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RESPONSES TO COHEN, GIBBS, AND OCHS

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A. To Aryeh Cohen

I would like to add something to Aryeh's very interesting and illuminating analysis of the Talmudic passage. A key word in the interpretation of this passage, to my mind, is "hasid." Elijah was in the habit of visiting a certain hasid, but ceased to do so when the hasid placed, or partook in the placing of, a gatehouse at the entrance to the courtyard of which he was a member. Aryeh asks how this disapproval of Elijah achieves any authority at all against the Mishnaic ruling that not only is a gatehouse to be built, but any member who fails to contribute towards this should be forcibly compelled (*kofin*) to do so. Elijah's appearances (or non-appearances) have more than one motivation. In the Talmud, as Aryeh points out, but there is one motivation which may be particularly relevant here. Aryeh says, "Elijah's appearances serve as a signpost that point to a higher order of morality," and this is the point that I wish to develop further. I suggest that relevant here is the *mishnat hasidim*, which is mentioned elsewhere in the rabbinic writings. I refer particularly to the case of Rabbi Joshua ben Levi (*Genesis Rabbah* 94:9), who also forfeited the visits of Elijah, not because he did anything wrong (since he had followed

the teaching of the Mishnah), but because, as he was told by Elijah in a later explanation, a man of such stature should have followed not the Mishnah but the Mishnah of the saints (*hasidim*).

There is a clash here between the code of the ordinary person and that of the saints. Ordinary people are adjured by the Mishnah to partake in the building of a gatehouse, as a move of solidarity and loyalty to the other members of the courtyard, for whom the gatehouse is a protection against intruders. But Elijah tells the saint that this duty is not for him; he has a higher duty. This, as the commentators plausibly say, is the duty of not cutting off, in even the slightest way, communication with those from the outside who cry for help. In reality, a gatehouse would not be much of a barrier for the average Jewish schnorrer, but some bashful paupers might be put off by it, and the *hasid* has to be concerned about them even if the ordinary person need not have such fine scruples.

We encounter moral difficulties here, with which I have tried to cope elsewhere (specifically, in my forthcoming *Philosophy of the Talmud*). Is this not an unacceptable moral elitism? Does the code of the saints consist of shelving the dirty but necessary work of life on to the ordinary person, while keeping the saint squeaky-clean? Does the code of the saints actually absolve the saint from duties that ought to be incumbent on every human being (making him here, for example, a bad member of a courtyard community)? The sources, however, are aware of these pressing moral problems, and have interesting ways of dealing with them. It may be questioned, further, how the code of the saints ties in with other types of code-hierarchy found in Judaism, such as the special code of the Nazirites, or of the purity Haverim, or indeed the Holiness Code of the Jews in distinction from the Noachide Laws of the Gentiles. But the role of Elijah in keeping up the distinction between saint and ordinary person is undoubted, and here we may have another instance of it.

How does this analysis impinge on Aryeh's treatment of the Talmudic passage in question? I think that it answers his question about how Elijah can challenge the ruling of the Mishnah. Elijah is not issuing a ruling contradicting the Mishnah; he is catering for a different clientele. Both Mishnah and Mishnat Hasidism are valid in their different spheres. True,

the Gemara tries to reconcile the two rulings, arguing that Elijah may not be contradicting the Mishnah at all, but merely talking about different circumstances – only in certain far-fetched circumstances does Elijah’s ruling apply, and in those circumstances the Mishnah authority would agree. But this is one typical kind of stammaitic mode of coping with contradictions, which tries to smooth them over and minimize them; this approach takes no account of the narrative element that Elijah was dealing with a hasid from whom a special code of conduct was expected. Elijah is being ‘rabinized’, i.e. his ‘statement’ is made to conform to some run-of-the-mill contradiction from someone in the recognized chain of rabbis. So I have to admit that my solution (as well as that of Aryeh) is at odds with the approach of this particular Gemara pericope itself, which has on its hands a tradition about Elijah which appears to jar awkwardly with the Mishnah, and uses a rather hum-drum method for reconciling the difference (though in other contexts, Elijah’s interventions are treated on a different plane).

