

Commentary With Rabbi Benjamin Hecht

Halachic Movement

The recent controversy over the *bracha* of *Shelo Asani Ishah*, “...that You have not made me a woman” -- initiated by various Orthodox Rabbis who maintain that it no longer needs to be recited, presenting what they feel are *halachic* arguments in support of their position -- demands a consideration of the parameters of *halachic* movement. It is much too simple to declare that there is never any movement in *halachic* practice. There is no doubt, though, a strong hesitation to render changes. The challenge that must be faced is the need to determine how to balance this movement and hesitation.

Given the obvious dominance within Torah of the historical Revelation at Sinai, a reluctance to make changes would seem most understandable. We look back to this Revelation for instructions as to the ideal; any movement away from past practice would thus seem to be a movement away from this standard. How is it even possible to contemplate change? Would not any movement from a previous *halachic* determination be a movement away from the ideal? The issue is thus not just one of how we are to balance progress and tradition but demands an investigation of how we are even able to consider foregoing tradition and contemplate what may be termed as progress.

This recognition is even more significant given the general world’s perception of progress, specifically progress in ethics. Rather than looking back to the past for presentations of the ethical ideal, the general understanding is that the progression of history would seem to indicate that the movement of existence is toward the ethical ideal. Of course, the thoughts of Hegel immediately come to mind. In contradistinction to Torah thought, the world seems to look forward for the ultimate articulation of the ideal while we look backwards. As such, there would seem to be an inherent contradiction between the secular world’s perceptions and our own. They define and embrace movement as the result of progress; we embrace

tradition as the result of Revelation. Consequent to this is a further concern that anyone advocating for change or movement is thereby also advancing what is truly a foreign idea. The subsequent argument against movement is thus two-fold. The assertion is not solely that it is the essential nature of Torah to look to the past for direction but, also, that any argument for progress must be inherently flawed, as its inception emerges from outside of Torah.

Is it true, though, that there is no declared value of progress within the Torah system? Clearly, Torah believes in the advancement of the individual as an ethical being. As individuals, we are expected to grow, to progress as ethical beings, evolving always closer to the ideal ethical person. We are meant to transform and the Torah would seem to believe in the necessity, ability and inherent value of this transformation during our lives. This would appear to assert that, on some level, the Torah does believe in ethical change, even demands it. This expected change, though, would seem to be focused within the human being. The fact that individuals transform, and are expected to transform, does not necessarily further indicate that we are also to accept change in the ethical standard itself. We could maintain that people can, do and even are expected to change to further meet the standards of this yardstick but that the yardstick itself still remains the same. This understanding could explain how progress on the personal level could co-exist with a static, tradition-based system of ethical standards.

Is it possible, though, for a dynamic understanding of the effect of the Torah system to co-exist with a static system? If individuals are affected by Torah and thereby transform, there must be elements within this system that now speak anew to these transformed individuals. Such an assertion, however, does not necessarily postulate that the system changes but rather that within this system there must be different directions articulated for people on differing ethical levels. Indeed this is what we actually do find. There are numerous examples within *Halacha* that describe a different standard that is to be expected from Torah scholars as distinct from the lesser demands that are to be expected from the average population. As such, as there is change in the individual, the personal demands upon the individual may change. The Torah system is, thus, not monolithic as it presents different directives in response to the expected dynamic movement of the

population. Yet, this does not mean that the system itself goes through any transformation. It could be contended that simply built into this static system of value presentations is a recognition of and a response to the dynamic nature of the population through a clearly articulated spectrum of directives tied to the level of the person. What is correct would still be seen as clear.

