

RESPONSES TO DIVINE WILL AND HUMAN EXPERIENCE

**Review of *Divine Will and Human Experience: Explorations of the Halakhic System and Its Values*
by Professor Gabriel Danzig, Bar Ilan University**

Rabbi Aryeh Klapper has produced a work of halacha which makes the principles and issues of Jewish Law accessible to intelligent readers with a moderate background in the subject. His ability to bring the most varied sources and considerations into the discussion of the practical issues of everyone's life is only one of the major innovations this work offers. He adopts what may be called a "Socratic" or "aporetic" approach to halacha, aiming not at imposing his decisions on the reader, but at enabling the reader to join him in an intellectual carnival of thought. What is even more remarkable is his ability to introduce an element of humor into what is often thought of as a dry area of research (Talmudic legal study). There is nothing frivolous about Rabbi Klapper's use of humor; it arises simply from the effort to present highly paradoxical and conflicting issues in the most concise manner possible. Humor is simply well-expressed insight. Indeed, the work is not only Socratic in nature, it is also an expression of the "spoudaiogeloion" quality of Talmudic literature itself, as noted by Professor Shaul Lieberman. In short, the book is a joyful romp through some of the most serious and challenging issues in Jewish life today.

<https://hammertown.substack.com/p/my-year-in-reading-2022>

My Year In Reading, 2022: 52-ish books in 52 weeks

by David Hammer, JAN 2, 2023

Divine Will and Human Experience

Rabbi Klapper is unambiguously brilliant, though this book would have benefited from more aggressive editing.

<https://www.jewishpress.com/sections/books/book-reviews/good-things-come-in-threes-2/2023/01/26/>

Good Things Come In Three: Review of *Divine Will and Human Experience*

By Rabbi David Wolkenfeld, 4 Shevat 5783 = January 26, 2023

Divine Will and Human Experience: Explorations of the Halakhic System and Its Values, the provocative new book by Rabbi Aryeh Klapper, dean of the Center for Modern Torah Leadership is, in truth, three separate books bound together under one cover. The greatest praise and the greatest criticism of this thin volume is that I hope each of those three books is written and published soon.

Modern Orthodoxy, so I understood as a young yeshiva student, shares a common religious worldview and basic lifestyle with all other forms of Orthodox Judaism with a few elements of modernity tacked on. We are Orthodox Jews who earn college degrees and wear modern clothing. Our Religious Zionist cousins are Orthodox Jews who serve in the IDF and live in neighborhoods alongside others, Orthodox and non-Orthodox alike, who do so as well. The conceit of this understanding was that our Orthodoxy was unchanged by the Modern and Zionist additions, like a computer that operates with the same essential hardware and software even if a new keyboard or monitor is added. Then I met Rabbi Aryeh Klapper, currently the dean of the Center for Modern Torah Leadership, who introduced me to an entirely different understanding of what Modern Orthodoxy could represent. According to Rabbi Klapper, that which distinguishes Modern Orthodoxy from other forms of Orthodox Judaism, from the superficial (e.g., modern clothing) to the sublime (e.g., opening the gates of the *beit midrash* to women as both students and as teachers), are not a series of ad hoc concessions, but flow from foundational commitments to freedom and human equality.

The first “book” spreads over thirteen chapters and offers a description of the primary foundational commitments of Modern Orthodoxy and sources them in Tanakh, Chazal, and their interpreters. Over several short chapters, Rabbi Klapper paints a picture of a form of Orthodox Judaism whose foundational beliefs include a commitment to the ideal of human freedom and human equality. These commitments are a more helpful grounding for understanding what precisely is modern about Modern Orthodoxy and how our modernity interacts with our Orthodoxy.

If a commitment to freedom and human equality is the foundation of the modern components of Modern Orthodoxy, Rabbi Klapper grounds our Orthodoxy in a commitment to a halachic process in which *poskim* and a community of faithfully observant Jews exercise joint responsibility over the shape of halacha. Rabbi Klapper mostly avoids an elaborate discussion of *ikarei emunah*, foundational doctrinal beliefs of Judaism, perhaps recognizing that grappling with faith principles is for many Orthodox Jews secondary to their commitment to Orthodoxy. According to Rabbi Klapper, what distinguishes those who identify as Modern Orthodox from non-Orthodox Jews is a willingness to abide by the decisions of *poskim* broadly recognized as such by the larger Orthodox community despite ethical qualms or plausible counter-arguments.

Orthodox Jews, for example, pray in synagogues with *mechitzot*, only count men towards a *minyan*, and refrain from electronic communications on Shabbat and *yom tov*. Any argument on behalf of Orthodoxy needs to emphasize why the outcome of the Orthodox halachic process is the most authentic and faithful response to the covenant at Sinai. For Rabbi Klapper, the covenant at Sinai both demands that an observant Jewish community submit to its *poskim*, while paradoxically empowering that community to endorse the *poskim* to whom they will submit.

Understanding our modernity as a commitment to freedom and equality and our Orthodoxy as a commitment to an Orthodox halachic process can offer contemporary Modern Orthodoxy a way out of decades of stale arguments pitting innovation against tradition. Core foundational beliefs can help us discern what sorts of innovations are consistent with our understanding of G-d’s will and what kinds of halachic discourse is an authentic continuation of the Jewish people’s covenant with G-d. For example, chapter 8 discusses the theoretical halachic position that converts will be eligible to sit on

the *Sanhedrin* in the messianic age and presents that position as a redemptive repair to a dissonant element of halacha as it currently exists. In chapter 26 Rabbi Klapper condemns an innovative new stringent practice of some *batei din* that discriminates against converts and which is based on weak textual precedent.

The second “book” is a series of essays by Rabbi Klapper on halachic topics in which he ably demonstrates his virtuosity, creativity, and humanity as a *posek*. Chapters 14-19 comprise a *teshuva* offering guidance for someone suffering from long covid and worried about fasting on Yom Kippur. Neither the Talmud nor the Shulchan Aruch discuss whether someone may eat and drink “less than minimal quantities” on Yom Kippur if they are facing a non-life-threatening health risk, despite the fact that such situations regularly arise. Rabbi Klapper fills in that lacuna by delineating and defining criteria that could justify such individuals eating and drinking by *shiurim* on Yom Kippur. In this section of the book Rabbi Klapper refers to manuscript evidence of slightly different versions of a key Talmudic text circulating in medieval Europe and traces its influence on some *rishonim*. He interrogates the logical basis for the halachic state of uncertainty or “*safek*” as it pertains to the maxim that we are lenient even with an uncertain risk to life when confronting a novel virus and an unknown syndrome. And he shows by example how a *posek* can act with compassion towards a Jew struggling with a frightening set of symptoms of uncertain severity while also acting with responsibility to the halachic tradition.

The third “book” is a collection of essays on *parshanut* each of which explores some facet of the unfolding stories of *Sefer Bereishit* and *Sefer Shemot* rounded out with two essays on *Nach*. These chapters are playful even as they deal with weighty topics of *parshanut* with serious contemporary implications. For example, a chapter titled “The Avraham Accords” investigates the treaty between Avraham and Avimelech and contrasts Rashbam’s condemnation of the treaty with Rav Kaminetzky’s praise recorded in his *Emet I’Yaakov*. Rabbi Klapper explicitly connects this question of *parshanut* to contemporary questions of Israeli diplomatic ties and weapons sales to despotic regimes.

Each of these three “books” is thought-provoking and has great merit, but the essays comprising them are too short to do justice to the fullness of Rabbi Klapper’s thought. Each chapter is derived from short weekly emails that Rabbi Klapper has been sending for the past decades. Although it is impressive that Rabbi Klapper has managed, over the course of many years, to distill complex thoughts on weighty topics into essays that can fit on a single double-sided page, the subject matter and Rabbi Klapper’s analysis deserve the space that the format of a normal book would allow. Indeed, Rabbi Klapper has now recorded 45-minute or longer audio *shiurim* developing these ideas; a book-length treatment should have allowed him to build conclusions from first principles, along with analysis and discussion that could extend over dozens of pages. Minimally, even in its current format, the book demanded a more thorough editing, removing URLs appropriate for their digital origins but which serve no purpose in printed form and adopting a consistent style of how and when to quote Hebrew primary texts.

Only the third “book” on *parshanut* is well-suited to short chapters, but it represents only a small fraction of Rabbi Klapper’s insights into Tanach. Rabbi Klapper’s pithy but profound perspectives, formulated piece-meal over time, have changed my understanding of numerous episodes in Scripture. These commentaries deserve to be brought together in a single volume covering at least the entire *Chumash*, so that they can be shared with a larger audience.

The Modern Orthodox community is in desperate need of creative and original *talmidei chachamim* who can help define and refine our distinct approach to Torah and *mitzvot*. Rabbi Klapper is such a *talmid chacham*, and this volume is a worthy introduction to his attempts to chart Modern Orthodoxy’s future path. But it is only a beginning, and we may hope that future presentations of his Torah take greater advantage of the possibilities of print to give ideas room to grow and expand. Each of these three “books” is thought provoking and has great merit, and I hope that Rabbi Klapper publishes each of these “books” as separate expanded volumes, so that each topic and genre of his writing can be presented in the format that it deserves.

<https://www.facebook.com/search/top/?q=Steve%20Gotlib%20Aryeh%20Klapper>

by **Rabbi Steven Gotlib**

"If you need a verse to tell you that you can't kill someone else to save your own life, then you can't interpret Torah properly at all. Your errors will cascade. But if there's no space for Torah to challenge even deeply held convictions, what is the point of learning?"

"With great kavod comes great public scrutiny, because people both want moral heroes and resist them."

"Halakhists who are judged incompetent to issue new stringencies are unlikely to succeed in implementing new leniencies."

"Halakhah is about using our freedom the way God used His."

"Every Jew has a right to participate in the process of halakhic interpretation, at every level."

Those are just a few of the gems that can be found in Rabbi Aryeh Klapper's "Divine Will and Human Experience: Explorations of the Halakhic System and its Values." The book is full of fascinating analyses of topics including chazaka in changing times, moral conflicts of interest, the interplay between halakha and reality, and how to apply the value of equality in halakhic contexts. There are also examples of some of Rabbi Klapper's own halakhic rulings and readings of various parshiyot.

