

# Between the Ritual and the Ethical: Mastery Over the Body in Modern Theories of *Ta'amei ha-Mitsvot*

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As Socrates awaits his death,<sup>1</sup> his friends urge him to commit suicide. Socrates refuses, because God owns his body; but he then expresses his own general, positive attitude to his impending death. His body is a prison, he declares, incarcerating his soul. The body's desires and appetites pester him, diverting him from intellectual pursuits; and the body, being a body, cannot attain the highest and only true form of knowledge, knowledge of the abstract world of Forms. Death is therefore liberating and welcome. And not only does the body carry negative value, it is not a person's true self. Rather, the soul is. If people at the funeral state, "Socrates is being buried," they are mistaken. It's not Socrates; it's a body that Socrates once wore or inhabited.<sup>2</sup>

Plato's dualistic view of the human being—that human beings are composites of body and soul—was maintained by most people in the Middle Ages, philosophers and non-philosophers alike. More importantly, the Platonic *devaluation* of the body (and of matter generally) impacted dramatically on certain medieval Jewish philosophers via Neoplatonism, and these philosophers,<sup>3</sup> in contrast to the talmudic sages, were in significant measure champions of asceticism.<sup>4</sup> "Duties of the limbs" were means of

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1 The reference, of course, is to Plato's *Phaedo*.

2 *Phaedo* 115d–116a.

3 Maimonides's view is best described as Neoplatonized Aristotelianism.

4 On the Sages' attitude, see, for example, Adiel Schremer, "Marriage, Sexuality, and Holiness: The Anti-Ascetic Legacy of Talmudic Judaism," in *Gender Relationship In Marriage and Out*, ed. Rivkah Blau (New York: Yeshiva University Press, 2007),

curbing sensual desires and hence only instruments to fulfillment of “duties of the heart,” especially cultivation of the intellect.<sup>5</sup> Maimonides declares that “the commandments and prohibitions of the Law are only intended to quell all the impulses of matter”—not simply to make people refrain from acting on the impulses of matter, but to be ashamed of them (and of physical acts) and to eradicate or at least severely diminish those impulses, with the aim of achieving an intellectual telos.<sup>6</sup> All acts of disobedience are due to the human being’s matter.<sup>7</sup> Long before both Bahya and Maimonides, Philo—in his consideration of Jewish laws related to sexual regulations, *tsitsit, berit*

35–63. That the medieval philosophers differed from the Sages in this regard is forthrightly acknowledged by at least one prominent Orthodox rabbinic leader, the late Rabbi Aharon Lichtenstein. See his “Of Marriage: Relationships and Relations,” in *Gender Relationships*, ed. Blau, 1–34. For a broader account of asceticism in Jewish thought, see Moshe Z. Sokol, “Attitudes Toward Pleasure in Jewish Thought: A Typological Proposal,” in his *Judaism Examined: Essays in Jewish Philosophy and Ethics* (New York: Touro College Press, 2013), 83–111. On Maimonides’s conflicting statement concerning asceticism, see Howard Kreisel, *Maimonides’ Political Thought* (Albany: SUNY Press, 1999), 175–82.

5 *Duties of the Heart*, III (*Sha’ar Avodat Eloqim*), esp. III:2. There is, however, much more to Bahya’s explanation of *mitsvot*.

6 See *Guide of the Perplexed*, trans. Shlomo Pines (Chicago: University of Chicago Press, 1963), III:8, pp. 433–34. Elsewhere, however, Maimonides, following a rabbinic statement (*Sifra* to Lev 20:26), proposes that with regard to “the ceremonial law,” the person who conquers impulse is better than one who has no impulse to do wrong (*Eight Chapters*, chap. 6), which appears to validate having bodily impulses. For an extremely valuable analysis of the latter Maimonidean text, see Jed Lewinsohn, “Reasons for Keeping the Commandments: Maimonides and the Motive of Obedience,” in *Jewish Philosophy Past and Present: Contemporary Responses to Classical Sources*, ed. Daniel Frank and Aaron Segal (New York: Routledge, 2017), 243–55.

Maimonides’ overall views on matter and form are extremely complicated and exhibit considerable tension. As Charles Manekin noted in correspondence, Maimonides viewed the wellbeing of the body as necessary for wellbeing of the soul; as a physician Maimonides surely valued the body; and he recognized the role of the brain in intellectual achievement. For an extensive and robust exploration of the matter-form dichotomy in Maimonides, see Josef Stern, *The Matter and Form of Maimonides’ Guide* (Cambridge, MA: Harvard University Press, 2013). On the prospects of escaping corporeality, see also my “Worship, Corporeality and Human Perfection: A Reading of *Guide of the Perplexed* III: 51–54,” in my *Jewish Thought in Dialogue* (Boston: Academic Studies Press, 2009), 50–92.

7 *Guide*, Pines edition, 3:8, pp. 431, 434.

*milah*, and *kashrut*— identifies one purpose of *mitsvot* as the distancing of oneself from bodily appetites.<sup>8</sup>

Like Socrates, Maimonides views death as liberating. For a Maimonidean, while the intellect exists in this life with the body, and while Maimonides insisted that he did not mean to deny bodily resurrection of the dead,<sup>9</sup> the world to come (*olam ha-ba*), the crucial sort of afterlife, is the survival of the intellect without a body.<sup>10</sup> It is true that Sa'adyah Gaon emphasized that, because the human being is composed of both body and soul, the afterlife would include bodily existence,<sup>11</sup> and that critics of Maimonides who saw the resurrection of the body, as against mere immortality of the soul, as integral to the world to come, sometimes contended that the human being must be

8 I thank Sarah Pessin for helpful correspondence about Philo.

9 I refer to the *Essay on Resurrection*, which Maimonides wrote in response to charges that he did not believe in resurrection of the body. For an extensive and very important analysis of differing medieval models of the afterlife and messianic age, see Dov Schwartz, *Messianism in Medieval Jewish Thought*, trans. Batya Stein (Boston: Academic Studies Press, 2017). See, in addition, Baruch Brody, "Jewish Reflections on the Resurrection of the Dead," *Torah u-Madda Journal* 17 (2016–17): 93–122.

10 In Talmudic and midrashic texts, *olam ha-ba* is a period in history. Not so for Maimonides, who stresses at the end of *Hilkhot Teshuvah* 8 that *olam ha-ba* is attained by an individual after death. Maimonides's usage has become almost canonical in Jewish discourse.

I am assuming here a straightforward, non-esoteric reading of Maimonides. On some views, though, Maimonides, contrary to the impression left by *Mishneh Torah*, *Hilkhot Teshuvah*, chapter 8 and his introduction to *pereq Ḥeleq* (Mishnah *Sanhedrin* chap. 10), did not believe that disembodied existence is possible, since form never exists independently of matter (see *Guide* III:9). But even so, the intellect is for him of great value while the body is not, and in addition, it appears from some passages that the intellect is the true self (see *Guide* 1:1 and 3:54; the latter passage hints at immortality). True, some scholars identify Maimonidean immortality with collective rather than individual immortality, so that "true self," as Charles Manekin observed, is a misleading term: the perfection belongs to the human being qua human being, not qua individual X. At the bottom line, however, what matters in portraying medieval rationalist thought is not Maimonides's "true" position, but rather the dominant, non-esoteric reading of him, because that understanding is what influenced "Maimonideans."

11 See *Sefer Emunot ve-De'ot*, Treatises 6, 7. Nahmanides's arguments in *Sha'ar ha-Gemul* in *Torat ha-Adam* is probably the best known medieval affirmation of a corporeal afterlife.

rewarded and punished as a totality.<sup>12</sup> Isaac Arama (fifteenth century) views the soul as the form of the body and says that disembodied souls could not have accepted the covenant since the individual obligated in *mitsvot* consists of both body and soul.<sup>13</sup> These opinions reflect a view of self that does not denigrate or try to flee the body. Note, however, that the thesis of some medieval figures<sup>14</sup> that resurrection involves a type of body that does not have the physical needs our ordinary bodies do (e.g., eating), reflects a denigration of ordinary bodies. While sweeping generalizations should be shunned, medieval Jewish rationalists,<sup>15</sup> as opposed to both the philosophically unlearned and philosophical critics of rationalist philosophers, tended to devalue the body, separate it from the person, and regard *hovot he-avarim* as instruments to achievements of the intellect.

The twentieth century and onward is widely perceived as a very different age in regard to these motifs.<sup>16</sup> Celebration of the body pervades our culture. Philosophers now accept the perspective on the body that was endorsed by the philosophically *unlearned* of the Middle Ages. What was once regarded (at least by Maimonideans) as popular and naïve doctrine, albeit supported also by Arama and others, is now the view of sophisticates.<sup>17</sup> Early in the century phenomenologists like Maurice Merleau-Ponty and Max Scheler affirmed the body's primacy, and, most tellingly, even Catholic theologians came to assert its importance. Dietrich von Hildebrand, Emanuel Mounier, and Karol Wojtyla (Pope John Paul II) represent this trend in Catholicism. Drawing on material he had developed while still in Krakow, Wojtyla, as pope, published *Man and Woman He Created Them*, described by him (per the

12 See R. Meir Abulafia, *Yad Ramah*, *Sanhedrin* 90b. Nahmanides's views on this topic seem to be based on exegesis of the Sages rather than on philosophical arguments concerning personhood.

13 *Aqedat Yitshaq*, 6, 99.

14 See, e. g., Rabad to Maimonides, *Mishneh Torah*, *Hilkhot Teshuvah* 8.

15 I mean, before the decline of Maimonidean rationalism in the later part of the Middle Ages.

16 See also my "Body in Judaism," in *The Encyclopedia of Love in World Religions*, ed. Yudit Kornberg Greenberg (Santa Barbara, CA: ABC-CLIO, 2008), 98–99, and, much more fully, Yitzchak Blau, "Body and Soul: *Tehiyyat ha-Metim* and *Gilgulim* in Medieval and Modern Jewish Philosophy," *Torah u-Madda Journal* 10 (2001): 1–19.

17 The parallel is not perfect, since the masses believed in souls as well as bodies whereas today's philosophers generally deny the existence of souls. But the ironic role reversal is clear nonetheless.

subtitle) as “a theology of the body.” Reversing the anti-corporeal tendency of Catholic thought, John Paul II addressed the bodily dimension of human personhood, sexuality, and marriage and advocated an integrated, unitary view of the human person.<sup>18</sup> Embodiment is a major motif in contemporary feminist thought as well.<sup>19</sup> Recently, the interdisciplinary field of “somaesthetics”—which focuses on experience of the body—has burgeoned.<sup>20</sup> It is pertinent to cite here the growth of genetics and neuroscience, which tend to generate materialist theories of the mind. Note too that a pro-body view has been put forth in a contemporary account of Jewish attitudes toward art.<sup>21</sup>

This twentieth-century trend, even early in the century, impacted theories of *ta'amei ha-mitsvot*. My plan in this essay is to examine two twentieth-century Jewish thinkers who valued the body, did not advocate elimination of bodily drives, and integrated that assessment of the body into their theory of *ta'amei ha-mitsvot*: Rabbi Eliezer Berkovits and Rabbi Joseph B. Soloveitchik. When it comes to philosophy of Halakhah, these thinkers are in very different places—Berkovits the great liberal who argues that the Sages were even willing to uproot biblical law, and Soloveitchik, who fumed at such views.<sup>22</sup> But on the question of how the body functions in explanations of *ta'amei ha-mitsvot*, they are in greater, though far from total, agreement. It does function, they say, and mightily; not, however, because the body is an instrument to a noncorporeal ideal, but because “within Judaism, man is acknowledged in his bio-psychic reality.”<sup>23</sup> Participation of the body in *mitsvot* “overcomes a dualism in human nature.” If the body acts in a bestial manner, the union is

18 John Paul II, *Man and Woman He Created Them: A Theology of the Body*, trans. Michael Waldstein (Boston: Pauline Books & Media, 2006).

19 On the role of embodiment in feminist thought in general and Jewish thought in particular, see, inter alia, the essays in Hava Tirosh-Samuels, ed., *Women and Gender in Jewish Philosophy* (Bloomington, IN: Indiana University Press, 2004).

20 See Richard Shusterman, *Body Consciousness: A Philosophy of Mindfulness and Somaesthetics* (New York: Cambridge University Press, 2008), and *Thinking Through The Body: Essays in Somaesthetics* (New York: Cambridge University Press, 2012).

21 See Kalman Bland's *The Artless Jew: Medieval and Modern Affirmations and Denials of the Visual* (Princeton: Princeton University Press, 2000). Cf. the review essay by Gerald Blidstein, “Art and the Jew,” *Torah u-Madda Journal* 10 (2001): 163–72.

22 Hereafter, I shall be omitting rabbinic titles in accordance with journal style.

23 “A Jewish Sexual Ethics,” in Eliezer Berkovits, *Essential Essays on Judaism*, ed. David Hazony (Jerusalem: The Shalem Center, 2002), 107. The chapter earlier appeared in *Crisis and Faith* (New York: Sanhedrin Press, 1976).

severed; if the body acts as it ought, the union is achieved.<sup>24</sup> By sanctifying the body, Halakhah “creates one unit of psychosomatic man who worships God with his spirit and his body and elevates the beast [in him] to the eternal heavens.”<sup>25</sup> Berkovits and Soloveitchik attended the University of Berlin around the same time, and both were exposed to German phenomenology, so it is understandable that there are similarities.

We will encounter another important resemblance between these two thinkers beyond their positive evaluation of the body. Both of them connect ritual observance to observance of ethical laws. The nature of the connection differs, but in the end both to some degree view the ethical as a culmination of fulfilling the commandments. Both transform mastery over the body in ritual performance into a means to *ethical* improvement and corporeal ethical performance. The fact that both thinkers make ethics central in their understanding of ritual is striking, and can be accounted for, as we will see, in historical and philosophical terms.<sup>26</sup>

- 24 Berkovits, “Law and Morality in Judaism,” in *Essential Essays in Judaism*, 31. The essay originally appeared as chapters 10–12 of Berkovits, *God, Man, and History* (New York: Jonathan David, 1959). Page references to the material will be to *Essential Essays*. There are slight differences in wording between the original and the reprint, but none of any consequence to this paper.
- 25 Soloveitchik, *And From There You Shall Seek [U-Viqqashtem mi-Sham]*, trans. Naomi Goldblum (New York: Toras HoRav Foundation, 2008), 117. Reuven Ziegler puts it nicely: “Its [Halakhah’s] telos is ultimately to unite the natural and the spiritual in man.” See Reuven Ziegler, *Majesty and Humility: The Thought of Rabbi Joseph B. Soloveitchik* (Boston: Maimonides School, New York: OU Press, Jerusalem: Urim, 2012), 153.
- 26 As Alex Ozar notes at the end of “The Emergence of Max Scheler: Understanding Rabbi Joseph Soloveitchik’s Philosophical Anthropology,” *HTR* 109 (2016): 178–206, several twentieth century Jewish thinkers stress or acknowledge the importance of body in understanding various facets of Judaism. Most famous and controversial in this regard is Michael Wyschogrod’s *The Body of Faith* (New York: Harper & Row, 1983). Buber and Heschel, despite their stress on inner experience, maintain that their philosophies address “the whole man, body and spirit together” (Buber, *Hasidism and Modern Man* [New York: Horizon Press, 1958], 151). Heschel writes, “The body without the spirit is a corpse; the spirit without the body is a ghost” (*God In Search of Man* [New York: Farrar, Strauss, and Geroux, repr. 1976], 341). Still, as David Hazony notes after quoting these passages, Buber and Heschel do not address the questions about mastering the body with which Berkovits engages. See Hazony’s introduction to Berkovits, *Essential Essays on Judaism*, xxxiii–xxxiv.

