Sh'ma

a journal of Jewish responsibility

7/134, MAY 13, 1977

Israel deserves u.s. strategic priority

S. Fred Singer

I have been considerably troubled by what I would describe as a "more than-evenhanded" position on an Arab-Israeli peace agreement in certain Jewish quarters. For example, a recent issue of *Interchange,* mailed to *Sh'ma* subscribers, carried a critique of the Allon Plan (as restated in the October 1976 issue of Foreign Affairs) which was written by Nahum Barnea, the Washington correspondent of Davar. Barnea presents a curious message – at least twice. He presumes to know the views of the American government on the matter of a Middle East settlement and states that "senior American officials have rejected it (the Allon Plan) on the grounds that the Arab states would never accept any plan which is not based on the 1967 borders." And again "politically speaking, the article (by Allon) is not at all attractive to the Arab states that are supposed to accept this settlement, and thus it is also unacceptable to the American government, which is supposed to help achieve it."

Now I have always thought of American policy as evenhanded. I presume this means also that the American government would not support any solution which is unacceptable to Israel. I looked in vain for a statement to that effect, but the only message I got from the article was that any precondition the Arabs put forward (preceding any peace negotiation) would be automatically supported by the American government.

I don't believe that this is so. I had thought the governing statute was Security Council Resolution 242 of November 22, 1967, which calls for the "withdrawal of Israel armed forces from territories occupied in the (June 1967) war." It does not say *all* territories; and this omission is significant, as is well known from the discussions and debates preceding the adoption of the resolution. Its purpose, of course, is to leave room for negotiation concerning the exact boundaries, which will be somewhere between the 1967 boundaries and the present boundaries. As far as I know, the American government supports this resolution and interpretation, which in turn form the basis for the Geneva Conference – and so does the Israeli government. If any change has taken place, I am not aware of it. In fact, Security Council Resolution 338, of October 22, 1973, calls upon all parties to implement Resolution 242, without any further addenda or qualifications whatsoever.

1967 borders no more legitimate than 1948 ones

The lead article in the same issue was by Professor Nathan Glazer. It is sensitive and well-reasoned, provided one accepts the initial facts and assumptions. Glazer also curiously concludes that the Arabs would never accept anything but the 1967 borders, and therefore Israel should accede without any further negotiation. What makes the 1967 borders so special? Glazer argues that they are legitimate because, "after all, they have lasted almost 20 years." But then he adds that "in time some, or perhaps most of the parties on the Arab side might be willing to accept the 1967 borders as permanent." Now that is a rather revealing thought, because it begs for the converse of his argument. Namely, what would happen, if after a settlement is arrived at on the 1967 borders, some parties on the Arab side do not accept them as permanent? Are the 1967 borders then merely the starting point for a negotiation about the "final" borders, presumably towards the 1948 borders?

Having restated Glazer's conclusion, perhaps a bit brutally, I would like to look at how he arrived at it. He is worried about continued American support of Israel's position. First, he argues that American business would have a larger share of the Arab market, admittedly much more lucrative than the Israeli market, if it were not for the strong connection between the United States and Israel. Disregarding the moral tone of this argument, one may ask whether it is correct. Specifically, by how much more would Arab trade and investments increase, and what would be the consequences of this increase on our European allies and on Japan, who would of course lose a corresponding amount of business?

U.S. influence in egypt is precarious at best

His second argument is even weaker and relates to American security interests. I agree that the basic posture in the Middle East is that the United States tries to resist and slow the advance of Soviet in-

fluence in that area. Iran and Saudi Arabia are our two major allies in this endeavor – not because they love the United States or our political system, but because of enlightened self-interest. They really have no other protector.

Glazer makes something of the fact that the United States is developing influence in Egypt. I worry about how much this influence will cost us in the future, especially as they try to play off the U.S. against Russia, and whether it is worth much to us. Egypt is an economic basketcase, as has been known for some time. Its largely illiterate population of 40 million is growing at an unbelievable rate, doubling every 20 years. Its free universities are turning out graduates who have no jobs and become discontents. Its population is revolting against the chronically corrupt bureaucracy, the vast inequality of income, but especially also against the large diversion of resources into arms. They still owe some $10 billion for Russian arms. The economic aid which Egypt receives has, however, just allowed them a $1.6 billion purchase of French Mirages.

As far as the conflict with Israel is concerned, Egypt has gotten what it wants economically out of the Sinai: the Suez Canal and the oil wells. Every additional square mile probably represents a minus rather than a plus to her economic condition. Their concern about the Palestinians is just so much propaganda. (They certainly did not show any concern when they occupied the Gaza Strip and kept these unfortunate people hostages in refugee camps.) Sooner or later, the good common sense of the average Egyptian will assert itself in a true desire for peace – if their military will permit this.

Israel's presence safeguards saudi arabia

Saudi Arabia also is in a tough position. Anyone sitting on a treasure worth 2 trillion dollars represents a tempting target to adventurers from the inside and from outside. Their huge arms purchases do not guarantee security; in fact they may destabilize the situation by enabling any lieutenant of the camel corps to overthrow the Saudi government and kill off the members of the ruling families. It is to our interest to prevent this from happening. And in this endeavor, the existence of a strong Israel is actually quite important.

The overriding strategic concern for the U.S. and the rest of the Free World must be security of Middle East oil, especially also of the supply line. While some people pose a false issue of "Israel versus oil," recent history suggests that Israel also exerts a stabilizing influence on oil supplies. For several years during the 1960's, President Nasser supported military operations with Egyptian troops and Soviet arms, ostensibly directed against the poverty-stricken kingdom of Yemen, but really aiming at Saudi Arabia and its oil reserves. This threat disappeared only after Israel defeated Egypt in 1967. In 1970, the Syrian army invaded Jordan and would have taken over if Israel and the U.S. had not threatened intervention. In 1976, the mere presence of Israel has prevented a takeover by a left-wing radical regime in Lebanon.