I particularly appreciated the inclusion of brief summaries before each chapter. Rabbi Klapper's writing can be quite advanced, so they help centre the reader as they work through the material. Rabbi Klapper clearly wrote each article under the assumption that readers would need to actively engage with it, so the book is not exactly bedtime reading nor is it necessarily meant for beginners in the realm of halakha. Like the Center for Modern Torah Leadership itself, a high level or strong desire to reach one is expected upon entry.

I also very much appreciated Rabbi Klapper's willingness to include the suggestions and differing perspectives of his wife, Deborah Klapper, who clearly helped to work through much of his thoughts. It's rare that one sees a rabbi so directly reference the impact of his rebbetzin/rabbanit/whatever title spouses prefer so the transparency on that front was extremely refreshing. In fact, one of my favourite insights in the book was her suggestion that "if halakha and reality always correspond in probabilistic cases, we might mistakenly conclude that they always corresponded, period, and refuse to correct even the most egregious halakhic errors of fact."

Unfortunately, the book does suffer in some areas. The formatting and typesetting of chapters are very inconsistent. Some have footnotes while others have endnotes, and the font, text size, and text colour will often change on a moment's notice. That doesn't impact the content, obviously, but it can make for a bit of a distracting reading experience. Rabbi Klapper's Torah more than makes up for that, though. As does the cover, which is a 10/10.

All in all, this collection of articles is an excellent way to introduce yourself to Rabbi Klapper's unique style if you have yet to encounter it. Each chapter almost seems designed to provoke asking yourself difficult questions and coming out of the process thinking more deeply about your relationship with halakha and your responsibility to engage with it.

<https://www.sourcesjournal.org/articles/is-there-a-god-in-this-halakhah>

Excerpted from: “Is There a God in This *Halakhah*?” in *Sources: A Journal of Jewish Ideas*, Spring 2023

By (Rabbi) *Micha’el Rosenberg*, a member of the faculty at *Hadar*.

Those who share my desire for *halakhah* to have some kind of explicit relationship with the divine must articulate a reason and a mode for God’s involvement in our thinking about this subject. Why and how might God be essential to *halakhic* thinking?

It might be helpful to think about a way in which God’s involvement in *halakhic* thinking complicates the discourse. To the extent that *halakhic* texts—and especially the biblical passages that undergird entire *halakhic* conversations—present ethical problems for contemporary readers, a close association between those *halakhic* texts and our perception of God creates a theological problem. A sensitive reader who is appalled on ethical grounds by some law in the Torah will naturally ask: What kind of a God would want this? As Rabbi Rachel Adler asks in *Engendering Judaism*, “Do the passages concerning the trial by ordeal of the suspected adulteress or the characterization of homosexuality as an abomination and a capital crime really embody the word and will of God?”

The ethical challenge of tightly imbricating one’s theology and one’s approach to *halakhah* might naturally lead to the alternative, i.e., disentangling the two. Perhaps this explains why Roth, in his formulation of the *grundnorm* of *halakhic* thinking, provides his second, God-free option.² This attempt to fully disconnect *halakhic* discourse from theology, however, generates its own problems. As Adler puts it, directly responding to Roth’s attempt to provide such an alternative for grounding *halakhah*: “What makes J, E, P, and D deserving of our unconditional obedience?” As I noted above, we have many examples of legal thinkers, Jewish and not, who rely on a claim of a posited foundational principle—a *grundnorm*—that is not divinely provided. But when the rubber hits the road, that is, when the system produced by that human-authored foundational principle leads to a ruling that strikes the reader as fundamentally unethical, why should those readers stay committed to the system?

In his recent book, *Divine Will and Human Experience*, Rabbi Aryeh Klapper likewise addresses the challenge posed by Adler. Klapper writes: “We all censor Torah. We all have rigid rules about what Torah cannot mean, and tools to make sure it means something else.” This censorship, often unconscious, tries to narrow the gap between, on the one hand, assumptions about right and wrong so core to our thinking that we cannot imagine the world otherwise, and on the other hand, first-read interpretations of the Torah that are at odds with those assumptions.

I do not know why Adler did not discuss this kind of “censorship” as a way of responding to the challenge, but I can imagine at least one reason: It sounds impious. To “censor” the Torah does not sound like the action of a faithful reader and actor, committed to living out the ideals and guidance of a divinely-given text. If you believe that the Torah is the word of God, why—and how!—would you censor it?

Responding to this question requires that we distinguish between the Torah as sacred *wisdom* and the Torah as sacred *authority*. The latter form of Torah belongs to a fundamentally positivist approach; if God is the Creator to whom we necessarily owe allegiance, if God is all-powerful and can therefore demand allegiance, etc., then we have an obligation to observe the Torah, irrespective of the wisdom of its content. It has authority. The former, by contrast, is fundamentally congruent with a theologically-grounded *halakhic* consequentialism: the Torah obligates us because, as the word of God, it contains perfect wisdom. We are obligated to it, not because of God’s authority, but because of God’s wisdom.³

If one is operating in a starkly positivist mode, focusing on God's authority, then one has only two options: One can submit to that authority, or one can dismiss it, whether by framing one's actions as rebellion vis-a-vis God, or by rejecting the claim that the Torah indeed reflects God's will.

If Torah's obligatory power derives from its wisdom, however, our options are greater. Rather than submitting to an ethically troubling command or dismissing that order, theologically-grounded *halakhic* consequentialists might begin from a place of confusion and disorientation, but they will not end there. The dysphoria resulting from a conflict between their deeply held ethical convictions and a word of God that seems to contradict them must and will lead to reinterpretation.

I cannot stress enough: That reinterpretation can take two forms. It can lead to the reader's reassessment of their own assumptions; after study and contemplation, what initially seemed an unshakable ethical assumption turns out to be not so straightforward. The initial reading of the Torah challenges and effectively undermines the reader's assumptions—not through the brute force of authority, but through the illuminating effects of divine and perfect wisdom.

The reinterpretation can also take the form of new, better understandings of Torah writ large. In some cases, the process of deepening one's learning in order to resolve the contradiction between writ and principle challenges the reader's starting assumptions; at other times, it leads to an interpretation of the text that, though it was not initially obvious, legitimately comes to appear to the reader as a stronger reading of the text.

In a deep way, this second form of reinterpretation—new understandings of Torah that result from the disjunction between what we assume about both ethics and the meaning of the text—is precisely what Klapper describes when he states that we all “censor” the text. The “rules about what Torah cannot mean, and tools to make sure it means something else” are a part of the interpretive toolbox that allows us to achieve better understanding.

There is a rhetorical difference, however, that I believe reflects a significant theological and meta-*halakhic* difference. Both the language of “censorship” and the adjective Klapper uses to describe those rules (“rigid”) have a decidedly impious connotation, and one that is not coincidental. Klapper takes a moderate approach to this censorship: “We should come to Torah with rigid assumptions, especially moral principles...But *one should not come to Torah with very many such assumptions*” (68, emphasis added). The implication is that the “censorship” and “rigid rules” that allow for it are necessary but unfortunate impositions on an otherwise pure relationship with Torah.

For the theologically-grounded *halakhic* consequentialist, the gap between “censorship” and “interpretation” could not be greater. The latter is not an impious, temporary deviation from a faithful engagement with Torah for the sake of the greater good. It is, rather, the deepest expression of a pious learning of Torah. Understood thus, the disconnect between what the Torah seems to say and what our ethical intuitions tell us is a problem precisely because we are so committed to the notion that God is the ultimate author of these ideas, and that God is good.

In this sense, the reinterpretation of a *halakhic* text that, after wide and deep learning of the topic and careful consideration of all its implications, is a re-placement of authority back in the hands of God. A good example of this sort of reinterpretation is Rabbi Yehuda Amital's well-known response to the question of what someone who is starving should do when faced with a choice between eating food explicitly forbidden by the Torah and human flesh, which is never expressly forbidden by the Torah:

It seems obvious to me that God does not want man [sic] to eat human flesh. The Torah fails to mention that the eating of human flesh is forbidden, not because it is permitted, but because certain

things are so obvious that it is unnecessary for the Torah to state them. (*Jewish Values in a Changing World*)

Amital frames his dismay at a possible, but to his mind unquestionably wrong, ruling as theological in origin—God could not want this. This impossibility, however, leads neither to submission to a first-read interpretation of the text, nor to its dismissal. Instead, he reinterprets: The omission of a prohibition on eating human flesh is because it was too obvious to state.⁴ A proper reading of the Torah clearly forbids eating human flesh, even if a “plain-sense” reading finds no such injunction.⁵

There is good reason to be nervous about such an approach. What is obvious to me might not be obvious to you. We could be wrong about our understanding of what God wants of us. Despite our extensive efforts to get to the bottom of a topic, we might miss the mark—whether in our reading of the *halakhic* texts or of the ethical stakes.

But this is a necessary danger of any approach. We should not fool ourselves into thinking that “literal” readings are less fallible. That, too, is the result of interpretive assumptions that may be—and in my view, are—wrong. The question is not which approach is most likely to be right, but rather, which approach is most faithful.

There is perhaps an irony here, namely, that the more faithful approach of constant attunement to the presence of God in the *halakhic* conversation can lead one to more innovative and pioneering interpretations. For someone who thinks of *halakhah* as a fundamentally human project, disjunctures between our readings of texts and our ethical intuitions can lead only to submission or rejection. The theologically-grounded *halakhic* consequentialist, by contrast, can accept neither of these options and instead might end up with new and surprising readings. These readings are new and surprising precisely because they are grounded in a deeply-felt sense that the *halakhic* reader’s job is nothing less than to discern God’s will. That is a task that requires both humility and bravery, fealty as well as innovation.

This article appears in *Sources*, Spring 2023.

Endnotes

1 Rabbi Gordon Tucker critiques this formulation of Judaism’s *grundnorm* (Gordon Tucker, “God, the Good, and the Halakhah,” *Judaism* 38:3 [1989]).

2 I assume that this second formulation is motivated as well by the recognition that many contemporary Jews, including many who would self-define as halakhic, are less confident in their theology than in their commitment to Jewish law.

