

Communications

GERMAN RABBIS

TO THE EDITOR:

Mordechai Eliav (*Tradition* 26:1, Fall 1991) noted that "The three leaders (of Orthodox Judaism in Germany) differed in their character, in their manner, and in their method, as shown by the title given them by their contemporaries: Bamberger—the Rav; Hirsch—the Rabbiner; and Hildesheimer—the Rebbe." He noted that Rabbi Bamberger (my great-grandfather), "only seldom wrote in German and then for the most part in Hebrew letters." Gertrude Hirschler and Shnayer Z. Leiman (*Tradition*, 26:2, Winter 1992) gave a beautiful description of the home and life style of the Hildesheimers, offering a close view of the domestic life of the family of Rabbi Azriel Hildesheimer, who served with great distinction as rector of the Orthodox Rabbinical Seminary in Berlin. Both articles described the leaders of German Jewish Orthodoxy in the 19th century.

Their articles might also have touched upon the work of the *Pekidim* and *Amarcalim* of Amsterdam. This organization—also known as HOD (Holland and Deutschland)—had been founded by the Lehren brothers in Amsterdam in the beginning of the 19th century in order to collect and distribute money for the Yishuv in Erets Yisrael. Three rabbis—Bamberger of Wurzburg, Ettlinger of Altona and Hildesheimer of Berlin—played an important role in this venture. They, together with many other Orthodox leaders in Holland and Germany, gathered huge sums of money for allotment in Palestine. But there were always problems concerning the distribution of this Tsedaka. Battles erupted between Sephardim and Ashkenazim. Sometimes, the civil authorities intervened. Suspicion of pilfering of money, of theft and of murder was not uncommon. Various cities, such as Jerusalem, Hebron, Tiberias and Jaffa, demanded a greater share of the fund (*Haluka*). A collection of *Letters of the Pekidim and Amarcalim of Amsterdam*, edited by B. Rivlin (Jerusalem 1978) provides a thorough analysis of the activities of the Tsedaka Fund. Correspondence regarding the collection of monies in Germany and Holland, as well as the transfer of these funds to Palestine and the individuals in charge of distributing of this Tsedaka Fund are fully documented.

At one time, the situation must have deteriorated to such an extent, that the three aforementioned rabbis had to appeal to the German Consul in Jerusalem. When the problem had seemingly been settled, they wrote the following letter in German, and signed their names, also in German. This letter is perhaps the only one where all three rabbis appended their signature in the vernacular rather than Hebrew.

The as yet unpublished letter, of which I have a handwritten copy, describes an intricate situation in Palestine in 1871, the exact details of which are unknown to me. It may be difficult and troublesome for us to identify with the three authors of the communication and its contents. Nevertheless, we must appreciate their concern and consideration for their fellow Jews residing in the Holy Land. My translation of the letter follows.

(RABBI DR.) I. NATHAN BAMBERGER

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Bronx, NY

Feb.27th (18)71

TO THE HONORABLE, HERR BARON VON ALTER
Imperial and Royal Consul-General of the German Empire, Jerusalem.

Permit, honored Sir, the undersigned, who are principally entrusted with the securing of alms and procuring of care for Jewish co-religionists in Palestine inasmuch as submitted to us from Germany, to express to Your Honor our most heartfelt thanks for the active assistance that you repeatedly have extended to our co-religionists, especially for the strong protection which You singlehandedly, as well as together with your honored chancellor Dr. Karsten, have bestowed upon our co-religionists, who were accused of murder, according to a most maliciously fabricated suspicion.

The power of the German Empire, which developed during glorious years to such eminence and might universally admired—and rightfully so—has as its cornerstone [the] Culture and [the] Right, the old *Suum Cuique*. We give thanks to the Almighty that He has also chosen for our brethren in Jerusalem such a noble, fatherly friend as their guide, one who stands in the front line to fight for culture and human rights.

