

SBM Weekly Synopsis
Week of August 1st—5th
By Jared Anstandig

SBM began this week by establishing two working approaches to halakhic conceptualizations:

In the first, we begin by developing a general principle for the halakhah on the basis of past cases, and then apply this conceptualization to each new case we encounter. In this method we take no account of potential future cases when formulating the general principle; rather, we develop the principle and then apply it.

In the second, we consider from the outset a set of potential or actual cases not explicitly covered by precedent, and examine whether our perception of essential Torah values creates a strong predisposition as to what the halachah ought to be in some or all of those cases. We then develop our conceptualization of the Halakhah accounting both for precedent and for what seem to us necessary outcomes in cases not covered by precedent.

Take for example a situation in which a parent tells a child to desist from texting friends. Using the first approach, we might simply evaluate whether the Talmud's illustrative examples of *kibbud av vaeim* – feeding, watering, escorting in and out, dressing, and covering - fits well and most simply with a claim that obedience is a formal element of the mitzvah. We would then tell the child that s/he was bound to obey, without regard to the question of whether this would give parents the capacity to completely run their lives.

Alternatively, using the second approach, we might suggest that the obligation of obedience cannot be unlimited, that the spirit of Torah requires that parents not have the legal right to micromanage their children's personal lives, in other words that Torah recognizes personal autonomy as a value. We might then note that the Talmudic precedents are also compatible with a definition of *kibbud av vaeim* that entails obedience only in matters directly relevant to parent's physical needs, or that entails provision of those needs without regard to parental commands. (Rabbi Klapper contends that the halakhic tradition overwhelmingly supports the second approach with regard to *kibbud av vaeim* specifically).

We considered the effect of these approaches of a statement on Talmud Shabbat 149a that bans any visual contemplation of a *deyukna*, which Rashi translates as a mural of a historical scene such as the battle of David and Goliath, on the grounds that it violates *al tifnu el elilim*, which Rashi may translate as “do not turn toward anything that you or other human beings have created”. This interpretation seems fully consistent with a claim that there is a Biblical prohibition against taking any visual art seriously. The question was whether we had commitments to the Torah's valuing human creativity that would drive us to choose more nuanced and limited formulations.

We noted that medieval commentators use this passage as a platform for banning nonvisual works, such as military histories, on the grounds that reading them constitutes *yeshivah bemoshav leitzim*, stationing oneself among scoffers. This seems to be a prohibition against engaging in meaningless activity. At the same time, yet later commentators exempted their favorite military histories from the prohibition on the ground that they taught meaningful moral lessons. Rabbi Klapper suggested that this indicated that *al tifnu* as well was a prohibition that applied to meaningless activity, and thus would not apply to the contemplation of worthwhile art. We then discussed whether “meaningful” and “worthwhile” were legal

categories defined by the opinion of those who made the laws, or rather that we should apply the law in accordance with contemporary or subjective understandings of those categories.

Interestingly, we observed that attributing value to art does not necessarily translate into attributing permissibility. On the one hand, if the art has no value, it would be forbidden as "moshav leitzim". However, if it is too valuable, too perfect, it may begin to enter into the realms of Avodah Zarah or Meilah, as too accurate imitations of God's own creations may lead us to attributing to them excessive value, or to a diminished appreciation of G-d's uniqueness.

Our discussion of the value of physical beauty continued in numerous gemaras that suggest the positive quality of physical beauty. This all came to a halt, though, when we read the Mishnah in Avot which reports that an individual who pauses from his Mishnah study in order to appreciate the beauty of a tree is likened to one who is punishable by death. In attempt to explain this Mishnah, Rishonim divide into two groups, each with a different understanding of the sin mentioned in the Mishnah. Some view the issue as one of bittul Torah, while others suggest an issue with abandoning Torah study to admire mere physical beauty. We discussed ways in which each of these positions might nonetheless be compatible with an appreciation of visual art.

Next, we looked at the heter in Masechet Rosh Hashanah of maintaining, and perhaps even producing, otherwise forbidden images lehavin ulehorot- to understand and to teach. Though initially used by the Gemara to permit the astronomical images Rabban Gamliel used to interrogate witnesses to the new moon, we watched the Gemara and Rishonim extend the heter of lehavin ulehorot to permit a whole set of activities that would otherwise be capital crimes, including Avodah Zarah..

The conversation reached a climax when we asked whether this permission applied to learning things not specifically in order to issue halakhic rulings, but purely because because we feel that the subject possesses value. In a way, this brought us back to the question of moshav leitzim. Such a topic worthy of study because of its inherent value, by definition, must exist outside of the realm of moshav leitzim. But can we suggest that this permits the production or contemplation of images that would otherwise be forbidden? One contemporary handbook of Halakhah and art seemed to suggest, even more radically, that any clearly defined non-Avodah Zarah purpose would be sufficient to permit many otherwise prohibited images.

On the general topic of art and halakhah, this week we were privileged to engage Rabbi Chaim Jachter (author of the halakhic books Gray Matters Vol.1-3, prominent mesader gittin and posek, and rebbe at TABC) in a remarkably open and thought-provoking discussion. Among many points, Rabbi Jachter argued that Talmudic precedent proves that at times it is necessary to push the limits of appropriateness in order to impart an important lesson.

Toward the end of the week, we investigated Rabbi Yehuda Sarna's understanding of the importance of internal creativity, and whether Halakhah can be seen as channeling inherent spirituality rather than creating it. Also, we evaluated some of the claims made by Rabbi David Sperber in a long essay on art and Halakhah, especially his arguments for the halakhic significance of the archaeological evidence of past Jewish art.

SBM closed the week with an examination of two contemporary works of halakhah and art, Shut Omanut and Madrich Torani LeOmanut. We noted the importance Shut Omanut places on human images that inspire one to religious growth and Madrich Torani LeOmanut's intriguing formulations of the halakhah of art. Equipped with all of these sources, we are primed and ready to answer the forthcoming SBM 2011 sh'aylah.

Shabbat Shalom