With these events to guide us, we have to ask a rather different question. What about the oil supply from the Persian Gulf if Israel were to disappear? What

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would happen to this life-blood of U.S. and European industry if, for example, Israel were to be "Lebanonized" as proposed by the PLO? The likely outcome looks pretty grim: a Marxist "Greater" Syria occupying not only Lebanon but all of Palestine (which includes both Jordan and Israel). A Soviet client state (a la Cuba) would then be sitting astride the northern oil route to the Mediterranean, able also to block the Red Sea and Suez. Most important, in case of a takeover of Saudi Arabia by its neighbors or by internal subversion, this grouping, if it includes the Sinai peninsula, would also block U.S. military aid.

Mass media switched sides after 1973

Settling the Arab-Israeli conflict is a laudable aim, but we should not accept the seductively comforting idea that any kind of a Middle East peace will somehow guarantee the security of the oil supply. On the contrary, the Sinai, presently under Israeli occupation, could provide a U.S. military and naval base, in addition to a land bridge and air corridor from the Mediterranean, which we could use to aid Saudi Arabia in case of a military problem. Further, the arms which we are selling or granting to Israel are more certain to be used to support the aims of the non-Communist world than are the arms which are being sold or given to the other side. Unlike Glazer, I would therefore argue that a strong Israel advances American security interests.

I do have a point of agreement with Glazer – and this is the shift in the way the mass media are covering the Middle East since 1973. Before 1973 it was the Arabs who were considered to be intransigent. After all, they had occupied the West Bank and the Gaza strip for 19 years without setting up a Palestinian state. At the Khartoum meeting in 1968 they had vowed never to make peace with Israel. They pronounced "three 'no's' – no peace, no recognition, no negotiation." And to this day they refuse to talk face to face with Israel or to negotiate. (In Cyprus, Denktash and Makarios at least met for direct personal talks.) Yet, every Israeli government has supported U.N. Resolution 242 and has offered both peace and territories since 1967 – with offers to negotiate without precondition. Why then did the perception of the newspapers and TV change so suddenly after the Arab attack in 1973? Was it Arab propaganda or increased commercial relations, coupled with a greatly exaggerated impression of Arab oil power?

Perhaps we can find out why the mass media have adopted a new line about the Middle East conflict – one which is certainly not in accord with the facts – and what we can do to change their attitude.

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Polarity in jewish ethics

Jacob B. Agus

The discussion of Jewish ethics, launched by Steven Schwarzschild (*Sh'ma,* 7/124), is a timely reminder of the need to clarify the contemporary relevance of the fundamental principles of Judaism. The fact that some of the participants in this symposium responded in tones of bitterness and belligerence indicates that a live nerve was touched. While all the discussants refer constantly to the Halachah and the "sacred tradition," they are clearly aware that they are dealing with the central issues of our time, not simply with ancient texts.

May I comment on the major points raised in this discussion:

One, the Jewish tradition contains some passages which restrict the range of moral obligation to the Jewish community as well as maxims which extend it to all men. Neither set of instructions can be disregarded in any discussion of Jewish ethics. To disregard the high principles of humanity is to remove the heart and mind of Judaism; to ignore such passages as *tov shebagoyim* ("the best of the gentiles should be murdered") and *omad vehifkir mamonom leyisroel* ("make his money available to any taker") and to pretend that they do not exist is to turn a blind eye to their potential harm, as the pamphlet by the Israeli chaplain, Rabbi Abraham Avidon, demonstrates. The many disclaimers that the term *goy,* and the terms supplied by medieval censors, do not refer to the Gentiles of our day are clouded by ambiguities and qualifications, except in the case of Meiri (*Avodah Zara* 2a, *Tosefot*). Jewish ethics is a broad spectrum of principles, not a sharply defined viewpoint.

I was recently reminded of the point raised by Prof. Leon Roth in the article to which Schwarzschild refers. In keeping with the trend to emphasize Jewish "roots," a Jewish-sponsored hospital in a large city displayed in large Hebrew letters the Mishnaic saying – *"kol hamekayem nefesh ahat* meyisroel *ke-ilu kiyaim olam moleh."* (Anyone who saves one soul *of Israel,* it is as if he has saved an entire world.) The Jewish Chaplain of that hospital selected that statement simply because it is commonly known, translating it as if the restrictive word, *meyisroel,* were not there. Its occurrence in the printed version of the Babylonian Talmud was to him sufficient authority. The hospital administrators consented to remove the word, *meyisroel,* when it was pointed out to them that the Jerusalem Talmud and Maimonides offered the humanistic version of this saying. And the Hebrew inscription must be right, as well as its English translation.

Halachah not the final word in judaism

That some unethical and even ugly passages occur in the Talmud and Midrash was recognized in the early Middle Ages by Rashi and Judah Halevi and in modern times by such scholars as Rabbi Nahman Krochmal. (An interesting little book which defends this thesis from the Orthodox viewpoint and cites many authorities is Chayim Bloch's, *Veda mah shetashiv,* N.Y. 1962.)

On the other hand, no one can rightly question that beautiful and noble statements of the ethical impulse predominate in our tradition.

The priority of "the love of the good" over "the love of one's own" in Leo Straus' terms, is already affirmed in Deuteronomy 33:9 – a passage which is reflected in the Gospels (Mark 3:31-34, Mt. 12:46 – 50, Lk. 8:19-21).

Two, the Jewish tradition, taken as a whole, is far more than *Halachah.* Aside from Lichenstein's claim that the Law itself requires the dimension of *lifnim mishurat hadin* (within the line of the law), there is the whole body of biblical and Aggadic exhortations, ranging ahead of the Law. In fact, in modern times and for most modern religious Jews, *Aggadah* is more normative than *Halachah.* And *Aggadah* includes the entire range of Jewish philosophy and ethical teaching from Philo to the great philosophers of our own day. Our revered teacher and friend, Prof. Abraham J. Heschel, used to inveigh against so called "panhalachism," the attempt to confine the whole of Judaism and Jewish experience within "the four ells of Halachah."