In what follows, I shall first attempt to situate Berkovits's and Soloveitchik's approach to embodiment in the context of a subjectivist approach to *ta'amei ha-mitsvot* that they adopt – to be sure, Soloveitchik far more fully and explicitly than Berkovits. Next, I will explicate and assess both thinkers in detail to bring out similarities and differences between them. Certain themes in one are glaringly absent from the other, but in interesting respects the theories are convergent – in fact, not only in their shared stress on elevating the ethical that we have already noted, but also in their views on the source of ethical obligation.

There are, to be sure, several early modern Jewish theories of *mitsvot*, particularly a prevalent line in Hasidic thought, that affirm the value of the body in one way or another and see it as participating in the service of God. Hasidism understood certain bodily activities as “*avodah be-gashmiyyut*,” worship through corporeality. Kabbalah's (and especially Hasidism's) *prima facie* resemblance to Berkovits and Soloveitchik will therefore be addressed later—how close is the resemblance?<sup>27</sup>

Articulating and fine-graining the contrast between medieval (rationalist) and modern thinkers on the topic of body is a more subtle task than one might expect. Specifically, to say that, in Judaism, the body participates in the service of God would seem to be the height of banality and triviality. Don't *mitsvot* generally require bodily performance—whether by way of action or by way of restraint?<sup>28</sup> Indeed, all know that the existence of multifarious *hovot ha-evarim*, duties of the limbs, both do's and don'ts (*aseh* and *lo ta'aseh*), marks a critical difference between Judaism and Christianity.<sup>29</sup> So surely if you ask,

27 Famously, Elliot Wolfson has advanced an enormously rich understanding of Kabbalah that highlights its corporeal framework.

28 Bahya ibn Paquda, however, who is most associated with these terms, ranked *hovot ha-levavot* higher than *hovot ha-evarim*.

29 “[Christians] saw the bodily dimension of human existence as extrinsic to the purely spiritual drama of salvation, which involves only the spark of divinity within. . . . [P]articular details of religious obligations and duties focus attention on finite, bodily life, implicating us in a fateful downward turn that impedes the upward direction of the spirit. . . .” To this description Judaism seems to be a stark foil. See R. R. Reno, “Loving the Law,” *First Things* 219 (January 2012), available at <http://www.firstthings.com/article/2012/01/loving-the-law>. This essay is also published as “Loving the Law: What Christians Can Learn from Jews,” in *Rav Shalom Banayikh: Essays Presented to Rabbi Shalom Carmy*, ed. Hayyim Angel and Yitzchak Blau (Jersey City, N.J.: Ktav, 2012), 239–54. Reno is speaking

“Is the body involved in serving God?” medieval Jewish philosophers have to answer yes because Judaism is replete with bodily *mitsvot*.

Furthermore, if you ask, “what is the nature of a person?,” a medieval might have said “soul alone”; but he may have said “a person is body and soul, but the soul must conquer the body”—which is not much different from a modern dualistic religious view. If you ask, “Should we be ascetic?” the modern answer is “No,” but a medieval thinker might have discouraged asceticism too. (Maimonides did so in his legal writings albeit not the *Guide*.) Moreover, in a “psychosomatic unity” approach, refraining from certain acts—observing a *lo ta’aseh*—counts as “participation” of the body. If so, why can’t asceticism also count as participation? How, then, do modern body-centered theories differ from medieval approaches?

The medieval-modern difference seems, rather, to boil down to two elements. One concerns the *value* of the body. For a Maimonidean, were we *ab initio* disembodied, we would be in a better state than our actual one; by contrast, for the pro-embodiment camp, we would have lost something essential to humanity and to spiritual achievement. And if you ask, “Why must the body participate?,” the answer of the modern will not be that it leads to the soul’s improvement or perfection of the intellect. For Berkovits and Soloveitchik, not only is participation of the “248 limbs and 365 sinews” part and parcel of the service of God, but the reason they are is precisely that we are psychosomatic unities and *not* the separate entities posited by dualistic theories. The *mitsvot* (a) give symbolic expression to this unity, but, perhaps more importantly, they (b) enable realization of the human being’s distinctive nature.

It is fair to ask whether psychosomatic unity is an initial condition of the human being, prior to submission to *mitsvot*, or instead a condition that humans *reach* through *mitsvot*. If *only* the latter, then it is not clear how psychosomatic unity constitutes human “nature.” If, as Berkovits contends, prior to *mitsvot* the union was absent or severed, in what sense *was* it part of human nature?<sup>30</sup>

of Gnostic strains in the interpretation of Paul. The Reno quotation is, needless to say, an arbitrarily chosen sample of a nearly ubiquitous, celebrated thesis.

30 Neither thinker *consistently* invokes unity as the aim of the *mitsvot*. But their dominant note is that through the service of both positive and negative duties the body becomes “redeemed” and “sanctified.”

Such questions prove difficult to resolve, and I will content myself with having raised them.<sup>31</sup>

### I. Subjectivity, *Ta'amei ha-Mitsvot*, and the Body

In this section, I will argue that Berkovits's and Soloveitchik's enthusiastic evaluations of the body vis-à-vis *mitsvot* may be grounded in a certain conception of what a theorist should be doing when the theorist provides reasons for the commandments.

In his classic work on *ta'amei ha-mitsvot*, Isaac Heinemann amply documents the proposition that thinkers who give reasons for *mitsvot* work with their individual background theories and the theories of their times.<sup>32</sup> Illustrating Heinemann's contention, Jewish thinkers who took a positive view of the body and integrated it into their explanation of *mitsvot* may have absorbed certain influences: German phenomenology, personalism,

- 31 A word is in order about the terms "ritual" and "ethical," which I will be invoking freely. We all recognize certain acts as rituals: eating *matsah* at a seder, taking a lulav, making *qiddush*, conducting a circumcision or marriage ceremony, donning *tsitsit*, immersing in a *miqveh*, and so on. It is odd-sounding, however, to classify negative performances-- not wearing *sha'atnez*, not eating pork, refraining from sex with a menstruating woman -- as rituals. Nevertheless, we will have to make our peace with this idiom for the discussion to proceed. The late philosopher Sidney Morgenbesser no doubt exaggerated when he quipped that the difference between gentile ethics and Jewish ethics is that "in gentile ethics [Kant's] 'ought' implies 'can'; in Jewish ethics, 'can' implies 'don't'." Judaism contains too many positive performances to allow this *bon mot* to pass literal muster. Even so, it brings out the degree to which mastery over the body is required in Judaism. In any event, *defining* ritual, as opposed to classifying certain acts or omissions as ritual, is a formidable task. We can say there is a rough correspondence between the ritual/ethical distinction and the distinction between *mitsvot bein adam la-Makom* and *mitsvot bein adam la-ḥaveiro*. But the views we will examine have the effect of attenuating this very distinction because they find interpersonal dimensions in the so-called rituals. For an enlightening discussion of what ritual is, see Lenn Evan Goodman, *God of Abraham* (New York: Oxford University Press, 1996), ch. 6.
- 32 *Ta'amei ha-Mitsvot be-Sifrut Yisrael* (Jerusalem: Jewish Agency, 1956); see especially 2:177–80. Cf. Gerson Appel, *A Philosophy of Mitzvot* (New York: Yashar Books, 2008), 193: "The divine commandments are everlastingly binding upon all generations, but every generation may seek an understanding and appreciation of the laws, given the knowledge and experience that it uniquely represents. The capability for deeper insights and greater perception has surely been enhanced by the intellectual and scientific resources that are presently at man's disposal."

existentialism, possibly Ḥasidut and its concept of *avodah be-gashmiyyut* (worship through corporeality), perhaps Romanticism (in the Romantic theory of art, for example, inner feelings require physical artistic expressions<sup>33</sup>)—notwithstanding differences between each movement on the one hand and the Berkovits and Soloveitchik approaches on the other. Moreover, the ascendance of the theory of evolution may have given further impetus to an emphasis on the body. Such points contextualize the Berkovits-Soloveitchik perspective and bear out Heinemann's thesis.

However, this appeal to influences, while highly plausible, can be deepened by examining a shift from medieval to modern approaches to *mitsvot*—a shift from objective to subjective models for giving *ta'amei ha-mitsvot*. The modern approach, that of subjective understanding, may be linked to embodiment. When I say “modern,” I usually refer, in this context, to the twentieth century. (Note, however, my later reference to Mendelssohn.) While Soloveitchik is far more loquacious on the topic of subjectivity as it applies to *ta'amei ha-mitsvot*, and his writings will occupy the lion's share of the discussion, the general ideas figure in Berkovits as well.

The two best known medieval figures who theorized about *ta'amei ha-mitsvot*, Maimonides and Nahmanides, were largely objectivists about the reasons they gave for *mitsvot*. In other words, they were professing, at the least implicitly, to have gripped the *real* reason that the laws were legislated—to have, to put it starkly, correctly read God's mind, the divine intention.<sup>34</sup> To be sure, qualifications are in order: for example, the particular shape that the commandments take is, according to Maimonides, largely due to considerations having to do with what we believe to have been the historical

33 See Alex Sztuden, “Grief and Joy in the Writings of Rabbi Joseph B. Soloveitchik, Part I,” *Tradition* 44,1 (Fall 2011): 25–27.

34 An important distinction should be made here between two senses of “reasons for a *mitsvah*”—(i) reasons of the legislator and (ii) reasons of the performer. The legislator may command a given law for reason X but want the performer to observe the law out of obedience, or for some other reason, and may even want performers to be ignorant of the reasons why the command was given. When I speak of reasons in the context of objectivist theories and in the context of what I will call “explanatory subjectivist” theories, I am referring to reasons of the legislator. When I turn to “experiential subjectivist” theories, we are in the realm of reasons for the performer. Perhaps the sharpest example of the distinction is Maimonides's explanation of sacrifices (*Guide of the Perplexed* 3:32); see Josef Stern, *Problems and Parables of Law* (Albany, N.Y.: SUNY Press, 1998) and Shatz, “Worship, Corporeality, and Human Perfection.”

circumstances of their context of legislation. Such historical knowledge is by his own admission fallible, which renders his depiction of the reasons given in part III of the *Guide of the Perplexed* fallible.<sup>35</sup> In addition, because we infer the legislator's intentions *from* the commandments—we do not have direct access to the intentions themselves—Maimonides realizes that his claims are inevitably corrigible and might be revised given more evidence, even while he surely believes he has found the truth to the best of his ability.<sup>36</sup> Yet Maimonides's view may be termed *objectivist fallibilism*. This view maintains that (i) the enterprise of *ta'amei ha-mitsvot* aims at discovering God's true reason, but (ii) any explanation we give of *mitsvot* is fallible and *may not* be the true reason; we may be refuted later. Though defeasible, however, our hypotheses are still aptly called "objective."

Similarly, in the nineteenth century, Rabbi Samson Raphael Hirsch in effect purported to read God's mind by constructing, for each commandment, a hypothesis that would—in the manner of a scientific theory, he says—explain the "data," i.e., the Torah's laws. While admitting his search might occasionally come up empty, Hirsch *aimed* at an accurate account of the divine mind, and—despite the notoriously speculative nature of his symbolic understandings of the commandments—believed he had attained it down to small details of Jewish law. For all that, Hirsch allowed that his hypotheses could be false.<sup>37</sup> Hence, in addition to Maimonides, we have Hirsch as an example of an objectivist fallibilist, despite Hirsch's sharp critiques of Maimonides on *ta'amei ha-mitsvot*.<sup>38</sup>

In contrast, some Jewish philosophers in the twentieth century offer what they see as *subjective* interpretations. There are two forms of this approach: *explanatory subjectivism* and *experiential subjectivism*.

*Explanatory* subjectivists concur with objectivists that we should aim to understand God's reasons, but they believe that any hypothesis we form about reasons for *mitsvot* (or perhaps any hypothesis about any datum)

35 See *Guide of the Perplexed*, 3:49. See also Kenneth Seeskin, "Maimonides' Sense of History," *Jewish History* 18 (2004): 129–45.

36 My thanks to Josef Stern for suggesting this formulation.

37 My characterization of Hirsch on this issue is based on *The Nineteen Letters of Ben Uziel*, letter 18, note 6.

38 See *The Nineteen Letters*, letter 18, and, in general, Hirsch's sixfold classifications of *mitsvot*, his insistence that every detail has a reason (cf. Maimonides's *Guide*, 3:26) and accounts of specific *mitsvot*.

is aptly called subjective. The multiplicity of interpretations of *mitsvot* throughout history encourages the thought that different people will have different explanations, period, and to each his own. So, whereas an objectivist fallibilist will say that at a given time, with a given state of evidence, only one hypothesis is the right one to believe (even though it may be disproved), an explanatory subjectivist allows for different, conflicting, yet equally rational hypotheses in that situation. Objectivists think that if people were thinking aright, they would all arrive at the same conclusion as to the reason for a particular *mitsvah*. Explanatory subjectivists would not make that claim. They proffer *te'amim* that seek to understand God's reasons, but recognize that different people will have different theories about what God had in mind and there can be multiple acceptable ones. Each individual brings his or her own personal perspective to bear and cannot expect all others to share it. But this variability, for the explanatory subjectivist, is not a reason to shut down the enterprise.<sup>39</sup>

*Experiential* subjectivity contrasts with both of the preceding views, and is our most important category. For an experiential subjectivist, the enterprise of *ta'amei ha-mitsvot* does not seek God's intent. Instead it seeks to articulate the *meaning* of *mitsvot*, not the external reason for them. That meaning consists in what *mitsvot* mean *for us*, how we can use them to shape our outlooks—and not authorial (i.e., the divine legislator's) intent. This meaning will differ from person to person, society to society, era to era, because the quest is for meaning in highly particular circumstances.

