may practice *hora'ah*?

There is far more at stake than simply whether or not the student is prepared to engage in *hora'ah*, and as we look at these *halakhot* we will see all of the salient issues mentioned above come into play.

3) Ways in Which a Student Shows Honor to his Rav (15-24)

Honoring one's *rav* is not simply an issue of competition, and in these *halakhot* we see the vertical level of respect that exists between the student and his *rav*. While we have already mentioned a comparison between *rav* and father, we will also see an element of the original meaning of *rav*, master. The student/*rav* relationship is a combination of both of these, creating a unique relationship whose intricacies are seen in detail in this section of the chapter.

Mishnah Avot 4:12 ends, "let your reverence for your *rav* be as your reverence for the heavens." As we see the comparison of *rav* to father and master, ultimately we see a parallel between honoring one's *rav* to honoring God, Torah, and the people Israel. The things that the student does to honor his *rav*, be it in speech, physical presence, or service, go beyond the student, the *rav*, and the community and ultimately represent this greater idea.

4) Mourning for a Rav (25-30)

While the laws of mourning are intricate and complicated in themselves, we see a small sampling of these laws in this section and gain insight into the way they were

traditionally applied by the student in the event of the death of his *rav*. While the mourning rituals for a *rav muvhak* do not completely imitate those for a parent, they are quite close, with only the period of *sh'loshim*, thirty days of mourning, being removed, but ultimately, the student observes a year-long mourning period for his *rav* that is comparable to that of a father, and the implications are great.⁶⁰

5) Concluding Thoughts (31-34)

These final *halakhot* remind us that while it is important to honor the *rav*, it is not to the demise of all others who are deserving of honor. The father still deserves respect, and according to some, if he is paying the *rav* for his time, the father retains all the honor of the *rav muvhak*.⁶¹ In addition, the student of Torah also has quite a bit of responsibility and thus is deserving of respect: from himself, from the community, and from his *rav*. While the honor of a student of Torah and honor towards parents are addressed in other chapters of the *Shulkhan Aruch*, their inclusion in the concluding *halakhot* of this chapter reinforce their importance.

Throughout the *halakhot* of chapter 242 we will see all of the salient questions and issues addressed. While everyone agrees that one should honor their *rav*, there is no single agreement to how and to what degree, and we will see different answers from different sources and how those different answers are ultimately resolved into the *Halakhah* as viewed by Caro and Isserles.

We have seen that the rabbi of today is different from the *rav* being written about here, but there are still several ways in which this way of honoring a "master" might be able to be applied today, both in the world of the rabbinate and outside. Anyone who has a teacher, a mentor, or a boss needs to show that person respect. They will find themselves in a position where they are asked to do that which their teacher, mentor, or boss would usually do, and they must then decide whether or not doing so would be disrespectful to their "superior."

As we think about the modern application of this issue, we will consider the relationship between teachers and their students as well as other relationships including mentoring: artists, business people, chefs, mechanics etc... We will explore the responsibility of apprentice to master at the beginning of the relationship and at its end. We will also look at a variety of helping professions such as doctors, lawyers, therapists, and even rabbis and explore what kind of responsibility they each have to their community during their time as a student and after their studies are complete.

⁶⁰ See *halakhah* 28 – The son is supposed to atone for his father's sins for the year following death to assure the fate of his soul, and this responsibility is given to the students of the *rav*.

⁶¹ Isserles to *halakhah* 34

Halakhic Process

This *halakhah* has its roots in the last *mishnah* of chapter 2 of *Baba Metzia* (33a). In occasions of finding lost property, relieving of a burden, or ransoming a captive of both one's father and their *rav*, helping the *rav* takes precedence to helping the father.⁶² The reasoning is related to the *mitzvah* of honoring your mother and father. The *mishnah* states, "his father brings him into this world (*olam ha-zeh*) but his *rav* brings him into the world to come (*olam ha-ba*)."⁶³ In other words, there is some kind of holy parental relationship between a student and his *rav*.

The gloss of Isserles comes from the *mishnah* as well where it is stated that if one's father is also a scholar, he helps his father first in the occasions listed above. However, for the distinction Isserles makes of the father being the *rav muvhak* (main teacher⁶⁴) of the child, we must look further in the *gemara*.

The *gemara* to the *mishnah* quotes a *baraita* that

states "The *rav* that they are talking about is a teacher of wisdom and not a teacher of Bible, or *Mishnah*."

Rabbi Yehuda concludes that one's

rav is the one from whom they have received the majority of their wisdom. While this definition of *rav muvhak* is picked up by Rambam⁶⁵ and presumably understood by the *Tur* and Caro, there is a dissenting opinion that follows in the *gemara*. Rabbi Yosi says that even if someone clarifies one *mishnah* for another person, that person becomes a *rav* for the other. No matter how little the item taught, that item creates a teacher/student relationship.

Rambam takes the issue of father vs. *rav* one step further. While the *Mishneh Torah* states that one should help his *rav* before his father, Rambam says that if the father is also a *rav*, even if he is not as learned as the rabbi, he is ransomed first and helped first. This discussion will be clarified in *halakhah* 34.

62 See *halakhot* 34 and 35

63 We find basis for this reasoning in *Mishneh Torah* (Talmud Torah 5:1) and the *Tur* (242)

64 Literally distinguished *rav*

65 *Gizla v'avdah* 12:2

Questions for Today

A current debate in the educational world relates to the purpose of the public schools. One side would say that the purpose of the schools is to provide basic information in reading, writing, math, science, and history to the students. This usually leads to standardized testing to ensure that all students reach a certain level of testable knowledge. Another school of thought, however, would say that the purpose of the schools is to create students who will be able to function in society. Members of the first school of thought would say *this* responsibility falls on the parents, and the level of education suffers when teachers have to worry themselves with these issues.

This *halakhah* seems to stress the important role a teacher can play in a student's life, regardless of whether or not the parents are doing their job. While no licensing or prior knowledge is needed to be a parent, the role of teacher does have requirements, sometimes quite intense, and this

makes one think about the respect that these teachers, both religious and secular, deserve from their students.

As we continue throughout the chapter we will see the variety

of arenas and avenues through which the student was expected to respect his *rav*. Through all of these, we will address the relationship to how one treats their other teachers, including their parents, and the following questions may be helpful as we explore these roles.

- What do you think about the role of a teacher versus the role of a parent in a child's life?
 - Is one more important than the other?
- What can a parent do to strive to be their child's "main" teacher, even if they are not teaching them the fundamental subjects?
- When does one person become another's "teacher?"
 - Do you agree with Rabbi Yehuda or Rabbi Yosi?
- Are there different levels of respect due to different levels of teacher?

2 א Anyone who disputes his *rav* it is as if he has disputed the *shechinah*.⁶⁶ Anyone who causes strife for his *rav*, it is as if he has caused strife for the *shechinah*. Anyone who rebels against him it is as if he has rebelled against the *shechinah*. And anyone who criticizes his *rav* [or thinks impure thoughts about him] it is as though they have done so for the *shechinah*.

Halakhic Process

In the *Beit Yosef*, Caro calls our attention to *Mishnah Avot* 4:12 which states "Rabbi Elazar ben Shammua said, 'let the honor of your student be as dear to you as your own, [let] the honor of your friend be as your reverence for your *rav*, and [let] your reverence for your *rav* be as your reverence for the heavens'"⁶⁷

This comparison of respect for a *rav* correlating to respect for God also appears in the *gemara*. *Sanhedrin* 110a is expounding on the story of Korach's rebellion against Moses. One lesson of the story, according to the *gemara*, is that of Rav Chisda who said, "one who challenges his *rav* [as Korach challenged God's messenger Moses] it is as if they are challenging the *shechinah*."⁶⁸ They use Numbers 26:9 which recalls Dathan and Abiram, members of Korach's rebellion, who "agitated against the Lord." The use of the Lord rather than Moses is reason that this verse is used as a proof text for the claim.

The relationship between one's *rav* and the *shechinah* specifically comes from *Berakhot* 27b which says that you should not pray next to your *rav* or behind your *rav*. The text continues with a *baraita* where Rabbi Eleazar says that one who prays behind his *rav*, gives or returns a normal greeting to his *rav*, or says something that he did not hear from his *rav* causes the *shechinah* to go away from Israel.⁶⁹

From *Mishnah Avot* we see the relationship between reverence for a *rav* and reverence for God, and in *Berakhot* the Rabbis teach that the consequence for dishonoring a *rav* is removal of the *shechinah* from the people.⁷⁰ We will also see the connection between honor for a *rav* and honor for God and Jewish tradition in the final *halakhah* of the chapter.⁷¹

Questions for Today

As opposed to the Catholic Church and some streams of Chassidic Judaism, for most of

66 God's presence on Earth

67 See Rashi's commentary to Exodus 17:9, Numbers 11:28, and 12:11

68 שכינה God's presence on Earth

69 This will be addressed specifically in *halakhot* 16 and 24, but it is important here as it creates the connection between the *rav* and the *shechinah*

70 Shabbat 63a tells us that two Torah scholars who listen to each other please the Lord, and those who do not cause the *shechinah* to depart from the people. This same passage also mentions that the Lord loves one who teaches another the Law, presuming that his original teacher is not living in the village. Even the act of learning together is regulated to preserve the honoring of one's teacher.

71 See *halakhah* 36

the Jewish world the rabbi is not viewed as any more “holy” than anyone else. Although now encompassed in our modern view of what a rabbi does, in reality a rabbi is not needed to lead services or perform life-cycle events. For most elements of Jewish life a community is all that is required. A rabbi's job, then, is to teach that community so that they can perform these roles and live a Jewish life.

Even in a context where the rabbi is leading worship and officiating at life cycle events in addition to teaching, there is nothing inherently “holier” about the rabbi as a person. However, when we read a *halakhah* like this one, it seems almost as though the teacher, or the rabbi, is gaining a place that may be viewed as holier than the rest of the community. As we continue to look at the following *halakhot* this feeling may be increased, causing the reader to ask, what is it about this *person* that deserves respect compared to that due to God.

- If the rabbi does not have a closer connection to God, why is the disrespect of this teacher related to the disrespect of God?
- If a teacher's teachings are leading to the holiness of the community, could that work be considered holy?
- What becomes the status of a person whose work brings about holiness?
- Assuming the rabbi him or herself is not any holier, what is the meaning of this *halakhah*?
- Are there other jobs that we could say bring about holiness?
 - Would the holders of those jobs be due the same respect as is described for the *rav*?

3 a Who is one who disputes his *rav*? Anyone who establishes a *beit midrash*⁷² in which he settles down, expounds and teaches without the permission of his *rav*, and his *rav* is living; [This is the case] even if he is in a different land. But he is allowed to dispute him in any disjunction or decision if he has evidence or precedent supporting his judgments.

Halakhic Process

Here we gain interesting insight into the world-view of the Rabbis. What exactly is it that constitutes disputation with a *rav*? According to this *halakhah* it is teaching in competition with your *rav*. While this *halakhah* seems to be addressing the establishment of a school, there is some conflict as to what degree this prohibition applies. It might seem that any form of teaching or judging while your *rav* is alive is forbidden, and we will see examples of that. Perhaps, however, if you are far from your *rav*, or the answer is obvious, teaching and judging is allowed, and we will see examples of that opinion as well. This *halakhah* serves as a transition into the section on *hora'ah* that follows.

Here we see an example of the lack of citations in a *sefer p'sakim* presenting a potential problem. In the *Beit Yosef* Caro questions the origin of this idea that disputing one's *rav* involves establishing a *beit midrash*. First of all, the *Tur* does not cite this as from the *Mishneh Torah* (where it seems to originate), even though he does cite the *Mishneh Torah* for the next *halakhah*. Caro questions if perhaps it is originally from another source. It turns out that this is, in fact, Rambam's interpretation of what it means to dispute one's *rav*, without foundation from another source.

From the other sources, it seems that the problem is solely *hora'ah*, teaching or making halakhic judgments without permission from the *rav* while he is still living. This is the major discussion from the Talmud which will be discussed in the next *halakhah*, but it seems as though Rambam is simplifying the prohibition beyond our other codes. For Rambam, the student is forbidden to teach at all or make halakhic judgments in the presence of his *rav*⁷³, and he is forbidden to create a competing school during his *rav*'s lifetime, however all of the conditions and regulations, which we are about to see are quite complicated, are not present in Rambam's teaching.

Especially as we are looking at the importance of honoring one's *rav*, that is to say respecting a source of information, it will be interesting to look further at when sources are cited in the text and when they are not.

Questions for Today

Many larger cities contain more than one synagogue, and often those synagogues are "break-off synagogues," meaning that a group of congregants, and sometimes a rabbi

72 House of study

73 With exceptions we will look at later

from the synagogue, decided that something about their synagogue was not appealing, and they should start their own. Sometimes this happens affably and sometimes it does not, but it is important to consider how this *halakhah* and those that follow have been applied, could have been applied, and possibly should have been applied in such scenarios. The creation of a new synagogue when the founders, be they lay or rabbinical, have a relationship with the other rabbi affects both the vertical and horizontal levels of honoring the *rav*. The relationship between the rabbi and his colleagues and congregants as well as the perception of the outside community are all impacted by such a change, and ignoring the implications could be detrimental to all involved parties.

Looking outside the rabbinate, perhaps the best comparison that can be made for the relationship between a teacher and his student at this time is the relationship between an artist and an apprentice or a businesswoman and her protege. It is fair to say that when an accomplished artist spends their time training an apprentice, it is problematic once that apprentice begins to be viewed as competition; however, many teachers would say that their greatest accomplishment is seeing the successes of their students. The question then becomes, how does one draw the line of balance. The *Shulkhan Aruch*, following the teaching of Rambam, gives us one fence that he believes should not be crossed. For the rabbi it is establishing a *beit midrash*, or today his/her own synagogue, for an artist this might be setting up their own store, and for the businesswoman/man it might be viewed as a break off company. As we continue studying the *halakhot* of this section and begin to look at the Talmudic debates we will see future possibilities for how to deal with this balance of using a learned craft vs. being disrespectful to one's teacher.

- Before looking at the following *halakhah*, where do you see the boundary between a) using the knowledge you've been given and b) showing disrespect to the one who gave it to you?
 - Is it about competition or merely acknowledging that you may not be as qualified as your mentor?
- Isserles' gloss adds a condition of having proof that your teacher is wrong and that you are right. This seems to be using a different definition of "dispute" than Rambam's original interpretation, but either way, how do you respond when you know your teacher is wrong?⁷⁴
 - Are there different levels at which this occurs?
 - Do they require different responses?

⁷⁴ This question is also addressed in *halakhot* 11 and 22

4 7 Man is always prohibited from *hora'ah** in front of his *rav*, and one who does practice *hora'ah* in front of his *rav* is liable [for punishment] by death.⁷⁵ Even if he has received permission there is no change if it is within eight miles⁷⁶. [This applies] for your main *rav*.

And if he is far from his *rav*, more than eight miles, and a man asks regarding an issue of *halachah* along the way, he can answer. But if he appoints himself for *hora'ah*, even if he is at the end of the world [from his *rav*] he is forbidden to do so until his *rav* dies or gives him permission.

All of this is if [the *rav*] is his *rav muvhak*. If [the student] is a *talmid chaver**, even within eight miles, it is allowed. And some say that in any case it is extremely forbidden in front of his *rav*, even if he is not exactly facing him. If he begins, in the name of respecting his *rav*, to say that he should ask his *rav*, or that the *rav* is distinguished in his wisdom and age, the student should not teach in the city of his *rav*. And some say that a *talmid gamur*** [who practices *hora'ah*] within eight miles is punishable by death. If he does so outside of eight miles he is exempt, but it is forbidden.

And some say that [this is] especially [the case] if it is normal for [the *rav*] to come to the city of the student,⁷⁷ but if it is not normal for him to come there, only occasionally by chance, he is allowed, as long as he is eight miles away [from his *rav*].

A *talmid chaver* within eight miles is exempt, but it is forbidden, and outside eight miles he is allowed. Even though he has obtained permission from one *rav*, it is not enough until he has obtained permission from all his distinguished *rabanim*. That is the distinguished [rabanim] that are not discussed in the rest [of the discussion pertaining to] his main *rav* from whom he gets most of his wisdom. If it is so, it is not possible for him to have more than one main *rav*, but rather he means to say a *talmid gamur* rather than a *talmid chaver* who has excelled in [the study of Torah] and has become a colleague to his *rav*, and he is close to being greater [in knowledge] to his *rav*. Be as this may, there are those who dispute and hold that it is enough to receive permission from one *rav*. From here [it is allowed] to make judgments outside of eight miles [from your *rav*.] But within eight miles, it is not allowed. And some say that one who does not have a main *rav*, from whom he received the majority of his knowledge, he is [treated like] a *talmid chaver*.

Halakhic Process

Sanhedrin 5b: "If [a student] is proficient [in the *Halakhah*] why does he need permission

75 This would not be a death penalty by other humans, but rather represents an understanding of "a punishment of death from the heavens." Most of the time that the *Halakhah* speaks of punishment by death, it is with the understanding that such a punishment is carried out in its time through God's hand in the natural world.

76 The text switches between 3 *parsaot* and 12 *mil* which are equivalent in length. This is somewhere between 7 and 9 miles, and is the approximate distance taken up by the children of Israel in the wilderness with Moses. (Artscroll SH 5b)

77 The *Siftei Cohen* tells us that this refers to a situation where the teacher would come weekly to the city of his student for the market or something similar

[for *hora'ah*]?" The *gemara* continues with several examples where a student, even though he knew the proper information, did not have the wisdom to know how the community would react. A complication between two words that sound similar, *beitzim* and *b'tzaim*, eggs and marsh water, caused an entire community to use utensils that were not kosher.⁷⁸

Before continuing, we must address a question that will be essential to the understanding of the following section of the chapter.

* **What is *Hora'ah*?** Here we get to the central halakhic issue of the section. Up to this point we have spoken theoretically, but here we find out how all the ethical implications of honoring one's *rav* actually play themselves out. What are the regulations placed on a student during the lifetime of his *rav*? It is important to begin with a reminder of what exactly the role of a rabbi at this time was. The main role of the rabbi was that of *posek*, one who answers halakhic questions brought to them by their constituents. When the text uses the word *l'horot* or *hora'ah*, which today we translate as to teach, it is referring to these answers and these judgments. This was the job for which rabbis were depended, and this was the job that ultimately provided their livelihood. For the purposes of this translation and commentary, all forms of *l'horot* and *hora'ah* will be translated as "issuing halakhic rulings" or "make halakhic judgments," but it is important to note Rambam's inclusion of all forms of teaching as viewed in the previous *halakhah*. However, when we look at *halakhah* 7 we see Caro's understanding of the term.

This section looks overwhelmingly complicated, and it is. We are working with quite a bit of Talmudic material that is ultimately confined to one halakhic statement. Isserles' concern with the degree to which this was done and incorporation of *Ashkenazi* practice is seen in the excess of glosses. We also see a wealth of commentary in Caro's *Beit Yosef*.

First, I urge you to reread the introduction to this section as it contains the introduction to the discussion in the *gemara*. The central issue of the discussion, as seen in this *halakhah*, is that there is a difference in level of student and the distance at which they may make judgments. There is a lot of information, and a variety of minority opinions in the text and the commentaries, but most important is the establishment of boundaries.

Remember that Ravina claimed to be a *talmid chaver* of Rav Ashi. Let us look at the two kinds of students mentioned in the text:

*****Talmid Chaver* (תלמיד חבר):** Rashi defines a *talmid chaver* as one who is "as wise as his *rav*, but he learned one thing or more from [the *rav*]."⁷⁹

⁷⁸ See *halakhah* 10

⁷⁹ Rashi commentary to *Eruvin* 63b

****Talmid Gamur (תלמיד גמור):** In the *Beit Yosef* to this section, Caro defines a *talmid gamur* as “one who is not a *talmid chaver*.” This would be a “regular” student has not reached the level of his *rav*.

We focus now on the statement of Rava from the Talmud: [A student] is forbidden [to issue halakhic rulings] in the presence [of his *rav*] and to do so is punishable by death. [If he] is not in the presence [of his *rav*] it is forbidden, but not punishable by death.⁸⁰

- What exactly is meant by “not in the presence of his *rav*?”
- Is Rava referring to all students or only the *talmid gamur*?
- Is there a distance at which a student may make judgments?

Now we look at differing levels of distance between the student and the *rav*. It is important to note that all of these are assuming that the *rav* has not given permission for the student to issue halakhic rulings:

B'fanav : In the presence of the *rav*. It is quite apparent that, regardless of status, one is forbidden from *hora'ah* in the physical presence of their *rav*⁸¹. The Talmud states that the punishment for doing so is death, and the codes agree. We even see an example of a student who issued a halakhic ruling in the presence of his *rav* and died during that year. Isserles writes that even with the permission of the *rav*, one may not make judgments in his presence.