Absolute clarity as to what is right or wrong for a person, though, may actually not always occur. There is a further directive that limits acceptance by average individuals of these higher standards in certain situations as this behaviour may rather reflect what is termed *yehura*, a form of haughtiness. Observance of the higher standard in such cases would be seen as reflecting a negative ethic rather than a true, positive ethical motivation to abide by this higher standard. See, further, **Encyclopedia Talmudit, Ga'ava, 5:40-43**. The result is that certain behaviour may be right for one person and wrong, not just inappropriate but negative, for another. While this characteristic of Torah in itself does not indicate that the system itself is, thus, in movement, it does introduce into the analysis of Torah a further dynamic element. The interesting result is that, with this recognition, a lack of impersonal clarity is introduced into the system and an act can no longer be defined as always objectively good. Depending on circumstances, the very same act could be good when done by one person and sinful when done by another. Definitions of right and wrong must be seen as more dynamic than what at first may be indicated.

While this assertion could be defended in numerous ways, the above shows that the Torah standard clearly is not monolithic reflecting one ethical directive for all people. If it was, it would be simple to define and assert its fully static nature. On some level, the system relates dynamically to the dynamic change within the individuals that it directs. This reflects a dialectic whereby the system actually, in a given case, may enunciate two spectrums of consideration with a decision emerging from a weighing of values in a given circumstance with one decision in one case and even an opposite decision in another case. Dialectic tension inherently would seem to signify that the system cannot be fully static.

This recognition, in itself, still does not mean that there are, thereby, acceptable, dynamic effects possible on the system itself with resultant, almost built-in factors of change

inherent within it. The system may have dynamic elements but these dynamic possibilities could clearly be defined and limited to acceptable parameters. While there are clear indications of a dynamic interaction between the system and the population that it is directing, a limit to this dynamism may still be articulated by a clearly defined spectrum of these dynamic possibilities. If this is so, the static nature of this system as a whole would still thereby be reinforced through the presentation of this acceptable, articulated spectrum of the dynamic.

There is, however, a strong caveat upon such an understanding of the system. . In order to perceive the system as unchanging, all the possible directives that could be enunciated would already have to be defined, stated and transmitted. There would seem to thus have to be certain parameters on the acceptable dynamic movements within the population. The spectrum of dynamic movement would have to remain consistent with no possibility for a further ethical development within the population that could possibly demand a new standard. We would have to say that human beings grow within a lifetime within a certain spectrum of ethical standards and that the Torah thus offers different directives for each of these levels – but that there is no deviation from this spectrum of possible directives. If we perceive, however, that there could be continuous ethical development of the members of society over a set of generational periods, than, at some point, we would have to consider the necessity of defining a new standard for a level of ethical individuals that did not exist prior to this time. This would demand the articulation of a new standard, within the parameters of Torah, of which previous generations would not know. This contemplation is the basis for the concept of Torah Tolerated *mitzvot* in **Rabbi Eliezer Berkovits, Jewish Women in Time and Torah.**

What Rabbi Berkovits effectively postulates is that Torah affects not only the ethical development of the individual over one's lifetime but also the ethical development of human society over the years of history. Torah, as such, must relate to ever-changing recipients of its directives, ethical beings of a new nature that did not exist in prior generations. It is, of course, the very directives of Torah themselves that cause these changes but, nevertheless, these prior statements of Torah standards may no longer be applicable for this new level of ethical being. New standards need to be enunciated and, as

such, Torah must incorporate within its system a methodology of responding to such needs with the ability to articulate new directives still marked as within the system of Torah.

Rabbi Berkovits' thesis is that such potential for change is indeed inherent within the Torah system and that the correct manifestation of the system actually indicates, supports and promotes such movement. Essentially what he is simply stating is that if the Torah is to act dynamically on the population, it must also inherently be of a dynamic nature.

An example of such a process could be reflected in a possible understanding of the Torah laws of slavery. What this theory would contend is that, given the nature of the people at Sinai, who perceived slavery to be normative, it would have been difficult for the Torah to meet the pristine ethical standard of outlawing slavery as such a concept would have been too foreign to the nation at the time of Revelation. The Torah therefore only introduced *mitzvot* that limited the power of the master over the slaves with the goal of dynamically affecting the people through this restraining *halachic* behaviour. The desired result is that an ethic against slavery would develop with the eventual goal of bringing about the abolishment of this practice. With this abolishment of slavery, though, there would also be non-observance of the details of the Torah law regarding the practice. While there is generally no command to own slaves and thus no sinful result in not applying these laws -- as the people, in any event, do not own slaves, and so these laws are inapplicable -- the law still becomes potentially irrelevant,

