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BETWEEN LAW AND LORE: SETTING CURRICULAR GOALS

The Torah, the central text of the Jewish faith and, consequently, of Jewish education, weighs in at a massive 187 chapters, requiring years of study to understand and to master. Worldwide, the Five Books of Moses (*Humash*) are studied by most Jewish students each day of school throughout their primary and secondary education. Yet, despite all the years spent studying *Humash*, few students in the Modern Orthodox community will study the entire *Humash* over the course of their formal studies. Most students will study the bulk, if not all, of its stories and narratives, but few will study the legal sections at all, or with the same quality or depth of instruction.

The *Humash* is far from a monolithic text, as it is written using a variety of different genres, although mostly in either the prose narrative genre (the first 69 chapters of the *Humash*: virtually all of Genesis and half of Exodus) or the legal or legislative genre (that used by the 48 chapters that follow: the second half of Exodus and almost all of Leviticus).¹ Most Modern Orthodox students will become proficient in the narrative portions of the *Humash*, for two reasons: Classes on the weekly portion (*parashat ha-shavu'a*) use a “spiral curriculum” to review the narrative portions each year,² while students also formally study each prose narrative once in their elementary school years, and then a second time while in high school. In contrast, the legal portions of the *Humash* are rarely

¹ The Book of Numbers switches back and forth between these two major genres as well, with about half of the book written in each. Deuteronomy has a long central legal section fifteen chapters long (12–26), with the balance of the book using the narrative or hortatory genres. All told, the chapters of the *Humash* are approximately 45% legal, 45% narrative, and 10% hortatory. Smaller sections are written in poetry, genealogy, or in census-tally formats.

² In Bruner’s “spiral curriculum” students learn the same topic in increasing depth each year, instead of studying a new topic each year. See Jerome Bruner, *The Process of Education* (Harvard University Press, 1960), 33–54.

studied; they are usually not part of the *parashat ha-shavu'a* curriculum,³ and are rarely studied formally in the classroom as part of *Humash* class.

In this essay, we will first share data establishing that, indeed, the legal sections of the *Humash* are studied less in the Modern Orthodox community, and then proceed to discuss the underlying challenges of studying the legal portions that make them so rare. We conclude by considering some of the implications of leaving a major section of the *Humash* out of the conventional day school curriculum, and what this may mean for our students' futures.

Students in the Modern Orthodox community begin their *Humash* studies with the book of Genesis, spending the early elementary years learning the core stories and narratives that shape the Jewish people. The middle school years involve a continuation and a study of the later narratives of the *Humash*: the golden calf, the sin of the spies, and the 40th year preparation to enter Israel. The early years of study focus on narrative, which leaves an in-depth study of legal portions of the *Humash* to high school.⁴

Data from American Modern Orthodox Yeshiva High Schools

The bulk of the next generation of American Modern Orthodox adults currently attends, recently attended, or will soon attend, one of approximately 50 Modern Orthodox Jewish high schools in the United States. Presently, a cohort of roughly 11,000 peers, these teenagers have very similar educational experiences, live in very similar communities, and struggle with many of the same issues and problems.⁵

With dozens of high schools in a dozen different states, it is simplistic to speak of American Modern Orthodox high schools monolithically.

³ The legal portions of Deuteronomy (chapters 12–26) are read in the summer months when students are not in school. *Mishpatim* is almost always read the same week as *Parashat Shekalim*, crowding out the focus on the laws of that *parasha* that week. Leviticus is read around the times of the holidays of Pesach, Yom ha-Atzmaut, and Shavuot when preparing for the holidays become the primary focus.

⁴ Developmentally, as well, the narratives of the earlier sections of the *Humash* are more appropriate for the younger ages than an analysis of the legal portions, because they tend to be concrete operations, and not formal operations. For Jean Piaget, the ability to participate in formal operation only develops in the older ages.

⁵ Here, I am using the same definition for a Modern Orthodox high school used in Yaakov Jaffe, *Halakha Instruction in United States Modern Orthodox High Schools*, doctoral dissertation, Yeshiva University (2015). For the enrollment number, see Marvin Schick, *A Census of Jewish Day Schools in the United States, 2013-2014* (Avi Chai, 2014), 22, although I count “Modern Orthodox” and “Centrist Orthodox” as both being under the same category, as Schick himself notes may be possible, 8, 15. Schick argues there are 160 total Modern Orthodox schools in the country (24), although this includes elementary and middle schools as well.