Shalosh pars'a'ot (shneim asar mil): According to *Sanhedrin* 5b, 3 *parsaot* (or 12 *mil*)⁸² (between 7 and 9 miles) was the distance taken by the children of Israel in the wilderness with Moses. This is the distance assumed as the realistic constituency of a rabbi. We read in *Sanhedrin* 5b, “A student may not make halakhic judgments in the place of his *rav* unless he is further than three *parsaot* away from him.” This came immediately after the prohibition earlier stated of making judgments at all without permission. Even with this statement, there is conflict of opinion over the restrictions within this approximate distance of an 8 mile circle around one's *rav*. The *Tosafot*, in their commentary to *Eruvin* 62b, say that this *baraita* from *Sanhedrin* refers to the *talmid chaver*. Therefore all students would be prohibited from judging within this circle. Rashi, however, in his commentary to *Sanhedrin* 23a claims that the *talmid chaver* is only prohibited from judging in the presence of his *rav*. Both agree that the *talmid gamur* is prohibited from judging within this eight mile circle, but the Rashba says that this is the same

⁸⁰ *Eruvin* 63a

⁸¹ Except for emergency occasions where he would be preventing the profanation of God's name which will be discussed later in the section

⁸² The text switches between 3 *parsaot* and 12 *mil* which are equivalent in length. This is somewhere between 7 and 9 miles, and is the approximate distance taken up by the children of Israel in the wilderness with Moses. (Artscroll *Sanhedrin* 5b)

degree of importance as that of judging in the presence of one's *rav*.⁸³ while the *Tosafot* say that it is forbidden, but not to the punishment of death.⁸⁴ As far as outside of the eight miles, according to the *Tosafot* a *talmid chaver* would be able to judge outside of the eight mile radius, even without the permission of his *rav*. Rashi argues that the *talmid chaver* may even do so within the eight miles. The Ribash (as cited in the *Aruch ha-Shulkhan*) reminds us of another condition that originates with Rambam's *Mishneh Torah*. Even outside of 8 miles one may make the occasional judgment, but they may not establish themselves⁸⁵ until the *rav* has died or gives permission.⁸⁶ This goes back to Rambam's definition of what exactly is disputing a *rav*. The *Aruch ha-Shulkhan* reminds us that with the establishment of a place of study, as opposed to simply answering the occasional question that might come to the student, there is a much greater chance of not only making a mistake, but passing on that mistake to students and to a community which would suffer the consequences. Even at the other end of the earth from one's *rav*, this is forbidden without his permission.

The following chart explains a concise summary of the *halakhah* as explained in the *Shulkhan Aruch*.

HORA'AH	Rav Present	Within Eight Miles	More than Eight Miles
<i>Talmid Chaver</i>	Not allowed, even with permission	Caro says that this is not as serious of a prohibition, but it is still not allowed without permission. However, Isserles says that even without permission, some authorities allow it.	It is allowed.
<i>Talmid Gamur</i>	Not allowed, even with permission	This is not allowed, and some sources say this is as severe as doing so in the direct presence of your <i>rav</i> .	For Caro, this is similar to a <i>Talmid Chaver</i> making judgments within 8 miles without permission from the <i>rav</i> , but for Isserles, as long as the <i>rav</i> is not accustomed to coming to where the student is, he is allowed.

83 Rashba *T'shuvot* 1:111

84 The Rosh agrees with the *Tosafot* (*Eruvin* 6:2)

85 *Halakhah* 3

86 *Aruch ha-Shulkhan* 242:11 – Ribash 271 – *Mishneh Torah* 5:3

Questions for Today

In the previous *halakhah* we saw the Rambam addressing the establishment of a competing *beit midrash* as the way in which a student would dispute his *rav*, but here we see that the halakhic argument is far more detailed than that. Here the issues of competition and horizontal respect for the *rav* are expanded into a complex understanding including differing kinds of teachers and students.

Due to the practical nature of this *halakhah* (as opposed to the moral/ethical explicitness of the previous *halakhot*), this may be slightly more difficult to apply today. However, as we've seen, many people have a mentor or a main teacher who has taught them most of what they know about what they do. It may be difficult to assign a level of skill to yourself (*talmid chaver* or *talmid gamur*), but it is possible to think about how you are perceived by those you work with.

We probably don't view death as a viable punishment, but there are definite consequences to competing with a mentor. It is also important to note that conflict can arise between a mentor and a mentee, and even the mentor may let emotion get in the way of letting their student go. Note that a *talmid chaver* can teach outside the radius of eight miles, even without the permission of his teacher.

- Does it make a difference if you are a *talmid chaver* or a *talmid chacham*?
 - Why? To what degree?
- Does it matter if you are in the presence of your mentor? In the same city?
 - Why? To what degree?
- When we read that the statement, "Rav Hamnuna taught during the lifetime of his teacher Rav Chisda," means both that he did teach and that he did not teach, we see an example of how the dialectic nature of the Talmud that is often lost in the codes. What does this say about the halakhic system?
- Compare this with the multitude of opinions as to what the *halakhah* actually is.
- Many professions, including the rabbinate, have an official licensing process whereby the professional is given permission to practice by some kind of governing body.
 - Is this practice comparable to what we see in this *halakhah*?
 - What if these licenses contained regulations on distance from comparable professionals?
 - Would this be fair?
 - Are there any comparable measures that could be taken?

5 ה A student may not ordain⁸⁷ others [to issue halakhic rulings] in the place of his *rav*.

Halakhic Process

As mentioned in the introduction to this section, *s'michah* as used in this *halakhah* is different from the *s'michah* that is thought of for today's rabbis. The previous *halakhot* have been talking about the granting of permission from *rav* to student to practice *hora'ah*,⁸⁸ and here that granting of permission takes the term *s'michah*. Here we seem to be talking about a student who has received permission from their *rav* to practice *hora'ah*. In turn, they too have acquired students which is acceptable as they have received permission to do so. The question now is whether or not they can grant *s'michah* to their students.

Caro's *Beit Yosef* points us to the commentary of the *Tosafot* to *Sanhedrin* 5a. *Sanhedrin* 5a tells us about Rabbah bar Rav Huna.⁸⁹ In this case, Rabbah bar Rav Huna gained permission to judge from his father, even though Rabi, the main *rav* of that part of Babylon, would have been the proper channel through which one would gain authorization. His father, however, gained permission from Rav, who gained permission from Rav Chiya, who gained permission from Rabi. This example from the *gemara* seems to tell us that it is, in fact, permissible to do what our *halakhah* forbids. The *Tosafot* acknowledge that this was the case at the time of Rabi, but it is not allowed anymore. Here we see customs portrayed in the Talmud that do not match up with the customs of the later commentaries. The *halakhah* as it appears in the *Tosafot* is the accepted *halakhah* that makes its way into the *Shulkhan Aruch*.

There is basis for the claim of the *Tosafot* on the same page of *Sanhedrin*, with some of the same personalities we saw in the previous section. Rav Chiya goes to Rabi to seek permission for his son-in-law, Rav, who was about to travel to Babylonia. Here we see members of the previous chain of authorization taking a different course of action to receive it. Rav Chiya who gave Rav permission to give Rav Huna permission to give his son permission to teach, went to Rabi rather than give Rav the permission himself.

A large part of this discussion does pertain to *kavod rabo*, to honoring one's *rav*, but there is an added dimension that will be explored in the following *halakhah*. Receiving ordination from a *rav* gave that *rav* certain authority over the student's future work, and as a result, certain responsibility for those decisions.

87 Here the Hebrew changes from רשות (permission) to סמיכה (ordination) but the meaning remains the same

88 For definition of *hora'ah* see discussion in *halakhah* 4

89 The case ultimately is debating the liability of the student vs. the one who granted that student permission to make judgments (their teacher) when that student judges incorrectly.

Questions for Today:

Here we have a case where the student has received permission from the teacher to practice their craft.⁹⁰ The question now is, does that student, who has already obtained permission, have the authority to go and give their own students permission to practice their craft freely. According to our first example from the Talmud, once they have been granted permission, they then have the right, in turn, to grant permission to others. The *Tosafot*, however, disagree, and this becomes the *halakhah* as we see it in the *Shulkhan Aruch*.

Here we are questioning the limits of *reshut* or *s'michah*, of a teacher "ordaining" their student to go out and do whatever it is that they do. We have seen that with permission, a student may go out and make the same halakhic judgments their teacher would make, and for a *talmid chaver*, a student equal in knowledge to their teacher, we have already seen that some sources would allow them to do so in the same town in which their teacher lives, even without permission. However, here we see that there is something different between doing what you do and giving others permission to do what you do.

- What is the difference between doing something and giving others permission to do it?
- Do you agree with the *Tosafot*, or did Rav Huna have the right to give his son permission to judge after obtaining permission from all the teachers above him?
- How does licensing as described in the previous *halakhah* affect our understanding of the student's ability to give permission?

⁹⁰ Which in this case is *hora'ah*, but we have already applied this to other areas of occupation.

6 ׁ If the student did not receive permission [for *hora'ah*] from a specific *rav*, but rather from other *rabanim*, and [another] *rav* joins with them [but is not the exclusive granter of *s'michah*], that [additional] *rav* does not have dominion over [the student] at all if he is not his *rav* [*muvhak*].

But if he [the rav who is not rav muvhak] ordained him alone, the custom is that the student is subject to the authority of the one who ordained him to some degree. So too if someone studies in a yeshiva for a period of time, it is custom that he is said to be a student of the head of that yeshiva, even though it is possible that the head of the yeshiva learned more innovations from [the student than the student learned from him], and these customs are all based upon an important legal principle.

Halakhic Process:

In the previous *halakhah* we discussed Rabbah bar Rav Huna who had obtained permission from his father. As is the concern when a student is given such a responsibility, Rabbah bar Rav Huna made a mistake, and when he appeared before the court in Babylonia he argued that they had no authority over him for he had obtained his permission from Rabi (indirectly through his father) in Palestine.

Caro brings us to the opinion of the Maharik, a 15th century Italian halakhist who lived a generation before Caro. Maharik wrote that the ordainer does not have authority over the ordinee if he [the ordainer] is not his [the ordinee's] *rav*. However, the custom is that “a pearl of wisdom of everyone who is ordained is subject to the authority of the one who ordained him.”⁹¹ The Maharik says that this is not applicable to one who “joins with” the main granter of permission, but it can definitely be interpreted to place authority in the hands of all of the ordainers.

We also learn, however, that if Rabbah bar Rav Huna had not received permission from the Babylonian court, he would not have been able to teach there, so he must have received permission from both Rabi (in Palestine) and the Babylonian court. He considered his main permission to be from Rabi, however, and showed that ultimately any authority over him remained with that main granter of permission.

Just as the idea of *rav muvhak* plays a role throughout this section, the main granter of *s'michah* or permission is also going to prove to be important. That main granter not only holds authority to reprimand their student but also holds some responsibility for their judgments.

When R. Chiya was seeking permission from Rabi for Rabbah bar Chana to go to Babylonia to teach, he asked in three specific areas, one of which was monetary cases. Later on *Sanhedrin* 5b we see that a judge who makes an incorrect decision is liable to repay the party who was unfairly penalized. Rashi tells us that with Rabi's permission, Rabbah bar Chana would be exempt from having to pay if he were to make an error.

מהרי"ק שורש קי"ז וקי"ג 91

This shows us that the ultimate responsibility for a student's actions lie with his *rav*. This is an extraordinary statement on the role the *rav* plays in his students' eventual manifestations of his teaching.

Isserles is not satisfied with this answer, however, and points out that any granter of *s'michah* would hold some authority over the ordinee, just as any teacher, even a teacher who learns more from the student than the student learns from him, is still considered his teacher. Therefore, while the level of authority might not be the same, the respect from ordinee to ordainer still must be present.

Questions for Today:

From here we have the potential to learn some very interesting distinctions. Even once the *rav* gives permission for his student to judge, he retains some level of authority over, and thereby responsibility for, the decisions of the student. We also gain more insight into the varying degrees of *rabanim*. In *halakhah* 1 of this section we saw differing opinions of when exactly someone becomes another's *rav* and what that means regarding the level to which they deserve *respect from* their student. Here we ask to what degree different levels of teachers retain *authority over* their student *after* they have granted them permission to judge and teach.

- Is there another way that we could define “authority” over decisions for a former teacher?
 - If you think about all the teachers that you have had, is there one that stands out above the rest?
 - In what way could you say that that teacher still holds authority over your decisions today?
 - Are there any teachers who definitely hold authority over your decisions today?
 - Think about a teacher who played a lesser role in your maturation?
 - Do they hold any authority over your decisions?

7 ↑ The term *hora'ah* is reserved for [actual] cases that come before him, but if a student is asked about the *halakhah* [in a hypothetical question], he may tell them his opinion because he is not judging a [specific] case that comes before him.

Halakhic Process:

For this *halakhah*, and the one following it, we turn to *Eruvin* 62b. Up to this point we have seen what seems to be a strict code prohibiting a student from *hora'ah* without permission from his *rav*, and even with permission there are limits to what a student may do. In the beginning of the discussion that has been cited up to this point⁹² the *gemara*, which ultimately leads to the complex arguments of distance, hierarchy of students, and hierarchy of questions, asks a simple question: May [a student] judge in the vicinity of his teacher? Rashi explains that this is referring to simple cases (see *halakhah* 8), but he asks, is a student allowed to judge such a simple case, or is this an act of *chutzpah*?

The *Tosafot* realize from the beginning that there might be conflict in understanding the Hebrew term *hora'ah*, and they take this as an opportunity to define it. As we looked at *hora'ah* in the introduction to the chapter and specifically in *halakhah* 4, we saw that the modern Hebrew use of the term refers to teaching. However, here we learn that according to Caro's understanding, the *halakhah* is intentionally *not* referring to teaching, rather it is only referring to judging actual cases.

The difference at times can be a subtle one, but it seems as though while the *Halakhah* hoped to create limitations on who is a *rav*, there was no attempt to monopolize knowledge. As the *Rosh*⁹³, the *Tur*, and ultimately the *Shulkhan Aruch* take from the *Tosafot*, a student is allowed to give his opinion on a hypothetical situation. In other words, a student is allowed to *teach* the *halakhah* and how that law might be applied in various situations.

In addition, one must look at this *halakhah* in relation to the following *halakhah* regarding innovation. Even in judging a "simple" case, the student might make a decision that ultimately is creating new law, and this would require the authority of the *rav* whereas teaching, an act of communicating pre-existing knowledge, does not.

Questions for Today:

Here we challenge the difference between teaching material and ultimately applying that material in reality. The old saying, "those who can't do, teach" comes to fruition with this *halakhah*, but what do we do with it? Is it true that even before one can *do* they are allowed to *teach*? Perhaps it should be the exact opposite that the only ones who can teach are those who epitomize the *doing*.

⁹² *Eruvin* 63a

⁹³ *Eruvin* 6:2

If we were to look at this *halakhah* in the terms described in the introduction, it would emphasize the horizontal level of honor while almost disregarding the vertical. Looking at this *halakhah* on its own would make it appear that the only reason a student is forbidden from *hora'ah* is the livelihood of his *rav*. It is important that this does not exist in a vacuum but rather as a part of the system of *halakhot* that we are exploring, but it is also important to understand why this *halakhah* says what it does. Perhaps rather than simply enforcing the commercial aspect of the rabbinate it is also acknowledging that with all of the responsibilities of the *rav*, he was not able to do everything, and the student needed to be able to teach for the purpose of the community. In other words, while honoring the *rav* and ensuring he could support his family was important, teaching the community was even more important. If we think of students in the professions we have discussed (medical, legal, rabbinical), we know that they are allowed to do many things both in the name of their own education and also out of necessity because the professionals in their areas cannot do them, but they still have limitations.

- What are the implications of judging a specific case if the judge does not correctly understand the facts?
- What are the implications of a teacher teaching his/her students those incorrect facts?
 - If the teaching of incorrect facts can ultimately lead to several cases being misjudged, wouldn't that be more severe?
- What about the other areas of professions that we have been discussing?
 - Does a teacher at a medical school need to be a competent doctor?
 - Can someone teach the fundamentals of music if they themselves cannot play an instrument?

8 n It is not *hora'ah* unless there is an innovation to the questioner, but if it is [a case of] judging something simple and commonly known by all, such as [the *halakhah* pertaining to] the “emitting of bitter taste”⁹⁴ or foregoing a prohibited [food] based on the [*halakhah* of] one sixtieth⁹⁵ and allowing [the food], [this kind of judging] is allowed.

Halakhic Process:

Up to this point, the issue of whether or not a student may judge has been an issue of honoring the *rav* in the spirit of the name of the chapter. However, here we are introduced with a concept that originates in the *Tosafot* to *Eruvin* 62b: *Chidush l'shoel*. This idea of “innovation to the questioner” could play a crucial role in our understanding of the chapter and our further application to modern life.

The question arises as a result of the *gemara* at the bottom of *Eruvin* 62b. In the introduction to the chapter we learned about Rav Chisda and Rav Huna and what Rav Chisda would and would not do. One issue was the eating of egg with a *kutach*, a preserve that contains milk products.⁹⁶ Rav Chisda would not judge such a case, and Rashi claims that this is a simple question, implying that a student should not judge even the simplest of cases during the lifetime of his *rav*. However, the *Tosafot* disagree with Rashi, claiming that the egg in question was an egg found in a hen at the time of its slaughter. Unlike Rashi's interpretation of the question, this is now a complex case as the egg could be considered part of the chicken and therefore be meat that could not be eaten with dairy.

This rendering by the *Tosafot* is cited by the Rosh⁹⁷ along with the *Tur* and ultimately the *Shulkhan Aruch*. In spite of Rashi's strict reading, the ultimate implication is a leniency in what a student is permitted to do. In the following *halakhah* we will further define what “innovation” actually means, but with the acceptance of this *halakhah* into practice, even the student who does not have permission from his *rav* to judge can now judge simple cases.

If the only question at stake were the honor of the *rav* one would question whether or not this allowance would be made. It seems as though this kind of leniency would still provide competition for the *rav*, as his livelihood was dependent on his being needed by the community. Although they would still need the *rav* for cases that did require innovation, with the students' ability to judge simple cases it seems as though the

94 The halakhic ruling that *pareve* food cooked in a pot 24 hours after the pot is last used, whether the pot is milk or meat, is still *pareve* as the flavors that might be transferred to the *pareve* food are bitter and thus do not transmit milk or meat properties was considered to be common knowledge.

95 Similar to the *halakhah* cited above, it was common knowledge that if less than one sixtieth of a foodstuff is either milk or meat it does not affect the status of the overall foodstuff

96 While chicken cannot be eaten with dairy products, eggs are *pareve*, neither milk nor meat, and may be eaten with either.

97 *Eruvin* 6:2

perception of that need would, indeed, decrease. Therefore, we must assume that the honor of the *rav* was not the only concern of the sages and later halakhists, but even more important was the community's adherence to the law. If the only way to get a halakhic answer was to see *the rav*, members of the community might be reluctant to do so if there was inconvenience caused. However, if they were able to see one of the *rav's* students for simple cases, that inconvenience is lightened.

Questions for Today:

As we go one step further from the previous *halakhah*, we also go one step further in our analysis. Before we saw that a student could teach, but not judge. Now we see that if the case is simple and requires no innovation in the answer, the student may be able to judge. We are about to see more detail in this issue, but let us explore why these different levels of *hora'ah* are important not only for the honor of the *rav* but also for the learning process of the student.

If we look at educational theory, we find that the Rabbis of the Talmud and our eventual *halakhah* may have been ahead of their time. Bernice McCarthy's, 4MAT system of teaching shows the learning/teaching process taking place in four quadrants.⁹⁸ The first two quadrants are teacher centered, as the student is taught first, why the material is important and second, what the material is. Only after being taught these things can the educational process become student centered as the student learns third, how to solve a problem using the new concept they've been taught and only fourth, if new situations arise how to use the material they've learned in order to create new ideas. In other words, only after being exposed to the material and how it has been used to solve current problems is the student able to understand the complexities of applying the material to new situations.

- How would McCarthy's system apply to the student/*rav* relationship?
 - If innovation in *hora'ah* were considered the fourth quadrant, what would the first three quadrants relate to?
- How could we incorporate McCarthy's ideas into other mentoring relationships?
 - Would it be valuable to do so?

98 Bernice McCarthy. *About Learning*. About Learning, Inc. 2000

9 ▢ There are some who rule that [a student] may judge [using] all [of the *halakhah*] that is written in the books of the *Geonim* [and earlier] during the lifetime of their *rav*. They are only prohibited from judging from their heart⁹⁹ and may not rely on their own ideas in order to make an analogy between words on their own.

Halakhic Process:

Here we see a definition of “innovation” which was introduced in the preceding *halakhah*. Innovation in a question would be a case that could not be decided using the standard texts that were available, but rather would require some sort of innovative thought. An example in the Talmud is found in *Sanhedrin* 5b. Rav is denied permission to judge whether or not first born animals are pure enough to be sacrificed. However, he is not denied permission because he lacks knowledge but because his knowledge in the area was too great. The first born animals are sacrificed only if they are free from blemishes. Rav was an expert in the area of blemishes and would be able to permit an animal that had a *temporary* blemish. However, if others saw Rav make this innovative allowance, they might later sacrifice an animal whose blemish looked similar but was not, in fact, temporary. In other words, Rav knew too much for his own good, and as an inexperienced judge, he might not make the level of innovation in his decisions clear creating precedent and potential for future error.

In the *gemara*, this idea of innovation goes further to become an issue of possession. In *Avodah Zara* 19a we read the words of Rava: “At the beginning [of one’s Torah study, the Torah] is ascribed to God, and in the end, [the Torah] is ascribed to him.” Rava continues: “A student should always study Torah [from a teacher]¹⁰⁰ and afterwards should he meditate.” Rashi terms this meditation as creating comparisons and analogies between words and ideas based on the student’s study, *lidmot milta l’milta*, the same words used by Caro in the *Beit Yosef* and the *Shulkhan Aruch*.

According to these texts we see that for a student, the Torah is still “on loan” to some degree. The traditional student must rely on the text as it has been presented to him. Only after he has received permission from his teacher to judge does the Torah belong to him. Only then may he “meditate” on the words and make connections between ideas applying to other areas with the area in which he is currently working.

Questions for Today:

You are new to an office. There is a way things are done, but you see ways that things could be improved.