This idea of Rabbi Berkowitz finds its source in the words of **Rambam, Moreh Nevuchim 3:32** in regard to *korbanot*, sacrifices. This is a theme that actually is expressed throughout the Moreh Nevuchim's explanation of the *mitzvot*: God legislated certain laws at Sinai to cause change in the ethical perspectives of the people with the eventual result of higher, ethical standards finding expression in new categories of directives. Progress in ethics is thereby introduced into the realm of Torah. A grave problem, however, is that an end result of this view is that Sinai no longer represents the ethical ideal of Torah. This presented a grave problem for many.

Ramban, Vayikra 1:9, for example, takes a very strong position against Rambam. The Torah's strong endorsement of the practice of *korbanot* would seem to clearly show that

this is an ideal and not just a step in the development of a new ideal that will eventually and ideally supplant it. The fact that we look at previous generations as being greater than the present one further complicates an argument of progress; the simple implication of such a concept is that there is no forward movement that is possible. The fact is that many contend that Rambam's views in the *Moreh Nevuchim* were not his real thoughts on a subject in any event but were written with the intent of influencing certain audiences in a favourable way towards Jews and Torah. His real views, it is asserted, are those found in the *Yad HaChazakah* and in that work, the only indication would seem to be that the practice of *korbanot* is an inherent ideal. This is reflected, for example, in the clear statement that with the coming of the *Mashiach*, we will return to the practice of sacrifices. See **Rambam, Yad HaChazakah, Hilchot 11:1**. While the words of the *Moreh Nevuchim* would seem to indicate that progress is also part of the Torah system, this idea is not universally accepted and, in fact, there is contentions that Rambam himself did not really believe it.

Yet, I remember reading that Rav Kuk held that the only *korbanot* that will be reintroduced with the coming of the *Mashiach* will be the *Minchot*, the grain sacrifices, and there will be an end to animal sacrifices. I have subsequently heard that this opinion was also expressed by a certain *Mekubbal* of the 15th-16th centuries. The fact is that while there is much disagreement on details – and from Ramban's words in regard to *korbanot*, for example, one cannot necessarily extend his words to the whole concept of progress – this overall tension is actually found throughout the corpus of Torah. Within the concept of *asmachta* – derivations from the Torah text which are not deemed to be Biblically conclusive -- there are those who maintain that thereby the Torah is directing Sages of the later generations to invoke such laws when appropriate. See **Encyclopedia Talmudit 2:105-108, Asmachta**. The implication is that there is growth over the generations. Yet, the famous directive of **Avot 1:1** to place fences around the Torah would seem to imply that Rabbinic Law is a movement away from the pristine Biblical Law because of the weakness of the later generations. The fact is that there would seem to be sources that support both assertions, that Rabbinic Law reflects growth and positive change and that Rabbinic Law reflects the weakening of the generations and represents action to prevent greater slippage. The reality

is that within the Torah system which calls upon us to look backwards to find the ideal, there also would seem to be implications that we are also to look forwards to find the ideal – and that is the root of this issue.

There are other arguments I could introduce to show the reality of this tension within Torah and that there does exist this contradictory call to look backwards and, also, to look forwards. As a further example, inherent in many Torah views of the *Mashiach* there is a concept of progress towards a higher ideal. The issue for me is not to prove that the reality of this tension is correct. See, further, **Rabbi Y. Silman, Kol Gadol V'lo Yasuf (The Voice Heard at Sinai: Once or Ongoing)**. The issue for me is this tension itself and how we are to properly respond to this challenge of combining progress with tradition, of meeting the Torah standard of looking forwards as we look backwards and looking backwards as we look forwards. How do we apply progress correctly within the parameters of the strictures of Torah?