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Also, it is virtually impossible to ever speak about a *Humash* curriculum in a singular or static way. Curricula change from time to time in each school, and even then any school's written, espoused curriculum is not always the one that finds expression in the classroom for many reasons: teachers' specific choices, mid-course adjustments, or lack of time. Yet, we can still make a broad, general observation through the inspection of the curricular guides and offerings as available on the schools' websites, as they reflect the best snapshot we can get of the ideals of the modern day *Humash* curriculum. The results are clear: Our high school students indeed focus, almost entirely, on the study on narrative, and avoid the study of legal passages.

Across the country, High School *Humash* studies are built upon the three narrative books of the Bible: Genesis, Exodus, and Numbers—probing the stories of these books for meaning and values. 41% of schools will only study these three books, ignoring the legal-focused books Leviticus and Deuteronomy entirely.⁶ A second group (30%) will spend three years on the narrative books, and also study Deuteronomy, focusing on the narrative, poetic, or hortatory sections of that book (chapters 1–11 and 28–34) and still not the legal sections of that book (chapters 12–26). Less than a third of schools even plan to study both Leviticus and Deuteronomy—but still, many of them spend very little time on these books, offering a quick survey of some of the legal-focused sections, but not deep study.⁷ Without personally examining every *Humash* classroom in the country, it is impossible to know exactly how many schools study the legal sections of the *Humash* in high school with any depth; “*Devarim*: all chapters” on the curriculum guide could mean that the legal chapters are read quickly, or that they are studied seriously, or, just as likely, this is an aspiration of a curriculum designer, who may himself or herself know that it will be more honored in the breach than the observance. But the number of schools studying *any* of the legal sections of the *Humash* appears to be in the single digits, let alone schools studying *all* of the legal sections of *Humash*.

⁶ Not every school has a published high school *Humash* curriculum, so percentages represent available data. Since a significant majority of the schools do have online curricular guides, and those schools are representative of the movement ideologically and geographically, it is reasonable to extrapolate percentages from these schools across the movement.

⁷ A school studying Leviticus and Numbers as the curriculum for one school year cannot have enough time to seriously focus on the many legal teachings; thus, if they are addressed at all, it is in a more cursory fashion. There are less than a handful of schools in the entire country who have crafted a curriculum with a full year of study for Leviticus and also a full year of study of the legal portions of Deuteronomy.

Law vs. Narrative: Differences and Challenges

Most schools would find it difficult, if not impossible, to quickly switch from teaching narrative to teaching legal portions. Doing so involves having teachers master new content that they may not have studied before. And perhaps more importantly, the essential “structure” or set of skills and approaches to studying biblical law are different, and this requires an even greater shift in teaching approach and teaching preparation.⁸ Thus, it may be better to think of the instruction of different parts of *Humash* as two different disciplines, like biology and physics, instead of thinking of them as different levels or courses in one discipline like United States history and world history.

When studying narratives, students and teachers focus their attention on a series of typical skills: resolving textual ambiguity, determining how to fill lacunae in the text, analyzing biblical characters, and unpacking metaphor, *leitwort*, or allusion. Many of these skills are often plotted on the familiar spectrum from *peshat* to *derash*, and commentators play familiar roles throughout a year’s study. These skills are vital and important for a lifetime of *Humash* study, and schools rightly develop those skills when studying the narrative portions of the Bible. Yet, they are limited to narrative.

The academic literature and teacher training around *Tanakh* instruction focuses almost exclusively on teaching narrative. Virtually all the examples found in the 70 pages and three essays found in Nehama Leibowitz’s *On Teaching Tanakh* come from narrative portions and involve the aforementioned skills or structures for the study of biblical narrative.⁹ Similarly, the academic literature about *Humash* education in Orthodox schools in this country also focuses almost exclusively on the teaching of narrative.¹⁰

⁸ See Bruner, 19–25, for a discussion of why any teaching is organized and driven by the “structure” or fundamental, underlying principles of the subject in question.

⁹ Nehama Leibowitz, *On Teaching Tanakh*, trans. Moshe Sokolow (Yeshiva University, 1986).