This is a common occurrence for workers in a new environment. Unfortunately, it can often be a cause for strife between employees as more tenured workers may resent

⁹⁹ Deriving an original ruling on their own

¹⁰⁰Rashi

someone new who comes in and thinks that their way is better before they fully understand why things are the way they are. On the other hand, if the new worker really does have a better way to do things, isn't it a shame if they are afraid to share their ideas? If we think back to Bernice McCarthy's theory of education¹⁰¹ and apply it to the *halakhot* we have seen, we may gain better understanding of this hypothetical situation and the situation of the *rav* and his students.

- Should there be a certain amount of time where you simply do things as they have been done?
 - How would this fit into McCarthy's 4MAT system?
- What would the consequences be of going in and immediately giving your suggestions for how things could be better?
- Are there any times where a new worker might want to share their "innovations" earlier than might be considered proper?

¹⁰¹See "Questions for Today" for *halakhah* 8

10 • There is one who wrote that it is forbidden for a *chacham*¹⁰² to issue a permissive ruling [that will strike many people as] strange [and] that [makes it] seem to the masses that he is permitting something that is forbidden.

Halakhic Process:

In *halakhah* 9 we saw the prohibition for Rav to declare firstborn animals pure for slaughter because of his great knowledge and experience in the area of skin blemishes. The concern was that he might allow an animal for slaughter because the animal had a temporary blemish, and the precedent set might cause others to permit animals with blemishes that look similar but, in fact, are not temporary and would cause the animal to be unfit for sacrifice.

That prohibition is followed by another example where the confusion between two similarly sounding Hebrew words, *b'tzaim* and *beitzim*, caused a community to eat food prepared with unkosher utensils.¹⁰³

Now we see that the concern does not end when one is no longer a student. In fact, it seems that if there is concern that a student could create a negative impact by making a revolutionary ruling, all the more so with someone distinguished as a scholar.

Caro seems to take this idea from the *Leket Yosher*, a book of the responsa of Israel ben Pethahiah Isserlein, written down by his student Joseph ben Moses just a generation before Caro. In it, Moses quotes Isserlein discussing an issue of the timing of Shabbat. While Isserlein could halakhically allow the questioner to begin Shabbat at a different time, he refuses, saying, "The prohibition is not a clear one but rather [the concern is that] the world would become accustomed to timing [Shabbat] in this way."¹⁰⁴ He then states that one should not permit something that would seem strange to the multitudes. It is Caro, however, who adds the *chacham*, the scholar, and it is also Caro who adds the second clause, "...that seems to the masses that he is permitting something that is forbidden." This shows that the true concern is not the action being allowed but rather the possible consequences of the community getting used to the allowance or misinterpreting it.

The *Leket Yosher* goes on to cite the example of using your finger to pretend to write something on Shabbat. While there is nothing wrong with this, it could lead someone to use their finger to scratch out a letter in the dust which is forbidden on Shabbat. This consequence would be more likely if it were a scholar allowing the first act than if it were a student.

102A scholar

103*Sanhedrin* 5b – a student had taught the *beitzim*, eggs, did not make food impure, but they had heard *b'tzaim*, marsh water

לקט יושר חלק א (או"ח) עמוד סד ענין 104

Questions for Today:

It seems as though Caro has a strong understanding of precedent. Just as the halakhic judgments of a student could create improper precedent for future decision, all the more so a scholar's judgments would do the same. As this is true, perhaps we must think about our own actions and what kind of precedent they set for those who observe them.

Think of a parent who teaches her children that gambling is wrong. That same parent, however, plans a poker tournament as a fundraiser for a local organization. She can tell her child that there is a difference when the gambling is for a good purpose, as it is in this case. She is allowing something that would usually be forbidden.

- How might the child interpret this?
- Should the parent not host the poker tournament?
- What might the potential ramifications be of either hosting the tournament or not hosting the tournament?
- What about a rabbi who does not keep kosher?
 - Is it a problem for that rabbi to be seen in public eating unkosher foods?
 - Why or why not?

11 נא [A student is allowed to make halakhic judgments when] preventing someone from committing an act that is ritually prohibited. For example: [a student] sees someone about to transgress [either] because they do not know that [what they are about to do] is forbidden [or] because [they are] wicked. [In this case, the student] is allowed to prevent [the deed] and say to him that it is forbidden, even in the presence of his *rav*, for in any place where there is profanation of the Name there are no laws of honoring the *rav*.

Halakhic Process:

Proverbs 21:30 says, "No wisdom, no prudence, and no counsel can prevail against the Lord," and in *Eruvin* 63a, we see Rav Ashi interpret this verse with a phrase that will repeat four times throughout the Talmud.¹⁰⁵ *Kol makom sh'yesh bo chilul ha-Shem, ein kavod l'rav*. (In any place where there is profanation of the Name, there are no laws of honoring the *rav*.) In other words, if there is no wisdom that compares to God then the honor of all the wise is secondary to the honor of God.

Before this exception is introduced we read the story of man who was about to tie his donkey to a tree on Shabbat, an act that is prohibited, and Ravina, a student of Rav Ashi, stopped the man from doing so in the presence of his teacher Rav Ashi. In response to Ravina's concern, Rav Ashi responded with the above phrase. This example is not necessarily controversial, as it makes sense that in order to prevent a wrongdoing, honoring a teacher may take on a lesser importance.

However, in *Sanhedrin* 82a we see something slightly more interesting and quite a bit more controversial. The above phrase is mentioned in reference to the *mishnah* giving the zealots permission to kill anyone who steals a Temple vessel, blasphemes God in favor of idols, or cohabits with an Aramean¹⁰⁶ woman, all of this without any kind of trial. As a proof-text, the *gemara* cites Numbers 25:1-8 where Pinchas kills an Israelite and the Moabite woman whom he was cohabiting with in front of Moses, his "*rav*."

Here we have two extremely different cases of a student preventing a deed that could be deemed *chilul ha-Shem* in the presence of his *rav*. In one case a student is preventing a man from tying his donkey to a tree, and in the other there is murder involved. We would like to think that murder is no longer an option, however the two extremes perhaps still exist today.

In the traditional community, women cannot be rabbis; however, this *halakhah* is used to allow for women to serve as halakhic experts in matters pertaining to women. That is to say, there are certain matters about which women may not be comfortable going to a male rabbi, but with this provision they can go to a woman who has been trained in the matter and she can make an authoritative ruling because otherwise the woman in question

¹⁰⁵Rashi repeats this interpretation in his commentary to the Book of Proverbs

¹⁰⁶Representing all prohibited non-Jewish women

might not go to anyone and go against the *Halakhah* as a result.

The extreme, however, gives extreme fundamentalists the freedom to express that fundamentalism in ways that might go against their own teachers' advice. Put in the wrong hands, an exception like this one can be quite dangerous, and it could lead to something as serious as murder. The law states that if your teacher is wrong and you are right, you may prevent a transgression from occurring, but this law puts an inordinate amount of power in the hands of the student to decide when exactly they are right and their teacher is wrong and the result could be a prohibited act.

Questions for Today:

We have all encountered times when we thought that someone in authority was wrong. Whether it be a parent, a teacher, a boss, a politician, or a rabbi.

- In a liberal community where a definition of *chilul ha-Shem*, profaning the name, might not be so simple, where do we draw the line?
- Do we say that only if someone would be put in physical danger would you make such a correction, or would ethical dilemmas create the same need?
 - If the two examples from the Talmud give us the two sides of the spectrum of when and how one could "correct" their superior, where do we draw the lines?
 - What is the minimum offense (donkey) and how far would we go in the most extreme cases?

12 יב If a member of the household of a student required [someone] to judge [a halakhic ruling] and they ask [the student], he may not decide the case in the vicinity of his *rav*.

And not everyone whose rav has died is allowed to establish themselves to decide cases, only if he is a student who is fully qualified to do so.

Halakhic Process

This *halakhah* gives us a great example of the difference between the *sifrei p'sakim* and the *sifrei halakhot*. Here Caro gives us a single line *halakhah* stating that a student may not serve as a halakhic judge for his family in the vicinity of his *rav*. There is usually more detail and citations in the *Beit Yosef*, but in this case, we are given an inordinate amount of additional information in Caro's *sefer halakhot*. He walks us through the Talmudic discussion along with the rulings of the Rosh, Rambam, the Maharik, and more.

The *Tur* says that a student may not permit a knife for slaughter unless it is for his own use.¹⁰⁷ It continues to say that all other *hora'ah*, even for the student's own use, is prohibited in the vicinity of his *rav*. When we look at *Eruvin* 63a, we see Rava, the source of the original prohibition against all *hora'ah* in the vicinity of their *rav*, allow for a student to inspect a slaughtering knife for his own use. That exception is followed with a story that limits it significantly. Again we see Ravina, now staying in an inn in Mechuza, the home of Rava. An innkeeper asked Ravina to inspect his knife that would be used for his personal food, but Ravina said the knife had to be taken to his teacher Rava for he was not personally using the knife for slaughter.

While this story alludes to a prohibition against judging in your household, even in the case of the knife, the actual prohibition seems to come from the Rosh.¹⁰⁸ However, the Rosh expresses doubt regarding the prohibition. He says, "If a member of the household of a student required [someone] to judge [a halakhic ruling] and they ask [the student], *there is a possibility that it is allowed*." However, citing the example of the knife, he sends us to *Chullin* 17a where we see that the only reason a sage is required to examine a knife is for the honor of that sage. If we would do such a thing only out of respect to the *rav*, then any kind of *hora'ah* in the household should be referred to the *rav*.

While the texts cited continue to make this the same issue of *kavod l'rav* that we have seen throughout the chapter, the insertion of *b'nei beito*, members of the household, seems to present an interesting question. Ravina was put into an interesting position at the inn. Although not exactly "his household," it was still a question that was more conveniently answered by him rather than going to Rava. However, the *halakhah* is clear, despite the Rosh's possible allowance, that in issues of *hora'ah*, judging actual halakhic issues, a student may not do so in his household when that household is under

¹⁰⁷This exception is granted by Rava - *Eruvin* 63a

¹⁰⁸*Eruvin* 6:2

the jurisdiction of his *rav*.

Interestingly, the *Pitchei T'shuva* gives us a modern example where the *halakhah* is decided differently. The *Chavat Ya'ir*¹⁰⁹ rules that it is permissible for a *talmid* to rule on a ritual question for members of his household, even when his *rav* is present.

Isserles' comment, according to the *Siftei Cohen*, was meant to be added to the following *halakhah* and will be addressed as such.

Questions for Today:

Many professionals (doctors, lawyers, therapists, teachers, rabbis etc...) must decide to what degree they will serve themselves and their family in their own professional area. While this *halakhah* is speaking specifically about students, it introduces an important question for these professionals as well. There is a great potential for bias when treating a family member, and it could lead to over-diagnosis or a reluctance to diagnose, being overly lax or unnecessarily strict, and these risks must be taken into consideration.

- Can a professional fairly treat/defend/judge/teach their family member?
 - What limits, if any, should be placed on that professional/familial relationship?
- When the professional in question is still a student, are those limits increased?
 - What about a parent asking their child who is a medical student for medical advice?
 - What about that same parent asking their child who is a student for treatment?

¹⁰⁹ R. Ya'ir Bachrach, 18th century Germany

13 א״ A student who is not fully qualified to decide cases but does so [anyway] is foolish, wicked, and arrogant. About him it is said, “Many are those whom she has struck dead” (Proverbs 7:26)¹¹⁰

Students who are less advanced in their studies¹¹¹ who try to leap ahead in their judging [issuing halakhic rulings before they are qualified to do so] and place themselves as authority figures in order to advance themselves in the sight of laypersons, they increase dissension, destroy the world, and extinguish the light of Torah.

And one should take care not to issue halakhic rulings while intoxicated, even for a simple issue, as long as it is not an issue so obvious in the halakhic literature that it would be pointless to call upon the rav¹¹²

Halakhic Process:

According to the *Siftei Cohen*, Isserles' comment from the previous *halakhah*, a quote from the *Mishneh Torah*, should be the opening to this *halakhah*. “And not everyone whose *rav* has died is allowed to establish themselves to decide cases, only if he is a student who is fully qualified to do so.”

Here the Talmudic discussion will give us an age at which a student is ready to issue his own halakhic rulings. *Sotah* 22a/b is addressing a *baraita* that states “... a minor who has not completed his months, these are the ruiners of the world.” The *gemara* asks who this minor is, and R. Abba answers that it is a “student who is not fully qualified to decide cases but does so [anyway].”¹¹³ The Proverbs verse that follows, according to Rashi, could also be read as a miscarried fetus. In other words, a student who attempts to judge on his own too early is equivalent to a potential life that is lost. The discussion continues to ask when exactly a student is ready to issue his own halakhic rulings, and the *gemara* answers at forty years old. It adds the exception that if a student younger than forty is equal to or greater than the most advanced scholar over forty, they too may issue their own rulings.

Here we see yet another attempt at answering when exactly a student is allowed to act independently. It is quite interesting, however that immediately after saying that a student should not act independently before he is ready, the *gemara* gives us an age when one may begin issuing his own rulings. Caro mentions this ruling in the *Beit Yosef*, but he chooses not to give us such an age in the *Shulkhan Aruch*, as it appears that he relies

¹¹⁰The use of this verse originates in the Talmud (*Sotah* 22a, *Avodah Zara* 19b) and is picked up by Rambam in the *Mishneh Torah* (TT 5:4) This verse of Proverbs, the second half of which is quoted in the next *halakhah*, is referring to an unknown woman who pulls a young man into a life of sin. The chapter begins with a call to take heed to wisdom. Therefore, the verse works as a proof-text. While not the sexual transgression to which the verse alludes, the student disregards wisdom and succumbs to the temptation of power.

¹¹¹*Talmidim K'tanim*

¹¹²Literally “it is a case that you could call upon a beginning student to answer this”

¹¹³This discussion is also found in *Avodah Zara* 19b

more heavily on permission from the *rav*, who himself might take age into consideration.¹¹⁴ He also cites the Rif in saying that until forty a student has the power to refrain from *hora'ah*, even if he has received *s'michah*, but after forty he cannot. It seems, however, that Caro is aware that just as a fifty year old may not have the knowledge necessary for *hora'ah*, a twenty-five year old may be completely qualified.

Regarding Isserles' gloss regarding intoxicants, we read in *Nazir* 38a that one should not issue halakhic rulings after drinking even one glass of wine¹¹⁵ and in *Ketubot* 10b we see a call to refrain even after eating dates, which the *gemara* tells us has an effect similar to alcohol.

Questions for Today:

Students often marvel at the fact that simply receiving a degree is supposed to almost magically make them ready to officially practice that which they have been studying. How often do those students, now "professionals," end up doing so before they are actually ready. Assuming competition with and respect for our teachers are not an issue, how exactly does one measure competence enough to know when they are actually ready to do their job?

- Have you ever done something on your own even though those around you felt you weren't ready?
 - Were there risks involved?
 - To you or to others?
 - Does that make a difference?

¹¹⁴Isserles, however, will give us the age of 40 in his gloss to *halakhah* 31

¹¹⁵Literally a quarter of a log, and when looking at the four cups of wine for Pesach, this is the measurement used for one glass.

14 רַב Any scholar who is fit to judge and does not do so prevents [the study of] Torah and places a stumbling block before the multitudes, and about him it is written, "and multiple are her victims." (Proverbs 7:26)¹¹⁶

This is the nature of the institution customarily known as ordination.¹¹⁷ [Ordination from a rav] causes the people to know that someone is fit to issue halakhic rulings and in what areas that rav has given him permission to do so. If his rav has already died, he does not need his permission. The same is true with the talmid chaver, in the manner that was explained above, that he does not need permission in the conditions that one would not need permission. If one who does not bear the title "Moreinu"¹¹⁸ issues gitten and chalitzot,¹¹⁹ those acts are of no authority whatsoever. The gitten and chalitzot he has issued should be treated with suspicion unless it is well-known that he is an expert in the Law and that it is only because of his humility that he does not seek greatness [through requesting official s'michah]. And there are some who disagree and rule leniently [regarding these gitten and chalitzot]. And in the case of iggun,¹²⁰ it is proper to rule leniently if he has already given gitten and chalitzot [in other cases] but not in any other case because the custom of Israel is Torah.¹²¹ And so it seems to me. It also seems to me that it is proper to give a person the title of "Moreinu" in order to give gitten, even though the laws of s'michah in the days of the Rishonim are not like these laws.¹²² Nonetheless, today it is permitted, since our s'michah is no more than the giving of permission.

Halakhic Process:

Although the addition of Isserles' gloss makes this text appear quite difficult, we are primarily dealing with two issues.

- 1) The injustice to the community when someone qualified for *hora'ah* refrains from it
- 2) The ability for specialization

Caro takes the Talmudic text from Avodah Zara and Sotah that follows from the previous *halakhah*. Just as there is harm caused by someone not qualified for *hora'ah* doing it anyway, so too is the reverse problematic. Isserles qualifies this saying that this is the reason we have the institution of ordination. We have already seen that there is a system

116 *Avodah Zara* 19b (see *halakhah* 13) Just as R. Abba says in the name of Rav that an unprepared student who issues halakhic rulings prematurely relates to the beginning of the verse, "many are those whom she has struck dead." Similarly, a student who *has* reached the scholarship necessary to make legal decisions and does not do so, "multiple are her victims." Rashi relates the prior to a miscarried fetus, using a double meaning of the Hebrew word *hipilah*, and here, *atzumim*, multiple, is rendered as *ot-tem*, one who keeps their mouth closed.

117 סמיכות *s'michut*

118 Meaning they have not received *s'michah*

119 *Gitten* is divorce and *chalitzot* is the refusal of the Levirate marriage

120 Those who are no longer with their spouse but for some reason are unable to receive a legal divorce

121 The legal principle that to some degree, the way things are done is viewed as the Law

122 The original law of *s'michah* did not allow for this kind of "partial permission."

in place that allows a student to go out on his own if he has a *rav* who is unwilling to give him permission even though he is worthy. Isserles asserts here, however, that for the most part, the process of ordination is a successful way of determining who, in fact, is qualified. One who has received *s'michah* and decides not to practice, therefore, is just as guilty as the one who practices before they are ready to do so. As mentioned in the previous *halakhah*, there is also the reading of the Rif who states that until the age of forty a student would have the right to refrain from *hora'ah* even if he had received *s'michah*, but after the age of forty he can no longer refrain.

Isserles adds a new dimension of specialization. Apparently the custom of the day was that a student who may not be qualified in all areas could be given *s'michah* in the area of divorce and the many complications inherent with the different kinds of divorce. In other words, it is acceptable to allow a student to judge in the area in which he excels but keep him from areas in which he does not.

Questions for Today:

The question here is, can someone qualified to do something (here specifically serving as halakhic judge) decide not to do it. As we have looked at many of the "helping professions" throughout this section, we continue to do so now as we ask, is a helping professional allowed not to help?

- The *halakhah* is very strict for doctors, requiring them to help those in need almost regardless of circumstances
 - Is this different for a rabbi than it is for a doctor?
 - What about therapists? Lawyers? Chefs?
- Is there a time where the professional's desire not to work takes precedence over the community's needs?

15 א A student is forbidden to call his *rav* by name, both during his lifetime and after his death. Even saying [the name] of others, if their name is the same as the name [of the *rav*] is forbidden [in cases that the name of the *rav*] is a strange name that people are not familiar with.

*But if it is an unusual name [the student] is allowed to mention it, but not in the presence of the *rav*. And all of this is specifically about mentioning the name on its own, but one is allowed to say *rav* so and so.*

Halakhic Process:

After looking at the prohibition against and limitations of making halakhic judgments as a student, the *Shulkhan Aruch* now moves on to other ways in which a student shows honor to their *rav*. For this *halakhah*, we see a prohibition that is in place for both a *rav* and a father. *Kiddushin* 31b tells us that when speaking about teachings or rulings from one's father or *rav*, a scholar must change their name. That is to say, you are not allowed to simply say the name of your *rav* or father. If the name of a student's *rav* is Shlomo, he may say Rav Shlomo but not simply Shlomo.

We see the severity of transgressing this prohibition in the first *mishnah* of chapter 11 of *Sanhedrin* where we see the three classifications of people within the children of Israel who have no place in the world to come: One who says that there is no reference to the resurrection of the dead in the Torah, one who says that the Torah is not from Heaven, and the *apikoros*. On page 99b of *Sanhedrin* we read that an *apikoros* is defined as one who denigrates a Torah scholar. Usually *apikoros* is thought to be one who denies the existence of God or an idol-worshiper, but because this is classified as within Israel, another definition is needed as traditionally one who denied the existence of God or worshiped idols would be viewed as outside the community of Israel.

The *mishnah* mentions several biblical characters who lost their place in the world to come, and one of them is Geichazi, mentioned in chapter 8 of Kings II. After explaining to the King how his master Elisha had revived a child from the dead, the child's mother entered the room, upon which Geichazi proclaimed, "this is the woman, and this is her son whom Elisha revived."¹²³ Rav Nachman explains on page 100a of *Sanhedrin* that this statement is the reason that Geichazi was considered an *apikoros* and thus lost his place in the world to come. His offense was that he called his master Elisha by name rather than saying, "my master Elisha."

Rambam summarizes these two Talmudic events by stating that it is forbidden to call one's *rav* or father by name,¹²⁴ and ultimately Rambam prohibits even calling someone with the same name as one's *rav* or father by name.¹²⁵ The *Shulkhan Aruch*, however, will lighten the latter prohibition slightly stating that this is only the case if the *rav* or

¹²³II Kings 8:5

¹²⁴*Mishneh Torah Talmud Torah* 4:3

¹²⁵*Ibid.* 5:5

father has a name that is not common. For example, in a modern context, if the name of the *rav* were John, the student would not have to refrain from calling everyone John they know by name, but if the name of the *rav* were something less common like Begelgemeck, the student would not be able to call any other Begelgemeck by their name. Isserles, however, argues that if *Rav* Begelgemeck were not present, such a student could call their friend Begelgemeck by their name.

