Moral/Ethical Halakhic Concerns of the Online Environment:
Safeguarding the Ethical Essence of Judaism Living with Torah in the Digital Age

As Librarians Committed to Fostering Ethical-Intellectual-Spiritual Virtue
Amongst Our Patrons in Quest for Hokmah, Binah, VeDaas

In a Life Long Endeavor in the Cognitive Life of the Mind

Introduction:

There is a growing body of rabbinic texts on the questions regarding Halakhic ethical concerns of the online environment. The shealot ve-teshuvot, Responsa genre draws Jewish law from the past by analogizing halakhic principles that apply to questions regarding the new technologies. We will identify some of these ethical concerns and classify them. Some of the many halakhic issues treated in this paper include: (1) the Cherem Rabbenu Gershom forbidding reading others’ letters, and invading privacy rights [classified in 4 categories: (a) visual privacy, i.e. Hezeq re’iyya, (b) privacy of one’s residence against tresspassers, אִם-בַּמַּחְתֶּּרֶּּת יִמָּצֵּא הַגַּנָּב (b) privacy of one’s communications (d) prohibition of disclosure of nistarot and tailbearing, thereby transgressing against the Chofetz Chaim’s laws of shemirat loshon (lashon harah, and motzhi shem rah), and by extension the isur on reading by spying on another person’s emails, a warning against which can include the phrase: בחדר גמה בחרם דרבננו גרשום מאור הגולה or pagi’in פגיין, an acronymn for פורץ גדד י-שכנו נחש (2) The sanctity of Hashem’s name and the prohibitions of erasing the name (mechikat Hashem) based on Devarim 12:2-3, and does this apply on a computer screen i.e. lo ta’asum ken is an issur chaftza, a prohibition pivoting around a physical object (a sefer Torah and sacred texts qualifying for Shemos in a geniza) with a specific halakhic status, written by a sofer who has teveled in a mikvah and written the name with yirat shamayim (haikkar ve’-takhlit ha-adam) and kavanah (3) internet commerce on Shabbat, (4) social network listserves, blogs, wikis, etc. by which Orthodox Jews can construct “cyber” communities (5) employing filters for screening out “pritzus, narishkeit, and stius, (6) spyware and cookies that marketers use to target consumer groups, who may not wish these marketing techniques be used to waste their time, bitul zeman; (7) davening from a kindle or ipod obviously not on Shabbos, (8) cyber minyanim and mizumem?, (9) permissibility of censoring hate literature on the web, (10) computer crimes of abuse and fraud by which one piggy-backs on another’s Wi-fi unsecured signals without authorization or permission to access to a computer network, contracted by others, possibly harming the network and damaging others’ data, and also diminishing bandwidth which can effect speed of connection for the paying subscriber, ergo constituting geneiva and violating Shmuel’s pronouncement of Dina De’Malchuta Dina, (11) illegal film and music downloading causing financial loss to royalties of copyrighted works, despite minhago shel olam (normative practice) and hamotzi l’or yodeah mizeh (the author knew full well upon making the work public how it might be abused, i.e. umdenah (common assumption) (12) ethical concern with author copyright within 5 halakhic categories: A. Hasagat gevul -- unfair competition:B. Haskamot -- approbations; C. Dina d’malkhuta dina -- secular law; D. Shiur b’kinyan -- withholding
the right to copy. and copyright—E. sighting a law in the name of one’s Rebbe who learned it from his Rebbe, a reason Rabbi Yosef Karo wrote the *pirush Kesef Mishnah* on Rambam’s *Sefer Mishnah Torah, MT.* i.e. (omer davar bshem omro) i.e. Rabbi Yosef Karo in Kesef Mishna to Rambam’s MT. see: Megilah 15a) explicating Esther 2:22 כב יִהְיֶה הַגּוֹלָהְו יִשְׂרָאֵל,-twain אָסַר אָסַר לְפָלֹל, בֵּשָׁה מִדָּקֵד

This presentation attempts to outline and gather some of the basic frameworks of the halakhic approaches and principles to online ethical issues, for practical guidance please consult a qualified halakhic authority credentialed to field sheolos. Due to limits in time we will only have time to briefly give an overview of sections 1, 2, 5, and 12.

1. Ethics of Privacy Issues and why halakhah affirms privacy rights:

Is hacking and computer brake in merely a form of genevo or more importantly an issue of privacy? Protecting the privacy of communications between individuals is very much in keeping with Jewish philosophy, and its further protection by a *cherem* in keeping with the tradition of guarding the dignity of persons by not revealing private [possibly shameful matters] when possible. The *Cherem d’Rabbenu Gershom* (960-1028, Germany) remains to prohibit the reading of another’s mail and by application email. Does the *Cherem* whatever its scope apply also to family members such as spouse or those acting in *loca parentis*? Are there exceptions to the regulation, and if so under what objective criteria would warrant such invasion of privacy? Since Cherem has numerous contexts and meanings how does the Cherem d’ Rabbenu Gershom apply to emails?

Yosef was careful not to have anyone outside his family by privy to the tension that existed between brothers. *Da’at Zekenim* explains his thinking – why let Mitzreim know that there had been bad blood between the brothers, for the Egyptians would be hosts to the brothers and their descendents and this pejorative info could hurt the Jews in the long run. Clearly, halakhah considers that whenever possible a person’s private matters be guarded from enemies. The *Maharik* writes, “Whoever violates Rabbenu Gershom’s *cherem* on opening another’s mail, is as one who violates something from the Torah (shoresh 184). A question is raised what if the writer of the email threw it out in “trash” icon on the computer screen— is that permissible to read with privacy rights of Rabbenu Gershom? The author of the Halachot Ketanot rules that one may not read even a discarded letter. There exits the rabbinic view to protect both sender and recipient. Even absent any derogatory material in the letter most say that one is not permitted to share the contents. The Chofetz Chaim notes that by telling over even seemingly innocuous contents, one may inadvertently cause harm or distress to the writer, and therefore it should not be done. Writing is worse than speaking. If in speaking it is oser according to the Chofetz Chaim to speak Lashon harah, and kal wa-homer it is oser to speak motzi shem rah (slander and libel) minor ad majoris in writing down these stricture apply all the more so. The Chofetz Chaim identifies the impurity of leprosy first put upon Miriam....

As the source text for the laws of lashon harah. The divulgence of private personal information that can embarrass or worse damage an innocent person is forbidden in Jewish law. Rabbi Akiva was criticized by Rabbi Judah ben Bethara for violating the Biblical ban on volunteering information that is not verifiable, thereby maligning a righteous person who in this case was alleged to have desecrated the Sabbath.

It is customary in rabbinic culture to write on an envelope (בְּשֵׁם מָּרְדֳּכָּי) i.e. *herem d’rabbeinu Gershom,* or *pagi’in* i.e. (someone who breaks through a fence that rabbis erected may be bitten by a snake) How does this apply to email privacy rights? The *Be’er Hagolah* holds if pagi’in is written on a letter it is protected from voyeurs.

Ramo (R. Moshe Feinstein) notes that we must compare other of Rabbenu Gershom’s *takanot* i.e. if a couple lives together for 10 yrs. He is permitted to divorce his wife if they have not fulfilled the mitzvah of having children. The mitzvah of *peru urevu* therefore leverages the *cherem.* If the *cherem* Rabbenu Gershom impedes the *mitzvah* to be fruitful and multiply then *yibum* is employed so that the principle of *makom mitzvah* (and this is the rule...
whenever it is a matter of performing a mitzvah). Likewise the logic, “let him violate on Shabbat in order to live many shabbatot with regards to pekuah nefesh dokeh et hashabat. Not based on Talmudic logic of kal wa-homer, i.e. If we do brit millah on Shabbos to save one limb of the body if that falls on the 8th day, then kal wahomer, we do pekuah nefesh to save all limbs of the body etc. Rav Karo rules that with yibum the Cherem Rabbenu Gershom is overridden if a man must fulfill the mitzvah of peru verevu. Ramo argues in some limited cases based only on objective criteria there is a small # of cases where reading other’s emails might be allowed? The logic is based on the principle that if following a cherem of Rabbenu Gershom would impede performance of a mitzvah, then the cherem does not apply absolutely. In his gloss to the Shulchan Aruch he writes, vehu hadin bechol makom mitzvah (and this is the rule whenever it is a matter of performing a mitzvah). Ramo notes that although there is a cherem of Rabbenu Gershom not to divorce one’s wife against her will, but if a couple lives 10 years without children, he is permitted to divorce his wife in order to marry someone else to try to fulfil the mitzvah of having children.

The question is raised that in halakhah there is a concept of umdenah (common assumption) i.e. common practice and when and if this can change a halakhah. Are we entitled to assume that since most companies spy on employees emails that employees have a right to read personal emails sent from a private email account if written on a worker’s break but from company computers? The law deoreita not to gloat at the fall one’s enemy may be ethically grounded not to seek to the level of taking revenge in holding a grudge. Dovid Hamelekh teaches us the mitzvah not to rejoice over our enemies, as when we pour out drops of wine at the pesah seder for the drowning Egyptians in Shirat HaYam of parasha bishelach. Dovid even laments Shaul who tried to kill him and made dovid hamelekh and outlaw on the run: הנצי, יישראלי, על-ברוחך,民主党, יאכ, יפלא ברברום.

What are we to make of some rather surprising incidents of invasion of property by sages who claim they will do everything to “learn torah?” i.e. consider:

R. Elazar admits that once he followed R. Yehoshua into a privy, and learned 3 laws of behavior by observing him. When he was challenged how could you do such and outrageous thing! He answered, “It is Torah, and I need to learn it (Berachot 62a). Similarly Ben Azai reports that he too once followed his teacher into a bathroom giving the same reason- it is Torah and I need to learn it. The same rationale was offered by a student who went to hide under his rebbe’s bed on the latter’s wedding night. 19

Does this sugya from Berachot 62a say Rabbinic sages have no private life? Does the invasion of these Rabbinic sages privacy apply to all persons? What about leaders? Aharon’s dignity is preserved when the torah is publically layned the verses relating to the sin of the Egel haZahav are not to be translated aloud so as not to embarrass Aharon HaKohen.

By extension many in the Chabad community object to historical attempts to portray the Chabad 7 Lubavitch rebbes that may “be overly and inappropriately critical” and not be written from a stricktly Hagiagraphic perspective. What is the line between respecting the privacy of a Gadol, Torah sage, and leader and what can and cannot be shared publically as in the case of a contraversely biography? There is a spectrum of books on Chabad leaders. What is the line between privacy, blatant disrespect, and critical analysis? Hasidim do not hold a
monopoly on such privacy debates of books that “cross the line.” Many leading rabbis objected to a book, *The Making of a Gadol*, holding that the revelations were not suitable for the general audience who may tend to mock.

Rav Soloveitchik also became victimized in his public life in his attempt to add more ethical accountability to the *kashrut* industry in Boston. In fact the tension between the private and the public communal life is locatable in the Rav’s work.22 Rav Soloveitchik understands the relationship of the private and public as both A lonely man of emunah & a *Ish Halakah*.22

Privacy is a complicated subject in rabbinic law, and may be classified in categories of (1) visual privacy, (2) privacy of one’s residence against tresspassers, (3) privacy of one’s communications by letter or otherwise, and (4) prohibition of disclosure of secrets.23 Discretion is employed in Rabbinic culture with discussion of certain esoteric topics such as *ma’aseh merkavah*24, *ma’aseh bereshit*25, the *sefirot*26, *angeology*27, *prophetology*28, etc.

One type of privacy involves privacy of one’s domicile against unwanted or unannounced intruders. 13. Privacy of Domicile from Intruders is a basic halachic right: The case in Shemot of “if a thief be found breaking in....” we read. Shemot 22:1

דָּמִים, לָו אִיּוּ -- אֶפֶם אֶהְכָּה, הַגָּנָּב הַעַקְם מִבֵּיתוֹ -- אָמ

If in breaking in the thief be found, and he is struck that he die, there shall be no blood for “him.” - Regardless of going with Rashi or the majority view29 or that of Rashi on Sanhedrin 72a30 or a sugya in Moed Katan31, the din is that an owner who kills a thief engaged in breaking in is not accounted as a murderer. The owner is deemed as acting in self defense and is not even mesayeya li’dvar aveira (accomplice to a crime)

Two *aggadic* statements seem to contradict the case in *Berackhot 62a* by asserting that one should not enter a house, even one’s own without warning. Rabbi Shimon bar Yochai states that “G-d hates four things which I also dislike.... And a person who enters his own home suddenly and thee is no need to add his neighbor’s house.” The Midrash relates that Rabbi Yohanan used to clear his throat before entering Rabbi Hanina’s house in order to make sure that he wasn’t invading anyone’s privacy.32 Also Rabbi Akiva commanded his son Yehoshua seven things: my son ... do not enter your house suddenly, how much more so your friend’s house.”33 We learn in another midrash that one may not enter his friends’ house, without permission, and it learns this principle from Hashem Himself. In Shemot 40:35 Moses could not enter the Tent of Meeting, whereas in Vayikra 1:1 Hashem speaks to Moses in the Tent. From this we learn that a person should not enter his friend’s house unless his friend (i.e. Hashem) says enter.34

Further protection of privacy is found *deoreita* that forbids a creditor from entering the house of a debtor in order to take a pledge: “When you make a loan of any sort to your fellow, you must not enter his house to seize his pledge. You must remain outside, while the man to whom you made the loan brings the pledge out to you.”35 The privacy of a Debtor from Creditor, is found in the passage, “When you make a loan of any sort to your fellow, you must not enter his house to seize his pledge. You must remain outside, while the man to whom you made the loan brings the pledge out to you. The oral law notes that even an officer of the court may not enter the debtor’s house in order to take a pledge (Devarim 24:10-11). The oral law notes that even an officer of the court may not enter the debtor’s house in order to take a pledge.36 Police officers, marshalls, sheriffs, detectives, not invade privacy, even to collect taxes. (Sanhedrin 7:10) The oral law notes that even an officer of the court may not enter the debtor’s house in order to take a pledge.37 The Talmud extends the restriction to police officers38, marshals, sheriffs, detectives, even in connection with unpaid taxes.39 Devarim 24:10-11 reads, “when you make a loan of any sort to your neighbor, you
must not enter his house to seize his pledge. You must remain outside, while the man to whom you made the loan brings the pledge out to you.”

*Hezeq re’iyya*, (harm caused by seeing) is dealt with in the section on need for filters but can also apply in the above case when one’s privacy is violated by the prying eyes of a voyeur. In the section on permissibility of computer filters to prevent inappropriate pritzadik web sites from religious students, I sight the case of Balaam who blessed the Israelites, with the words:

מַה-טָבוּ אֹהָּלֶךָּ, יַעֲקֹב, מִשְכָנֹתֶךָּ, יִשְרָּאֵל

This blessing, rather than a curse, was because according to Baba Batra 60a the tent openings did not face one another in order to secure privacy of the modest Israelite families. While Jewish law imposes the obligation to block a view into a neighbor’s home, lest the neighbor’s privacy is inadvertently invaded, American secular law put the onus on the homeowners to protect their own privacy by installing curtains. Likewise in business ethics *caveat emptor*, buyer be wary, characterizes Roman law, while Jewish law dictates that if one is selling a car to someone and knows the breaks do not work and this poses a *secunah nefesh*, then the seller must reveal the danger.

Rabbinic law abounds with prohibitions that forbid the disclosure of secrets or confidential information or that require permission of the person in question before the information is forwarded to another. Mishle 11:13 reads:

הוֹלֵךְ רָּכִיל, מְגַלֶּה-סּוֹד; וְנֶאֱמַן-רוּחַ, מְכַסֶּה דָּבָר.

He that goeth about as a talebearer revealeth secrets; but he that is of a faithful spirit concealeth a matter.

The Rif codified the ruling based on *mishnah* Sanhedrin 3:7 based on this *pusek* in *Mishlei* to teach that judges are not permitted to reveal their deliberations after a verdict is reached in a matter. Sanhedrin 31a extrapolates that Rav Ami threw a talmid out of the *beit midrash* who revealed a secret, saying, “This is a revealer of secrets.” Rabbinic and many cultures are based on “keeping secrets.” Rabbi Eliyahu ben Haim in Constantinople (1530-1610) ruled that if one of the communal rabbis reveals the secret deliberations of the City Council, he is disqualified from serving, on the basis of the previous source. In Yoma 4b we read:

How do we know that when a person tells something to his friend, the latter may not repeat it until the person says to him “go and say”? As it is written (Vayikra 1:1): “And G-d spoke to [Moses] from the Tent of Meeting to say…. 

The 13th Century Semag, Rabbi Moses ben Yakov of Coucy in *Sefer Mitzvat Gadol* and 17th century R. Avraham HaLevy Gombiner understand this sugya to mean that one may not reveal a confidence without express permission of the confider.

Iggerot of Gedolim who respond to letters of Inquiry are often published later. This does not violate the cherem of Rabbenu Gershom when if the subject of inquiry is of a personal nature, for instance Rav Moshe Feinstein shielded the identity of the questioner. Also in the iggerot of Rav Hutner and the Chazon Ish, the name of the inquirer to whom these gedolim responded was never included in the *reshut harabim*. Who would not deny the importance of
sharing Rambam’s letter to Rabbi Yehudah Ibn Tibbon regarding the only free time the Rambam had to discuss translation matters of the Dalat al ha-harin from Arabic to Hebrew was on Shabbos between musaf and minchah for the grueling nature of the Rambam’s exhausting busy day as a physician in the Califs court in Cairo Fostat and later attending to patients in the Jewish quarter, is indeed a private correspondence beneficial for the Jewish community to be conscious of regarding the Rambam’s life of miserat nefesh and acting lifni misharat ha-din, middoth hasiduth, for his patients.47

The term cherem of Rabbenu Gershom denotes a serious infringement (see Rambam on Bava Metzia 59b enumerated in Hilchot Talmud Torah VII:4-548) and punishment. How do we navigate the complex area of privacy issues when our rabbis intended through their regulations to safeguard the sanctity of other people’s privacy and to foster respect and dignity of the individual in the image of Hashem? Recently a scholar has published archival documents of psychological sessions of the Rashab, conducted with Freud and another shrink.49 These private records now in the domain of “fair use” according to secular law based on a statute of limitations, are interpreted by this scholar to suggest embarrassing sexual neuroses? To what extent should privacy of a Gadol and or a simple pushet person for that matter be upheld outside of Hippa records50, and now with the fact of internet and online environment? Privacy issues with regard to accessing private personal information such as protected by Hippa records and financial statements by orthodox institutions of their employees, Again as with any powerful institution power often corrupts absolutely and administrators can sometimes feel they are above the law, and can do whatever they want. All of this idealized sometimes in the name of some noble high goal of the common good which usually means the common bottom line of profits and the buck stops here and despotic administrators acting as tyrants justify whatever they do and end up violating individual privacy rights often as idealists. Whether leaders feel the law does not apply to them by breaking and entering, tapping phone lines, and theft in Watergate, or politicians who sexually take advantage of interns, politicians right and left, and likewise powerful administrators risk thinking they are above the law, and not accountable to basic laws of the rights of privacy because the checks and balances that are supposed to protect individual liberties are more fiction than reality in the Orwellian political Affairs post- 1984.

Lord Acton may have been correct when he wrote 100 years ago, “Power corrupts and absolute power corrupts absolutely” as this relates to a Orwellian “Big Brother government” that violates privacy rights either on the political left or right. Politicians and others who act as if they are above the law, may end by facing the fate of Jezebel whose blood “was licked by dogs.” The vineyard she stole via violation of the privacy rights of Naboth by having Naboth and his sons put to death with a help of a few false witnesses constitutes not only slander, libel, perjury, and murder but violation of the private rights of Naboth to keep his ancestral estate (shtei ahuza) within his private family relationships. 51

Of course the Rabbis weigh the risks of violation of individual privacy against the common good for those exceptional cases of grey areas, where public harm is at risk. The Rabbis are halakhists and not literary fictional writers. Yet their ethical concerns are those echoed later in the works of Orwell and Foucault who view the revolution in surveillance abuses as a result of the new technologies a serious risk in the post-modern condition. To suggest that the difference between privacy in different cultures is geographically prescripted so that in America the notion of the pioneer in the Wild West as a lone individual, suspicious of any central government, versus that of the pioneering Kibbutznik who is a member of a collective communal Bohemian hippi lifestyle founded on an ethos of material and emotional sharing so there is no “bourgeois privacy’, so that is some cases even child rearing is communal as ideally laid out by Plato avant la letter, is too stereotypical.52 In Jewish law, the general
principle is that the public’s right to know does not supersede the individual’s right to privacy, while in American law it does: freedom of the press permits the publishing industry and the media to prevail over personal privacy rights. In Jewish law everyone has the right not to be slandered or libeled and accordingly it may be concluded that in cases of whether an individual’s medical condition is involved should not be made public. Jewish law would not permit such divulgence without the individual’s permission. In 1965 the U.S. Supreme Court based on a case Griswold v. Connecticut, established marital privacy as a fundamental Constitutional right.53

Charles Biedemann, Director of the Red Cross’s International Tracing Service (ITS) in Arolosen Germany also points out that privacy is often crucial with the records of Shoah survivors because some information is “sensitive”. Such information may include if a woman was forced to serve in Nazi brothels, if someone was a Capo who collaborated with Nazis by murdering and torturing other Jews, if someone were incarcerated by the Nazis for being a homosexual, etc. Because open access to archives increasingly means that indexes and inventories are put on the Internet, the ITS index, strives to protect privacy and confidentiality etc. Other archives are private or semi private, and discretion should be used to create access policy according to some. In the area of scientific research in Germany C. Starck also argues for checks and balances regarding restrictions in constitutional law regarding the limits of research.54

While arguments are made that Americans place greater emphasis on openness and freedom to information and research without limits in the name of open pursuit of the truth, because an argument can be made that Democracies are based on these rights to create an informed public who need to know what is going on in society and free speech and free media ensure this and the power to control information is the power to limit democracy. The flip side is that some argue that Europeans and Israelis tend to view privacy issues more “restrictively” safeguarding the dignity and rights of individuals who should not be exposed to potentially embarrassing or disturbing matters, and embarrassing someone in public in Jewish law is considered a major violation, that if this destroys someone’s “good name” is likened to a form of “murder.”