It has been said that the Septuagint translation of Torah as *nomos,* law, was a source of the gravest misunderstanding of Judaism, as is clearly evident in the letters of Paul. Torah is teaching; it contains laws and principles; laws become obsolete, but principles remain valid at all times. All the 613 Commandments – how few apply in our lives – are intended to train us in the love and fear of God. (Maimonides, *Guide of the Perplexed,* III, 52.) Consider Heschel's summation of the Kotzker's teaching – "a *mizvah* can become idolatry." *(Kotsk,* vol. II, p. 255).

Shared destiny lets us speak out on israel

In many areas, including relations to non-Jews, the process of *Halachah*-legislation was cut short at the time of a virtual civil war between Jews and Gentiles on the eve of The Great War (65-70c.e.) against Rome, when the Eighteen Decrees were issued. It took the initiative of an exceptional figure of authority, the younger Rabbi Judah the Patriarch, to rescind the prohibition against "Gentile oil." But even he could not go as far as he wanted. (*Avoda Zara* 37a. It is R. Yehudah Nesia, grandson of the first R. Yehudah the Patriarch. The pernicious consequence of the Halachah's distinction between the killing of a Jew and a non-Jew is illustrated in paragraph 866 of *Sefer Hasidim,* though that book is generally humanistic.)

Three, the establishment of the state of Israel cannot but lead to the emergence of new ethical problems, involving the role of government and limits on the use of power. Can one argue that American Jewish thinkers should not react to moral issues in the life of Israel? Or should they sanction, sight unseen, whatever it is that happens in Israel? Or should they employ one measure for the actions of Israeli authorities and another for all other governments? It is precisely because we, Jews, are one family that we take pride in each other's achievements and agonize over each other's failures.

If it is morally right for President Carter to call attention to the violation of human rights in the Soviet Union, because we share in the destiny and character of the society of mankind, do not we, American Jews, have the moral right and obligation, to voice our concerns regarding ethical issues in the life of Israel, because we share in the character and destiny of world Jewry?

Born and raised in Germany, Schwarzschild is naturally irritated by the Prussian sounding phrase, "purity of arms," though its intent is beyond reproach. I do not think that in Israel today there is an imminent

danger of glorifying war and "the right of conquest." Our historic experience cannot be easily set aside. We recall the words of the *Mishnah*, which speaks of weapons "as a disgrace for us." (*Mishnah Shabbat* 6,4.)

Political response to ethics is out of place

Four, I share Wyschogrod's feeling that we must not assume we know the consequences of our choices in social-political affairs. The religious feeling of humble dependence is an intrinsic part of our encounter with our Creator. It serves to deter us from yielding to the fascination of "the idols of the market-place." We seek to restrain all we can influence from yielding to the lure of the preachers of futurist utopias, be they of the proletarian, racist, or technocratic variety.

But, then, how can philosophical skepticism become a stepping stone to a legalistic fundamentalism? "I need the Law to tell me . . ." he writes.

If he were to substitute the term "Judaism," the totality of Jewish teaching, for "the Law," the problematic character of what he is told to do would be evident. I respect the deep awareness of the unity of Israel's faith and destiny on the part of some of the respondents. But on what basis is this unity to be maintained? Do the needs or interests of the people determine the character of the faith? Or do the principles of faith determine the goals and policies of the people? Shall the ideal of a "holy people" be degraded to the level of "sanctified ethnicism," which is the primitive religion of the majority of the human race? Fortunately, the issues confronting us are not so stark in nature. Yet, many a colleague prefers the categories of politics to those of ethics. Let us recall that we can tell right from wrong far more surely than we can foretell the course of future events.

Fifth, to judge from some of the comments, Kant's categorical imperative is, strangely enough, anti-Jewish. Kant's views of Judaism were indeed unfair; he assumed that all of Judaism was nothing but "legislation," or *Halachah*, but this formulation of the basic law of ethics is true to one phase of Judaism, its quest of justice, as is evident in Hillel's dictum, "*mah di aloch soni . . .*" (what is hateful to you, do not do to your fellow man).

The other pole of Judaism is the quest of the "nearness of God," or "imitatio dei."

Samuelson points out that "commitment to one's own group takes precedence" over the categorical imperative. As a general rule, this principle is simply unethical. On the other hand, human rights in general are translated into specific legal obligations within states. Kant did not deny that we enter into a "social contract" with other citizens of the same state, assuming a specific pattern of duties and rights. He projected a global society of states. He assumed that states too "would act so that their action might serve as a standard of action for all states." What is "un-Jewish" about Kant's ethic and his vision of the future?

Israel has more to lose than arabs do

Samuelson's example of Jews presumably favoring each other in business is ill-chosen. What does he think of the latest project, of American antisemites, the movement to print Yellow Pages of "born again Christians," that they might favor each other in business?

I concur with the general thesis that the categorical imperative cannot be applied to groups indiscriminately: if one group's life is at stake, while its opponents stand to lose only matters of convenience, the Kantian equivalence does not apply. This is true in the case of the Israel-Arab dispute, where the people of Israel stand to lose their very life and the Jews of the world their one state, while the Palestinian Arabs stand to lose only political rights, as distinct from civic rights, in the areas presently occupied by Israeli forces. The case for Israel does not require either the repudiation of "universalism" or the dubious support of a mystical ethic exceptionalism. And the best way of reinforcing the bonds of unity between Israel and the Diaspora is to foster the spirit of critical inquiry in the light of ethical ideals.

For we are one family, a family of adults, brothers and sisters, cousins and *mehutanim* (in-laws), and relations of all sorts, scattered in different countries and thinking in different idioms, united only by a tradition, of which God is the Father and "Keneset Yisroel" is the Mother. (*Berachot* 31b.) And in this tradition ethical criticism is the one sure bond between God and man.

Within the spectrum of Judaism there is some support for the two opposite maxims – God seeks that which is right, and whatever God ordains is right. The rationalist and the mystic will choose the aspect of the tradition that favors their respective type of piety – hopefully, without derogating from the right of others to do likewise.