3 I am inspired here by Moshe Simon-Shoshan’s distinction between being “in authority,” i.e., holding an official position of power, and being “an authority,” that is, holding power by virtue of one’s wisdom (Simon-Shoshan, *Stories of the Law: Narrative Discourse and the Construction of Authority in the Mishnah* [Oxford University Press, 2012], 65 and 131). He applies the distinction here not to God but to rabbinic sages.

4 This interpretation has the advantage of being similar to (though not identical with) a common interpretive technique found in the Talmud (*lo mibaya ka’amar*).

<https://kavvanah.blog/2023/02/08/aryeh-klapper-divine-will-and-human-experience/>

by Rabbi Dr. Alan Brill

. . . we will start with a recent work on Jewish law and Talmud study by Rabbi Aryeh Klapper. The book's own blurb states that halakhah is generated from the pressure of reality – ethics, autonomy, and equality- upon Jewish law, the way poetry is from the meeting of imagination and reality. Klapper wrote in the book blurb: “Wallace Stevens wrote that poetry is generated by the pressure of reality on imagination. Along the same lines, practical halakhah, at its best, is generated by the pressure of reality on the Torah. “Divine Will and Human Experience” illuminates every stage of that process in a wide variety of contexts and genres. Readers will find the halakhot of art and the art of halakhah.” With that grand of a pronouncement comparing halakhah to poetry, what’s not to love?

The [book is by Rabbi Aryeh Klapper](#), and entitled [*Divine Will and Human Experience: Explorations of the Halakhic System and Its Values*](#) (Bookbaby Pennsauken, NJ 2022). Rabbi Aryeh Klapper is Dean of the Center for Modern Torah Leadership, Rosh Beit Midrash of its Summer Beit Midrash Program and a member of the Boston Beit Din. He previously served as Orthodox Adviser at Harvard Hillel, as Talmud Curriculum Chair at Maimonides High School, and as Instructor of Rabbinics and Medical Ethics at Gann Academy. In the words of Harvard Hillel Executive Director Dr. Bernard Steinberg, he is “provocative and evocative.”

We will interview the author and then have a few responses next week. (We can still use some gender parity so if you are interested in responding then email me).

You can sign up for his weekly Torah essays at http://www.torahleadership.org/weekly_dvar_torah.html and follow him on the podcast [Taking Responsibility for Torah](#). More of his articles and approaches to topics can be [found at his website by topic from a pull down menu including the topics of :](#) gender, halacha, and halakhah and public policy. He was previously on [the blog when he wrote a response to the legal approach of Rabbi Ethan Tucker of Hadar](#).

This book has been long in coming. Thirty years ago, the author expressed a strong desire to have ample time to write his envisioned commentary on tractate Sanhedrin. We waited. And we waited. Now, we finally have a volume of essays on different topics in his halakhic thinking which are only the tip of the iceberg of Klapper’s creative oral teaching. The book is more an emblematic store sign or conversely a streetlamp letting the world know that there is a valuable and unique store here. It will serve as an advertisement for his [Summer Beit Midrash](#).

Klapper’s approach is to use halakhah to tackle issues in modern life and thought such as labor law, human rights, policy issues, and journalistic ethics.

The major thesis of the book is to demonstrate that Klapper advocates a commitment to halakhah and halakhic authority combined with a commitment to the ideal of autonomy, responsibility, human dignity, human freedom and human equality. In his view, the laity should that joint responsibility with Rabbinic authority over the shape of halakhah by raising the level of community discourse. Klapper, distinguishes Orthodox from non-Orthodox Jews by a willingness to abide by halakhah despite ethical qualms or plausible counterarguments. Parts of the book on conceptual essays on halakhah and parts are essays where he actually decides Jewish law. There are also some Biblical essays.

Klapper takes on the major issues of authority in law, ethics in law, and legal interpretation, but from a study hall (beit midrash) perspective. He does not directly grapple with Ronald Dworkin or John Rawls, or even with Rabbis Nachum Rabinovitch and Moshe Avigdor Amiel. In his teachings, Klapper opens the window and lets in the fresh air of big questions but without a need to be weighed down to produce a sustained conceptual exposition of halakhah. The questions alone combined with a sense of human dignity and autonomy are enough to create a thoughtful approach.

Unfortunately, the book needs better editing and a better consistent format and style sheet. But now that the ice has been broken and he published one volume, it would be nice if he now converts his classes to book form and publishes a volume of halakhic thoughts every two years.

1. Can you differentiate between practical and ideal halakhah?

Practical halakhah (*halakhah lemaaseh*) is about regulating and developing human beings, their relationship with each other, and their relationship with G-d.

Halakhah is not a “black box” of commands with no inherent purpose. It has substantive goals. Halakhic interpretations that advance those goals in one time and place may inhibit them in another. More commonly, changes in circumstances will over time make a static halakhah completely ineffectual and irrelevant. I think this is universally agreed. The debates are sometimes about who has the authority to make changes, and what mechanisms of change are legitimate; and sometimes those debates are smokescreens concealing disagreements about whether specific changes are desirable.

Ideal Halakhah is a separate endeavor to understand the mind of G-d. Rabbi Joseph Dov Soloveitchik described it as the equivalent of pure math or physics, while practical halakhah is engineering.

Both disciplines require conceptual construction and imagination. But these elements are of the essence of studying the ideal halakhah, and only tools with regard to developing the practical halakhah.

Ideal halakhah does not relate directly to human experience. Practical halakhah exists only in the context of human experience. For example: The ideal halakhah might demand the execution of murderers based on impeccably reliable eyewitness testimony. But human experience might indicate that no eyewitness testimony is impeccably reliable.

Because ideal halakhah influences practical halakhah, it is ethically incumbent on people engaged in scholarly conversation about ideal halakhah to consider what its practical effects might be.

2. Why do we learn purely theoretical halakhot?

The majority of Tannaim and Amoraim held that all areas of halakhah were intended practically. The famous statements that some halakhot “never were and never will be” are minority positions. There are no purely theoretical halakhot.

A halakhah’s lack of practical expression in a specific time and place may reflect cultural progress. Slavery is the usual example given. But the halakhot of slavery actually govern many aspects of employment law. We should make every effort to apply them in those contexts. For example, they may nullify most noncompete agreements, strongly resist a system of employer-based health insurance, and ban assignments and behaviors intended to assert dominance.

The choice to Interpret a halakhah out of practical existence usually reflects a past failure of interpretation. Consider for example the virtual elimination of the prohibition of ribbit (taking interest from fellow Jews or charging them interest) via the heter iska. [A heter iska is a halachically approved way of restructuring a loan or debt so that it becomes an investment instead of a loan] We should have ruled from the outset that a heter iska is valid only for loans that have a genuine commercial purpose.

We can learn a great deal from the reasons given in the masorah for and against interpreting a halakhah out of immediate existence, such as the debate among Tannaim about whether the death penalty should ever be imposed.

Other disputes about whether a halakhah should be given practical expression, such as those about the leprous house and the zav, remain mysterious to me. I also cannot presently give circumstances and interpretations which would make implementing the laws of the rebellious son (ben sorer umoreh) and the idolatrous city (ir hanidachat) acceptable. But that may just mean that I need to study them more.

3. In many chapters you set up questions and then you either do not like your given answer or leave the reader without an answer. Why? Why ask the question where you don't like your own answer, and why include it in this book?

Students have the responsibility to challenge their teachers on values, especially when they are taught Torah that conflicts with their deepest intuitions about what G-d wants.

Teachers must welcome and engage genuinely with those challenges. This requires teachers to model uncertainty and discomfort in the context of unwavering commitment. That's a primary reason I teach questions to which I don't yet have satisfying answers.

I am proud and blessed to have generations of superb students who don't hesitate to challenge me.

4. How free can a halakhic reader be with the text? What are the restraints? Is halakhah whatever a creative reader can make a text mean?

I don't believe that halakhic readers are permitted to be "free" with texts, if freedom means consciously reshaping the text in their own image.

However, texts cannot defend themselves. The integrity of readers and audiences is the only practical restraint. Halakhah is whatever a creative reader can make a text mean to a sufficiently authoritative and committed audience. But the audience should not give any authority to readings that they cannot with integrity say are meanings of the texts.

Texts have a wide range of possible meanings, some more likely than others. Halakhah often allows or encourages giving authority to meanings that are not the most likely. One may adopt less likely readings in response to economic pressure, or to free an agunah, or when a different outcome would be ethically intolerable, etc. The canonical meaning of a text may also not be the same as its historically original meaning.

No human being's decisions are based exclusively on their readings of texts. Any such claim betrays an extremely worrisome lack of self-knowledge.

But all of these assume that one is reading with integrity. There is no license to misread.

5. How do halakhah and ethics relate?

Deciding halakhah properly requires an ethical intuition independent of halakhah. This insight is at the heart of almost everything I write.

What I mean by "independent of halakhah" is that it doesn't rely on mechanical halakhic reasoning, and is not based exclusively based on halakhic data. Ethics is a separate discipline whose outcomes are incorporated by halakhah.

Halakhah should be heavily influenced by ethics, but individuals are legally bound by halakhic outcomes that they consider unethical.

For example: Mechanical halakhic reasoning often concludes that the best course of action is to account for all prior halakhic positions rather than deciding among them. But this can yield a result that is ethically worse than any of the prior positions. For example: tagging someone as "maybe Jewish" leaves them unable to marry anyone, whereas definite Jews and non-Jews can each marry others of the same classification. An ethical posek will take great pains to resolve such uncertainties, especially in cases where conversion is not a live option,

Some ethical principles are epistemologically prior to halakhic reasoning. For example: The principle that one cannot kill an innocent person to save one's own life is not derived from a Torah verse, but rather is a prerequisite for properly interpreting a Torah verse.

Other ethical principles are explicitly incorporated into halakhah reasoning. For example, there is a formal rule that the preservation of human dignity (*kavod haberiyot*) overrides all Rabbinic and at least some Biblical prohibitions.

The legal definition of human dignity must be developed using both halakhic precedent and ethical intuition. Many ethical principles play that sort of complementary role in halakhah.