Some critics of restricting access cite George Orwell’s notion that “Big Brother or its agents violate democratic civil liberties when they “decide” based on “their interpretation of facts” what other adults should not read, hear, learn, or be aware of, etc. The Fuhrer’s order to arrest “enemies of the state” under Nacht und Nebel orders, i.e. under cover of bad weather, some liberals argue urges open access of freedom of information. Yet more conservative political philosophers argue that the blanket formulaic rule that “democracy must be for everyone with maximum access to information and all need uniform access” is a potentially dangerous policy and protocol that potentially violates individual dignity but also civil accord and harmony that release of such information in the extreme case could lead to even civil war and unrest. Such was the case of Yoab who exposed the mistake of Dovid HaMelekh with regards to the Bathsheva Affair. The Rabbis note Dovid HaMelekh had made complete and true teshuvah over his mistake in this matter. No one, not even the king is above halakhah. The ironies of the affair are that as in the case with Tamar and Yehuda whose child Perez is regarded as the birth of the messiah 14 generations before Dovid’s birth, and as in the case of the union of Esther and Achaveros whose descendent was Cyrus who allows Ezra and Nehemiah to return with the Jews to rebuild the Beit
Norman Lamm has shown that Jewish law is the foundation and basis for privacy rights in American law. Personal privacy is defined in three Amendments in the Bill of Rights that are considered to be rooted in Jewish law. Two, the Third (forbids government from quartering soldiers in peacetime in a persons house without consent of the owner and in wartime only as prescribed by law), and Fourth Amendments (the right of the people to secure in their persons, houses, papers, and effects against unreasonable searches and seizures i.e. court orders based on evidence of "probable cause" analogized to Biblical law’s prohibition of a creditor entering a debtor’s home without the debtor’s permission. And the Talmud extends the restriction to police officers, marshals, sheriffs, detectives, even in connection with unpaid taxes) have roots in Biblical law, and one, the Fifth Amendment, is rooted in Talmudic law. Another Amendment to the Constitution but not in the Bill of Rights, the Fourteenth Amendment, though not similarly rooted in Jewish law, is related to the Jewish principles of marital privacy, fairness, and proper legal procedures. These four Amendments serve as the Constitutional foundation of the right to personal privacy. The fifth amendment states that no person “shall be compelled in any criminal case to be a witness against himself.” While in American law a witness may invoke the right to remain silent, he may voluntarily waive this right if granted immunity from later prosecution for a crime, or he may involuntarily be granted such immunity, thereby compelling him to testify in court. In Jewish law, the Talmud provides a broader right: the individual may not involuntarily be granted immunity in order to extract testimony, nor may he even voluntarily waive this right. The Fourteenth Amendment in American law hints at these aspects of Jewish law by requiring strict adherence to proper legal procedures i.e. “due process of law” before a person’s life, liberty, or property may be deprived or his privacy be invaded by the government.

Richard Sobel formulates guidelines for respecting privacy in Jewish Genealogy. His approach echoes a Midrash that when Hashem created this world an aggadata holds He was going to create it on the basis of strict Justice/Mishpat/Din/ Truth but Hesed objected that the world could not be sustained under such harshness.” Indeed on Yom Kippur Hashem (associated with the tetragramton) goes between two thrones. One throne is of strict justice/mishpat/din (associated according to Rashi with the name Elokim.) while the other throne is associated with that of mercy, compassion, graciousness, and love (associated with the tegramaton). No person should like Dr. Mengele who sadistically reveled in “playing G-d” by ordering those with a small chance of survival to the right and those to be gassed immediately to the left, put themselves in the place of G-d by acting as if their judgment is that of the throne of absolute judgment. Judgments must be tempered with both justice and mercy and compassion and take into account that only G-d know all and no person knows all. We should remember that there is a case in Maseket Sanhedrin where an innocent person was executed and the court of Rabbis found out after his execution he was innocent. Even the most authoritative court as an emissary of G-d, the beit din, is not the beit din mamalah. Chaya Halberstam in her recent book Rabbinic Juridical processes has pointed out that human legal adjudication, is always rift with uncertainty, doubt, inability to substantiate hard core evidence, and prone to miscarriages of justice especially for exceptional cases outside the box. Yet an Agadata holds that Dovid HaMelekh killed al pi ha-sanhedrin, while Esau kills indiscriminately based on the will of the stronger, might makes right. Thus in the Platonic dialogue Socrates meets a person named Thrasmachus who was a politician and who argues Justice is the will of the stronger, i.e. a divorce lawyer who can bribe the judges, subvert for his own selfish interests, skew, twist, or finagle thru satanic cunning. As Milton points out the Satan knows logic. So tp to the stronger go the spoils. Socrates, who unjustly was forced to drink the hemlock by the Athenian court, of course opposes this cynical view, and argues that the true, good, and beautiful are eternally independent of the corruption of human courts below in this world where sometimes the just suffer unjustly and life is sometimes not fair. As this relates to privacy issues on the internet, often persons whose privacy is betrayed are more victims of radically evil maliciousness, grudges, vindictiveness with intent to damage, or just banal self serving egocentric self-referential narcissistic wills of others who climb to the top on the backs of others. When governments become totalitarian on the right or left, they invade and abuse individual privacy rights. Clever lawyers motivated to win cases and make big money also employ computer skills tweaking the laws, to fly in just under the radar, to retrieve information about litigants on the opposing side, with intent to damage in order to win for large amounts of money cases in courts.
The question of Jewish law's view of privacy is complex. One aspect is similar to issues a Catholic priest faces in a confessional booth. If someone confesses they committed terrible crimes that jeopardize public safety does a Catholic clergy in the confessional have a duty to relay this information to law enforcement authorities? What if the confessor self-incriminates themselves for crimes they did not really do, out of mental anguish and other neuroses? In NY “the confidential communication to Clergy Privilege of NY state law” is open to interpretation. In one suit a woman sued two rabbis for breach of clerical confidence for passing on to her husband and family court information she had revealed during a marital counseling. The NY supreme court judge ruled that one of the rabbis violated the Confidential Communication to Clergy Privilege of NY state law and was “intolerable.”\(^\text{64}\) The Union of Jewish Orthodox Congregations of America (UJOCA), the Rabbinical Council of American, RCA, and Agudath Israel of America (AIA) all issued statements critical of the Judge of the Supreme Court of NY, claiming that Jewish law mandates the disclosure of confidences in certain cases. Joel Meyers, executive Vice-President of the Conservative Rabbinical Assembly also agreed that a right to expect rabbis to keep confidentiality, in some instances this “would be hard to do.” In contrast the Reform Central Conference of American Rabbis adopted a resolution in 1986 affirming confidentiality of communications to its rabbis. Marc Stern, an Orthodox lawyer for the American Jewish Congress, warned, “It would be an unmitigated disaster” if rabbis could be called as witnesses to reveal confidences entrusted to them.\(^\text{65}\) Stern notes that since the religious law cited by the rabbis applies equally to all Jews, no Orthodox Jewish professional, a doctor, lawyer, social worker, could ever guarantee a client’s confidentiality.

Summary of privacy issues

While Rabbinic law does include some technical exemptions granted to viewing others’ emails, voice mail, and text messaging, we ought to not look at only the exceptional boarder line grey areas at the limits of Jewish law, but rather ethically internalize the moral principles of Jewish philosophy expressed by the protection of privacy rights by Rabbenu Gershom’s cherem. Rabbinic law that does not intend through its regulations to safeguard against the sanctity of other people’s privacy and to foster and develop and enforce respect and dignity for each Jewish neshama, is abusive. Invading persons’ privacy is usually a type of unethical abuse. If the Jewish community is to be intellectually vibrant, compassionate, caring, attain spiritual growth to achieve holiness, it needs to conduct lives in the spirit of humility, respect, justice, truth, kindness, striving for honesty, fairness, compassion, integrity, moral fiber, & strength of character. In Maseket Makkot, we find a list of behaviors that are the essence of the taryag mitzvoth, when Dovid HaMelekh says that the 613 commandments can be reduced to 11 principles.\(^\text{66}\) Isaiah makes the list of 11 ethical principles even smaller by formulating 6 moral principles.\(^\text{67}\) Hazel reduce the list even further by turning to three principles found in the navi Micah,\(^\text{68}\) “It hath been told thee, O man, what is good, and what the LORD doth require of thee: only to do justly, and to love mercy, and to walk humbly with thy G-d.” Isaiah slims down the fundamental ethical principles of the torah still further to two concepts: (1) observe Justice, (2) Act with righteousness.\(^\text{69}\) Just and righteous people should not as a Kantian moral imperative invade and abuse other’s privacy rights, leading to embarrassing them in public, which the rabbis see as a form of murder of a good name. G-d two has a list of things considered unethical as we read in Mishlei 6:16-19: G-d hates six thing that constitute dishonest and cruel and malicious behavior, for dishonesty is closely tied to arrogances; seven things are an abomination to Him. A haughty bearing, a lying tongue, Hands that shed innocent blood, A mind that hatches evil plots, Feet quick to run to do evil, a False witness testifying lies, And one who incides brothers to quarrel amongst themselves. Mishlei however does not leave us with only negative descriptions on unethical mannerism and behaviors to avoid but posits in the positive: .... Keep your father’s commandments. Do not forsake your mother’s
teaching. Tie them over your heart always. Bind them around your throat. Where you walk it will lead you. When you lie down it will watch over you; and when you are awake it will talk with you. For the commandment is a lamp, the teaching is a light. As with the ethical behavior of respecting other’s privacy and not embarrassing them in public, these moral teachings are principles that serve as the ethical compass by which G-d wants us to live as morally and ethically accountable human beings. These moral principles provide an anchor in the stormy seas of life, and discipline for which all of us must strive to become better morally and ethically as G-d’s agents on this earth striving to attain kedusha, holiness.

The difference between King Saul [who (1) murdered the priests of Nob, (2) who consulted the witch of Endor, (3) pursued as a rodef with intent to kill Dovid in the Judean desert, (4) fits of melancholy were self destructive only to be cured by Dovid playing the kinur, (5) failed to assassinate Agag as real politque so that Agag overnight fathered a child that led to Haman yimach shema who almost carried out a Judeocide if it were not for the righteous actions of Mordecai and Esther. and King David are many. However the biggest difference perhaps is that Dovid did not view himself above the law, and when Nathan confronted him with the Bathersheva incident, Dovid did teshuva with full repentance. It was Yoav who the Midrash notes broke the laws of the ethics of privacy by broadcasting David’s action to the point of causing terrible civil war, that bares the blames for almost catastrophic consequences. Midrash Rabbi Tanhuma Joab betrayed King David’s trust. Joab stabbed King david in the back so to speak by disclosing secret private information with which David entrusted Joab. When David instructed Joab to place Uriah in the thick of battle in order that he be killed, Joab complied and Uriah was killed but this infuriated the other officers. They assembled to kill Joab, for his responsibilities in the death of Uriah. He saved his life by showing them the letter which David sent through Uriah (Rashi) ordering his death. By disclosing this highly secret and embarrassing information, Joab brought David’s wrath upon himself. “shedding blood of war in a time of peace” can be interpreted in light that Abner the son of Ner and Amasathe son of Jether opposed David initially. Abner was aligned with Ish-Bosheth and Amasa with Absalom. Under those circumstances Joab had an opportunity to kill them in war, which would have been entirely justified. Instead he waited to kill them after they had made peace with David so that the blood which should have been shed in war was shed in peace. Joab killed them by trickery and deception befitting a coward. Amasa presumed he retrieved it soley to pick it up from the ground, and was not alert to guard himself against an attack from the sword which was in Joab’s hand (Rashi). To complete the deception Joab held the sword in his left hand and gripped Amasa’s beard with his right hand in order to kiss him. At his point Amasa was an easy victim to Joab’s trickery (Redak Sam II:20). instructed Solomon, “Do not let him die a natural death since this will minimize his worldly punishment and cause him to fall into purgatory for torturous purification (Rashi and Yalkut Shimoni). According to Sefer ha-zohar the phrase “with the sword” is connected to the earlier part of the verse... and I swore... with the sword. David’s sword was engraved with the name of G-d. When he wished to swear, he would draw his sword and swear by it. Alternatively, he swore not to slay Shimei by the sword because Shimei had humiliated him with words. Indeed, Benaiah the son of Jehojada slew Shimei by uttering the Name of G-d. Another interpretation brought down in Me’am Loez is that Joab let the blood of his victims splatter on his belt and shoes so that everyone would see that he had killed someone. Far from feeling remorse for what he had done, he was proud of it. It also can be understood to meant hat these sins stuck to him like a shoe or a belt. Not having repented there was nothing he could do to cleanse himself of his guilt. David did not use exactly the same words to refer to Shimei as he had when he spoke of Joab. Of Joab he said, “do not let him go down to the grave in old
age in peace.” Joab had violated the peace. The punishment that befit him was to be deprived of peace himself. But of Shimei he said, “you will cause him to go down to the grave in blood in his old age.” He deserved to die in blood because he had called David ‘the man of blood.’ Another reason that David specified that Shimei die in blood is that Shimei was a rebel. The Torah demands that one who rebels against the king be put to death by the sword. It is not permitted to execute him in any other way. But Joab was a murderer. Although a murderer is also supposed to be executed by the sword, if that cannot be done he must be executed by whatever means possible. It was Yoav’s breach of privacy rights, as well as his dastardly hypocritic cowardly act by dropping his dagger as if by accident by which the chief of the military bent down to pick up the weapon whereby Yoav grabbed David’s right hand military man by the beard and murdered him. Dovid deals out real politque justice at the end of his life in instructing his son Shlomo what to do to two enemies Yoav and Shimi ben Gera. Yoav’s evil was indeed a breach of privacy that risked destroying the state in the chaos of civil war. Ergo Dovid is without a doubt right to punish al pi ha Sanhedrin this breach of privacy by Yoav with the royal injunction:

Asher yeshe lazioni yirae, Elisaida ben avner laamitekha ben yiirah, Yom adah ivrit av shirei yirah, Yiaev ben arviha nivdua, Asher bircelim, Beirah, hitkim, midim milkem, binor leyach shemit kikdum, ivrim, ivrim, ivrim, milkem.

Elohim, haluktik, lo azterad shirbati beirah, midim, midim.

74 To ensure such terrible breaches of privacy is as relevant today as in ancient Israel, governments, businesses, and institutions need to become better aware of the rights of every individual to privacy, to the mischief and harm that can be created by its misuse and violation, and to practice ethical responsibility at every link in the communication chain, that is so fractured and made difficult in the post-modern Kafquesque increasingly bureaucratic and technocratic government. When law enforcement operates without checks and balances, when courts are stripped of their moderating influence, and when individual liberties and rights are subject to the whim of a fearful public. Does the new antiterrorism regime make us safer only create an illusion of security? Do the new technologies unleashed on the public help find and detain terrorists, or do they turn us all into suspects, and are actually employed by the technologically savvy terrorists themselves? The post Sept. 11th America needs to ask, what is the proper balance between allowing the government and police free reign to combat terrorism and ensuring our rights to privacy and the pursuit of happiness that Jewish history has documented are eroded when regimes become totalitarian.

II. The Sanctity of Hashem’s NAME and the sanctity of each Jewish name testifying to a Yiddishe neshama

The question of halakhah and privacy rights segways into our next topic “The Sanctity of Hashem’s Name” in the online environment and the question regarding erasing sacred texts from a computer screen (mechikat Shem Hashem) because in both separate cases halakhah seeks to safeguard and the dignity, respect, sanctity, and kedusha of each yiddisha neshama bitzelem Elokim. Since we are bitzelem Elokim, to erase or treat with casualness and contempt Hashem’s name is in some way to demean Hashem’s creation and creatures. Actions of casualness with Hashem’s name may lead to casualness in ethical treatment and relating to human beings in the name of Hashem. Ergo Richard Rubenstein has argued that when the Nazis murdered 1/3 of the Jewish population in the Holocaust they murdered
Hashem. Nazi book burnings set to flame precious Hebrew texts and sifrei torah with the tetragramaton. When books are burned and treated with contempt, people are often burned as in the ovens after gassing. There is a slippery slope that leads from casualness with regards to the name of Hashem to complete lack of safeguarding the rights of not only privacy, but in the case of the Nazis the right to exist. Whether we can transcend this abuse to Hashem’s name and Jewish names that testify to the presence of a Yiddishes neshama, by recalling the awesome words of Rabbi Teridyon, one of the 10 matyrs under Roman persecution, who was wrapped in a sefer torah with wet wool and lit on fire for a protacted death, who maintained complete peace of mind and composure while being combusted in the sefer torah and wool, counseling his Talmidim, “Yes the parchment is burning but the words are flying to heaven.” Black fire on white fire, in fire thru fire to be redeemed beyond fire, i.e. Yakov is a consuming fire of blue light, and Yosef a pure fire of white light, the letters flying to heaven. Esau representing gashmius is consumed like straw (Kikash) echoed in Haftorah Nachamu: “And he (Hashem) will blow this ash, with the fire of Yosef) to ash, and He (Hashem) will blow this ash, with the power of His Breadth (the 4 winds based on a sugya in Bavli) [across the globe to the ends of the earth]

What is the halakah regarding erasing sacred texts from a computer screen? Rationalists and mystics may arrive at different understandings. In this matter. While David Zvi Hoffman has shown that Rabbi Ishmael, author of the 13 hermeneutic principles of Rabbinic method was a rationalist and Rabbi Akiva who is the only one of the four who enters and exists safely into PaRDSee as testified in Maseket Haggigah 12b-14b, is a mystic.

Ramban who was both a Talmudist and Mikubal notes in hakadmah liitorah that if we are to understand the torah itself as the encryption of Hashem’s holy names, then to erase any one of the partzufim of Hashem’s name, regardless of its status on the computer screen or not some form of parchment or paper may constitute some form of violation. That the designation of the names of Hashem leading back to the tetragramaton has theurgic power is irrefutable. The significance of the power of The Name of Hashem theurgically is found in many Rabbinic texts. The Ramban understands the power of names, as when Moshe Rabbenu killed the Egyptian taskmaster with utterance of the yod key vav key according to the Midrash, or when Dovid HaMelekh before the giant Goliath says,
You come to me with spear and javelin, and I come to you with THE NAME of the L-rd of Hosts, the G-d of the armies of Israel which you have taunted (with the name of an idolatrous No-god)

“With the Name of Hashem” not only implies emunah and betachon in Hashem, but middah kineged middah as you taunted His Armies (with the name of your ineffectual NO-god which is just a stone and wood idol) Achtung, the name of Hashem is a klei milchamah (waifesnstuffer) al pi kabbalah that can effectuate by theurgic powers implied by the Mezudath Dovid & according to the Malbim. One sugya holds that of the four wheels of the merkavah of Hashem, according to Sefer Ha-Zohar VeEthakhanan the first wheel being Avraham, the second wheel Yitzak kimo Ari, the third wheel Yakov kimo Shor, and the fourth wheel Dovid Kimo Nesher, the spokes in the wheels are crossing so that Dovid and Yitzak are crossing perpendicular to Avraham and Yakov. Yitzak is associated with Kabbalah, as in the Rishon Yitzak the Blind and HaAri HaKodesh, Rabbi Isaac Luria, Dovid as a representative of Malchut at certain times needs Yitzak’s accumen in esoeter mysteries of Sod, in such moments as when confronting Goliath, and while the pebble from the stream miraculously finds its target guided by malakhim of Hashem to penetrate the forehead of Goliath, the place of the Tzitz or Hashem’s name, l’havdil on the Kohan Gadol. We do not have time nor world enough now to clarify thoroughly What the Ramban understands regarding the Torah as an encryption of Hashem’s names, permutations of the Parzufim. However every cheder child knows the midrash that at Shirat Hayam HaShem appears as Ish Milchamah while on Shavuot Hashem appears as an old man with a white flowing beard full of mercy, compassion, and graciousness. The atzilut of the sefirot during Sifrat HaOmer, every Cheder child knows, represent combinations of the hexagonal sheafa of the sefirot over 50 permutations. The first day is Hesed biHesed while the 25th day is Nezah biNezah, while the last day is not accidentally Malchut shePiMalchut, the day Dovid HaMelekh went upstairs to the Ebester’s heavenly court of Malachim, also coinciding with a motzi shabbos that fell out on Shavuos. Dovid all the days of his life gave thanks to Hashem for making it through each shabbos, by celebrating a malev Malkah, as the King was told that his birth and death day would coincide with Shabbos. Dovid in the Sefirot is associated with Malchut which are represented by the feet of Adom Rishon, whom Dovid received 70 years of life from. The crown, keter, of Adam Rishon in Rabbi Shlomo ibn Gabirol in Mikor Hayim (Fons Vital) is associated with the masculine and malchut the feet with the feminine i.e. the Shekhinah as the female manifestation of Hashem which for the Rambam will be enjoyed by the righteous in olam habah who bask in her light, and the crowns on the heads of the Tzadikim there (sham) are proportional to the hokmah, binah, vedasas gained in olam hazeh. According to a sugya the mysteries of the tetragramaton are only to be conveyed by Mikubalim to their talmidim once in seven years at a flowing body of water, preferably a waterfall (cataract), and only to a select few of initiates who can not only learn on their own, but have mastered all other exoteric and esoteric disciplines. Indeed for the Rambam the science of physics and its other accompanying science was was a prerequisite for ma’aseh bereshit, and metaphysics or training in nevua for ma’aseh hamerkavah, According to a Midrash under each Huppa at a Chasana, the Tree of Souls whose leaves are “shining names in Gan Eden” of ancestors descend and are present with each Hasan and Kallah under their wedding canopy whereby the stars, the eyes of angels, are visible, as they should be thru the sakho of a Sukkah, and when we greet the Ushpizim. Rabbi Yakov Emden in his pirush on the sidur notes that the moment in the Kabbalat Shabbat davoning when Keter unites with Malchut, as we read the anthologized snippet from Sefer HaZohar, was seen as a remez for mikubalim to engage in marital relations with their wives at midnight after Kabbalat Shabbat. After Maimonides (1135-1204) and subsequent refocusings of the Rivad of Posquieres who was...
related to Rabbi Isaac the Blind who possessed much IN(sight), a few decades later the Ramban’s understanding is even deeper and more complex regarding the Torah as an encryption of Hashem’s names, and more complicated than we have time for now, but as this relates to the sanctity of Hashem’s Name, and the permutations of those names, the question of erasing any form of Hashem’s name even from a computer screen may not be so pushet.

To turn now away from the methodological spokes of Yitzak and Dovid, let us focus on some rational halakha, the spokes of Avraham representing emunah and Yakov, notain emes liYakov. The question of mehikat shem Hashem is complex. The option of a geniza to protect Shemot is not possible for many electronic records. The computer screen however forces us to define what does and does not constitute writing? What appears to be writing on the screen is actually a vast array of tiny pixels’ or dots which are lit, forming character or picture desired and the concave cathode tube of a computer monitor, take this illumination through an electron beam guided by a magnetic field that is shot at the screen. When we see the characters on the screen, we are in essence seeing this glow of phosphorous, or liquid crystal, that is constantly refreshed and new technologies may change these current mechanics. Should we consider this electronic penmanship a form of writing whose erasure would constitute a problem of mehikat Hashem? Most posekim hold no, except with the case of downloading Hashem’s name to a hard drive or flash drive. The act of erasure on a computer, whether scrolling or at the interface constitutes preventing the word appearance from being relit. This liquid crystal display is being re-arranged thereby creating a physical representation of character writing but since no kavanah of a sofer is involved most posekim... do not hold the sanctity equivalent to old fashioned writing. The erasure of the computer image of hashem’s name is actually just stopping the renewal of a command to re-light the pixels the user appears to be erasing. Only the person who wrote the program could be liable for erasing Hashem’s name since machines have no free will or ability to make moral choices.