Fiction and facts

Ernst Simon

Mr. Reuel Shinnar fears that "maintaining liberal ethics is destroying society" (*Sh'ma*, 7/127, February

1977). His argument is based on fiction disguised as fact.

a) The nonsensical quotation *"Fiat justitia perdit mundi"* is not authentic. There is in fact a sentence, in correct Latin: *"Fiat justitia, et pereat mundus,"* allegedly coined by the German emperor Ferdinand I (1556-1564).

b) Mr. Shinnar tells us that "Judaism never believed" in this slogan and demands that we "go back to our sources." Doing so, we twice find in the Talmud the well-known declaration "yikov hadin et hahar": Justice shall pierce the mountain. (Yevamot 92a; Sanhedrin 6b). Maimonides mentions this exhortation as a last resort after all attempts to arrive at a peaceful compromise have failed. (*Mishneh Torah, Sanhedrin* XXII, 4)

c) Mr. Shinnar makes three vigorous assertions concerning me. I shall quote them literally and examine their correctness, according to Rabbi Elazar's advice: "One who is suspected wrongfully must clear himself." (*Berakhot,* 31b)

1) "The tragedy of Ernst Simon in Israel was that he was never able to cope with the reality of the situation in Israel." I settled in Israel with my family in 1928 and never regretted it. If there had been a tragedy, I would necessarily have been conscious of it.

2) "Had he done so, he might have had some real moral influence." As far as I have had any moral influence in politics, it was due to the fact that I held to my liberal principles even in times of duress. I still believe that my friends and I have been right in posing the Arab question as a central problem of Zionist policy and of the upbuilding of Eretz Israel in a Jewish spirit. I have had the good fortune of working with people like Chaim Kalwarisky, one of the founders of the Galilee settlements; Moshe Smilanski, acknowledged leader of the Jewish farmers; Yehuda L. Magnes, first chancellor and president of the Hebrew University; Henrietta Szold, founder of 'Hadassah' and organizer of Youth Aliyah; Aaron Cohen, a leading member of the Hashomer Hatzair kibbutzim and Moshe Unna of the religious kibbutzim. All of us have tried to combine constructive practical work with an endeavour to promote Jewish-Arab rapprochement and reconciliation. In view of the forthcoming elections, I joined, with others, e.g. the veteran Sephardic leader Eliyahu Eliyashav, the list "Scheli," Shalom le Israel, led by the M.K.'s Lova Eliav and Meir Pail. As to my own contributions to Jewish education in Israel and abroad, see the biographical article in *Encyclopaedia Judaica,* vol. XIV, p.1577.

3) "He survived 1948 because others had the moral guts to face reality." I certainly am not a military hero but did display, when necessary, a modicum of civil courage. For instance: It was not an easy decision in 1934 to ask for a leave of absence of one year from my teaching post, in response to an invitiation from Martin Buber, Leo Baeck and Otto Hirsch, to help in the work of Jewish adult education in Nazi Germany. We tried, not altogether without success, to cope with reality without imitating it. (Cf. my "Jewish Adult Education in Nazi Germany as spiritual resistance," *Year Book I of the Leo Baeck Institute,* ed. Dr. Robert Weltsch, London 1956.)

Finally I should like to use this occasion to express my cordial thanks to my friend Steven Schwarzschild, who brought my essay "The neighbour (Re'a) whom we shall love" to the attention of your readers. His critical remarks will prove very useful in my re-thinking of the problem.

The question of jewish ethics today: II

Steven S. Schwarzschild

If we wish to try to advance the resolution of live questions that may be regarded as falling within the sphere of Jewish philosophical ethics, then two issues have emerged out of the discussion begun in *Sh'ma* 7/124, to which I hope I can try to make a further contribution at this time. I would describe them as the question of the place of self-interest within a deontological universalist ethic and the question of the place of martyrdom in contemporary Jewish ethics. I will then turn to these briefly.

It seems to be thought widely that if, for example, one may not become an accessory to another's murder, even at the risk of one's own life, one's own life has thereby been devalued. By the same token, it seems to be thought that if one favors universal values one thereby reduces, or perhaps even negates, one's own specificity. But both these inferences are, of course, entirely false. Everything that the prohibition of murder implies about the second person – that you are infinitely valuable, may not be reduced in life or dignity, etc. – it also implies about the first person. And the moral values that are universal are not universal-minus-one (to wit, myself or my national culture); they are valid for me just as they are for you. Practically speaking, the value of my life is vastly enhanced by virtue of the fact that your life, and every other human life, share with my life the unique characteristic of not being subject to another person's disposition. And when the universal value is taken to be the autonomy and dignity of every historic social

entity, then the Jewish people and its culture, for example, are possessed of an infinitely higher degree of inviolability than if exceptions could be stipulated to this universalization, – for under the latter alternative, who is to say that it is not just the Jews that will be made an exception of? In short, universality does not infringe on but rather heightens, indeed, conceptually it creates, individuality.

Humans are images of god, not means to an end

This is one important meaning of Kant's famous "second formulation" of the categorical imperative in the *Groundwork of the Metaphysics of Morals:* "Act in such a way that you use humanity in your own person (!) as in the person of everyone else always simultaneously as an end, never merely as a means." Suicide is, furthermore, famously one of Kant's chief examples of what is prohibited under the moral law. In the *Metaphysical Beginnings of Jurisprudence* he formulates the self-relatedness of the categorical imperative even more bluntly (1): " . . . to assert one's own value as a human being in relation to others, a duty which is expressed in the sentence: 'Do not make yourself into a mere means for others, but be at the same time an end for them.' " (2) Leaving aside Kant's distinction between the dessert of happiness and its possession – which is not relevant to our present point, the consequence of the categorical imperative from this perspective is that, as Ebbinghaus rightly points out, my own happiness is no less legitimate, though less compelling, than yours. It just may not be more so.

The point of ethics so conceived is that not I or you or she but humanity in all persons – in Jewish language, "the image of God" in all the children of man – is to be honored, and to be honored equally, neither you more than I but also not I more than you. Only if a given situation is such as to entail more humanity for me than for you must I act in order to restore the balance. And no less ought you to be ready to bring whatever sacrifice it takes to restore my human equality with you. This is the source of "philanthropy" (in the etymological meaning of the word), and it may, in extraordinary circumstances, push to the point of martyrdom. In martyrdom I do not die for you, nor you for me, but each dies for God, or, phrasing it differently, for the absolute/ divine value that inheres in humanness.