¹⁰ See Russell Jay Hendel, “Peshat and Derash: A New Intuitive and Analytic Approach,” *TRADITION* 18:4 (1980), 327–342, where all the lengthy examples come from narrative portions. See also Eli Kohn and Gabriel Goldstein “Formulating a Curriculum Framework for Bible Study,” *Religious Education* 103:3 (2008), 351–368, which develops the implications and process of studying *Humash* narrative at great depth, with only a single passing comment about legal portions; Eli Kohn, “Designing a Curriculum Model for the Teaching of the Bible in UK Jewish Secondary Schools: A Case Study,” *British Journal of Religious Education* 34:3 (2012), 1–18; Naomi Armon “Methodology of Teaching Tanakh” *Ten Da’at* 2:2 (1987), 13–15; Devra Lehmann, “Calling Integration into Question: A Discourse Analysis of English and Humash Classes at a Modern Orthodox Yeshiva High School,” *Journal of Jewish Education* 74:3 (2008), 295–316; and Ziva R. Hassenfeld, “Putting Students Front and Center in the Hebrew Bible Classroom: Inquiry-Oriented Pedagogy in the Orthodox and Liberal Classroom,” *Journal of Jewish Education* 84:1 (2018), 4–31.

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It is understandable that researchers of Jewish education and teacher training programs focus on narrative, as it is the dominant type of *Humash* study in the field. But it also illustrates that there is a robust consensus and literature concerning approaches and best practices around the teaching of narrative that does not exist when it comes to the teaching of legal portions. Our system for teacher training is designed to prepare teachers of narrative, but not teachers of legal portions of the *Humash*.¹¹

An illustration of some of these skills appears below, in chart 1.

Skills for study of narrative sections of *Humash* as illustrated through the sale of Joseph (Genesis 37:12–36)

1. Leitwort (“to send,” see Gen. 37:13–14, 20?, 22, 24?, 32)
2. Determining thought process behind ambiguous actions (Rashi/Ramban 37:22, Rashi 49:5)
3. Filling in lacunae in the text (Rashi, Ibn Ezra, Ramban 37:15, Rashi/Rashbam 37:24)
4. Metaphor and allusion (Rashi 37:14, 17)
5. Resolving ambiguity (Rashi/Rashbam 37:28)
6. Determining Personality (Rashi 37:12–13, 37:29)
7. Determining the reason for the inclusion of seemingly irrelevant details (Rashi 37:25)
8. Resolving contradictions between narrative passages (Rashi/Ramban 37:25)

Chart 1: An illustration of the skills involved in the study of narrative portions of the *Humash*

In contrast, studying legal portions involves a totally different set of structures and analytical skills. Students must spend more time defining rare or unusual words (which cannot be determined from context as easily in legal portions), analyzing the reason or theme behind a law’s details, and must determine the structural progression from one law to another.¹² They also struggle with how to close the gap between the

¹¹ Teacher training programs, schools, and teachers coexist within a symbiotic network, such that invariably, a school’s curricula, teacher’s interests and skill areas, and courses in teacher training programs are aligned. If the academic research and training programs trained educators to teach legal texts and encouraged them to do so, this would likely result in schools feeling better prepared to make the curricular shift I am suggesting. The converse is also true, if schools asked that their teachers be trained to teach legal sections of *Humash*, training programs and the academic research would likely shift in that direction as well. Any of the stakeholders could probably make the first step and bring the others along with them.

¹² The classical commentaries and at times even the Talmud and *midrashim* explain why two laws are juxtaposed. Modern commentators also suggest literary considerations

scriptural text and the rabbinic interpretation, learn to understand the role of motivation in biblical passages, and the historical context within which laws are legislated. Teachers who have been formerly trained in the first set of skills for biblical analysis must be trained to master and then teach a new set of skills to students to transition to teaching law. Of course, this challenge also presents an opportunity, allowing students to build previously underdeveloped skills, which are also important for their ongoing Jewish learning. But it requires a greater investment in teacher training—preparing teachers to teach what is essentially an entirely different discipline.

Chart 2 illustrates the teaching skills associated with teaching the legal portions of the *Humash*.

Skills for study of legal sections – The case of Kadesh (Deut. 23:18)

1. Unifying organizing principle of this entire group of laws (*Deut. Rabba* 6:3)
2. Juxtaposition of laws (slavery in 23:16–17 [Targum, Ibn Ezra], prostitution in 23:19)
3. Analysis of the genre of the text (absence of an encouragement section, see 23:19)
4. Historical context (see Gen. 38 and Ibn Ezra)
5. Defining difficult words whose definition is not clear from context (“Kadesh”)
 - a. Based on the root (*Kedusha*; Rashi – set aside)
 - b. Based on the local context of the use of the word (something reviled, see Ramban)
 - c. Based on other times it appears in *Tanakh* (Ibn Ezra)
6. Wrestling with a gap between written law and oral law (Rambam/Ra’avad, *Hilkhot Ishut* 1:4)
7. Theme/value of law: About sanctity of marriage (Ramban) or modest societies (Ramban)
8. Resolving contradictions between legal passages (Lev. 19:29, focus on parents, courts)

Chart 2: An illustration of the skills involved in the study of legal portions of the *Humash*.

