

SBM Weekly Synopsis
Week of July 18th-22nd
By Emily Pisem

This week brought us closer to *halakhah lema'aseh* and farther away from the philosophical and abstract issues discussed last week. As we did with previous sources, we continued to view commentators as interpreting the *gemara* and subsequently determining *halakhah lema'aseh* in a way that is consistent with one cohesive philosophy and based on one set of assumptions.

We began by looking at the *Meshech Chochmah to Shemot 20:19*, who grapples with the question of why the *beraita* on *Avoda Zara* 43a does not include *mizbeyach* (altar) in its list of items from the *mikdash* that Jews are prohibited to replicate. The starting point of his answer is that there is a precedent in Yehoshua (22) for making a replica of the *mizbeyach* outside of the *mishkan* and this precedent must be justified. He therefore must find a reason, or set of reasons, that replicating this altar was permitted, even though conceptually an altar seems to be the quintessential element of the *mishkan* service. This may be an illustration of the general tension *poskim* face when their best reading of a text conflicts with a precedent they feel bound to support. Mesheh Chokhmah finally suggests that there is in fact no prohibition against replication if the replica is intended for show rather than for use. The prohibition against replicating Temple items therefore imposes no restriction on artistic creativity. Moreover, as the language the Talmud uses for this prohibition parallels the prohibitions against creating images of celestial beings, whether astronomical or angelic, Meshekh Chokhmah can be aligned with several *rishonim* to create a position that sees none of these prohibitions as restricting the production of display art.

From there we moved to the *Rambam*, whose definition of the prohibition against creating a *tzurah* of the celestial beings is limited to the personifications of those beings that were rampant in his time. He gives the example of an old man with a long black beard as a representation of *Shabtai*, which probably refers to Saturn. We covered his approaches as presented in the *Commentary on the Mishnah*, the *Mishneh Torah*, and his *Sefer HaMitzvot*.

We then moved on to the commentary of Rav Yerucham Perla on the brief poetic *Sefer HaMitzvot* of Rav Sa'adia Gaon. Before going into detail, we defined any *sefer hamitzvot* (an account of all 613 mitzvot in the Torah) as an "intellectual game" that begins from the assumption that all Biblical *halakhah* can be organized into 613 mitzvot, then works backwards to find which *psukim* can organize all that material into the necessary number of commandments. Such books do not have the option of leaving any Biblical laws uncategorized, although they can take sides in halakhic disputes.

Rav Perla notes that Rav Saadia Gaon does not list "*lo taasun iti*" (Shemot 20:29) as a mitzvah/category, even though the Talmud in *Avodah Zarah* cites it as the source for the prohibitions against replicating Mishkan items, making images of celestial beings, and making images of human beings. To resolve this, Rav Perla suggests that these citations are all part of the Talmud's *hava amina*/initial thoughts, but that in conclusion the Talmud derives these laws from other sources,

although these alternative derivations are not mentioned explicitly, and the need for them is at best implicit. We distinguished between Rav Perla's type of classification, which focuses on making sure that each law finds a place within a mitzvah/category, as opposed to a "Brisker lamdush" approach, which seeks to find the conceptual unity within each mitzvah/category and the qualitative differences between each mitzvah/category.

From there we turned to the *Shulchan Arukh*, and discussed the nature of a halakhic code before delving into the *Mechaber's* specifics. A halakhic code was defined as an organization of already existent precedent, as opposed to new responses to proposed cases (defined as a *teshuvah*). The question was posed of whether the Shulchan Aruch's work should be viewed as a literary compilation/useful summary of precedent, or rather as a halakhic prescription, and whether it should be seen as uniquely authoritative or rather as one position in the vast body of halakhic works created by his predecessors, contemporaries, and successors. We asked whether his ultimate halakhic choices regarding our topic reflected a conceptual position and coherent philosophic approach to the question of image-making, or rather an attempt to codify a combination of as many *shitot* as possible into one body of law. We then read the opinions and citations of the Beur HaGra, Shakh, Taz, and Pitchei Tshuva. We ended the discussion with a question about the true value we give to art—do we feel that there is some true value to art, and we as such need to find ways to frame the halakhic conversation around that value, or do we determine how to approach art based on the strict *issurim* and *heterim* found in the works studied (none of which seem to approach the question with the former attitude)? How do we approach artists who do value their work and are looking for validation not just in the pure halakhic sense?

On Wednesday, Rabbi Dr. Ariel Burger came to speak about his personal experience of the encounter between halakhah and art. He proposed a system in which halakhah and art are vulnerable to each other and in which what he calls "*aggadah*" inspires the creation of halakhah. He defines *aggadah* as the subjective experience, and credited among others the masters of Breslov Chasidut as recognizing the importance of subjectivity in *avodat Hashem*. He presented a slideshow of his illustrations of a Yiddish folk tale, and explained his experience with his religious community through the story. In the process, he used Rashi's comment that Avraham properly left an encounter with G-d for the sake of performing the mitzvah of *hachnasat orchim* as a metaphor for a person's need to embrace all aspects of himself, including his artistic side, regardless of religious backlash.

On Thursday, we read two particular versions of medieval teshuvot by Rabbeinu Efraim and Rabbeinu Elyakim regarding artwork in synagogues. Beit Yosef cites these teshuvot from his copy of the Mordekhai to Avodah Zarah and his halakhic decisions in Shulchan Arukh are likely influenced significantly by these teshuvot. A close reading exposed some significant difficulties in the versions found in Mordekhai as quoted in the Bet Yosef. All of these shortcomings are resolved in the significantly more complete versions of the teshuvot now printed in the Raavyah. In fact, the versions in Raavyah suggest that Rabbeinu Efraim and Rabbeinu Elyakim held positions significantly different from those they seem to

hold in the severely edited version which was all Beit Yosef had available. This discrepancy raises the far-reaching question of how to approach the halakhic positions of scholars whose interpretations and rulings were based on the limited access they had to manuscripts—a limitation that has been greatly reduced, if not eliminated, in today's society. The question was expanded: do we change modern day halakhah lema'aseh as we become aware that precedents were decided based on interpretations of faulty manuscripts, or decided without knowledge of important medieval positions, or do we accept halakhah as it was codified, regardless of its, albeit flawed, origins? If we prefer to leave halakhah as it is, but are willing to change it on the above grounds if we have a really good reason to do so, do we think that such drastic steps are worthwhile for the sake of preserving, or encouraging, the production of art in a halakhic framework?