Thinking Globally
Living Jewishly

Under the guidance of Rabbi Nathan Lopes Cardozo, the DCA’s Jerusalem Think Tank, a forum of Jewish thinkers, educators and leaders, explores a wide range of Jewish topics. Think Tank Fellows present issues from their own lives – matters they struggle with every day – with the hope that exploring uncharted realms of Judaism in these challenging sessions will further invigorate authentic religious living.with the hope that exploring uncharted realms of Judaism in these challenging sessions will further invigorate authentic religious living.

The Perfect Torah versus the Evolving Torah

Dear friends,

Shalom u-vracha

It is a great pleasure to present to my readers the first of several essays, written by my dear friend, student, colleague and scholar Yehudah DovBer Zirkind, based on my insights into Torah and Halacha and the discussion of these ideas within the David Cardozo Academy’s Think Tank.

This time the discussion centers around the thoughts of the great Chassidic master Rabbi Mordechai Yosef Leiner of Izbica, (Poland, 1800-1854) known by his work: Mei Hashiloach, one the most unusual works ever written by a deeply ultra-orthodox master thinker. This work has influenced many other orthodox and non-orthodox scholars. It may also have inspired the famous halachist, and mystic, Chief Rabbi Avraham Yitzchak Kook (1865-1935).

Rabbi Leiner’s thoughts are of the greatest importance for our days. It deals, among many other issues, with the numerous serious problems which emerge when our moral intuition conflicts with conventional Halacha; the question whether the Halacha is able to respond to the radical changes which have taken place in modern times. Is the conventional Halacha appropriate for all Jews when it is becomes clearer and clearer that human beings are by nature so radically different and consequently unable to live by one and the same code? How can one standardized deeply religious law respond and give guidance to all those different people? And what happens when an individual has a “religious illumination”, a kind of divine revelation, coming from God which contradicts the very requirements of the Torah?

And while Rabbi Leiner lived long before the State of Israel was established, his many unconventional thoughts touch on perhaps the most important question with which Jewry struggles at this very hour: How to secure the democratic State of Israel’s religious Jewish character which gets constantly compromised but nevertheless wants to stay Jewish. No doubt, this matter touches on the very core of Jewish identity and consequently on the survival of the State of Israel and the Jewish people.

In my writings and thoughts, I have dealt with many of these problems. (See for example: Jewish Law as Rebellion, A Plea for Religious Authenticity and Halachic Courage, Urim Publications, 2018).

In the following essays, Yehudah Dov Ber Zirkind discusses my thoughts on the Mei Hashiloach in relationship to my own ideas as I presented them in our Think Tank and also shows us the highlights and pitfalls of these ideas.

Much more can be said about all these topics which we hope to present to you in the future.

It is of utmost importance that our discussion should be read with a great amount of Yir’at Shamayim, the awe of Heaven, deep belief in the divinity of the Torah, which are fundamental to the very thoughts of the Mei Hashiloach and my own small contribution.

Enjoy.

Nathan Lopes Cardozo
THOUGHTS
ON THE MEI HASHILOACH
AND THE HALACHA

Yehudah DovBer Zirkind

Introduction: The Orthodox Jewish Spectrum

There is a heated battle currently raging within Orthodox Jewish circles and beyond for the soul of Judaism, Torah and Halacha. I believe that it is fair to say that this issue constitutes one of the core conflicts and major fault-lines dividing right-wing and left-wing orthodoxy. At the risk of oversimplification, I would like to argue that within Orthodoxy, Ultra-Orthodoxy (on the right) and Open-Orthodoxy (on the left) represent the polar extremes of this ideological divide.

The view generally associated with right-wing orthodoxy, espouses a "perfect-Torah" approach. According to this view, the Torah—as interpreted by its authoritative interpreters and codified by its preeminent halachic authorities—contains the perfect “truth, the whole truth and nothing but the truth.” Thus, living a Torah-true lifestyle demands that one not compromise the truth of Torah by surrendering to the changing intellectual currents and shifting moral fads of a particular zeitgeist. Halacha is morally and ethically perfect as it stands, and any attempt to change Halacha to make it more compatible with the moral spirit of the age is a religious travesty. This attitude toward Torah is best summed up in the words of the Psalmist, “The law of the Lord is perfect, restoring the soul…The orders of the Lord are upright, causing the heart to rejoice… The judgments of the Lord are true, altogether just.” Even when certain laws appear to be unjust, one must defer to God’s superior judgement. “There is neither wisdom nor understanding nor counsel against the Lord.” Thus, according to this view in its most extreme formulation, changing moral attitudes toward a host of issues (for example, the changing roles of women, social equality, sexual and gender identity, and other issues) are a violation of Torah-true principles, and hence must be completely rejected.