Aside from the need to learn new structures, we might add that most of today’s Modern Orthodox faculty members did not study the legal portions of the *Humash* in high school or yeshiva. The average teacher will have encountered, and considered, the full extent of

as to why certain laws appear grouped together. We should note that the thematic/literary approach to *Tanakh* can be utilized when facing both the narrative as well as the legal sections, albeit in slightly different ways.

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any narrative portion numerous times in their lifetime, both in school, in synagogue, and in their classrooms. But the legal passages often involve short laws that are easily passed over and not studied regularly, and so teachers have a more narrow knowledge basis to begin with.

Also, since so much more of each law is explained by the Oral Law and the later interpreters of the halakha, teachers now must also master the debates, discussions, and detailed applications of the laws they are asked to teach. The teacher of *Bebukotai* is asked to have a working knowledge of *Arakhin*, the teacher of *Shofetim* a general sense of *Massekhet Sota*, and the teacher of *Re'eh* the basics of *Hullin*. The teacher of *Parashat Behar* must study *Bava Metzia* as well as *Shevi'it*; for *Ki Teitzei*, tractates *Ketubot* and *Sanhedrin*; and for *Mishpatim*—well, a competent teacher must have command of much of *Seder Nezikin*! The talmudic background needed to teach the sale of Joseph is miniscule compared to teaching the laws of vineyard workers getting a free lunch. This constitutes a third barrier for readying teachers to be able to teach the legal passages beyond learning the new structures and the content of the *Humash* itself. Teacher training is thus a major barrier to change: Any attempt to shift the focus of our curriculum will also require significant investment in changing teacher preparation and training programs.

Implication of Shifting Focus

Students hear the message that God gives humanity through their *Tanakh* studies; *Tanakh* stands in contrast to Jewish philosophy, Jewish history, Mishna, and Talmud, which are the human experience of Judaism, but not God's message to humanity. Yet, students hear a very different message from God depending on which sections of *Humash* they might study. When focusing on the narrative, students begin to bifurcate between the Bible, a Divine narrative text, and the Talmud, a human legal text; they develop a sense that God Himself asks us to remember stories, culture, and history, while it is the mere human rabbis who legislate and develop laws. God seeks belief and living lives of mission, while *Hazal* require us to follow intricate, detailed laws. Thus, when *Humash* is “only” narrative, the Halakha teacher cannot convey that the idea of law and command is fundamental to the earliest origins of our nation, even in biblical times. But when *Humash* includes a study of halakha, its teachers can join their colleagues from the Talmud department in developing the concept of command and

duty in Jewish living, as legislated by the Almighty and as appears in the Torah.¹³

Beyond the general concept of seeing the Torah as a book about command and responsibility, many—though not all—of the legal portions of the *Humash* are also vital in seeing the way Judaism responds to the moral and ethical quandaries and tradeoffs posed by modern life. Though many of the legal passages of *Humash* may be focused on ritual (such as Leviticus 1–17), or on our commitments to God (such as Lev. 21–23), many also speak to our commitment to each other, and the importance of establishing a moral, functioning, ethical society (Deut. 17–25 being one example).¹⁴ The serious and comprehensive study of legal sections of *Humash* exposes students to a vast number of areas where Judaism calls for moral behavior in regular, secular daily life, and at times far transcends the expectations of secular, “moral” society.