Experiential subjectivity is clearest in Soloveitchik's discourse "May We Interpret *Hukim*?"<sup>40</sup> There (and an obvious parallel exists to the way he

39 I thank Daniel Rynhold for his help in formulating this paragraph. My depiction requires fine-tuning. After all, God may have multiple reasons for giving a particular law, so even the objectivist fallibilist must allow for multiple "right" hypotheses at a given time relative to a given body of evidence. We may say, nonetheless, that, for an objectivist fallibilist, there is a specific pool of reasons that are acceptable at a given time, while other reasons are excluded from the pool. By contrast, an explanatory subjectivist allows for different, conflicting, yet equally rational hypotheses at a given time even as to what the pool of reasons is. This is not to say that, for an explanatory subjectivist, all hypotheses are acceptable. But drawing lines between acceptable and unacceptable hypotheses is certainly a challenge for explanatory subjectivists.

40 See "May We Interpret *Hukim*?" in *The Man of Faith in the Modern World: Reflections of the Rav*, Volume Two, adapted from Soloveitchik's lectures by Abraham R. Besdin (Hoboken, N.J.: Ktav, 1989), 91–99. The essay (or, rather, adapted discourse)

treats the problem of evil<sup>41</sup>) he says that we should not ask “Why” God gave the *mitsvot* that He did, but we may and should ask, rather, “What?”—what personal meaning can I derive from it, “What is its spiritual message to me, how can I assimilate it into my world outlook?”<sup>42</sup> He utilizes this approach to explain an oddity in Rashi, who on the one hand deems the law of the red heifer a *hoq* in the sense of a reason-less *mitsvah* but on the other hand quotes a robust explanation of *parah adummah* and its details by Rabbi Moshe ha-Darshan. Rabbi Lord Jonathan Sacks pithily captures the experiential subjectivist approach to *mitsvot* when he points to two senses of the word *ta’am*—reason and flavor. The objectivist and the explanatory subjectivist (my terms) brings out the reason; the experiential subjectivist brings out the flavor, “what does the *mitsvah* feel like . . . while you are performing it.”<sup>43</sup> The move from objective to subjective reflects brightly a general movement in Soloveitchik’s thought away from metaphysics and into the inner person.<sup>44</sup>

is often perceived as a popular version of the end of *The Halakhic Mind*. It may appear different because in *The Halakhic Mind* Soloveitchik assigns a particular reason to certain *mitsvot* (Shabbat, shofar, and ritual immersion), a reason having to do with subjective states of the performer. There seems to be only one “right” subjective state. But Rynhold argues (see n. 52) that even “reconstruction” (finding the subjective correlate of the outward religious behavior) in *The Halakhic Mind* is subjective. Whether that subjectivity is precisely the same as the subjectivity embraced in “May We Interpret Hukim?” is a question I won’t enter into.

- 41 Soloveitchik, like several other practitioners of Continental philosophy, says that we can’t know why God allows evil but only how we can respond to evil—a parallel to his teaching about *mitsvot*. He poses several arguments in different works, but our ignorance of God’s reasons is the most prominent. See *Fate and Destiny* [Kol Dodi Dofek], trans. Lawrence Kaplan (Hoboken, N.J.: Ktav, 2000), esp. 1–22. The other key argument in those pages is that asking “why?” betokens an existence of fate (*goral*) rather than *yi’ud* (destiny), a conception of oneself as an object rather than a subject.
- 42 “May We Interpret Hukim,” 95.
- 43 See Sacks, “A Hespel in Honor of Rav Yosef Soloveitchik,” in *Memories of a Giant*, ed. Michael Bierman (Jerusalem and New York: Urim and Rabbi Joseph B. Soloveitchik Institute, 2003), 287.
- 44 Soloveitchik’s aversion to metaphysics should not be overstated; he speaks about revelation, for example. But Dov Schwartz argues that even in these contexts Soloveitchik is really speaking about the believer’s experience. See Schwartz, *From Phenomenology to Existentialism: The Philosophy of Rabbi Joseph B. Soloveitchik*, volume 2 (Leiden: Brill, 2013). In the case of his claim in *Kol Dodi Dofek* that in 1948 God was “knocking,” we have a metaphysical claim, but as Arnold Davidson pointed out to me, the metaphysics is in the service of a practical imperative.

In his famed critique of Maimonides's account of *mitsvot* in *Guide of the Perplexed*, Soloveitchik charges that Maimonides's historical explanations "neither edify nor inspire the religious consciousness. They are essentially, if not entirely, valueless for the religious interests we have most at heart."<sup>45</sup> Soloveitchik seeks not the cause, the etiology, of the commandment, as Maimonides did, but rather, to speak anachronistically (*The Halakhic Mind* was written in 1944), he writes in the spirit of Gadamer. Meaning is not produced by the author of a text. It is produced by interpreters through their highly individual encounters with the text, and it does not exist independently of them. Soloveitchik accepts this "hermeneutic" account, rejecting the "intentionalist" one, and applies an analogue to *ta'amei ha-mitsvot*.<sup>46</sup> The "reason for" the commandment is the subjective *meaning* of the commandment, a meaning created by the individual. Berkovits, while not developing a theory

Notoriously, phrases like "Soloveitchik maintains" must be viewed with caution if not suspicion. His works are riddled by contradictions, both between works and within works. In addition, adaptations of his oral discourses and edited versions of his essays should have less probative status than works he finalized and published in his lifetime. Nonetheless, I believe that the positions I describe are found across many works, and as Daniel Rynhold and Michael J. Harris point out in a forthcoming book, *Nietzsche, Soloveitchik and Contemporary Jewish Philosophy* (Cambridge: Cambridge University Press), strong scruples about using adaptations and edited manuscripts would perforce leave us wary of canonical works said to be "by" Aristotle and Hegel.

- 45 *Halakhic Mind*, 92. Soloveitchik's "descriptive hermeneutics" is called into question by Shubert Spero in *Aspects of Rabbi Joseph Dov Soloveitchik's Philosophy of Judaism: An Analytic Approach* (Jersey City, N.J.: Ktav, 2009), 123–40.
- 46 See the robust discussion by Daniel Rynhold, *Two Models of Jewish Philosophy* (New York: Oxford University Press, 2005), 86–100. Rynhold notes that at times, especially in *Halakhic Man*, Soloveitchik constructs what he regards as an objective reason for halakhot by deriving them from rules. This is a different sense of "reason for the commandment," unrelated to experiential subjectivity though still liable to a charge of subjectivism because formalistic derivations are open to dispute (cf. Rynhold, 91–93). See also Rynhold's later refinement of his reading of Soloveitchik in "Letting the Facts Get in The Way of a Good Thesis: On Interpreting R. Soloveitchik's Philosophical Method," *Torah u-Madda Journal* 16 (2012–13): 52–77. It can be said that in Brisker formalism we have a "what" but not a "why?" For a critique of Brisker formalism precisely on the grounds that halakhists should ask "why" and not only "what," see Mosheh Lichtenstein, "What Hath Brisk Wrought?," *Torah u-Madda Journal* 9 (2000): 1–18.

of meaning, writes, “nor is it our ambition to try and fathom the intentions of the lawgiver.”<sup>47</sup>

Soloveitchik and perhaps Berkovits contrast not only with Maimonides and Nahmanides but also with other medieval Jewish figures who did not buy into the project of giving “true” reasons for the *mitsvot*. Yair Lorberbaum shows that medieval Jewish philosophers who denied human beings’ ability to fathom reasons for *mitsvot* adopted diverse variants of this denial.<sup>48</sup> Some taught that we don’t know any reasons, and accordingly proffered no explanations; others gave explanations but, they said, only *le-sabber et ha-ozen*, to make *mitsvot* appealing, without believing they had the true explanation; others thought we have only very limited and partial explanations, the proverbial tip of an iceberg; others said the generations had declined (*yeridat ha-dorot*), so that whereas our forebears knew, we don’t, or that only a few people today know the true reasons; kabbalists argued that we see reasons only in flashes. Soloveitchik differs from nearly all of these medieval thinkers. After all, Soloveitchik does not profess to read the divine mind even in small measure; he does not claim that he sees flashes of the true reason; he does not say that we have a partial understanding of God’s reasons; he does not contend that past generations had an answer to the “Why?” question, and he does not maintain that the elite of our time have such an understanding. The closest similarity to a view on Lorberbaum’s list of medieval approaches is that Soloveitchik might give explanations that he believes will make *mitsvot* appealing. (Of course, reasons could be appealing as a byproduct of an account that has purposes other than creating that appeal.) But Soloveitchik has a robustly articulated reason for this effort—he sees value in Adam the second translating faith into the “cultural vernacular” for Adam the first, and a natural suggestion is that expressing the meaning of *mitsvot* in a way that appeals to Adam the first is part of that project.<sup>49</sup>

47 “Law and Morality,” 6.

48 In the epilogue to a forthcoming book, *Gezerat Ha-Katuv—On Rules and Reasons in Halakhah* (Hebrew).

49 See “The Lonely Man of Faith,” *Tradition* 7 (1965): 60–65. Notice, however, that the idea of “translating faith into the cultural vernacular” implies a permanence to the content of faith rather than the time-variability stressed in experiential subjectivism. Soloveitchik speaks of “a pure faith commitment” that is “as unchangeable as eternity itself” despite shifts in cultural categories. Thus, he does not apply his experiential subjectivism to Judaism in every respect; *mitsvot* and evil are merely the most amenable instances of an experiential subjectivist approach.

With experiential subjectivity, the interpreter's theories are highly revisable not because they are truly theories and thus subject to revision—after all, we are not seeking to *explain* anything—but *because personal responses and meanings can differ from person to person and age to age*. Consider Soloveitchik's understanding of his own ideas about prayer:

Therefore, when I speak about the philosophy of prayer or *Shema*, I do not claim universal validity for my conclusions. I am not lecturing on philosophy of prayer as such, but on prayer as understood, experienced and enjoyed by an individual. I acquaint you with my own personal experience. Whether . . . my experience can be detached from my idiosyncrasies and transferred to others, I do not know.<sup>50</sup>

Indeed, Soloveitchik has numerous different accounts of prayer—for instance, a variety of ways to add a dimension to petitions so that one is not *solely* petitioning.<sup>51</sup> Their variegated nature underscores Soloveitchik's statement about his subjectivity in explaining prayer.<sup>52</sup>

It could be said here that a Brisker formalist approach to Halakhah would obviate and even invalidate the search for *ta'amei ha-mitsvot*. Cf. my "Can Halakhah Survive Negative Theology?" in *Negative Theology as Jewish Modernity*, ed. Michael Fagenblat (Bloomington: Indiana University Press, 2017), 282–303.

- 50 Soloveitchik, *Worship of the Heart: Essays on Jewish Prayer*, ed. Shalom Carmy (New York: Toras HoRav Foundation, 2003), 2.
- 51 One might argue, for instance, that, because individuals do not know their real needs, the *amidah* apprises them of what human needs exist and simultaneously conveys what creatureliness entails. See Soloveitchik, "Redemption, Prayer, and Talmud Torah," *Tradition* 17,2 (spring 1978): 55–72. Or, becoming interested in satisfying one's own needs enables one to care for others' needs (*ibid.*). Or, by petitioning and caring about certain things, the reciter of the *amidah* is poised to make sacrifice. See "Reflections on the *Amidah*," in *Worship of the Heart*, ed. Carmy, 144–82. (The article was originally published in Hebrew as "Rayonot al ha-Tefillah," *Hadarom* 47 [Tishrei 5739]: 84–106.)
- 52 In Soloveitchik, we have, in truth, a two-layered subjectivism. One layer, the focus of Soloveitchik's *The Halakhic Mind*, is the content of *what the interpreter is discovering* via the method he calls reconstruction. What are the subjective states that are expressed by the objective act or norm? The other layer is subjectivism on the part of the interpreter in locating the subjective states just mentioned. The two layers are logically distinct: a thinker could believe that he or she has objective knowledge of what subjective states underlie certain practices, but Daniel Rynhold argues that Soloveitchik accepts both layers of subjectivity. One could retort that Soloveitchik's favoring a particular explanation of certain *mitsvot* in the closing

Does Soloveitchik's subjectivism have precedents?<sup>53</sup> It is ironic, given Moses Mendelssohn's reputation among the Orthodox, that Soloveitchik's position is close to Mendelssohn's. The latter endorsed a pluralistic and subjective approach to the meaning of *mitsvot*. As Arnold Eisen writes, Mendelssohn "gains further flexibility in symbolic explanation of the commandments by arguing that the meaning of the *mitsvot* . . . was not fixed but itself varied from time to time, place to place, and person to person. That being the case, there could never be one single authoritative meaning to any particular *mitsvah*. No interpretation could be said to be correct for all 'performers and rememberers' at all times."<sup>54</sup>

section of *The Halakhic Mind* (Shabbat, *shofar*, and ritual immersion) reflects a conviction that there is an objectively correct reconstruction. See Rynhold, *Two Models of Jewish Philosophy*, 91–93. Rynhold argues, however, that because there can be different reconstructions, Soloveitchik could not (and does not) affirm his own objectivity. Now, as Rynhold notes, it has been debated whether the existence of different reconstructions truly undermines objectivity. The fact is, however, that Soloveitchik writes as if his interpretations/reconstructions, and not merely the inner states identified by those reconstructions, are subjective, as in the paragraph about prayer that I quote.

- 53 There are conflicting indications as to whether Soloveitchik felt impelled to invoke precedent in the context of *ta'amei ha-mitsvot*. Whereas in *The Halakhic Mind*, Soloveitchik announces his disagreement with Maimonides, in "May We Interpret Hukim?" he makes an effort to muster medieval support by bringing Nahmanides into the experiential subjectivists' camp. In Nahmanides's commentary to Deut 22:6, Nahmanides contends that the command of *qan tsippor* (sending the mother bird away before taking her eggs) and *oto ve-et beno* (not slaughtering an animal and its offspring on the same day) are intended to improve human character and are not prescribed, as Maimonides claimed, to spare the animals anguish. He presents Nahmanides as endorsing the "educational" function of *mitsvot*, which does not seem to amount to experiential subjectivity. Nahmanides does not say that this explanation is his own subjective one, let alone that he is merely articulating the meaning the *mitsvah* has for him. In citing him as a precedent, Soloveitchik conflates Nahmanides's characterological teleology with his own ideas about subjectivity. (Whether Nahmanides's explanation is truly contra Maimonides is debatable. See Stern, *Problems and Parables of Law*, 49–55, 76–78.)
- 54 Arnold Eisen, *Rethinking Modern Judaism: Ritual, Commandment, Community* (Chicago: University of Chicago Press, 1998), 89. See also 141–55. On Mendelssohn's broader pluralistic views, see Michah Gottlieb, "Moses Mendelssohn's Metaphysical Defense of Religious Pluralism," in *Faith, Reason, Politics: Essays on the History of Jewish Thought* (Boston: Academic Studies Press, 2013), 98–121.