Questions for Today:

As our society is getting more and more informal, people are getting much more accustomed to using first names for teachers, doctors, rabbis, and other professionals who in the past have always used a title. Some children are even using first names for their parents. While some people think that this helps these professional relationships to grow, others are concerned that this loss of formality results in a loss of respect towards those who deserve it.

- Should teachers allow their students to call them by their first name?
 - What are the pros and cons of such a change?
- What about using titles with first names, such as Rabbi Joe rather than Rabbi Shmoe?
 - Does this help someone feel closer to the rabbi or impede their due respect?

16 נ [A student] may not greet his *rav* or return a greeting [to his *rav*] in the way [that he does with] other people. Rather, he should bow before him and say to him with honor and with reverence, "Peace unto you, my *rav*." And if his *rav* greets him, he should say to him, "Peace unto you my teacher and my *rav*."

And so is customary. And some say that he may not greet his rav at all, as it is written, "young people saw me and hid."¹²⁶

And [a student] should not remove his *t'fillin* in the presence of his *rav*, nor should he recline in his presence, but rather he should sit as one sits before a king.

If [the student] is sitting at a meal with his rav and with others, he should seek permission from his rav and then from the others.

[The student] should not pray in front [of his *rav*], not behind him, and not to the side of him. Needless to say, he is forbidden from walking at the side [of his *rav*] but rather he should distance himself behind his *rav*, but not directly behind his *rav*, but rather [he should] turn himself sideways [to one side] or the other. [This is the case] whether he be praying with him or walking with him. Outside of four cubits it is allowed [for both walking and praying.]

One should not enter the bathhouse with [his *rav*] unless [the *rav*] needs him.

And if the student was in the bathhouse first, and his rav comes there, [the student] does not need to leave. And all of this is only applicable in a [bathhouse] where they get completely naked. But in a [bathhouse] where they go in undergarments, it is allowed. And the widespread custom is to enter the bathhouse with one's rav, father, father-in-law, step-father, and brother-in-law, even though it is prohibited in the gemara [to enter the bathhouse with them] because now they go in undergarments.

And [the student] should not sit in the presence [of his *rav*] until he says to him, "sit," and he should not stand until he says to him, "stand," or until he receives permission to stand. When he leaves [from the presence of his *rav*] he should not turn his back on him, but rather turn around backwards [so that he retreats] face to face with his *rav*.

And if he leaves his rav with permission and he remains in the city, he needs to return [to his rav] to receive permission [to leave]. This is specifically for [the student] who did not say to [his rav] that he wanted to stay in the city. If he did say this from the moment that he sought permission [to leave] he does not need to return [to his rav] to seek permission.

[A student] may not sit in the seat [of his *rav*], and he should not subdue his opinions in his presence¹²⁷ or strike down his opinions. And [the student] should stand in the presence [of his *rav*] from when he sees [his full stature] from afar, until [the *rav*] is hidden [out of the student's sight] so that the student does not see the full stature of the *rav*, and afterwards the student may sit. Even if [the student] is riding, he needs to stand in his presence, for this is considered as though he is walking.

Some say that one does not have to stand for his rav except for in the morning and evening service. And specifically in the house of the rav, but in the presence of others who do not know that the student has already stood before his rav, [the student] must stand.¹²⁸

Halakhic Process

¹²⁶Job 29:8

¹²⁷That is to say, he should not provide arguments in favor of the opinion of the *rav*.

¹²⁸In the home of the *rav*, the student needn't stand constantly, but if others enter the house who do not know that the student has already risen in order to honor the *rav*, he should stand.

The length of this particular *halakhah* is excessive because Caro, and inherently Isserles, are dealing with several different issues.

1. In what way does a student greet his *rav*?
2. Where should a student place himself when praying with or walking with his *rav*?
3. May a student enter a bathhouse (sauna) with his *rav*?
4. When should a student stand, and when may a student sit in the presence of his *rav*?

In looking at these five questions individually we can gain better understanding of this *halakhah*.

1. Greetings

We find the following *baraita* at the top of *Berakhot* 27b: Rabi Eliezer said, "The one who prays behind his *rav*, the one who greets his *rav*, the one who returns a greeting to his *rav*, the one who disputes his *rav*, and the one who says something that he did not learn from his *rav* cause the *shechinah*¹²⁹ to depart from Israel."¹³⁰

It seems as though completely ignoring the *rav* is not the way in which to show respect, and later sages emend this accordingly. Rashi clarifies that this means greeting or returning a greeting to the *rav* in the manner that one would greet everyone else they know, saying, "*shalom alecha*," rather than, "*shalom alecha, rabi*."¹³¹ We see the same thing from the Rambam.¹³² However, the Rosh explains that the Palestinian Talmud claimed that while a student could return the greeting of the *rav*, he never would extend the first greeting.¹³³ This tradition is acknowledged by Isserles, but the *Tur* and the *Shulkhan Aruch* take the opinion taken by Rambam. What is important to take from this, however, is that showing honor through speech goes beyond simply refraining from calling the *rav* by name.¹³⁴ The speech from student to *rav* is different than to others, from name to greeting, and presumably throughout the conversation.

2. Placement

We read that within four cubits, a student needs to be aware of his placement in relation to the *rav*. Whether walking or praying, the student is not to be directly in front of him, behind him, or to his side. While the *baraita* in *Berakhot* only mentions praying behind the *rav*, one can assume that praying next to one's *rav* or in front of him would be even

¹²⁹God's presence on Earth

¹³⁰See *halakhot* 2 and 24

¹³¹"Peace unto you" rather than "Peace unto you, my *rav*"

¹³²*Mishneh Torah* TT 5:5

¹³³*Piskei ha-Rosh Berakhot* 6:5

¹³⁴*Halakhah* 15

worse, and the text associates the rules for prayer with the rules for walking.¹³⁵ The Siftei Cohen tells us that in looking at the issue of placement in prayer and walking, the essence of the *halakhah* is to ensure that the student does not equate himself in any way to the *rav*.

Leaving the *rav* requires stepping backwards while facing the *rav*, again as a sign of respect. Yoma 53b relates this to the three steps taken backwards upon completion of the Amidah. Just as one retreats from conversation with God, so to do they retreat from conversation with their *rav*.

3. Bathhouse

P'sachim 51a contains a *baraita* which prohibits anyone from entering the bathhouse with their *rav*, father, father-in-law, step-father, or brother-in-law. Rashi explains the reasoning for the prohibition of bathing with one's *rav* in his commentary. He states that seeing one's *rav* in the bathhouse, presumably naked, would embarrass both the teacher and the student and ultimately impact the honor and reverence of the student towards the *rav*. However, he does not comment on the qualifying exception that states that the student may enter the bathhouse with the *rav* if the *rav* needs the student's help. One would think that seeing the *rav* in an even more vulnerable state, not only naked but also needing help in the bathhouse, would impact the respect from student to *rav* even more, but apparently the honor shown in helping the *rav* outweighs any possible negative consequences.

While Caro and Rambam do not make any exceptions to the rule, Isserles' exception of a bathhouse where undergarments are worn is a reflection of the common *Ashkenazi* custom of the day. We find the precedent in the *Aggudah* of Alexander Suslin HaKohen of Frankfurt.¹³⁶ His commentary to *P'sachim* states, "now that they cover [their] nakedness [in the bathhouse] it is the custom of the day to bathe together."¹³⁷ It seems as though the covering of the private parts made the sages of the day comfortable with what the Rabbis of the Talmud prohibited. Therefore the prohibition, according to these later halakhists, was not about the bathhouse itself but rather about seeing each other naked.

4. Standing

While this *halakhah* is predominantly a quotation from the *Tur*, this section of the *halakhah* is the only section Caro addresses in the *Beit Yosef*, and it has the most background in the text. We find its roots in the Torah. Leviticus 19:32 is within what is often considered the "holiness code." This section of the Torah gives us laws through which we are to find the ways in which we aspire to be holy. One of those laws states, "You shall rise before the aged and you shall honor the old; you shall fear your God, I am

¹³⁵We will see more detailed rules for walking in the *halakhah* 17.

¹³⁶Suslin (d. 1349) was the last of the early German halakhic authorities, and the *Aggudah*, a collection of Talmudic commentary and halakhic decisions was his greatest work (Encyclopedia Judaica)

¹³⁷*Aggudat P'sachim* (*siman* 60)

Adonai.” This verse is addressed in the Talmud, *Kiddushin* 32a-33b. The issues of standing before a *rav* are also addressed thoroughly in chapter six of the *Mishneh Torah Hilkhot Talmud Torah*.

As the *gemara* looks at this verse, several elements become important. First of all, the *gemara* addresses who is meant by the aged and the old. Surely the text cannot imply that one must rise before a wicked man, even if he is old in age. The *gemara* tells us that this reference to the elderly actually means those who have acquired great knowledge of Torah, thus applying it to our understanding of showing honor towards a *rav*. Therefore we learn that a student should stand before his *rav*. However, in showing reverence for the *rav*, the student must be careful not to go overboard.

The Leviticus verse ends with the notion of reverence for God, implying importance over the first half of the verse. Therefore, no honor towards any human should supersede the honor towards God. Therefore, the *gemara* tells us that a wise student should only stand before his *rav* once in the morning and once in the evening so as not to exceed the honor directed toward God. However, the *Tosafot* tell us that this is only for a *talmid chacham*, a wise student, and all other students should stand as much as 100 times in a day. The *Tosafot* do not, however, explain how this is not a supersession of the honor and respect due to God. Rambam does address this issue, as he says that a student who is studying with his teacher need not stand constantly.¹³⁸ However, when we look at the Talmud, we see disagreement here as well, as R. Elazar teaches that “a student is not allowed to stand before his *rav* during [the student's] Torah study,” but Abaye condemned this teaching, showing that he felt a student should stand, even during his study.¹³⁹

We also see an extensive discussion in whether or not a father must stand before his son if his son is his main teacher of Torah. The *gemara* asks this very question, and we see differing answers.¹⁴⁰ First we see a son told to rise before his father even though the son is the father's teacher. Then we see a father, R. Yehoshua ben Levi say, “it is not worthwhile for me to stand before my son,” but he continues to say, “but if he were my *rav*, I would stand before him.” The *gemara* continues to say that what R. Yehoshua ben Levi meant was that *even* if his son were his *rav*, he would not stand before him because he is his father. If we look earlier in the *gemara*, we see that this is not only an issue between father and son, but any time the scholar is younger. The Tanna Kamma holds that one is not obligated to stand before a young sage while R. Yose of Galilee holds that they are.¹⁴¹ Neither issue is addressed in the *Shulkhan Aruch*, but here we see a question that could arise out of the *halakhah* in which there is quite a bit of debate and disagreement. When one's teacher is their son, or perhaps anyone younger than they are, issues of honor and respect become more difficult, and perhaps the fact that there is no agreement shows an understanding that it might need to be dealt with differently in each individual case.

¹³⁸*Mishneh Torah* TT 6:8

¹³⁹*Kiddushin* 33b

¹⁴⁰*Ibid.*

¹⁴¹*Ibid.* 32b

The most important aspect of the *halakhah* with regard to standing seems to be the student showing *others* that he is showing respect for his *rav*. Thus we see the section on standing in the house of the *rav*. The student does not need to stand the entire time he is in the home of the *rav*, but if someone new comes to the house who has not seen the student rise, he should do so to show this new person that he has, in fact, shown honor to the *rav*. In the same way that rising shows honor to God, so too does it show honor to the *rav*, but for that same reason, the student must be careful not to show more honor to the *rav* than to God.¹⁴²

Questions for Today

Think of the role that speech plays in showing respect. There is an informal way in which people speak with their friends. The previous *halakhah* taught that one should not use first names when referring to or speaking to a *rav*. Here that is extended to greetings, and presumably, all interactions.

- What considerations should we take when speaking to those to whom we wish to show respect?
- Should our language be different?

We can best think of the bathhouse as a sauna, but we can also think of other places where someone is exposed physically more than usual, such as a swimming pool or the beach.

- Is there something about physical modesty that helps maintain honor and respect?
- When someone sees their teacher, boss, or mentor in a bathing suit, or as in the bathhouses of the text, naked, what does that do to their professional relationship?
- Can a college professor use the gym at the college if that means working out with her students?
- There is an exception in the Talmud for entering the bathhouse with the *rav* if he needs assistance.
 - What is the difference between being exposed in that way versus being exposed physically?

The Talmud made a provision that a father need not stand before his son if his son is his main teacher of Torah. We are beginning to see more instances where someone's boss is younger than they are, or a student goes back to school in search of a second career, and their teachers are younger than they are.

- Does this change the way in which they need to show respect to their boss or their teacher?
- Does it create a need for enhanced respect from boss to employee or teacher to student?

¹⁴²*Halakhah* 18 will address standing when the *rav* is reading Torah.

17 י"ב [When] three are walking about, the *rav* [should be] in the middle, the greater [scholar] to the right, and the lesser [scholar] to the left.

And the reason we do not usually perform acts of honor on the road but rather at the door [upon] seeing the mezuzah, is that everyone goes about in their own way and not in one group. But if they are in one group [these laws] of honoring along the way [apply].

In a place [where there is] danger, one does not need to [think about the laws of] honoring [one's rav] at all.

Halakhic Process

The previous *halakhah* told us about the placement of a student in relation to his *rav*, and here we see a further understanding, as is debated elsewhere in the Talmud. The *gemara* of *Yoma* 37a is discussing a *mishnah* about the placement of three Priests. Caro's *halakhah* from the *Shulchan Aruch* is quoting the *baraita* that is presented in an effort to explain. The *gemara* questions how such an order of walking is possible when students were prohibited from walking next to their *rav*, as we saw in the previous *halakhah*. It turns out that this *halakhah* is further explaining how one goes about walking behind their *rav* without being directly behind him. The greater of the students should be behind his *rav* slightly to the right, and the lesser student should be behind the *rav* slightly to the left. In that way neither of the students are directly behind or next to the *rav*, and their status as students is visible to those who see them.

Isserles' gloss teaches us that as important as acts of showing honor to the *rav* are, the safety of the student, the *rav*, and those around them takes precedence over the act of honoring. At the bottom of *Berakhot* 46b, we learn from a *baraita* that, "there are no [laws of] honoring on roads or on bridges." As we look at the rules of where one should walk in relation to the *rav*, Isserles tells us that usually these do not apply on the road. Being too concerned with where one is walking in relation to his superior could cause danger on the road, whether walking or in a wagon, as other pedestrians and travelers might find themselves in the way. Therefore, the *gemara* tells us that laws of honoring do not apply on the road or on bridges where such a danger is at risk. Rambam teaches this same provision, adding that later in the *gemara* we learn that the laws begin again upon seeing the *mezuzah* at the door to a building.¹⁴³

All that said, however, it appears as though even for Isserles, if a student or group of students were to set out on a walk with their *rav*, they should be positioned as is explained in the *gemara*, but if the student was to encounter his *rav* while they were both separately on their way, he would not have to run to position himself as stated, as that would put all those present in danger.

¹⁴³ *Mishneh Torah Berakhot* 7:12 – *Berakhot* 47a

Questions for Today

This *halakhah* shows the importance of continuing to show honor and respect outside of the regular place of interaction. In other words, the respect shown to the *rav* did not cease upon leaving the study house.

Isserles' gloss tells us that this was not always the custom, as walking in the manner described could present danger to the involved parties. We may not think of walking together on a road as a dangerous place, but the *gemara's* provision, cited here by Isserles, is an important one to note. In Judaism we learn that saving a life trumps the other commandments, and we must determine what preventative measures can be included under the umbrella of saving a life. Here we see that the potential risk of disrupting "traffic" is enough to keep a student from running to honor his *rav* on a busy street or a bridge, so we must assume that if any potential danger exists, the need to show honor to the *rav* is put on hold.

That said, we remember that an important element of showing honor to the *rav* was on the horizontal level of letting the community see the honor being given. Therefore in spite of the exception in places of danger, we still have the *halakhah*, and in some ways, this is the epitome of this level of honor and respect. By having a specific order of placement around the *rav* anyone passing would know who is the *rav* and who is the better student.

Perhaps the best way we can think of this today is the multitude of events which may present themselves while walking about. Opening doors, refraining from interruptions, and even turning off a cellular phone are all examples of what someone can do when walking with someone whom they want to show respect that will be noticed by that person and perhaps the surrounding community.

- Why is it important to continue to show honor and respect outside of the regular place of interaction?
 - If one is not going to walk in a specific order, what are some ways other than those mentioned to show respect while in less formal environments?
- Are there any other times where showing respect to a teacher or mentor could present danger?
 - What if a student were to show his/her teacher so much respect that the teacher became uncomfortable?

18 מ" If a *rav* is called to read Torah in public, [the student] does not need to stand the entire time that his *rav* is standing. *When the rav stands above [the student] in the house [of worship],¹⁴⁴ and the student is on the floor [ground level], [the student] does not need to stand. Even when the Sefer Torah is on the bimah, the congregation does not need to stand because the Sefer [Torah] is in a different domain.*

Halakhic Process

"They asked, 'What is [the *halakhah* regarding] standing before the Torah?' R. Chilkiyah, R. Simon, and R. Elazar said, 'since one rises before the ones who study [Torah,] all the more so [they should rise] before [the Torah] itself!'"¹⁴⁵

One need not stand the entire time the Torah is being read, however, so what does one do when their *rav*, before whom they should show respect by standing when he is standing, is reading from the Torah, before which they should also show respect? For an answer, Caro turns to the Rashba, a 13th- early 14th century Spanish halakhist, whose responsa are viewed as most authoritative of their time. The questioner wrote upset that his community did not stand while the Torah was being read. The Rashba responds that the community only needs to stand until the Torah is placed on the platform from which it will be read. Once it is on the platform, it is in a different domain than the rest of the community. The Rashba relates this to the fact that a student does not need to stand when his *rav* is in a different domain than he is, as Isserles points out in his gloss.

Again, this is an attempt not to push the honor towards the *rav* beyond the honor shown to God, and in this case, the Torah. If one does not need to stand when the Torah is being read, but they did have to stand when their *rav* was reading from the Torah, it would appear that they were showing more respect to their *rav* than they do to the Torah itself, but we already know from the *Kiddushin* passage that the respect shown to the Torah itself is greater than the respect shown to the one who teaches it.

Questions for Today

The *Kiddushin* passage, and as a result, the *halakhah*, make an attempt to show that the respect due to the Torah is greater than the respect due to the Torah teacher. We have seen the comparison between showing honor to the *rav* and showing honor to God, but here we see that that has limits.

In the previous *halakhah* we saw that the laws of honoring the *rav* were dismissed in times of danger and asked about different ways of interpreting danger. Perhaps when a rabbi, a teacher, or another mentor can take on an almost divine role in the student's mind, this too could present a dangerous situation for both parties.

¹⁴⁴In either a loft or a second story that is visible from the lower level where the student is standing

¹⁴⁵*Kiddushin* 33b

- How can the person in the mentor position ensure that their mentee does not “worship” them?
- How can the mentee keep their own limits?

19 ^ו All the work that a servant does for his master, [so should] a student do for his *rav*. But if he is in a place where [others] do not know him, and he does not have *tefillin* on his head, and he fears that [the others] will say that he is [in fact] a servant, he does not have to tie or untie the shoes [of his *rav*.]

Halakhic Process

Again, here we have what is close to an exact quote from the Talmud. Rabi Yehoshua ben Levi said, "All the work that a servant does for his master, [so should] a student do for his *rav*, except untying his shoe."¹⁴⁶ Rabi Yehoshua ben Levi is apparently concerned that if a student were to perform such a task as untying the shoe of his *rav*, the student would, in fact, be mistaken for a servant, and although he is saying that that is the work that should be done, he does not want this result.

Caro's qualification comes from the following statement in the *gemara*. Rava said, "this [exception against untying the shoe] only applies in a place where people do not recognize the student..." In other words, if he is in a community where people know that he is a student untying the shoe of his *rav*, of course he can do such work. Rav Ashi takes this even further, saying that if the student is wearing *tefillin* he may untie the shoe of his *rav* for even those who do not know him will know that a servant would not be wearing *tefillin* and understand that this is a case of a student showing respect to his *rav*.

This is a good reminder that while the *Halakhah* represents an ultimate understanding of the Law, it is important to remember the logical thought process that goes into it. Usually Caro is taking from many different sources, but here we have a simple example of this process.

Questions for Today

Rabi Yehoshua ben Levi said that a student should do for his *rav* all the work that a servant does for his master except for tying his shoe. While Rava and Rav Ashi give us qualifications for when this is and is not the case, and Caro accepts those qualifications into the *Shulkhan Aruch*, we cannot be sure what Rabi Yehoshua ben Levi originally intended.

This may seem like a fairly trivial example, but as we look at a modern understanding of the *halakhah*, this is an important notion to keep in mind.

- Why do you think Rabi Yehoshua ben Levi removed shoe-tying from the work that a student should do for his *rav*?
 - Rava and Rav Ashi felt that it was because others might actually mistake him for a servant, but is it possible that there were other reasons?

146 *Ketubot* 96a

If we were to diverge from the understanding of Rava and Rav Ashi and propose that untying shoes was a way to provide some limits for this relationship, how would this change our understanding of the *halakhah*?

A principal at a school serves as a mentor for his assistant principal. Occasionally he will ask her to get him a cup of coffee, and she will do so because she wants a cup of coffee as well. It seems as though some servile requests would be acceptable from a teacher to a student or the other relationships we have discussed, but it also seems as though there needs to be a line of where it is no longer acceptable.