New circumstances often raise halakhic questions that can't be answered on the basis of precedent. In those circumstances, one must resort either to "fulfilling all positions", which is sometimes impossible and is often a worse option than adopting a position at random, or to making a decision based on broader values.

6) Where did your ethical intuition come from?

Ethical intuition comes from the totality of Torah and every aspect of the self, nature and nurture.

One experience that shaped mine was reading great non-Jewish books on my own as a child, on my own. In addition, I had to read everything my mother taught in college literature classes. Dickens, Hawthorne, Lofting, Plato – meeting these authors and their characters before my bar mitzvah made it impossible to believe the things my rebbeim would say about inherent differences between Jews and non-Jews. I also grew up in a family with so many brilliant women that claims about men's intellectual superiority seemed absurd.

My elementary school started a special gemara class for three of the four top Mishnah students – of course excluding the girl. Star Trek (TOS) made me see the evil of the open, unapologetic and malignant racism in the Charedi summer camp that I otherwise loved. This was all before I met Dr. Will Lee, whose integrity, kindness, and curiosity about Torah was exemplary. This was all before I learned Tanakh in depth, and aggada, and Jewish philosophy.

My ethical intuition is often wrong. But my understanding of Torah is also often wrong. Rav Eliyahu Bloch of Telshe writes that one's understanding of Torah, the world, and the self must be developed in equal depth so that you can check them against each other. I don't understand why some rabbinic scholars (talmidei chakhamim) seem to believe themselves ethically infallible. I think that in Heaven (shomayim) their students will be held accountable for allowing such delusions, let alone for reinforcing them.

Halakhah as practiced is never perfect. One is entitled to say that a halakhah currently regarded as binding is wrong, intellectually or morally, and to hope for change.

7) Is ethics the only value framework other than halakhah that Jews must take into account?

No. Torah has a pluralistic axiology that considers ethics, morals, aesthetics, sanctity, and all other types of value. Making practical halakhic decisions ideally requires understanding each of these in their own terms.

8) Your cover has a sketch of Divine will as light refracted into freedom, dignity, responsibility, and equality. Your essays seem to make it more about the human element based on human responsiveness than divine light. What role does the divine play in your human constructions?

The primary data we have about Divine Will is a text that we must translate into norms.

The cover of my book, beautifully designed by Maximilian Hollander, shows Divine will refracting into the values of freedom, dignity, responsibility, and equality, rather than directly and exclusively generating the norms of halakhah. Halakhic decision making is not a matter of mechanical value-neutral reading of the Torah text, Values are central to halakhah, and sometimes prior to halakhah. One cannot properly understand Divine Will without translating it into broader values on the basis of human experience.

9) What happens when halakhah seems unethical or does not work for a person?

As in every political system, one can be ethically bound to respect the outcome of a communal decision process even when one finds that outcome to be substantively unethical. One should work to

change halakhic outcomes that one considers unethical in a manner that maintains the overall legitimacy of halakhah.

Maimonides teaches that Divine Law, like the laws of Nature, is good for most people in most places most of the time. (Guide 3:34; cf. Hilkhot Mamrim 2:4, Eight Chapters Chapter 5).

A responsible halakhist recognizes that halakhah cannot avoid harming some people some of the time. He or she must try to find ways to minimize the harm and maximize the good, like scientists and engineers using their understanding of nature to build seawalls and irrigation systems without ending tsunamis. The analogy is imperfect but instructive.

Recognizing the inevitability of some harm does not suffice to explain the cases in which the Torah seems to directly flout the values I claim are central. For example, the Torah permits two kinds of slavery, and as halakhah is currently understood, not everyone is eligible to serve on the Sanhedrin.

Recognizing human responsibility for halakhah entails recognizing that we often fail at that responsibility. Practical halakhic decisions may reflect narrow perspectives, mechanical thinking, magical thinking, or ethical error. Such decisions nonetheless carry authority when made by people to whom the halakhic community gives authority. Challenging such decisions as incorrect, shallow, misguided, or worse does not necessarily entail seeing them as illegitimate. Denying them authority means that one's preferred decisions will also be given no authority by those who disagree with them.

10) Why these four qualities: freedom, dignity, responsibility, and equality.

With regard to freedom:

G-d gave the Torah as a publicly accessible text written in human language, and declared that it was no longer in Heaven. Democratizing access to His will was a way to prevent it from becoming a source of power over others, i.e. to preserve religious autonomy.

Religious autonomy is a Torah ideal. Submission to another human being's authority to interpret Torah, or to an institution's, is often necessary and sometimes valorized. But the default must always be autonomy and spreading the knowledge that enables autonomy and widens circles of authority.

The ideal of religious autonomy means that Halakhic authorities should generally scaffold their replies so that questioners either make the final choice among the halakhically viable options or else realize the correct action on their own. Poskim should explain the grounds of their decisions clearly so that questioners can grow to make future decisions on their own. Chapters 14-19 of my book are an extended effort to model this sort of scaffolding and transparency.

Religious autonomy is just one of many kinds of freedom central to Torah. For example, the prohibition against slavery ramifies halakhically into a strong preference for human beings choosing their own work tasks and schedules. (The relationship and sometimes conflict between freedom-from and freedom-to is discussed in Chapter 1.)

11) What about Equality?

With regard to equality:

The Talmud (Pesachim 25b and parallels) teaches that commitment to the ontological equality of all human lives must precede Torah interpretation. It derives the Jewish obligation to die rather than commit roughly adultery or incest (gilui arayot)

from a verse that compares adulterous rape to murder – *“because like a man rising against his fellow and murdering his life-spirit – so too this”*. But what is the source for the obligation to die rather than commit murder? The Talmud answers that this is derived from reason: *“What have you seen that makes your blood redder than his?!”* The halakhic implications of the analogy in the verse are accessible only to interpreters who already acknowledge that principle.

Ontological equality is a fundamental principle with many halakhic ramifications. Chapter 6-8 discuss political equality; chapter 9 discusses economic equality; and chapters 8 and 26 address the explicit Biblical obligation for the law to treat converts and born Jews equally.

12) What about dignity?

With regard to dignity:

A sugya on Talmud Berakhot 19-20 discusses what to do when concern for human dignity (kavod haberiyot) conflicts with other halakhic obligations.

The opening statement of Rav Yehudah in the name of Rav seemingly restricts concern for human dignity to the gaps of halakhah. "One finding shatnez (mixed wool and linen) in their garment must remove it, even in the marketplace. Why? There is no value to human wisdom, sagacity, or discernment where they conflict with G-d's will". Ethical concerns have no weight against law. Going naked in public to avoid wearing shatnez is a paradigm case.

The Talmud then cites a series of apparent exceptions. It responds to each exception by saying "that kind of law is different". The apparent upshot is that concern for human dignity can justify violating any Rabbinic prohibition actively, violating any Biblical prohibition passively, and violating any Biblical prohibition regarding money or property.

The Talmud thus establishes concern for human dignity as an ethical factor that should be raised to challenge the practical outcomes of formal halakhic reasoning.

Acknowledging exceptions undermines the false dichotomy that opens the sugya. Granting that "There is no value to human wisdom, sagacity, or discernment where they conflict with G-d's will", The real question is: when does G-d's will obligate us to honor human dignity above (what would otherwise be) the law?

Possibly the job of a halakhic decisor is to make shatnez the exceptional case that preserves the rule, while discovering ways to prioritize human dignity in every practical case that arises. Chapter 22 discusses one aspect of this possibility.

Human dignity includes both natural and social dignity. I am also heavily influenced by Rabbi Yosef Dov Soloveitchik's deep conviction that autonomy is an essential constituent of dignity. In a political context, equality is necessary for autonomy; and in a social context, equality may be necessary for dignity.

13) What about responsibility?

Human responsibility is a fundamental premise of Torah anthropology. We can be obligated, expected to fulfill our obligations, and held accountable for failing to fulfill them.

Jews are responsible for Torah. We construct our own obligations by interpreting Divine Will in the context of our experience. Halakhah requires constant attention, defense, repair, and adaptation.

Fulfilling that responsibility requires virtues such as courage, compassion, and integrity. Many of the book's chapters are intended to model one or more of these virtues. They are particularly necessary when dealing with conflicts among recognized values, or between values and apparently established law.

The motto of the Center for Modern Torah Leadership is "Taking Responsibility for Torah".

14) Can you unwind the intent of past legislators or the historical past in halakhah?

Halakhah is a quantum system – there is no halakhah in any specific situation until someone rules or acts to establish a ruling. There are only probabilities. Sometimes one is entitled to rule or act in accordance with a position that was extremely unlikely until that moment. People who rule on the basis of prior abstract certainty are doing it wrong. One can never say that a halakhic outcome is impossible, only that it is exceedingly unlikely.

Probability factors include how an outcome fits with texts, how past and present authorities have related to it, and how it fits with values.

The halakhic past was written by a committee whose members had different motivations, experiences, ideas, and intuitions. We can never know exactly what motivated even a consensus position – usually there were many and contradictory intentions.

Halakhah is a system whose parts affect each other. A posek might rule one way on the assumption that the psak on another issue would balance the effects of this psak. Halakhah might be subject to chaos theory or to a “butterfly effect”. Knowing how someone ruled in a past situation can’t give you absolute confidence as to how they would rule on the same abstract issue in different circumstances.

15) How does Halakhah relate to the Jewish collective?

G-d’s will is directed to the Jewish collective as well as to individuals. Communal Halakhah is the Jewish social contract.

Halakhah is the arena in which we decide how to distribute power within the community. We are responsible to interpret and administer it in a way that prevents people from seizing illegitimate power over the law, and from seizing disproportionate power within the law,

Halakhah is how we negotiate when to sacrifice the freedom-from of individuals in order to increase the freedom-to of the collective. Freedom-to in this context means the development of a sustainable moral and religious society, both to maximize the development of its members and to serve as a model for other communities.

Halakhic is how we approach the challenges faced by every society that assumes the ontological equality of all human beings and also values virtue and earned achievement.

Meeting these challenges without abandoning the ideal of autonomy requires a social contract whose meaning is determined by the people who are bound by it: “No taxation without representation”. All citizens should ideally have an equal say in the contract’s interpretation.