We ask, Your Honor, to please accept the assurance of our highest esteem and respect with which we have the honor to sign,

Respectfully,

J. ETLINGER
Chief Rabbi
Altona

SELIGMAN BAER BAMBERGER
District Rabbi
Wurzburg

DR. ISRAEL HILDESHEIMER
Rabbi
Berlin

RELIGIOUS ZIONISM

TO THE EDITOR:

Reading "Reflections on the Six-Day War after a Quarter of a Century" in the special issue on Religious Zionism (*Tradition*, 26:4 Summer 1992) was a sobering study on how current events influence faith. Except for David Berger, who still maintains that miraculous events have occurred to us with the establishment of the State of Israel, the respondents are very reluctant to interpret contemporary history as evidence of God's intervention. There is no proof, they insist, that the momentous events relating to Israel, such as the Six-Day War, is God's way of calling us to respond. And therefore, if I understand them correctly, they counsel caution. When in doubt, *shev ve-al ta'aseh* is the better part of wisdom.

The respondents may be right in their assessments, but they may also be wrong. And if they are, the consequences may not be less dangerous. It may be that God creates, not messianic events, but events laden with messianic potential, and it is the Jewish nation which decides to make them redemptive or not. The Six Day War is possibly such an event. And it was not God who did not follow through, so to speak, but the Jewish nation. We did not accept the event as messianic and so it was not. Shalom Carmy in the same issue of *Tradition* cites Shelby Steele in another context, but the quote expresses this thought and applies to the question of the Symposium: "The promised land guarantees nothing. It is only an opportunity, not a deliverance."

The Talmud (*Sanhedrin* 94) tells us Hezekiah was supposed to be the *mashiah*. But he did not act on the great messianic event of his day—the deliverance of Jerusalem. His failure to sing *shirah*, the symbolic signal of the messianic era (as in the Haggadah before the second *brakhah*) is counted as a failing on his part and he was judged by *middat ha-din*. As punishment the *geulah shelemah* did not come in his day. *Shev ve-al ta'aseh* may not be the safe path through our era. We may be held culpable for not taking the existential initiative when the redemptive potential was there. Though we cannot be sure of this, neither can we be sure that we are not failing future generations by our inaction and hesitation. And we may be judged for it. In this context the war on the holiest day of Yom Kippur, the Sabbath of Sabbaths, may make sense—a rebuke for our failure to act.

(RABBI) SOLOMON J. SPIRO

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TO THE EDITOR:

The recent special issue on Religious Zionism contained many thought-provoking items. However I found puzzling, in Dr. Chaim Waxman's Introduction, the references to "the sectarian component within American Orthodoxy." Who are these mysterious *minim*, I mused, who have apparently infiltrated the Orthodox community? But from the context it becomes apparent that the reference is to the "anti-Zionist" *haredim*.

Based on the verse in the last chapter of Isaiah, from which the appellation is taken (66:5), *haredim* may be defined as those who make the Torah their primary concern. If so, then perhaps it is those who "tremble" for so many other things besides Torah who should be labeled "sectarian."

(RABBI) A. CARMELL

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CHAIM I. WAXMAN RESPONDS

Rabbi Carmell is obviously unfamiliar with standard terminology used in describing segments of the Orthodox community. The term "sectarian" is not one which I invented, nor is there an implicit value-judgment in its usage. There was certainly not even the slightest suggestion in my Introduction that they are "*minim*." If Rabbi Carmell read my words as such, that is his problem.

I also did not use the term, "anti-Zionist *haredim*," but since Carmell does, I will respond to his assertion. He claims to have found many thought-provoking items in the special issue of *Tradition*, but he seems to have missed an essential element implicit, if not explicit, in almost all of the articles in that issue, namely, that for Religious Zionists the State of Israel, *Medinat Israel*, is an *integral part of Torah*, not something "besides Torah."

What I fail to understand is how Jews who so brazenly cloak themselves in a mantle which proclaims them as being “tremblers” at the word of God can be so deaf to His thunderous and miraculous establishment of the state. I find their selective hearing fascinating, inappropriate, and unconscionable.