- Where would one draw the line in the appropriateness of these requests?
 - What if he asked her to do his laundry or clean his house?
 - Would gender make a difference?
 - A man asking a man?
 - A woman asking a woman?
 - A woman asking a man?
 - If gender does make a difference, why do you think that is so?
 - How does gender affect a mentoring relationship?
- Assuming that some of these tasks are acceptable, how does one go about drawing the line of where it no longer is?
 - Can it be a discussion between the mentor and mentee?
 - Who would initiate such a conversation?

20 ▸ Any [*rav*] who prevents his student from serving him withholds loving kindness from him and removes the fear of heaven from him. And any student that disparages any [of the customary ways in which one shows] honor to the *rav* causes the *shechinah* to depart from Israel.

Halakhic Process

The preceding *halakhah* came from Ketubot 96a, and here we see what follows from the *gemara's* discussion. Immediately after learning that a student should do for his *rav* all that which a servant does for a master we learn that a *rav* who keeps his student from such tasks is in some way doing that student a disservice. The Rambam also quotes this passage in his *Mishneh Torah Talmud Torah* 5:8.

Perhaps Rabi Yochanan, the purveyor of the quote, and Rabi Yehoshua ben Levi who asserted that a student should do the work of a servant for his *rav*, were acknowledging that learning can happen in many different ways at many different times. A servant is constantly around his master, and so too should a student be constantly with his *rav*, for the student does not want to miss any opportunity in which to learn. This notion is also seen in *Berakhot* 7b. "Rabi Yochanan said in the name of Rabi Shimon ben Yochai, 'Serving [the one who teaches] Torah is more important than studying Torah [from them].'" Rabbi Shmuel Edels¹⁴⁷ writes in his commentary to *Berakhot* 7b that the lessons learned from the *rav* by serving him, and therefore following him around, are often more practical than the lessons learned during study.

There is an important difference between the Talmud text and the *halakhah* as quoted by the Rosh,¹⁴⁸ the Rambam, and Caro. The Talmud text says that the *rav* who prevents his student from serving him it is as if he withholds loving kindness from him etc... However, the codes mentioned remove the "as if," increasing the degree of severity of the statement.

Questions for Today

In the previous *halakhah* we looked at the hypothetical situation of a principal and his assistant. Now we see that the purpose of a near servant/master relationship is to ensure that time is spent with the mentor where learning can take place. Having questioned to what degree these requests are appropriate and remembering that in the *halakhah* they would not even be requests but rather services offered by the student:

- Is there value to the idea that spending extra time with a mentor can aid the learning process?
 - Could this be accomplished without creating a servant/master relationship?
 - How?

¹⁴⁷Known as Maharsha (Moreinu ha-Rav Shmuel Adels; 1555-1631) Rabbi in Chelm, Lublin, and Osrog – His Talmud commentary, *Chiddushei Halakhot*, is found in the back of most editions of the Talmud (Encyclopedia Judaica)

¹⁴⁸*Kiddushin* 11:2

21 אב No honor should be rendered to a student in the presence of his *rav* unless the *rav* [also] honors him.

Even a student of the student [of the rav] or the son of the student should not stand before his rav [when the latter is] in the presence or across from his rav or the father of the student unless the rav also honors him. This is specifically if the rav is, in fact, his rav whom he has sat before [in study].

Halakhic Process

Page 119a of *Baba Batra* relates an occurrence where two sages, R. Yoshia and Abba Chanan give different understandings of a verse, and the *gemara's* logic proceeds to another time when the two disagreed. Abba Chanan taught that one may render honor to their student in the presence of their *rav*, while R. Yoshia said that they may not. Here we are discussing a lesser teacher giving some kind of honor to their student in the presence of their greater *rav*. The *gemara* then tells us that there are two different understandings following the two different sages, but that the two do not contradict each other as the deciding factor is whether or not the greater *rav* has given any kind of honor to the student. If the greater *rav* has done so then the lesser teacher may do the same, but if he has not, the lesser teacher cannot.

In this way the ultimate *halakhah* finds some kind of compromise between the positions. The question is whether or not honoring a student publicly somehow diminishes the honor due to the *rav*, but if that *rav* has been seen honoring the student as well, it seems as though there would not be a problem in doing the same. As we have seen throughout the chapter, the attempt to balance the honor due to the *rav* and the respect for a student's growth and achievements are exemplified in this *halakhah* and the process in which it came to be.

Questions for Today

- What is the basis for prohibiting a student from being honored in the presence of his/her teacher?
- What are the benefits of allowing a student to be honored in the presence of his/her teacher?

After answering both of these questions we most likely see that there is reason why R. Yoshia and Abba Chanan would disagree, for there is potential growth and benefit in both sides of the argument. The *halakhah* compromises, saying that if the *rav* has honored the student previously then that student may be honored in the presence of the *rav*, but perhaps it would be interesting to look at other compromises that could have been made.

If the student has been honored by the *rav*, they already know their status, but what about a student that has not been honored by the *rav* but someone else wants to recognize them?

Is it possible that in that case giving the honor in the presence of the *rav* would allow the *rav* to see the value in that student that perhaps they did not see before? The concern of the *halakhah* is that such an honor would be a dishonor to the *rav* suggesting that he did not know who was worthy of receiving honor.

Let us consider a college classroom. If a professor is failing a student because their writing is unacceptable, but the teaching assistant knows that this particular student knows the material but is simply having a difficult time relaying the information in writing, the teaching assistant cannot change the grade.

- What could the teaching assistant in this case do?
 - What could they do with the student?
 - What could they do with the professor?
- Assuming that the assistant took some sort of action with the student or the professor and the professor eventually recognized the value of the student, is the recognition more meaningful coming from the professor?

22 **א** What does one say when he sees his *rav* transgressing against words of Torah?
"Our *rav*, you taught me thus and such."

And if the rav is only about to transgress against a Rabbinic prohibition, one must still protest against him. One who sees his rav doing bad deeds¹⁴⁹ who has [significant knowledge] to argue against [the deed] should confront the rav before the deed if it is forbidden from the Torah, but if it is prohibited Rabbinically, he should let him complete the deed and afterwards object to [the deed]. [This is because the student] does not know for sure that [the rav] transgressed but simply that [the student is allowed] to raise objections to it.

Halakhic Process

We saw earlier¹⁵⁰ that in order to prevent a transgression from occurring, the student may engage in *hora'ah* that would otherwise be forbidden. In other words, any concern over creating competition for the *rav* was overlooked when a transgression may take place. In that case, however, we were speaking about an event that was taking place that the *rav* did not stop. Now we ask how this changes when the *rav* is either judging incorrectly, or the one who may be transgressing is the *rav* himself. Competition is not the issue here, but disrespecting the *rav* by calling him out on his actions is still a potential problem.

Our talmudic discussion stems from a biblical quote. From within a charge to the judge, God commands, "You shall not be partial in judgment: hear out low and high alike. **Fear no man, for judgment is God's.** And any matter that is too difficult for you, you shall bring to me and I will hear it."¹⁵¹ R. Yehoshua ben Korchah interprets this verse in *Sanhedrin* 6b. He says that when a student sitting before his *rav* sees the *rav* make a mistake by incorrectly convicting a poor man or acquitting a rich man, thereby contradicting the first clause of the verse, the student is obligated to speak out against the injustice for he should "fear no man," including his *rav*.

Caro's *halakhah* is a direct quotation from the *Mishneh Torah*.¹⁵² Rather than simply correcting the mistake of the *rav*, the student is supposed to repeat what he remembers learning. As a result, rather than accusing the *rav* of making a mistake, the student is ensuring that he correctly remembers what he has learned. Isserles takes this one level further in his gloss.

Whereas Caro will often quote the *Leket Yosher*, the work of Joseph ben Moses transmitting the teachings of his teacher Israel ben Pethahiah Isserlein, here Isserles is working from *Terumat Ha-Deshen*, the work of Isserlein himself. In the section of responsa, the following question is asked: What should a student who sees his *rav* about to eat a food that is Rabbinically prohibited do? Does he need to protest against him or

¹⁴⁹Acting incorrectly, against the *halakhah*

¹⁵⁰*Halakhah* 11

¹⁵¹Deuteronomy 1:17

¹⁵²*Talmud Torah* 5:9

not? Here we see a difference of Toraitic versus Rabbinic decrees.¹⁵³ While some transgressions are obvious, such as stealing or eating pork, other Rabbinic prohibitions are not as simple.¹⁵⁴ Where the *halakhah* is Rabbinic and might be interpreted in different ways, the student is to let his *rav* complete what he is doing and only then question what he has witnessed.

Questions for Today

The *halakhah*, while allowing for the student to correct his *rav*, is read with Isserles' gloss which allows the *rav* to complete the act in question presuming there is any doubt in the student's mind that a transgression might be taking place. In other words, the *rav* is given the benefit of the doubt. This, however, is a gloss of Isserles that is not included in the *Mishneh Torah*. In fact, the *Siftei Cohen* adds the provision that the statement, "Our *rav*, you taught us thus and such," should be said respectfully, but that is not in the original statement.

It is important that we note the progression towards leniency in the direction of the *rav*. What seems to have originally been a statement allowing for the correction of the *rav* whenever it is deemed necessary by the student becomes a process of ensuring that the *rav* is, in fact, transgressing before stopping him. Without losing the ability to question, we gain a sense of the importance of giving an authority figure the benefit of the doubt. If you question the actions of the *rav* but have some doubt, we seem to be reading, assume that they are correct, let them finish what they are doing, and then question what you have seen.

- What are the benefits of letting the mentor finish his/her actions before questioning?
- What are the potential problems?
- Are there situations when interrupting would be appropriate?

153 While most of Jewish law is based on the interpretation of the Torah by the Rabbis, there is still a division between Toraitic decrees (*deoraita*) and Rabbinic decrees (*derabbanan*). For example, while not doing work on Shabbat is viewed as a prohibition from the Torah, there are certain elements of that prohibition, that are viewed as Rabbinic. While writing would be viewed as a prohibition from the Torah, holding a pen is prohibited Rabbinically, as it might lead to the act of writing.

154 *Terumat ha-Deshen* sends us to *Chullin* 6a where we see an egg/wine mixture that one sage found problematic while the other did not.

23 Every time that a student mentions a *halakhah* in the presence of his *rav* he should say to him, "This you taught me our *rav*."

Halakhic Process

This *halakhah* appears to originate in the *Mishneh Torah* that it quotes.¹⁵⁵ While Rambam is taking from the tradition and the custom of the day, this quote, a variety of which appears in the previous *halakhah*, is Rambam's.

It is important that this phrase, *kach limadtani* (this you taught me), is not only used when correcting a mistake of the *rav*¹⁵⁶, but also whenever the student cites a piece of information. In this way, the student shows his *rav* that he is aware that without his teaching, this student would not possess the information that he does.

We will see in the next *halakhah* that unless a student cites another source it is assumed that the knowledge they possess was received from their *rav*, but this *halakhah* shows the importance in the student letting others, including the *rav*, know that he too is aware of this fact.

Questions for Today

Considering that the next *halakhah* tells us that it is assumed that any *halakhah* a student recites was learned from his *rav muvhak*, we can't help but wonder why Rambam felt that this extra step of assurance was necessary. However, perhaps we can see Rambam's use of the same phrase both when the *rav* was transgressing and when the student was reciting something he had learned as a sign of the importance of respecting the *rav* in good times and in bad along with everything in between.

It seems as though honoring the *rav* would be an easy thing to do when the learning was exciting or when something new and different was taught, but on a normal day when a student was reciting something he had already learned, it might be disregarded. Even worse is when the *rav* made a mistake causing the student to doubt his worth, and at that time the student's reminder, both to himself and to the *rav*, was important to maintain the student/teacher relationship.

Many mentoring relationships are ruined because the mentor does something the mentee views as disappointing, and sometimes the act is worth ending the relationship, but many times if the mentee would step back and evaluate the situation, he/she might make a different decision. Perhaps the incident was less severe than it first appeared, and after thinking about all the things that the mentor has taught, the mentee will decide that he/she can overlook this mistake. By reminding him/herself of everything that he/she has learned, during good times and bad, the mentee can avoid extreme disappointment upon discovering that the mentor has flaws as every human does.

¹⁵⁵Talmud Torah 5:9

¹⁵⁶Halakha 22

24 דב [A student] should not say anything that he did not hear from his *rav* unless he mentions the name of who said it.

Halakhic Process

We return once again to the *baraita* of Rabi Eliezer on *Berakhot* 27b. "The one who prays behind his *rav*, the one who greets his *rav*, the one who returns a greeting to his *rav*, the one who disputes his *rav*, and the one who says something that he did not learn from his *rav* cause the *shechinah*¹⁵⁷ to depart from Israel."¹⁵⁸

While the *baraita* states that a student may not state anything he did not learn from his *rav*, Rambam adds the exception that he may do so as long as he provides a citation from where he learned what he is saying. Caro explains in the *Beit Yosef* that it is assumed that everything that the student says was learned from his *rav*, so if the student says something he did not learn from his *rav* he needs to announce from whom the information comes.¹⁵⁹

Questions for Today

In the previous *halakhah* we saw that in the presence of the *rav* the student follows any teaching with the statement, "this you taught me, our *rav*," but in this particular situation we seem to be concerned about times when the *rav* is not present. If the assumption was that everything the student said came from the *rav*, there were several potential problems if the student taught something which he learned from another source. If the teaching had merit, the actual source would receive no credit, but more importantly, if the teaching did not have merit those who hear the student will assume the *rav* taught him incorrectly, and he is not present to defend himself.

- Does this idea have merit in today's world?
- If one assumes that a student learned everything he/she knows from his/her teacher, should that student make it known when that is not the case?

¹⁵⁷God's presence on Earth

¹⁵⁸See *halakhot* 2 and 16

¹⁵⁹This is taken from *Piskei ha-Rosh Berakhot* 4:5

25 בה When [a student's] *rav* dies, he should tear all of his clothes until his chest is exposed, and some say that he should not tear all his clothes but just a hand-breadth, and he should not repair it ever. In addition, [the student] mourns for [his *rav*] by removing his shoes¹⁶⁰ and all the [other] laws of mourning, for a portion of the day of death or a portion of the day that he hears [of the death].

Halakhic Process

Here we begin to look at the laws of mourning for one's *rav*.

The seventh *mishnah* of the third chapter of *Moed Katan* states that no one observes the mourning rituals of tearing one's clothes and baring their shoulders except for the direct relatives of the deceased.¹⁶¹ The *gemara* immediately asks, "[Does this] even [apply for] a sage? It was taught in a *baraita*, '[When] a sage dies, everyone is his relative.'"¹⁶²

A *baraita* at the top of *Moed Katan* 26a tells us that there are only a few situations which lead to the tearing of clothing that cannot ever be fully repaired.¹⁶³ Included in these are the death of one's mother or father, the death of a primary¹⁶⁴ teacher, the death of a ruler of a nation, the death of the head of the *beit din*, hearing God's name blasphemed, the burning of a Torah scroll, and upon seeing the ruins of the Cities of Judah and the Temple in Jerusalem. All of these are given extreme importance with their comparison to the death of a parent, and the primary teacher of Torah is notably the first listed.

All that said, the end of the *halakhah* shows that there is a difference between mourning for a relative and mourning for a *rav*. The mourning period for a *rav* is only part of one day, from the time of death or the time that the student is notified of the death until the end of that particular day. We see from the Talmud, however, that at least one student chose to observe a longer mourning period. At the death of Rabi Yochanan, his student Rabi Ami mourned for the full mourning periods. We then learn that the teaching to mourn only one day was the teaching of Rabi Yochanan himself, and Rabi Ami was acting according to his own understanding.

Ultimately we see that while the mourning ritual for the *rav* is similar to that of parents, there is a difference in degree, namely in length. In looking back at the first *halakhah* of the chapter which stated that the fear for one's *rav* is greater than the fear for one's father, we now see that in mourning there is an understanding that perhaps one needs more time when mourning for a parent than they do for their *rav*.

160 חליצה *Chalitah*

161 Child, sibling, parent, spouse

162 *Moed Katan* 25a

163 The *halakhah* does allow for the tear to be repaired to some degree, but not fully sewn back up. (See *Mishneh Torah* – Laws of Mourning 9:12)

164 These specific details apply only for the main teacher (*rav muvhak*). For more details on the difference between the two and mourning procedures for other teachers, see *halakhah* 30.

Questions for Today

In Jewish laws of mourning, the primary mourners are parents, children, siblings, and spouses. While other people can be distressed at a loved one's passing they are not obligated to mourn, and in many ways they are not supposed to have the same reaction of those close relatives.

With that in mind, it is quite amazing that the student is given this opportunity to truly mourn at the passing of his *rav*. While the mourning is limited to one day as opposed to the longer mourning period for a close relative, we do have the example of Rabi Ami who mourned for a longer period when Rabi Yochanan died.

This *halakhah* is specifically for a *rav*, and therefore even today, a mentee in the other mentoring relationships we have been discussing still might find that even at the death of their mentor they can be a comfort to the family without requiring the same kind of attention that the family will. That said, there is also basis for their feeling the loss more than other acquaintances might, and that should be taken into consideration as well.

26 טו Even if [he is notified of the death more than thirty days after the death of his *rav* has occurred]¹⁶⁵ he tears [his clothes in mourning] over his *rav* in the manner that he would tear [his clothes] for his father.

Halakhic Process

Here the *Shulkhan Aruch* is discussing a unique phenomenon that occurs when someone is notified of a death more than thirty days after the death has occurred. This is called *shmu'ah r'chokah*. The *Mishneh Torah* teaches that if someone is notified of a relative's death within thirty days of the death (*sh'muah k'rovah*), they observe the full mourning period from the time they are notified. However, if that information is received more than thirty days after the death, the mourner only mourns for the remainder of that day and does not tear his clothes.¹⁶⁶

Rambam, however, is speaking about the five relatives for whom one mourns that are not their parents: brother, sister, wife, son, or daughter.¹⁶⁷ However, we find in a *baraita* in *Moed Katan* 20a that for one's father and mother the son observes a full mourning period and tears his clothes. The *gemara*, however, is inconclusive as to whether or not this is the *halakhah*, as it is a minority opinion that goes against the teaching of Rabbi Akiva.

Caro's *Beit Yosef* sends us to the work of Ramban, a Spanish rabbi who lived a generation following Rambam. Ramban's book *Torat ha-Adam* gives laws of death and mourning and serves as a source for the Rosh and for Caro.¹⁶⁸ Ramban writes that one does not tear their clothes when hearing about the death of a sage after thirty days, but for one's *rav* there is a difficulty. After citing the *mishnah* relating one's *rav* to his father,¹⁶⁹ Ramban implies that one does tear his clothes for one's parent and for one's *rav*, even if they are notified more than thirty days after the death, and this is the *halakhah* as is accepted by Caro.

Questions for Today

Here we see another comparison between *rav* and father. While the student would not tear his clothes for his sister in this scenario, he would for his father, and according to the *halakhah*, also for his *rav*.

Being notified of the death of a loved one more than thirty days after the death might be a rare occasion in modern times, but hearing of the death of a mentor, such as a *rav*, after a significant amount of time is a more likely possibility, especially when people have

165 *B'shmuah rechokah* בשמועה רחוקה See Halakhic Process for explanation

166 *Hilkhot Evel* 7:1 The discussion on *Moed Katan* 20a says that this is the teaching of Rabbi Akiva, and although the majority of sages disagree with him, saying that one mourns for the full period regardless of when they receive the information, the *halakhah* follows the more lenient view of Rabbi Akiva.

167 See Rashi to *Moed Katan* 20a

168 "Ramban" *Encyclopedia Judaica*

169 See *halakhah* 1

moved to other areas of the country or the world.

In events such as these, the person being notified often does not know how to react. They have missed the funeral and the other mourners are well into their own healing process.

- While the traditional practice is the tearing of the clothes, what are other things that someone in this case could do to assist the mourning process?
- Why might it be even more difficult to mourn if the notification is so delayed?

27 12 One whose *rav* has died and is not yet buried should not eat meat and he should not drink wine, in the same way as one whose relative lies unburied.

Halakhic Process

Wine is viewed as an aid in mourning, and in fact, according to one Talmudic teaching, wine was created especially for the mourner. Rabi Chanin said, "wine was created only to comfort the bereaved and to give reward to the wicked."¹⁷⁰ He gives Proverbs 31:6 as a proof-text: Give strong drink to the wicked, wine to embittered souls. Therefore, wine was considered an integral part of the *seudat hav'ra'ah*.¹⁷¹ This is the first meal after the burial and is traditionally provided by others as the mourner does not eat his own food.¹⁷² The mourner is supposed to refrain from meat and wine from the time of death until this meal.

Again, Caro here is receiving the *halakhah* from Ramban's *Torat ha-Adam*.¹⁷³ Ramban infers this prohibition from the Talmud Yerushalmi. The *gemara* is responding to the actions of the students of Rabi Yosi after his death. The students, although they were acting as mourners, were eating meat and drinking wine before the burial. They were reprimanded for their actions by Rabi Mani, although it is unclear whether they are reprimanded for eating meat and drinking wine or for acting as mourners in the first place. Ramban, however, understands this passage to show that the students should act as mourners in all regards until the burial.

This *halakhah* is most important in that it continues to create the relationship between the death of a parent and the death of one's *rav*. Although we have seen that the mourning period for one's *rav* does not last more than one day, here we see that the period leading up to the burial places the student as a primary mourner.

Questions for Today

The period between death of a loved one and their burial is viewed as the most difficult time of the mourning process. Those who are not mourners are traditionally taught not to speak to mourners at all during this time, and this is one of the reasons that Jewish burials are supposed to take place as soon after the death as is possible. The mourners being alone seems to be another valid reason to prohibit the drinking of wine, as it would be easy to abuse such substances when going through such a difficult time.