The straightforward solution is to make everyone equally eligible for positions of authority. In an as-yet unpublished article, I demonstrate that Rabbi Soloveitchik in his shiurim made room on principle for every Jew of appropriate character and learning to serve on the Sanhedrin for the purpose of determining the law, meaning that every Jew is equally eligible to have power over the legal meaning of Torah. This has here-and-now implications for both converts and women.

16) Are Jews and non-Jews equal? What of laws that imply inequality?

An acid test for the role that ethics plays in one’s halakhic thought is whether one applies the rhetorical question “what have you seen that makes your blood redder than his” to situations where only one party is Jewish. I apply it to such situations. I assume ontological equality.

I do not think one can give a general answer to “laws that imply inequality”. There are ethical grounds for distinguishing between citizens and non-citizens in some legal areas without contradicting ontological equality. I hope that some psakim currently accepted within halakhah will eventually be considered beyond the pale.

There is no obligation to believe that the halakhah as currently decided is perfect, only that it is binding. The Torah describes the sacrifice brought when the Sanhedrin errs, and no one has ever claimed that this sacrifice “never was and never will be”.

Legal rulings that discriminate against Gentiles in the civil sphere should be subject to strict legal scrutiny, especially in societies where Gentiles do not similarly discriminate against Jews. Everyone who lives by halakhah has the obligation to point out unjustifiably discriminatory psakim and seek to correct them.

I generally don’t see an ethical issue in laws that restrict Jewish rituals to Jews.

17) Why is long covid an interesting halakhic topic that took six chapters?

Long Covid exposed several important gaps and weaknesses in the standard halakhic treatments of health risks.

One such weakness is that the laws of pikuach nefesh are presented as “digital”; either a situation is life-threatening or it isn’t. An alternative approach would be to describe situations on an “analog” scale of more or less life-threatening. The digital model makes it very hard to respond cogently to new situations with many fundamental unknowns.

Gaps include how to classify long-term risks to longevity, and whether to classify various kinds of long-term disability risks as pikuach nefesh.

The woman who asked me the question wanted a public response because she felt that halakhah was failing people on this issue. My response was therefore also an opportunity to model in real time the values of transparency, respect for autonomy, and textual/legal integrity, along with compassion and creativity, that are critical to proper halakhic decisionmaking.

18) What is your ideal vision for the modern Orthodoxy community you live in as expressed in your summer beit midrash?

I want the Center for Modern Torah Leadership, my Summer Beit Midrash, to stand for these principles, which I hope are evident throughout my book:

1. Not responding to ideas out of fear, no matter where they came from. Eagerly seeking to gain knowledge of the world and the self, and to bring that knowledge into Torah
2. Recognizing that all human beings are created b’tzelem Elokim and therefore of equal ontological value
3. Recognizing that men and women are equally entitled to full access to Divine Will
4. Expanding our conception of Torah to include understanding and appreciation of the many kinds of value G-d has put in Creation, rather than using Torah as a way to deny value to everything else in creation
5. Understanding that the halakhic community is responsible for the content of the Torah it lives by; it’s not enough to obey whatever emerges

The Summer Beit Midrash is the opportunity to create a community that lives by these principles, during the program, among its alumni, and where those alumni have influence. The best moments are when we seem close to achieving that.

<https://kavvanah.blog/2023/02/13/yitzchak-roness-responds-to-aryeh-klapper/>

[Rabbi Dr. Yitzchak Avi Roness](#) is a lecturer in various colleges [Michlala, Orot, Givat Washington] and a communal Rav in Beit Shemesh. His Phd is on the halakhic method of [Rabbi Shaul Yisraeli](#) and he writes on contemporary issues such as family planning

Posted on [February 13, 2023](#) by [Alan Brill](#)

Rabbi Klapper's book of explorations [Divine Will and Human Experience](#) touches upon a wide range of diverse topics from the specific to the conceptual. At times he explores the Halakhic minutiae surrounding specific narrow questions, while other explorations are dedicated to explicating some of the overarching metahalakhic questions regarding the underpinnings of Halakhic Discourse.

Thus, one essay takes the reader on an interesting "behind the scenes" tour of R. Klapper's own educational, and communal, considerations and motivations which led him to reject the accepted halakhic view regarding 'Megillah Livestream reading', and how he set out to establish a viable competing Halakhic alternative.

And in the interview R. Klapper explains that his unusually lengthy discussion of the Halakhic attitude towards Long Covid, stemmed from his seeing this as an opportunity "to model in real time the values of transparency, respect for autonomy, and textual/legal integrity" within Halakhic discourse.

R. Klapper's fully candid, and wholly transparent, relationship with his readers is most apparent in his open admission of ultimately having failed. The author self-describes this attempt as a failed P'sak. He even gives a detailed description of how and why the author would choose to present his readers with a chronicle depicting the details of this type of a 'failed' endeavor.

Turning to the broader metahalakhic questions, I found a special interest in the attempt to clearly articulate the exact dynamic by which a Posek finds his way amongst the confusing maze of Halakhic opinions. Seeing as there are a multitude of Halakhic opinions, and various Halakhic precedents' to draw upon, a veritable Seventy Face to Torah (*Shiv'im Panim Latorah*), how does any given Posek navigate his way around? Why is it that two contemporary Halakhic authorities presented with the same problem rule so differently from one another?

Two Types of Halakhic Decisors

Rabbi Klapper speaks of "two kinds of halakhic decisors" (See *Divine Will and Human Experience*, p. 63). He distinguishes between Poskim who rely heavily on procedural rules, as opposed to those whose decisions are animated by their attempt to weigh the respective merit of each opinion in order to arrive at the 'correct' Halakhic answer, based on their own subjective evaluation of the Halakhic possibilities.

Klapper proceeds to analyze the matter further, by distinguishing between different types of 'merit' which a Posek may prioritize in deciding upon the correct, or best, answer in any given case: Some Poskim may choose the opinion which they feel manages best to integrate the various Halakhic details into one unified, and coherent, conceptual structure, while others may evaluate the merit of any specific Halakhic opinion primarily as a function of its perceived fealty to Halakhic precedent. This Posek will attribute the most importance, and give added weight, to the Halakhic avenue which fits in best with accepted Minhag, or communal practice.

R. Klapper is well aware that these options do not even begin to exhaust all of the theoretical possibilities by which a posek will weigh, and 'grade', competing Halakhic pathways. Perhaps, R. Klapper proceeds to suggest, the chosen Halakhic outcome will be determined by an innate, almost intuitive, sense of propriety. In other words, the P'sak may be influenced primarily by the Posek's asking himself which of the various opinions makes 'more sense' than any other? Which of the options simply 'feels right'?

R. Klapper's discussion of images fits nicely into this schema. He describes a specific case where we find communal adoption of the Halakhic opinion which dovetails most closely with the community's set

of values: “Most of us live in Jewish cultures... (where) even non-philosophers instinctively agree that neither G-d nor angels look like anything in particular... “. “We also live in Jewish cultures that instinctively accept virtually every halakhic leniency regarding the production of images... It seems clear to me that these realities go hand-in-hand...” Our not considering angels as images dovetails with our leniency regarding the production of images. [page 128]. At this point in his essay, Rabbi Klapper moves on to describe additional differences between Poskim.

Halakhic Intuition

As a reader I was left hoping that he would have paused a little longer to ponder this last point. I would have enjoyed if he would have allowed himself to try and untangle, and unpack further, this last claim:

What exactly constitutes, contributes to this intuitive feeling? What stands behind the subjective feeling that a given Halakhic position is more authentically true than any other?

When can we determine that it is the Posek’s subjective moral worldview that is at play? and when can we justifiably claim that some ideological tendency, or another, lead him to intuitively adopt one Halakhic path from amongst the various options laid out before him?

In any event, R. Klapper does not let himself get mired in endless theoretical philosophizing.

He quickly returns to reality and points out that no typological description can truly be seen as a full description of the practical approach adopted by a flesh-and-blood Halakhist.

A real life Posek will move back and forth between various pathways of decision making:

“Actual decisors”, he writes, “like actual human beings, are generally hybrids rather than ideal types”. To this he adds another insightful caveat: “Even decisors with generally strong and self-aware methodological commitments, may override them roughshod when dealing with issues that activate them ideologically”.

Halakhah, Ethics, and the Broader Community

One of the additional metahalakhic questions dealt with in the interview is the relationship between Halakha and ethics, and more pointedly, situations in which Halakha stands in opposition to a person’s ethical intuitions. R. Klapper’s reply is nuanced. On the one hand, he celebrates the declaration that “Halakhah should be heavily influenced by ethics”, and believes that “students have the responsibility to challenge their teachers... especially when they are taught Torah that conflicts with their deepest intuitions about what G-d wants”.

On the other hand, R. Klapper openly acknowledges the teacher’s own limitations as a result of their membership in the broader community of Halakhically obligated individuals.

Just “as in every political system, one can be ethically bound to respect the outcome of a communal decision process even when one finds that outcome to be substantively unethical”.

This association with Halakhists of a different moral and political ilk leads to the conclusion that rulings issued by communally accepted Halakhic authorities may reflect ‘narrow perspectives’, ‘mechanical’ or even ‘magical’ thinking, and may express ethically problematic views. Nonetheless, such decision are binding for the simple reason that they were ‘made by people to whom the halakhic community gives authority’.

Thus, the harsh reality is that the teacher himself does not have the power to solve ethical conundrums. The Teachers too, no less than their students, inhabit a position of ‘uncertainty and discomfort in the context of unwavering commitment’, as they too find themselves to be “bound by halakhic outcomes that they consider unethical”.

I would add the following observation: A Rabbinic authority who sees himself as part of a community is constrained not only insofar as he must reject his own conclusions when they are contradicted by those made by ‘accepted authorities’. The actual constraint runs far deeper than that.

Such an individual is held back in the degree to which he can allow himself to stray from the accepted view, in order to even propose, if only provisionally, a differing opinion, without fearing that this itself will lead to his being labeled as one who has strayed afield and broken away from the fold.

Who has authority? How do Rabbis relate to Gedolim & Chief Rabbis?

Who is the community and who are the accepted authorities invested with authority?