Aryeh too sees Elijah as standing outside the normal legal processes and as giving them a different, transcendent dimension. The expression *mishnat hasidim*, I suggest, is the ‘value-concept’ that authenticates this activity of Elijah, and points to the limitations of the legal morality of the Mishnah. Yet I would hesitate to endorse Aryeh’s concept (if I understand him rightly) of Elijah as issuing a call to life opposed in some way to the text. On the contrary, I see the text as the protection of the ordinary person from the demands of a morality that is too high and strained for normal life. After all, Judaism is the religion in which the ordinary person and his ordinary duties are central; virtuoso moral performances are applauded and sanctioned, but not allowed to displace the need for a morality based firmly on ordinary people living together in a community. In our present Talmud pericope, Elijah scorns the needs of the courtyard community, who band together to prevent intrusion which might disrupt the lives of the members. But these needs are very real. There is only one Elijah, and most of us are not hasidim, and we need to have fellow-feeling with other non- hasidim. So I would be reluctant to see Textual Reasoning too closely identified with the standpoint of Elijah, although I do see the tension

between the Mishnah-text and the Mishnat Hasidim (which is not an actual text, but a concept hovering on the border-line between text and ideal) as very relevant to the concerns of Textual Reasoning.

B. To Robert Gibbs

Robert Gibbs' article is most helpful in understanding the phenomenology of reading a text; it demonstrates that what might seem a solitary activity, is in fact replete with social encounter. The Talmudic text about the meeting of rabbis in "the upper story of Nitzah's house in Lod" is relevant indeed. This is no abstract textual discussion, but an encounter of good friends in an atmosphere of hospitality. But the drama of the occasion goes much further. As Gibbs movingly observes, the conversation took place at a time of bitter persecution, and the positions taken by the discussants actually reflect the background of danger. The question "Which is greater (more important)...?" means "important unto death." Gibbs might have added that a special poignancy derives from our awareness of what happened eventually to Rabbi Akiva. It is he who emphasized the crucial role of study and teaching in that upper room, and it was his later insistence on continuing his teaching contrary to Hadrian's decree that brought about his death. Textual reasoning is not merely an activity of the mind.

When Robert introduced the mishnah from which the narrative/argument of the Gemara takes off (m. Kiddushin 1:10), I was particularly intrigued. The mishnah says:

Whoever is versed in Scripture, Mishnah and the way of the world (*derekh eretz*) will not quickly sin, for it is said, 'a threefold cord is not quickly broken' (Eccl. 4.12). But whoever lacks Scripture, Mishnah and the way of the world does not belong to civilization (*eyno min ha-yishuv*).

Gibbs' valuable discussion of this mishnah does not perhaps bring out prominently that the third element, "the way of the world," is not in fact a textual study. We have two texts-Scripture and Mishnah-but "the way of the world" is absorbed through living in society. What texts we do have about it are much later than the Mishnah which already regards it, in

advance of later textbooks, as important enough to be included as an equal in the threefold cord. Moreover, “the way of the world” is not an exclusively Jewish area, but something held in common by all cultures. The possession of “the way of the world” is alone sufficient to demarcate a culture from barbarism. As I read the Hebrew, the mishnah is not requiring possession of all three “cords” but only of one of them as the minimum requirement for civilization, and the expression *ha-yishuv* does not mean Jewish civilization alone. There is more than one way of translating the expression *derekh erez* –sometimes it can mean “making a living” and sometimes it can even mean “sexual intercourse” –but here I take it to have its most usual meaning of “courteous or seemly behavior,” the opposite of boorish, unmannerly behavior. The Talmudic commentary gives two examples of boorishness: eating in the street, and being continuously irritable. Rashi defines *derekh erez* as “behaving pleasantly (*be-nahat*) with one’s fellow-creatures.” Some Talmudic voices say that a boorish person should be disqualified from giving evidence in court, since his lack of self-respect or shame before others makes him untrustworthy. The universal nature of *derekh erez* as a category not confined to Jewish society is shown by the expressions of admiration sometimes found in the Talmud for the style of good manners practiced by non-Jewish nations (e.g. the Medes and the Persians, cf. b. Berakhot 8b).