Students who learn the laws of charity, overcharging, interest, loan forgiveness, and *yovel* in *Parashat Behar*, or who learn the laws of gossip, loving of others, or the obligation to save life in *Parashat Kedoshim*, or who learn the laws of animal treatment in *Ki Teitzei*, walk away with a perspective that Judaism’s commitment to moral behavior often outstrips the one that is prevalent in society today. It cannot be stressed enough that *Behar* is essentially a list of normal economic activities (interest lending, overcharging, real-estate investment, and long-term lending) that are permitted today in virtually every liberal, progressive Western economy, but which are prohibited by the Torah on account of unfairness to the poor.¹⁵ By studying these parts of *Humash*, students first exposure to the morality of Judaism is with the profound concern for the disadvantaged and for ethics in general, across the entire Torah. In an era where social justice and systemic classism concerns so many young people in our community, it is important for them to see how much of an ally Judaism is to their concerns and not an antagonist or barrier. (A list of some

¹³ On this point, see Howard Deitcher, “The Child’s Introduction to Bible Study,” *Ten Da’at* 6:1 (1992), 28–30; Aharon Lichtenstein, “Teaching Gemara in Yeshiva High Schools” in *Notes from ATID: Talmud Study in Yeshiva High Schools* (ATID, 2007), 10–11.

¹⁴ R. Yisrael Meir Ha-Kohen Kagan, the Hafetz Hayyim, counted 77 different positive commandments still applicable today, with a little more than a third relating to interpersonal, moral, and ethical laws; see *Sefer ha-Mitzvot ha-Katzar* (Vilna, 1931), 5–14.

¹⁵ On the nexus of Jewish education, moral education, and the Jewish interpersonal laws, see Aaron Levine, “Epilogue” in Levine and Pava, *Jewish Business Ethics: The Firm and Its Stakeholders* (Aaronson, 1999), 291–303.

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examples, culled from a mere two chapters in Leviticus, appears in the note below.¹⁶⁾

Though the narrative portions of the *Humash* do contain examples of our role models acting heroically, those narratives are the stories of paragons and uniquely special individuals and they do not carry the same generalized tone that the legal portions do, when the standards of actions are commanded to each and every Jew.¹⁷ Students can appreciate the morality of David or Joseph, but will they appreciate that Judaism demands the same moral basis of *them*? Also, the morality of Judaism found in the narrative sections also often poses greater questions for a student who is hyper-focused on morality: polygamy, vengeance, slavery, or war, but they are also missing the greater context that is needed to frame Judaism's position on moral society in general. A student who studies the legal sections of *Humash* hears God asking them to act and behave ethically in the secular aspects of their lives; a student who only studies narrative hears

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<i>Shemitta</i>	25:1–7	All share in the harvest for one year
<i>Yovel</i>	25:8–13, 19–24	Break cycle of poverty: fields return to poor sellers
Overcharging	25:14–18	Prohibition of overcharging
Buyback	25:25–34	Poor's ability to buy back a field
Charity	25:35	Charity to Jews and gentiles
Interest	25:36–38	Prohibition of taking interest
Slavery	25:39–46	Jewish poor not treated as slaves
Interfaith Commerce	25:47–55	Cannot cheat a gentile when purchasing
Parents	19:3	Gratitude: Honor parents
Harvest Gifts	19:9–10	Charity through dignity of work
Theft	19:11–12	Cannot steal or lie in court
Oppression	19:13	Must pay workers on time
Disabled	19:14	Protections for disabled
Courts	19:15	Cannot favor the wealthy or the poor
Gossip	19:16	Cannot share even true stories
Obligation to Save	19:16	Must save life of fellow Jew
Hating	19:17	Cannot hate another Jew
Rebuke	19:17	Caring for others means to rebuke when needed
Vengeance	19:18	Cannot take revenge
Love	19:18	Golden rule: Love neighbor like self
Elderly	19:32	Honor/help society's disadvantaged
Converts	19:33–34	Treat converts like a native-born Jew
Weights & Measures	19:35–37	Ethics and honesty in business

¹⁷ Notwithstanding the question posed in Jacob J. Schacter, “On the Morality of the Patriarchs” in *Jewish Education in Transition*, ed. Z. Grumet (The Lookstein Center, 2006), 1–10.

what God has to say to heroes, but not that we all must live our lives with morality and ethics.

Many argue that in the early 21st century, the root cause for the alienation of some Jews from Modern Orthodoxy is a perceived lack of morality and ethics in Judaism. A generation ago, Jews were more likely to be alienated from their faith as a result of the challenges posed by rationalism and science to traditional Judaism. Yet, these concerns resonate less deeply in our current era than those posed by a perceived lack of morality within Jewish law. As American society has turned its cultural focus from the sciences (compare the space race in the 1960s to the dueling narratives and claims of “fake news” of the past decade) to social justice, and, at the same time, as the baseline definition of moral behavior has shifted, Judaism is now measured more by the yardstick of morality than by the yardstick of scientific proof or rationalism.