The current 'working model' grants Halakhists broad authority as a result of general acclaim and regard. However, this system tilts the scales rather heavily in the direction of certain types of individuals. Sadly, it seems that the current model highly favors those who espouse 'narrow perspectives', 'mechanical' or even 'magical' thinking...

The willingness on the part of individuals like R. Klapper who pay a heavy price in the sense of self-censorship in order to remain a part of the broader Orthodox community, can only exist if there is a sense of reciprocity in the guise of a minimal amount of recognition afforded by this same community.

Writing from the standpoint of an American born, yet Israeli bred communal rabbi, my thoughts naturally turn to the realities of the Israeli scene, the world that I am most intimately aware of its contours.

For many years the Religious Zionist Rabbinate gladly accepted the overarching authority of the Israeli Chief Rabbinate. And yet, something has changed. Over the past ten years or so a number of different independent organizations have sprung up, Whether it is in regard to matters of Kashrut Supervision, private Conversion Batei Din, and even independent Kiddushin more on the fringes.

The reason for this change is easy to discern: For over seventy years the Chief Rabbinate was led by Rabbinic figures who openly identified as Religious Zionist. Currently, neither one of the two acting chief rabbis is seen as such then there is an unbridgeable gap between the Rabbinate and Religious Zionist rabbinic figures.

This reality certainly has evolved over time, and yet the case may be made that the present chief Rabbis are more distant from the traditional image embodied by figures of former chief rabbis such as Rabbis Kook,, Herzog and Nissim.

But perhaps more importantly, I believe that the shift may be traced back to the way R. David Stav was treated when he ran as a candidate for this position some eight years ago:

R. Stav who was seen as a leading Religious Zionist rabbi, of the more liberal and open minded bent, was roundly derided by leading Rabbinic authorities of the day such as R. Ovadia Yosef as well as many others.

I believe that this was a watershed moment for many in the Religious Zionist rabbinic mainstream: Simply put: If you are unwilling to even accept my candidate as someone worthy of even participating in the process, than I'm sorry, but I'm opting out... I no longer feel bound by your accepted Halakhic authorities [i.e. the Chief Rabbinate]. From that point onwards many felt free to set out on their own path and try to influence Halakha in the way they saw appropriate, unfettered by the bonds which had previously held them back.

Rabbi Klapper & Authority

This leads me back to think of R. Klapper himself, and to wonder what would happen if he were to reach a similar conclusion: If he were to decide to 'throw off' some of the social restraints currently holding him in check, and set out on his own path of paskening practical Halakha in an unrestrained manner, what novel Halakhic positions would he then espouse?

On a practical level I wonder what could possibly trigger such a move on his part: Would a personal affront in the guise of a Cherem lead him to decide that 'enough is enough'?

What about the possible realization that community-wide accepted Halakhic authorities are deciding fundamentally important Halakhic questions with complete disregard to the principles of freedom equality and dignity which he values so dearly: Would this 'do the trick'?

I suggest that I would not find this possibility to be overly objectionable, the reason is simple:

Although our community is well served by a modicum of social conformity on part of its rabbinic leaders, at the same time this constant need to compromise with their inner sense of truth comes at a high price.

When a Halakhic scholar on R. Klapper's level constantly holds himself back, the entire world ends up losing out on words of Torah we might never hear...

As R. Kook describes in his classic work *Orot* how social divisions and separations may inadvertently be seen as a source of blessing. If this social process ultimately provides each independent group with the spiritual environment needed to properly develop their respective positions in full, then in the sum total we are all better off. (*Orot Yisrael*, 4:6)

R. Kook explains that the greater abundance of 'Lights', and perspectives involved in the translation of the Divine Good into practical life, ultimately serves to elevate the entire world.

To conclude, I would like to thank R. Klapper for his current explorations and bless us all so that we merit to enjoy many more explorations in the future!

<https://kavvanah.blog/2023/02/14/ysoscher-katz-respond-to-aryeh-klapper/>

Rabbi Ysoscher Katz is the Chair of the Talmud department at Yeshivat Chovevei Torah, he has posted here several times before including his credo [Torat Chaim Ve'Ahavat Chesed](#)

Posted on [February 14, 2023](#) by [Alan Brill](#) | [Leave a comment](#)

Thank you Prof Brill for the opportunity to share some reflections on R. Klapper's new book and your subsequent interview with him. I will first deal with the book and then consider the interview. The combined perspectives of the book and interview are richer than each on their own.

Reading R. Aryeh Klapper's new book *Divine Will and Human Experience* last Shabbat was a true joy of Shabbos (oneg shabbat). Few people have Rabbi Klapper's ability to dissect an intricate philosophical precept with such nuance, depth, and sophistication. R. Klapper hones in on an idea, pushes aside the chaff, and gets right to the wheat, the core essence of a postulate. He then is able to dismantle the argument all the way to its granular elements and then reassemble it, in the process making the idea's hardware sturdier, and its software more potent. The reader in turn gains new insights coupled with a greater appreciation of halakha's secondary infrastructure: its philosophy.

Notwithstanding the insights contained in the book, a question hovers over it. One wonders: What kind of book is it? Given the audience of this book, answering the classification question is crucial, with each essay the question of classification becomes more acute.

Rabbi Aryeh is a prominent Modern Orthodox thinker and highly regarded educator, who has a large following and vast readership. His ideas inform the Modern Orthodox laity and guide the community's young future leaders, some of whom will in time become *poskim*. His thoughts about the "halakhic system and its values" (as is the subtitle of the book) are therefore highly influential in shaping the way those future adjudicators will think about halakha, obviating the question: is this indeed a book that should function as a guide for our next generation of halakhic decisors?

After much reflection, I reached the inescapable conclusion that it is its own genre, one that *Chazal* would call an "entity unto itself" (בריה בפני עצמה), one that operates alongside classical *sifrei pesika*, but itself is not on a continuum of that genre of *seforim*.

Background:

Over the years, R. Klapper and I have debated the essence of Modern Orthodox *pesika*, particularly as it relates to its Hareidi counterpart. I argue that the two are distinct genres, their building-blocks diverging on many levels from classical *pesika*'s starting points and first principles. The two, as a result, are incomparable and apart. R. Aryeh disagrees. He contends that Modern Orthodox *psak* is essentially the same as Hareidi *psak* with certain contemporary sensibilities thrown into the mix.

Paradoxically, the discourse in this book belies this claim. Its methodology of *psak* is distinctly modern and not Hareidi. Both its premise and process stand in stark contrast to the way classic halakhic deliberations have been conducted for millennia. This method of *pesika* is so unique that it no longer operates on a continuum of traditional *psak*. It is indeed a new creation

The ways in which it is unprecedented

1) Process:

A central feature of classical halakhic discussions is that arguments are predominantly textual. Texts are the primary arena in which halakhic questions are dissected, analyzed, and finally resolved. A classical *teshuvah* consists of eighty to ninety percent text. Only about ten or twenty percent are devoted to logic and argumentation. Rabbi Aryeh inverts that ratio.

The essays are overwhelmingly conceptual with an occasional text thrown into the mix. This configuration makes it difficult to claim that a Modern Orthodox posek following R. Aryeh's methodology operates on a continuum with the *Rashba*, *Chasam Soffer*, or Rav Asher Weiss. More

accurately, these different halakhic modes have some overlapping commonalities but speak in very different meters. This overlap is enough to potentially enable the two communities to dialogue, but the divergences necessitate mutual adjustments in order to have a meaningful conversation with one another. Not on a classical continuum, one cannot move naturally from traditional responsa to the halakhic discussions of those who write in Rabbi Klapper's style.

2) Halakhic Philosophy

In these essays, Rabbi Aryeh undertakes the challenging task of analyzing the philosophical components of halakhah which are not obvious to the naked eye. Such a project lacks precedent in the classical canon of halakha. Undoubtedly, poskim are driven by a halakhic philosophy but they are hardly ever stated explicitly. It, instead, is always implicit and embedded in the textual claims they present. The reader only encounters the *posek's* view and the textual sources leading to it. There is an awareness that underneath the classical discourse there is also a subtle undercurrent of philosophical, ethical and theological assumptions, but they are never expressed explicitly. And that ratio is deliberate. Classical halakhic discourse is primarily legal and behavioral, exploring what is permitted or prohibited in Jewish practice. The philosophy of halakha is merely one ingredient in the multiplicity of methodologies employed. The opposite is found in R. Aryeh's writings: the jurisprudential philosophy is overt, and texts are embedded in the argumentation on occasion.

Classical Halakhah is doing halakha; Rabbi Klapper composes jurisprudential philosophy-in a style that is uniquely his. The difference between classical *pesika* and R. Aryeh's project is not merely numerical, the number of texts used. This quantitative difference is indicative of a qualitative distinction. Classical poskim paid little heed to the philosophical underpinnings of their *psak* because the notion of a "philosophy of *psak*" was foreign to them, perhaps even anathematic to their project. "Jurisprudential philosophy" is a markedly modern enterprise, diverging significantly from the project of classical *pesika*-both in the past and the present.

3) Halakhah is not Law

I intend to expand on the larger issues of this topic at a later time. It is part of a larger critique I started articulating several years ago, when Prof Benny Brown published his mammoth biography of the Chazon Ish.

Dr. Brown's project was unique. He evaluated the הלכותית (halakhic philosophy) of the *Chazon Ish* (R. Avraham Yeshaya Karelitz, 1878-1953) through the prism of the philosophy of law. Presenting key tenets of legal philosophy, he superimposed them onto Chazon Ish's *pesakim*, claiming that Rabbi Karelitz's methodology of *psak* carries a robust and perhaps even innate resemblance to what non-halakhic jurists do. Underlying this juxtaposition is Dr. Brown's assumption that these two legal systems, halakha, and secular jurisprudence, more or less do the same thing; creating law.

The assumption is flawed. The *Chazon Ish* and philosophers of law are not playing in the same arena, their projects are not comparable. Halakha is not the Jewish version of Law, it is an entirely different organism. Law is jurisprudence, halakha is theological prescriptive. To paraphrase the famous statement of R. Chaim Brisker ("שיעבוד is שיעבוד"): Halakha is Halakha! It has little or perhaps nothing in common with other systems of law, their many similarities notwithstanding.