Our first step must be the recognition that this is an inherent Torah issue. The question is thus not how we are able to combine modernity's view of progress with the Torah view of Sinai. A formulation such as this of the issue is actually inherently destined for failure as it formulates the desired goal as the integration of two almost equal value systems. Such a goal then could only be arbitrated by some value yardstick determining whether a personally defined, desired objective combining these two presumably variant systems is reached. The dynamic tension that elucidates the question that originates this investigation must be formulated solely within the realm and parameters of Torah itself – and Torah must be the yardstick. The desired result is, thus, not a merging of Torah with another system but rather a further understanding of Torah itself, one that is deemed to emerge from this investigation. It is Torah itself that calls upon us to look forwards and backwards to thereby understand its full message – and it is only when the issue is formulated in such terms that we can thereby find our desired, Torah objective.

Yet the look forward often does seem to involve other value systems. A tension can emerge from our very perception of a value in a stand or standard that would seem to challenge aspects of the traditional Torah perspective. This would imply that our motivation indeed

is to merge or integrate this presumably foreign value within the Torah frame. Yet, upon retrospection, one can see how this value is also reflective of Torah thought. This is precisely the point. If Torah includes a movement of progress, then a full understanding of Torah would have to incorporate the progressive perception as well. It may even be that the progressive value within the modern perception actually had its roots in Torah initiatives. It is this full understanding of Torah that, thus, must be our goal. The question, as such, must be defined in this manner as an inherent Torah question. This is indeed the first challenge that must be met – how to bring this perceived new value and the questions that it initiates into the corpus of Torah?

Let us again use slavery as the example. The question cannot be: I see value in the abolition of slavery, how do I maintain such a value while also remaining committed to Torah? Such a question implies a commitment to two value systems with the quandary being how to maintain and even integrate both. The question has to develop into solely a Torah question, indicating commitment solely to Torah but with a quandary on the exact nature of this system. Somehow the enunciated value that would seem to emerge outside of Torah, in a foreign value system, has to find a standing of some nature within the realm of Torah itself so that any further discussion on the issue can be defined solely as a Torah discussion.

To repeat, the issue cannot remain at a level whereby a person accepts the value of abolition and wonders how one can adopt such a standard while still maintaining an allegiance to the Torah lifestyle which clearly accepts slavery. The conclusion cannot be, on the individual level, to not personally own slaves. On the greater societal or *gestalt* level, the conclusion cannot be an assertion of progress and modernity over tradition and articulated Torah standards. The conclusion cannot be some way to, sort of, stuff this value of modernity into the realm of Torah through some song-and-dance using the language of *Halacha*. This is movement but not within Torah.

The alternative is to bring the issue fully within the realm of Torah. The most direct way of doing so is to find within the perceived, foreign value of, for example, abolition, a variety of standards which appear to have Torah roots; for example the equality of all human beings as descendents of Adam HaRishon. See, further, **T.B. Sanhedrin 37a** (especially with the

girsas, reading, of all human beings). The question now becomes how we are to understand Torah which permits slavery yet speaks of the equal value of all human beings. The issue is now totally within Torah.

There is a significant characteristic to this question that indicates its placement within the corpus of Torah. The question once asked now exists independent of time. This is a question that once asked could have been asked in any generation and indeed such a question may have been asked. This leads clearly to a study within the wide realm of Torah, demanding an integral perusal of the sources to see what has already been said on the subject and what could be said. New Torah questions may be initiated and new ideas enunciated – but is this not simply the reality of Torah study? Any effect on *psak* also can be similarly framed as other questions of *psak*.

. It may be, of course, that the originating question was not asked before and it took an attitude from modernity to open up the question, but this is not a problem; once posed, the question, if it has substance, not only still stands but is actually to be welcomed. Progress may reveal new questions but the key is that these questions also are able to stand on their merit within tradition – and in that regard it simply becomes an honoured instrument of Torah study and a necessary step in our quest to understand Torah.