Modern restatements of the akiba-ben petura dilemma

Kant then rightly arrives at two conclusions. One is that equity is a legal right, though a humanly unenforceable one: "The claim belongs solely to the court of conscience (*forum poli,* 'the court of heaven')."

The reverse of this is that saving oneself at the price of another's life is culpable, though this, too, is humanly unenforceable. Here Kant virtually reconstitutes the scenario of *Baba Metzi'a* 62a: "There could be no penal law assigning the death penalty to a man who has been shipwrecked and finds himself struggling with another man – both in equal danger of losing their lives – and who, in order to save his own life, pushes the other man off the plank on which he had saved himself. For the first man, no punishment threatened by the law could be greater than losing his life. A penal law applying to such a situation could never have the effect intended, for the threat of an evil that is still uncertain (being condemned to death by a judge) cannot outweigh the fear of an evil that is certain (being drowned). Hence, we must judge that, although an act of self-preservation through violence ["violence" means doing injustice to another person's right, according to Kant] is not inculpable (*inculpabile*), it is still unpunishable (*impunibile*). . . . The motto of the right of necessity is: 'Necessity has no law'; but there still cannot be any necessity that will make what is unjust legal."

As far as I can see, a curious indecisiveness prevails among contemporary American ethicists about the ethical status of supererogatory acts. J.O. Urmson (4), while expressing some sort of respect for "saints," rather denigrates their importance for ethics. (In an age in which Jews talked differently than we do these days, I would have been tempted to speak of Urmson's typically Anglo-Saxon bourgeois moral mediocrity.) John Rawls (5) also waffles on what I dare call the obligatoriness of supererogatory acts, but he at least occasionally comes close to realizing that the line between duties and options (*chiyuv* and *mutar*) may not be so neat: "Some of the duties which justice as fairness counts as supererogatory may be required by the utility principle . . ." (p. 117; cp. pp. 438f.); "Yet although it is true enough that for the sake of justice (*pereat mundus*) a man may lose his life where another would live to a later day, the just man does what all things considered he most wants; in this sense he is not defeated by ill fortune the possibility of which he foresaw . . ." (p. 573; cp. also pp. 192, 478f., 485, 551) (Rawls' partial derivation from Kant may be given credit for his approximation of a better insight.) At the other end of the spectrum is, *e.g.,* Richard A. Watson (6), who holds that, the world being "a desert island" (p. 118), "the overriding moral principle of equity demands the equal sharing of food even if this leads to universal malnourishment or the termination of the species" (p.

115). (7) Clearly our world requires that more rigorous thinking be done on this subject.

Scripture does not give the self moral priority

What the classic Jewish texts laid down as doctrine millenia ago there can be no doubt, I want to hold. When Maimonides, in "Laws of the Foundations of the Torah," 5:5, codifies the law that all of us must be ready to die rather than hand over one of us to murderers, and when then R. Moses HaCohen of Lunel argues against the Rambam that either way the intended victim will die – let at least the rest of the community be saved (8), Prof. S. Atlas rightly comments (9) that R. Moses misunderstood the issue: not whether your blood is redder than mine, or mine than yours, but the absoluteness of the command "Do not kill!" is at issue, and "human life is the highest, absolute value, which cannot be calculated. It is not a question of human calculation but of divine imperative (*kabbalah beyadaynu*)." And what Kant refers to as *forum poli* is clearly what the *halakhah* calls *mittah miday shama'yim* ("death at the hands of heaven"), the ultimate penalty, which occurs in many forms.

In general the sacred texts that have been used in order to claim that, according to Judaism, the self has some sort of moral priority over the other have been, I want to hold, badly misinterpreted. Lev. 19:19 is correctly to be translated, as Hermann Cohen never tired of pointing out, not as "you shall love your neighbor as yourself" (which implies self-love as a model) but as "you shall love your neighbor, for he is like you" (in the image of God). I am glad that Dr. Weber reminded us of Dr. Finkelstein's interpretation of the debate between R. Akiba and ben Azzai (*Y. Ned.* 9), the upshot of which would be, if Dr. Finkelstein is right, that R. Akiba and ben Azzai eventually agree on the *imago Dei* as the objective standard of philanthropy rather than self-love (10). Hermann Cohen did not understand the outcome of the debate quite this way, and, therefore, subscribed to ben Azzai's teaching (11), but I would prefer to think that Dr. Finkelstein is right. (12) By the same token, then, also the debate between R. Akiba and ben Petura ought to be reconsidered. "Your life comes first," like "like you" in Lev. 19:19, designates an experiential priority, not a moral one. That is to say, it ought to be translated as meaning that "your own life is the first that you know about from experience" – from it you learn about the absolute irreplaceability of every human life, your own no less and no more than that of all other humans – now go and act accordingly! *I.e.,* I learn universal ethics from my own universal, ethical obligations. And as, of course, we know from Kant, if from no other source, experience – in this case the experience of my self and its duties – is the occasion but not the source of knowledge. In short, the self has chronological, not ethical priority.

Ben petura, akiba: fight for martyrdom or survival?

Between the chronological priority of the self and the ethical priority of the love of the other lies the mediating epistemological priority of the dialectical relationship between the self and the other. By virtually the unanimous agreement of modern Jewish and non-Jewish philosophers, I cannot even know myself as a self other than in the act of recognizing the other as a self. This is the case whether one follows the analysis of Hermann Cohen (13), Buber, Rosenzweig, (13a) or E. Levinas (14), and it is true on Kant's, Hegel's, Feuerbach's view, and on that of most current thinkers. Unless one makes this epistemological move, one isolates the self in its own self-consciousness and bars the way to a rational solution of "the problem of other minds."

Ben Petura is really being badly misunderstood. He is apparently widely thought to have held that if I find myself in a desert with another person, and the two of us have only enough water between us to see one of us safely back to civilization, then, other things being anywhere near equal, I ought to seek death so that the other person may survive.