AIDS

TO THE EDITOR:

As an Orthodox physician and epidemiologist, I was fascinated by Rabbi J. David Bleich’s recent article “AIDS: A Jewish Perspective” (*Tradition*, 26:3, Spring 1992). Rabbi Bleich’s synthesis of halakha and current medical knowledge about AIDS is impressive, but I must question some of his medical assumptions essential to his discussion of *tahara* and *metsitsah ba-peh*.

1. In making a case for the performance of a regular *tahara* (albeit with appropriate precautions) on persons known to have had the AIDS virus, R. Bleich states: “There is significant evidence indicating that the AIDS virus does not survive for more than a very brief period of time following death of the victim.” I do not know to what evidence Rabbi Bleich is referring, as his statement is unreferenced and he does not specify the length of a “very brief period.”

While there is evidence that the likelihood of recovering live AIDS virus from the blood of an AIDS victim drops off significantly within the first 24 hours,¹ I know of no evidence that this likelihood becomes nil even as late as 48 hours following death. Since a *tahara* is usually done within the first 24 to 48 hours after death (and frequently much less than 24 hours), there is a good possibility that live AIDS virus remains in the blood of many AIDS victims at the time when a *tahara* would be done. Common sense dictates taking no unnecessary chances when handling the body of an AIDS victim, whatever the scientific evidence about post-mortem survival of the AIDS virus. This approach is endorsed by Dr. David Henderson, director of hospital epidemiology at the National Institutes of Health Clinical Center and Dr. Lewis Schragar, chief of clinical AIDS epidemiology at the National Institute of Allergy and Infectious Disease.² Similar prudence is warranted when handling a body infected with other serious though less deadly infectious agents, such as Hepatitis B and Salmonella.

2. Regarding *metsitsah ba-peh*, R. Bleich acknowledges that “the possibility of contracting AIDS in this manner [from an AIDS-infected newborn] cannot be ruled out at present.” Therefore, when a family requests that a *mohel* perform *metsitsah ba-peh*, R. Bleich endorses having the mother tested for the AIDS virus. While it’s true that the false negative rate (percent of AIDS-infected persons who test negative for antibodies to the virus) of such testing is generally quite low, it can be significant if exposure to the virus occurred within the past six months; very recent exposure (i.e., past few days or weeks) makes the AIDS diagnostic test virtually useless as a screening test.

While it’s true that a solution of 70% alcohol effectively destroys the AIDS virus, as R. Bleich mentions, rinsing one’s mouth with 151-proof rum prior to performing a circumcision will not create a 70% alcohol solution in one’s mouth,

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because the minimal amount of residual liquor will be diluted by saliva. It is misleading to a *mohel* weighing the risks of *metsitsah ba-peh* to claim that he "may protect himself" by prior rinsing of his mouth with 151-proof rum. Such a practice makes sense anyway for those performing *metsitsah ba-peh*, as it should reduce the risk of the *mohel* transmitting his own germs to the baby, but that is a different matter entirely.

Rabbi Bleich appears skeptical concerning the physical feasibility of using a glass tube to create the halakhically required suction. I have witnessed a number of circumcisions where the *mohel* used a glass tube, and consistently the seal created permitted blood to be suctioned into the tube. (A gauze pad had been placed in the tube to prevent the blood from reaching the *mohel's* mouth.)

3. I agree that the risk of contracting AIDS from a *mikveh*: (as from any public waters) is essentially nil.

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NOTES

1. Personal communication from Dr. David Henderson, director of hospital epidemiology at the National Institutes of Health Clinical Center.
2. Personal communications from Drs. Henderson and Schragar.