A further issue may be that tradition itself had already asked the question but the values of modernity now challenge the previous answers to the question. Again, the key would be that once these challenges are newly posed, can they stand on their own merits? What modernity is to be understood to have done is simply to have opened up our ability to further understand Torah by prompting new questions and subsequent new Torah insights. See, further, **T.B. Chullin 6b,7a**. New questions within Torah are always welcomed. The *chidush*, a fresh thought within Torah, is hallowed within the world of Torah study. It may be that some new perception is the impetus for some new question or insight but that, in itself, is not a problem as long as the question and insight possess merit on their own. The further yardstick, then, is always the correct understanding of Torah and the ability for this new question and *chidush* to stand under the rigours of Torah study, analysis, investigation and critique.

The further reality of Torah is that it is always dynamic for, at its core, is the dynamic nature of Torah study. There are always new questions yielding new answers. By extension, as the dialectic of progress and tradition exists within the realm of Torah, it must find its place and standing within the dynamic nature of Torah study. It is inside this realm that progress and tradition can find balance defined by the parameters of Torah. The challenge of integrating progress and tradition within Torah finds its solution in the dynamism of Torah study. It is inside the realm of Torah study that the issue becomes an issue solely bounded by the parameters of Torah. The question is no longer how to integrate the foreign idea or value with Torah. The question is totally: how are we to understand Torah?

This process demands further clarification especially as one may find the possible articulations of an initiating enquiry not to be as direct as the slavery question above. The demand is always to find that true question that opens the floodgates of new, honest Torah investigation. The motivation of progress must find its place in driving one to discover an honest Torah question, one that stands on its own merits and could find a voice in all generations once posed. The initiating question, again, may not be as direct to the point as the slavery question above; it may not even touch upon the value issue under consideration. The question may simply be technical and/or textual; in fact, the perceived value issue may simply serve as the motivating force behind the discovery of the initiating question and further *chidushim* in the study.

If one contemplates this presentation, one can see that this process may explain the very nature of Responsa literature. There is often a motivation to find a certain *halachic* result and this is not necessarily deemed to be a negative. If this motivation becomes the sole drive for change, than there is a problem. If the motivation, however, drives one to re-study the issue and the entire Torah corpus on a subject in an attempt to find an issue in which one can open up a Torah investigation, that is not a problem (as long as the resultant question honestly has objective stature). This is actually meritorious for it opens up the Torah to our understanding *l'hagdil Torah u'l'hadiro*, to strengthen Torah and glorify it. See **Rabbi Moshe Feinstein, Igros Moshe, Yoreh De'ah 1:101.**

The key to proper *halachic* movement is thus the *kasha*, the question. It is the strength of the question within the panorama of Torah study that embodies the value of the subsequent discussion and subsequent possible solutions that may integrate progress and tradition in a fuller understanding of Torah itself. In that Torah study always has new questions, new hypotheses and new answers, its inherent nature cannot be motionless. Such a recognition further challenges any understanding of Torah itself as static. The dynamism of Torah inherently exists in the realm of Torah study. The dynamic nature of the dialectic between tradition and progress must, as such, find its place within Torah within the realm of Torah study – beginning with the question.

The nature of this question, though, needs to be expanded upon. Aside from the direct type of question as articulated above regarding slavery, the nature of the question need not be so limited as long as it has objective merit. In fact, the question may not even be tied to the new value that is motivating the investigation but rather may just be the result of the motivation. It does not matter what drove the search for a question as long as the subsequent question itself has merit. This process, as mentioned above, is often found in the Responsa literature. There is a motivation to find some new approach but that motivation alone does not have standing within *halachic* study. The motivation, though, can drive one to re-read and re-read the sources to see if there is something that is being missed, if there is a problem just simply within the study. A question is then seen. It may be just a question on text construction but, once posed, it has its own life separate from the motivation that prompted someone to search for it. All that now exists is the need, for the sake of understanding Torah, to answer this question.