Let us turn to three consequences of endorsing experiential subjectivity, consequences that relate to the Berkovits-Soloveitchik body-centered approach. First, an interpreter of *mitsvot* need not give the same rationale as did previous interpreters who are regarded as authorities. For the modern interpreter could maintain either that (a) earlier interpreters, too, were just extracting subjective meanings, or that (b) no, they *were* objectivist, but we are entitled to *also*—that is, in addition, without rejecting objectivist accounts—offer subjective meanings of *ta'amei ha-mitsvot* without binding anyone else to these.<sup>55</sup> A corollary is that when a modern interpreter of *mitsvot* moves from an anti-corporeal understanding of *mitsvot* to a positive view of the body, the interpreter need not be concerned about departing from authority *with regard to the content of the explanation*.<sup>56</sup>

A second consequence of experiential subjectivism flows from the fact that the data for the “reconstruction” of subjectivity includes bodily behavior. The consequence is simply that experiential subjectivism is tied up with the

55 Soloveitchik would not have accepted this formulation, however, since he contends that human beings cannot know God’s mind.

56 Of course, the new interpreter *is* deviating from a general anti-corporealist precedent that existed independently of the anti-corporealist approach to *mitsvot* in particular. But enough “corporealists” could be cited as precedent on the philosophical question about the value of the body. In addition, it may be more important to a thinker to justify a claim to know God’s intentions better than a medieval authority did, than to justify a position on the significance of the body *per se*.

In addition to using the subjectivist approach in the case of *mitsvot* and the problem of evil, Soloveitchik interprets the idea (associated with Naḥmanides) that the deeds of the fathers are a “*siman*” for the deeds of the ancestors (*ma’aseh avot siman le-banim*) not as a statement of historical determinism but as the teaching that events that occur to fathers are signs or symbols that need to be interpreted by their descendants—presumably by an act of subjective interpretation. See *Abraham’s Journey: Reflections on the Life of the Founding Patriarch*, ed. David Shatz, Joel B. Wolowelsky, and Reuven Ziegler (New York: Toras HoRav Foundation, 2008), 7–34.

One suspects that, despite frequent statements to the effect that his views are subjective, Soloveitchik believes in the positions he advances, such as the subjectivist position itself. Moreover, it does not seem plausible that he entertained his view that *mitsvot* aim at psychosomatic unity as only one perspective. It is well known that thinkers do not always apply positions like subjectivism, skepticism, and relativism to their own views when they are not philosophizing, an old problem that Hume identified. Such inconsistencies and tensions, however, do not change Soloveitchik’s stated commitment to experiential subjectivity.

body. Moreover, as Alex Sztuden points out, Soloveitchik saw yet another reason to connect subjectivity and the body—surprisingly, since one would expect subjectivity to connect to the mind or soul alone.<sup>57</sup> Soloveitchik writes in *The Halakhic Mind*:

Aristotle’s metaphysics illustrates an outstanding example of the reconstruction method. The ontological hierarchy of matter and form suggests a duality similar to that of objectivity and subjectivity . . . . Matter is to be conceived as a chaotic, lawless and unregulated welter which is akin to the modern concept of transient subjectivity.<sup>58</sup>

Now, Soloveitchik states that “[c]ontemporary epistemology has no ontological hierarchy” dividing between the rank of form and the rank of matter. The objective is equal in stature to the subjective.<sup>59</sup> Putting aside the question of ranking, matter and subjectivity (and matter and thought) are linked; additionally, it is significant that matter is at the least equal in importance to form.

That certain philosophers affirm a linkage between subjectivity and an emphasis on the body does not entail that their arguments for a linkage are convincing.<sup>60</sup> We can say with a measure of confidence, however, that it is no accident that Jewish thinkers influenced by phenomenology would stress both subjectivity and the body.

A third consequence of an experiential subjectivist approach to *ta’amei ha-mitsvot*: Experiential subjectivity adds something to Heinemann’s recurring point, cited earlier, that theories of *mitsvot* reflect background theories of the interpreter. In particular, an experiential subjectivity approach *justifies*

57 Alex Sztuden, “Grief and Joy in the Writings of Rabbi Soloveitchik Part II,” *Tradition* 44,3 (Fall 2011): 9–32, esp. 18–23. Page 22, n. 38, is a vital part of the discussion.

58 *Halakhic Mind*, 75–76.

59 *Ibid.*, 76.

60 In correspondence, Aaron Segal suggested three senses of subjectivity that are relevant to Sztuden’s point: particularity; how something is experienced; and relativity. The linkage under discussion now may be with only subjectivity of the first type (particularity), which in turn may lead us to conclude that the sort of subjectivity we discussed earlier is not relevant to the body save for the other ways I will outline. But again, the question is not so much whether the linkages are logically cogent but whether the thinkers in question thought they are.

the absorption and use of theories that may turn out to be transient and timebound. It allows—perhaps even requires—a thinker to *self-consciously* present reactions that reflect the problems and orientations of one's times, as well as its prevailing theories and sensibilities, even though the thinker knows full well that those theories and sensibilities are transient. Soloveitchik's words in "The Lonely Man of Faith" are striking:

Certainly, when the man of faith interprets his transcendental awareness in cultural categories, he takes advantages of modern interpretive methods and is selective in picking his categories. The cultural message of faith changes, indeed, constantly, with the flow of time, the shifting of the spiritual climate, the fluctuations of axiological moods, and the rise of social needs.<sup>61</sup>

Consider, by way of analogy, Soloveitchik's *Halakhic Man*. Interpreters cogently argue that the entire project is a response to modern liberal critiques of halakhic study and practice.<sup>62</sup> The argument of the essay is that the very values which opponents of halakhic study and practice cherish can be attained rather than frustrated through these religious activities. Halakhic man realizes the very values prized by liberal Judaism—autonomy, creativity, ethics, self-creation. The work is reacting to its time and place; at a different time, with different challenges, a different work about a halakhic personality would have come to the fore. Similarly, given the doctrine of experiential subjectivity, we have a grounding for the motif of mastery over the body because the body's importance, as mentioned earlier, is among the cultural motifs confronting these thinkers.

Interestingly, Berkovits writes cryptically that his analysis is providing an account of ritual that "is most significant in terms of our human condition and its problems."<sup>63</sup> What might this mean? Perhaps the following: Berkovits' and Soloveitchik's time was one in which *mitsvot* were not being observed, and many argued that ritual practices should be reduced or abandoned. Explanations for *mitsvot*, especially *mitsvot bein adam la-Maqom* and all the more

61 "Lonely Man of Faith," 64.

62 See, for example, Eliezer Schweid, *Orthodoxy and Religious Humanism* (Jerusalem: Van Leer Institute, 1978), 38–42 (Hebrew). For a more complex understanding, see Dov Schwartz, *Religion or Halakha? The Philosophy of Rabbi Joseph B. Soloveitchik*, trans. Batya Stein (Leiden: Brill, 2013). See also Schwartz, *From Phenomenology to Existentialism*, 375–76.

63 Berkovits, "Law and Morality," 6.

so *huqqim*, were needed for the Jews in that period. Experiential subjectivism opens a door to the explanation of such commandments. An argument of the right kind for having the body participate in the service of God could produce rationales for ritual observance. (Recall the approach of *le-sabber et ha-ozen*.) The aim is to critique the non-Orthodox, more precisely liberal Judaism, or—to frame the idea positively—to give them reason to observe ritual, thus bringing them closer to observance or at the least making one's own path of adherence appear respectable. As Don Seeman points out, critics of Maimonides's views on *ta'amei ha-mitsvot* in the *Guide*—Hirsch, Luzatto, Kook, Soloveitchik—“took him to task for failing to provide religious stability and inspiration.” Soloveitchik's experiential subjectivism seeks to provide that.<sup>64</sup> Recall yet again that Soloveitchik explains that Adam the second must speak to Adam the first in the “cultural vernacular.” Heinemann's contention that apologetic motives—the desire to win adherents—are widespread in the giving of reasons for *mitsvot* thus fits Soloveitchik well.<sup>65</sup> Once a thinker abandons the aspiration to read God's mind, the key quality in an explanation of *mitsvot* must be meaning, which is dependent on, *inter alia*, the thinker's context. I shall elaborate later on the idea that our two thinkers sought to show liberal Jews the ethical value of ritual observance.

Aside from the stimulus given to Berkovits and Soloveitchik by the perceived threat of liberal Judaism, one other cultural motif may be tied, indeed should be tied, to Soloveitchik's view: the spread of evolutionary theory. In *The Emergence of Ethical Man*, Soloveitchik stresses (in what some deem extreme fashion) the continuity of the human being with the rest of nature—not only with nonhuman animals but even with plants—albeit ethical man rises above animals and plants by virtue of self-awareness

64 See Seeman, “Reasons for the Commandments As Contemplative Practice in Maimonides,” *JQR* 103 (2013): 299, n. 5. Note also Isadore Twersky, *Introduction to the Code of Maimonides (Mishneh Torah)* (New Haven: Yale University Press, 1980), 296 (quoted by Seeman, “Reasons for the Commandments,” 316) who finds Maimonides's view in the *Guide* “devoid of spiritual and ethical consequences.” Seeman, *ibid.*, 319, argues that while Maimonides, like Saadyah and Ibn Daud, had apologetic concerns, he subordinated apologetics to apprehension of divine wisdom.

65 See Heinemann, *Ta'amei Ha-mitsvot be-Sifrut Yisrael*; see, for example, vol. 2, chap. 8. Of course, there is a difference between converting others and explaining yourself to others or even to yourself, and it is hard to distinguish one from the other in practice.

and fulfilling a norm.<sup>66</sup> We find such terms as “complete identity of man and earth” and statements like “man is nature expressed in a meaningful existence . . . Earth, nature and man flow into each other.”<sup>67</sup> It could not be clearer than it is from *Emergence* that Soloveitchik embraced the biological aspect of human beings. In fact, the “divine essence” in man is not a spirit warring with flesh but man’s being aware that he is flesh. In *Emergence*, “the image of God” does not entail a repudiation of the biological, but “man’s awareness of himself as a biological being and the state of being informed of his natural drives.”<sup>68</sup> In sum, “While Christianity kept on preaching that sin means surrender to nature and rebellion against God, Judaism stated the total opposite: Sin is detachment from nature and non-compliance with her dicta.”<sup>69</sup> In another essay, Soloveitchik again states, but more moderately, that chapter 1 of Genesis portrays man as part of nature, man-*natura*, while chapter 2 portrays man-*persona*.<sup>70</sup> The human being is part of nature and yet above (the rest of) nature. The biology of Soloveitchik’s era (and ours) may have conditioned this approach.

Another historical force may be at work in Soloveitchik’s affirmation of the body. He argues that embracing other-worldliness leads to immorality, ranging from a lack of social concern for “the sighs of orphans, the groans of the destitute” to the commission of atrocities. “See what many religions have done to this world on account of their yearning to break through the bonds of concrete reality and escape to the sphere of eternity.”<sup>71</sup> But it is not just a general other-worldliness that is destructive; *denial of the body’s significance* is dangerous because it offers a rationale for immoral treatment of human beings. Anthropology conditions morality: a view of the human being that takes biology seriously will produce regard for fetuses and for adults who

66 *The Emergence of Ethical Man*, ed. Michael S. Berger (New York: Toras HoRav Foundation, 2005). As a corrective to extreme naturalistic readings of this work, see Alex Sztuden, “Naturalism and the Rav,” *Meorot* 10 (Tevet 5773), <https://library.yctora.org/files/2016/07/3-sztuden-naturalism-and-the-rav.pdf>.

67 *Emergence of Ethical Man*, 55.

68 *Ibid.*, 75–76.

69 *Ibid.*, 57.

70 “Adam and Eve,” in *Family Redeemed: Essays on Family Relationships*, ed. David Shatz and Joel B. Wolowelsky (New York: Toras HoRav Foundation, 2000), 3–30.

71 *Halakhic Man*, 41. His argument is open to the response that for all the bad it has done, Christianity has not shown a lack of social concern on a grand scale.

lack consciousness.<sup>72</sup> While this linkage is primarily a conceptual connection between anti-corporeal attitudes and immoral behavior, and thus not temporally conditioned, might not it also be contextualized historically—as a product of, or a sensibility intensified by, the Shoah?

Continuing this line of thought, we have a phenomenon in the twentieth century that is not evident in discussions of *ta'amei ha-mitsvot* in the Middle Ages. In medieval polemics Jews did not assail the Christian denigration of the body except as regards celibacy by priests.<sup>73</sup> By contrast, a glaring feature of the accounts of *mitsvot* proffered by Soloveitchik and Berkovits is their overt anti-Christian polemics—quite incongruous in our age of greater interfaith amicability and understanding and ironic with a thinker (Berkovits) who is perceived as liberal in almost every other way. In fact, his stance toward Christianity is antagonistic and fierce. Berkovits blames Christianity for certain ills of civilization<sup>74</sup> and its anti-corporeal attitude for the sexual revolution of the 1960s.<sup>75</sup> (Paul is the main target of the Soloveitchik-Berkovits critique.) Note the following statements:

Judaism does not allow for any denigration of the body.<sup>76</sup>

It is comparatively easy to relate the spiritual to God . . . The real task is to orient the whole world of man, matter and spirit, toward God.<sup>77</sup>

Berkovits believes that Christians have misunderstood the very nature of faith because they do not tie faith to deed and therefore do not involve the whole person in faith.<sup>78</sup> In the Christian view of faith, as he analyzes it, subjectivity and inwardness dominate, while objectivity (deed) is absent.

72 See *Emergence of Ethical Man*, 5–6, 27–29. Anyone used to the usual discourse about medical ethics, which associates stringent positions about human life with belief in spirit and liberal ones with corporeal anthropologies, will be struck by how Soloveitchik turns the reasoning on its head. Cf. Alan Jotkowitz, “Rabbi Joseph B. Soloveitchik and the Problem of Contemporary Medical Ethics,” *Journal of Contemporary Religion* 26 (2011): 91–110.

73 I thank David Berger for confirming this.

74 See, e.g., *Faith After the Holocaust* (New York: Ktav, 1973), chaps. 1–2.

75 “A Jewish Sexual Ethics,” 103–4.

76 *Ibid.*, 106–7.

77 “Law and Morality,” 33.