The issur to erase the name of Hashem comes from Devarim 12:2-3:

לֹּא תַעֲשֻׁן כֵּן לַיהוָּה אֱלֹּהֵיכֶם. "You shall not do so to the L-rd your G-d."

The Sifrei explains that we are enjoined not to rub out the name of G-d nor to break off any stones from the altar of the azara (beit hamikdash courtyard). Kal wa-homer how we must erase the name of Amalek.... symbolically enacted in sound when children shake the grogger in Megillas Esther being chanted etc. The Rambam defines the prohibition of lo ta’asum ken in Sefer HaMitzvot (Lo ta’aseh 65) as follows: One must not destroy the Beit HaMikdash or synagogues or beit Midrashot. Likewise one must not erase...
holy names. And one must not destroy the holy writings. As it is written, you shall surely destroy...." The Rema quotes the Mordekhai ruling like Rambam.88 The Maharik89 explains that like the Rambam the Rema builds off the Sifrei explaining: “for the beit hamidrash is called a lesser beit hamidkash (mikdash me’at ) and therefore it is prohibited to break any object of the beit hamidrash as is taught by Sifrei. For the Rambam the destruction of a shul or beit Midrash would be an issur de-ora’ita based on the Sefer HaMitzvot. Maseket Megillah forbids a shul to be sold to become a bathhouse, house of ill repute, or a tannery partly in fear of desecration. An interesting gemarah considers a sefer torah written by an apikoros. The Rambam writes in Hilkhoot Yesodei Ha-Torah 6:8, “It is forbidden to burn or destroy the Holy scriptures- including their explanations and commentaries…. When does this apply? Only to scriptures written by a Jew in sanctity and kavanah. However a sefer torah written by an apikoros must be burnt, including the names of G—d which appear therein since he does not believe in the sanctity of THE NAME and therefore did not write it with proper intention lishmah and teveling in a mikvah etc. Rather he thinks that it is mundane and since his belief is such, the name is not sanctified by the apikoros casualness. Ergo the lo ta’asum ken is an issur chaftiza, a prohibition pivoting around a physical object with a specific halakhi status i.e. a sefer Torah. L’havdil! The computer is not a Sefer Torah. Ergo the writing of a name of Hashem on the screen by the program of the computer programmer is not the same? Only physical objects that are technically sanctified carry a prohibition of destruction. A computer is not heaven forbid an object of reverence or worship. Ergo in Avodah Zarah Rabbi Akiva says he will enjoy the bath waters of a roman bathhouse where there is a statute of Aphrodite because he did not put the statue there and certainly would never bow to it. If the computer program written by a person who is not a yirat shamayim... could the image of Hashem’s name on the screen be likened in any way to a sefer written b an apikoros? The intent is not to degrade Hashem’s name and if one is with Ramban, holding all of the torah is an encryption of Hashem’s divine names, any of the majesty (Hod; Lag B’Omer corresponds to the Sefiratic combinations via Atzilut of HodSheBiHod) and other attributes associated with the encryption of the name as encoded messages of the secrets of Hashem’s creation as the symphony of life. Is there a possibility that the written name of Hashem has not sanctity? For the Ramban perhaps never. If there is no intention to directly write the Hebrew letters of the tetragramton because a computer has no free will or razon, and if the erasure of the pixels is for “non-destructive” purposes, the name not being written lishmah, then is it o.k. to scroll on the interface of a computer displaying the name of HAshem? Can the Shem Hashem ever be purposively written and yet lack lishma and thus lack kedusha? Does the medium of the computer screen interface that is regularly “erased” nor disposed of in shemos, automatically preclude sanctification of the The Name?

A computer is not heaven forbid an object of reverence or worship. Ergo in Avodah Zarah Rabbi Akiva says he will enjoy the bath waters of a roman bathhouse where there is a statute of Aphrodite because he did not put the statue there and certainly would never bow to it. An apikoros although he has knowledge is not a yirat Shamayim. לְרִישִׁלּוֹת מְלַאכְךָ בִּעֲלָה הָאָדָם עֵמֶק אֵת מָצָא מִלְפָּנֵי הַוָּדוֹד לַאֲפִיקָרוֹת שֶׁשְׁעַבֵּשׁ מִי זַה הָוָּדוֹד לַאֲפִיקָרוֹת שֶׁשְּׁעַבֵּשׁ מי זַה הָוָּדוֹד לַאֲפִיקָרוֹת שֶׁשְּׁעַבֵּשׁ מי זַה הָוָּדוֹד לַאֲפִיקָרוֹת שֶׁשְּׁעַבֵּשׁ מי זַה הָוָּדוֹד לַאֲפִיקָרוֹת שֶׁשְּׁעַבֵּשׁ מי זַה הָוָּדוֹד לַאֲפִיקָרוֹת שֶׁשְּׁעַבֵּשׁ מי זַה הָוָּדוֹד לַאֲפִיקָרוֹת שֶׁשְּׁעַבֵּשׁ מי זַה H

The Shakh (YD 276:12) however appears to poskin that if G-d’s name is written with inappropriate attention to its meaning or without intention to sanctify it can be erased and rewritten i.e. a name written by a non yirat shamyam computer programmer. The Peri Chadash (Machanaeh Efram, YD, Hilkhoot Sefer Torah) disagrees with the Shakh in favor of the Ramban’s mystical understanding arguing that any name is prohibited to erase. i.e. the prohibition of erosion of the online environment would be ouser. Rav Shlomo Kluger (Shenat Chayim, Hilkhoot Stam #5), the Noda Bi-Yehuda (YD #150, 1st edition), and the Yabi’a Omer (Rav Ovadia Yosef, Chief Sefardic Rabbi Eretz Yisrael) all follow the pesak of the Shakh.92 The Peri Chadash seems to be a minority opinion.93 Is this a spicing up his position with intimations of the understanding we have hinted at via an esoteric masorah through the Gerona cycle to the Ramban?
The majority view holds by the *Shakh*, that erasing a symbol from a computer program is not prohibited for the name on the screen, has no sanctity coterminous with the tetragramaton on parchment of a *Sefer Torah*, raising the question when and how does the text on the screen have sanctity? The *Shakh* clearly refers to the lack of “lishma” or intention to sanctify. If lack of lishma obviates any *issur* of erasure then a situation that lends itself to an intent of sanctity is no problem. Another reason for the “leniency” of the *Shakh* is that in the responsum of Rav *Yitzak Eichana Spector* (*Ein Yitzchak #5*) dealing with the issue of galleys in publishing, pages printed solely for the purposes of proof-reading he quotes *Megilla* 32a: *Rav Matna* said: The luchot and the podium do not have sanctity.” Some Rishonim understand *luchot* as referring to the blank margins of a *Sefer Torah*. However the *Rambam* (*Hilkhot Sefer Torah 10:4*) and the *Mordekhai* maintain that it means chalkboards used to teach children, found as early as before the 1st temple in the time of the *Shaftim*, in the *Gezer calendar inscription* resembling Koheleth’s style of a *time for this and that*. Rav Spector seeks to prove from this that if there is not positive intent for permanent writing, then this renders the writing of the school child devoid of sanctity. ERGO the ruling could apply to a computer screen? There are *poskim* however that hold that the writing on chalkboards of school children, although not permanent, does have sanctity.

In these exploration on the prohibition or permission to erase the name of *Hashem* on a computer screen, I would suggest to you that the position of the *Shakh* and his followers (is *Rav Shlomo Kluger* (*Shenot Chayim, Hilkhot Stam #5*), the *Noda Bi-Yehuda* (*YD #150*, 1st edition), and the *Yabi’a Omer*) not coterminous with the esoteric understanding of the *Ramban* and later the *Pri Chadash*. If the torah is indeed the encryption of *Hashem*’s divine names, encoded as secrets to be deciphered by methodologies of atbash, gematria, and notricon, then indeed reverence for a name of *Hashem* and its permutations (Tzurofot) would have sanctity and it is this esoteric insight that the Remak, Rabbi Moshe Cordevero in Safed, has when he writes, “There is nothing outside of Torah as the permutation of his names, not even the nothing (ayin), for all of reality stems ultimately from siva rishona, a euphemism for *Hashem*, who put in motion the process of life, when first consulting his myriad angelic court, *Na’asei Adam B’Tzelmanu KiDemutainu*. Even above Keter is ayn sof, and above ayn sof, still higher Asifa from which yesh miayin comes, and resides the protecting malakh *amtulta* (bat Karnivo) who tips the scales of justice in one’s favor. The secular analogue of interest in “nothingness” found In what t is called in Greek science methodology to Wallace Stevens’ poem, *The Snowman*. The Maggid of Mezritch writes of nothingness, *Ayin*, in illuminating, “nothing can simply change from one reality into another without first attaining the leveolif Nothingness. An egg must first cease to exist as an egg before the chick can come forth from it. So it is with everything in the world. Even miracles that seem to alter the natural order must first bring nature itself into the Nothingness. Only then can the miracle sprout forth.” The Maggid of Mezritch comments on yesh miAyin when writing, “The work of the pious is greater than the creation of the heavens and the earth. For while the creation of the heavens and the earth was making something from Nothing, the pious transform something into Nothing. Through everything that they do, even with mundane acts like eating, they raise the holy sparks which are within the food back to heaven. And thus with everything we realize that they transform something into Nothing.”

**III. Filters for Censoring out “pritzus, violence, toava”, and shtius.**

Pritzus is the degradation of the human being to a means only to an idlaters own selfish needs [“under every leafy tree], an IT relationship, that *mivzels* a persons’ dignity, respect, and being in the image of Hashem. All human beings in the image of G-d must as a moral imperative (sollen und mussen) be treated as a Kingdom of ends rather than a means only according ethical teachings. Viewing pritzus is a violation of modesty and middot tovot. Intimacy
may be an expression of spirituality, great love, devotion, kindness, respect, and mutual admiration. On the flip side this great potential for godliness can be degraded and from such heights the opposite potential is for ultimate degradation. The question of viewing acts of intimacy via technological means is problematic for halakhic Jews based on notions of privacy and the dignity of the human being as potentially in the image of Hashem. Pornography degrades a human being into an It relationship whereby a hillel hashem amounts.

The Torah shows great respect for visual privacy as when in Bereshit 3:7 we are made aware that Adam and Eve “perceived that they were naked and they sewed together fig leaves and made themselves loincloths.” Later in Bereshit 9:20-27 the account of Noah is relayed where Noah got drunk in his tent. Ham, father of Canaan, saw his father’s nakedness and told his brothers, Shem and Yefet, who took a cloth and walked backwards, covering Noah’s nakedness without looking. According to Midrahs Rabbah on this pusek, Ham sodomized Noah and this is condemned as great perversion, toava hi, abomination, cruelty, and radically evil act on the part of Ham. When Noah woke up, he cursed Canaan and blessed Shem and Yefet. The Torah clearly maintains the importance of visual privacy and condemns those who violate that. In the mishnah the right to visual privacy gives right to the halakhic principle of nezek r’iyah, or damages caused by looking. The mishnah states:

“in a common courtyard a person should not open a door opposite a door and a window opposite a window.”

The gemarah learns this principle from Balaam. Balaam saw Israel dwelling according to tribes, after which he exclaimed, “How goodly are your tents, O Jacob, your dwelling place O Israel!” Balaam according to Rabbinic interpretation saw that the Jewish tent openings did not face each other. He said these are worthy of G-d’s presence to rest upon them.

Rabbi Yosef Karo in the Shulchan Arukh brings down that it is forbidden for one to stand at one’s window and look into a neighbor’s courtyard “lest he harm him by looking.” If a poloni almoni (a person) wants to open a window into a common courtyard, another person can prevent it, and if poloni almoni opens the window, the other person can block it up. In the 13th century a case came before the Rashba (Rabbi Solomon ben Adret, a contemporary of Ramban and Rabbi Nissim ben Gerondi (Ran)). The case involved a potential invasion of privacy by a person planning to build a house adjoining a neighbor’s house. The neighbor sought a permanent injunction to restrain the house builder from ever constructing windows facing his windows, in keeping with the traditional ban on doors facing a neighbors’ doors. Rabbi Solomon ruled that since the Yerushalmi forbids such doors, the same ban must apply to windows, whether actual or potential.

IV halakhah and copyright:

What is the halakhic basis for a statement: “All rights reserved: Copying prohibited by halakha and law,” on audio-cassettes, books and compact disks. and how far reaching is halakhic copyright law? The technical ease with which books, software, and audiocassettes can now be almost identically reproduced drastically sharpens the practical side of these questions. The importance of citing sources is usually derived from Pirke Avot 6:6 and Megilas Esther. In P.A. we learn:
Further in Megilas Esther we recall in Megillah 15a in name of R’Chanina explicating Esther 2:22 כב וַיִּדְעָה הַדָּבָּר לְמָרְדֳּכַּי, וַיָּגְדֶל לְאֶסְתֵּר הַמַּלְכָּה; וְתֹאֲמֶר אֶּסְתֵּר לַמֶּלֶךְ, בְּשֵם מָרְדֳּכָּי.

That the matter was known by Mordechai who told it to Queen Esther, and Esther informed the king in Mordecahis’ name. The plotters spoke in their native Tarsian tongue, not expecting Mordecahi the Jew to understand them (Megillah 13b). There is a question that if we were to be truly honest there is more chance of being hit by a meteorite than saying anything or writing anything new, especially in the context, of a sacred text like the Tanakh that has undergone over 3000 of continuous and continuing commentary. Ergo even the seemingly most innovative Hiddushim may have been thought in the past. But one who stealthily places himself behind a scholar and then goes and teaches [the scholar’s] lesson, even though he is called a thief, acquires merit for himself, as it is said ‘They do not despise a thief….’ In the end he will be appointed an official over the community and will bring merit upon the multitude and merit upon himself ( zokheh le-atsmo ).

Four models of copyright protection appear in the sources regarding the halakhic principles of:

1. **Hasagat gevul** -- unfair competition

2. **Haskamot** -- approbations;

3. **Dina d’malkhuta dina** -- secular law;

4. **Shiur b’kinyan** -- withholding the right to copy.

1. Unfair competition (**Hasagat gevul**). Talmudic sources relating to competition are quoted by the halakhic authorities as prooftexts for copyright issues, especially the fear that someone else will copy an author or publisher’s work and start marketing it, depriving the original producer or publisher of the profits. One source (on Bava Batra 21b) forbids other fishermen from trapping a fish that a fisherman has staked out and is trying to attract to his own net:

   “[Other] fishermen’s nets should be kept away from a fish [that one fisherman is trying to attract to his net]. [They should keep their nets] the distance that a fish swims. How far is that? Rabba son of Rav Huna says: A parsah.”

   This and similar sources were applied by the Chatam Sofer (Responsa, Choshen Mishpat #79) to publishing. The original publisher is like the first fisherman doing all the tedious work involved in authoring a work and/or taking it to press and expecting thereby to profit from his efforts and heavy financial investment. Another who copies it and sells the product himself is like the other fishermen who are prohibited to take away the results of the first fisherman’s labors. For example the first fisherman staking out the waters will spend time looking for areas that have proven good places for locating schools of fish in the past, and factor in weather conditions, etc. This first fisherman will bait the waters with “chum (ground up fish food) that attracts the schools of fish to swim towards the areas where nets can be set. By investing this time and effort to stake out promising waters, to purchase the bait and disseminate it carefully into the waters to attract the fish for the nets later to be set, the first fisherman should not be intruded upon by other fishermen who “piggy back” on his initial efforts. This is analogous to some extent to the person who piggy bags on anothers’ Wi-Fi unsecured signals without authorization or permission to access to a computer network when contracted by others potentiall harming the network and damging the others
data, but also diminishing the bandwidth which can effect speed of connection for the paying subscriber, ergo constituting a form of geneiva. This may constitute NEHENE MI’PE’ULAT CHAVEIRO is benefiting from another persons’ toil for personal gain either monetary or tovat hana’ah.

2. Haskamot116 – approbations

Historically, the most common method of insuring copyright has been for publishers of a book to procure a letter of approbation from widely respected rabbinic authorities. The rabbi writes a letter that not only praises the virtues of the work to the stars, (either a new book or a printing of an old manuscript) but prohibits the reprinting of the book for an extended period of time. The publishers are thus given enough time to safely print and reprint their book in order to cover their costs and hopefully profit. The mechanism of the prohibition is a written herem (excommunication ban) applied to anyone who infringes on the publisher’s copyright. Here is a common example of a haskama given by Rav Yosef Shmuel of Krakow, Rav of Frankfurt on Rav Yosef Bachrach’s Chavot Yair):

“The high costs of printing are well known, and the Rav -- the author has invested a great amount of effort. If by some small chance a man (whoever he be) who did not put in the effort would like to take his portion of it and print it himself, the Rav will incur a great loss. Is this the reward of of his Torah? Therefore we decree, invoking the ban of excommunication for the transgressor, that no man should lift up his hands to reprint this book for a period of ten years after this printing. This applies whether the transgressor does it himself, through another, or through any other means. It will be pleasant for those who listen to our words. Writing for the honor of Torah and its students . . . Yosef Shmuel of Krakow . . . .”117

The Chatam Sofer (in the responsum quoted above) dates the spread of this custom to an episode in the 1600s that become the subject of a famous responsum by Rav Moshe Isserlis, the Rema. The Maharam Padua in Italy selected through manuscripts of the Rambam’s Mishneh Torah and arrived at an edition that was free of textual errors. [The GRA was also in search of a Shas free of textual differences and in fact left Vilna to find various ms. For comparison.] There were two non-Jewish printers in The Maharam of Padua’s city, and the Rav hired one of them to publish his Rambam. The other was jealous and printed his own competing edition and issue of Rambam. The Rema (in a responsum that also formulates his position on the seven Noachide laws) ruled that Jews were forbidden to buy the competing Rambam in order to protect the Maharam Padua from the illegal copyright infraction of the competing publisher. This became the accepted way of protecting copyright in the world of Jewish publishing. The Chatam Sofer defended the usefulness of this method – “a ban pronounced in print is binding,” he said, and “it strengthens the existing transgression of depriving another of their livelihood.” Most of the time the ban was pronounced against publishers but occasionally, as in the Rema’s case, also against purchasers.118

3. Dina d’malkhuta dina -- secular law

Copyright laws protecting intellectual property have become part of most modern legal systems. These seem to also be binding halakhically, based on a rule formulated in the talmud (Bava Kamma 113a, among other places) by the amora Shmuel: “Dina d’malkhuta dina: the law of the government is binding law.”

'Samuel said: The law of the State is law.’ Said Raba: You can prove this from the fact that the authorities fell palm-trees [without the consent of the owners] and construct bridges [with them] and we nevertheless make use of them by passing over them. But Abaye said to him: This is so perhaps because the proprietors have meanwhile abandoned their right in them. He, however, said to him: If the rulings of the State had not the force of law, why should the proprietors abandon their right? Still, as the officers do not fully carry out the instructions of the ruler,
since the ruler orders them to go and fell the trees from each valley [in equal proportion], and they come and fell them from one particular valley, [why then do we make use of the bridges which are thus constructed from misappropriated timber?] — The agent of the ruler is like the ruler himself and can not be troubled [to arrange the felling in equal proportion], and it is the proprietors who bring this loss on themselves, since it was for them to have obtained contributions from the owners of all the valleys and handed over [the] money [to defray the public expenditure]. ... Raba proclaimed or as others say, R. Huna: [Let it be known to those] who go up to the Land of Israel and who come down from Babylonia that if a son of Israel knows some evidence for the benefit of a heathen, and without being called upon [by him] goes into a heathen court of law and bears testimony against a fellow Israelite he deserves to have a Shamta pronounced against hi. From this we learn that one should not take a fellow Jew to a heathen secular court or pursue a matter between 2 Jews in a non-Jewish court. 119

Other related terms to Dina d’malkhuta dina i.e. requirement by J. law that a Jew obey laws of land in which resides are: Minhag beney hair : obligation to follow accepted customs and norms of group in regards to what constitutes proper behavior accepted practice; Minhag hamedina : local custom included in minhag beney hair ; Minhag haumanim : accepted practice among professionals

Applying the rule of dina d’malkhuta dina is dependent on expanding the scope of dina d’malkhuta dina outside of the realm of taxation, against an approach held by some of the rishonim. The Shach proves that the weight of opinion is against the limiting approach. He strongly assumes another limitation – “that secular civil law is only binding when it does not contradict Torah law.” Following the Shach’s approach here would require determining whether there are any points of divergence between halakha and, l’havdil, secular copyright law -- also among halakhically observant Jews -- in almost all realms of societal, cultural and business life in the non-Jewish world. The issue is further compounded in modern day Israel where a Jewish government works with a legal system not based strictly on halakha except in certain restricted areas although the Rambam and many authoritative rabbis hold that biyamei hamashiah the midinat Yisrael will be a Torah state governed as a theocracy. 121

The Abarbanel who holds that the pusek “the wolf will dwell with the lamb” implies a change in animal nature and the Rambam holds that the lambs are metaphorically the Jews and the wolfs the other nations that persecute the Jews. 122 Abarbanel also differs with the Rambam regards to the place of miracles in the days of the messiah, the Rambam holding the world will continue according to the laws of nature that Hashem encoded in the symphony of creation and that scientists can map be reducing physical phenomena to numerical formulas such as spatial relationships in Euclidean geometry, laws of entropy, laws of thermodynamics, laws of gravity, theory of relativity etc. The Rambam cites a gemarah in the name of Shmuel that there is no difference between the current age and the Messianic era except the emancipation from our subjugation to the gentile Kingdoms. In that day the one preoccupation of the world will be to know Hashem.

4. Shiur b’kinyan -- withholding the right to copy. Another halakhic mechanism for protecting copyright has been suggested by Rav Zalman Nechemia Goldberg shlita of the Jerusalem Rabbinical Court. The producer of a work, when he sells his product, restricts the acquisition of the purchaser with regards to reproducing the work. He sells everything about the book, tape, or software except for the right to copy it. If the purchaser then copies the work he has stolen it, for he does not own rights to copy it; he has illegally used something that does not belong to him. The talmudic precedent appears on Bava Metzia 78b:

“Rabbi Shimon son of Elazar says in the name of Rabbi Meir: If one gives a coin to a poor man in order to buy a cloak he cannot buy a tallit, because he goes against the intention of the owner (giver) . . . . and anyone who goes against the intention of the owner is called a thief.”Calling the poor man a thief implies that he took something owned by the giver unlawfully.
Rav Zalman Nechemia explains that the owner does not give over all of the coin to the poor man. He holds back for himself the right to restrict the poor man from buying anything other than a cloak. When the poor man buys a tallit he unlawfully uses the giver’s coin. Similarly, the publisher of a book or producer of a cassette or software can expressly hold back the right to copy from the purchaser.  