In fact, however, ben Petura is not, as this interpretation would have it, discussing ethics at all. He is engaging in what we would nowadays probably call meta-ethics; *i.e.,* he is analyzing the rational principles that must be taken to underlie moral decisions and actions, not the decision or the action itself. In halakhic language, he is not *"possek"* here (making an authoritative decision for action).

What is the principle that he is affirming? It is not that I ought to sacrifice myself and that the other person preserve himself. Ben Petura's principle is in fact that each one of the two of us ought to be ready to sacrifice himself rather than see to it that the other die. Altruism (15) is being commanded not to one person rather than the other, but to both.

Imagine the situation. A says to B: "You drink." B says to A: "No, you drink." Now, who drinks? We still don't know. No decision has been made. Presumably a moral competition now ensues as to who of the two will preferably die a martyr, and who will reluctantly end up as a survivor. (16)

Also R. Akiba in this discussion has not decided that A should die or B. He, too, is engaging in meta-ethics. The difference between ben Petura's scenario and R. Akiba's is that in the former the struggle between A and B will erupt over who of the two will acquire "the merit" of martyrdom, while in the latter the struggle will erupt over who will end up preserving himself at the expense of another human being.

Martyrdom remains a possibility, distasteful or not
Actually the model situation is such that one does not really know who and how many, if anyone, will die. Whether even by R. Akiba's way of handling the problem I will survive, and whether, therefore, the death of the other person has been "worth it," is, of course, really unpredictable – conditional as it is on so many incalculable external factors: how far the way back to civilization, how strong the constitution of the prospective survivor, how rapacious the wild animals in the desert, etc. By the same token, whether both of us, or even only one, will die if we follow ben Petura's view is equally unpredictable: even if we don't want to put our faith in divine miracles (and the desert seems always to have been a likely place for such occurrences), wandering nomads – or a helicopter – may come by, an oasis may show up behind the next dune, etc. To let one person die now rather than chance the survival, albeit also the death, of two persons not only raises fundamental moral problems but also seems very unpractical in a world full of contingencies. (17)

Both the history of Jewish martyrdom and a cool analysis of the probabilities of our hypothetical problem show that it is likely that both will die – on one way, however, as martyrs, on the other as frustrated survivors. As Lord Keynes said famously, in the end we all die. The only question is: how do we die? In our scenario the question is: do we engender a struggle for survival, or do we engender a competition for (unavoidable) martyrdom and its sanctity?

It seems strikingly notable to me that in this entire discussion of Jewish ethics, in which there has been much talk about "who shall live, and who shall die," almost no one seems to have been willing to talk about the possibility of future martyrdom. I suppose this is understandable: in my generation we have been surfeited with martyrdom, especially Jewish martyrdom. There is surely a heavy surfeit of talk about past martyrdom. We don't want any more of it. (18) But, after all, suffering has been "the badge of our tribe." Who knows what the future holds? Yet even about the possibility of suffering we do not seem to want to think or talk. Are human beings, especially Jews, ever in a position of such privilege, however? (19) Surely one of the morally most distressing phenomena in our time is the fact that no one seems to have any idea anymore about having to draw the line somewhere, beyond which, as a limit, one may not go without losing one's humanity, though, perhaps, saving one's life – not to speak of lesser sacrifices. How many Germans resigned their positions in 1933, without having been forced to do so, rather than being sucked into the maelstrom? How many American government officials resigned rather than carry on the Anti-Vietnam War? What Jews in this country and in Israel have as much as apologized for their fervent advocacy of and co-responsibility with Richard Nixon and all his repulsive misdeeds? (Cp. S. Rabinove, "Vietnam, the guilt we need to face," *Sh'ma* 7/131)

We always have a choice: to be killers or not
R. Baruch Stern wants to make the distinction in Jewish law (*Sh'ma* 7/131) between causing the death of another, which calls for martyrdom, and "seeing" his death, which does not. Now, it goes without saying that before the unfathomable human problems which *khurban eropa* (the annihilation of European Jewry) presented to its victims only respectful listening becomes us; and R. Stern's autobiographical report receives this from me.

R. Stern's reaction, and his *p'sak* (for he makes, in effect, a legal decision), are, however, not the only voice that reaches us. To begin with, in R. Akiba's example, one of the two men is expected to drink the water and thus, at least negatively, cause the death of the other; in R. Stern's case no Jew did anything – it is the Nazi who killed. (20) Furthermore, I would hold that *B. Sanh.* 74a and *Erub.* 13b should be taken together: when you have "counted and taught" that life is not so desirable that "it were better for man to have been born, rather than not to have been born in the first place," it makes sense also to have "counted and taught" that, once born, rather than act inhumanly it is better "not to sin grievously but rather be killed." Most importantly, there were others in Nazi Europe, whose lives, deaths, and judgments evoke the same respect, and who held differently. (21)

In view of the number of attacks that have been directed at me, let me say for once that, after all, I, too, am "a brand saved from the fire;" no one needs to tell me about what is now called the Holocaust. (I have come to feel repulsion at the very word, because of its exploitation among other things.)

I take it that R. Stern understandably did not want to talk about what may be called "the pain of survivorship." It is by now a well-known phenomenon. I remember that when I returned to Europe after the war, in order to work among the *she'erith hapletah* (the surviving remnant), the very first night I was invited to a meeting of the "Verein der Verfolgten des Naziregimes" (Council of Survivors of the Nazi Regime), and over the roster a large, red banner was spread, which bore the inscription: "Die Besten unter uns sind gefallen" (The best among us have fallen). This is the pain of survivorship: having seen, not, of course, having caused, the death of others. None of the people present wanted to be dead, but all were conscience-ridden that others had died who also had not wanted to die.