To be sure, it is difficult to identify what are the “greatest” challenges our youth experience with Orthodoxy. Self-assessment survey data can be murky, and it is impossible to disentangle what aspect of doubt emerged first: morality questions or rationality questions.¹⁸ Anecdotally, and especially when considering my own work, and my colleagues’ work on college campuses, there is a sense that concerns about the morality of Judaism are the greatest focus at the present point in time. Even if it is not the greatest challenge, it is clearly a growing one today, and something schools need to solve for or inoculate against. While schools have already developed Jewish thought and *hashkafa* classes that address problems of faith and rationality, schools today would need to also insert discussions of the ethics of Judaism into the classrooms, in ways that feel authentic and real. A high school *Humash* curriculum heavy with the laws of Leviticus and Deuteronomy is uniquely equipped to do just this.

Not every interpersonal law in the *Humash* necessarily resonates within modern moral standards, and thus teachers also have a role in helping students think through their questions and can provide important framing or perspective—something they could not have done if the concerns are never raised formally in the classroom where students would not be able to express their concerns. And if nothing else, students can feel heard by raising and discussing the issue and feel validated by teachers

¹⁸ See Jonathan Mark, “Modern Orthodox Survey Reveals Internal Doubts,” *The New York Jewish Week* (November 19, 2019). The Nishma study referenced, along with their 2016 survey of those that left Orthodoxy, has received some criticism for the absence of random sampling. Yet, the thrust of their non-scientific research is that moral problems with the faith are just as equal if not greater than rationalism-based problems for Modern Orthodox Jews today.

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echoing that they too struggle with similar questions. For the purpose of illustration, a non-exhaustive list of some ethical concerns some experience with Judaism found in one short legal portion (*Ki Teitzei*) appears in the Appendix. This list demonstrates how in one month of *Humash* study, a teacher could surface more than 40 perceived moral issues, and then create a forum for students to consider these questions and develop their views on the topic.

Responding to perceived moral questions requires an eclectic approach, and so the study of many types of moral concerns allows students to develop and practice language and different perspectives to confront verses that may pose moral challenges.

- Sometimes, our Sages, themselves, recognized a concern; the Rabbinic law or interpretation changes the expression of the law in such a way that today's practice is more palatable within our modern society (polygamy and divorce equality [Rabbeinu Gershom], capital punishment [*Makkot* 7a], rebellious son [*Sanhedrin* 71a]).
- Sometimes, the Torah should be understood as a pragmatic response to real world problems, and not as ideals which are designed to be pursued even when not confronted with intractable real-world problems (war ethics, polygamy).
- Judaism's moral principles must sometimes be viewed within the prisms of the eras of human history in which the laws were practiced, for thousands of years up until the most recent last century or even few decades (slavery).
- Sometimes, teachers might point out that Judaism's moral code is more defensible even within categories of modern morality, provided the laws are understood in the proper context. Judaism may just take a different view from the dominant prevailing sentiment, but this does not by itself make Judaism non-moral.¹⁹
- And still other times, the teacher, him or herself, might express their own struggle with specific laws, and their own commitment to Judaism despite not having an answer to specific challenges (R. Aharon Lichtenstein on Amalek and *ones/mefateh*).²⁰

¹⁹ See Radak to Psalms 15:5 who responds to the ethical concerns raised by the permission of charging interest to gentiles but not Jews, by repositioning the prohibition of "*Ribbit*" as a supererogatory favor done to family and not as an ethical or moral imperative.

²⁰ Aharon Lichtenstein, "The Source of Faith Is Faith Itself," *Jewish Action* 53:1 (Fall 1992), 79–80; reprinted in *Leaves of Faith* (Ktav, 2004), vol. 2, 363–367. Aharon Lichtenstein "Le-Mashmaitam ha-Rayonit shel Dinei Ones u-Mefateh," *Alon Shevut Bogrim* 14 (2001), 71–90.

The approach differs from case to case and from student to student.²¹ But students grow immensely from seeing the range of approaches teachers use to analyze the morality of the Torah, building a perspective that they can take with them through many possible moments of moral tension in the future.