I conclude that Judaism is not quite as text-centered as it is often represented to be. Nor is it quite so Judaism-centered. It has a concept of civilization that includes all cultures, seeing them as, at least in part, the outcome of evolving interaction between persons rather than as directed from above by holy leaders or texts. Moreover, civilization itself is a value, comprising the willingness to co-operate with fellow-humans in a pleasant, tolerant, even polished, manner. The fact that courtesy is given such high standing in the Mishnah is an indication of a certain complexity and paradoxicality: it is from a text that we learn the limitations of text-learning.

C. To Peter Ochs

Peter Ochs has given us a fascinating overview of the work of TR in all its aspects. His attempt to draw up a list of rules for regulating future work is hospitable to many approaches and is based on sympathetic analysis of the work already done. He gives as an extended example the discussion that began with political comment on Joe Lieberman's candidacy for the Vice-Presidency and proliferated into discussion of the mechitsah and the separation of men and women in the synagogue. This has long been a bone of contention between Orthodoxy and Progressive Judaism, and the question is whether the special approach of TR, using insights from post-modern philosophy applied to the traditional texts, can contribute something new, significant and pragmatic to a communal issue. Much of the discussion quoted was on familiar Orthodox- versus-Progressive lines, not least in the Progressive use of traditional texts to refute Orthodox interpretation (rather than relying on general moral principles of equality).

Yet I am persuaded by Peter Ochs that a new dimension has been added and that TR has something valuable to add to such discussions. I liked particularly the generous acknowledgment of the work of Max Kadushin in opening up the field of Jewish Studies to mediating concepts. Particularly interesting to me also was the use made here of the distinction between *derash* and *peshat*. Building on the work of Halivni, Ochs has shown how this ancient distinction can be of the greatest use to thinkers of the present day. The bifurcation of textual study into "subjective" and "objective" is shown to be totally inadequate. The concept of "meaning-in-use" as a definition of *derash*, and the consequent development of a triadic structure of textual reasoning, goes a long way towards healing the rift between the academy and the yeshivah which vitiates so much recent work in Jewish Studies.

On the other hand, I feel that there is an aspect of the distinction between *derash* and *peshat* that does not appear in this analysis, and which it would be a pity to forego. This is the element of playfulness in *derash*, as we find it employed in Talmud and Midrash. When (to take an extreme

example) the *derash* requires us to change the actual reading of the text (*'al tiqrei*), we are actually playing a game in which the text is not being milked of meaning but manipulated to suit a particular context. Often in rabbinic *derash*, we feel that the rabbis are using their extraordinary familiarity with the Scriptural text to extract fun from it, rather than to discover a meaning-in-use. Sometimes this is openly acknowledged (as when the *derash* is labeled as merely an *asmakhta*), but sometimes the *derash* is taken seriously enough to form the basis of a law, and yet the element of artificiality is not ignored, even when the issue is halakhic rather than aggadic. The rabbis, after all, sense a conflict between *derash* and *peshat*, not merely a demarcation of different areas or styles of enquiry. It is this conflict that gives rise to the principle (b. Yevamot 11b) of the priority of *peshat*, in the dictum "a text never departs completely from its *peshat* (*ein miqra yotsei miydei peshuto*)." The medieval commentators Rashi and Rashbam, when they felt themselves engaged in a contest between *derash* and *peshat*, were responding to something real in the sources. I would ask Peter Ochs to consider this aspect and perhaps include it in his overall theory of *derash* and *peshat*.