While this section is focused on concrete cases from Jewish law, philosophical ethical and epistemological questions are ultimately at stake in answering thoughtfully, “why should once cite sources and avoid plagerism?”. A meditative rif on why one should cite sources from the view of Marx, Kant, & The Rambam could be provided but might best serve as a separate paper unto itself for raising the difference between obeying copyright law out of utilitarian ethics (most common), Platonic ethics, Aristotelian ethics, or deontological ethics. Perhaps AJL will allow me to offer the arguments from the philosophic positions why copyright law is even an issue within the realm of ethics and epistemology for that matter.

Conclusion:
I hope to show that age old halakhic categories are being applied to analyze and evaluate the moral component of technological invasion as it relates to the issues of the privacy of emails, to erase or not to erase the name of Hashem on a computer screen, filters for pritzus and shtius, and copyright. Thank you for your attention, and thank you to AJL for accepting this paper for presentation, the longer more complete power point version which hopefully (IY”H) will appear in the upcoming proceedings.

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1 Korah, the upcoming parasha for this Montreal AJL convention, involves the dangerous, disrespectful, and overly ambitious attempt of Korah to leverage the authority of Moshe and Aaron, by claiming the whole congregation, is holy etc. It is not my attempt at all to poskin halakhah in this paper but rather to gather some halakhic views of Gedolim as these relate to important ethical concerns of the online environment. Let us recall the Gedolim of the likes of R. Hayyim Ozer Grodzinski and Rav Soloveitchik, whose halakhic expertise, virtuosity, and agility make clearly living in a galaxy made out of substance more precious than diamonds. The Rav’s hesped for R. Hayyim Ozer (Nosei HaTzitz VeHahoshen,” in Divrei Hagut, p. 187-194, reveal that R. Hayyim Ozer holds that “the individual qualified to decide technical legal questions should also have authority over public political and policy decisions. The Rav is presenting R. Grodzinski’s position and not his own, and the Rav even emphasizes that other apologists have tried to dress up R. Grodizinski as more modern than he really was, and the Rav has no intention of following in their footsteps. See: Kaplan, Lawrence, “Revisionism and the Rav: The Struggle for the Soul of Modern Orthodoxy,” Judaism 48:3 (199): 302ff.

2 Obviously Hashem knows all that we do and ergo there is no privacy from Hashem’s omniscience: Hashem is a seeing Eye and a Hearing ear, and all deeds recorded. Why does halakha affirms privacy rights? safeguarding the dignity and rights of individuals who should not be exposed to potentially embarrassing or disturbing matters, and embarrassing someone in public in Jewish law is considered a major violation, that if this destroys someone’s “good name” is likened to a form of “murder. See: Tosofos Yom Tov in framework of middah kineged midah, on P.A. Chofetz Chaim rules that by telling over even seemingly innocuous contents, one may inadvertently cause harm or distress to the writer, and therefore it should not be done. Writing is worse than speaking. If in speaking it is oser according to the Chofetz Chaim to speak Lashon harah , and kal wa-homer it is an issur to speak motzi shem rah (slander and libel) minor ad majoris in writing down these stricture apply all the more so Shemirat Halashon, Lashon Hara, kellal 2, note 27. See also Be’er Ma’im Chaim No. 27.; mi’dvar sheker tirchak;
The psychological sin of lashon harah and motzi shem rah as a psychological neurosis, where the maligner wants to maliciously build up his own fragile ego by viciously tearing others down, by lashing out, often out of paranoia, with hurtful words from motivations like ayn hanah. Unless those who have uttered mean, arrogant, and damaging lashon harah or motzi shem rah should apologize and issue new statements making it clear they the sinned against the person they damaged although the Chofetz Chaim considers these sins as irreversibly damaging likening evil speech to the metaphor of feathers of a feather pillow which can never can be recollected again, therefore a type of murder. Midah kineged midah the Chofetz Chaim notes that mean destructive words not only irreversibly damage the person, but destroy the moral fiber of the Macbeth like speaker, who arrives at moral nihilism.... “all signifies nothing”, destined for damning judgment. If the Jewish community is to be intellectually vibrant, compassionate, caring, and attain spiritual growth to achieve holiness, it needs to conduct lives in the spirit of humility, respect, justice, truth, kindness, and to eliminate lashon harah. A proper religious worldview is achieved when we can balance our love of the community, Israel, and humanity with our love and concern for our fellow individual human beings biTzelem Elokim. In commenting on Bahar-BiHukati “Freedom does not mean license, rather it entails proper philosophy of life and a righteous regimen of living ethically (p. 123).” It is not possible to be religious if one is not honest, kind, compassionate, and considerate of fellow human beings..... If a person observes Shabbat but is dishonest and disrespectful and cruel- such a person is surely not an exemplar of Judaism. On parasha Beha’alotecha, the parasha Miriam dies and in which Aaron’s act furthers love and harmony fighting against the darkness of evil in olam hazeh by lighting the menorah of the soul, the Chofetz chaim notes that when you raise up” by relating the act of the menorah to playing a role in improving oneself by eradicating sins like lashon harah, one improves the Jewish community through tzedakah and disseminating Torah wisdom, improving the world by being a Kiddush Hashem. On parasha Korah which illustrates Midah kNeged Midah, the moral thrust of this teaching is found in referencing Sotah 8b “the heavenly court deals with us by the exact same standards that we use to deal with others. If we are kind and compassionate, we can expect to be judged by G-d with kindness and compassion. If we are cruel and unfairly critica, of others i.e. speakers of lashon harah, we can expect the Heavenly court to deal with us with the same qualities that we have shown to others. By striving for standards of honesty, fairness, compassion, integrity, moral fiber, and strength of character we can find the balance between truth associated with Moses and compassion associated with Aaron, and thereby tilt humanity in the right direction.


5 When Saul declared a cherem against any solider eating while in the Jewish army was engaged in battle, his own son Yonatan unaware of the cherem, tasted some honey and Saul was prepared to put Yonatan to death, yet contradictorily Saul did not kill an Amalekite enemy like Agag. Shmuel hacks Agag to death stating just as you mercilessly made women childless and mercilessly slaughtered the vulnerable old person so your mother will be made childless. As a leader one must be cruel to be kind for Shaul’s allowing Agag to live one extra day allowed the merciless mass murderer to father a child that later became haman, yimach shemo who threatened Judeocide which was thwarted by the righteousness of Esther. Dovid Hamelekh infact regreted that he was merciful to an enemy in Shimi ben Gera. We read: וָּאֶּשָּבַּע לוֹ בַּיהוָּה לֵאמֹר מִבַּ יָּרַּד לִקְרָּאֵתִי אֲמִיתְךָּ בֶּחָּרֶּב אֶתְּהָא כִּי אִיש חָּכָּם וְהִנֵה עִמְךָּ שִמְעִי בֶּן גֵרָּא בֶּן כִּי עִדְּרָא לְגַנֵּב וַיִּהְבֶּרֶץ לִבָּה לָא מַתְסִס אַמְיַמִּיר בֶּת׃ שִׁמְעֵי שִׁמְעֵי בֶּן גֵרָּא בֶּן נִשְׁאֹר יִשָּׁבֵעַ נַשְׁמָה לֵאמֶר רִנְבּוֹ הָיָה אֶל-גֹּנְבָה יִשָּׁפֶט בֶּן-שִׁבְיָתָא בֶּן-שַׁלֹא

6 While Marxists argue that privacy is a “bourgeois value” that has an ecromatic history In the history of the West, the importance of discretion and privacy actually is much more ancient. The Midrash Rabbah interprets the serpent/satan as a voyeur of Adam and Hava. B. Yosef was careful not to have anyone outside his family by privy to the tension that existed between brothers. Da’at Zeenim explains his thinking – why let Mitzreim know that there had been bad blood between the brothers, for the Egyptians would be hosts to the brothers and their descendents and this pejorative info could hurt the Jews in the long run. Clearly halakhah considers that whenever possible a person’s private matters be guarded from enemies. C. Aharon’s dignity is preserved when the torah is publically layned the verses relating to the sin of the Egel haZahav are not to be translated aloud so as not to embarrass
Aharon HaKohen. D. King David censors Yoav for violating privacy rights and causing civil war and chaos in ancient Israelite state in Bathesheva affair. E. Jezebel in stealing Naboth’s vineyard violated the privacy rights of Naboth by having Naboth and his sons put to death by false witnesses constituting not only slander, libel, perjury, and murder but violation of the private rights of Naboth to keep his ancestral estate (shitei ahuza) within his private family relationships.

7 I:50. The Aruch Hashulchan Yoreh Deah 334:20 expresses his ambivalence whether it is permitted to read a postcard addressed to someone else. Apparently he feels that possibly the cherem protects the privacy not just of the author but also of the recipient.

8 Chikekei Lev 1:49.

9 Shemirat Halashon, Lashon Hara, kellal 2, note 27. See also Be’er Ma’im Chaim No. 27.

10 We identify the impurity of tsara’at attributed to Miriam, for the sin of lashon haRa, which Talmud tractates Arakhin 15b and Avodah Zarah likens to idolatry, adultery, and murder. Angel considers the lashon ha-rah that plagues the Jewish community, and warranted Miriam to be stricken [at har Pisgah, also where she later dies], after she spoke evil about her brother. She insinuated that Tziporah was not good enough for Moshe, cast disgust at Tziporah being a Kushi (black), and she criticized Moshe’s “marrying down.” If the Jewish community is to be intellectually vibrant, compassionate, caring, attain spiritual growth to achieve holiness, it needs to conduct lives in the spirit of humility, respect, justice, truth, kindness, striving for honesty, fairness, compassion, integrity, moral fiber, & strength of character. “If a person observes Shabbat but is dishonest, disrespectful and cruel—such a person is surely not an exemplar of Judaism. On parasha Beha’alotecha, the parasha Miriam dies, Aaron’s act furthers love and harmony fighting against the darkness of evil by lighting the moral menorah of the neshama, Angel teaches “when you raise up” improving oneself by eradicating sins like lashon harah, one makes a Tikkun, dispelling darkness, by being a Kiddush Hashem. Miriam died at the place where she spoke lashon harah against Moshe and disparaged Tziporah, and the dynamics of this operate within the framework of middah kineged middah.

11 Shabbat 96b

12 See Kohelet 10:8

13 See J.D. Bleich in Tradition, vol. 16, no. 3 p.119 ad loc. Article by Rabbi Chaim David HaLevy (chief Rabbi Tel Aviv) in the Adar and Tammuz issues of Shma’atin 5736 as expressing the same opposition incorporated by Rabbi Dovid HaLevy in Aseh Lecha Rav, part I, 42. Obviously only a qualified Beit Din can permit a step of the magnitude of putting aside a cherem; Cohen, Alfred S. “Cherem Rabbenu Gershom” in Journal of Halacha and Contemporary Society 55, (2008), 99-127

14 Even Haezer 1:10. Rabbis specify that their decrees do not always apply in cases of great pain or monetary loss.

15 Ramo, Even Haezer 1:10; Yet Ramo concedes (yesh omrim) that there are those who do not agree but maintain that the cherem of Rabbenu Gershom applies regardless even for performance of a mitzvah. also see Maharik, shoresh 91 and 102; According to Ein Yitzchak (II:57) we follow the first ruling that mitzvah fulfillment, the cherem may at times be abrogated. The application of this is that if one assume that Rabbenu Gershom did not institute the cherem in a situation that would lead to violation fo amitzvah, then the parent would be permitted to read mail of a young person for whom he is responsible. See J.D. Bleich in Tradition, vol. 16, no. 3 p.119 ad loc. Article by Rabbi Chaim David HALevy (chief Rabbi Tel Aviv) in the Adar and Tammuz issues of Shma’atin 5736 as expressing the same opinion incorporated by Rabbi Dovid HALevy in Aseh Lecha Rav, part I, 42. Obviously only a qualified Beit Din can permit a step of the magnitude of putting aside a cherem.

16 Pitchei Teshuva Even Haezer 1:16

17 Yoreh Deah 49. The context concerns someone who has in his possession a closed letter sent by a person who he fears is out to harm him, and the question was whether he could read the letter to protect himself. According to Moed Katon, “if a thief be found breaking in” a homeowner would be permitted to kill the intruder if the intruder’s intentions were unknown (the sun had not risen on the tunneler) but if the thief came only to steal and not kill then killing the trespasser is oser.

18 Berachot 62a

19 Ibid. Berachot 62a Ben Azzai had been taught sex laws by his teacher yet he wanted visual directives. Ben Azzai when he entered Pardes cut the shoots.
and the stars (light giving heavenly bodies), are not hung up in the firmament which
25
Isadore Twerski (ztzl) that Rambam’s Moreh Nevukhim is an esoteric work while the MT. is the exot
Yerushalmi, Midrashim, Targumim, etc. and an esoteric exegesis reserved orally for the elite few. Strauss holds
Halperin’s thesis that there are two
stress its confidential and wondrous nature, and the hazard for the premature as in the arba sheniknasu biPaRDeS
את
כהנים
מעשה
( en maftirin hammerkavah ).” We read:

except under special circumstances, and according to Megillah 4:10 it may not be used a derasha in the synagogue
of this esoteric subject, for accord
gemara to this mishneh in Yerushalmi (Hag. 77a
בא
אין
angeology, sitre Torah as contradiction of torah, etc. is forbidden in oral law . Mishneh Hagigah 2:1 reads, " The subject of the merkavah found in M. Hag. 2:1 is found futher in Tosefta (T. Hag. 2:1-7) and in the gemara to this mishneh in Yeuruhalmi (Hag. 77a-d) and in Bavli (Hag. 1 1b-16a). These texts presume the dangers of this esoteric subject, for according to M. Hag. 2:1 merkavah may not be expounded ( en doresin hamerkavah ) except under special circumstances, and according to Megillah 4:10 it may not be used a derasha in the synagogue ( en maftirin hamerkavah ).” We read: ד
רַק כָּרְכֵּי מַסְכָּל מַסְכָּל נְאָפִי בֵּית הָגִיגָה מַשָּׁמֶה קְנָה לְגַם הָגִיגָה לְגַם לְגַם לְגַם לְגַם לְגַם לְגַם לְגַם לְגַם לְגַם L אֲבַרְכוֹת בְּרָאוֹת עִלּוּמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָמָה מַעְלָm