78 Eliezer Berkovits, “Faith and Law,” *Judaism* 13 (1964): 422–30.

Berkovits's critiques of Christianity are far sharper and more frequent than the Rav's, though the latter is emphatic too, especially since the whole of *The Emergence of Ethical Man* is explicitly put forth as a rebuttal of Christian anthropology.<sup>79</sup> Both thinkers found Christianity to a degree culpable for the Holocaust, and it is not implausible that an intensification of an anti-Christian approach to the body and its incorporation into discussions of *ta'amei ha-mitsvot* was the result of historical events.<sup>80</sup>

As noted earlier, in the twentieth century Catholic thinkers like Karol Wojtyla took a more positive view of the body and broke down the partitioning central to traditional Catholic thought. The Pope, like Soloveitchik, spoke of sexual union as the context for a gift of love and self to another.<sup>81</sup> The Pauline rejection of the body seems skewed to at least some Christians, and in at least some cases this perception creates greater regard for law.<sup>82</sup> (Nonetheless, Wojtyla had to explain the requirement of celibacy for priests as an ideal of dedicating yourself to heaven, so that his Christianity remains to a degree other worldly.<sup>83</sup>) The works by Berkovits and Soloveitchik were written too early for them to take this development into account. But to the extent that

79 Especially explicit is *The Emergence of Ethical Man*, 1-6, but see also, for instance, 73, 76. Ozar ("Emergence of Max Scheler") shows that *The Emergence of Ethical Man* is built upon Max Scheler's posthumously published *Man's Place in Nature*, following much of it but diverging in significant ways.

80 Berkovits, *Faith After The Holocaust*; Soloveitchik, *And From There You Shall Seek (U-Viqqashtem mi-Sham)*, 55: "Subjective faith, lacking commands and laws, faith of the sort Saul of Tarsus spoke about—even if it dresses itself up as the love of God and man—cannot stand fast if it contains no explicit commands to do good deeds, to fulfill specific commandments not always approved by rationality and culture. *The terrible Holocaust of World War II proves this*. All those who spoke of love stood silent and did not protest. Many of them even took part in the extermination of millions of human beings" (my italics). The criticism here does not relate to issues about the body but rather to issues about subjective religiosity vs. divine command. Cf. the famous footnote 4 in *Halakhic Man*, trans. Lawrence J. Kaplan (Philadelphia: Jewish Publication Society, 1983), 141, where abandonment of reason is blamed for "the events of the present era" without reference to Saul of Tarsus. But the overall context, in which Christianity will be criticized as other-worldly, suggests a connection between world events and Christianity.

81 I first heard of the Soloveitchik-Wojtyla connection from Mark Gottlieb in a 1997 paper that he delivered at a conference.

82 See, for example, Reno, "Loving the Law."

83 See *Man and Woman He Created Them* 73:1-5 (pages 412–15 of the English edition).

anti-corporeal Christian thinking shaped Berkovits's and Soloveitchik's corporeal approach to *ta'amei ha-mitsvot*, the change illustrates the transiency of views that influence reasons proffered for *mitsvot*.<sup>84</sup>

Experiential subjectivist approaches, it would seem, open floodgates; the concern is that people are now licensed to read all sorts of idiosyncratic autobiographical meanings into the *mitsvot*. In *The Halakhic Mind*, however, Soloveitchik is clear that explanations must be controlled and constrained by halakhic data.<sup>85</sup> Experiential subjectivism also runs into problems if one allows reasons for *mitsvot* to affect halakhic decisionmaking, since those reasons are subjective and individualistic. What could give these reasons normative force?<sup>86</sup> In a letter to Rabbi Emanuel Rackman, Soloveitchik wrote that *te'amim* are for philosophical purposes and not legal purposes.<sup>87</sup> "The Briskers" were indeed formalists.<sup>88</sup>

Insistence on the bodily aspect of the human being is likewise not without difficulties. It courts trends that Jewish thinkers regarded as pernicious, such as the depersonalization of human beings, their being treated as objects. Berkovits himself highlights the negative impact of science in this regard.<sup>89</sup>

84 Daniel Statman notes a dual polemic in Soloveitchik's writings directed at secularism and Christianity. See Statman, "Aspects of the Ethical Outlook of Rabbi Joseph B. Soloveitchik," in *Faith in Changing Times*, ed. Avi Sagi (Jerusalem: Sifriyat Elinar, 1996), 250 (Hebrew). This accords with the polemics I focus on in this paper.

85 Alex Sztuden emphasized this point in correspondence.

86 I deal with this question in "Can Halakhah Survive Negative Theology?"

87 The letter is in *Community, Covenant, and Commitment: Selected Letters and Communications*, ed. Nathaniel Helfgot (New York: Toras HoRav Foundation, 2005), 273–77. The addressee's name is not given, but Lawrence Kaplan shows it is Rackman and provides much context for the correspondence. See Lawrence J. Kaplan, "From Cooperation to Conflict: Rabbi Professor Emanuel Rackman, Rav Joseph B. Soloveitchik, and the Evolution of American Modern Orthodoxy," *Modern Judaism* 30 (2010): 46–68.

88 Yet Yitzchak Blau has shown that some rabbinic authorities—albeit not the majority—utilize reasons for *mitsvot* to make decisions even though many authorities ruled that this method should not be used. See Blau, "Ta'amei Ha-Mitzvot, Halakhic Analysis, and Brisker Conceptualization," in *That Goodly Mountain*, ed. Reuven Ziegler et al. (Alon Shevut: Yeshivat Har Etzion, 2012), 197–208. See also Mosheh Lichtenstein, " 'What' Hath Brisk Wrought"; Shatz, "Can Halakhah Survive Negative Theology?"

89 *Crisis and Faith*, 1–22.

And what becomes of the traditional albeit post-Maimonidean concept of *olam ha-ba* as an ideal?<sup>90</sup> These questions are important, but I will have to set them aside.

Be those criticisms as they may, one other piece needs to be put in place before we elaborate on Berkovits's and Soloveitchik's rationales for *mitsvot*: to wit, that these rationales appear to be content-independent. They explain why *mitsvot* were given—viz., to enlist the body in the service of God—but not why a particular set of *mitsvot* was given.<sup>91</sup> This raises the question of whether in such theories Jewish rituals are interchangeable with other rituals; it's just that God commanded these particular ones, perhaps arbitrarily.<sup>92</sup> Thus, one might assert that *kashrut* laws are meant to curb bodily impulses, appetite for food being a bodily impulse, but this doesn't explain why particular animals are chosen as kosher and others as non-kosher. Maimonides, who it happens did give reasons for why particular animals are unkosher,<sup>93</sup> allowed for the possibility that sometimes there are no reasons for details. Rabbi Samson Raphael Hirsch rejects this notion, and his *oeuvre* reflects a desire to pinpoint reasons for every detail, whether Scriptural or rabbinic.<sup>94</sup> Illustrating content-dependent approaches, metaphorical and symbolic explanations of *mitsvot* are tethered to details of particular commandments (though they will fall short of always explaining why X is chosen as the symbol or metaphor as opposed to Y). Berkovits concedes that the view that *mitsvot* seek to unify body and soul does not by itself dictate particular *mitsvot*,<sup>95</sup> and Soloveitchik is explicit that we cannot explain why God would choose one means to that goal and not another.<sup>96</sup> However, while barring us from reading God's

90 Cf. *Halakhic Man*, 30–35 and *Emergence of Ethical Man*, 176–77.

91 Their theories are hardly alone in this respect. Think of the well-worn ideas that God gives commandments like *kashrut* and Shabbat in order to reward us, or that He gives them to bond the Jewish people and preserve them. Surely a whole other set of commandments could have served those purposes.

92 Cf. Berkovits, *Essential Essays*, 354 n. 49.

93 *Guide of the Perplexed*, 3:48.

94 Compare Maimonides, *Guide of the Perplexed*, 3:26 with Hirsch, *Horeb* (the work in which Hirsch most fully develops explanations of details). On whether Maimonides truly believed what he appears to say in 3:26, see Stern, *Problems and Parables in Law*, 25–33.

95 See "Law and Morality," 354 n. 49.

96 "May We Interpret Hukim?," 93; *Halakhic Mind*, 95–96. Yeshayahu Leibowitz's account of *mitsvot* is an extreme case of content independence: you observe

mind, subjectivist theories seem to allow for subjective responses to details of *mitsvot*, and indeed Soloveitchik legitimizes Rabbi Moshe ha-Darshan's account of the reasons for the details of the law of the red heifer.<sup>97</sup>

To summarize: Accepting the approach of experiential subjectivity allows the modern interpreter to self-consciously draw on the culture of his or her time to interpret the *mitsvot*, knowing full well how timebound his or her interpretations are. For the purpose of giving *te'amim* is not to arrive at a correct articulation of "authorial" intent but to create meaning. In the case of Berkovits and Soloveitchik, circumstances like the rise of evolutionary theory, the Holocaust, and the spread of antinomian forms of Judaism may be appropriated to create meaning. And that meaning relates to the body.

## II. Ritual, Ethics, and the Body: Berkovits

Having shown how a body-centered approach to *mitsvot* may be rooted in experiential subjectivism, we turn now to a detailed analysis of the role of the body in the respective theories of Berkovits and Soloveitchik. To reiterate, a common denominator of the two thinkers is that bodily *mitsvot* reflect a specific anthropology -- the human being as a single "psychomatic entity." Because the human being is a combination of beast with divine image, a unification of body and soul, the service of God demands both soul and

the law because Halakhah prescribes it. Saadyah Gaon (*Sefer Emunot ve-De'ot*) might be read as holding that details of *mitsvot* have no reason, but I believe he's anomalous. For an extensive discussion of whether the laws or their particularities could have been different, see Goodman, *God of Abraham*, 167–214.

Any content-independent theory can be supplemented by a content-dependent one, by supplying reasons for specific *mitsvot*. Berkovits states that he does not mean to exclude historical reasons for, say, Pesah or Sukkot (*Essential Essays*, 354 n. 49), and it is hard to see why symbolic and utilitarian explanations shouldn't be recognized too. But we might then ask: why is the content dependent reason not sufficient to ground observance, without reference to a broad, content-independent theory? Is there value in subsuming the details under one overarching theory? Perhaps rationalizing *mitsvot* under a small number of theoretical rationales has advantages when the aim is to defend or polemicize, since it spares the thinker from defending myriad details and allows for one or a few master arguments.

97 See Soloveitchik, "May We Interpret Hukim?" It is Daniel Rynhold who pointed out (in correspondence) that subjectivism could be used to provide reasons for details.

body.<sup>98</sup> As Berkovits puts it: man “draws near God not as a soul but in his full humanity.”<sup>99</sup> “Any rejection of the body is a rejection of man himself.”<sup>100</sup> Body and soul serve God *as* a unity, simultaneously. There are very simple examples—eating a sacrifice or a *se’udat Shabbat* or the *seder* meal relates you to God through eating; so does reciting a *berakhah*. Performing *mitsvot lo ta’aseh* also counts heavily;<sup>101</sup> that is, restraint of the body counts as participation of the body in the service of God.<sup>102</sup>

Let us begin with Berkovits’s account. Berkovits’s assignment of importance to the body and his insistence on appreciating the integrated nature of human beings is manifest in ways small and large. To begin with the small, we have his criticism of a view he describes as a mystical approach to prayer. The mystics, in his portrait, prayed only for the most noble, important things, such as cleaving to God (*devequt*). This attitude Berkovits excoriates:

At best, the plea of the philosopher or the mystic will be prayer; but no more prayer than the cry that reaches God in the dead of night out of the dungeons of a soul along skid row. In fact, the philosopher who would pray to God only for the nobler things of life may easily be a pedantic bore, imagining that God might be impressed with his ethics but not with the hunger pangs of his poor ulcerated bowels. [See *Exod. Rab.* 21:4: “This one is prayer and this one is prayer [Moses’s prayer and the poor man’s prayer]—to teach you that all are equal before God.”]<sup>103</sup>

98 In *The Emergence of Ethical Man*, Soloveitchik says very little about the soul, so I am being a bit free with my language.

99 “Faith and Law,” 424. See also Soloveitchik, *And From There You Shall Seek*, 110–17.

100 “Law and Morality,” 28.

101 Berkovits addresses the distinction briefly (“Law and Morality,” 22), but from a different angle.

102 One ambiguity has already been observed: On the one hand, both thinkers often speak about the nature of the human being as a psychosomatic unity, implying that human beings, *as they are*, are psychosomatic unities. On the other hand, at other times their point seems to be not that such integration exists right now, but that *mitsvot* aim to produce it. If so, in what sense is psychosomatic unity the nature of the person? One could argue to the contrary, that uniting soul and body changes the person’s nature! For the record, in *Emergence*, Soloveitchik sees the norm as *restoring* an original continuity with nature.

103 Berkovits, *Prayer* (New York: Yeshiva University Press, 1962), 25.

In other words, to think that God does not care about man's bowels but only about the human being's higher faculties diminishes God and (my addition) constitutes ingratitude.

Another indication of the significance of the body and of the whole person is Berkovits's statement, "prayer cannot be only silent meditation, it has to be a spoken word."<sup>104</sup> Silent meditation "may be appropriate for a being that is pure mind or soul; it is most certainly not the adequate manner of praying for a being like man."<sup>105</sup> He affirms that "bodily prostration before God . . . is *no less essential for prayer* [my italics] than spiritual concentration" because "the prayer of man should be human and not angelic,"<sup>106</sup> though he acknowledges (consistent with the idea of psychosomatic unity) that praying with the lips alone is not ideal.<sup>107</sup> He goes further: he assigns physical behavior *greater* significance than mental awareness because "the value of a culture is not expressed in what people think consciously but rather in what they do habitually."<sup>108</sup> Nowhere, perhaps, is this stress on physical behavior more evident than when he writes that "it is no small achievement to have taught the lips to 'pray' on their own, without the conscious participation of heart and mind . . . [A]utomatically 'praying' lips. . . they too represent a form of submission of the organic self to the will to pray."<sup>109</sup> Soloveitchik, by contrast, treated *kavvanah*, intention, as primary, and regarded the physical recitation as "the technique of implementation of prayer, not prayer itself."<sup>110</sup> But for him too, there must be a bodily implementation.

Berkovits's understanding of the value of the body and his integrated view of the person is clearest in his extensive, intricate discussion of ritual.<sup>111</sup> His starting point in that discussion is the question of how bodily impulses can be controlled.

104 "Law and Morality," 31.

105 Ibid.

106 Ibid.

107 Ibid., 26–27.

108 Ibid., 26.

109 Ibid.

110 As noted by Hazony, "Introduction," xxxii–xxxiii.

111 The ideas described here are presented in Berkovits, "Law and Morality in Jewish Tradition." Some of the material about Berkovits that follows originally appeared in my "Berkovits and the Priority of the Ethical," *Shofar* 31,4 (Summer 2013): 85–102, and is used by permission of Purdue University Press.