My lack of comfort with Prof. Benny Brown's approach is also applicable to Rabbi Aryeh. Exploring halakha primarily through a philosophical prism means stepping out of the halakhic arena. Giving disproportionate weight to the philosophy of a *psak* or a *posek* is predicated on the assumption that halakha is "law;" that like other legal systems it operates primarily on first-principle philosophical axioms and ethical predicates. Halakha is Halakha, not law. Its foundational building blocks are theology, divine will, and normative halakha.

But not to confuse future readers, lay or scholar, this edifying book will more naturally be housed in a library, not a Beit Midrash. Classical Rabbinic texts are the foundation for the essays and philosophical discussions of this book, but once the analysis starts it guides the reader towards new uncharted vistas the classical *poskim* would not explore.

Nevertheless, Rabbi Klapper's *Divine Will and Human Experience* is a must-read for anybody interested in seeing what halakha looks like when a modern thinker, deeply rooted in contemporary Orthodox philosophy, disassembles halakha's operating board. The essays delve into the deep crevices of halakha and with immense creativity tries to extrapolate a harmonious logic and consistent philosophy. Rabbi Aryeh's probing enables him to reveal that which the average reader does not notice, and what he discovers is illuminating and intriguing. They bring to mind the poetic Rabbinic formulation: "If it were not for his excavation skills, we would have never noticed the pearls [of wisdom] hidden beneath the surface" (Makot 21). Studying this book is therefore a truly edifying and vivifying experience.

4) Coda

The interview is the Oral Torah (*Torah She-Ba'al Peh*) to the book's Written Torah (*Torah She'Bichtav*). As with the Oral Torah itself, the interview magnifies what is only hinted at in the written word. The interview gives a better understanding of the book's ethos and context thereby illuminating ideas only alluded to in Rabbi Klapper's writing.

It also reveals an added layer to Rabbi Klapper's understanding of Halakha's mechanics. For Rabbi Klapper, Halakha has a certain degree of meta-physical self-awareness. Consequently, he believes that Halakha is often in active dialogue with value systems and modes of thought outside its own universe. Illustratively, Rabbi Klapper suggests that although "ethics exist prior to Halakha," nevertheless halakha incorporates it into its universe as an outside partner but one with equal footing. "Making practical Halakhic decisions [therefore] ideally requires understanding each of these [ethics and other universal values] on their own terms."

Such an interest in human values is anathema to a classical understanding of Halakha. The above-mentioned postulates are incompatible with a traditional notion of Halakha as a theological phenomenon that exists prior to and independent of any other system. Even if another system has parallels to Halakha, Halakha is an independent and unique genre.

The halakhic process is animated by a Divine spirit, אלוקים ניצב בעדת אל. And while the idea of *Daas Torah* has unfortunately been tainted by its abuses and misapplications, it is nevertheless a (misguided) outgrowth of the premise that the process of *psak* is animated and guided by a transcendent Divine.

Accordingly, the value of Human Dignity (*Kevod Habriyot*) is not as Rabbi Klapper thinks an "ethical principle incorporated into Halakha," it is a Halakhic category. In this regard, it is no different than the halakhic premises of "hearing is like answering" *shomeia keonah*, "the more frequent act takes precedence" (*tadir kodem*) and the like. It is part and parcel of Halakha's innate and self-containing infrastructure, not merely something that complements it.

For the traditional posek, ethics is a divinely ordained sacred principle. Dickens, Hawthorne, Lofting, and Plato (authors which, according to the interview, form the basis of R. Klapper's ethical compass), serve at best as the Torah's handmaidens. These thinkers can help to illuminate some of Halakha's ethical positions but they are certainly not its source.

Therefore, as I explained, while not part and parcel of the *pesika* canon, the book *Divine Will and Human Experience* nevertheless sheds tremendous light for those who care about that canon. Therefore, I strongly recommend that you add this important book to your library.

<https://kavvanah.blog/2023/02/19/johnny-solomon-responds-to-aryeh-klapper/>

Rabbi Johnny Solomon teaches Halacha and Jewish Thought at Matan and Midreshet Lindenbaum, and he works as #theVirtualRabbi – offering online spiritual coaching, halachic consultations, and Torah study sessions to men, women, and couples around the world.

Posted on February 19, 2023 by Alan Brill

‘Divine Will and Human Experience’ is a soft back book which has been self-published by the Center for Modern Torah Leadership, of which Rabbi Klapper is Dean. On its front cover is an image of a glass pyramid where a black beam of light, labelled as ‘Divine Will’, is refracted into four different light beams labelled ‘Freedom’, ‘Dignity’, ‘Equality’ and ‘Responsibility’.

Perhaps mentioning the style of the front cover of a book appears to literally fall into the trap of judging a book by its cover. The issue, however, is that unlike most books, there is no Preface or Introduction to ‘Divine Will and Human Experience’, and similarly, there are no approbations which oftentimes feature in books relating to Jewish law.

Instead, following the title page and copyright page are four pages detailing the contents of the 39 chapters of ‘Divine Will and Human Experience’ (which themselves are divided into six categories: ‘MetaHalakhic Principles’, ‘Equality as a Torah Value’, ‘Halakhic Methods’, ‘Long Covid and Yom Kippur’, ‘Halakhic Illustrations’ and ‘Biblical Portraits’) which is then followed by the 39 articles (spanning approximately 230 pages).

Admittedly, there is a paragraph titled ‘About the Book’ on the back cover of ‘Divine Will and Human Experience’ which is seemingly intended to inform its readers about the purpose of this book which, for the sake of considering the goals of ‘Divine Will and Human Experience’, I’d like to quote in full:

Wallace Stevens wrote that poetry is generated by the pressure of reality on imagination. Along the same lines, practical halakhah at its best is generated by the pressure of reality on Torah. ‘Divine Will and Human Experience’ illuminates every stage of that process in a wide variety of contexts and genres. You’ll find the halakhot of art and the art of halakhah. You’ll find an authoritative responsum, and a psak that failed; an explanation of how a beit din practice became oppressive, and an explanation of how rabbinic powerlessness enables oppression. This book is for everyone who wants to understand halakhah deeply and share responsibility for the Torah that constructs and governs our personal and communal religious lives.

The problem is that while some of this paragraph is descriptive, some of it poetic, and some of it (specifically the statement that “‘Divine Will and Human Experience’ illuminates every stage of that process”) are bombastic, it actually doesn’t tell the reader who this book is for, or whether readers should treat each essay as being exhaustive, or anything about the role that ‘Freedom’, ‘Dignity’, ‘Equality’ and ‘Responsibility’ – which, on the basis of the image on the front cover are the four principles that make up the ‘Divine Will’ – play in halakhah. In fact, it is only by reading the essays in ‘Divine Will and Human Experience’ and paying close attention to some brief remarks made by Rabbi Klapper in some of those essays, that the reader gets any sense whatsoever about the nature of this book.

Unlike many books incorporating halakhic essays, the halakhic essays in this book different from most others, in that, on two separate occasions Rabbi Klapper informs his readers that what he is writing is neither comprehensive nor conclusive, while the tone of writing used by Rabbi Klapper clearly points to the fact that he intends that these essays will help foster further discussion.

For example, in Chapter 11, titled ‘When Torah Clashes with our Values’, Rabbi Klapper writes that:

‘this essay is a collection of raw, first-level interpretive observations – they provide ways of thinking through the Torah narrative without (I think) imposing any conclusions... You’re welcome to send me your thoughts about what these interpretations could mean for these issues, or to politely post them (and

equally politely critique such posts), and of course to challenge or support them at the level of the text' (p. 69).

What this suggests is that the essays in 'Divine Will and Human Experience' are not actually halakhic essays per se. Instead, they are thoughts on points of halakhah which Rabbi Klapper shared or presented at some point to members of his Center for Modern Torah Leadership.

In fact, this point is made even clearer in his remarks in Chapter 12 titled 'Learning Torah we Disagree With' where he writes,

'I'm writing stream-of-consciousness to model the idea that there is value in thinking about challenging interpretations of Torah, and in sharing our understanding of such Torah, even if we won't necessarily agree, or at least not agree fully, with the hashkafic perspectives that emerge from them' (p. 74).

What this tells us is that while, as noted on the back cover, Rabbi Klapper is 'a posek, lamdan, and thought-leader', the reader of 'Divine Will and Human Experience' doesn't encounter Rabbi Klapper-as-posek in the sense that his role isn't to present fully reasoned halakhic thoughts and rulings. Instead, they encounter Rabbi Klapper-as-mentor-and-teacher to budding Torah scholars whom he has taken under his wing and whom he feels a responsibility to teach them about the importance of 'Taking Responsibility for Torah' (which, as he writes in Chapter 13 in his essay titled 'Purely Theoretical Halakhah', is 'the motto of the Center for Modern Torah Leadership', which 'was formulated to oppose the claim that halakhah can be discussed in the beit midrash without considering real-world consequences' (p. 83)).

Having said all of the above, I would now like to more closely examine some of Rabbi Klappers' insights by reflecting on four of his essays:

a. 'Chazakot and Changing Realities'

Even a quick glance at 'Divine Will and Human Experience' leads the reader to the conclusion that Rabbi Klapper enjoys offering insights about the development of halakhah. As he writes at the beginning of Chapter 2, titled 'Chazakot and Changing Realities':

Practical Halakhah exists in constant dialogue with the world around it. Competent poskim know and respond to the social, political, and economic realities of their communities. In turn, halakhah shapes those realities in important ways. Consider for example the effect of capitalism on the halakhot of ribit (usury), and the effect of halakhah on the price of ungrafted citrons' (p. 14).

Having provided readers with this background, Rabbi Klapper addresses the chazakah attributed to Rav Hamnuna (as mentioned in Gittin 89b – although for some reason Rabbi Klapper does not provide this basic Talmudic reference), as codified in the Shulchan Aruch (Even HaEzer 17:2), that 'a woman is believed if she claims to be divorced while in her presumptive husband's presence', because, "a woman is not brazen in the presence of her husband".