J. DAVID BLEICH REPLIES:

1. In researching the medical literature in conjunction with writing my article on AIDS I was unable to discover sources that directly discuss survival of the AIDS virus subsequent to death. Since Dr. Cooper cites a personal communication I presume he was equally unsuccessful in that endeavor. My information came from the former Commissioner of Health of the State of New York, Dr. David Axelrod. In several conversations over a period of months Dr. Axelrod was quite emphatic in his statements indicating that, subsequent to the death of the patient, the virus loses its virulence within a matter of several hours at the most. Precisely because of the absence of data in the published literature I carefully stated, "Even assuming that the virus remains virulent, wearing rubber gloves and a protective garment effectively eliminates any possibility of contracting the disease." It has since been pointed out to me that I should also have cautioned women against wearing open-toe shoes. As stated in my article, when such precautions are taken, the danger of infection is less than the danger of slipping on the floor of the *taharah* room and sustaining a fracture of the skull.

2. Dr. Cooper is entirely correct in his statement that the presently available tests for the presence of the HIV virus will not reveal very recent infection and there may well be significant chance of a false negative if exposure occurred within six months of testing. Although the foregoing is both true and well-known, it is essen-

tially irrelevant. I stated that "fear of AIDS should not deter *metsitsah ba-peh* in low-risk groups." Families requesting *metsitsah ba-peh* are, almost by definition, a low-risk group. In those circles, the danger of drug use or of sexual promiscuity during the last weeks or months of pregnancy is virtually nil. The *mohel* may, with some measure of cogency, have reason to fear that, at an earlier stage of life, the parents may have espoused a far different life-style or that, Heaven forefend, even individuals who have been observant all their lives may have engaged in isolated incidents of youthful indiscretion. The AIDS test does serve to allay such fear.

3. My informant at the Center for Infectious Diseases is not concerned with dilution of 151-proof rum by saliva since, in his opinion, a similar dilution takes place with regard to the virus. That view was confirmed by a pharmacologist whose opinion I solicited. Be that as it may, one reported study shows inactivation of HIV by means of a 50% ethanol solution within 10 minutes, the shortest time tested. See L. Martin, J. McDougal and S. Loskowi, "Disinfection and Inactivation of Human T Lymphotropic Viruses Type III/Lymphadenopathy-Associated Viruses," *Journal of Infectious Diseases*, vol. 152, no. 2 (August, 1985), pp. 400-403. An earlier study found a 99% reduction in enzyme activity after exposure of the virus to 19% alcohol for five minutes. See B. Spire, et al., "Inactivation of Lymphadenopathy-Associated Viruses by Chemical Disinfectants," *Lancet*, no. 8408 (April 21, 1984), pp. 899-901. In comparison a 70% alcohol solution inactivated the virus within one minute. See L. Resnick, et al., "Stability and Inactivation of HIV-III/LAV Under Clinical and Laboratory Environments," *Journal of the American Medical Association*, vol. 255, no. 14, (April 11, 1986), pp. 1887-1891. Thus, it is evident that alcohol is effective in concentrations much lower than 70% but that in greater dilution alcohol may require a longer contact time. A later study does question the efficiency of alcohol in disinfecting HIV but, as indicated by the authors themselves, those studies involved dried blood which the solution could not fully permeate. See P.J.V. Hansol, et al., "Chemical Inactivation of HIV on Surfaces," *British Medical Journal*, vol. 298, no. 6677 (April 1, 1989), pp. 862-864.

Material that has now appeared in the medical literature prompts me to suggest a procedure that can be recommended with a high degree of confidence. Hiberstat, a topical antiseptic containing 0.5% chlorhexidine gluconate in 70% isopropyl alcohol, has been shown to inactivate HIV produced in all cultures within 15 seconds. See D.C. Montefiore, W. E. Robinson, et al., "Effective Inactivation of Human Immunodeficiency Virus with Chlorhexidine Antiseptics Containing Detergents and Alcohol," *Journal of Hospital Infection*, vol. 15, no. 3 (April, 1990), pp. 279-282. That product, however, cannot be recommended for rinsing of the mouth both because of the toxic effects of isopropyl alcohol and because of the possible toxic effect of chlorhexidine gluconate itself. However, Peridex, an oral rinse used in treatment of gingival inflammation also contains chlorhexidine gluconate. Although Peridex, manufactured by Proctor and Gamble, contains only 0.12% chlorhexidine gluconate in a base containing 11.61% alcohol it has been shown to be effective against HIV. D. Bernstein, G. Schiff, et al., "In Vitro Virucidal Effectiveness of a 0.12% Chlorhexidine (CH) Mouthrinse," (abstract) *Journal of Dental Research*, vol. 67 (1988), Special Issue, p. 404, report a 99% reduction in HIV virus after a 30-second exposure to a 0.12% chlorhexidine mouthrinse. According to this report, rinsing the mouth with Peridex for a period of 30 seconds provides a demonstrable level of protection.