The dominant parameter on possible solutions is now logic. A new answer cannot simply be shot down because it was unheard before as long as it meets the test of logic and is seen to be the best possible answer to the query. This is stated explicitly by Rabbi Moshe Feinstein, *Iggros Moshe*, *Yoreh De'ah* 1:101, for a powerful demonstration of this idea, one can look at **Rabbi Moshe Feinstein, Iggros Moshe, Choshen Mishpat 2:74** where Rav Moshe offers as a possibility that for a non-Jew euthanasia may not only be allowed but even considered a *mitzvah* even if performed (by a non-Jew) upon a Jew. Of course, Rav Moshe only presents this as a possibility and is not presenting this as a definite *psak* but his

very contemplation of this idea is indicative of the dynamic nature of Torah that we are describing. Because it was not asked before or said before is not a bar to a new presentation but this new presentation must emerge from the discovered Torah issue itself.

The voicing of the possibility that euthanasia may be permitted if performed by a non-Jew is truly a strong example of this. This is clearly an idea that does not have any direct precedent yet the lack of this did not bar Rav Moshe from, at least, contemplating a possibility that, bluntly, would seem to challenge all previous understandings of this topic. What is it, though, that causes Rav Moshe to voice this perception? It is a powerful problem in the text: how else could one explain the positive response to the action of the Roman executioner, moved by compassion, to quicken Rabbi Chananya ben Teradyon's death? See. **T.B. Avoda Zara 18a**. The executioner did this, an act which Rabbi Chananya ben Teradyon himself refused to undertake and which would also seem to be prohibited under the Noachide Laws as murder, yet the *gemara* states that the executioner received *Olam Haba*, the Future World – how was this possible? Rav Moshe postulates as a possible answer that the laws of murder under the Torah law are different than the laws of murder under the Noachide Laws with the result that euthanasia may be permitted, even praiseworthy, within that latter system of laws. As such, Rabbi Chananya ben Teradyon as a Jew declared the act of euthanasia prohibited for himself for he was bound by the 613 system of Torah law and, within that system, euthanasia is a violation of the prohibition of murder. Yet he conceded to the executioner doing so -- with, in fact, Heaven subsequently even declaring the executioner to be deserving of *Olam Haba* -- for the executioner, as a non-Jew, is bound by the system of Noachide Laws and, perhaps, euthanasia is not considered murder within that system. In fact, as an act of *chesed*, it could even be seen as praiseworthy. The bottom line is that the issue became one of Torah study and once asked, the question's absolute merit demanded an answer simply to understand Torah.

The further point is that Rav Moshe offered an answer that met the rigours of logic. This does not mean that any logical answer immediately is to be accepted. There is still a need to further the investigation to see how this theory stands within the entire corpus of Torah including the forward realm of moral development. The fact is that, as evidenced by such cases as those described as passive euthanasia (see, for example, **Rema, Shulchan Aruch,**

Yoreh De'ah 339:1), the attitude towards euthanasia is not totally black-and-white but does include an expression of understanding as to why someone with moral sensibilities would contemplate such an act. I remember reading **Rabbi Lord Emmanuel Jakobovits, Jewish Medical Ethics** presenting the view of a *rishon* who explains the statement that the best doctors (*hatov b'rofim*) go to Gehenom as referring to doctors motivated by compassion who commit euthanasia. Within this perspective, Rav Moshe's statement could withstand a challenge from the general corpus albeit, nonetheless, that it is radical – at least, this would seem to be what Rav Moshe himself believed.

There is also a need to determine whether there are other possible answers and whether another answer would be more acceptable. Indeed other answers to this question do exist. For example, I remember one commentator arguing that the executioner was different since he initiated the original act of murder. As such, in removing the sponges, he was simply amending his own act by speeding it up. This may be different than actually initiating the act which would have been what R. Chananya ben Teradyon would have done. The challenge would now be to compare and evaluate this possibility with Rav Moshe's thoughts.

There could also be other presentations of a difference between the Torah legal system and the Noachide legal system that could possibly explain the distinction enunciated by this case. See, for example, **Shiurei Da'at 3:166** who maintains that there is more leeway under the Noachide Code for personal decision making depending on the situation. The executioner, as such, may have thus been excused under the rules of that Code. As part of the learning, all these considerations must also be investigated. Nevertheless, in still maintaining his position, we can assume that Rav Moshe knew these other possible answers but still felt his conclusion was the best; at least to state it as a possibility. He must have felt that his answer was more logically consistent than the other answers and that it connected better with the overall corpus of Torah – and our study must include this goal of understanding. The key, again, is not about the conclusion but about the learning.