As Berkovits sees matters, Western thinkers such as Plato simply assumed that reason can control the body, and the results of their confidence were disastrous.<sup>112</sup> Berkovits rejects, as well, on empirical grounds, the Christian view that the human will by its nature is not strong enough to do the right without God's grace, along with Bergson's view that we have a biological urge to be moral. Even assuming that reason can arrive at a rational ethics, human appetite—the body—will not bow to its dictates unless we come up with a strategy or strategies for ensuring submission. I propose viewing Berkovits's account of these strategies (and their application to ritual) in stages.

### Stage one

Observing ritual law, states Berkovits, trains Jews to discipline and "educate" the body, curbing its egocentric urges.<sup>113</sup> Once the body becomes well trained in military-like battles against biological urges, then (a) a person who performs rituals conscientiously will also be capable of disciplining and controlling the body when faced with *ethical* temptations and (b) with their natural egoism diminished, those who observe ritual become more aware of and sensitive to "the other." If you resist pork (this is not Berkovits's example), you'll resist fraud and robbery. You have also "liberated" yourself by saying no to desires, social conventions, and outside pressures. But just as you don't learn how to swim or ride a bike or perform military drills with merely knowledge of a manual about how such things are done, so too you don't discipline the body to be ethical just by learning *theoretically* what it should do.<sup>114</sup>

112 Although Berkovits's rejection of Plato resembles Hume's, on whom he wrote his dissertation, he doesn't cite Hume. Possibly this is because, in contrast to Berkovits, Hume did not believe in an objective ethics and denied that reason could find a logical grounding for ethical truth.

113 In an address, Albert Einstein characterizes religious enlightenment in terms of liberation from egocentric desires. Unlike Berkovits, however (Cf. *Crisis and Faith* [New York: Sanhedrin Press, 1976], 6–22), Einstein sees science as doing that too, and as leading to humility. See <http://www.westminster.edu/staff/nak/courses/Einstein%20Sci%20%26%20Rel.pdf>.

114 But why is it any easier to motivate a person to observe ritual than it is to induce a person to perform the ethical? Berkovits's reply ("Law and Morality," 23–27), which probably has jarred many a reader, is that whether one succeeds or not at achieving self-discipline in ritual performance is not very consequential, certainly not when compared to the importance of disciplining oneself in a situation of ethical temptation. Only what happens in the war zone of ethics is crucial. So here is how we achieve self-discipline: we act "as if" the stakes in ritual were

Berkovits's account of ritual *mitsvot* is isomorphic to Maimonides's and others' view that all bodily *mitsvot*, including interpersonal ones, are preparation for something higher. For Maimonides, the "something higher" than bodily *mitsvot* is intellectual/philosophical/scientific achievement (which itself fulfills a group of *mitsvot*). For Berkovits, the "something higher" than ritual is ethics. Berkovits's claim that in the *eschaton* the ritual commandments will be abolished underscores his instrumentalism, indeed underscores the fact that he out-instrumentalizes Maimonides.<sup>115</sup> (In my perception, Berkovits's account of the body's activities as preparation for the ethical is geared more to *mitsvot lo ta'aseh* than *mitsvot aseh*.<sup>116</sup>)

Berkovits probably intended this theory to speak to two polarized groups in the Jewish world. To those Jews who virtually reduce Judaism

high, but since they aren't, and temptations not to follow the ritual *mitsvot* are weak when compared to temptations to violate ethics, we can control ourselves more easily in the context of ritual. Berkovits's answer is not compelling, though, because many people have a natural, perhaps emotional, affinity to the ethical, while few have a natural affinity to say, keep kosher, and that makes control difficult. Surely it's easy, post-Enlightenment, to prove that people find it easier to be ethical than to observe ritual.

115 He writes, commenting on a midrashic statement by Rav that "the *mitsvot* were given to purify people" (*Gen. Rab.* 44:1) that once the goal of ethical purification is achieved, the Law will be "fulfilled" and "no longer needed" ("Law and Morality," 39). Apparently, *mitsvot* will not even be needed to relate the human being to God (a later stage in his account). Although one talmudic opinion is that "*mitsvot* will be abrogated in the future-to-come" (*b. Nid.* 61b), the reason given by R. Joseph for this statement is unrelated to Berkovits's. The Christian-like formulation [the law as "fulfilled"] is puzzling.

On a larger plane, Berkovits cites only a few texts in his discussion, but comparisons and contrasts between his view and traditional sources are of some interest. For example:

R. Elazar ben Azaryah says, "A man should not say 'I do not want to wear *sha'atnez*, I do not want to eat pork, I do not want to have relations with an *ervah*.' Rather he should say, 'I want to, but what can I do? My Father in Heaven has decreed thus'" (*Sifra* to Lev 20:26).

Berkovits briefly discusses this passage in "Law and Morality," 354 n. 47. See also Maimonides's discussion in *Eight Chapters* (ch. 6; Maimonides works with a different wording of the text and attributes the statement to R. Shimon ben Gamliel). One may also profitably compare and contrast Berkovits's approach with Maimonides's statement, quoted at the outset of this paper, that the intent of the commandments is "to quell all the impulses of matter" (*Guide* 3:8).

116 See "Law and Morality," 22.

to ethics and discard ritual, he shows how their goal of ethical action can be enhanced and promoted by ritual observance. To those who value ritual to the neglect of ethics, he points to a higher purpose for ritual that resides in the realm of the ethical. In an article titled “Faith and Law,” he argues, against Christianity, for the significance of “the deed,” but “the deed” turns out to be interpersonal. “The true dimension of the deed is between man and man. It is always performed among people.”<sup>117</sup>

Thus far, unification of body and soul has not been a theme in our exposition. Yes, ritual is part of worship, but not per se because the *mitsvot* aim at union of body and soul. The unification is an *outgrowth* of the attempt to relate ritual to ethics, not necessarily the *goal* of ritual. But Berkovits, as I read him, not only intended the unification to be manifest in ethics, but saw that unification in ethics as a goal and not merely a consequence.<sup>118</sup>

## Stage two

At a second stage, Berkovits asks: if ritual is a matter of self-discipline, why must such training come from *God's* laws? Why wouldn't a humanly contrived method of discipline work, a human corpus of ritual? His answer is that ritual must relate a person not only to the other but to God: “It is true that the purely ethical function of the ‘ritual laws’ might be achieved without their being divine commands; but their religious function cannot.”<sup>119</sup> Even the ethical norm, moreover, *has to be perceived as divine command*, thereby creating “a quasi-bodily ‘awareness’ of the Divine Presence.”<sup>120</sup>

117 “Faith and Law,” 424. The obvious question is: Doesn't Christianity prescribe interpersonal deeds? Is there a false contrast here?

118 Aaron Segal (in correspondence) raised the point that there is much more to ethics than deeds. Character is important too, including attitudes, suggesting that Berkovits's concept of ethics as consisting of deeds is narrow.

119 *Ibid.*, 29.

120 Berkovits's theory as stated, to reiterate, is content-independent—it doesn't matter *which mitsvot* there are, just *that* there are *mitsvot*. Now ostensibly, in his invocation of the divine will, he explains why the human being must *perform* these particular rituals, but doesn't explain why God *commanded* these *particular mitsvot*. God, it seems, could have given any old law— don't step on cracks in the sidewalk; eat oatmeal. Recall, however, that Berkovits recognizes content-dependent accounts as well—such as historical explanations of the festivals—and tries to forge a relationship between the content-independent explanation and the historical explanation. Besides that linkage, he believes that ethics is rational,

So, even while Berkovits affirms that reason can arrive at ethics, he maintains that reason cannot obligate. Only a will, and in fact only a divine will, can obligate. So ethics as Berkovits understands it isn't ethics as liberal Jews (my shorthand for "proponents of liberal Judaism") understand it. Berkovits can make liberal Jews see the value of ritual as leading to the ethical and concur with them that ethical truths can be delivered by reason, *even while identifying a grounding for moral obligation (viz., divine will) that liberal Jews reject*. As long as the liberal Jew values ethics, he or she, Berkovits may reason, could come to see the value of ritual, even without the rest of Berkovits's picture, i.e., heteronomy. We will see a similar pattern in Soloveitchik.<sup>121</sup>

### Stage three

Once the level of ethical conduct is achieved, the ethical awareness of an "other" (human beings) leads to religious awareness of the "wholly Other."<sup>122</sup> Hence, while the ritual is a means to the ethical, the ethical in turn creates religious awareness—reminiscent of how in Buber, encountering a human Thou leads to encountering the eternal Thou.<sup>123</sup> Whereas in the ethical function of ritual, the body is for Berkovits a tool, in the religious function the body relates to God directly.

This introduction of a relationship with God dispels a potential charge of antinomianism that arises when ritual is viewed as a mere tool to the ethical. Consider someone who is *already* ethical from the time of her early upbringing—can that person dispose of ritual? What about someone who values the warmth and family solidarity of the Seder, or the freedom from mundane pursuits provided by Shabbat, so that no struggle against ego occurs? Shall we say that the more rational, meaningful or desirable a ritual commandment seems to you, the less struggle it involves, the less helpful

and this would constrain the sorts of laws God gives. So God can't give any old law.

121 Notwithstanding the similarities developed here, there are differences between Berkovits and Soloveitchik with regard to a variety of matters relating to revelation, religious experience, and history. See Jonathan Cohen, "Incompatible Parallels: Soloveitchik and Berkovits on Religious Experience, Commandment, and the Dimension of History," *Modern Judaism* 28 (2008): 173–203.

122 "Law and Morality," 39. Berkovits might accept this result, however; after all, God commands ethics, so feeling that relationship with God should impact positively on ethical conduct.

123 See also the introduction of God in "A Jewish Sexual Ethics," 124–25.

it would be in conquering egoistic drives in the ethical realm? No; for although ethics, too, relates one to God, without ritual one will have less of a relationship with Him. Note that the greater the range of ritual laws where Berkovits has to shift to “relationship with God” as a rationale, the less of a role ethics is playing.<sup>124</sup>

More questions face Berkovits. Inasmuch as many people do *mitsvot* out of a desire for reward and fear of punishment, doesn't ritual observance *nurture* egoism? Granted the rabbinic idiom *mittokh shelo lishmah ba lishmah*<sup>125</sup>—that even if someone begins with a self-interested motive (reward and punishment), eventually by doing *mitsvot* the person will lose that egoistic aim—the fact is that many remain mired in a *lo lishmah* orientation all their lives, yet are moral people.<sup>126</sup> Moreover, empirically, egoistic motivation for observing commandments (reward and punishment) frequently coexists with altruism and proactive ethics, in the form of activity in social services (Biqqur Ḥolim organizations, etc.). Still another difficulty is that, as the prophets and the rabbis realized,<sup>127</sup> people who are punctilious about the rituals are at times dishonest in their dealings or insensitive to the welfare of others.<sup>128</sup> Finally, would Berkovits conclude that all Christians are ethically poorer for having rejected so many ritual laws? (His attack on Christian collective behavior does not negate the force of this question.) The conception that ritual is a means to the ethical must make it clear that, while, the ritual is often a facilitator of the ethical, it is not a *necessary condition* for ethical conduct. As examples of

124 See *Essential Essays*, 354 n. 49.

125 *B. Pes.* 50b.

126 Cf. Rabbi Shlomo Wolbe, “Frumkeit,” in idem, *Alei Shur* (Jerusalem: Jamie Lehmann Institute of Jewish Ethics [Beth Hamussar], 1986), 2:152–55, which provides a fascinating account of the role of egoism in relating to God.

127 Two tips of that large iceberg are Isaiah 1:10–17 and *b. Yoma* 23a. The Torah lumps ritual and ethical commandments together (as in Leviticus 19), but that is prescriptively; descriptively there can be a disconnect.

128 Indeed, we confront a great irony in Berkovits's works. His writings are replete with criticism of rabbinic authorities who are insensitive to certain societal circumstances, such as unequal treatment of women and the plight of *agunot*. But these individuals are Torah scholars—presumably individuals who practice rituals punctiliously. How, then, would Berkovits explain the conjunction, in their case, of ritual observance and what he regards as morally insensitive attitudes and behavior? I suppose he can concede that the process does not *always* work, thereby turning back a charge of inconsistency. You win some and you lose some.

ethics without ritual accumulate, the significance of Berkovits's claim that the ritual is a means to the ethical is lessened.

### Stage four

There is one more twist in Berkovits's theory: God cares for the physical welfare of humanity; we must imitate God; therefore we must care for other bodies and our own bodies.<sup>129</sup> By orienting us toward the body in this manner, the relationship with God returns us to the ethical.

So, putting the various stages together, we find several processes occurring:

- Observing ritual and thus controlling appetite in non-ethically charged situations facilitates controlling appetites in ethically charged situations.
- Observing ritual reduces egoistic drive, which leads to awareness of other humans and their interests.
- In turn, this awareness of others leads to awareness of God, the Wholly Other.
- Performing ritual relates you to God by virtue of your doing what you perceive God wills.
- It would appear as well that acting ethically (without ritual) relates you to God by virtue of your doing what you perceive God wills. Ritual is therefore not a necessary condition for proper ethical conduct, though it facilitates such conduct.
- Caring for the body is an act of *imitatio Dei*, for God cares about our bodies.

The overall structure of Berkovits's view can be stated thus: there are ethical dimensions to ritual, but ethics is obligatory only if imposed heteronomously by a divine will. For Berkovits, ethical truths are derivable by reason, but reason cannot obligate. We will now see a similar though not identical structure in Soloveitchik's approach.

## III. Ritual, Ethics, and the Body: Soloveitchik

Most authors who have written about Soloveitchik's view of *mitsvot* have stressed that, in addition to bodily performance, he demands inner feeling. This is indeed the idea behind his distinction between *ma'aseh ha-mitsvah*, the external performance, and *qiyyum ha-mitsvah*, the internal realization

129 "Law and Morality," 33–34.

or fulfillment, which he applies to many *mitsvot*. Repentance, mourning, festival joy, and prayer illustrate the category of commandments whose *qiyyum* is not identical with the act, the *ma'aseh ha-mitsvah*.<sup>130</sup> In *The Halakhic Mind*, working from ideas of Paul Natorp and Max Scheler, he argues that the outer halakhic behavior expresses inner states. This principle undergirds the method of reconstruction in *The Halakhic Mind*.