Different communities offer different resources for the bereaved, and it might be interesting to find out what is available in your community.

- What are things that non-mourners can do to help the mourners during this time?

¹⁷⁰ *Eruvin* 65a

¹⁷¹ *Yerushalmi* to *Berakhot* 3:1 33b-34a

¹⁷² *Moed Katan* 27a

¹⁷³ *Inyan K'rovim ha-Mitav'lim*

28 Whenever his *rav* is mentioned within twelve months [of his death] he should say, "I am here to atone his grave."¹⁷⁴

Halakhic Process

We find the following *baraita* with regard to honoring one's parents:

One honors [his father] in life and in death... How [does one honor his father after] his death? When he is reciting a *halakhah* learned from [his father] he should not say, "so said [my] father," but rather he should say, "so said [my] father, my master; I am here to atone his grave." These words [should be said] within twelve months [of his death]...¹⁷⁵

Rashi explains that this phrase means, "May any evil that would happen upon his soul happen upon me." He goes on to explain that the soul is vulnerable to punishment for the sins of life for a maximum twelve months after death. By making the above claim a son would ensure that his father's soul did not receive any punishment during that time.

Halakhah 26 told us that the mourning period for a *rav* was only the remaining part of the day of death or the day the student was informed of the death, but *halakhah* 27 taught us that the student took on the mourning role of a son for the period before the burial, and here we see that at least to some degree the student maintains that role throughout the first year of mourning. Although the student does not carry on the full mourning ritual he is seen to have some responsibility in the protection of his teacher's soul in death.

The application of this tradition to the student is attributed by Caro in the *Beit Yosef* to Rav Shimon ben Tzemach, a Spanish rabbi who lived in the 14th and 15th century. His responsum is responding to the question of why one says this for their *rav* even though doing so is not mentioned in the *gemara*.¹⁷⁶ It seems as though it was customary at the time for a student to do so, and due to the comparisons we have already seen between a parent and a *rav* it also makes sense to incorporate this custom into the *halakhot* of honoring the *rav*.¹⁷⁷

Questions for Today

This *halakhah* may seem quite problematic in a liberal context. We may not know what happens to the soul after death, but to believe that either a son or a student would need to somehow take on the sins of the deceased is beyond most of our modern rationalities. That said, there is something to memorializing a person's memory and recognizing their passing when their name is mentioned.

¹⁷⁴ הר"י כפרת משיכו *Hareini kaparat mishkavo*

¹⁷⁵ *Kiddushin* 31b

¹⁷⁶ תשב"ץ ח"א ס"י קכב

¹⁷⁷ Another reason for applying this to the student could be that the *gemara* continues on to talk about rules for saying the name of either one's father or their *rav*. See *halakhah* 15

The hebrew phrase *zichron livracha*¹⁷⁸ or *zichronah livracha*¹⁷⁹, meaning may their memory be for a blessing, is one thing that we can say when mentioning a deceased loved one to show how important they are even after their life has ended.

In addition, we can think back to *halakhah* 23 and signify those things that we have learned from the deceased when we recall them. Those who have died live on in the ways that they have impacted the living, and making a conscious effort to be aware of those details can help the mourning process and help to commemorate the life of the deceased.

178 For a man
179 For a woman

29 כז [One who] spits in the presence of his *rav* comes under the rule, "all who hate me love death."¹⁸⁰

This is specifically [speaking about his] phlegm, for this is the thing that comes from his body forcefully, but ordinary spitting is allowed, for it [can be] an unavoidable accident to spit.

Halakhic Process

This *halakhah* comes directly from the Talmud, and the Talmudic passage itself demonstrates the sometimes "interesting" logical process of the *Gemara*.¹⁸¹ The *gemara* is discussing a *mishnah* which states that one may not urinate or spit from one domain to another on Shabbat,¹⁸² as this violates the prohibition against carrying from one domain to another on Shabbat. As the *gemara* debates different variations of spitting, a teaching of Reish Lakish is presented as a tangential conclusion.

Reish Lakish said, "One who coughs up phlegm in the presence of his *rav* is liable [for punishment] by death." After the verse from Proverbs, the *gemara* asks what happens if one could not help but cough up the phlegm, and the answer provided is that this is only when one intentionally coughs up phlegm into their mouth and then spits it out.

It is interesting to see what Caro and then Isserles do with this teaching. Caro removes the liability for death, although this would have been viewed as a punishment coming from the heavens and not from other humans.¹⁸³ However, he also seems to expand the prohibition to any kind of spitting, requiring Isserles to assure that this only means one who is intentionally spitting out phlegm.

In reading this *halakhah* two things may strike the reader as odd.¹⁸⁴ First of all, it seems odd that this is placed within the laws of mourning. Although Caro does not break up the chapter officially, he does lump the laws of mourning together, and this does not seem to fit. Secondly, while Alfasi and the Rif both mention this teaching, neither the *Mishneh Torah* nor the *Tur* include it in their *halakhot* of honoring the *rav*, and after all of the *halakhot* we have seen with respect to honoring the *rav* it seems somewhat obvious that one would not intentionally spit up phlegm in front of a man whom he can not even pray in front of.

That said, Caro does include the teaching, and he does place it here. Perhaps the

180 Proverbs 8:36

181 *Eruvin* 99a

182 The *halakhot* of Shabbat prohibit carrying from the "public domain" to the "private domain" and vice-versa. One's home would be an example of the private domain while the street is an example of the public domain. Therefore, while one can carry things inside their home, they may not do so from their home onto the street. This *mishnah* expands the prohibition to spitting and urinating.

183 See footnote to *halakhah* 4

184 Most likely more than two things, and considering the subject matter, hopefully nothing will strike the reader.

connection lies within the Proverbs verse. The chapter is said to be the voice of Wisdom and Understanding, and ends with the following:

For he who finds me finds life and obtains favor from the Lord.
But he who misses me destroys himself; All who hate me love death.

The *gemara* tells us not to read the text as “those who hate me,” but rather as “those who cause others to hate me.” We see this same verse on Shabbat 114a with regard to students who are seen in public with dirty clothes. Rashi tells us here that if others see the students doing this¹⁸⁵ they will think that all students of Torah do this and ultimately hate the Torah.

Questions for Today

Perhaps the inclusion of this *halakhah* immediately after discussing the required actions of the student for the year following the death of their *rav* serves as a reminder that the actions of students continue to represent their *rav* and ultimately the Torah and Jewish teaching. Therefore, when a student is seen acting in a vulgar manner they continue to disrespect their *rav*, whether during his lifetime or after his death, and in the end, according to this understanding, they are damaging the image of the Jewish people.

- How do one's actions represent those people who have mentored him/her?
- Do they continue to do so after the mentor's death?

¹⁸⁵ Presumably either spitting in the presence of their *rav* or wearing dirty clothing

30 ל All of these things of which we have spoken that one needs to do them in order to honor their *rav* only refer to the *rav muvhak* from whom [the student] has learned most of his knowledge. If [a teacher of] Bible, [then most of his knowledge regarding] Bible. If *Mishnah, Mishnah*, and if *Gemara, Gemara*.

*And in these days the essence of the rabbinate¹⁸⁶ is not dependent on one who taught pilpul¹⁸⁷ and arguments as is customary at this time, [but rather one's *rav muvhak* is] the one who teaches [the student the art of] answering a halakhic question and [the ability] to understand [a Talmudic passage] and has set [the student on the path] of truth and equity.*

But if [the student] did not learn most of his knowledge from [a specific *rav*] he does not have to honor him with all of these things. Rather he stands before him when he is [within] four cubits [of him] and he tears [his clothes in mourning] over him, just as he would tear [his clothes] over all [scholars] that he would mourn for. Even if he only learned one thing from him, whether small or great, he stands before him and tears [his clothes in mourning] over him.

Halakhic Process

Although there was question as to why Caro included the previous *halakhah* on spitting, perhaps we can find another connection in the use of Proverbs as a proof-text, specifically a section coming from the mouth of Wisdom. We read from *Baba Metzia* 33a that one's *rav muvhak*, their main teacher, is the one from whom they have received "the majority of their wisdom."

This *halakhah* takes us back to the first *halakha* of the chapter, and for more information on the designation of *rav muvhak*, one should look at *halakha* 1, but here it is interesting to look at the variety of opinions in the Talmud and in the *halakhah* regarding how the student responds to a *rav*, whether *muvhak* or not, and how students respond to each other.

The *gemara* tells us of Shmuel who tore his clothing so that it could not be repaired for a *rav* who taught him only one thing. This *halakhah* is telling us that this procedure, which we learned in *halakhah* 25 is only for one's *rav muvhak*, was performed by at least some students for all of their *rabanim*. The *gemara* continues to tell us of students in Babylonia who would stand before each other and tear their clothes in mourning for each other. In this way the students were saying that as students who study together, they each served as the others' primary teacher.

Both of these are minority opinions that do not become *halakhah*, but it is important to see that the definition for whom one could mourn was not completely set in stone, and

¹⁸⁶ What makes a person truly one's *rav*

¹⁸⁷ Referring to the often abstract look at minute details of the Talmud. Here Isserles is providing an argument against the focus on *pilpul* which can often confuse matters. Rather Isserles hopes for the teacher to focus on the practical application of the Law, and regards that kind of teaching the primary teaching needed for one to be a *rav muvhak*.

although the student was required to do so for a *rav muvhak*, they could also give the honor to other teachers from whom they had learned. Although all of the students would mourn to some degree for all of the scholars who died, some would choose to go even farther.

It is also important to address Isserles' gloss which serves as a commentary on the rabbinate of the day. While some teachers would focus on the intricate details of the Talmud arguing minute details, Isserles insists that one's main teacher is the one from whom they have learned the practical details necessary for *hora'ah*. For Isserles, *rov chochmah*, the majority of their wisdom, is specific to what was actually needed to be a *rav* in his time.

Questions for Today

While the relationship with the other *rabanim* are not equal to that of the *rav muvhak*, there is still an understanding that the student shows a certain level of respect to every *rav* from whom he learned anything at all that is greater than the respect shown to other elders.

We have seen many examples of the diversity of opinions for who is one's teacher. Rav Yosi said that anyone who clarified even one *mishnah* for another is that person's *rav*.¹⁸⁸ We now see the students of Babylonia who would mourn for each other, treating each individual student as every other student's *rav*. It seems as though everyone has the potential to be everyone else's teacher at some point in their lives, and the amazing thing is that that "teacher" may not even know that they have acquired a "student."

- Assuming that you never know when your actions will "teach" someone else, should that impact the way you live your life?
 - If you have the potential to be a teacher in the lives of those around you, that means that they also have the potential to teach you.
 - Think of something that you have learned from someone who may not even know that they taught you.
 - What did you learn?
 - Where would you be without that lesson?
 - Is there any way that you can thank the person who taught you and "honor" them in some way?

188 *Baba Metzia* 33a

31 אָ A wise student whose moral training is proper does not speak [his opinion] in the presence of one whose wisdom is greater than his, even if he has learned nothing from him.

And no one should make halakhic judgments until he is 40 years old if there is someone greater [in knowledge] than him in the city, even if [that person] is not his rav. [When] a scholar forbids something, his colleague does not have the power to permit that thing on the basis of his own reasoned judgment. But if he has proof that [his colleague] erred in a matter that requires reasoned judgment, he can argue with the teaching until [the scholar who issued the prohibition] retracts the ruling. And therefore, it is not forbidden to submit the question to a second scholar, provided that one tells him that the first scholar has already ruled on it and issued a prohibition. And even if the [first scholar] permitted something first and his judgment was followed, the second scholar may not prohibit that thing on the basis of a reasoned judgment. And all of this applies to the same case itself, but in other cases¹⁸⁹ it is obvious that he can judge as seems right to him.

Halakhic Process

Seven qualities [are present] in the boor and seven [qualities are present] in the wise person.

The wise person 1) **does not speak in the presence of one whose wisdom and experience is greater than his**, 2) does not interrupt his fellow's speech, 3) does not rush to answer, 4) questions according to the subject and answers according to the *halakhah*, 5) speaks of first things first and last things last, 6) regarding things that he does not know, he says, "I do not know," 7) and recognizes the truth. The opposite of these [are present] in the boor.

This seventh *mishnah* of the fifth chapter of *Pirkei Avot* serves as the source for Caro's *halakhha*, but for Isserles' gloss things get slightly more difficult. The beginning of the gloss, regarding the age of forty for *hora'ah*, is discussed at length in *halakhah* 13. Afterwards however, Isserles introduces an interesting point. Our *mishnah* states that a student should not speak his opinion in front of a scholar greater than he. Isserles takes the issues we have seen regarding teachers and students and applies them to a collegial situation.

We see the following *baraita* three times in the Talmud:¹⁹⁰ "[When] a sage rules something impure, his colleague may not [rule it] pure. [And when a sage rules something] forbidden, his colleague may not [rule it] allowed." However, each time the *baraita* is mentioned it is mentioned because it is not being followed, showing that there are exceptions to the rule. In each case we see a different reason for why the second sage has overturned the first's decision.¹⁹¹

189 That is to say, cases which depend on the prior ruling

190 *Nidah* 20b, *Chullin* 44b, *Berakhot* 63b

191 *Chullin* – The animal in question had never actually been declared impure by the first sage, as he had been distracted before he could actually issue the ruling

Rashi tells us that the purpose of this *baraita* is preserving the honor of the first sage, and we see an interesting variation of the *baraita* on *Avodah Zarah* 7a which leads to the next part of Isserles' gloss: If someone asks a sage [regarding the status of an object] and [that sage found it to be] impure, he should not ask [another] sage [who will find it to be] pure. [And one who asks] a sage [whether something is permitted] and he forbids it, he should not ask [another] sage who will allow it.

The Rosh says that the questioner can look for a second opinion as long as that second opinion knows that he is a second opinion. If, upon knowing that a ruling has been issued the second *rav* disagrees, he may state his disagreement but not overturn the original decision. He is to go to the first *rav* and tell him why he disagrees, and the decision can only be overturned if the first *rav* agrees with the second *rav*.¹⁹² This variation on the *baraita* is the one picked up by Isserles, who adds the opinion of Rabbi Yom Tov ben Avraham, the Ritba. This 13th-14th century Rabbi writes in his *Chidushei ha-Ritba*¹⁹³ that we have a multitude of examples in the Talmud where one sage rules differently than a sage that came before him, but not with regard to the same case. Therefore the erroneous decision does not have to set precedent, even though one case may have been decided incorrectly. All of these decisions are attempting to create a balance between honoring the *rav* and providing allowance for correction when the *rav* judges incorrectly.

Questions for Today

Let's look a little closer at the *mishnah* about which Caro's section of the *halakhah* is based. Of these, the most problematic seems to be the one addressed by the *halakhah*. Not interrupting, taking time to answer, staying on subject, keeping priorities, saying "I don't know," and recognizing the truth all seem to be important qualities; however, not speaking "in the presence of one whose wisdom and experience is greater" than your own seems as though it could inhibit the learning process.

- If one were to take the other parts of the *mishnah* seriously, could they share their opinion with someone wiser than them without being disrespectful?
- Would doing so enhance or inhibit their learning?

Isserles' gloss introduces the concept of collegial respect after receiving permission to judge. While there are many times, such as medical situations, where receiving a second opinion is extremely important, there are others where it may not be, and we can be putting professionals into a difficult position by even asking. Hearing the answer "no", whether it be from a parent, a supervisor, or a boss, is never easy, and the inclination is to find someone else who will give you the answer you want.

Nidah – The first sage was having eyesight problems and could not see clearly

Berakhot – There was a risk of future misunderstanding

192 Piskei ha-Rosh *Avodah Zarah* 1:3

193 Commentary to *Avodah Zarah* 7a

- Using this *halakhah*, how could you respond to the no?
 - If requesting a second opinion, how can you do so without jeopardizing either of the answerers involved?

32 לב The *rav muvhak* who [wishes to] renounce his honor in all of or one of these areas, for all of or one of his students, his honor is renounced. But even though he has renounced [his honor] the student [is still] commanded to show [the *rav*] deference [in other ways].

Halakhic Process

The *gemara* at the bottom of *Kiddushin* 32a discusses whether or not a father may renounce his honor. It was said in the name of Rav Chisda that a father may, in fact, renounce his honor, but a *rav* may not. Rav Yosef disagrees, however, and states that a *rav* may renounce his honor.

The example that follows (32b) is two stories of a *rav* who served their subordinates a drink, which was a sign of renouncing their honor. In spite of that, the *rav* was upset when his students did not stand before him. The *gemara* answers that even though the *rav* renounces his honor, he is still deserving of deference and respect in other ways.

This compromise of the *gemara* is picked up by Rambam¹⁹⁴ and here by Caro. The *rav* may renounce his honor, not requiring everything in detail, however the student must continue showing him a different level of respect.¹⁹⁵

Questions for Today

Take a minute to flip through the rest of this chapter concerning all the ways a student shows respect to their *rav*. In addition, think of the ways that we have applied those to other areas demanding respect for a mentor. Taking into consideration all of the reasons why these laws exist, the horizontal and vertical levels of honoring the *rav*, the parental relationship between student and *rav*, and elements of competition, think about the following questions:

- In what areas discussed might the *rav* want to renounce his honor?
 - Why would he want to do so?
 - What reaction might his students have to this?
 - What about other members of the community?
- In the other areas of mentoring that we have discussed, what elements of showing honor might a mentor wish to renounce?
 - Why would he/she want to do so?
 - What reaction might his/her mentees have to this?
 - What about other members of the community?
- In both of these situations, how can the “student” continue to show respect after the honor has been renounced?

¹⁹⁴ *Talmud Torah* 5:11

¹⁹⁵ Perhaps one reason is the view that standing before a sage is a Biblical commandment. (See *halakhah* 16 – section on standing before the *rav*, where Leviticus 19:32 is used as precedent for the practice)

33 אב The honor for your student should be as dear to you as your own.

Halakhic Process

We look once again¹⁹⁶ to *Mishnah Avot* 4:12 which states "Rabbi Elazar ben Shamua said, 'let the honor of your student be as dear to you as your own, [let] the honor of your friend be as your reverence for your *rav*, and [let] your reverence for your *rav* be as your reverence for the heavens'"

While Rambam ends his related chapter in the *Mishneh Torah* with this idea,¹⁹⁷ Caro uses this as the beginning of a concluding bookend. The chapter began with the comparison of the *rav* to one's father, and ultimately the *shechinah*,¹⁹⁸ using the *mishnah* from *baba Metzia* as a starting point. As we are about to look more closely at that *mishnah* and its provision that the student should care for himself over both his father and his *rav*, here we are reminded that the student himself, in spite of all that he must do to honor his superiors, takes an extremely high level of importance himself, in his own eyes and in the eyes of his teachers.

Rambam's concluding *halakhot* are taken from *Ta'anit* 7a, and the *gemara* continues from the section Rambam quotes to an interesting analogy. Isaiah 21:14 says, "Meet the thirsty with water," but Isaiah 55:1 says, "Ho, all that are thirsty, come for water." The Rabbis cited in the *gemara* take the conflict between these two verses and relate it to the relationship between *rav* and *talmid*. While they relate it to whether or not the *rav* brings students to him or the students initiate study with the *rav*, it is also referring to flow of information and the need for honor and respect. The student is thirsty for knowledge of Torah, and in some cases the *rav* will meet the thirsty student, and in others the student will need to come and find that knowledge. However, the *rav* is also thirsty for students, and in some cases the student will meet the thirsty *rav*, and in others the *rav* will need to come and find that student. In all of these cases, however, we learn that honor and respect must flow between them both.

Questions for Today

In many ways this *halakhah* is as much common sense as the original idea of respecting the *rav*. We have already seen that the student learns simply from spending time with the

¹⁹⁶ See *halakhah* 2

¹⁹⁷ 5:12 Just as students are obligated in honoring their *rav*, so too the *rav* must honor his students and attract them [to study with him]. Thus the sages said, "let the honor of your students be as dear to you as your own..." For one must take care of his students and love them, for they are sons of delight in this world and in the world to come.

5:13 Students add to the wisdom of the *rav* and broaden his heart. Thus said the sages, "Much is the wisdom I have learned from my *rav*, more from my colleagues, but from my students [I have learned] more than from all of them." Like a small tree lights a big fire, so does the mere student sharpen the *rav* as their emanates from him marvelous wisdom in his questions.

¹⁹⁸ God's presence on Earth

rav,¹⁹⁹ and if the *rav* is teaching by example, we would hope that he was showing the student respect in return of the respect he was receiving. In addition, we have spoken about how the actions of the student ultimately serve as a reflection of the *rav*, therefore it would make sense that the honor to the student would be as dear to the *rav* as his own honor, and we could transplant that into the other areas about which we have spoken.

That said, many teachers, bosses, and even rabbis do not show this kind of respect to those under them. Power has the ability to make people forget the results of their actions, and therefore a *halakhah* like this one is necessary.

- Why might the temptation to treat subordinates without respect exist?
- How could the person in power keep this temptation controlled?
- What could someone who feels that they are not being respected do in such a situation?

¹⁹⁹ *Halakhot* 19-20

34 לר [Regarding the *mitzvah* to return the] lost property of one's father and one's *rav* (*muvhak*), the lost property of the *rav* is first [in priority to be returned.] And if the father is comparable [in knowledge] to his *rav*, the lost property of his father comes first [in priority to be returned.]

If his father and his *rav* are carrying a load, he assists his *rav* [first], and afterwards assists his father.