26 See Moreh Nevukhim II 3-12; Unlike the Sadducees denial of the existence of angels, the Essenes like the Pharisees believed in angels. Fragments from Enoch and Jubilees have been found and these works are sources of
The Songs of the Sabbath Sacrifice (4Q400-407, 11Q17, Mas1k) is fully developed angelology. Temple Scroll (11Q19) on the other hand does not mention angels at all. A few pesharim use an angelic lexicon (Q174, 4Q177, 4Q182, 11Q13) whereas others do not. Allusion to the Nephilim in Bereshit 6:2 is made in the Damascus Document when reference is made to “the watchers of heaven who fell”. The allusion to the misadventures of the sons of G-d in Gen. 6:2 becomes the locus classicus for belief in evil angels. In the Book of Enoch the specific names of angels are given. This may beg comparison with Maseket Haggighah 12b-14b where angels such as the barakim, hashmalim (see Ps. 104:4), etc. are described. Jewish texts of the Greco-Roman time add detail to the traditions of angels found in the Tanakh (Jubilees 2:2; Ben Sira 16:26-30). In Enoch III angels have a hierarchical serving order in relation to G-d, each designated with a sphere of authority. Mention is made of Uriel, Raphael, Peniel, Metatron (not to be pronounced), and many others (I Enoch; Tobit; IV Ezra). Exceptional persons like Enoch, Elijah, and Serach bat Asher are elevated to angelic status (I Enoch; Zohar : 100a, 129b; T.Z. Hakdamah 16b). For the Qumran sect angels are divided into two camps in accordance with their proclivity to dualism. Angels of light and angles of darkness are illuminated in The War Scroll and The Manual of Discipline. The concept of fallen angels appears in the pseudepigraphic writings (I Enoch 6, from the section called, Book of the Watchers. It can be argued that this theological dualism of the concept of fallen angels becomes a major motif in Christianity. Starting in late antiquity including Beit Sheni inter-testamental period, angels are increasingly related to and seen as part of everyday life of persons and the functioning of the world. Thus the Dead Sea Scroll sect evokes the protective properties of specific angels. This later plays itself out perhaps in the appearance of amulets, magical inscriptions, and formulaic equations. Josephus notes the Essene practice of keeping angelic names secret (The Jewish War 2:142). Angels in Qumran texts serve functions of ruling over nature, serving G-d, watching over the tree of knowledge, etc. Dead Sea Scroll texts are rich in angelic terms derived from combinations with the words El (G-d) or Elim; for example the War Scroll (1QMx.8). The phrase “holy ones” are also employed who appear at G-d’s side to destroy the sons of darkness (IQM i.16). Holy ones takes on double meanings asdoes ruah. “And a perverted spirit you purified from great violation, so that it might stand in rank with the host of holy ones, and so that it might come together with the congregation of the son’s of heaven. And you cast for man an eternal lot with the spirits of knowledge (1QHa ix [i]). Spirit like holy one can designate in the same context angels and human beings. Some scrolls refer to angels as “spirits of knowledge” (Elei da’at). The Dead Sea Scrolls also use the term “prince” or commander (sar). We must however be wary of systemitize Dead Sea Scroll angelology, for the “Prince of light” in the Rule of the Community from Qumran Cave 1 need not be the archangel Michael or Uriel. The Melchizedek scroll (11Q13) places Melchizedek in opposition to Belial (the evil one) and his angels. Melchizedek is a savior figure for the end of time. The Genesis Apocryphon (1QapGen) speculates whether the appearance of the newborn Noah is a sigh that his parents are indeed the watchers (angels who descended according to 1 Enoch). The three angels at Mamre hosted by Avraham as seen as angels in the Ages of Creation (4Q180). The dualism of the Sectarians influences their communion with angels. The sons of light and the sons of darkness are allotted to the principal angelic Princes of Light and Princes of Darkness. The dualistic division of humankind is formulated in the Treatise on the Two Spirits now part of 1QRule of the Community (1QS iii.13-iv.26). A future battle of the prince of light with the sons of light against the forces of darkness is a dualistic impulse. The War Scroll develops the eschatological battle against Belial and his angels (1QM i.10-11, ix. 14-16, xii. 1-9). We are told that for the ultimate battle the names of the archangels will be written on the shields of the towers (1QM ix. 14-16). Certain people are banned from the camp because “for the angles of holiness are in the camp, together with their hosts (1QM vii.6 ). The communion of the members of the Qumran commune with the angels is an explanation for the function of the Songs of the Sabbath Sacrifice (4Q400-407). Angels are not only involved with the fulfillment of liturgical and eschatological tasks but struggle for the future of individuals as in the Visions of Amram (4QS43 3, 6; 4QS44 3.12-14, 6.2-3). It is a matter of debate whether the sectarians saw the transformation of the just into angels based on the war Scroll (4Q491) which speaks of a figure enthroned in heaven. In Hodayot there is a certain criue against some of the angels (1QH xviii.34-35 [x.32-33]). G-d is in dispute with angels and seeks justice among them. In this text the angels knowledge of G-d is limited and they are unable to stand before his wrath. Punishing angels or demons are mentioned also. Angels may be invoked and employed by humans diviners appears in the Testament of Solomon and later ma’asei Merkavah texts. Rabbinic texts minimize the importance of angels when compared with their role in the priestly Qumran, apocalyptic, and mystical traditions. In Shabbat 88b and Gen. R. 48:11 angels are said to have no free will, differing from the Qumran notions. Rabbis however conceded that angels do have intellect and
inner life and are capable of errors (Sanh. 38b; Midrash Psalms 18:13). For the Rabbis most angels exist to do a single task (B.M. 86b; Gen. R. 50:2) and as exalted as they may be are subordinate to the Tzadikim (Gen. R. 21; Sanh. 93a; Ned. 32a; Deut. R.1). Rabbis see many divine actions in the Tanakh as ascribed to angels (Deut. R. 9; Gen R. 31.8; Sanh. 105b). The Pesah Haggadah is an exception to these opinions. It denies that angels played an important role in the yitziat mimitzrayim (see Magid). The pusek Na-aseh Adam betzelmenu kidemuteinu is seen as the heavenly host. Gabriel is seen as the angel who guards the gates of Gan Eden with the sword that flashes every which way. Three malakhim are hosted by Avraham and Sarah at Mamre, one being Raphael to cure Avraham of the brit milah. At the Akedah (Gen. 22) Sforno name the malakh who stops Avraham from shecating Yitzak as, Michael, when he says, “al tishlach yadchah al ha-naar.” Rashi names the unnamed man as an angel who instructs Yosef that his brothers are sheparding their flocks at Dothan. An angel is said to be with the children of Israel in the desert. In Haftorah Yetro the seraphim, ofanim, and hayot hakodesh is the subject of great exegesis in the Rabbinic imagination. These angels appear to winged parts of Hashem’s throne (Isa. 6) or of the divine chariot (Ezek.1). That all angels (and not just seraphim and cherubim have wings is mentioned in Chag. 16a; PdRE4). Al Kanfeh Shekhinah (under the wings of the Shekhinah) also evokes wing imagery. In Homer we find the phrase “winged words” but in Rabbinic parlance angels have wings and move at different speeds depending upon their mission (Ber. 4b). G-d’s speed is often given in parasangs, a Persian measurement. The idea of seraphim being associated with fire may find correlaries with the Islamic ifrit, or from the oxymoronic (opposites uniting) unifications of fire and water (Sefer Yetzirah 1:7; S of S R. 10; J.R.H. 58; Gedulat Moshe; Rashi on the hail as fire and water). In post-modern science we are interestingly told of a real state where water exists as a gas, liquid, and ice, known as the triple point! The rationalistic philosophic tradition of Rambam and Ralbag however holds that angels are immaterial, incorporeal disembodied intellects. Rambam spurns the notion that “angels eat” and even Rashi conceds that the 3 angels at Mamre hosted by Avraham, from the midrash, only “appear to be eating.” This is a controversy in rabbinic texts (see Judg. 13; Gen. R.48:14; B.M. 86b; Zohar I: 102b). The strong philosophic rationalism of the Rambam and Ralbag intellectualizes angelology within an Aristotelian modality. Rambam expounds on angels in Hilchot Yisodei Ha-Torah (Laws of the Foundations of the Torah). His expertise in classification is applied not only in halakah but in this esoteric area. Rambam classifies angelic ranking into ten levels. In the Moreh Nevukhim further elaboration is given equating angels with Aristotelian “intelligences.” These “intelligences” mediate between the spheres. They possess the attribute of consciousness and govern the spheres in their motion. Influenced from Aristotle, Rambam holds that they are forms (eidos) of natural causation rather than supernatural beings, has veahilah with bodies. As forms of causation they are thus absolutely incorporeal without bodies. Rambam in the Aristotelian mode remarks on the libidinous impulse of the “angel of lust.” As remarked before the Rambam holds that the “sense of touch is a shame to us” a remark also found in Aristotle, but not to be understood in the Christiological sense of shame, but rather for those who have experienced the life of the mind totally as pure spirit (not Hegelian necessarily) or the experience of the sekel hapoal as transcendant even of time itself. To enter into the perfection of the tautology of what it is to think thinking itself as sui generis, is beyond all body and gashmius. Rambam denies that angels ever take corporeal form. They are extensions of the faculty of the human and divine intellects. As such the encounters in the Tanakh according to Rambam of angels are only the dream visions of the Avot, and Matriarchs. Moses is the chief of the prophet in that his prophecy was completely vibrant and clear not in dreams but while awake. To Moses, night appears as day (see Moreh Nevukhim). By contrast other Rabbinic traditions like the German Pietist such as Eleazar of Worms, adhere unapologetically to supernatural angelology. Rituals for summoning angels, especially angels who can reveal secrets of Torah (sitrei Torah), like the Sar ha-Torah and Sar ha-Panim (The prince of the Torah and Prince of the Presence of Haderat Panim), are sighted, cited, and sited! The Hasidic tradition also departs from the strict Maimonidean rationalism in this regard and regards texts such as Sefer ha-Razim catalogs of hundreds of angels, along with how to influence them and employ their names in constructing protective amulets, throwing curses, and gaining spiritual power as a mode of practical Kabbalah. The Zohar is sighted with its tradition fo angelic taxonomy, ranking angels to the four worlds of emanation (I. 11-40), as well as assigning angels feminine and masculine attributes (I: 119b). In Rabbinic tradition little children are told to recite the formula before going to sleep that Gabriel is at the left, Michael at the right, Oriel in front, and Raphael behind one. For the rabbis an angel is a spiritual entity in the service of Hashem with no will other than Hashem’s. Angels can be classified into the following types: Malach, Irin, Cheruv, Saraf, Ofan, Cahyyah, Sar, Memuneh, Ben Elokim, Kodesh. The malach
(messenger) is on variety. Distinguished from malachim are the Irinim (Watchers/High angels). Sarim (Princes), Serafin (Fiery ones), Chayot (Holy Creatures), and Ofanim (Wheels) are different types. They are alluded to in collective designations that include: Tzeva (Host), B’nai ha-Elokim, or B’nai Elim (sons of G-d), and Kedoshim (Holy ones). Their divine assembly is sometimes called Adat Kel (Ps. 82, Job 1). Their forms are unspecified as in Judg. 6:11-14 and Zech. 4). They appear humanoid in most biblical testimonies (Num. 22) and are therefore indistinguishable from human form (Gen. 18, 32: 10-13; Josh. 5:13-15; Judg. 13:1-5). Sometimes they manifest in pillars of fire and cloud, or the firey bushes that are not consumed (Ex. 14:3). On the Aron ha-Kodesh (Ex. 25) cherubim were artistically represented and the shekhinah was felt to dwell there. The idea that angels envy humanity is found in pseudepigraphic texts and in rabbinic and medieval texts (Sanh. 88b-89a; 109a; Gen. R. 118:6; ChdM). The function of Biblical angels can convey knowledge to mortals (Zech.1-4), shielding (Ex. 14), rescuing (Gen. 21), and smiting Israel’s enemies. They have responsibility but no authority except in the Book of Daniel. Daniel holds that all the nations of the world have their own angelic prince, arranged hierarchically, with limited spheres of control over mortal realms (also see Deut. 32). Angels have prominent roles especially in biblical roles written by Kohanim who were prophets including Isaiah, Ezekiel, and Zechariah. In Zechariah the host of heaven is differentiated into groupings of angels governing and serving different levels of heaven. Zechariah makes reference to the seven eyes of G-d (4:10), referring to seven arch angels, or the seven angel hosts in the seven heavens. This has parallels with Enoch 61 and Testament of the Patriarchs, Levi. The Jewish concept of personal angel, of malach sharet, mazal, or memuneh, “ministering” or “guarding angel” and an angelic “deputy” also is apparent in texts such as Rashi on Meg. 3a; Mid. Prov. 11:27 and Sch 129, 633, 1162. The rabbis expand in commentary to a great extent on angels forming choirs of singing praises to G-d (i.e. Gen. R. 78:1) and yet G-d is “beyond” even the greatest of praises (aielah liailah) which is invoked during the Yamim Noraim. Gershom Scholem has brought to light the motif of angelology as a component of ma’aseh merkavah mysticism. These texts describe how the practitioner to the Pardes in this world, or the pilgrim disembodied soul in the next life, wishing to ascend through the palaces of the heavens and achieve a vision of the divine glory needs to know “passwords” to get past the archons (gatekeepers) at each level (Ili Enoch). For how this archetype relates to Kafka’s parable Vor Dem Gesetz (Before the Law) and the Jewish mystical subtexts in texts ranging from Hechalot Rabbati and Zutrati to Orhot Tzadikim, see: http://student.ccbcmd.edu/~dlevy11/Kafka.pdf The second half of this paper has been retracted from the reshit harabim on Rabbinic advise that this material should not be made public! Angels can be conjured to be summoned and brought down to earth to serve the human practitioner. Many rituals and practices devoted to this end are preserved in Hechalot writings. The rabbis offer the opinions on the origins of angels. Some hold that angels did not pre-exist Creation, but were formed as part of the heavens on the second day (Gen. R. 1:3, 3). Another rabbinic opinion posits their origin on the second day (Gen. R. 1:3, 3). A third opinion holds on the fifth day along with the winged and gliding beings (bird and fish) creations. In Chag. 14b; PdRE 4 speculation is asserted reconciling Midrash Rabbah that different kinds of angels came into being at different stages of Creation. The Zohar teaches that all angels result from specific manifestations of sefirot. For examples angels of love emanate from hesed while punishing angels emanate from gevurah, each type coming into existence coinciding with the manifestation of the sefirot that is its source (I: 46a-b). Chag 14a and Gen. R. 78:1 reveal the distinction between angels which are enduring and anonymous ephemeral angels, which are constantly coming in and going out of existence (kiyamut). According to Rabbi Chaim Vital, the Talmud Misuhak of HaAri HaKodesh, and other Chasidic masters, the ephemeral angels are the direct result of human actions. Goody deeds create good angels while destructive behavior creates destructive angels, etc. Thus some angels are the products of “gathering the sparks.” The power of the word “amen” itself can create multitudes of angels. Human actions thus become the cause of angelic and demonic forces (kelipot). Human action and decision have infinite consequences. As Louis Jacob’s book Their Heads in Heaven (see review by David B. Levy) alludes... man stands upon the earth and his head reaches to the heavens, and the angels fo the Eternal ascend and descend with him (Ben Porat Yosef 42a). Rabbi Elimelekh of Lizansk thus brings down the interpretation that the ladder that Yakov dreams, with angels going up and down, has the gematria of mammon (correlating to Tzedakah), kol (voice correlating to prayer), and tzum (fasing). Thus Chasidic masters emphasize the value of seeking the help of angles. The Rambam as rationalist however views such intermediary worship as avodah zarah and insists that one must only daven to Hashem. The most comprehensive Chasidic meditation on angelology is Sichat Malachei ha-Shareit (Meditation on the Guardian Angels) by Tzadok ha-kohen Rabinowitz. Rabbi Josef Karo in his Maggid Mesharim gives testimony to being visited by the
Shekinah personified as the mishnah who gave angelic wisdom over to the Kabbalist. The mystic-legalist was taught Torah ha-Sod as testified in Maggid Mesharim. In this trajectory, the Baal Shem Tov, characterized angels as “the garments of G-d.” Thus according to Jacob Katz the Kabbalists “killed Medieval Philosophic Rationalism” or a least reacted to it by re-anthropocentrizing Judaism. Remember Rambam set out in the Moreh Nevukhim to understand all Biblical anthropomorphisms (deoreita) in philophic modes. That is for example to be in the image of Hashem was to possess the sekel hapoel, not crude anthropomorphic resemblance. Thus the “strong hand and outstretched arm of Hashem” is the yad hazakah, mishnah Torah, itself, that will free one of their mental Egypts, initiating them cognitively into the redeemed noetic realm of true knowledge rather than false opinions. The Essenes also has their own system (makreket) for hierarchical designation of the angels (angelos, or messengers.)

The priests who contributed to the Dead Sea Scrolls believed in a transitory fusion with angels when they performed their ritual liturgy. The Songs of the Sabbath Sacrifice illustrate this. Ma’asei Merkavah mystics who descend to the chariot to ascend to the palaces, also engaged in correlative kinds of angelic experiences through their techniques of ascent. A Midrash holds that in the 9 months of pregnancy a malakh teaches the developing fetus all the torah, and our job in life is to remember and recollect what the malakh taught. Michael, the angelic prince over Israel, serves as Kohen Gadol in Yerushalyim shel malah, (Chag. 12b). L’havdil this is different than Plato’s notion of recollection of the truth (aleithyia) before being born. Aletheia is not the equivalent of the Hebrew Emet. In Jewish law Emet is trumped in the scenario for example if someone is hiding Jews from the Nazis, and the Nazis demand, “Are you hiding Jews?” Torah law dictates lying to save the Jews. A great interest in folk traditions surrounding Elijah have seen light in recent years. Legends concerning this prophet turned angel (Ber. 4b) is a motif in many maseh (tales) of the Hasidim. Elijah frequently appears among mortals, bearing revelations of childbirth, parnassah, miracles, and heavenly news, as well as resolving kashes of difficult problems.

Samuel: ‘If I had been there, I should have suggested a more convincing explanation. The Torah appraises its rules implied: ‘Suspend for his sake one Sabbath, so that he may keep many Sabbaths.’ Rabbi Simeon b. Menasya said, ‘And the children of Israel shall keep the Sabbath’ (Ex. 31:16). The Torah obviously life takes precedence over another life though the shedding of blood pollutes the land and causes the divine spirit to depart from Israel. If the defense of Ishmael answered and said: ‘If a thie

‘Whence do we know that in the event of danger to human life all laws of the Sabbath are superseded?’ Rabbi A.


Some classic Mephorshim note C. ibn Ezra and most commentators take “him” to refer to the owner. The slayer is not guilty of murder, states ibn Ezra. “If the thief will be found breaking in by night, since in the daytime he will not break in, and the subsequent words in the text bear this out that in the daytime he will not break in” D. Rashbam similarly interprets that the owner is guiltless and no blood payment required E. . Rambam : He who commits burglary whether by day or night gives rise to no bloodguilt but may be slain by the owner or any other person with impunity, whether it be on the weekday or Sabbath, by any death that can be meted out to him, as stated “there shall be no blood-guiltiness for him. F. . Ravad: It seems to me that though Hazal interpret the phrase, “if the sun is risen upon him” metaphorically this does invalidate its plain sense. By day you are not permitted to slay him; only if he steals by night; since the thief knows the owner is at home and comes to kill or be killed. But when the thief comes by day, the owner is not usually at home, and it is a hit and run affair with him- he will not stay to fight it out if surprised but leave the money and run. G. , RaAlbag defending Rambam: You should know that burglary is usually committed at night when the thief is sure he will go unobserved and in the night he is as a thief. Implying that thieves and murderers fear the approach of the morning “as the shadow of death.” To this the Torah refers “if the sun is risen upon him.”. H. Abravanel [leverageing pusek in Jer. 2:34]: In addition to idolatry Israel was also guilty of bloodshed for they also had no shame but gloried in the shedding of innocent blood like Yoav. I did not “find them breaking in” committing these crimes stealthily like a thief breaking in at night, but I found the blood on all the corners of their garments, glorifying in murder.

Rashi asks “to whom does ” to him refer?” i.e. Rashi argues it refers to the thief. “He is condemned for the crime he will in the end commit. Raba comments, “It may be assumed that a man will not stand by and watch his money being taken. The thief argues that should the owner resist him he will have to kill him. The Torah prescribes: If a person attempts to kill you, kill him first. Rashi explains, en lo damim implies that the thief has no blood, he is like a bloodless and soulless being whom it is permitted to slay. Since the thief is aware that his intentions are ambiguous i.e. to steal or to kill or both, the thief is in a position of a murderer whom one is entitled to kill in self-defence. Rashi notes further, “It is not murder to kill the thief, since he is, to all intents and purposes, a dead man” i.e. he has by his own murderous intentions forfeited his right to be protected by society. Moed Katan considers the case of “if a thief be found breaking in” and the conditions of whether the sun has or has not risen to make the intentions of the intruder better known. If it is dark, one legally has a right to kill a tunneling thief when their intentions are not known. However what if a friend whose intentions are not malicious is one who enters a private domain (resht hayahid).

Moed Katan : “if a thief be found breaking in ... “ if the sun has or has not risen to make the intentions of the intruder better known. If it is dark, one legally has a right to kill a tunneling thief when their intentions are not known. (Moed Katan 16a): &quot;Rabbi Ishmael, Rabbi Akiba and Rabbi Eleazar b. Azariah were once on a journey, with Levi ha-Saddar and Rabbi Ishmael, the son of Rabbi Eleazar following them. This question was asked of them: ’Whence do we know that in the event of danger to human life all laws of the Sabbath are superseded?’ Rabbi Ishmael answered and said: ’If a thief be found breaking in’ (Ex. 22:1), it is permissible to kill him in self-defense, though the shedding of blood pollutes the land and causes the divine spirit to depart from Israel. If the defense of life takes precedence over another life—that of the burglar— it certainly takes precedence over the Sabbath. ... Rabbi Simeon b. Menasya said, ’And the children of Israel shall keep the Sabbath’ (Ex. 31:16). The Torah obviously implied: ’Suspend for his sake one Sabbath, so that he may keep many Sabbaths.’ Rab Judah said in the name of Samuel: ’If I had been there, I should have suggested a more convincing explanation. The Torah appraises its rules.
of life with He shall live by them (Lev. 18:5), implying clearly that one must not thwart life because of them. Raba said: “The other explanations may be refuted but that of Samuel is irrefutable”

Leviticus Rabbah 21:8, ed. Margaliot, p.486-487

Pesahim 112a

Midrash Leah Tov to Vayikra 1:1 p.3

Devarim 24:10-11

(Sifrei Devarim par. 276, ed. Louis Finkelstein, p. 295; Tosefta Bava Metzia 10-8, ed. Lieberman, p. 118-119; Bava Metzia 113a-b; See Rambam Hilkhot Mlaveh V’lovev 2:2 and in Shulchan Arukh Hoshen Mishpat 97:6

Sifrei Devarim par. 276, ed. Louis Finkelstein, p. 295; Tosefta Bava Metzia 10-8, ed. Lieberman, p. 118-119; Bava Metzia 113a-b; See Rambam Hilkhot Mlaveh V’lovev 2:2 and in Shulchan Arukh Hoshen Mishpat 97:6

Jewish law addresses the power of law enforcement to use surreptitious means to discover a “perceived” communal threat. The Talmud notes that even for capital offenses, with very limited exceptions, spying and entrapment were not permissible means to discover the intent of a would be suspected offender. Mishnah Sanhedrin 7:10 reads:...

This mishnah outlines a narrow exception in the case of idolatry where privacy rights should not be regarded by policy of their supposed suspects. The Rabbinic criminal justice laws are overwhelmingly protective of the rights of defendants, and guilt could not be based on circumstantial evidence or the testimony of only one person, as is possible in American jurisprudence.

Baba Batra 60a

Hezeq re’iyya , (harm caused by seeing: Visual Privacy will be treated in the section on filters where we will consider...
The subject of the merkavah found in M. Hag. 2:1 is found further in Tosefta (T. Hag. 2:1-7) and in the gemara to this mishneh in Yerushalmi (Hag. 77a-d) and in Bavli (Hag. 1b-16a). These texts presume the dangers of this esoteric subject, for according to M. Hag. 2:1 merkavah may not be expounded (en doresin hammerkavah) except under special circumstances, and according to Megillah 4:10 it may not be used a derasha in the synagogue (en maftirin hammerkavah). We read: 1

"If the congregations to which you are consecrated are not able to comprehend the mysteries of the Tetragrammaton, let them not partake thereof, but let them write down oral Torah that is prohibited in Rabbinic Law, (i.e., they must break the Law) in order to save their lives."

Rabbinic anecdotes stress its confidential and wondrous nature, and the hazard for the premature as in the arba sheniknasu biPaRDeS. A further instance is noted in Rabbi Yehudah HaNasi and Rambam using the same logic that they must write down oral Torah that is prohibited in Rabbinic law, (i.e., they must break the law) in order to save the Law in a time of crisis when these secrets risk being forgotten. While the Rambam promises to transmit the secrets of m'aseh bereshit (Creation in Genesis 1) which the Rambam links with physical science as a prerequisite (Hokmat Elokut), and ma'aseh merkavah (carito vision in Ezekiel 1, 10:43: 1

metaphysics as a prerequisite (Hokmat Elokut) Strauss and Kenneth Hart Green note that the Rambam may intentionally contradict himself as a body guard and retinue of protection to keep those esoteric secrets.

Special knowledge of the esoteric secrets is reserved for a small group of initiates. Rabbinic anecdotes stress its confidential and wondrous nature, and the hazard for the premature as in the arba sheniknasu biPaRDeS. A further instance is noted in Rabbi Yehudah HaNasi and Rambam using the same logic that they must write down oral Torah that is prohibited in Rabbinic law, (i.e., they must break the law) in order to save the Law in a time of crisis when these secrets risk being forgotten. While the Rambam promises to transmit the secrets of m'aseh bereshit (Creation in Genesis 1) which the Rambam links with physical science as a prerequisite (Hokmat Elokut), and ma'aseh merkavah (carito vision in Ezekiel 1, 10:43: 1

metaphysics as a prerequisite (Hokmat Elokut) Strauss and Kenneth Hart Green note that the Rambam may intentionally contradict himself as a body guard and retinue of protection to keep those esoteric secret understandings so as not to be persecuted ad captum vulgi. Strauss differentiation between esoteric and exoteric becomes all the more interesting in light of Halperin’s thesis that there are two types of Rabbinic merkavah exegesis, the exoteric recorded in Bavli, Yerushalmi, Midrashim, Targumim, etc. and an esoteric exegesis reserved orally for the elite few. In fact a sugya holds that the mystery of the tetragramaton should only be revealed to those who can understand on their own, once in 7 years, at a flowing body of water, such as a waterfall, cataract.

Cultures of secrecy whether they be Rabbis where the redemptive stakes are very high, or little children playing games such as hide and seek which Freud has analyzed, are both, lihavdil, founded on notions of “keeping secrets private and confidential” from others who might abuse such knowledge.

Responsa Ra’anah, no.111.

Yoma 4b. Rashi ad. Loc. Notes that leimor (to say) is understood as lo emor (do not say), whereas the Meiri ad. Loc. Explains that the redundant leimor teaches us that G-d spoke to Moses in order that he should tell others. This source was cited by a number of later halakhic authorities meaning that one may not reveal a confidence without express permission of the confider. See: Sefer Mitzvot Gadol, Negative Commandments, No. 9, and Magen Avraham, Orach Haim 156, middle of the subparagraph 2.

47 “Do not expect to be able to confer with me on any scientific subject for even one hour, either by day or by night, for the following is my daily occupation/routine: I dwell in Fostat and the Sultan resides in Cairo; these two places are two Sabbath days’ journey distant form each other. My duties to the sultan are very heavy. I am obliged to visit him every day, early in the morning; and when he or any of his children, or any of the inmates of his harem are indisposed, I dare not quit Kahira, but must stay during the greater part of the day in the palace. It also frequently happens that one or two royal officers fall sick, and I must attend to their healing. Hence, as a rule, I repair to Kahira very early in the day, and even if nothing unusual happens, I do not return to Fostat until the afternoon. Then I am almost dying with hunger. I find the antechambers filled with people, both Jews and Gentiles, nobles and common people, judges and bailiffs, friends and foes- a mixed multitude who await the time of my return. I dismount from my animal, wash my hands, go forth to my patients, and entreat them to bear with me while I partake of some slight refreshment, the only meal I take in the 24 hours. Then I go forth to attend to my patients, and write prescriptions and directions for their various ailments. Patients go in and out until nightfall, and sometimes even I solemnly assure you until two hours or more in the night. I converse with and prescribe for them while lying down from sheer..."
fatigue; and when night falls, I am so exhausted that I can scarcely speak. In consequence of this, no Israelite can have any private interview with me, except on Sabbath. On that day the whole congregation or at least the majority of the members come to me after the morning service, when I instruct them as to their proceedings during the whole week: we study together a little until noon, when they depart. Some of them return and read with me after the _minchah_ until _ma'ariv_. In this manner I spend that day. I have here related to you only a part of what you would see if you were to visit me." Marx, "Texts by and about Maimonides," 378, Jewish Quarterly Review, 25, 1925, p. 371-428. (MS Adler recension). This grueling work schedule followed 40 years where the Rambam’s brother financially supported the Rambam to learn. In the MT. it is intellectual virtue stored up from learning that trumps gemilut Hasidim. We read in Hilchot teshuvah:

בשלוגו הזה. קונן ייב אדום צרייך לוח בשמים הזה. ולא יארך דבר במן הרבים שאמטרני גלותו

וכם הארנוזים העולות ההא יא. וشبه השפעה והנה והנה והנה ובו. כי ארמיו

ישיב טונר הרוחテンברבני יאנסו טוני עד הטיכה. כי לא אליו כי אתיה ולא תעמשי אלא דידיים

כלמר עז עז עז עז עז עז עז עז עז עז. עז שאמטרオリジナル מעבר מדרד. נברר לא אחרון שון פון

המ事が צרייך מעבר. דרדר מהרה. זה שאמטר乗り עזרי בדרד. נברר לא אחרון שון פון

כולמר עז עז עז עז עז עז עז עז עז עז עז. עז שאמטר乗り עזרי בדרד. נברר לא אחרון שון פון


Hilchot Talmud Torah VII:4-5. One may not speak to him; the excommunicated one like a mourner cannot wash his body; in addition he cannot be counted in a minyan or a mezuman. (see Shach, Yoreh Deah, Ibid 8). See also Shu’ t Rivash I 62 and Tashbetz I:123 concerning if a person marries two women is he automatically in cherem, or does a beit din need to issue a cherem.). Furthermore, one should not sit within 4 amot of the person in cherem. This may include his wife and children. One may not learn Torah with the one in cherem, although he may learn by himself. In brief he is cut off from interaction with others, and is only permitted to do enough business to cover his basic needs. (see Ramo Yoreh Deah 334; in no. 228; Ramo rules that a peson cannot claim ignorance of the cherem as a defense because the cherem applies nonetheless. The Shulchan Aruch further rules that Beit Din can decide "not to circumcise his newborn sons, nor to bury him should he die, and to expel his children from school and his wife from the synagogue- unitil he accepts the judgment upon himself (Yoreh Deah 334:6) Pitchei Teshuva questions whether the court can stop of afther from personally circumcising his son. Yam Shel Shlomo, Bava Kamma 11-13 hold that shunning the wife and children of a man in cherem Is oser. The wife and children did nothing wrong. However it does permit refusing circumcision for a male child and burial for the perpetrator since these are specifically the father’s obligation and for his honor.