Some of us have drawn a conclusion from this experience of our – and all Jewish – generations which I tried to express in these words at the end of my introduction to *Roots of Jewish Nonviolence* (Jewish Peace Fellowship): "I close with a personal confession: the men of my generation have gone through a world-war, the Holocaust, Stalinism, and Vietnam – not to speak of other mass blood-lettings. I have seen enough unnatural deaths to outlast a lifetime. I know that I, like all other men, have no choice but to die – only once, but some time. I do, however, have a choice as to whether I will die with human blood on my hands. I am deeply tired of and sickened by killing. I pray with Balaam, inspired by God and seeing Israel (Num. 23:9f.): 'Behold, this is a people that is to dwell solitary . . . May my soul die the death of the righteous and my end be like theirs.' "

Universalism benefits everyone, especially jews

It goes without saying, too, of course, that, fully in accordance with the *halakah,* readiness for martyrdom may, and ought to, become operative only after all "permitted" (*i.e.* decent) recourses for survival have been exhausted; otherwise the equally wicked sin of suicide will be committed. No one knows better about the penultimate value of survival than Jews who have gone through "the flood of fire": I may confess that occasionally, when I feel really good, I raise my glass silently in a private toast: "I 'intend' (*mekavven*) this drink against those who would have killed me several decades ago. I am just fine, thank you."

Perhaps it is clear that there is nothing pessimistic about this posture. I, for one, have no doubt whatever that the Jewish people will survive and, in time, flourish. We are not discussing the death of the Jewish people; we are discussing the possibility of the death of individual Jews precisely for the sake of the God of Israel. Nothing is so deleterious not only to the values but even to the historic survival of a culture, as the unwillingness of its members to bring "the last full measure of devotion" on its altar. It is in fact the psychopathic desire to survive at every cost which leads to one's own and one's people's death. R. Yehudah HaLevy recognized and taught that willingness to suffer, if necessary to the bitter end, and preferably in the full knowledge of what it is that one suffers for, is not only the secret of Israel's survival but even of the establishment of the messianic kingdom. (22) The ineluctable fact is that Jews, like everybody else – only more so, will be able to ensure their lives and values fully only when the world as a whole is, messianically, such that "nation shall not lift up sword against nation . . . But they shall sit every man under his vine and under his fig-tree, and none shall make them afraid." (Micah 4:3f.) Universalism is in the Jewish, as in everyone else's, interest. This I take to be the significance of the rabbinic dictum that Jewish troubles are only half-troubles; human troubles are fully Jewish troubles.

Notes

1) Cassirer edition, vol. 7, p. 38.
2) Kant has, as a matter of fact, often been accused, and still is, of egotism, of all things. *Cf.* J. Ebbinghaus, "Interpretation and Misinterpretation of the Categorical Imperative," in *Kant,* ed. R.P. Wolff, Doubleday Anchor AP4, pp. 224f.
3) *Loc. cit.,* pp. 35-37.
4) "Saints and Heroes," in *Essays in Moral Philosophy,* ed. A.I. Melden, University of Washington Press 1958.
5) *A Theory of Justice,* Harvard University Press 1971.
6) "Reason and Morality in a World of Limited Food," in *World Hunger and Moral Obligation,* eds. W. Aiken and H. LaFollette, Englewood Cliffs, N.J.: Prentice-Hall 1977.
7) Against Watson cp. Hardin, *ib.,* "Lifeboat Ethics: The Case against Helping the Poor."
8) *Tosfot ad B.M.* 62a discusses another aspect of the same problem.
9) *The Notes of Ramach on the Rambam's Code* (Hebr.), Jerus. 5729, pp. 2f.
10) The universality of the Jewish ethical principle that if I am even merely an accessory to another's murder it is not only his life but my humanity that is destroyed is strengthened by the halakhic view which holds that also the non-Jew is religiously obligated to be ready, if necessary, for martyrdom. Limitations of

space prevent me from exploring this very interesting question. Meanwhile, *cf. b. Sanh.* 74bf.; *Encyclopaedia Talmudit,* vol. 3, pp. 350ff. (and the sources there adduced); and the case of the Roman soldier by the side of R. Hananyah's martyrdom in "The Ten Martyrs," in *The Judaic Tradition,* N. Glatzer, Beacon Press BP 316, pp. 175ff. (and its sources).

11) *Religion of Reason,* tr. S. Kaplan, N.Y.: Ungar 1971, p. 119.

12) Will my controversialists, who stake so much on Dr. Finkelstein, also subscribe to the pacifism and progressivism of *The Pharisees* that he once expounded?

13) *Cf.* Schwarzschild, "The Tenability of Hermann Cohen's Construction of the Self," *Journal of the History of Philosophy* XIII/3, July 1975, pp. 361-384.

13a) See Rosenzweig's *Star of Redemption,* N.Y., etc.: Holt, Rinehart and Winston, 1971: he accepts Cohen's translation of Lev. 19:19 (pp. 239, 259, 274), and he adds that for the person under Revelation, self and other come to be simultaneously, whereas for the pagan, self precedes the other and really always remains walled off from it (pp. 239f., 346).

14) In my previous article on Jewish ethics in *Sh'ma* the exceedingly important contribution of Emmanuel Levinas to the volume *Modern Jewish Ethics* unfortunately had to be neglected. His "post-phenomenological" method is too hard to treat together with other vocabularies.

15) Dr. Weber's terminological point (*Sh'ma* 7/126) about "egotism" and "altruism" I am quite content with. In any case, I was not discussing R. Akiba's general posture – this would be the task of a broader analysis; I was only talking about *B.M.* 62a.

16) Maharam Schiff sees that this is the bottom-line of ben Petura's view and, therefore, rejects it ("there will be no end to the matter"). It is worth reminding ourselves that this entire discussion is only a parenthesis in the wider discussion of usury. The latter is condemned by all parties in increasingly strict fashion. Taking interest on money is held to be identical with murder, and a Jew who does this sort of thing is declared not to be a fitting member of his people. I am tempted to make an offer: if my critics will join me in prohibiting Jews from taking interest I will join them in subscribing to R. Akiba's view.

17) It is a disputed question in the *halakhah* whether one ought or ought not to risk possible danger to oneself to prevent certain danger to one's fellow; *cf.* R. Gershuni, *loc. cit.,* p. 163.