If his father and his *rav* are being held captive, he ransoms his *rav* [first] and afterwards he ransoms his father. But if his father is a wise scholar, he ransoms his father first and afterwards ransoms his *rav*.

And [likewise it is Ashkenazi practice that] he releases the load [of his father] before his rav [if his father is also a scholar], even if he is not comparable in wisdom to his rav. Some say that all of these [halakhot in which] his rav takes priority over his father applies only when the rav teaches the student without payment, but if his father hires the rav to teach [his son, then the son helps] his father first in all instances. It seems to me that this is the correct ruling.

Halakhic Process

We continue to see bookends between the beginning of the chapter and its conclusion as we return once again to the *mishnah* found on *Baba Metzia* 33a that we saw was an important text for *halakhah* 1.

The *mitzvah* to return lost property comes from Deuteronomy 22:1:

If you see your fellow's ox or sheep gone astray, do not ignore it; you must take it back to your fellow.

As the *mitzvah* gives us a general principle, the *halakhot* related to that *mitzvah* are intended to provide details on different ways in which the *mitzvah* should be carried out, and with regard to this *mitzvah* one of those details is the order in which lost property should be returned. The *mishnah* teaches that reverence for one's *rav* is greater than reverence for one's father as their father brings them into this world, but their *rav* brings them into the world to come. Nevertheless, we see quite a bit of compromise made in this *mishnah* and its interpretation in strengthening the position of the father.

With regards to returning lost property, assisting with a load, and ransoming a captive, the *rav* takes precedence over the father, but, if the father is also a scholar, he comes first. Here, however, we have some conflict. The *mishnah* simply states, if the father is a scholar, however Caro says, at least with regard to lost property, that the father must be a scholar *equal in knowledge* to the *rav*, although for ransoming a captive, the father simply has to be a scholar. Caro's *halakhah* seems to come from the Rosh,²⁰⁰ and it is possible that he had a different version of the *mishnah*.

200 *Baba Metzia* 2:30

Isserles addresses this conflict and presents another leniency towards the father. He says that if the student's father is also a scholar, even if he is not comparable to the *rav* he should assist his father first in all these situations. In addition, **if his father is paying the *rav* for his teaching, the father is assisted first.** In other words, according to Isserles' reading and *Ashkenazi* practice, the father can fulfill the *mitzvah* of teaching his children by hiring someone else to do it, and in that way he brings his child into both this world and the world to come. By hiring the *rav*, it is as if the father were teaching his son himself, and he does not lose any of the honor due to him.

Isserles finds this provision in the *Sefer Chasidim*²⁰¹, a work attributed to Rabbi Judah he-Hasid of Regensburg, Germany. This medieval ethical work contains the teachings of the *Chasidei Ashkenaz*, a 12th-13th century movement formed to combat Christian oppression and preach martyrdom (*Kiddush ha-Shem*). In being an ethical work rather than a halakhic work, the *Sefer Chasidim* is concerned with the uniqueness each case may present and takes social relationships and psychology into consideration.²⁰² Thus it is fitting that such a work would be concerned about the relationship between father and son when the father is not the son's primary teacher. Therefore, providing that the father is giving a salary to the *rav* for teaching his son, the *Sefer Chasidim* teaches that his lost property is returned first, which Isserles infers to mean that in all of these cases, the father is assisted first.

Questions for Today

Up to this point, the parent reading this chapter might have been quite disturbed. They bring their children into this world, but the *rav* brings them into the world to come!? If both the father and the *rav* are being held captive, the child helps the *rav* first?! However, here we see several concessions made to the worth of the parent. If the father is comparable in knowledge and in some interpretations simply knowledgeable period, he is helped first and takes on many of the qualities of the *rav muvhak* to his child, and according to the *Sefer Chasidim*, simply by paying the *rav* for his services, the father becomes the first priority of his child.

- Is it more important for the parent to be able to do everything for their children or to make sure that someone qualified to do so is doing so?
- What would you say to a parent who wanted to educate their child personally but did not have the proper education or qualification to do so?
- While we are speaking predominantly about education, how would you relate this to a parent who spends very little time with their children but hires someone to take care of them?
 - Are they free from their obligation simply because their child is not left unattended?

סימן תקפ"ה ספר החסידים: מילי דחסידותא. הוצאה חרשה: ירושלים שנת תשנ"ב 201

202 "Hasidei Ashkenaz" Encyclopedia Judaica

"Hasidim, Sefer" Encyclopedia Judaica

35 לה [The student's own] lost property precedes [the lost property of both] his father and his *rav*.

Halakhic Process

The *mishnah* discussed in the previous *halakhah* (*Baba Metzia* 33a) actually begins with this provision. If the student can only retrieve one lost item and there is an option of his own item or that of **either his father or his *rav***, his own item takes priority. Only then do we see that the item of the *rav* takes priority to that of the father.

While the *mishnah* gives the student the right to claim his own property first, the *gemara* warns of the risks of doing so.²⁰³ Rab Yehuda said in the name of Rav [that this provision has basis in the text of Deuteronomy 15:4 where we read] "There shall be no needy among you." [From this we learn that] your [property] comes before that of all other men. But Rav Yehuda said in the name of Rav, "anyone who conducts himself in this way [will] in the end come to [the neediness he was avoiding]." We are reminded of the words of Hillel: If I am not for myself, who will be for me? If I am only for myself, what am I?²⁰⁴ These two teachings together remind the student that while he is allowed to let his own self take precedence over all others, he should be weary of always placing himself first.

In conclusion, one interesting provision is found on *Horayot* 13a where it states in cases of being captured, the individual comes before his *rav*, his *rav* comes before his father, and his mother comes before them all.

Questions for Today

It is very interesting that while the student has the right to retrieve his own property the *gemara* warns him from doing so. While the message of helping yourself first could show selfishness and disrespect, as the *gemara* recognizes, the *halakhah* states that you have the right to do so, acknowledging the importance of self-respect in spite of one's own status.

- What is an example of a time when you might help yourself before helping your superior?
 - What would the potential consequence be?
- When would you help your superior first?
 - What would the potential consequence be?

203 *Baba Metzia* 33a

204 *Mishnah Avot* 1:14

36 ה If someone says to his colleague, I would not accept [your opinions] even if you were like Moses, [you should] flog him for disgracing [the Torah].

[Concerning] The Torah scholar who states a halakhic principle on a matter pertaining to himself:

If he had said [the same thing in a previous decision not pertaining to himself] before this case, they listen to him [and accept his decision.] But if not, they don't listen to him. And this applies specifically if he says: Thus did I receive it [as a tradition from my teachers], but if he said something from logical speculation [on the basis of his own reasoning] and he is convincing in his argument and he seems [to be correct] they listen to him. But they don't listen to [him if it is] a matter pertaining to himself because he may make analogies that are improper. But if it is a simple [issue, and the law is clear in the sources] we listen to him [even in a matter pertaining to himself.]

Halakhic Process

It appears as though Isserles' gloss is related more strongly to the next chapter which relates to issues of honoring a Torah scholar, however Caro's statement himself can serve as some sort of conclusion to the chapter on honoring one's *rav*.

More than an issue of *kavod rabo*, honoring one's *rav*, this seems to be an issue of giving honor to the Torah. In the *Beit Yosef* Caro sends us to *Chullin* 124a. While the issue at hand is irrelevant to this particular *halakhah*,²⁰⁵ the *gemara* relates a teaching which was unacceptable to a particular sage. R. Ami says to R. Oshaya regarding the unacceptable teaching of Ulla, "If Joshua the son of Nun had said this to me, I would not have listened to him." Caro tells us that R. Ami's use of Joshua the son of Nun shows that even in the most extreme of cases one could not use Moses' name, thus inferring a possibility that he could question the Torah.

Ultimately, the issue of honoring one's *rav* is an issue of honoring the Torah: honoring Jewish tradition. When one shows disrespect their *rav*, therefore, they are showing disrespect to that tradition, and in saying that they would not accept a teaching, be it from a student, a *rav*, or a stranger on the street, even if it were from the mouth of Moses, they are verbalizing that disrespect to the point that, according to the *halakhah*, deserves punishment.

Questions for Today

While such a comment as described in the *halakhah* may not be a standard reply, we see here a connection between our relationships to other humans and an ultimate connection to God, Torah, and the people Israel. Whether it be a rabbi, a teacher, a boss, or a colleague, the way we speak to each other, the way we act with each other, and the respect that we either show or do not show to each other are an ultimate reflection on

²⁰⁵ The *mishnah* is discussing a small piece of meat that remains attached to an animal's hide, and whether or not that small piece of meat would make the hide unclean.

who we are and the influences we have received.

- Has the study of the previous chapter affected the way that you look at your life and your professional relationships in any way?
 - How might that change reflect your relationship to God?
 - How might that change reflect your understanding of Torah?
 - How might that change impact your connection to the Jewish people?

Appendix A
Mishneh Torah: Hilkhot Talmud Torah - Chapter 5²⁰⁶

1) Just as a man is commanded to honor and revere his father, so it is his duty to honor his teacher and to fear him more than his father. For his father brings him into the life of this world but it is his rabbi who teaches him wisdom and brings him to life in the world to come. If he sees something lost by his father and his rabbi, his rabbi's loss comes before his father's. If his father and his rabbi are carrying loads, he helps the rabbi and after that his father. If father and rabbi are captured, the rabbi should be ransomed first and after that his father. If his father is a scholar, he is ransomed first, even if his father is not so learned as the rabbi, and his lost possessions should be brought back first and the rabbi's afterwards. There is no greater honor than that due to a rabbi and no greater reverence than that of the teacher. Because of this, it was said by the sages: "fear your master as you fear Heaven." So they said: "Whoever disputes with his rabbi it is as if he disputes with the *Shechinah*. As the verse says: "They strove against the Lord" (Numbers 26:9). When someone quarrels with his rabbi, it is as if he quarreled with the *Shechinah*. As the verse says: "Because the children of Israel strove with the Lord, and He was sanctified in them" (Numbers 20:13). Anyone who complains of his teacher, it is as if he spoke ill against the Lord. As the verse says: "Your murmurings are not against us but against the Lord" (Exodus 16:8). Anyone who has suspicions about a rabbi, it is as if he suspects the *Shechinah*. As the verse says: "And the people spoke against the Lord and against Moses" (Numbers 21:5).

2) Who is thought to be in opposition to his master? He who sets up a school and settles down and gives instruction and teaches without permission from his master who is still alive, and even if he is in another district. It is forbidden even to instruct in front of the teacher, and anyone who gives a decision on law in the presence of his rabbi deserves death.

3) If there are twelve miles distance between a man and his rabbi and someone asks him a question about the Law, he is allowed to answer. To guard against a forbidden act, it is permissible to answer in the teacher's presence. For example, if someone sees a man doing something forbidden who does not know that it is forbidden, or because of wickedness, it is a duty to prevent him and say to the doer, "that is forbidden," even in the presence of the rabbi although the rabbi did not give him permission. For all cases of profanation, one is not in duty bound to honor the teacher. When does this apply? When it is an occasional happening. However, if a man appoints himself to teach and answer questions, that is forbidden even if he and his rabbi are worlds apart in distance. That holds until his rabbi dies or has given permission. Not everyone whose rabbi has died has permission to establish himself to teach Torah, but only if he is a pupil who is fully qualified to teach.

²⁰⁶Translated from the Hebrew by H.M. Russel and Rabbi J. Weinberg. Reproduced from *The Book of Knowledge from the Mishneh Torah of Maimonides*, New York, KTAV Publishing, 1983 with permission from KTAV Publishing

4) A student who is not fully qualified to teach and who still instructs is certainly wicked, foolish and conceited. Of such, the verse says: "For she hath cast down many wounded; yea many strong men have been slain by her" (Proverbs 7:26).²⁰⁷ Similarly, a scholar, who has reached the rank of an instructor and does not teach, surely withholds the Torah and puts stumbling blocks before the blind, as the above verse says. They are students who have not studied Torah as much as is necessary and want to advance themselves among the illiterate or among their own people, and push themselves forward and sit in judgment to instruct Israel. They increase divisions and lay waste the world, and put out the lamp of the Torah and ruin the vineyard of the Lord of Hosts. Solomon in his wisdom said of them: "Take us the foxes, the little foxes, that spoil the vines" (Song of Songs 2:15).

5) It is forbidden for a pupil to call his rabbi by his name, even in his absence, but he may use a title by which he is recognized. A pupil should not mention the teacher's name in his presence or even the name of someone of the same name as his teacher, just as he does with his father's name. He must refer to him by title even after death. The pupil may not greet his rabbi or return greetings to him in the way he greets and replies to his friends. He should bow to him and speak with reverence and respect, and say: "Peace to thee, my master." If his rabbi greets him, he should reply: "Peace to thee, my master and my teacher."

6) He should not remove his phylacteries in the presence of his rabbi and should not recline but sit as if in the presence of a king. He should not pray in front of his master, nor behind his back, nor at his side. Needless to say, he may not walk beside him but must keep behind him, but not directly behind him; there he may pray. He should not enter the bath house with his master. He may not sit in his master's seat, nor compromise his opinions, nor contradict them. He ought not to sit down in his master's presence until told to do so, nor stand up in his presence until told to stand or has permission to stand. When he leaves his rabbi, he must not turn his back but must retreat facing him.

7) He is obliged to rise if he sees his rabbi coming, as far as his eyes can see, and not until the rabbi disappears and his form cannot be seen may he sit down. It is a duty to visit one's rabbi on the festivals.

8) No special honor should be paid to a student in the presence of his rabbi unless his rabbi was in the habit of honoring him. All the work which a servant does for his master, the pupil does for his rabbi. If he is in a place where he is not known and has no phylacteries and fears that he will be taken for a servant (slave), he is not obliged to fasten on or loosen his masters' shoes. Any teacher who prevents his pupil from serving him deprives him of loving kindness, and severs his fear of Heaven. A pupil who cheapens anything about the honor of his rabbi causes the *Shechinah* to depart from Israel.

²⁰⁷She here means harlot, the symbol of the wicked, foolish, conceited one

9) If a pupil sees a rabbi doing something wrong, he should say to him: "Our master you taught us this and thus." Anytime he quotes what he heard in his presence, he must say: "Thus our teacher taught us master." He may not repeat anything that he did not hear from his teacher without giving the name of the person from whom he heard it. When a rabbi dies, as a sign of mourning a pupil rends his garment until his chest is exposed and should never mend it. When does this apply? For his distinguished master from whom he learned most of his wisdom. But if he did not learn such wisdom, then he is no more to him than a fellow student and he is not obliged to give honor in these ways. On his teacher's death he must rend his garments as he rends it for all whose death he mourns. Even if he only learned one thing, whether small or great, he must stand up before him and rend his garment.

10) No scholar of mature intelligence gives an opinion in front of someone who is greater in wisdom than he is, even although he has learned nothing from him

11) The distinguished rabbi who wishes to forgo the honors associated with these matters, or even one of them, for all his students, or even just one of them, is allowed to do so. However, a disciple is obliged to honor even at times when he forgoes all honor.

12) Just as the pupils have a duty to honor the rabbi, so the rabbi has need to honor and attract them. The sages said: "Let the honor of your students be cherished like your own." For one must take care of the students and love them like one's children, for the students are the sons of delight in this world and in the world to come.

13) Pupils add to the master's wisdom and broaden his heart. The sages said: "Much wisdom have I learned from my masters, more from my friends, but most from my pupils." Even as a small twig kindles a great fire so a little pupil stimulates the rabbi and there goes out from his questions marvelous wisdom.

Appendix B

שולחן ערוך יורה דעה סימן רמב

סעיף א

חייב אדם בכבוד רבו ויראתו יותר מבשל אביו. הגה: אביו שהוא רבו מובהק, קורא אותו בדבריו: רבי, אבל ברבו שאינו מובהק, קורא אותו: אבא. (סברת הרב ממשמעות הטור ומש"ס ר"פ הזהב).

סעיף ב

כל החולק על רבו, כחולק על השכינה. וכל העושה מריבה עם רבו, כעושה עם השכינה. וכל המתרעם עליו, כאילו מתרעם על השכינה. וכל המהרהר אחר רבו, כמהרהר אחר השכינה.

סעיף ג

איהו חולק על רבו, כל שקובע לו מדרש ויושב ודורש ומלמד שלא ברשות רבו, ורבו קיים אף ע"פ שהוא במדינה אחרת. הגה: אבל מותר לחלוק עליו באיזה פסק או תוראה, אם יש לו ראיות והוכחות לדבריו שהדין עמו (פסקי מהרא"י סי' רל"ח).

סעיף ד

אסור לאדם להורות לפני רבו לעולם, וכל המורה לפניו חייב מיתה. הגה: ואפילו נטילת רשות לא מהני תוך שלשה פרסאות, אם הוא רבו מובהק. (ב"י בשם תוספות פ"ק דסנהדרין ומהרי"ק שורש ק"ע/קס"ט/ ואגודה שם וסמ"ק סוף עשין י"ג בשם ר"י ופרק אע"פ). ואם הוא רחוק מרבו י"ב מיל, ושאל לו אדם דבר הלכה בדרך מקרה, יכול להשיב. אבל לקבוע עצמו להוראה ולישב ולהורות, אפילו הוא בסוף העולם, אסור להורות עד שימות רבו או עד שיתן לו רשות. הגה: וכל זה ברבו מובהק, אבל בתלמיד חבר, אפילו תוך שלשה פרסאות שרי (רי"ף ורמב"ם כדאיתא בבית יוסף ותוספות והרא"ש וכ"כ הג"מ פ"ה מזהלות ת"ת). וי"א דמ"מ לפני רבו ממש אסור (ריב"ש סי' רע"א), ואפילו שלא בפניו ממש, אם התחילו בכבוד הרב לומר שישאלו לרב, או שהרב מופלג בחכמה חקנה, אין להורות בעירו. (בב"י מגמרא בפ' הדר). וי"א דתלמיד גמור תוך י"ב מיל חייב מיתה, אם הוא מורה. חוץ לי"ב מיל, פטור אבל אסור. הגה: וי"א דחוקא ברגיל לבא לעירו של תלמיד. אבל אם אינו רגיל לבא שם, רק בדרך אקראי, מותר, כל שהוא תוך ג' פרסאות (מרדכי בשם ריב"א). תלמיד חבר תוך י"ב מיל, פטור אבל אסור. וחוץ לי"ב מיל, מותר. אע"פ שננטל רשות מרב אחד, לא סגי, עד שיטול רשות מכל רבותיו המובהקים. הגה: והאי מובהקים לא טייר כשאר רבו מובהק שרוב חכמתו ממנו, דא"כ לא אפשר להיות לו הרבה רבותיו מובהקים, אלא ר"ל תלמיד גמור, לאפוקי תלמיד חבר דהיינו שנתגדל בתורה ונעשה חבר לרבו, דהיינו שהוא קרוב להיות גדול כרבו. (מהרי"ק שורש ק"ע וב"י בשם רשב"ם פ' י"ג נוחלין). מיהו יש חולקין וסבירא להו דאי קבל רשות מרבו אחד, מתי להורות חוץ לג' פרסאות. (תשובת הרשב"א סי' ק"א וריב"ש סי' רפ"א/רע"א). אבל תוך ג' פרסאות, לא מהני ליה. וי"א דכל שאינו רבו מובהק, דהיינו שאין רוב חכמתו ממנו, תלמיד חבר הוא (ב"י בשם הרמב"ם).

סעיף ה

אין תלמיד יכול לסמוך אחרים במקום רבו.

סעיף ו

אם לא קבל הנסמך הסמיכה מיד הרב שהוא הסומך אלא ע"י רבנים אחרים, והוא נעשה להם סניף, אין לאותו הרב להשתרר עליו כלל אם אינו רבו. הגה: אבל אם סמכו לבדו, נהגו שהנסמך כפוף קצת לסומכו. (מהרי"ק שורש קי"ז וקי"ג). וכן מי שלומד בישיבה זמן אחד, נהגו לומר שהוא תלמיד בעל הישיבה, אע"פ שאפשר שבעל הישיבה שמע יותר חידושים ממנו, ויש למנהגים אלו עיקר על מה שיסמוכו (בפסקי מהרא"י).

סעיף ז

לא מקרי הוראה אלא בשמורה על מעשה שבא לפניו, אבל אם שאלו לתלמיד הלכה כדברי מי, יכול לומר מה שבדעתו, כיון שאינו מורה על מעשה שבא לפניו.

סעיף ח

לא מקרי הוראה אלא בדבר שיש בו חידוש לשואל, אבל בהוראה ידועה שהיא פשוטה לכל, כגון נותן טעם לפגם או לבטל איסור בששים וכיוצא באלו, מותר.

סעיף ט

יש מי שכתב שכל הכתוב בספרים מפסקי הגאונים יכול להורות בימי רבו, רק לא יורה דבר מלבו ולא יסמוך על ראיותיו לדמות מילתא למילתא מעצמו.

סעיף י

יש מי שכתב שאסור לחכם להתיר דבר התמוה שנראה לרבים שהתיר את האסור.

סעיף יא

לאפרושי מאיסורא, כגון שרואה אדם שעובר עבירה מפני שאינו יודע שהוא אסור, או מפני רשעתו, מותר להפרישו ולומר לו שהוא אסור, בפני רבו, שבכל מקום שיש חילול השם אין חולקין כבוד לרב.

סעיף יב

אם בני ביתו של תלמיד הוצרכו להוראה ושאלו לו, לא יורה להם במקום רבו. (ולא כל מי שמת רבו מותר לישב ולהורות, אא"כ הגיע להוראה). (טור בשם הרמב"ם).