50 M. Swift writes for example, “Does the institution that holds records of long past military service have a moral obligation to screen service records to ensure that descendants do not learn that a grandfather was treated during his army service for a sexually transmitted disease?” (Swift, M., Avotaynu vol xvi, no. 2, summer 2000, p. 6).
considers the U.S. to be very restrictive about access to archival document. Not In the U.S. Too?”, in Avotaynu, vol 16 (3), Fall 2000, p. 47). Carlsson notes that his experience as a researcher with U.S. archivists operate under laws and attitudes that enhance “openness” and “accessibility” while “attitudes in the United States on on

55 devil’s pact / John Cornwell


55 Carl Carlsson disagrees with Edward David Luft’s “too simplest formulation” that leads to “the dichotomizing of the United States on one side versus Europe and other side. Carlsson rejects Luft’s stereotype that U.S. archivists operate under laws and attitudes that enhance “openness” and “accessibility” while “attitudes in Europe are said to be more restrictive” (see Carlson, Carl H., “Yes, Lobby for Open Access to Archives- But why Not In the U.S. Too?”, in Avotaynu, vol 16 (3), Fall 2000, p. 47). Carlson notes that his experience as a researcher considers the U.S. to be very restrictive about access to archival documents, at least when compared to Sweden’
(47) where Swedish *offentlighetsprincip* (principle of open access to all public documents) dates back to 1766 and is part of Sweden’s constitution. Sweden maintains military secrecy (Sekretesslag= Secrets Act) which operates under the principle that all official documents are open to the public but specific bits of information contained within the documents might be kept secret. A clergy, government clerk, or public official must refer to a specific paragraph of the Secrets Act to protect secrets. Carlsson writes, “I have always considered such countries as the U.S., France, and Germany to be in another category: countries that are rather restrictive, although I am aware that the situation is a little better in the U.S. (p.48).

56 See: Tocqueville, Alexis de., *Democracy in...* [The Henry Reeve text as revised by Francis Bowen, now further corrected and edited with introduction, editorial notes, and bibliographies by Phillips Bradley; [foreword by Harold J. Laski], New York : A. A. Knopf, 1945

57 See *Me’am Loez* on Joab where King David evokes the justice of revenge tempered with compassion.

There he says to his son Solomon: Moreover you also know what Joab the son of Zeruiah did to me, (and) what he did to the two captains of the hosts of Israel, to Abner the son of Ner, and to Amasa the son of Jether, who he slew, and shed the blood of war in peace and put the blood of war upon his girdle that was about his loins, and in his shoes that were on his feet. And you shall do according to your wisdom, and do not let his hoary head go down to the grave in peace. But show kindness to the children of Barzillai the Gileadite, and let them be of those that eat at your table, for so did they befriend me when I fled from Absalom your brother. And, behold, thee is with you Shimei the son of Gera the Benjamite of Bahurim, who cursed me with a grievous curse on the day when I went to Mahanaim, and he came down to meet me at the Jordan, and I swore to him by the L-rd saying, ‘I will not put you to death with the sword.’ And now hold him not guiltless, for you are a wise man, and you will surely know what you ought to do to him, and you shall bring his hoary head down to the grave with blood.” According to Midrash Rabbi Tanchuma Joab betrayed King David’s trust. Joab stabbed King david in the back so to speak by disclosing secret private information with which David entrusted Joab. When David instructed Joab to place Uriah in the thick of battle in order that he be killed, Joab complied and Uriah was killed but this infuriated the other officers. They assembled to kill Joab, for his responsibilities in the death of Uriah. He saved his life by showing them the letter which David sent through Uriah (Rashi) ordering his death. By disclosing this highly secret and embarrassing information, Joab brought David’s wrath upon himself. “shedding blood of war in a time of peace” can be interpreted in light that Abner the son of Ner and Amasathe son of Jether opposed David initially. Abner was aligned with Ish-Bosheth and Amasa with Absalom. Under those circumstances Joab had an opportunity to kill them in war, which would have been entirely justified. Instead he waited to kill them after they had made peace with David so that the blood which should have been shed in war was shed in peace. Joab killed them by trickery and deception befitting a coward. Amasa presumed he retrieved it soley to pick it up from the ground, and was not alert to guard himself against an attack from the sword which was in Joab’s hand (Rashi). To complete the deception Joab held the sword in his left hand and gripped Amasa’s beard with his right hand in order to kiss him. At his point Amasa was an easy victim to Joab’s trickery (Redak Sam II:20). Joab was David’s nephew, the son of David’s sister. Therefore, although their relationship was most unfriendly, David still had Joab’s ultimate welfare in mind. He instructed Solomon, “Do not let him die a natural death since this will minimize his worldly punishment and cause him to fall into purgatory for torturous purification (Rashi and Yalkut Shimoni). According to Sefer ha-zohar the phrase “with the sword” is connected to the earlier part of the verse... and I swore... with the sword. David’s sword was engraved with the name of G-d. When he
wished to swear, he would draw his sword and swear by it. Alternatively, he swore not to slay Shimei by the sword because Shimei had humiliated him with words. Indeed, Benaiah the son of Jehojada slew Shimei by uttering the Name of G-d. Another interpretation brought down in Me’am Loez is that Joab let the blood of his victims splatter on his belt and shoes so that everyone would see that he had killed someone. Far from feeling remorse for what he had done, he was proud of it. It also can be understood to meant that these sins stuck to him like a shoe or a belt. Not having repented there was nothing he could do to cleanse himself of his guilt. David did not use exactly the same words to refer to Shimei as he had when he spoke of Joab. Of Joab he said, “do not let him go down to the grave in old age in peace.” Joab had violated the peace. The punishment that befitted him was to be deprived of peace himself. But of Shimei he said, “you will cause him to go down to the grave in blood in his old age.” He deserved to die in blood because he had called David ‘the man of blood.’ Another reason that David specified that Shimei die in blood is that Shimei was a rebel. The Torah demands that one who rebels against the king be put to death by the sword. It is not permitted to execute him in any other way. But Joab was a murderer. Although a murderer is also supposed to be executed by the sword, if that cannot be done he must be executed by whatever means possible.

58 Lamm, Norman, “The Fourth Amendment and its Equivalent in the Halachah, Judaism, 16 (1967), p.300-312; Personal privacy is defined in three Amendments in the Bill of Rights that are considered to be rooted in Jewish law. Two, the Third (forbids government from quartering soldiers in peacetime in a persons house without consent of the owner and in wartime only as prescribed by law), and Fourth Amendments (the right of the people to secure in their persons, houses, papers, and effects against unreasonable searches and seizures i.e. court orders based on evidence of “probable cause” analogized to Biblical law’s prohibition of a creditor entering a debtor’s home without the debtor’s permission. And the Talmud extends the restriction to police officers, marshals, sheriffs, detectives, even in connection with unpaid taxes) have roots in Biblical law, and one, the Fifth Amendment, is rooted in Talmudic law. Another Amendment to the Constitution but not in the Bill of Rights, the Fourteenth Amendment, though not similarly rooted in Jewish law, is related to the Jewish principles of marital privacy, fairness, and proper legal procedures. These four Amendments serve as the Constitutional foundation of the right to personal privacy. The fifth amendment states that no person “shall be compelled in any criminal case to be a witness against himself.” While in American law a witness may invoke the right to remain silent, he may voluntarily waive this right if granted immunity from later prosecution for acrime, or he may involuntarily be granted such immunity, thereby compelling him to testify in court. In Jewish law, the Talmud provides a broader right: the individual may not involuntarily be granted immunity in order to extract testimony, nor may he even voluntarily waive this right. The Fourteenth Amendment in American law hints at these aspects of Jewish law by requiring strict adherence to proper legal procedures i.e. “due process of law” before a person’s life, liberty, or property may be deprived or his privacy be invaded by the government.

59 See Sobel, Richard, “Guidelines for Respecting Privacy in Jewish Geneology”, in Avotaynu, volume xxiii, no. 1, spring 2007: Those guidelines summarized are: (1) ask for permission (consent) of those who are subjects of the private information, (2) Use empathy i.e. would you want similar information about yourself or a close relative revealed?, (3) Do not circulate beyond the family or publish information about living people particularly children, and do not relay to courts, (4) Do not circulate or publish potentially damaging or purposefully embarrassing information about living people, particularly minors on the Internet, (5) Consider the problems from publishing purposefully embarrassing information about deceased people when living relatives do not know the negative information as the ripple effect of your actions have consequences to many persons, (6) When interviewing people do not pry for information if resistance to your questions suggest your are invading their privacy and this is unwelcome, (7) When discovering important but decidedly embarrassing information you may need to write it up but keep in confidential by filing item for the interim, (8) In respecting privacy leave unpleasant truths ambiguous or unstated but do not twist facts by whitewashing, (9) Handle information about people’s health, financial business and criminal justice records with sensitivity and confidentiality, (10) Be sensitive to dealing with
information about illegitimacy, multiple marriages, extramarital affairs, divorce, and other activities subject to interpretations, (11) Omit information about living relatives on family trees if particularly revealing unless they consent, (12) Never and under no circumstances share DNA testing results that can reveal not only genealogical but medical information about relatives for it can be used in criminal investigations, (13) Consider how original family or given names and name changes, can be embarrassing, (14) Respect privacy of famous or reclusive people, especially if they suffer from a mental illness, (15) In some cases restrict access to personal information including use by foreign governments by respecting privacy as an essential aspect of conducting family history Sensitivity to the people involved is essential etc. Remember that when Hashem created this world a midrash holds He was going to create it on the basis of strict Justice/Mishpat/Din/ Truth but Hesed objected that the world could not be sustained under such harshness.’

See: Halberstam, Chaya, , Law and truth in biblical and rabbinic literature, Indiana: Indiana Univ. Press, 2010

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“Callicles (Gorgias) and Thrasymachus (The Republic) are the two great exemplars in Plato — in all of ancient philosophy — of contemptuous challenge to conventional morality. In the Gorgias and Book I of the Republic respectively, they denounce the virtue of justice, dikaiosunê, as an artificial brake on self-interest, a sham to be seen through by the wise. Together, Thrasymachus and Callicles have fallen into the folk mythology of moral philosophy as ‘the immoralist’ (or ‘amoralist’). This is probably not quite the right word, but it is useful to have a label for their common challenge — more generally, for the figure who demands a reason to abide by moral constraints, and denies that this demand can be met! Because of this shared agenda, and because Socrates' refutation of Callicles can be read as a sketchy, perhaps deliberately unsatisfying rehearsal for the Republic, it is tempting to assume that the two figures represent a single philosophical position. But in fact, Callicles and Thrasymachus are by no means interchangeable; and the differences between them provide an important case study both for Plato’s methods and for the philosophical options open to the ‘immoralist.’ From Plato’s point of view, Callicles is wrong about the nature of the good at which the superior man aims. Thrasymachus, on the other hand, stands as dialectically prior to both Socrates and Callicles, for while persuasively debunking justice as conventionally conceived, he fails to offer any replacement account of the virtues. The closest he comes to offering a substitute norm is in his praise of the expertly rational ‘real’ ruler – an ideal which is pursued and developed more fully, in connection with the virtues, both by Callicles in the Gorgias and Socrates in the Republic itself.” Like Callicles, Glauccon concerns himself explicitly with the nature of justice, classifying it as a merely instrumental good (or a necessary evil) and locating its origins in a social contract. By nature we are all pleonectic; but since we stand more to lose more than we could gain from unbridled pleonexia we have entered into a compact neither to do nor to allow injustice. As the famous ‘ring of Gyges’ thought-experiment shows, however, nobody has any real commitment to acting justly when they think they can get away with injustice; if someone can commit injustice undetected there is no reason for him not to. Thus Glauccon agrees with Callicles in identifying justice as a matter of convention, and in holding that it conflicts with our nature; he remains with Thrasymachus in not articulating any alternative moral norm; and he departs from both in not relying on the questionable compulsion of dividing mankind into exploiters and exploited. In sum, his position represents the immoralist challenge in a fully developed but streamlined form, as reducible to a simple question: given the conventional character of justice and our own pleonectic nature, why should any one of us be just, in any context in which injustice would be profitable?”

Socrates obviously rejects these cynical views of justice and rather pessimistic estimation of the statistical mean of human goodness, or lack thereof, and chooses to become a martyr for philosophy, devoted to the true, the good, and the beautiful, which are according to Seth Benardete the trinity of Justice in Plato. Plato’s ethics as Irwin has shown rejects the Roman “might makes right principle,” Macbethian moral nihilism, the cynical relativism, Machiavellian real politque, and general political unscrupulousness voiced by Thrasmachus and Callicles.


Consider a divorce case were an innocent party was falsely accused of criminal acts, that were later proven to be false accusations. Nonetheless the police investigation report files remain around in some bureaucratic archival repository that a future lawyer can cunningly access to post “red flags” in a potential future divorce case as a result
of remarrying. Does an institution that holds police investigation files for the early part of the past century have an obligation to restrict access to files which indicate that certain individuals were kept under surveillance because they “were suspected” thereby damaging irreversible their good name, to put doubts in the minds of co-workers? The Kafquesque nightmare ensues as such damaging false accusations are squirreled away by technocratic cogs in the machine of institutional bureaucracies.


65 See: Jewish Women Now, in Jewish Currents Feb. 199, p. 22.

66 Dovid HaMelkh summarizes the ethical thrust of the 613 mitzvot by urging: (1) Walk in perfect innocence, (2) work righteously, (3) speak the truth from your heart, (4) Have no slander on your tongue, (5) Do no harm to your fellow, (6) Cast no disgrace on someone who is close to you, (7) Find no person contemptible, (8) Honor those who fear G-d, (9) Keep your word in an oath, (10) Lend money without collecting ribbit, (11) take no bribes against the innocent. (Makkot24a, based on a reading of Tehillim 15). The gemarah goes on to illustrate these ethical principles by naming people who embodied these behaviors.

67 Isaiah specifies the following moral principles: (1) walk righteously, (2) speak with fairness, (3) spurn illicit financial gain, (4) Take no bribes, (5) Seal your ears from hearing of bloodshed, (6) Shut your eyes from seeing evil (see Isaiah 33:15).

68 Micah6:8

69 Isaiah 56:1

70 Mishlei 6:20-23

71 Rabbinic exegesis regarding repentance and forgiveness in the context. Justified revenge is complex. Under certain conditions a Sanhedrin is authorized to carry out capital punishment. While Dovid HaMelek killed al pi ha-sanhedrin, Esau kills indiscriminately based on Roman law’s justice is the will of the stronger. Repentance and forgiveness is a major issue in Rabbinic thought. Courts of three are established to deal with crimes concerning monetary compensation. Cases concerning offences liable to punishment by stripes are decided by twenty-three judges which can decide capital punishment. A great Sanhedrin is composed of 71 while a small Sanhedrin is composed of 23. The King may lead forth the army to political warfare by the court of 71, Rabbinic understanding is inferred from a mishnah in Talmud Tractate Sanhedrin 4:5 “... for thus have we found in the case of Cain who slew his brother, as it is said, kol demei akhihah zoakim elei min ha-adamah [thy brother’s bloods cry out from the ground], thus indicating both his blood (Abel’s) and the blood i.e. lives of his succeeding generations. [Another rendering is, thy brother’s bloods-because his blood was spattered over the trees and over the stones.] Therefore was a single man only first created (Adam Rishon) to teach thee that if anyone destroy a single soul from the children of man, Scripture charges him as though he had destroyed a whole world, and whosoever rescues a single soul from the children of man, Scripture credits him as though he had saved a whole world” i.e. gaining in an instant olam ha-bah. There in mishnah Yoma 8: 4 dictates, “The day of Yom Kippur does effect atonement for transgressions between a man and G-d (contingent on proper Teshuvah), but transgressions between a man and his fellow man (Amery’s Mitmensch not gegen-mensch), the day of Yom Kippur does not effect Atonement. Atonement for sins between man and man (the movement of mitmensch to gegen-mensch) require that the gegen-mensch shall have first appeased his fellow man (mitmensch). This did Rabbi Elazar ben Azariah expound, From all your sins before the Eternal shall ye be clean- for transgressions from man toward G-d the Day of Atonement effects atonement, but for transgressions between a man and his fellow man (mitmensch) the Day of Atonement does not effect Atonement. Until he shall have first placated his fellow man (mitmensch). Rabbi Akiba said, “Happy are ye, O Israel, before whom do ye cleanse yourselves and who cleanses you
[from your transgressions]? - Your Father (G-d) that is iheaven... if a man sins against man and appeases him G-d will possibly forgive him, but if a man sins against G-d, who will appease G-d for him? The Gemara in Yoma answers this verse by: Repentence (teshuva) and good deeds (i.e. giving charity, visiting the sick, dowering the bride, etc. i.e. observing and performing the 613 mitzvot.). The upper limit of the obligation according to the gemarah is that brought down by R. Yose bar Chanina who says, “Whoever beseeches forgiveness from his mitmensch should not beseech him more than three times. As it is stated: O please, please forgive the spiteful deed of your brothers... and now please forgive (Genesis 50:17). After Yakov died, Joseph was told by his brothers that Jacob had asked them to beg his forgiveness (see Rashi ad loc.). The word, Na (please), is term of entreaty (Rashi). By stating this word three times, the verse teaches that one is obligated to make three attempts to seek forgiveness. This is understood to be the maximum limit of the obligation. The commentators explain how the verse implies that it is stating a maximum (see Maharsha, Rif on Ein Yaakov, Tosefes yom HaKippurim, and Menachem Meishiv Nefesh). This Gemarah in Yoma with R. Yose bar Chanina continues crucially with the input of the following loophole: And if the victim died, (the offender) brings ten people and has them stand by his grave, and he says “I have sinned against Hashem, the G-d of Israel, and against so-and-so, whom I wounded by my crimes.” The gemarah of R. Yose bar Chanina is speaking of sins between Jews and Jews. To return to the question of repentance the gemarah in Yoma (87a) further illustrates a case of a certain butcher. Rav had grounds for a grievance against this butcher. The butcher did not come before Rav to seek forgiveness. On the day before Yom Kippur Rav said- I will go to him to effect a reconciliation. As Rav was on his way, Rav Huna met him. He asked Rav, “where is master going?” Rav answered him: “to effect a reconciliation with So-and-so.” Rav Huna replied, “Abba (i.e. Rav) is going to kill someone!- Rav went and stood by the butcher who was sitting and breaking the bones of an animal’s skull. The butcher raised his eye and saw Rav. He said to Rav: “You are Abba. Go away! I have nothing to discuss with you.” As he was breaking the bone’s of the animal’s head- a bone shot out, hit him in the throat and killed him.” This sugya [section of the Babylonian Talmud] clearly infers that a supernatural element intervened with this dispute between Rav and the butcher. The butcher was killed by an accident. This accident of the bone shooting out and hitting him on the throat is clearly an inference to divine providence-hashgeah pratit. A case involving a great Rabbinic sage, in fact one of the two redactors of our Babylononian Talmud, evokes an almost uncannny (unheimlich) intervention of caprice and accident as a weapon in the holster of a rabbinic sage who seems to command even Rortian contingency i.e. accident. The malakh hamavet is commanded by the rabbis to schecth the Schecther/butcher. Later in our gemarah in another context, Rav Yochanan later evokes the notion of “Master of the worlds” which infers HaShem’s knowledge of future contingencies, as well as the past, and present, simultaneously, yet transcending time, as an attribute of G-d, which hashgaha pratit seems to work in favor of Rav with the evocation of the accident. Rabbi Yehudah however speaks of a situation where iniquities are too many to count and sins too numerous to reckon i.e. implying some crimes that are unforgiveable and beyond a limit. These are the components that constitute true teshuva for Rav Saadia Gaon in Sefer Emenot VeDeot, Rabbi Yonah Gerondi in _Sefer Shaarei Teshuvah_ and Rambam in Hilchot Teshuvah of the MT. The gemarah of Yoma continues with a discussion about the Neilah prayer and the significance of repentance during this time “of the gates closing.” Our gemarah wraps up with a discussion of being deprived of the pleasure of sexual cohabitation in a baraita in the name of Rav
Nachman bar Yitzchak who says, “know that it is so, for the entire world is starved i.e. deprived of the pleasure of cohabitation, while he is satiated. When Rav Dimi came to Babylonia he said: He will live long, multiply, and multiply further.” The promise is alluded to by the verse in Isaiah 53:10, which for purposes of exposition is taken to mean [if] he sees seed, he will see offspring and live long days (see Rashi). The phrase “see seed” has a double meaning. Nonetheless the ending of the Tractate Yoma takes us back to the mishnah in Sanhedrin where Cain killed not only Abel, but literally Abel’s “seed” and “seed to the Nth” generation. Such a transgenerational guilt would cut off adequate true repentance leading to forgiveness. The ending of Maseket Yoma, sees a great good in establishing Jewish progeny into the future generations.

The full text reads: 27.Royal Injunction regarding consequences of violation of privacy that you treated us back to the mishnah in Sanhedrin where Cain killed not only Abel, but literally Abel’s “seed” and “seed to the Nth” generation. Such a transgenerational guilt would cut off adequate true repentance leading to forgiveness. The ending of Maseket Yoma, sees a great good in establishing Jewish progeny into the future generations.