There appears to be yet another procedure that can be recommended with even greater confidence. A preparation containing 0.12% chlorhexidine gluconate in 70% ethanol alcohol will serve to inactivate HIV quickly in a relatively short contact time. Chlorhexidine gluconate is available from pharmaceutical companies in a 20% solution. That solution should be combined with 151-proof rum in a ratio of 6 to 1,000, e.g., 0.12 ounce of chlorhexidine gluconate in 20 ounces of 151-proof rum or 0.24 ounce (a little less than $\frac{1}{4}$ of an ounce) in 40 ounces of 151-proof rum. Higher concentrations should be avoided because toxicity studies have not been performed at higher levels. Use of this solution will combine the effectiveness of both alcohol and chlorhexidine gluconate and hence should obviate any lingering doubts concerning use of alcohol alone or of a lower concentration of chlorhexidine. Although no clinical studies have been performed, there is no reason to suspect that the combination will inactivate either agent. It should be noted that extreme care must be taken to prevent any solution containing chlorhexidine gluconate from coming into contact with the eyes or ears.

In summary, on the basis of the published reports and my own consultation with experts in the field, those who require oral *metsitsah* need not abandon that practice because of fear of contracting AIDS, particularly since their exposure is to persons in an extremely low risk group and certainly if they take the precaution of having the mother tested for HIV virus. The *mohel* should, however, rinse his mouth for thirty seconds with Peridex, or for several minutes with 151-proof rum, or optimally, with a solution of chlorhexidine gluconate and 151-proof rum as indicated above.

4. I suspect that Dr. Cooper has misread my comments concerning use of a glass tube for performance of *metsitsah*. I regard use of a glass tube, when properly employed, to be perfectly acceptable insofar as halakhic considerations are concerned. The issue is not whether suction by means of a glass tube is feasible but whether suction from *mekomot ha-rehokim* is likely to occur. I clearly indicated that this can be accomplished by use of a glass tube having the proper circumference. The *mohel* must also be knowledgeable and vigilant in creating a seal in which suction from *mekomot ha-rehokim* can be accomplished. The only remaining objections of which I am aware are based upon extra-halakhic kabbalistic considerations and/or custom. My skepticism was expressly reserved for direct oral suction, not involving use of a glass tube, when performed with interposition of a gauze pad.

HALAKHIC PLURALISM

TO THE EDITOR:

Rabbi Michael Rosensweig's truly excellent article "*Elu vaElu Divre Elokim Hayyim: Halakhic Pluralism and Theories of Controversy*" (*Tradition* 26:3, Spring 1992) surveys nearly all of the theoretical basis for controversy in Halakha in an admirable way. However, I would suggest that there is one other way to view post-mishnaic "controversies." This approach posits that nearly all post-talmudic disputes contain two opinions, both of which are of possible halakhic value. One view becomes "normative" and the other not; but the "non-normative" view is certainly not "incorrect."

Inherent to this method of analysis is the rise of the doctrines such as *sefek sefeka* (double doubt) and *kim le* (choice of law rules), both of which are predicated on the fact that Halakha no longer is capable of deciding legal controversies in a manner which makes minority opinions of no jurisprudential value except as they help explain the majority opinion (as, for example, they are in American law or as the opinion of Bet Shammai is now). Indeed, an examination of the Rishonim shows that *sefek sefeka* and *kim le* are rarely employed, as early authorities were not inclined to accept the distinction between “normative” and “correct.”