This leads to the very issue before us of the *bracha* of *Shelo Asani Ishah*. As I have written previously on the Nishmablog (see <http://nishmablog.blogspot.com/2011/08/shelo->

[asani-ishah-issue.html](#)), I had problems with the argument that was presented to defend the non-recitation of this *bracha*. The argument, as I understand it is that there is a disagreement as to what is the correct language of the statement in **T.B. Menachot 43b** that calls for the recitation of this *bracha*. (See, also, **Tosefta Brachot 6:23**.) One reading is that the 3 *brachot* that are indicated are: *shelo asani goy* (...that You did not make me a non-Jew), *shelo asani boor* (that You did not make me an ignoramus [English word, boor]) and *shelo asani ishah*. The other reading is that these 3 *brachot* are: *she'asani Yisraeli* (...that You made me an Israelite), *shelo asani boor* and *shelo asani ishah*. As both readings call for the recitation of *shelo asani ishah*, one would think that this disagreement in language would be irrelevant to this discussion. Not so, those arguing for no longer saying *shelo asani ishah* declare. The relevance is in the argument of the **Bach**, who **Taz**, **Shulchan Aruch**, **Orach Chaim 46:4** quotes as maintaining that if one says *she'asani Yisraeli*, one need no longer say the other two for these other two are included in the first blessing. So the argument is that one should say *she'asani Yisraeli* based upon the reading that maintains that this is the correct language of the *gemara* and then one should rely on the position of the Bach that this would also then meet the requirement of reciting *shelo asani ishah*. The result is then presented that one would still be fulfilling the dictates of the *gemara* while not reciting *shelo asani ishah* which, they contend, would be better not recited in our present world.

The problem is that while this may seem to be a solid *halachic* argument it is, in fact, logically inconsistent and reflects a desire to push an argument to meet some value desire rather than truly consider the question within the parameters of *limud haTorah*. The reality is that the *Gemara* states that one should recite 3 blessings with a disagreement as to the correct reading of these 3 blessings. In fact, this point is very substantial in regard to understanding the full argument of the Taz. The issue is actually: what is the correct reading, *she'asani Yisraeli* or *shelo asani goy*? The conclusion is that the correct *girsah* must be the latter reading for, it would seem, if one was to say the former, one would no longer need to say *shelo asani boor* or *shelo asani ishah*. The actual result is such as follows: (a) if the correct reading is *she'asani Yisraeli*, as the *gemara* calls for the recitation of these three blessings, the conclusion must be that this *bracha* does not override the demand to recite

the latter two *brachot* (see, also, the actual language of **Bach, Tur, Orach Chaim 46**), or: (b) the correct reading is *shelo asani goy* and that is the blessing that is demanded and it would be wrong to recite *she'asani Yisraeli* as that is not the *bracha* that is demanded by the *gemara*. Either way, the *bracha* of *shelo asani ishah* needs to be said. Bringing this argument into the realm of *limud haTorah* totally challenges the argument and that is its weakness. This was solely an attempt to read a modern value into Torah without undertaking to discover the Torah concept in itself.

In contrast, we may wish to consider the argument of **Rabbi Chayim Hirschenson, Malki Ba'Kodesh 4:34** (which was pointed out to me by a person that commented on my blog post). It may be that Rabbi Hirschenson, although living in the early twentieth century and, as such, in a different societal milieu, was motivated by similar concerns as the contemporary rabbis who have difficulty with the *bracha* of *shelo asani ishah*. After all, sensitivity to the status of women within society has existed throughout the centuries and, in fact, can also easily be shown to be a substantial Torah value. It did not take the advent of modern times to actually raise the issues that surround this *bracha*. It may, however, also be that Rabbi Hirschenson was not concerned about these matters. We cannot clearly identify his motivation because it, in fact, became superseded – and correctly so – by the very issue of *limud haTorah* itself – namely the question: what is the corpus of Torah thought telling us, specifically, in this case, through this statement in the *Gemara* in Menachot? And the focus becomes the questions emerging from the text, the challenges that exist in attempting to understand – the realm of *limud haTorah*.