18) For an analysis of how the contemporary Jewish mind has come to this pass *cf.* my "On the Theology of Jewish Survival," in *Judaism and Ethics,* ed. D.J. Silver, Ktav 1970, pp. 298f. Clearly this development has gone further since then.

19) The literature on "suffering" is, of course, vast. For a start *cf.* Schwarzschild, article "Suffering," *Encyclopaedia Judaica;* Montefiore and Loewe, *A Rabbinic Anthology,* London 1938, chapt. 28, "On Suffering;" H.N. Bialik, *Sefer Aggadah,* III/1, chapt. 4/12: "Acceptance of Afflictions"; A. Heschel, *Theology of Ancient Judaism* (Hebr.), London/N.Y. 1962, I, pp. 93-110 about the different but positive evaluations of the role of suffering by R. Akiba and R. Ishmael; esp. *Sabb.* 88a-*Yoma* 23a-*Gitt.* 36b.

20) For the distinction between "seeing death" as a *shayv velo ta'asseh* and "causing death" as a *ma'aseh yada'yim cf.* R. Chayim Soloveitchik, *Novellae . . .* (Hebr.), Brisk1936, p.1. R. Chayim, as Dr. Weber rightly reminded us, equates this distinction with that between "murder by deed" and "killing the other by saving oneself." But this still leaves open ben Petura's option.

21) The literature on Jewish martyrdom is, of course, endless. For a start let me only refer to Jacob Katz, *Exclusiveness and Tolerance,* Oxford University Press 1961, chapt. 6, "The Martyr," pp. 82-91, where typological descriptions are given of "mass-suicide and massacre . . . at each other's hand" (p. 88) and where – let it be said, since M. Wyschogrod took a silly swipe at "German Jews" (*Sh'ma* 7/125) – the tragic ideal of martyrdom is historically found to be a peculiarly "Ashkenazi" development; David Daube, *Collaboration with Tyranny in Rabbinic Law,* Oxford University Press 1965, and my discussion of it, "The Imperative of Religious Law," *Washington University Law Quarterly,* Winter 1970, which I ended with the sentence: "A man, or any number of men, must know when to be ready to die rather than commit murder, regardless of any arithmetic calculations to which human life is not susceptible" (p. 109); Louis Jacobs, "Greater Love Hath No Man – the Jewish Point of View of Self-Sacrifice" (pp. 41-47) and "Disinterestedness" (pp. 202-209), *Judaism* VI, 1957; and since it last came to my attention, the discussion of religious martyrdom under the Nazis in Alexander Guttmann, "Humane Insights of the Rabbis Particularly with Respect to the Holocaust . . ," *H.U.C.A.* XLVI, 1975, – one of whose problems is whether, before being martyred, one should recite the short benediction ("Praised be Thou, oh Lord, our God, ruler of the universe, who has sanctified us by His commandments and commanded us to sanctify His name in public") or the long benediction ("Praised be Thou, oh Lord, our God, ruler of the universe, who has sanctified us by His commandments and commanded us to love the glorious and awesome name,

who was, and is, and in the future is to be, with all our heart and all our soul, and to sanctify His name in public. Praised be Thou, oh Lord, who sanctifiest Thy name in public" – cp. N. Glatzer, *Faith and Knowledge,* Boston 1963, pp. 120f.).
22) *Kuzari I/13ff. and IV/23f.; cp. also "Theology of Survival," l*
22) *Kuzari* I/13ff. and IV/23f.; cp. also "Theology of Survival," *loc cit.,* p. 312, n. 30. On the other hand, where the wind blows from these days became clear to me again when I heard Prof. H. Ben-Sasson say, at a conference on R. Yehudah HaLevy on 3. 19. 1975 in Jerusalem, that the author of the *Kuzari,* too (he, of all people!), adopted the ideal of *humilitas* from Christianity.

. . . but others say . . .

Can't we find a way to love other jews?
I identify with every Jew – Orthodox, Conservative or Reform. When I see a Chassidic Jew walk down the street with his wide brimmed hat and his long silk black traditional coat, I feel a sense of amusement and affection simultaneously. The brash Israeli is not my style, but he fights my battle. I cannot understand this constant emphasis of differences.

I and every other Jew believes in G-d. I don't know what G-d is, but I believe in Him. I am not even sure that I don't feel silly deciding whether to spell the word *H*im or *h*im. Could it possibly make a difference to an infinite being? Could it possibly matter to an infinite being whether I wear a prayer shawl or a skull cap, or eat kosher food, or pray once or twice or three times an hour, a day, a week, a year? And if I pray, should it be sung, read or chanted? Suppose I were to sing while everyone else was praying silently or sat down while everyone else stood?

I have heard a person called a hypocrite because he kept a kosher home but ate any food in any restaurant. Does sincereity depend upon a man-made rule that requires attending prayer services a given number of times a week?

If a person feels that his method and practice is Jewish, he is a Jew. Must one be logical or consistent in order to have faith? Does not faith, in the final analysis, transcend reason?

When I sit in the synagogue and listen to the Cantor chant an old traditional melody and I sing along with him and I become suffused with warmth and emotion, is it reason I feel – or faith? At that moment, as I open up my heart and mind to all the sounds and memories and identifications with the Jewish religion, no one feels more Jewish than I; no one feels so much a part of the Jewish faith.

The time has come to be affirmative; to emphasize the commonality and the unity of all Jews. We must regard the substance, not the form.

Martin Hertz
New York, N.Y.

An appeal to our readers

This is our third 12-page issue of the year. We hope that you have enjoyed what has been offered in these additional pages; we also hope that you will respond to our resultant increased deficit with increased gifts. All gifts are, of course, tax-deductible and should be sent to *Sh'ma,* Box 567, Port Washington, N.Y. 11050. Thank you very much.

S. FRED SINGER, *who was chief American official for water policy under several Administrations, now teaches environmental science at University of Virginia.*

JACOB B. AGUS, *among whose other books is a study of Jewish ethics entitled* The Vision and the Way, *is the rabbi of Beth El Congregation in Baltimore, Md.*

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