Of course, this returns us to the need for new teacher training in the area. Students and teachers who focus on philosophical problems that stem from narratives or science have learned to speak using one set of language and terms: proof and faith, skepticism/acceptance of historical or archeological evidence, and the concept of concordism. In contrast, when describing texts of a moral and ethical nature—teachers need a new set of terms, questions, and inquiries. The question of religious law and change, formerly absent from the study of *Humash*, is now front and center. The puzzle of how the Torah prescribes a perfect moral code within a world where human beings are not able to be perfectly moral is also new. Is the Torah judged by how its morality would have been understood when the Torah was given, when it was practiced for millennia, or judged by the morality of today? Should the Torah reflect a pristine, sometimes impossibly ambitious moral code, or something workable in all generations? Utilitarianism, reciprocity ethics, Rawlsian ethics, and the social contract are now part of *Humash* study and must be mastered by the teacher and student as well.

The Central Goal of Jewish Education

Much like education in general, Jewish Education has long struggled with the question whether its primary purpose or focus is to teach content, to teach values, beliefs, or attitudes, or to teach skills that can be

²¹ Imagine how Modern Orthodox high school students might strive to resolve the tension between gender roles in modern society and how they are presented in *Humash*. Sometimes we see our Sages—in the Talmud, among the *Rishonim*, and even in our modern era—changing the expression of the law in an attempt to resolve the tension. Consider the opportunities of Torah study open to women today, or the changing nature of marriage and divorce. At other times, for example the laws of modesty, we might be persuaded to question whether conceptions of gender in modern society are truly the best, and we might suggest Judaism’s different perspective is superior to that of modern, “moral” society. Still other times, students might live with the unresolved tension, or say that the Torah’s view may have resonated more over the first few millennia of Jewish and human history than it does today. Students need practice in the various approaches as they continue to confront these challenges over the continued course of their lives.

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used for future learning.²² To some extent, the answer for how American Modern Orthodoxy should build high school *Humash* curricula should be predicated on the broader question about what our goals are. If the goals are to have a broad background in Jewish content or a wide variety of Jewish skills, we might recommend changing to a curriculum richer in legal passages. If the primary goals are attitudinal or values driven, then the answer would hinge on which values or attitudes are most critical.

Many would argue that, at a bare minimum, a graduate of a Jewish high school should have at least a general knowledge of the entire content of the *Humash*, the foundational text of Judaism and Jewish faith, and developing at least basic knowledge of the entire *Humash* over twelve years of study is not an impossible task. The *Humash* in its entirety is the essential jumping board from which all future conversations emerge in Mishna, Talmud, halakha, and ethical teachings. Core principles, laws, and concepts are derived from the legal portions in the *Humash*, and a student who skipped these sections will never develop an appreciation for those background concepts. A mere six *parashot* (*Mishpatim*, *Kedoshim*, *Behar*, *Behukotai*, *Shofetim*, and *Ki Teitzei*), a small portion of the *Humash*, contain a *majority* of the 613 commandments of the Torah! So how will students understand future conversations building upon those commandments in their future Jewish lives, if they have never studied them? Moreover, few students have completed all of the Mishna, and even still numerous laws find no expression or limited expression in the Mishna,²³ and so students will only learn the way these rules impact Jewish living if they have accessed them through the *Humash*.

At the same time, some schools may cite other, attitudinal or belief-based reasons for continuing to re-teach and review narratives:

- The stories of the *Tanakh* are easier to connect with and are thought to spark greater student interest.
- The narratives of Creation, the Matriarchs and Patriarchs, the Exodus and its aftermath, and even the sojourns through the desert are critical for the development of our nation and its role models, and

²² Hundreds of sources ask this question. See the survey of approaches in Seymour Fox, Israel Scheffler, and Daniel Marom, eds., *Visions of Jewish Education* (Cambridge University Press, 2003), 17–36.

²³ Many of the ethical laws in Leviticus 19 are never discussed explicitly in the Mishna and so a student who would have completed the Mishna but not the legal portions of the *Humash* might not be acquainted with any of these laws. Imagine a student never learning about the obligation to save, the prohibition of revenge, or the obligation of rebuke.

are necessary for a student's literacy and lifetime appreciation of Judaism.

- The major philosophical underpinnings of Jewish belief are found in the narrative books (creation, redemption, revelation, prayer, reward and punishment).
- Student and teacher background knowledge and familiarity with these books can serve as a launchpad for the study in greater depth; less time is needed for the basics as these topics and stories are already well-known.