Moreover, Soloveitchik's stress on inner struggle leads him to say that "prayer and the cult ceremonial can never bestow sanctity upon the person since they are only symbolically sacrificial."<sup>131</sup> What is needed is suffering and true sacrifice in the inner world, in the struggle with the body—again, an internal performance.<sup>132</sup> We saw earlier that in prayer, for Soloveitchik, the physical behavior is secondary—it is merely the technique of implementing prayer, not prayer itself.<sup>133</sup> Furthermore, Soloveitchik argues at great length that human beings can and must control their emotions— thus again highlighting a duty that pertains to the inner life.<sup>134</sup> The inner state, then, seems paramount. In Berkovits, however, the "inner" event seems to be of no great moment, albeit the performer must have inner awareness of the Other.<sup>135</sup>

130 As Reuven Ziegler suggests, these commandments are hybrids of duties of the limbs and duties of the heart and constitute a third category. See Ziegler, *Majesty and Humility*, 81–82.

131 "The Redemption of Sexual Life," in *Family Redeemed*, 75. Elsewhere Soloveitchik asserts that the righteous did not struggle; but (my addition) then again maybe they didn't have to because of earlier victories in struggles. See *Halakhic Man*, 65; Pinchas H. Peli, *Soloveitchik on Repentance: The Thought and Oral Discourses of Rabbi Joseph B. Soloveitchik [Al ha-Teshuvah]* (New York: Paulist Press, 1984), 173. He does allow that some personalities, like David and Samson, struggled with desires.

132 There is also a struggle with nihilism, fear, and other aspects of religious existence.

133 Shalom Carmy, noting that Soloveitchik stresses inwardness in prayer, has criticized Berkovits's quasi-behavioristic view of prayer. See Carmy, "Eliezer Berkovits's Challenge to Contemporary Orthodoxy," *Torah u-Madda Journal* 12 (2004): 198–200.

134 See "A Theory of Emotions," in *Out of the Whirlwind: Essays on Mourning, Suffering and the Human Condition*, ed. David Shatz, Joel B. Wolowelsky, and Reuven Ziegler (New York: Toras HoRav Foundation, 2002), 179–214.

135 "Law and Morality," 25. Although it cannot be gainsaid that Soloveitchik had a this-worldly perspective, there are other topics that reflect Berkovits's greater emphasis on the concrete, for example, the importance of history. See Cohen, "Incompatible Parallels."

I submit, however, that Soloveitchik is in a sense not entitled to rank the inner over the outer. First, and very simply, the number of *mitsvot* for which we can posit the *ma'aseh/qiyyum* distinction—by one reliable count, fifteen<sup>136</sup>—is a small proportion of the bodily performances demanded in Judaism. Second, within this group, only in five is the experience essential to the *qiyyum*; in the others, it is an aspect of it.<sup>137</sup> Third, it is important that inner states be expressed physically. Fourth and perhaps most important, however, Alex Sztuden has argued that, when we consider the commandments for which we can draw a *ma'aseh/qiyyum* distinction, the body, the objective act, plays a greater role in *qiyyum* than Soloveitchik acknowledges.<sup>138</sup>

Soloveitchik, furthermore, speaks of the equation between knowledge, will, and action.<sup>139</sup> Sztuden maintains that he puts forth this equation because he believed, in a manner partly analogous to but decidedly not identical with the school of logical behaviorism, that bodily behavior must accompany emotions (e.g., in love of God) and other mental states as part of *the very meaning* of the term denoting the mental state.<sup>140</sup> This idea of an inner-outer unity fits well with the notion that *mitsvot* seek to unify mind and body.

Ultimately, these reflections are friendly additions to the idea of *mitsvot* being a unification of mind and body. For the upshot is that the body plays or at least should play a greater role in Soloveitchik's thinking about *mitsvot*

136 See Reuven Ziegler, *Majesty and Humility*, 86–87.

137 Ibid.

138 See Sztuden's three-part article "Grief and Joy in the Writings of Rabbi Soloveitchik," *Tradition* 43, 4 (Winter 2010): 37–55; 44, 3 (Fall 2011): 9–32; 45, 2 (Summer 2012): 67–79. Sztuden points out that Soloveitchik conceptualizes the relationship between *ma'aseh* and *qiyyum* in four distinct ways. (1) The objective state (=bodily act=*ma'aseh ha-mitsvah*) triggers the subjective state; (2) The objective act expresses the subjective state (which is highly suitable for understanding reconstruction in *The Halakhic Mind*); (3) the objective act shapes the subjective state; (4) the objective act realizes the subjective state. Sztuden argues that the most compelling formulation of the *ma'aseh/qiyyum* distinction is one in which the external acts and inner feeling form a unity and the unity constitutes the *qiyyum*.

139 See *And From There You Shall Seek*, beginning with ch. 13.

140 See Sztuden, "Behaviorism and the Unity of Knowledge, Love, and Action in *Halakhic Man*," *Torah u-Madda Journal* 16 (2012–13): 78–100. Logical behaviorism is the view that statements about inner states are translatable into statements about bodily behavior. Soloveitchik would have rejected such reductionism, but that is compatible with regarding inner and outer, emotion and bodily action, as forming a unity such that emotions must be expressed bodily.

than other facts about his halakhic and philosophical analyses might suggest. Thus, the thesis about the body's importance that we are examining can find even stronger expression in Soloveitchik's thought than one might assume.

This, of course, narrows the alleged gap between the supposedly action-centered Berkovits and the feeling-centered Soloveitchik. Having shown that the thinkers are closer on this issue than may appear, we will now see that Soloveitchik, too, blends the ethical with the ritual. He stresses the ethical dimension of ritual conduct. Examples follow.

a) In *Halakhic Man*, he states that "The intellect, the will, feeling, the whole process of self-creation, all proceed in an ethical direction."<sup>141</sup> Earlier in the work, too, he stresses the ethical (91, 94, 137). These claims are unexplained leaps, but the very lack of explanation underscores the importance of the ethical in Soloveitchik's thought.<sup>142</sup>

b) When Soloveitchik speaks about the redemption of sexual life, he speaks not only about relief from loneliness (*lo tov heyot ha-adam levado*) but also about the self-sacrificial nature of the husband-wife relationship and ethical support. "They shall become one flesh" is a symbol for the union of personalities and the attendant dedication, love, trust, responsibility, and sacrifice.<sup>143</sup> In *The Emergence of Ethical Man*, he tells us that "the erotic love of *zakhar-nekevah* [in Gen. 1] would become the ethical love of *ish ve-ishto* [in Gen. 2], steeped in ethical dynamism and activation . . . . The medium through which organic sex-tension turns into existential yearning would be an ethical idea."<sup>144</sup> The norm "Do not eat from the tree of knowledge" gets transformed into a norm he calls ethical; erotic love becomes ethical love; and ethical love becomes ethics generally.

Berkovits's further step in the case of sexual ethics is taken by Soloveitchik as well: that one's relationship with one's spouse leads to a relationship with God. The commandments about sexual life are ethical and personalizing.

141 *Halakhic Man*, 137.

142 Admittedly, it is not always clear what Soloveitchik means by "ethics."

143 For affirmations by Soloveitchik of the ethical dimensions of sexuality, see especially the essays in *Family Redeemed*, 3–104, and the discussion in Gerald J. Blidstein, *Society and Self* (New York: OU Press, 2012), 111–20. Berkovits, "Jewish Sexual Ethics," 123, also stresses the ethical aspect of sexual relations.

144 *Emergence of Ethical Man*, 114–15.

c) A prayer isn't true prayer if it is not bound up with an ethical life. "Who is qualified to engage God in the prayer colloquy? Clearly, the person who is ready to cleanse himself of imperfection and evil . . . . Prayer is always the harbinger of moral reformation. . . . Prayer must always be related to a prayerful life . . ." <sup>145</sup>

d) In speaking of eating, Soloveitchik stresses that the human being must eat differently from the animal, in four ways. <sup>146</sup> (The Catholic eating ritual, he says, is symbolic eating, not real eating.) Two of the ways are patently ethical:

- Unlike the animal, the human being is selective in what he or she eats to satisfy hunger (referring to the laws of *kashrut*). Selectivity is part of humanizing eating. This idea parallels the discussions of both Berkovits and Soloveitchik himself regarding sexual ethics. For Berkovits the goal of the sex ethic is to move away from the non-selective, "impersonal" biological drive and introduce humanization and personalization. Soloveitchik moves along parallel lines in his treatment of both sex and food, though he has three stages in the sexual case. <sup>147</sup>
- The animal eats alone; the human being eats with others. Eating takes man out of seclusion. This enables the practice of *hesed*.

e) In his discussion of eating, Soloveitchik mentions not only food and sex <sup>148</sup> but also economic urges – which brings us into the arena of ethics. <sup>149</sup> So the ethical and ritual discussions are presented as on a continuum. (Berkovits, too, refers to economic urges. <sup>150</sup>) Soloveitchik's ethical emphasis has broad sweep: Body is heavily involved in family life, community, society, and the handling of suffering. <sup>151</sup>

145 *Lonely Man of Faith*, 37–38.

146 "An Exalted Evening: The Seder Night," *Festival of Freedom: Essays on Pesah and the Haggadah*, ed. Joel B. Wolowelsky and Reuven Ziegler (New York: Toras HoRav Foundation, 2006), 3–7.

147 See Berkovits, "A Jewish Sexual Ethics," in *Essential Essays*, 103–28; Soloveitchik, "Redemption of Sexual Life," 86–95.

148 Note that the essay on the redemption of eating and the one on redemption of sexual life were originally part of a single manuscript and reflect a single approach.

149 "Exalted Evening," 7–12.

150 Berkovits, "Law and Morality," 37.

151 Noted by Alex Ozar in correspondence.

f) In a letter to Rabbi Emanuel Rackman that was referenced earlier, Soloveitchik writes that there is always an “ethical” component in the law. The theses of psychosomatic unity and bodily participation in worship, which Berkovits and Soloveitchik share, can now be viewed in both thinkers as an attempt to persuade liberal Jews that their own goals of ethical living can be realized by ritual living. In support of this notion that liberal Judaism is the Rav’s target, bear in mind that his sharp words against Maimonides in *The Halakhic Mind*<sup>152</sup> are pretty clearly meant to undercut liberal Judaism’s appropriation of Maimonides’s historical explanations of *mitsvot*; that *Halakhic Man* is a rebuttal of critiques leveled by liberal Judaism; that the latter work criticizes liberal Judaism by name for confining God to the Temple; and that in this very context he describes, in the next breath, Rabbi Hayyim Soloveitchik’s righteousness and equity.<sup>153</sup> These facts help build a circumstantial case that, like Berkovits, one of Soloveitchik’s aims is either to motivate ritual observance by liberal Jews or to make ritual observance understandable to them.<sup>154</sup>

However, this narrative is incomplete in the same way that an earlier narrative about Berkovits was incomplete.<sup>155</sup> Consider: In a footnote in *Halakhic Man*, Soloveitchik remarks about Moritz Lazarus:

The distinction that Lazarus introduced between ethical holiness and ritual holiness, a distinction which was regarded as self-evident by the school of German-Jewish philosophers (including Hermann Cohen), is a figment of Lazarus’ imagination that fits in with the world view of liberal religious Judaism, which based Judaism upon ethics.<sup>156</sup>

Here, the ethical and the ritual are put on a single plane, but not because the ritual is ethical *in Lazarus’s sense of ethical*. Later, in another footnote, Soloveitchik distinguishes the concept of freedom that aptly characterizes

152 On p. 92.

153 *Halakhic Man*, 94–95.

154 Though we cannot rule out the possibility that his argument is also directed at Christians.

155 I am indebted to Arnold Davidson and Alex Sztuden for impressing upon me that the term “ethical” in the earlier quotations must not be taken at face value, and that its heteronomous component must be taken into account.

156 *Halakhic Man*, 150 n. 51.

halakhic man from “the principle of ethical autonomy propounded by Kant and his followers”:

The freedom of the pure will in Kant’s teaching refers essentially to the creation of the ethical norm. The freedom of halakhic man refers not to the creation of the law itself, for it was given to him by the Almighty, but to the realization of the norm in the concrete world. The freedom which is rooted in the creation of the norm has brought chaos and disorder to the world. The freedom of realizing the [God-given] norm brings holiness to the world.<sup>157</sup>

Similarly we find this sentence in “The Lonely Man of Faith,” which forcibly calls to mind Berkovits: “Only the sanctioning by a higher will is capable of lending to the norm fixity, permanence, and worth.”<sup>158</sup> And the passages about how prayer is always related to ethical life speak of “accepting His ethico-moral authority” and “the realization of the divine imperative.”<sup>159</sup>

What these quotations boil down to is that the ethical norm *must* be given by God to be binding. The perils of autonomy is likewise the theme of a discourse titled, “Surrendering Our Minds to God.” Soloveitchik stresses that “the force of the divine command applies to both *mishpatim* and *hukkim* . . . . [T]he *mishpat* needs the support of the same divine imperative as the *hok*.”<sup>160</sup> In fact, “the religious Jew accepts the entire Torah as a *hok*.”<sup>161</sup> The Jew does not ask “Why?” *even about a mishpat*, because reason is not a reliable guide even with respect to *mishpatim*. As in the footnote in *Halakhic Man* cited earlier, but unlike Berkovits, who trusts reason but questions its power to obligate, Soloveitchik says that reason can produce disastrous moral conclusions. Just as one can rationalize away a *hoq*, one can rationalize away a *mishpat*. In short, ethics must be heteronomously accepted, not autonomously pro-

157 Ibid., 153 n. 80.

158 “Lonely Man of Faith,” 58.

159 For further consideration of Soloveitchik’s views on ethics, see Statman, “Aspects of the Ethical Outlook of Rabbi Joseph B. Soloveitchik,” 249–64. Statman shows that the Rav frequently affirms the importance of divine commands, even in contexts like friendship.

160 “Surrendering Our Minds to God,” in *Reflections of the Rav*, adapted by Abraham R. Besdin (New York: World Zionist Organization, 1979), 100.