On the other side of the spectrum is the view generally associated with left-wing or liberal orthodoxy. The ideologues of this camp espouse an “evolving-Torah” approach. According to this view, the Torah—as interpreted by its authoritative interpreters and codified by its preeminent halachic authorities—contains the perfect “truth, the whole truth and nothing but the truth.” Thus, living a Torah-true lifestyle demands that one not compromise the truth of Torah by surrendering to the changing intellectual currents and shifting moral fads of a particular zeitgeist. Halacha is morally and ethically perfect as it stands, and any attempt to change Halacha to make it more compatible with the moral spirit of the age is a religious travesty. This attitude toward Torah is best summed up in the words of the Psalmist, “The law of the Lord is perfect, restoring the soul…The orders of the Lord are upright, causing the heart to rejoice… The judgments of the Lord are true, altogether just.” Even when certain laws appear to be unjust, one must defer to God’s superior judgement. “There is neither wisdom nor understanding nor counsel against the Lord.” Thus, according to this view in its most extreme formulation, changing moral attitudes toward a host of issues (for example, the changing roles of women, social equality, sexual and gender identity, and other issues) are a violation of Torah-true principles, and hence must be completely rejected.

Some of his papers are accessible online at: https://telaviv.academia.edu/YehudahZirkind
the Israelites at that point in time;⁴ and other sources which record the rabbis’ struggle with morally problematic texts and the interpretive strategies they employed to address them.⁵ Rabbi Eliezer Berkovits (1908-1992), one of the champions of this approach, succinctly expresses this idea of morally imperfect laws in the Torah as Torah tolerated norms as opposed to Torah taught ideals.⁶

Consequently, the proponents of this approach don’t view these higher moral notions as sacrilege and an affront to Torah, rather they maintain that God Himself would approve of these higher moral standards. Instead of viewing these ideas as foreign influences from the external world of secular humanism—ideas that must be kept out of the Jewish worldview—these very insights and moral intuitions are seen as having been implanted by Divine Providence. These new insights thus derive from a (quasi) divine revelation in the guise of the secular zeitgeist.⁷

Proponents of this view believe that Halacha itself must evolve in order to take these more progressive values into account. Unlike other denominations within Judaism, however, which believe that the law can be totally disregarded in such instances, these liberally minded Orthodox Jews attempt to employ legitimate halachic mechanisms to change the law. To be sure, the ability to amend a static and fixed code of law in accord with a dynamic and ever-evolving conception of morality is fraught with great challenges and tensions. Nevertheless, advocates of this view believe that while this enterprise involves greater risk than the more conservative religious approach, it is not only morally justified but also religiously mandated.

This dichotomy between the “perfect-Torah” verses the “evolving-Torah” models permeate both the realms of Hashkafa (religious outlook) and Halacha (religious law). A hashkafic view that upholds the “perfect-Torah” model will view Halachic changes based on a more progressive moral outlook as a falsification of Torah; whereas a hashkafic view which upholds the “evolving-Torah” model will actively pursue any and all possible means to revisit and reshape Halacha. This is based on their firm conviction that in so doing they are not desecrating the Torah; rather, they are elevating the Torah to a higher degree of sanctity. They are slowly and steadily attempting to narrow the gap between the less-than-perfect Torah of today and the ideal Torah of the future.

Rabbi Cardozo

One of the contemporary ideologues of the latter view is Rabbi Nathan Lopes Cardozo. In numerous essays he espouses an “evolving-Torah” viewpoint, and calls for thoroughgoing changes in the Halacha. In one essay he views conventional Halacha as “defensive-Halacha” which ought to be replaced by a “redemptive” and “prophetic Halacha.”⁸ While in another essay, he distinguishes between the pragmatic Torah that is and the ideal Torah that ought-to-be.⁹ Often ridiculed for his controversial and radical approach toward Halacha, Rabbi Cardozo stands resolute in his conviction that his views are not a departure from authentic Orthodox Judaism; on the contrary, he insists that his views express the true creative spirit of Halacha which has unfortunately become fossilized. He maintains that the prolonged exile and the collective trauma of Jewish persecution gave rise to a reactionary and paralyzing spirit which froze up the bubbling hot springs of the Halacha.

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In addition to Rabbi Cardozo’s prolific output of essays and lectures, he also heads a Think Tank in Jerusalem. The members of the David Cardozo Academy Think Tank consist of a heterogenous group of scholars, educators and professionals, all of whom share a vision and passion for a revitalized Judaism. Among other things, the Think Tank provides a platform for Rabbi Cardozo to explore his ideas and discuss the ways in which his ideas can have an impact on the greater Jewish community in Israel and abroad.