Jewish community leaders have long debated what a Jewish child should “know and be able to do” after more than a decade of Jewish education, and there are a wide range of views about the balance between student acquisition of values, skills, and content knowledge. Is school about preparing students for a lifetime of learning? About providing students with every morsel of Jewish knowledge they might need for the rest of their lives while in school?²⁴ Or about just building an emotional connection—to enjoy Judaism and Torah study. Narratives might be more suited to building an affective connection to the study of the text, even if they come at a sacrifice of some legal content. Yet, when considered from the wider frame of pros and cons it would seem that something is missing if the study of narratives become the exclusive focus, at the expense of the study of biblical legal passages.

The Experience of One School

Since our school is a K-12 institution which sets the goals that our graduates complete the study of the *Humash* upon graduation, it was a forgone conclusion that they would study the legal portions of the *Humash* in a serious way in the Maimonides School. We recently moved many of the legal passages to the curriculum of the older grades, 8 through 12, including in-depth studies of *Mishpatim*, *Kedoshim*, *Behar*, *Behukotai*, *Shofetim*, *Ki Teitzei*, etc., for developmental considerations. It has involved a tremendous effort on behalf of our teachers, and significant teacher training in both the content knowledge needed to teach these laws, and the new set of skill areas to share with students. We believe the shift has produced enormous gains to student literacy of *Humash* and Jewish tradition. One educator

²⁴ For one example of this question, see Yaakov Jaffe, “Halakhah Education: For the Present or the Future?: Survey Research into Topic Selection for American Modern Orthodox High School Halakhah Curricula,” *Jewish Educational Research* 13:1 (2014), 18–20.

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teaching *Mishpatim* remarked that his many years teaching *Bava Kama* were what truly prepared him to be an expert in teaching the nuances of Exodus chapters 21–23. He reported that, once they had dug in, students were quite engaged in the theoretical underpinnings of responsibilities to neighbors and other people in society, as well as the modern day applications of all of those principles.

We have also noticed that this curriculum radically shifts the conversation around biblical morality. It allows us to showcase the radical ethics of the *Humash* and the eternal morality of which many students were not formerly aware. It has also created a space for students to raise their concerns about problematic passages, and for teachers to have that critical opportunity to share their perspectives and help shape student views in a positive direction.

We humbly submit that all schools pursue this direction—unusual as it might seem—as we prepare students for the what they need to know, and the ways they need to think about Judaism, in the 21st century.

**Appendix: Morality Questions in Judaism that arise while studying
*Ki Teitzei***

Section	<i>Pesukim</i>	Question
<i>Yefat To'ar</i>	21:10–14	Institution of battlefield marriages
<i>Bekhora</i>	21:15–17	Polygamy Favoring the firstborn Women in inheritance
<i>Ben Sorer u-More</i>	21:18–21	Killing a rebellious child Demanding honor to parents
Hanging	21:22–23	Shaming Torah violators Objections to cremation
Returning Animals	22:1–4	Returning a gentile's lost object Saving a gentile's life on Shabbat
Cross-Dressing	22:5	Gender roles (women and <i>tefillin</i>) Judaism and LGBT Judaism and dress
<i>Shilu' ab ha-Ken</i>	22:6–7	Ethical consumption of animals
<i>Tzitzit</i> , et al.	22:8–12	Exclusion of women from mitzvot
<i>Motzi Shem Ra`</i>	22:13–21	Does his punishment fit his crime? Is she given the benefit of the doubt
Adultery	22:22–27	Why should this be prohibited?
Rape	22:28–29	Does his punishment fit his crime?
<i>Kerut Shofkha</i>	23:1–2	Judaism and disabilities
<i>Mamzer</i>	23:3	Exclusion without having sinned
Marrying Converts	23:4–9	Are converts treated respectfully? Intermarriage Chosen nation
Jewish Camp	23:10–15	War ethic and genocide in Judaism
Runaway Slave	23:16–17	Slavery in Judaism
<i>Kedeisha</i>	23:18–19	Prostitution and Judaism Pre-marital relations
Interest	23:20–24	Taking interest from a gentile
Vineyard Workers	23:25–26	Workers' rights in Judaism
Divorce	24:1–6	Is marriage "acquisition"? Lack of equality in divorce process
Kidnapping	24:7–9	Capital punishment in Judaism
Treatment of the Poor	24:10–22	Obsession with capitalism
Lashes	25:1–4	Corporal punishment in Judaism
Levirate Marriage	25:5–10	Institution of levirate marriage Lack of symmetry in genders
Public Fighting	25:11–16	Vengeance, eye for eye Gender separations in Judaism
Amalek	25:17–19	Genocide and destroy Amalek Religious Zionism and conquest