סעיף יג

תלמיד שלא הגיע להוראה ומורה, הרי זה שוטה רשע וגם רוח, ועליו נאמר: כי רבים חללים הפילה (משלי ז, כו). הגה: ותלמידים הקסנים הקופצים להורות ולישב בראש, להתגדל בפני עמי הארץ, מרבים מחלוקת ומחריבים העולם ומכבין נזה של תורה. (טור מהרמב"ם). ויזהר כל אדם שלא יורה כשהוא שתוי יין או שאר דברים המשכרים, אפילו בדבר פשוט, אם לא שהוא דבר ברור בפוסקים וזיל קרי בי רב הוא. (ת"ה סימן מ"ב ובמהרי"ק שורש ק"ע/קס"ט/ועם"ק י"ט). עיין בחושן המשפט סי' ז'.

סעיף יד

כל חכם שהגיע להוראה ואינו מורה, הרי זה מונע תורה ונותן מכשולות לפני רבים, ועליו נאמר: ועצומים כל הרוגיה (משלי ז, כו). הגה: ענין הסמיכות שנהגו בזמן הזה, כדי שידעו כל העם שהגיע להוראה ומה שמורה הוא ברשות רבו הסומכו, ולכן אם כבר מת רבו א"צ לסמיכות. וכן בתלמיד חבר, בדרך שנתבאר לעיל, במקום שא"צ רשות א"צ סמיכות. (ריב"ש סימן רע"א ודלא כנחלת אבות פ' שני חכמים). וי"א דמי שאינו מוסמך למוריט ונותן גיטין וחליצות, אין במעשיו כלום, ויש לחוש לגיטין וחליצות שנתן, אם לא שידוע לכל שמומחה לרבים הוא רק שמצד ענוה ושפלות אינו מבקש גדולות. (מהר"ד כהן סי' כ' ומהרי"ו סי' פ"ה וקכ"ב). ויש חולקים ומקילין (תשובת ריב"ש הנ"ל). ובמקום ענוה יש להקל אם כבר נתן גיטין וחליצות, אבל לא בדרך אחר, כי מנהגן של ישראל תורה, כן ג"ל. ועוד נ"ל שמותר לתת מוריט לאחד שיסדר גיטין, ואף על פי שמדין הסמיכה שבימים הראשונים לא הוי דינא הכי, מ"מ עכשיו אינו אלא נטילת רשות בעלמא ושרי.

סעיף טו

אסור לתלמיד לקרות לרבו בשמו, לא בחייו ולא במותו, ואפילו לקרות לאחרים ששמו כשמו אסור, אם הוא שם פלאי שאין הכל רגילין לקרות בו. הגה: אבל שם שרגילין בו, מותר להזכיר שלא בפני רבו. (ב"י בשם הרמב"ם). וכל זה דוקא כשאינו מזכיר רק שמו לבד, אבל מותר לומר: ר' מורי פלוני. (כן משמע מפי רש"י פ' חלק).

סעיף טז

לא יתן שלום לרבו ולא יחזיר לו שלום, כדרך שאר העם, אלא שוחה לפניו כה ואומר לו ביראה ובכבוד: (שלום עליך רבי, ואם נתן לו רבו שלום, אומר לו: שלום עליך מורי ורבי. (וכן נוהגין. וי"א דאין לתלמיד לשאול בשלום רבו כלל, שנאמר: ראוני נערים ונחבאו (איוב כח, ט)). (ירושלמי הביאו הנהגת מיימני פ"א וכו"כ תא"ו נתיב ב' וב"י בשם רבינו יונה). ולא יחלוץ תפיליו לפני רבו ולא יסב לפניו, אלא יושב כיושב לפני המלך. (היה רבו יושב בסעודה עם אחרים, כן נוטל רשות מרבו ואח"כ מאחרים). (רוקח סימן של"ה). ולא יתפלל לפניו לא לאחריו ולא בצדו, ואין צריך לומר שאסור להלוך בצדו, אלא יתרחק לאחר רבו. ולא יהא מכוון כנגד אחריו, אלא יצדד עצמו לצד אחר, בין כשמתפלל עמו בין כשהולך עמו. וחוצ' לד' אמות, הכל מותר. (ועיין בא"ח סי' צ"ד). ולא יכנס עמו למרחץ אא"כ הוא צריך לו. הגה: ואם היה התלמיד במרחץ קודם לרבו, ובא רבו לשם, א"צ לצאת. (מהרי"ו בדינין). וכל זה לא מירר אלא במקום שהולכים ערומי ערוה במרחץ, אבל

במקום שהולכים במכנסים, מותר. (אגודה פ' מקום שנגדו) וכן המנהג פשוט ליתכנס עם רבו ואביו וחמיו ובעל אמו ובעל אחותו למרחץ, אע"פ שבגמרא אסרו כולם, והכל הוא מטעם דעכשיו הולכים במכנסים. ולא ישב לפניו, עד שיאמר לו: שב, ולא יעמוד, עד שיאמר לו: עמוד, או עד שיטול רשות לעמוד. וכשנפטר מלפניו לא יחזיר לו אחוריו, אלא נרתע לאחוריו, ופניו כנגד פני רבו. הגה: והנפטר מרבו ונטל ממנו רשות ולן בעיר, צריך לחזור וליטול ממנו רשות (ש"ס פ"ק דמ"ק ור' ירוחם). ודוקא שלא אמר לו מתחלה שרוצה ללון בעיר, אבל אם הגיד לו בשעה שנשל רשות, א"צ לחזור וליטול ממנו רשות. (הר"ן שם). ולא ישב במקומו; ולא יכריע דבריו בפניו; ולא יסתור דבריו. וחייב לעמוד מפניו, משיראנו מרחוק מלא עיניו לה עד שיתכסה ממנו שלא יראה קומתו, ואח"כ ישב. ואפילו היה רכוב, צריך לעמוד מפניו, דחשיב כמהלך. הגה: י"א דאין אדם חייב לעמוד לפני רבו, רק שחרית וערבית. (טור בשם הרמב"ם). ודוקא בבית הרב, אבל בפני אחרים שאין יודעים שעמד לפניו, חייב לעמוד. (ב"י בשם התוס' ומרדכי בשם ר"י וע"פ).

סעיף יז

שלשה שהיו מהלכים בדרך, הרב באמצע, הגדול לימין, והקטן לשמאל. הגה: והא דאין מכבדים בדרכים אלא בפתח הראיה למזוזה, היינו שכל א' הולך לדרכו ואינו בחבורה אחת, אבל אם הם בחבורה אחת, מכבדים בדרכים. (הגהות מ"י פ"ו דהל' ת"ת ובתוספות פרק במה בהמה). ובמקום סנה, א"צ לכבד כלל. (מרדכי בשם ראב"ה פ' שלשה שאכלו).

סעיף יח

אם קראו לרבו לקרות בתורה בצבור, אינו צריך לעמוד כל זמן שרבו עומד. הגה: וכן כשהרב עומד למעלה בבית, והתלמיד על הקרקע, א"צ לעמוד לפניו. אפי' כשהס"ת על הבימה, אין צבור שכבה"נ צריכים לעמוד, דהספר ברשות אחרת (ב"י בשם תשובת הרשב"א).

סעיף יט

כל מלאכות שהעבד עושה לרבו תלמיד עושה לרבו. ואם הוא במקום שאין מכירין אותו, ואין לו תפילין בראשו, וחושש שמא יאמרו עליו שהוא עבד, אינו נועל לו מנעל ולא חולצו.

סעיף כ

כל המונע תלמידו מלשמשו מונע ממנו חסד ופורק ממנו יראת שמים. וכל תלמיד שמזלזל דבר מכל כבוד רבו, גורם לשכינה שתסתלק מ ישראל.

סעיף כא

אין חולקין כבוד לתלמיד בפני רבו, אלא אם כן רבו חולק לו כבוד. הגה: ואפילו תלמידו של התלמיד או בנו של התלמיד אין להם לעמוד לפני הרב נגד רבו או אבי התלמיד, אלא אם כן הרב חולק לו כבוד. ודוקא אם הרב הוא כן רבו של זה היושב לפניו. (ב"י בשם שבולי לקט).

סעיף כב

ראה רבו עובר על דברי תורה, אומר לו: למדתני רבינו כך וכך. הגה: ואם רצה לעבור רק על איסור דרבנן, אפילו הכי צריך למחות בידו. (ת"ה סימן מ"ג). הוואה רבו עושה מעשה, ויש לו להקשות על זה, אם הוא איסור דאורייתא יקשה לו קודם המעשה, ואם הוא איסור דרבנן, יניחו לעשות המעשה ואח"כ יקשה לו, הואיל ואינו יודע ודאי שעובר, אלא שיש לו להקשות על זה (תא"ו נתיב כ').

סעיף כג

כל זמן שמזכיר שמועה בפניו אומר לו: כך למדתני רבינו.

סעיף כד

לא יאמר דבר שלא שמע מרבו, עד שיזכיר שם אומרו.

סעיף כה

כשימות רבו, קורע עליו כל בגדיו עד שמגלה לבו. ויש אומרים שאינו קורע אלא טפח. ואינו מאחה לעולם. ומתאבל עליו בחליצה וכל דיני אבלות מקצת יום המיתה או מקצת יום השמועה.

סעיף כו

אפילו בשמועה רחוקה קורע על רבו כשם שקורע על אביו. (וע"ל סי' ש"ט ושע"ד).

סעיף כז

מי שרבו מת מוטל לפניו, אינו אוכל בשר ואינו שותה יין, כדין מי שמתו מוטל לפניו.

סעיף כח

כשמוכיר רבו תוך י"ב חודש צריך לומר: הריני כפרת משכבו.

סעיף כט

רק בפני רבו, הוא בכלל כל משנאי אהבו מות (משלי ח, לו). הגה: דוקא כיו, שהוא דבר שיצא מגופו בכת, אבל רוק בעלמא, מותר, דאגס לרוק. (תא"ו נתיב ב').

סעיף ל

כל אלו הדברים שאמרנו שצריך לכבד בהם את רבו, לא אמרו אלא ברבו מובהק דהיינו שרוב חכמתו ממנו; אם מקרא מקרא, אם משנה, משנה; אם גמרא, גמרא. הגה: ובימים אלו עיקר הרבנות אינו תלוי במי שלמדו הפלפול וחילוקים שנוגעים בהם בזמן הזה, רק במי שלמדו פסק ההלכה והענין והעמידו על האמת והיושר. (מהרי"ק שורש ק"ע /קס"ט/). אבל אם לא למד רוב חכמתו ממנו, אינו חייב לכבדו בכל אלו הדברים, אבל עומד מלפניו משיגיע לארבע אמותיו וקורע עליו, כשם שהוא קורע על כל המתים שהוא מתאבל עליהם. אפילו לא למד ממנו אלא דבר אחד, בין קטן בין גדול, עומד מלפניו וקורע עליו. (ועיין לקמן סי' ש"ט סעיף ח').

סעיף לא

כל תלמיד חכם שדעותיו מכוונות אינו מדבר בפני מי שגדול ממנו בחכמה, אעפ"י שלא למד ממנו כלום. הגה: ואין לאדם להורות עד ארבעים שנה, אם יש גדול ממנו בעיר, אף על פי שאינו רבו. (ב"י בשם הר"ן וסמ"ק ורש"י פרק הנתנין). חכם שאסור, אין חכירו רשאי להתיר משקול הדעת, אבל אם יש לו קבלה שטעה, (רבינו ירוחם בשם י"א). או שטעה בדבר משנה, יוכל להתיר. (הר"ן פ"ק דעבודת כוכבים בשם ראב"ד ורשב"א ורמב"ן ז"ל ותוס' ורא"ש ור' ירוחם סוף נתיב ב'). ואפילו אם טעה בשקול הדעת, יכול לישא וליתן עם המורה עד שיחזור בו. (סברת הר"ן). ולכן אין איסור לשואל (לשאל) לשני (שם במדכ"י ואגודה ותוס' ורא"ש ור' ירוחם שם), וכלבד שיודיע אותו שכבר הורה הראשון לאסור. (רבינו ירוחם נתיב ב' ותוס' ורא"ש). ואפילו אם התיר הראשון וכבר חלה הוראתו, אין לשני לאסור מכח שקול הדעת. (כן משמע באשיר"י פרק קמא דע"א). וכל זה באותה הוראה עצמה, אבל במעשה אחר, פשיטא שיכול להורות מה שנראה אליו. (מהרי"ק שורש קע"ב /קע"א/ וחודשי רשב"א וע"פ).

סעיף לב

הרב המובהק שמחל על כבודו בכל הדברים האלו, או באחד מהם, לכל תלמידיו או לאחד מהם, כבודו מחול. ואף על פי שמחל, מצוה על התלמיד להדרו. (ואסור לבזותו). (פסקי מהרא"י סימן קכ"ז).

סעיף לג

יהי כבוד תלמידך חביב עליך כשלך.

סעיף לד

אבידת אביו ואבידת רבו (המובהק), (ב"י וטור ופוסקים מהש"ס) אבידת רבו קודמת. ואם היה אביו שקול כנגד רבו, אבידת אביו קודמת. היה אביו ורבו נושאים משאוי, מניח של רבו ואח"כ מניח של אביו. היה אביו ורבו עומדים בבית השבי, פודה את רבו ואח"כ פודה את אביו. ואם היה אביו תלמיד חכם, פודה את אביו ואחר כך פודה את רבו. הגה: וכן מפרק משא קודם לרבו, ואע"פ שאינו שקול בחכמה כרבו, אבל אין מחזיר אבידת אביו קודם, עד שיהא שקול כנגד רבו. (טור בשם הרא"ש והגה"מ וב"י הוכיח כן ע"ש). י"א הא דרבו קודם לאביו היינו שלומד עמו בחנם, אבל אם אביו שוכר לו רבי ומלמד, אביו קודם לכל דבר. (ספר החסידים) וכן נראה לי עיקר.

סעיף לה
אבידתו קודמת לשל אביו ושל רבו.

סעיף לו
האומר לחבירו: איני מקבל ממך אם היית כמשה, מלקין אותו משום בזיון. הגה: ותלמיד חכם שאמר דבר הלכה בדבר השייך לדידה (תוס' בשם ר"ת ונ"י), אם אמרה קודם מעשה שומעין לו; ואם לאו, אין שומעין לו (ש"ס פ' הערל ריש דף ע"ז ותוס' ונ"י שם ד"מ ס"ס רמ"ה). ודוקא שאמר: כך קבלתי, אבל אם אומר דבר מסברא ומראה פנים לדבריו והוא נראה, שומעין לו. (נ"י בשם הריטב"א). אבל אין שומעין לדידה, דלמא מדמי דברים להדדי שאינן דומים. אבל אם הוא פשוט, שומעין לו. (רבינו ירוחם סוף נתיב ב' ובשם הרא"ש).

Bibliography

- "Alexander Suslin ha-Kohen of Frankfort." *Encyclopedia Judaica* CD-ROM v. 1.0. Keter Publishing House Ltd., 1997
- Ashkenazi, Shmuel. "Edels, Samuel Eliezer Ben Judah ha-Levi" *Encyclopedia Judaica* CD-ROM v. 1.0. Keter Publishing House Ltd., 1997
- Bar Ilan Responsa Project. CD-ROM. v.11. New York: Torah Educational Software, 2003.
- Berlin, Meir and S.Y. Zevin, eds. *Encyclopedia Talmudit*. Jerusalem: Talmudic Encyclopedia Institute, 1947-.
- Cohen, Boaz. *The Shulhan Aruk as a Guide for Religious Practice Today*. New York: 1940.
- Cohen, Philip. "Toward a Methodology of Reform Jewish Bioethics" *CCAR Journal* 52:3 (Summer, 2005), pp. 3-21
- Dan, Joseph. "Hasidim, Sefer" *Encyclopedia Judaica* CD-ROM v. 1.0. Keter Publishing House Ltd., 1997
- Elon, Menachem. Translated by Bernard Auerbach and Melvin J. Sykes. *Jewish Law: History, Sources, and Principles*. 4 vols. Philadelphia: The Jewish Publication Society of America, 1994.
- Epstein, Isadore, trans. *The Babylonian Talmud*. 29 vols. New York: The Soncino Press, Ltd. 1990.
- Epstein, Jehiel Michael ben aaron Isaac, ספר ערוך השלחן, New York: Jonathan Publishing Co., 1961-1992.
- Freehof, Solomon B., "A Reform View of Jewish Law." *Journey Through Judaism*, ed. Alan Bennet, New York: UAHC Press, 1991.
- _____. *Reform Jewish Practice and Its Rabbinic Background*. 2 vols. Combined edition (2 vols. In 1.) New York: Union of American Hebrew Congregations, 1963.
- _____. *Reform Judaism and the Law*. Cincinnati: Hebrew Union College Press, 1967.
- _____. *Reform Revaluation of Jewish Law*. Cincinnati: Hebrew Union College Press, 1972.

- _____. *Today's Reform Responsa*. Cincinnati: Hebrew Union College Press, 1990.
- Gottlieb, Efraim. "Nahmanides." *Encyclopedia Judaica* CD-ROM v. 1.0. Keter Publishing House Ltd., 1997.
- Guttmann, Alexander. *The Struggle over Reform in Rabbinic Literature During the Last Century and a Half*. New York: The World Union for Progressive Judaism, 1977.
- "Hasidei Ashkenaz." *Encyclopedia Judaica* CD-ROM v. 1.0. Keter Publishing House Ltd., 1997.
- Hecht, N.S, B.S Jackson, S.M. Passamaneck, D. Piattelli, and A.M. Rabello, eds. *An Introduction to the History and Sources of Jewish Law*. Oxford: University Press, 1996.
- Jacob, Walter. *Contemporary American Reform Responsa*. New York: Hebrew Union College Press: Central Conference of American Rabbis, 1987.
- Jacob, Walter, ed. *American Reform Responsa: Jewish Questions, Rabbinic Answers*. New York: Central Conference of American Rabbis, 1983.
- _____. *The Changing World of Reform Judaism – The Pittsburgh Platform in Retrospect*. Pittsburgh, Rodef Shalom Congregation, 1985.
- _____. *Beyond the Letter of the Law: Essays on Diversity in the Halakha – in honor of Moshe Zemer*. Pittsburgh: Rodef Shalom Press, 2004.
- _____. *Liberal Judaism and Halakha*. Pittsburgh: Rodef Shalom Press, 1988.
- Jacob, Walter and Moshe Zemer, eds. *Dynamic Jewish Law: Progressive Halakha*. Tel Aviv: Rodef Shalom Press, 1991.
- _____. *Re-examining Progressive Halakhah*, New York: Berghahn Books, 2002.
- Karo, Joseph ben Ephraim, שלחן ערוך, New York: Hotsa'at Hayil, 1952.
- Maslin, Simon J., ed. *Gates of Mitzvah*, New York: Central Conference of American Rabbis, 1979.
- Martin, Bernard ed. *Contemporary Reform Jewish Thought*. Chicago: Quadrangle Books, 1968.
- Mccarthy, Bernice. *About Learning*, About Learning, Inc. 2000.

- Mesora Heritage Foundation. *Talmud Bavli: The Schottenstein Edition*. Brooklyn: Mesorah Publications, 1998.
- Meyer, Michael A. *Response to Modernity – A History of the Reform Movement in Judaism*. Detroit: Wayne State University Press, 1988.
- Plaut, Gunther W. *The Rise of Reform Judaism – A Sourcebook of its European Origins*. New York: World Union for Progressive Judaism, Ltd, 1963.
- Plaut, Gunther W. and Mark Washofsky, ed. *Teshuvot for the Nineties*. New York: Central Conference of American Rabbis, 1997.
- Rabinowitz, Louis Isaac. "Shulhan Aruch." *Encyclopedia Judaica* CD-ROM v. 1.0. Keter Publishing House Ltd., 1997
- Russel, H.M. and Rabbi J. Weinberg trans. *The Book of Knowledge from the Mishneh Torah of Maimonides*, New York: KTAV Publishing House, Inc, 1983.
- Schanfarber, Tobias and Samuel Hirshberg eds. *Yearbook of the Central Conference of American Rabbis*, Volume 16. Chicago: Toby Rubovits, 1906.
- Schanfarber, Tobias, Samuel Hirshberg, and Joseph Stolz eds. *Yearbook of the Central Conference of American Rabbis*, Volume 17. Chicago: Toby Rubovits, 1907.
- Shapiro, Mark Dov. *Gates of Shabbat: A Guide for Observing Shabbat*. New York: Central Conference of American Rabbis, 1991.
- Twersky, Isadore. *Studies in Jewish Law and Philosophy*. New York: KTAV Publishing House, Inc. 1982.
- Washofsky, Mark. "Halachah, Aggadah, and Reform Jewish Bioethics: A Response" *CCAR Journal* 53:3 (Summer, 2006) pp 81-106.
- _____. *Jewish Living: A Guide to Contemporary Reform Practice*. New York: UAHC Press, 2001.
- _____. "Solomon B. Freehof and Reform *Halakhah*" Inaugural Lecture, Freehof Chair of Jewish Law and Practice. November 19, 2006. Publication Pending.
- Werblowsky, R.J. Zwi. "Caro, Joseph ben Ephraim." *Encyclopedia Judaica* CD-ROM v. 1.0. Keter Publishing House Ltd., 1997
- Yearbook of the Central Conference of American Rabbis*, Volume 1. Cincinnati: Bloch Publishing and Printing Company, 1891

Yearbook of the Central Conference of American Rabbis, Volume 4. Cincinnati: Bloch Publishing and Printing Company, 1893

Yearbook of the Central Conference of American Rabbis, Volume 6. Cincinnati: Bloch Publishing and Printing Company, 1896

Zemer, Rabbi Dr. Moshe, *Evolving Halakha: A Progressive Approach to Traditional Jewish Law*. Woodstock, VT: Jewish Lights Publishing, 1999.

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