Yet the Rema rules 'that because of societal changes, this chazokoh (sic) no longer generates the credibility necessary to allow remarriage', Rabbi Moshe Feinstein (Igrot Moshe EH 1:49) ignores, and as Rabbi Klapper adds, 'I suggest deliberately', the question of 'whether changes specific to his own time and place have weakened the latter chazokoh' (p. 15). He writes in his concluding remarks to this chapter:

while chazokoh's are influenced by social changes, there is no straight line from a change in circumstances to a change in law. The legal presumptions that Chazal created via chazakot resulted from an interplay between their evaluation of reality and their sense of what halakhic outcomes were necessary or desirable. A competent posek must consider how changed circumstance affect the reality underlying the chazokoh and also whether allowing those changes to affect the chazokoh would yield undesirable halakhic outcomes' (p. 17).

What Rabbi Klapper does here is reveal some of the considerations that inform and inspire poskim to reach various halakhic decisions, which is particularly valuable given that these considerations are rarely made explicit by poskim.

b. 'Changing Realities and New Rabbinic Legislation'

In Chapter 3, Rabbi Klapper contrasts the approaches of Rabbi Ovadia Yosef (Yabia Omer 1:16) and Rabbi Moshe Feinstein (Igrot Moshe OC 4:50) regarding the question of whether new decrees may be established in the modern period, with his argument being that while 'discussions of halakhic innovation often revolve around an asserted need for new leniencies.. it stands to reason that changed circumstances will require just as many new stringencies' (p. 19). However, as he continues, 'if today's halakhists are judged incompetent to issue new stringencies, they are unlikely to succeed in implementing new leniencies' (ibid.). Given this, Rabbi Klapper notes that, 'generating the authority to permit may require granting the authority to forbid' (p. 24) and that, 'my hope is that this essay opens space for serious discussion of the extent to which we wish to grant that authority' (ibid.).

Here, Rabbi Klapper gives voice to a rarely addressed consideration in halakhic decision-making – although not one that is shared by all poskim. The question, however, is to what extent is his thesis about the need to issue new stringencies correct? While I'll not answer that question directly, I believe that any answer demands significantly more research and consideration than reference to a singular responsum of Rabbi Feinstein (putting aside the fact that the subject of this specific responsum has been challenged by various halakhic authorities). Given this, I humbly suggest that the brevity of this and some similar essays in 'Divine Will and Human Experience' are insufficient for Rabbi Klapper's students to truly have a 'serious discussion' on this topic.

c. 'Defining Dying'

Chapter 25 opens with the same reference to Wallace Stevens as appears on the back cover of 'Divine Will and Human Experience' (see above), while Rabbi Klapper then continues to state that, 'the practice of halakhah inevitably changes when reality does. But the 'way' in which it changes is often badly misunderstood' (p. 155).

This statement is, to my mind, a powerful insight into what Rabbi Klapper primarily seeks to address in his book: not the 'what' of halakhic change, or necessarily the 'why' for halakhic change, but in fact the 'way' in which halakhah changes.

In terms of his treatment of Dying, Rabbi Klapper considers his teacher – Rabbi J. David Bleich's – contention (see Tradition 30:3) that 'any patient who may reasonably be deemed capable of potential survival for a period of seventy two hours cannot be considered a 'goses'' (p. 155).

As Rabbi Klapper then notes, under this definition, 'many conditions categorized as 'goses' in past centuries would not be 'goses' nowadays, for example because mechanical ventilation might extend their lives. So the practical halakhah of 'goses' might change in response to technological change' (ibid.).

As he concludes the chapter, 'we might for instance argue that medical progress has created a new class of people regarding whom it is ethical not to provide life-extending treatment, even though they do not fit the category of 'goses'' (p. 160). Yet, whatever the case, while it may be 'tempting to assume that poskim who reach results we dislike on issues of technological change must be ignoring the science or distorting the sources. The truth is that sometimes they are expressing very in-the-moment moral opinions that disagree with ours' (ibid.).

d. 'A Tale of Two Cities'

The final section of 'Divine Will and Human Experience' deals with what Rabbi Klapper calls 'Biblical Portraits', and in Chapter 38 he examines the plea that Rachav makes to the spies that they spare the lives of her family (see Yehoshua Ch. 2).

One might wonder how this story aligns with Rabbi Klapper's overall interest in halakhah. However, what Rabbi Klapper seeks to argue here is that moral examinations must precede halakhic decision-making.

He does this by opening this chapter with a quote from Rabbi Norman Lamm that 'Halakhah is a floor, not a ceiling' (p. 226), and by then asking a series of questions: 'Can human decisions lower halakhic floors, and raise spiritual ceilings? How should we evaluate decisions that do both simultaneously? Can our commitments affect other people's spiritual range?' (pp. 226-227).

And then, through considering the approach of a number of commentaries on the Rachav story including Ralbag who draws a parallel between this event and Rabbi Yochanan ben Zakkai's petition to Vespasian (see Gittin 56a – although here too Rabbi Klapper does not provide this basic Talmudic reference notwithstanding the fact that he prompts the reader in the header introducing his essay to 'Think of Rachav facing the spies as parallel to Rabban Yochanan ben Zakkai facing Vespasian'), Rabbi Klapper reaches a conclusion that:

'The spies' oath raised the halakhic floor to the level of the moral floor. But it seems likely that Rachav's demand did not raise the moral floor – she merely enabled the spies to correctly perceive its level. They were halakhically obligated once they took the oath, but they were morally obligated to take the oath. In fact, they were obligated to take the oath even before (Rachav – nb. this is missing from the original text) made any demand, because without such an oath, halakhah was setting its ceiling below the moral floor' (p. 230).

Having considered four different chapters in 'Divine Will and Human Experience', I would like to address just three further issues. One relates to the way Rabbi Klapper explains certain ideas, one relates to the role of Rabbanit Deborah Klapper in this book, and one relates to notable absences in 'Divine Will and Human Experience'.

i. Clarity of explanations

As previously mentioned, Rabbi Klapper's 'role' in 'Divine Will and Human Experience' is that of a mentor and teacher, and his skill in explaining ideas in a fun and creative way is evident throughout the book. For example, he summarizes Yoma 85b as stating, 'one should chai by them and not die by them' (p. 94).

Less playful but certainly very helpful for a budding Torah scholar is where he explains the meaning and significance of certain halakhic terms. For example, he writes that 'vadai is a legal term of art; it means that the exceptions are rare enough that the law does not need to account for them' (p. 158).

At the same time, there are times when Rabbi Klapper chooses to be so expressive as to lose most readers, such as when he writes that, 'the hypotheticality position is a Masoretic epiphenomenon' (p. 83).

ii. Deborah Klapper

Oftentimes, authors reference their family, or spouse, or children, in the 'Acknowledgements' section of a book. Yet while no such section exists in 'Divine Will and Human Experience', the reader is treated to something altogether different – namely a number of insights of Deborah Klapper which Rabbi Klapper then includes in his book.

For example, towards the end of Chapter 5, titled 'Halakhah and Reality Don't Always Have to Agree' which discusses the role of probability in halakhah, the reader is informed that, 'Deborah Klapper suggests... [that] not everything is probabilistic; sometimes reality just is. If halakhah and reality always corresponded in probabilistic cases, we might mistakenly conclude that they always corresponded, period, and refuse to correct even the most egregious halakhic errors of fact' (p. 35).

Additionally, in Chapter 21 titled 'The Private History of a Psak that Failed', where Rabbi Klapper expressed concern about the choice to rely on certain halakhic leniencies such as Megillah livestreaming during the 'second COVID Purim', the reader is informed that, 'Deborah Klapper challenged my assumptions in two ways. First, she argued that my critique of our lack of preparation was overblown... Second, she thought that because many community rabbis had issued psakim, in reliance of major poskim, telling people that they could rely on the livestream this year, it would be wrong and irresponsible for me to make people feel uncomfortable doing so (p. 131)'. Interestingly, Rabbi Klapper nevertheless began writing a responsum suggesting that listeners of a livestream video combine this with a livestream dictation – which was subsequently challenged by Rabbanit Klapper. As he wrote, 'That should probably have been enough to stop me. However, Deborah only got involved after I had already written several drafts of an essay arguing for this proposal' (p. 132).

Personally, I would love to see a responsa volume reflecting the blend of idealism and pragmatism that are evident from the exchanges between Rabbi and Rabbanit Klapper. Beyond this, perhaps Rabbi Klapper could have further emphasized the role that a spouse, or peer, can play as a sounding board and as a learning partner in the development of a psak.

iii. Noted Absences

Lastly, while Rabbi Klapper is clearly fascinated by halakhic development and especially by the way in which halakhah responds to real-world issues, I did find it particularly unusual that while he often quotes certain modern responsa authors (eg. Rabbi Moshe Feinstein, Rabbi Ovadia Yosef), there are a number of significant poskim who have made major contributions to these areas (eg. Rabbi Hayyim David Halevy, Rabbi Nachum Rabinovitch, Dayan Shlomo Deichovsky, Rabbi Yisrael Rozen) whom he doesn't quote. As the Center for Modern Torah Leadership 'was formulated to oppose the claim that halakhah can be discussed in the beit midrash without considering real-world consequences' (p. 83), I would have imagined that a greater number of contemporary halakhists who wrestle with these kinds of issues would have been mentioned.

Conclusion

Rabbi Klapper has a penchant to philosophize about what is halakhah, and in many instances, his observations are incredibly incisive. At the same time, there were moments when I would have preferred the halakhic texts that he quoted to speak for themselves.

As mentioned, the omission of any Preface or Introduction made it considerably harder for me to understand what this book is and who it is for. Moreover, for those who are not participants of the Center for Modern Torah Leadership, it is not entirely clear where to go next with the discussions that naturally spring from each of the chapters in this book (nb. unfortunately, Rabbi Klapper doesn't even include his email address in 'Divine Will and Human Experience' for readers to offer their thoughts – which I think is a missed opportunity).

Does 'Divine Will and Human Experience' 'illuminate every stage' of how 'practical halakhah.. is generated by the pressure of reality on Torah'? No. Still, it is most certainly a stimulating read that touches on a wide range of issues relating to the intersection of halakhah and reality which many will find to be incredibly valuable especially when thinking about the 'way' in which halakhah changes.