161 Ibid., 103.

duced—even if autonomous reason sometimes produces conclusions similar to those prescribed by the heteronomous ethic.<sup>162</sup> This thought is similar to Berkovits's. We again find a stress on the heteronomous character of law in four examples in *The Halakhic Mind*.<sup>163</sup>

Soloveitchik, then, shows the liberal Jew that there are ethical dimensions to ritual. But “ethical” for him does not mean what it means for the liberal Jew. For Soloveitchik, the true grounding for ethics is the divine will. This, I suggest, is the pattern in Berkovits as well: he, too, shows (in his own way) that the ritual and the ethical are connected, but he then denies the objectivity of an ethics not derived from the divine will. The *content* of the liberal Jew's ethics and the heteronomous ethic may largely be the same, which is enough to show the liberal Jew that ritual can yield an ethic he or she should find appealing. But, again, even when there is convergence, the grounding of ethics for the liberal Jew and for the halakhic Jew are not the same.<sup>164</sup>

I would be remiss not to mention other options for understanding the reasons behind the ritual-ethical connection in our two thinkers. They could be trying not so much to show the liberal Jew that Halakhah-centered Judaism shares his ethical concerns but to *attack* the liberal Jew by arguing that relinquishing ritual law cuts off opportunities for ethical growth because the laws have an ethical dimension. Alternatively, they could be impressing the importance of ethics upon their Orthodox constituency. But overall, the view that Berkovits and Soloveitchik want to show liberal Jews that ritual law is defensible and desirable on their own grounds strikes me as the most compelling interpretation. In Soloveitchik's case, it creates a parallel to the strategy of *Halakhic Man* (viz., that halakhic man should be lauded on the critics' own principles). That the strategy ostensibly informs two topics suggests that Soloveitchik had a certain way of responding to criticisms of Orthodox Judaism—both criticisms of study (in *Halakhic Man*) and criticisms

162 See also the example of perjury in *Halakhic Mind*, 93.

163 Perjury, Shabbat, ritual immersion, and shofar.

164 An interesting comparison and contrast: Moses Mendelssohn argued that performing ritual reminds people of eternal truths that are necessary for moral perfection and for binding the Jewish people; hence the ritual laws are obligatory for moral reasons. They are also obligatory because they are commanded by God. The ethical laws are not only products of universal reason (per Berkovits) but (*pace* Berkovits and Soloveitchik) are binding even without revelation. See Michael Morgan, “History and Modern Jewish Thought: Spinoza and Mendelssohn on the Ritual Law,” *Judaism* 30 (1981): 467–78.

of practice (in the other writings we have been considering). He argues that the critics' values are found in Halakhic study and practice, activities in which the critics do not engage.<sup>165</sup>

#### IV. Soloveitchik and *avodah be-gashmiyyut*

Ḥasidut championed the idea that God is served *through* materiality—*avodah be-gashmiyyut*. Ordinary activities like eating can be consecrated through the proper religious intention. Certainly the *avodah be-gashmiyyut* model, no less than “Mitnagdic” halakhic life, charges the “physical-biological individual” with “carrying out the religious process.” Our animal activities are sanctified by how we perform them. Alan Nadler states: “Soloveitchik’s extensive proclamations regarding the spiritual significance of food and drink, far from echoing the teachings of mitnagdic predecessors, call to mind the doctrines of the Hasidic masters concerning the sacramental function of eating. . . For both [Soloveitchik and Ḥasidut] the satisfaction of the material appetites should be viewed as an opportunity for the sanctification of the created world, rather than a sinful indulgence.”<sup>166</sup> Nadler argues that it is mitnagedism rather than Hasidism that is ascetic and that requires transcending the world—and, further, that it is mitnagdic leaders, not Ḥasidim, who were elitist and lacked social consciousness. Hasidism also does not shrink from highlighting, as Soloveitchik does, “the conative individual who is led astray by the promptings of the *yetzer* and attracted to bodily pleasures.” In light of these facts, Soloveitchik’s criticisms of Ḥasidut appear unduly and

165 The ethical emphasis of Soloveitchik is also evident in his understanding of *qedushah* (holiness). Holiness is not simply separation from the world but engagement, and specifically ethical engagement. I elaborate on this theme and its rabbinic roots in “Separation or Engagement?: *Imitatio Dei* and the Nature of Holiness,” in *Sanctification*, ed. Benjamin Blech and Martin S. Cohen (New York: Mesorah Matrix, 2015), 63–92. As for Berkovits, he argues that holiness refers to immanence rather than transcendence but does not play up ethical engagement with the world. See, however, “The Concept of Holiness,” 284. He declares that “Holiness is not ethics” but rather implementing God’s will. So, if someone acts ethically for the sake of God, he is striving for holiness; if he acts ethically “for the sake of the good”—that is not holiness.

166 Alan Nadler, “Soloveitchik’s Halakhic Man: Not a Mitnagged,” *Modern Judaism* 13 (1993): 119–47.

oddly harsh. Seemingly, Hasidism did not negate corporeal existence, but did the very opposite.<sup>167</sup>

Is *avodah be-gashmiyyut*, then, identical with Soloveitchik's concept of holy living? In Ḥasidut there are numerous forms of the idea that God is worshipped through corporeality, and so any simple comparison or contrast between Soloveitchik and Ḥasidut is ill-advised.<sup>168</sup> Nevertheless, the following considerations, geared to particular versions of Hasidic thought and of Soloveitchik's, seem pertinent.

(a) Hasidic teachers sometimes required for *avodah be-gashmiyyut* that the individual divide his consciousness from his physical activities; that is, the person must focus on the supernal realms while engaged in these activities. This split is a well known motif in Kabbalah and is required even in doing *mitsvot*. Soloveitchik's polemic, one might surmise, is directed at those who demanded heavenly-directed *kavvanot*.

(b) A central point that Gershom Scholem makes in his critique of Martin Buber is that:

167 For extremely valuable discussions of the Rav and Ḥasidut, see, besides Nadler, Alex Sztuden, "Everyone Asks Where He is' - Mystical-Hasidic Elements in *U'Bikashtem mi-Sham*," in *Contemporary Uses and Forms of Hasidut*, ed. Shlomo Zuckier (forthcoming); Elliot R. Wolfson, "Eternal Duration and Temporal Comprehension: The Influence of Ḥabad on Joseph B. Soloveitchik," in *The Value of the Particular: Lessons from Judaism and the Modern Jewish Experience: Essays in Honor of Steven T. Katz on the Occasion of his Seventieth Birthday*, ed. Michael Zank and Ingrid Anderson (Leiden: Brill, 2015), 195–238.

168 On the varieties of *avodah be-gashmiyyut* in Hasidism, see Tsippi Kauffman, "Avodah beGashmiyut in Hasidic Thought," *Daat* 62 (Winter 5768/2007): 127–65 and, more broadly, her book *In All Your Ways Know Him: The Concept of God and Avodah be-Gashmiyut in the Early Stages of Hasidism* (Ramat Gan: Bar-Ilan University Press, 2009) (Hebrew). Kauffman points out that the term *avodah be-gashmiyyut* is not used by Hasidic thinkers themselves. In light of my earlier point that Berkovits's and Soloveitchik's notion of serving/worshipping God through the body emphasizes the ethical, it is interesting that Abraham Joshua Heschel's appropriation of Ḥasidut and in particular his deployment of the theme of worship through corporeality stresses ethical obligation. He, on the one hand, and Berkovits-Soloveitchik, on the other, represent Hasidic and non-Hasidic elucidations of worshipping God through bodily activities. On Heschel, see Tsippi Kauffman, "Abraham Joshua Heschel and Hasidic Thought," *Akdamot* 24 (2010): 137–55 (Hebrew). Kauffman's keen analyses and distinctions deserve more attention than I can feasibly allot them here.

The teaching of the uplifting of the sparks through human activity does in fact mean that there is an element of reality with which man can and should establish a positive connection, but the exposure or realization of this element *annihilates* reality, insofar as 'reality' signifies, as it does for Buber, the here and now. . . .

Moreover, the Hasidic conception of the realization of the concrete, which in the final analysis is what concerns us here, contains an element of destruction.

The here and now does indeed present a valuable opportunity for meeting between God and man, but such meeting can occur only where man tears open another dimension in the here and now—an act which makes the "concrete" disappear.<sup>169</sup>

If Soloveitchik shared this interpretation, in which Ḥasidut stresses the nullification of existence (*bittul ha-yesh*), he would have found Hasidism insufficiently affirmative—indeed, destructive—with regard to the here and now and the concrete physical world, as well as, adding to the problem, destructive of human self. For Soloveitchik, as Alex Sztuden puts it, "we cannot and should not try to transcend the limitations of the body. The concrete, empirical, individuated self is the self that must come to worship God, not the self that hopes to see through the material world that which lies behind it . . . The body is never to be left behind or transcended, but transformed."<sup>170</sup>

169 Gershom Scholem, *The Messianic Idea in Judaism* (New York: Schocken, 1971), 243. For discussion of the Scholem-Buber disagreement regarding *avodah be-gashmiyyut*, see, inter alia, Louis Jacobs, "Aspects of Scholem's Study of Hasidism," *Modern Judaism* 5 (1985): 95–104. Kauffman's work (cited in the previous note) places *avodah be-gashmiyyut* squarely in the framework of belief in divine immanence.

170 The Rav's relationship to Buber may be a factor in his criticism of Hasidut. Buber is generally credited with helping make Western scholars aware of Hasidism and elevating it to a respectable subject for academic study. (Nineteenth century scholars like Heinrich Graetz, Abraham Geiger, and Leopold Zunz were rationalistic, and they regarded mysticism and emotionalism as repugnant trends within Judaism that were historically marginal.) Buber found in Hasidut such themes as God's presence in the world, holiness as a matter of living a certain way, and the urgency of social action. But he combined these themes with his own existentialist brand of antinomianism—Scholem in fact calls it anarchism. Buber's antinomianism may have intensified Soloveitchik's opposition to Ḥasidut as Buber described it; perhaps he even perceived Hasidut as a threat, due to Buber's popularity. He may have deliberately appropriated the themes of Buber's Hasidism and incorporated

A self that ultimately leaves the body behind is not a “psychosomatic unity.”<sup>171</sup>

(c) Looking at various Hasidic thinkers, we find a range of accounts of *avodah be-gashmiyyut* that are not significantly related to the Rav’s project and may be antithetical to his outlook. We find the following motifs: When you eat, you repair the fallen sparks by your strength, or you extract the holy sparks; you gather strength to serve the creator;<sup>172</sup> you remove the body’s sadness, which prevents the soul’s attachment; the goodness of the taste of food reflects the creator; the *tsaddiq* strengthens himself even more than during prayer. While Soloveitchik does not reject all these themes, most seem either to be embedded in the metaphysics of sparks or too banal to capture what he wants. They have little or no significance in his notion that psychosomatic unity is an explanation of *mitsvot*.<sup>173</sup> Moreover, as Sztuden points out, *avodah be-gashmiyyut* (in one version of the idea) can be realized even through ordinary eating and shoemaking, whereas Soloveitchik demands worship through corporeality through the performance of halakhic commands, “and not in the interstices of life, of the merely permissible, where the commandments don’t reach.” In fact, Sztuden notes, Ḥasidim, in some forms, did not regard

them into a halakhocentric structure in order to protect against antinomianism. See also Michael S. Berger, “‘U-Vikkashtem mi-Sham’: Rabbi Joseph B. Soloveitchik’s Response to Martin Buber’s Religious Existentialism,” *Modern Judaism* 18 (1998): 93–118. Of course, the Rav did appropriate the notion of I-Thou/I-It quite prominently, but Buber’s name is almost absent in the Rav’s writings, except in *Emergence of Ethical Man*. (See the book’s index.)

- 171 My hesitation about my own suggestion here is that Soloveitchik at times seems to embrace acosmism. On this question, see the essays by Sztuden and Wolfson cited in n. 167.
- 172 There is a reference to this notion, however, with a supporting quotation from Maimonides, in “An Exalted Evening,” 13. Soloveitchik’s affirmation of the physical world contrasts with the view that the holy person has to sacrificially descend into this impure world to gather sparks.
- 173 The explanations cited for *avodah be-gashmiyyut* are collected and annotated by Norman Lamm, *The Religious Thought of Hasidism: Text and Commentary* (Hoboken, N.J.: Ktav, 1999), 323–36. For still more accounts, see Kauffman, “Avodah be-Gashmiyyut in Hasidic Thought” and *In All Your Ways Know Him*. See also Joel Hecker, *Mystical Bodies, Mystical Meals: Eating and Embodiment in Medieval Kabbalah* (Detroit: Wayne State University Press, 2005) and the numerous works of Elliot Wolfson highlighting the role of the body in Kabbalah.

performance of the commandments as worship through corporeality but rather as *avodah be-ruḥniyyut*, worship through spirituality.<sup>174</sup>

## V. Conclusion

Rabbis Berkovits and Soloveitchik were far apart on the place of ethics in “altering” or not altering biblical or rabbinic law. But when it came to mastery over the body, their respective discussions display a similar trajectory and structure. (a) In both thinkers, ritual performance, both positive and negative (restraint), is bound up with the ethical. Berkovits stresses that ritual trains the physical organism as a road to ethical discipline, while Soloveitchik develops the ritual-ethical nexus by showing ethical dimensions within given restraints or positive performances. Still, both ethicize ritual. (b) They also agree that only an ethics based on authority, a morality heteronomously imposed, can be binding. Berkovits thinks ethics is rationally derivable, Soloveitchik does not, but the thesis that bindingness requires authority is shared. We have seen that these similarities may be explained in the context of the challenge of liberal Judaism that both confronted.

It has been argued (by Yeshayahu Leibowitz) that observing Halakhah is contrary to our natures, and that *mitsvot* are an “emancipation from the bondage of nature.”<sup>175</sup> Berkovits and Soloveitchik maintain the contrary. For them, our nature is to unify body and spirit, and thus we fulfill our natures

174 Sztuden, “Everyone Wants to Know Where He Is.” Kauffman points to differing Hasidic views about whether worship through commandments is higher than worship through mundane activities.

It is not implausible that Soloveitchik was not trying to “rehabilitate” mitnaggedism but rather to articulate his own creative, highly personal understanding of halakhic spirituality, without thereby vindicating some existing doctrine. He was, to be sure, less happy with Ḥasidut than mitnaggedism, but neither approach supplied what he wanted. He *synthesized* elements of Ḥasidut with elements of the mitnaggedic outlook, appropriating certain Hasidic themes into a framework that placed Halakhah at the center. By this creative endeavor he protected the centrality of Halakhah without blinding himself to valid insights of Ḥasidut. His doctrine is his own, and it is *sui generis*.

175 Leibowitz, “Heroism,” in *Contemporary Jewish Religious Thought*, ed. Arthur Cohen and Paul Mendes-Flohr (New York: Free Press, 1987), 363–70. As Daniel Rynhold noted in correspondence, if the *mitsvot* would enable us to fulfill or actualize our nature, then *mitsvot* would serve a human value, which runs contrary to Leibowitz’s antagonism to anthropocentrism.

by following the halakhic dictates that do the work of unification. We fuse our gross biological endowment with the "portion of the deity above." And that, for both thinkers, is both human nature and proper living.<sup>176</sup>

176 I thank Rabbi Yitzchak Blau, Arnold Davidson, Joel Hecker, Charles Manekin, Alex Ozar, Daniel Rynhold, Aaron Segal, Alex Sztuden, and an anonymous reader for this journal for comments, discussion, and replies to queries.