**THE DCA THINK TANK DISCUSSES THE MEI HASHILOACH**

On January 29, 2019 the members of the David Cardozo Think Tank in Jerusalem convened to discuss several ideas of the Chassidic master, Rabbi Mordechai Yosef Leiner of Izbica, Poland (1800-1854), also known as the Mei Hashiloach, after the title of the book containing his teachings.

The Mei Hashiloach’s teachings have recently become a focal point for lively discussion and heated debate. In particular, his ideas have been widely popularized by neo-Chassidic thinkers and religious seekers, thereby making him a central figure in contemporary scholarly and religious discourse. Numerous scholarly treatments of Mei Hashiloach’s original and controversial views on matters pertaining to theology and Halacha have appeared in recent decades and continue to engage the minds of rabbis and academics alike.

Of particular interest to Rabbi Cardozo and the Think Tank are the Mei

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**Endnotes**

1. Tehillim, 19:8-10.
2. Mishlei 21:30; See also Brachot 19b.
3. See Kiddushin 21b-22a.
7. I am indebted to Professors Yehuda Gellman and Tamar Ross for this insight. See Jerome Gellman, *This Was from God: A Contemporary Theology of Torah and History*, especially chap. 7. See also Tamar Ross and Jerome Gellman, “The Implications of Feminism for Orthodox Jewish Theology,” in Zvi Mautner and Avi Sagi, eds., *Multiculturalism in a Democratic and Jewish State: The Ariel Rosen-Zvi Memorial Book* (Tel Aviv: Tel Aviv University Press, 1998), 458 (Hebrew); Tamar Ross, *Expanding the Palace of Torah: Orthodoxy and Feminism* (Hanover : Brandeis University Press, 2004), 205-206.
9. Ibid., chap. 19.
Hashiloach’s unconventional statements about Halacha.10 These statements, although strictly hashkafic (philosophical) and not halachic (legal) in nature, are often cited by proponents of the “evolving-Torah” approach to support the view that that the Halacha as codified in the Shulchan Aruch may not always reflect the ultimate will of God.

Thus, for example, The Mei Hashiloach presents a typology of opposing archetypes as personified by the biblical personalities Yosef and Yehudah. Yosef represents the strict Halachist, whereas Yehudah represents the person who looks directly toward God to discern His will.11

In other passages, the Mei Hashiloach talks about the possibility of a personal divine illumination, or insight, guiding a person toward a different course of action than what is mandated by normative Halacha.12 This divine insight reflects a deeper and more individualized notion of what God wants a person to do at a particular moment or in a given situation, which can be at odds with the general practices of Mitzvot and Halacha.13 After all, what the Mei Hashiloah terms kelalim or “general rules of Torah”14 prescribe rules for all situations, without differentiating between different times, places, and personal temperaments.

This essay is Part 1 of a series dealing with Rabbi Cardozo’s views on the Mei Hashiloah.


12 The term “divine illumination” referring to an internal insight, intuition, or inner clarity that enables a person to discern God’s will concerning a particular situation, was coined by the late scholar of Jewish Mysticism and Hasidism, Joseph G. Weiss (1918-1969), in his study “A Late Jewish Utopia of Religious Freedom,” in David Goldstein, ed., Studies in Eastern European Jewish Mysticism (Oxford: Oxford University Press, 1985), 211 ff. Weiss’ term “divine illumination” is a translation of the Hebrew word ha’arah which appears in the book Mei ha-Shilo’ach. Note that RMY uses other words as well to describe this type of “illumination.” One of the key terms he uses is “Binah” which seems to indicate that he is not referring to a mystical experience per se, but rather to an internal perception and awareness.

13 There are numerous passages in the Mei Hashiloah which discuss the dichotomy between the general rules of conventional Halacha versus discerning the true depth of God’s will for each specific moment and situation. The following references to the Mei ha-Shiloach refer to the New York: Rabbi M.J. Lainer, 1984 edition, available online at http://hebrewbooks.org/19936. See, for example, Mei Hashiloah, vol. 1, folio 9a on Bereshit 23:1; Ibid., folios 14-15a on Bereshit 37:1; Ibid., folio 30b on Shemot 34:17; Ibid., folio 52 on Bamidbar 21:10; Ibid., folio 53b on Bamidbar 23:23; Ibid., folio 56a on Bamidbar 36:5; Ibid., folio 12b on Shabbat 22b; Ibid., folio 15 on Yoma 26a; Ibid., vol. 2, p. 24 on Shemot 6:23; Ibid., pp. 53-54 on Vayikra 26:3; Ibid., p. 56 on Bamidbar 9:2; Ibid., p. 57 on Bamidbar 9:23; Ibid., p. 58 on Bamidbar 12:6.

14 See the source sheet #2-3.