The question of revenge is complex. David is not calling for vengeance but justice middah kineged middah and is aware of the Levitical injunction not to hold a grudge or take revenge. However acts of vengeance can be found in the Tanakh and rabbinic works. The work of Ekah traditionally held to be authored by the prophet Jeremiah contains this prediction, “Rejoice and exult, O daughter of Edom, who said, `destroy it, destroy it unto its very foundation! O daughter of Babylon, praiseworthy is he who repays you In accordance with the manner that you treated us. Praiseworthy is he who will clutch and dash your infants against the rock. Remember Hashem, against he sons of Edom the day of Jerusalem They who said, `destroy it, destroy it, unto its very foundation! O daughter of Babylon, praiseworthy is he who repays you In accordance with the manner that you treated us. Praiseworthy is he who will clutch and dash your infants against the rock. Remember Hashem, against he sons of Edom the day of Jerusalem They who said, `destroy it, destroy it, unto its very foundation! O daughter of Babylon, praiseworthy is he who repays you In accordance with the manner that you treated us. Praiseworthy is he who will clutch and dash your infants against the rock. Remember Hashem, against he sons of Edom the day of Jerusalem They who said, `destroy it, destroy it, unto its very foundation! O daughter of Babylon, praiseworthy is he who repays you In accordance with the manner that you treated us. Praiseworthy is he who will clutch and dash your infants against the rock. Remember Hashem, against he sons of Edom the day of Jerusalem They who said, `destroy it, destroy it, unto its very foundation! O daughter of Babylon, praiseworthy is he who repays you In accordance with the manner that you treated us. Praiseworthy is he who will clutch and dash your infants against the rock. Remember Hashem, against he sons of Edom the day of Jerusalem They who said, `destroy it, destroy it, unto its very foundation! O daughter of Babylon, praiseworthy is he who repays you In accordance with the manner that you treated us. Praiseworthy is he who will clutch and dash your infants against the rock. Remember Hashem, against he sons of Edom the day of Jerusalem They who said, `destroy it, destroy it, unto its very foundation! O daughter of Babylon, praiseworthy is he who repays you In accordance with the manner that you treated us. Praiseworthy is he who will clutch and dash your infants against the rock. Remember Hashem, against he sons of Edom the day of Jerusalem They who said, `destroy it, destroy it, unto its very foundation! O daughter of Babylon, praiseworthy is he who repays you In accordance with the manner that you treated us. Praiseworthy is he who will clutch and dash your infants against the rock. Remember Hashem, against he sons of Edom the day of Jerusalem They who said, `destroy it, destroy it, unto its very foundation! O daughter of Babylon, praiseworthy is he who repays you In accordance with the manner that you treated us. Praiseworthy is he who will clutch and dash your infants against the rock. Remember Hashem, against he sons of Edom the day of Jerusalem They who said, `destroy it, destroy it, unto its very foundation! O daughter of Babylon, praiseworthy is he who repays you In accordance with the manner that you treated us. Praiseworthy is he who will clutch and dash your infants against the rock. Remember Hashem, against he sons of Edom the day of Jerusalem They who said, `destroy it, destroy it, unto its very foundation! O daughter of Babylon, praiseworthy is he who repays you In accordance with the manner that you treated us. Praiseworthy is he who will clutch and dash your infants against the rock. Remember Hashem, against he sons of Edom the day of Jerusalem They who said, `destroy it, destroy it, unto its very foundation! O daughter of Babylon, praiseworthy is he who repays you In accordance with the manner that you treated us. Praiseworthy is he who will clutch and dash your infants against the rock. Remember Hashem, against he sons of Edom the day of Jerusalem They who said, `destroy it, destroy it, unto its very foundation! O daughter of Babylon, praiseworthy is he who repays you In accordance with the manner that you treated us. Praiseworthy is he who will clutch and dash your infants against the rock.

The translation vomit follows Rashi. Ibn Janach also [Lechem Dim’ah] translates “ will become exposed” from “nakedness” i.e. like a drunken man you will expose yourself daughter of Babylon who art to be destroyed, etc. A striking parallel to this verse may be found in Habakuk 2:16, “Drink also and be uncovered, the cup of Hashem’s right hand shall be turned unto you for retribution…. It is perhaps possible to relate the Edomite outcry against Jerusalem (destroy it, destroy it
to the foundation) Just as you Edomites called excessively for Jerusalem’s destruction, so will you drink excessively from the cup of destruction and be destroyed by the messianic scion of King David who will reconstitute the Sanhedrin and trample the vineyards of Edom. G-d remembers the iniquities of the daughter of Babylon or according to Ibn Ezra iniquities themselves, O daughter of Edom, evoke remembrances which will cause your punishment. The word, pakad, remember, when referring to Divine rule- indicates that G-d decrees what is appropriate or deserved (S.R. Hirsch on Exodus 20:5). The prophetic past tense is used as if the action had already taken place. G-d will uncover [lit. has uncovered your sins i.e. He will punish you daughter of Babylon. According to Midrash Lekach Tov, “G-d remembered your iniquity refers to the Edomite present at the first Destruction; He has uncovered your sins refers to the Edomites (Romans) present at the Second Destruction. Commentaries forecast Edom’s day of Judgment. In Sefer Ha-Zohar we learn that because Edom raised the city to its foundation, in the future the Holy One will rebuild the foundations of Jerusalem using other kinds of foundation stones, namely, sapphires. As it says, “I will... lay your foundation with sapphires (Isa. 54:11). This refers to the foundations of great strength, unlike the frail original foundations. Those foundations will emit a supernal light, and they will be sunk into the abyss where no enemies can have power over them. It the future, these “sapphires” will shine on high and shine below.” Me’am Lo’ez comments on the verse from Ekah, “Give them a broken heart, May Your curse be upon them (3:65). Most commentaries translate the word “meginat” as broken. However some interpretations render the phrase, “heart of stubbornness.” The previous voices asked for retribution for the gentiles’ deeds; this verse asks for the thoughts of their hearts. The final phrase, “May Your curse be upon them,” refers to the curses mentioned in the Torah, as in the Tokekhah (Deut. 30:7)- “May the L-rd place all these curses upon your enemies.” The verse in Ekah (3:66), “Pursue them in anger, and destroy them from under the heavens of the L-rd.” is interpreted by Me’am Lo’ez as an address to G-d as the ruler of heaven and earth, and requests that He totally obliterate the foes of the Jews. Even if they try to take refuge in the heavens, they will not remain their, as in Obadiah 1:4: “Though you soar aloft like the eagle and place your nest among the strong, from there I will bring down, declares G-d.” The Medrash Eicha Raboti (31:22) notes the relation to the absolute obliteration requested by Jeremiah, and the Biblical command to wipe out all traces of Amalek. That nation, the source of all the hatred and enmity directed against the Jews, must be destroyed to the point where his name is not recalled as the owner of a tree or a camel (the wise will understand the veiled allusions). This verse is recited in the Passover Seder, when the door is open to greet Elijah the prophet. Perhaps, this prayer for retribution was included in the text of that festive occasion because the Jews were forced so often to hold their seders in cellars and secret places, hiding from Gentile’s persecutions. Medrash Eicha (3:22) on the verse, “Render to them what they are due, O L-rd according to the deeds of their hands” notes that contrast between the verse and Psalms 79:12, “Render unto our enemies their insult sevenfold into their bosom”, and explains the prophets’ prayer, as follows: Regarding the suffering the gentiles have inflicted upon us, pay them back “according to what they have done.” However, what they did to the Temple, placed in the very bosom of the world, for that pay them back seven times.” A less severe opinion on the verse “happy is he that repays you as you have done to us [i.e. smashed our babies on the Rocks] ... is that David is prophesizing about Cyrus. He shattered them just as they had shattered the heads of Jewish infants on the rock. Thus our sages teach: Hundreds of infants brains were dashed against a
single rock. The exiles will recall the infants that were dashed against the rocks by the foul Babylonians. They will remember the slaughter perpetrated by Nebuzardan: the killing of infants and children, women and the elderly, Cohanim-priests and saints, until their blood flowed in a great stream that moved boulders. Upon recalling all this their hearts will seeth with rage, and they will say, “Happy is he that will grab and dash your infants against the rock,” measure for measure. Indeed that is what actually happened to Babylon: as it says in Isaiah, “they will have no pity on the fruit of the womb (Isa. 13:18). In Psalm 79 a remembrance of the destruction of the temple in Jerusalem is brought on the docket. A Psalm of Asaph. O G-d, the nations are come into Thine holy inheritance They have defiled the holy Temple; They have made Jerusalem into heaps. They have given the dead bodies of Jews to be food unto the fowls of the heaven The flesh of thy Jewish saints they have fed unto the beasts of the earth. They have shed their blood like water Round about Jerusalem with none to bury them. We are become the taunt of our neighbors, A scorn and derision to them that are round about us. How long, O L-rd wilt Thou be angry forever? How long will Thy jealousy burn like fire? Pour out thy wrath upon the nations that know Thee not, And upon the kingdoms that call not upon your Name (i.e. HaShem) For they have devoured Jacob, And laid waste his habitation. Remember not against us the iniquities of past generations; Let thy compassions speedily come to meet us For we are brought very low. Help us, O G-d of our salvation, For the sake of the glory of Thy Name And deliver us, and forgive our sins, for Thy Name’s sake. Wherefore should the nations say “where is their G-d”? Let the avenging of Thy servants’ blood that is shed Be made known among the nations in our sight. Let the groaning of the prisoner come before Thee; According to the greatness of Thy power set free those that are appointed to death And render unto our neighbors sevenfold into their bosom Their reproach, wherewith they have reproached Thee, O L-rd On the verse, “Pour out your wrath upon the nations” the Redak notes Hashem’s zealous anger and your wrath, burning upon us like fire, pour out upon the nations that showed violence against us According to Me’am Lo’ez the signer of this Psalm 79 laments for three excellent gifts that had been bestowed upon the Jewish people: progeny, the Divine presence, and the holy land of Israel. Corresponding to progeny he says, “nations have come into your inheritance” which refers to Israel. They have defiled your Holy Temple which is the abode of G-d where the Levites serve, “they have made Jerusalem into heaps of rubble. When the nations entered the earthly Jerusalem and defiled it. They brought ruin and desolation to the supernal Jerusalem. Thus its says: the Holy one will not enter the Jerusalem on high until He has entered the Jerusalem below. In regards to the verse “servants to be food to the fowl of the heaven” Meam Lo’ez notes this is the Levitical Kohanim who in the Beit HaMikdash hurled themselves to their deaths rather than be slaughtered by the intruders. Their bodies became food “to the fowl of the heaven.” The Me’am Lo’ez continues, “Your saintly ones” this refers to the Levites, as it says, “Let Your priests be clothed with righteousness; and let Your saintly ones shout for joy (v. 132:9). The bodies of the saintly Levites was given as food “to the beasts of the earth.” Regarding the Israelites the Singer says, “they have shed their blood like water round about Jerusalem, with none to bury them” (v.79.3). Me’am Loez continues of the following verse calling for vengeance (pour out your wrath upon the nations that do not know You, and upon the kingdoms that do not call upon Your name): “Having spoken on the two calamities inflicted by the heathens, the destruction of the Holy Temple and the killing of the people of Israel, the Singer says, “Pour out your wrath upon the nations that do not know You” and that do not care to honor you; and upon the kingdoms that do not call
upon Your name.” They do not acknowledge You by the name “God of Jacob”.
Thus it says “for Your city and your people are called by Your name (Daniel 9:19).
Would they acknowledge Him by this name, they
would not have done what they did, as the scripture explains. “that do not call upon Your name.”
In contrast, the scripture says about Abraham and about Isaac, “And he called in the name of the L-rd (Gen. 12:8; 26:25).
Unlike the patriarchs who endeavored to make known the greatness of the Almighty
to all men, these nations do not call upon Your name. For they do not want to accept the burden of your
Kingship. As it says, “The L-rd ... shone from Seir to them; He appeared from mount Paran (Deut. 33:2)
but they declined to accept the Torah. Thus it also says, “like those over whom You never ruled, who
were not called by Your name (Isa.63:19). Concerning their deeds – their conquest of Jerusalem and the
destruction of the Jewish people- they did not “call upon Your name”. Rather they said, “The L-rd has
not done this (Deut. 32:27). In a similar sense: They did not bring this destruction upon Israel because of
your decree, but due to their own savagery. This verse may also be clarified by means of a parable. A
criminal attacked a passer by struck him wounded him and robbed him of his money. When brought to
trial he argued that the man he attacked was the son of an important minister of state. He saw the man
insult his father, and he had struck him out of concern for the father’s honor. If you only acted out of
zeal for the father’s honor, the accused was challenged, “why did you also rob the man’s money? The
same holds true of our enemies. Should they contend that they distressed the Jewish people because
the Holy One condemned them to be exiled in expiation for their sins, they are told: If your zeal for G-d’s
glory had been genuine, you would not have committed these two evils: You both “devoured Jacob” and
“laid waste his habitation (79:7). Through special taxation and arbitrary decrees, their enemies
plundered the Jews’ wealth and the products of their rightful industry. Therefore “pour out Your wrath
upon them.” “pour out your wrath upon the nations that do not know You.” Bring retribution
upon them for denying divine providence and because they do not call upon Your name. Punish them
because “they have devoured Jacob” as it says, “Israel is holy to the L-rd, the fisrt fruit of His yield; all
that devour him will be held guilty (Jeremiah 2:3). Pour out your wrath upon them for having defiled the
Temple which bears your name (His habitation is another expression for His name. Because they
devoured Jacob, and laid waste his habitation,” the nations do not call upon the name of the L-rd. So
long as the Holy Temple stood intact, the nations also called in the name of the L-rd; as King Solomon
prayed, “Moreover concerning the stranger, that is not your people Israel, but comes out of a far
country for your name’s sake...come and pray towards this House (Kings 8:43). But because they
devoured Jacob, “they do not know You.... And do not call upon your name.” Biyom ha-hu biyom ha-hu
yiyeh adoshem ekkah, u-shemo ekhad etc.

74 Hashem’s Name cannot be enframed via Gestel, put in a box, framed, or limited in any way for He is ayn sof. In Megilas Esther, which is based on the hiddenness of Hashem... Mikubalim evoke the concept (rayon) of the Holy One of Being as beyond all names, beyond even the mystical Temira D’Temirin, “Hidden of the Hidden.” Likewise
during RH and YK. We speak of Hashem’s royalty as leilah leilah, beyond even the beyond, and evoke His attribute of being Ayum veNorah (sublime and awesome) which is illustrated by the Latin root, Sub-limen, meaning literally
under the limen or lintel, for although we put 3 different parchments with the tetragramaton in a bayit (the
mezuzah) under the doorpost (limen), the mezuzah gestures to a transcendent Deity beyond the box, although
sefer haZohar refers to two angels guarding every doorway with a mezuzah, those malakhim are Hashem’s
emisarys that testify to the transcendent beyond Deity who is literary SUBLIME, play on words etymologically for
we can never limit Hashem whose attribute of ayn sof, breaks all limits. The tetragramaton evokes this ayn sof, the
ineffable Name of Being qua being. The pronunciation of the tetragramaton is only known by Mikubalim. It was only pronounced one time a year by the Kohen Gadol in the Kodesh Kodeshim. Beheld by the many and not spoken. Some derive this name from the theophany of Moshe at the burning bush, asher yehayeh, the One who brings into being everything that exists, what Wittgenstein opens in the Tractatus, “the world is all that is the case.” The One who Wittgenstein in proposition #7 mystically refers to as “Wovon mann nicht sprechen Kann Daruber mußt mann schweigen.” For Mikubalim the tetragramaton is the trunk of the tree of the sefirot (Cf Joseph Gikatilla, Shaare Orah, ed. Joseph Ben Shlomo (Jerusalem: Bialik Inst., 1970, p. 176). When Moses asked of G-d at the theophany of the burning bush, “When I come to the people of Israel and say to them, ‘The G-d of your ancestors, has sent me to you,’ and they ask me, “What is His NAME?” what shall I say to them?” And G-d answered Moshe, Eheh ahser Ehyeh (Shemot 3:13-14). By Devarim Moshe speaks panim el panim with Hashem...

and as the greatest of prophets, lo kam biyisrael kimoshe oed navi, umabeat et temunato, Moshe saw the future eschatology clearly, indeed what Zechariah 14:9 anthologized in the Aleinu notes, “Biyom haHu Hashem Ekhahd VeSHEMO Ekhad, etc.” When human history interpreted by finite human beings is fulfilled (chromos plethorei rather than chromos diatreiben in the day to day 6 days leading up to Creation, remembered when we rest on Shabbos, then there will be no more what Wordsworth phrases “getting and spending” (chromos diatreibion) only chromos plethorei marking the entry into perpetual eternal peace, i.e. Ayn Sof, primal consciousness in modern jargon, the light of creation on the 1st day which Rashi notes is the light stored up for the righteous in Olam habah and Rambam notes in Hilchot Teshuvah is the light of the zeiv (radiance of) the Shekhinah which the righteous with crowns on their heads proportional to their intellectual attainment in olam hazeh will bask in. The awareness will understand then that Hashem cannot be limited, contained, or put in a frame or box. He is without end, but not a humanly constructed scientific “closed system....” For Hashem is not a system at all, and if we were to consider Hashem a system.... We would be idolators, who cleverly logize that we can feed, bribe, tweak, or manipulate the Deity in any way, heaven forbid, reducing Hashem to an l-thou relationship. Yet being in olam hazeh the light of the havdalah stoltz joltz us back to the 6 days of creation of chromos diatreibon, the lighting of the Havadlah stoltz, the first act of Tikkun separating the holy from the profane and when the havdalah stoltz is extinguished in the wine, we realize again that the ancient light of the 1st day is hidden away as ohr genus, ohr nistaroh, ohr penimit. The Sefer Kabbalah Havadlah deRabbi Akiva notes that the gematria of yayin = 70 as does secret (sod) and as does BaChaim. Ergo symbolically putting the havdalah stoltz out in the wine is a symbolic act, for Rabbi Akiva a theorgic act, whereby we represent that in that liminal moment of going from olam hazeh to olam habah all the secrets (sodot) will be revealed by Eliyahu Hanavi, but as in many religions, in that “death”- out out brief candle, not in the Macbethian nihilistic sense of no moral accountability for our behaviors, the soul is taken to the heavenly court upstairs of the Ebester, and the first question asked and evaluated there is, “Did you have good business ethics.” Ergo the paradox, in that death there is life! Death metamorphosized in transformation and rebirth of consciousness.

See: Rabbi Mordechai Friedman, “the Sanctity of God’s Name: Erasing Sacred Texts from a Computer Screen" in Alei EtZion: A Torah Periodical of Yeshivat Har EtZion, Volume 8, Adar 5759, p. 47-55; I wish to give credit to Rabbi Friedman for his article in Alei EtZion from which much of my citations derive.

Wrapped in the scroll, he was placed on a pyre of green brush; fire was set to it, and wet wool was placed on his chest to prolong the agonies of death. “Woe is me,” cried his daughter, “that I should see thee under such terrible circumstances!” Haninah serenely replied, “I should indeed despair were I alone burned; but since the scroll of the Torah is burning with me, the Power that will avenge the offense against the law will also avenge the offense against me.” His heartbroken disciples then asked: “Master, what seest thou?” He answered: “I see the parchment burning while the letters of the Law soar upward.” “Open then thy mouth, that the fire may enter and the sooner put an end to thy sufferings," advised his pupils. But Haninah replied, "It is best that He who hath given the soul should also take it away: no man may hasten his death." Thereupon the executioner removed the wool and fanned the flame, thus accelerating the end, and then himself plunged into the flames (Avodah Zarah 17b et seq.)
that the who care to pierce into the mystery of the holy unity of G-d should consider the flame as it rises from a burning coal or stoltz. There must always be some material substance from which the flame thus rises. In the flame itself may be seen two lights (shnei ohrot): the one white and glowing, the other black, or blue. Of the two, the white light is the higher and rises unwavering. Underneath it is the blue or black light upon which the other rests as on a support. The two are conjoined, the white reposing upon the throne of the black. The blue or black base is, likewise, connected to something beneath it, which feeds it and makes it to cling to the white light above. At times this blue or black light turns red, but the light above remains constantly white. This lower light, at times black, at times blue, at times red, serves to link the white light above it with the material substance below to which it is bound and through which it keeps kindled. This lower light is in its nature an instrument for destruction, devouring whatever comes near it. But while the white light above neither consumes nor demolishes nor does it ever change. Therefore Moses said, “For the L-rd thy G-d is a consuming fire”, consuming, actually, all that is beneath him; for this reason he said “thy G-d” and not “our G-d”, inasmuch as Moses stood in the supreme light which does not consume and does not demolish. Remark further. It is Israel alone which impels the blue light to kindle and to link itself with the white light, Israel, who cleave to the blue light from below. And though it be in the nature of the blue or black light to destroy whatever it touches beneath, yet Israel cleaving to it from beneath, are not destroyed, so it is said, “but ye that cleave unto the L-rd your G-d are alive every one of you this day”. Your G-d and not our G-d; that is to say, it is the blue or black flame, consuming and annihilating whatever cleaves to it from below, and still you cleave and are alive. Only just perceptible above the white light and encompassing it, is yet another light, this one symbolizing the supreme essence. So does the aspiring flame symbolize the supreme mysteries of hokmah. Rabbi Phineas went to him and kissed him, and said, Blessed be G-d who guided me here. And they went out with Rabbi Phineas, accompanying him for three miles. When they had returned, Rabbi Simeon spoke: The description I have given may be taken as a symbol of the holy unity of G-d. In the HOLY NAME (tetragramaton), the second letter heh is the blue or black light attached to the remaining letters yod, he, vav, which constitute the luminous white light. But there come times when this blue light is not heh but daleth, which is to say poverty and humility; this means when Israel fail to cleave to it from beneath and it in turn fails therefore to burn and cleave to the white light, the blue light ois daleth, but when Israel make it to cleave to the white light, then it is heh. If male and female are not together, then heh is erased and there remains only daleth (poverty). But when the chain is perfect, the heh cleaves to the white light, and Israel cleave to the sheh and give substance for its light, and are yet not destroyed. In this we see the mystery of the korbanot. The rising smoke kindles the blue light, which then joins itself to the white light, whereupon he entire Stoltz is wholly kindled, alight with a single unified flame. As it is the nature of the blue light to consume what ever comes into touch with it from beneath, therefore if the sacrifice be acceptable and the stoltz wholly kindled, then as with Elijah, “the fire of the L-rd descends and consumes the burnt-offering” (I Kings 18:38), and this reveals that the chain is perfected, for then the blue light cleaves to the white light aobe, while at the same time consuming the fat an flesh of the burnt-offering beneath, nor can it consume what is below, except it rise and join itself to the white light. At such time, peace reigns in the WORLDS, and all together form a unity. The blue light having devoured every thing beneath, the priest, the Levites, and the laity gather at its base with singing and meditation (hitbonenut) and with tefillot, while above them the lamp glows, the lights re merged into a unity, worlds are illuminated, and above and below, all are blessed fully. Therefore it is written, “ye, even while cleaving to the L-rd your G-d, are alive every one of you this day.” The word atem is here preceded by the letter vav, which indicates that while the fat and flesh cleaving to the flame are devoured by it, you who cleave to it are yet alive etc.