It is in this realm that the brilliance of Rabbi Hirschenson radiates as he asks questions on the text that cannot be ignored regardless of one's views on the value issue that may surround this matter. What is simply before us is the text and the problems in understanding it which transpose time and take us into the timeless *Beit Medrash* of all history. Rabbi Herschensohn's question could have been asked in any generation and once asked would have immediately been entertained by any Torah scholar of any time or place. Rabbi Meir, a *Tanna*, said to say 3 *brachot*, including the one *shelo asani boor*. Rav Acha bar Yaakov, an *Amora*, hears his son saying this *bracha* and immediately challenges him on this, asking him why he is saying this. This leads to the *Gemara's* conclusion that *shelo asani eved*

should be said instead. The problem is, as Rabbi Hirschenson points out, that Rav Acha bar Yaakov's question really does not make sense. Why is his son saying this *bracha*? Because Rabbi Meir said to say it; that should be the end of the discussion. By Rav Acha bar Yaakov questioning his son, by the *Gemara* introducing *shelo asani eved*, all in the face of a statement seemingly from the authority of Rabbi Meir that a different *bracha* should be said, raises a problem. This is Rabbi Hirschenson's question – and it is a very good one. This leads him to understand the discussion in the *Gemara* in a different manner.

What Rabbi Hirschenson does before presenting his perspective on this *Gemara* is, though, also most significant. He opens with the statement that while he believes that his approach has merit, one must still recognize that all the major *poskim* of the previous generations, through the nature of their decisions, obviously did not see the *Gemara* in this light. The full context of the presentation is articulated. We have a problem, one that seems to have escaped the discussions of previous generations but, nonetheless, is now powerfully demanding resolution. Any resolution, though, presents a new problem for it was not articulated previously and we must wonder why not. The absence of this insight in previous generations, though, still cannot bar it from being presented now.

Rabbi Hirschenson, as such, concludes that the real issue before the *Gemara* must be the nature of the 3 *brachot* demanded by Rabbi Meir. It would seem that he understood the statement concerning which 3 blessings needed to be recited as not coming from Rabbi Meir himself but, rather, were presentations of possible blessings that could fill Rabbi Meir's directive. As such, Rav Acha bar Yaakov was not challenging Rabbi Meir through his questioning of his son but rather the understanding that this *bracha* of *shelo asani boor* fulfilled Rabbi Meir's requirement. The son, thus, questioned his father that, since Rabbi Meir did demand 3 *brachot*, of some type of nature, which one should he now recite instead. The answer was *shelo asani eved*. The point is that with this understanding the whole nature of the *Gemara* changes and the status of the *bracha* of *shelo asani ishah*, by extension, also changes. This opens up a whole different perspective that could, possibly, lead to innovation. It could lead to a re-evaluation of the recital of *shelo asani ishah* although, most importantly, it may also clearly not. Rabbi Hirschenson, while advocating, on the grounds of *limud haTorah* for a reconsideration of the meaning of this statement in

the *Gemara*, still queries the propriety of such innovations, also for very legitimate reasons. The fact is, though, that there is now actually some basis for such possible innovation because the question and issue entered the realm of pure *limud haTorah*.

It is solely in this realm that honest movement in Torah can occur. This does not mean that the results of such honest study will always result in an argument for movement. After all, the result of the study itself may be inherently against such movement. Yet even if such study did not only support such movement but even seemed to push for it, the history of previous Torah study throughout the generations cannot simply be overturned.

Precedence matters and matters very deeply. Yet the cry of legitimate Torah study demanding movement not for the sake of meeting some foreign value but simply for the sake of understanding Torah itself also matters and also matters very deeply. It is only within this context that there can be honest and acceptable Torah movement.

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