Undoubtedly there are some opinions that are just “wrong” rather than “not normative.” They are internally inconsistent, cannot be harmonized with the binding talmudic precedent, or the like. However, the vast majority of opinions found in the major Rishonim are tenably correct in that there are no obvious questions lodged against them; they are consistent, both externally and internally. These opinions are not normatively followed for a number of secondary reasons, such as: the majority of the Rishonim might have chosen to accept an alternative understanding as correct (without demonstrating this understanding to be wrong); certain opinions were historically lost; the Ashkenazic practice is to reject Rambam’s opinions when both Ri and Rabbenu Tam decline to follow it; Sephardic practice is to reject Ri and Rabbenu Tam’s opinion when Rabbenu Alfasi and Rambam reject it; or simply because Jewish custom is to rely on these opinions. In most circumstances, rejected opinions are not normatively followed without being proven “incorrect”.

According to this “theory of controversy,” all post-talmudic controversies are part of the halakhic discourse precisely because they are tenably correct and, hence, can be followed in a time of need. For example, when Rabbi Yechiel Michel Epstein, following in the intellectual footsteps of Bach, writes about the problem of *hadash* in the diaspora (*Arukh haShulhan Yore Dea* 293:20), he indicates that in a time of need one may follow the opinion of any talmudic authority that is not explicitly rejected in the Talmud. Similarly, *Mishnah Berurah (Orakh Hayyim, 489:10, Biur Halakha, s.v. af bezeman)* states that a small minority of Rishonim may be relied on in a time of need if that is the custom. Thus, one studies minority opinions because, in certain situations, even the tenably correct opinion of just one authority can be relied on, even though it is not accepted—but not proven wrong—by all of the other authorities.

It would seem that this approach adopts an unstated theory of controversy and a different analysis of the role of “halakhic pluralism.” The reason why Jewish law examines “rejected” opinions in the area of *pesak* is because such opinions are not really rejected at all, but merely *not currently followed*. This approach—living with *legal* doubt—has become a hallmark of modern halakha and too represents a “theory of controversy” and a method of understanding pluralism in the area of *pesak*. Since all logically tenable opinions can—in the right circumstances—be followed, they are studied and discussed in case a time might come when they will be needed. Indeed, one studies even those opinions that are so widely discredited that one cannot imagine a time when they will be relied on, as perhaps they will be used as one side of a *sefek sefeka* or a *sefek sefek sefeka*. See, e.g., *Responsa Bet David (Yore Dea 6 & 18)*, where the author explicitly states that opinions completely rejected by Halakha can be used in one side of a *sefek sefeka*, and Rav Ovadia Yosef (*Taharat Habayit, 2:553-554*), who demonstrates that many authorities (including he himself) accept this rule.)

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Of course, how quickly various *poskim* resort to this type of analysis is a matter of intellectual temperament and custom. For example, even a cursory comparison of the style of *pesak* of Rabbi Ovadia Yosef with Rabbi Moshe Feinstein reveals that the former is much more inclined than the latter to rely on *sefek sefeka* doctrinally. Indeed, a survey of the first six volumes of both works finds that term used only 24 times in Rabbi Feinstein's responsa and 530 times in those of Rabbi Yosef.

To put it another way; a number of latter authorities use the metaphor of "dwarfs standing on the shoulders of giants" to explain why later authorities see farther than the earlier authorities who are much greater themselves. However, dwarfs standing on giants' shoulders know that it is very hard to determine which giant really is taller and thus live in continuous theoretical doubt as to the tallness (correctness) of the giant they chose to stand on. This doubt allows the "dwarfs" to incorporate the opinions of "lesser giants" into the Halakha or sometimes straddle the shoulders of two incompatible giants, in a way that the giants themselves could not do and would not accept.

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