76 See Midrash Rabbah on Shemot 15:7 that the most wicked of the Mitzreim were drowned Kikash, a protracted death, while the less wicked descended like lead for a less protracted death i.e. {שַׁעֲרֵי}|מֵּמָּזָּן, וְרָחוֹק|וְרָחוֹק, אַדִּירִים|אַדִּירִים, בְּמַּיִם|בְּמַּיִם סָּמוֹן|סָּמוֹן, אַדִּירִים|אַדִּירִים, קְלָלָא|קְלָלָא.
77 Mekhilta de Rabbi Ishmael, D’Vayehi (Beshalah) 5; Each of the four groups of Jews received an answer according to its intention. Some of us wanted to throw ourselves into the sea but were told, “Have no fear! Stand by and witness the deliverance which the L-rd will work for you today (Ex. 14:13). The second group chose to surrender and return to the slave pits, but were assured, “The Egyptians whom you see today you will never see again. (ex. 14:13). The third group wanted to stand do battle. They were calmed with the promise, “the L-rd will battle for you” (Ex. 14:14). And the last group, simply raised their voices in tefillot, wer silenced, “Hold your peace!” (Ex. 14:14). Only Nahshon ben Aminadav (in some traditions Binyamin see Rav Kasher, Torah Shelema) walked
without hesistation into the sea which parted in twelve walls of water, for each tribe, and the salty brakish water tasted sweet, and exotic fruits sprung from the sea bed raising the question for the No...


As in other Rabbinic terms (i.e. malkhut shamayim (the royal kingdom of G-d) & le-shem shamayim (for the sake of G-d)), the word shamayim is a metonym for G-d. Rabbi Hanina (bar Hama) said, "Everything is in the hands of Heaven except the fear of heaven (yirat shamayim)..." Mishle 3:17 notes, "The beginning of wisdom is the fear of G-d" which motivates the performance of mitzvot from love considered the ikkar ve-takhlit ha-adam (essence and purpose of the human being) in questing for perfect knowledge (daat shelemah). Avodah mi-yirah (service from fear) that is not lishmah is lower than avodah motivated on a madregah of ahavah, for its own sake (lishmah). Fear of punishment is a lower fear than yirat ha-romemut, characterized by a sense of awe or reverence which motivates ahavat Hashem. A goal of Tzaddikim is to transform raw fear and terror into inner apprehension that precludes sinning. Rambam [Hilkhot Yesodei HaTorah 2:2] notes that love is the thirst to know G-d, rooted in our consciousness of His infinite wisdom (mysterium tremendum), while fear is finite man's movement of recoil before the Infinite, peering into the abyss. Rav Nahman of Bratzlav's famous proclaims [Likkute Mohran II:48], "when a person has to cross a very narrow bridge, the principle thing is not to fear (lo lipakhad kla). Rabbi Nahum of Chernobyl notes that "zaddikim transform the source of fear and awe into love and desire (for Hashem)." The Kotzker rebbe asked, "What is the difference between a Hasid and a Mitnaged? The Hasid has fear and trepidation before G-d, while the Mitnaged has fear and awe into love and desire (for Hashem)."

86 Friedman, Mordechai, "The Sanctity of God’s Name: Erasing Sacred Texts from a Computer Screen,’ Alei etzion: a Torah periodical of Yeshivat Har Etzion, 1999, p. 47
87 Rambam, Sefer HaMitzvot, lo ta’aseh 65.
88 OC 152:1
89 Maharik, Responsum 61; in the pirush on the SH, the Bi’ur ha-GRA also quotes this Sifrei a the Rema’s source. The Peri Megadim and Rav Yitzchak Elchanan Spector in Ein Yitzchak #5 question the possibility that the Rambam in Sefer ha-mitzvot could rule that the vandalism of a part of the beit Midrash or shul would be de-oraitha. Since hekdesh and me’ila apply only to the Beit HaMikdash, the Ran states the kedusha of a synagogue is de-gra’ah of adarabban. Ergo many Acharonim interpret Sefer Ha-mitzvot lo ta’aseh 65 is problematic and should not be interpreted literally or taken at face value, but consider vandalism to a shul mi-derabbanan.

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Friedman, Mordechai, "The Sanctity of God's Name: Erasing Sacred texts from a computer screen", in Alei Etzion, 54.

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While William Dever recently has excavated Gezer, A translation of the Inscription reads:

Two months gathering---------------------------------[September-October]
Two months planting---------------------------------[November-December]
Two months late sowing---------------------------------[January-February]
One month cutting flax---------------------------------[March]
One month reaping barley---------------------------------[April]
One month reaping and measuring (grain)-----[May]
Two months pruning---------------------------------[June-July]
One month summer fruit""---------------------------------[August] AbiJaH


Al pi kabbalah the "otzrot shel sheled" are in the sefirah of Asifa, which itself is above ayn sof, which is even above keter. In Asifa one finds yesh miyayin. It is the sefira where the mikubalim... enter to combat the "leviathan" who represents "tohu vavohu" and theurgically the mikubalim generate the snows as a symbol of purgatory (see Tanya of Rabbi Shneu Zalman Lieder). Asifa is where yesh mi ayin comes, it is from where the esoteric secrets of ma'aseh bereshit arise. In my m.a. dissertation at Haverford i write about asifa as follows with regards to Thirteenth Century Kabbalists: The doctrine of creation ex nihilo or yesh mi ayin intrigued medieval Kabbalists. A Kabbalistic interpretation of Bereshit is that God is said to have created not out of chaos/void (tohu abuhu) but "out of the nothing." Scholeim in _Kabbalah and its Symbolism_ writes: The chaos that had been eliminate in the theology of the creation out of nothing reappeared in a new form. This nothing had always been present in God, it was not outside Him, and not called forth by Him. It is this abyss, within G-d, co-existing with His infinite fullness, that was overcome in the Creation, and the Kabbalistic doctrine of the God who dwells 'in the depths of nothingness', current since the thirteenth century, expresses this feeling in an image which is all the more remarkable in that it developed from so abstract a concept.[53] For the
Kabbalists, nothing is taken as G-d’s innermost mode of being. Kabbalists reasoned that "God being ayin (nothingness) created the world out of Himself."[54] In this sense God being unrepresentable in image can be described as “a circle whose center is everywhere, but whose circumference is nowhere” as Nicholas of Cusanus held. Like Spinoza’s substance (ousia), it is causa sui, nothing except more of the same can generate out of it. This Kabbalistic view is opposed to the Greek notion of there always being something eternal that was always there, a dilemma whose ontological and eschatological status has never been resolved.[55] Rotman also notes that keter (crown) was that sefirot of the Kabbalistic system of pleromatic emanation that is the origin of being, the place where something comes to be out of nothing. Rotman extends his thesis about a semiotics of zero to interpret the figure of keter as a figure signifying zero. Rotman interprets the mystical O of the Kabbalah as referring to the "Hollow Crown" of keter which he feels serves as an icon of ex nihilo creation.[56] Ein-Sof as ayin or afisah involves the negation of a boundry/ peras/ gevul/ grenzen. So to grammatically in Greek if one wants to state that the soul of human being is immortal on posits, "Psuche ton anthropos a-thanatos." The mystical alpha negates the boundaries of mortality. Likewise it is with the mystical aleph that the Maharal put the golem out of commission spelling met from the emet written across its forehead, a word containing the first, middle, and last letters of the 22 otiot. The mystical aleph in Hebrew can negate the limits of what it means to be alive while in Greek the mystical alpha negates the limits of death. The nothingness of which the Kabbalists speak therefore can be negated too. Essentially, this nothingness is the barrier confronting the human intellectual faculty when it reaches the limits of its capacity. Nothingness for Kabbalists can separate the world that is articulate and the world of apparent nonsense. Thus ben Zoma when he returns from Pardes is recorded in the gemarah to be speaking what appears to the untrained as nonsense, but in reality it is a language encoded with Kabbalistic significance. Many know the remark of Dr. Lieberman before introducing Scholem before a lecture where Lieberman said something to the effect that Jewish mysticism is nonsense but he academic study of nonsense is scholarship. Nothing may separate the realm of linguistic cogency from linguistic nonsense. Wittgenstein gestures towards this realm in the Tractatus when in his seventh proposition which reads, "Wovon Man nicht sprechen kann, Daruber muB Man schweigen."[57] Ein-Sof which turns toward creation manifests itself as ayin hagamur (complete nothingness) or "God who is called Ein-Sof in respect of Himself is called Ayin in respect of His first self-revelation." Some Kabbalists allowed no interruption in the stream of Atzilut from the first Sefirah to its consolidation in the worlds familiar to medieval cosmology, creatio ex nihilo may be interpreted as creation from within God Himself. Ramban speaks of free creation of the primeval matter from which everything was made. However Ramban’s use of the word ayin in this Perush al sefer Iyov 28:12 and allusions in his comments on Bereshit that the meaning of the text is the emergence of all things from the absolute nothingness of God. The commentary to Sefer Yezirah by R. Yosef Ashkenazi (attributed in the printed editions to Abraham b. David) defined the first Sefirah as the first effect- the leap from Ein-Sof to ayin. R. David b. Abraham ha-Lavan in Masoret ha-Berit (end of 13th Century) defined the ayin as "having more being than any other being in the world, but since it is simple, and all other simple things are complex when compared with its simplicity, so in comparison it is called nothing (Kovez al-Yad, new series, I, 1936, 31). In Kabbalah the term imkei ha-ayin (the depths of nothingness) is operative. It is said, that "if all the powers returned to nothingness, the Primeval One who is the cause of all would remain in equal oneness in the depths of nothingness." In short "nothing" (efas and associations of Ayin and Asifa" are ambiguous terms. It has many meanings, depths, and associations. Some good /some bad i.e. a bad association is in a haftorah that warns, that a debauched generation has pursued "nothings" i.e. things that are not substantial i.e. eternal like torah, however in Kabbalah the doctrine of nothingness as a praxis in tefillot (bittul ha-yesh) i.e. learning to feel humility like Moshe who was not just.
humble but very humble (anuv moed), and in the greatest of all Hashem's miracles, yesh miyin, the topic has good associations that are not just good but "very good" in that understanding the depths of nothingness, allows mikubalim to tap into a tincture of the power of Hashem's infinite power(s) from which creation ex nihilo draws. Mikubahlim invoke a myriad of angels. One of whom is called Amtulta, who dwells in the darkness of nothingness according to the Targum on Sefer Iyov also associate with powers of the scales of justice etc. The question regarding the name of amtulta [bat Karnivo] is brought down to come from the root amtul meaning "for the protection of" or "for the sake of", on account of. see Targum Yonatan Lev. IX, 7; a. fr. v. mitul and preceded. w. Amtulta (feminine form) is brought down in Targam Yonatan Lev. IX, 7 and Targum Iyov I, 10 around him protecting him. Targ. Psalms VII. 8; a.e. Keth. 67th Amtultah for his sake Also see Amtitah implying balances, scale. Pesk. B'shall. p. 82; Amiyliah Tosef Maasr. III, 6 ed. Zuck., V. Hamtaliah Al pi Kabbalah these terms are associated with a Malakh who protects. 97 Sugyt with Amtulta:  

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בצמצום לפני השלישי
isers מתירה
גזרה של הנושכות
בשלו ולא נדבק אלא בשלו
בתוס
dכל היכא דאיכא זיקת ב
ושמא תאמר כיון
י אית ליה זכיה כדתנן
דדחיק ומוקי אנפשיה
ש הגאון
dאיכא בינייהוEXAMPLE SUCH AS דאשתכח מאכולת
dילמא דם מאכולת אלא
דאית בה מכת מרדות
שלמא חלוצה דדמיא לגרושה קתני אמטולתא אבל נתינה מה שייכא
t ת תרומת מעשר דלית ליה דשמואל
לא מילתא דלא שכיחא הוא
	

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Maasr. III, 6 ed. Zuck., V. Hamtaliah Al pi Kabbalah the
67th Amtulta for his sake Also see Amtitah implying balances, scale. Pesk. B'shall. p. 82; Amiyliah Tosef Maasr. III, 6 ed. Zuck., V. Hamtaliah Al pi Kabbalah these terms are associated with a Malakh who protects. 97 Sugyt with Amtulta:
thane קרובה כל כך

כתבתי לשון בעלי התוספות ז"AMED
ל אין ערוב לקרפף.
גם מה שכתב ודקדק מדריה
יהודה בן באבא,
ואמר אין בדין שיהא הבית דירה אסור והגנה מותרת אמטולאתא.

זה הלשון מופרך ומוקשה,
oc.
וכבר כתבתי למעלה כי סמוכה לעיר היא תיובתיה,
והיאך היא מתרת היא עצמה אסורה.
והוא עצמו נכנסו דברי באזינו,
ואמר...


d.

Sugyot with Amrut:

תלמוד בבלי מסכת זבחים פרק ו קדשי קדשים
אזלינן, אלא למ
ד בתר מלמד אזלינן,
מאי איכא למימר?
דם ובשר חדא מילתא היא.
כי סליק רבין אמרה לשמעתא קמיה דרבי ירמיה,
אמר: בבלאי טפשאי,
אמטול דיתבי בארעא חשוכא אמרי! לא שמיע להו הא דתניא:
בשעה סילוק מסעות קדשים
נפסלין,
וזבים וומצורעים משתלחים חוץ למחיצה,
וזניא אידך: בשני...

2. תלמוד בבלי מסכת כריתות פרק ג
אמרו לו...
ואמטול להכי אמר:
חייב על כל אחת
ואחת,
וה
נ דעבד תרתין,
או דלמאטעמיה דרבי אליעזר התם משום דאי אפשר לו לערבן
לביאות זו בזו,
ואמטול להכי א
ר אליעזר:
חייב על כל אחת ואחת,
אבל קצר כגרוגרת וחזר
וקצר כגרוגרת בהעלם אחת,
כיון דאפשר לו לערב
שתי גרוגרות בבת אחת...

3. שאילתות דרב אחאי פרשת ויקרא שאילתא סט
דקרא סברא למה לי מה הוא דתימא אע
ג דמדאורייתא שתייה בכלל אכילה בנדרים הלך אחר לשון בני אדם ולא
קרו אינשי הכי
משמע לן דקרו אמטול הכי קא מסייעין וקא פרכינן עלה דשבועה Также
הלכתא...

4. שאילתות דרב אחאי פרשת ויקרא שאילתא
יודע אי זה הוא שנותן لهذا מנה ולזה מנה שהודה מפי עצמו אלא
אמר רבא שאני מתניתין הואיל וידע ממאן דגזל והדר גזילה למריה
וטעמה אמטול דנשבע דבעינן לאשר הוא לו יתננו ביום אשמתו הא לאו הכי כמאן דאמר ליה יהיה לו בידך דמי
ואימא לך רבי עקיבא נמי היכא...

5. תשובות הגאונים - הרכבי סימן עח
זהב קונה טלית ואיסתפק לן או היל הכר שמעון או לא משום דקא
חזינן דקא מותיב מינה תיובתא ואו לאו היל: היא היכי מותבינן
מינה אמטול הכי קשי לן. הא מילתא קא מצטעריננא עלה מן זמן מרובה והכין קא סלקא
דעתנא דלא אשכחנן במתניתין טיבעא לא לגביכספא ולא...

6. פירוש הריבמ"ץ למשנה מסכת חלה פרק א
של הקדש, אבל אם עשאן למכור בשוק חייב,
מאי טעמ
', כל לשוק אימלוכי מים,
אמ
אי מיזדבנא מיזדבנא ואי לא אוכלינון אנא,
ועריסותיכם קרינא ביה,
אמטול הכי חייב בחלה.
משנה זנחתום שעשה שאור,
פי' שיעור חיוב חלה,
לחלקו לעיסות,
חייב אותו שיעור בחלה,
שלא בדעתו הדבר תלוי אלא בדעת...

7. חידושי הריטב"א מסכת מכות פרק א
כיצד העדים...
התורה אלא המדרבנן כדאסיקנא בפרק עשרה יוחסין (קידושין ע א)
אם כן אין בו דין הזמה מדאורייתא כלל, אלא משום דאיסור חלוצה לכהונה דמדרבנן הוה אמטול פיסול גרושה דאורייתא ואסמכוה נמי על מאי דכתיב ואשה גרושה מאישה כדאיתא התם נקיט להו תרויהו כהדדי, וכדותני להו לקמן פרק אלו הן הלוקין...

8. חידושי י הרביץ"א מסכת קידושין פרק ג
האומר...
וטעמא דמילתא דכי הוו תרי ויהיב חד
مينיהו גיטא ליכא טעמא דאין אדם חוטא ולא לו
, דayahו סבר דמשום גיטא דידיה לא
משתריא דאכתי אסירא אמטול אידך,
הילכך הימנותא גבי תרויהו היא даже הכי כונס אחד מהם, אלמא נאמן הוא לכנוס.
והלכתא כרב אסי דתניא כוותיה,
ומסתברא שהוא הדבר אם...

9. חידושי הרביץ"א מסכת ראש השנה פרק א
ארבעה ראשי שנים...
שאין אלא ביום,
ואיכא למידק נהי דלענין קרבנות ליתיה אלא
ביום הא איתיה לכולוו שאר מילי דתלי בג
'רגלים דתניא
במתניתא דלעיל (ד א) ואי לקרבנות לא חייל מאורתא אף
לשאר דברים כן, והנכון...

10. חידושי הרביץ"א מסכת שבועות פרק ד
שבועת העדות...
משום בן הרכה שאינה צריכה ו לשם כן, פריך וכו דבשלמא הני סמיכי לכרך דעלמא.

לא יסתפק מה التالي.

א電腦 הכין אמור רבנן בטעמא דהשתא דעסיק בהא פטיר.

א眼皮 הכין איסור רבנן בטעמא דהשתא דעסיק בהא פטיר.

לפי שמתוך דוחק פירוש אשר לא כתיב בספרא שם.

ראיה דכתיו הטוב יותר מהשעות שאחריה.

ברכי יוסף אורח חיים סימן מט.

ברכי יוסף אורח חיים סימן לח.

ספר שבולי הלקט סדר פסח סימן רלד.

לפי שניה דשרין תגריה ברישא דאיכא רווחא לחבריה כדמוכח ההיא דפרק שני דייני הכתובות בבריה.

לפי שניה דשרין תגריה ברישא דאיכא רווחא לחבריה כדמוכח ההיא דפרק שני דייני הכתובות בבריה.

לפי שניה דשרין תגריה ברישא דאיכא רווחא לחבריה כדמוכח ההיא דפרק שני דייני הכתובות בבריה.

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The subject has its secular analogue in science, literature, and philosophy. In philosophy the subject in ancient Greek is meontology the analysis of which I give at:
http://student.ccbcmd.edu/~dlevy11/kavka.htm

The secular philosophic interest in nothing is in footnotes 52 to 81

In literature and philosophy see me M.A. thesis at Haverford College on “Nothingness in Shakespeare’s 3 tragedies: King Lear, Richard II, and Macbeth at:
http://student.ccbcmd.edu/~dlevy11/Shakespeare.pdf

Shakespeare also had a sense of humor as you do in the post below, and for Shakespeare that has something to do with “Much ado about nothing” (A comic drama) which when we learn that in Elizabethan England, the female genitilia were called “nothing” pronounced in the 16th century England with a hard t i.e. Nothing, much comic relief is offered in the play “Much ado about nothing” which invites the Freudian interpretation that normal men go bonkers over “Victoria’s secret” while women go nuts over what Freud identifies as penis envy, the wise will understand etc.


100 Dov Baer, Maggid, p. 24, no. 9

101 See: Herring, Basil F., Jewish Ethics and Halakhah for Our Time, NY: KTAV Publishing House, 1984, p.175-181; In Leviticus 18:22 it is noted, “Thou shalt not lie with man as with womankind, it is an abomination (toava hi); We learn further in Leviticus 20:13 “And if a man lie with mankind as with womankind, both of them have committed an abomination: they shall surely be put to death: their blood shall be upon them; Remphasis is made in Leviticus 18:3 “After the doings of the land of Egypt wherein ye dwelt, shall ye not do, neither shall ye walk in their statutes.” Deuteronomy 23:18 notes, “there shall not be a harlot of the daughters of Israel, neither shall their be a Sodomite of the sons of Israel” and in Genesis 19:5 it is recalled, “And they called unto Lot and said unto him, “where are the men that came in to thee this night? Bring them out unto us, that we may know them!”. Mishnah Kiddushin 82a reads, “said R. Judah: ‘A bachelor should not gaze upon a cow, and two bachelors should not sleep under one cover.’ But the sages permit this.”; In Kiddushin 82a: “It is stated in a Beraita: They said to R. Judah: Israelis are not suspected in matters regarding homosexuality or zoophilia.” Mishnah, Sanhedrin 54a: The punishment for practicing homosexuality or zoophilia is stoning.” Sanhedrin 54a-b: Where is the prohibition of homosexuality?: Because it says (B) If a man, i.e. a man and not a minor. And it says “lie with mankind” i.e. whether the passive partner be an adult or a minor. And it says “as with womankind” from which we learn that there are two modes of lying with a woman…. This verse speaks of the punishment for this act: whence comes the prohibition? It is Leviticus 18:22 (A). That verse speaks only of the ‘active’ partner: what of the passive one? R. Ishmael said that it is refered to in Deuteronomy 23:18 (D), as well as I Kings 14:24, “and there were also Sodomites in the land.” R. Akiva said “those verses are not necessary: instead, there is an alternative reading in our verse, for by changing the pointing to read tishakhev. It would read “thou shalt not be lawin with mankind as with womankind”. In Yevamot 53b Rava said: A man may not claim that he committed a prohibited sexual act involuntarily, for there cannot be an erection against his will”; In Yevamot 86a: Said Rava, “the law is not in accordance with Rav Huna, who said that a lesbian may not marry a kohen. For even according to R. Eliezer who considers an unmarried couple who have cohabited as performing an act of zenut, which disqualifies the woman
from every marrying a kohen. This does not apply to two women who lie together: in their case, it is simply sexual licentiousness; Maimonides in M.T. Hilkhot Issurei Biah 22:2 writes, “Israelites are not suspected in matters regarding homosexuality or zoophilia. Therefore it is forbidden to sequester oneself with another Jewish male. If, however one does take special precaution to avoid being alone with another male, such an attitude is praiseworthy. In Shulhan Arukh, Even ha-Ezer 24 it states [Quotes (L) verbatim, then adds: But in these times, when there is so much licentiousness, one should indeed take special precautions to avoid being alone with another male. In Sefer ha-Hinukh 209-210 it states: The view of Maimonides is that there shall be no harlot (D) adds a negative command to the prohibition of homosexuality, similar to a number of prohibitions in the Torah that duplicate other prohibitions using different words. I have noted also that according to Nachmanides, (D) forbids us to permit in our holy nation the existence of a kadesh (prostitute), which refers to a male who is available for homosexual acts, in the manner commonly found in Islamic lands to this day. At the rot of this command is that G-d wanted thw orld to be populated, and so He commanded us not to waste our seed in the manner of Gentile sexual practices. For homosexuality is in truth destructive of the holy seed, not leading to offspring, nor providing conjugal fulfillment for one’s wife. Besies, such an act is detestable and vile in the extreme to any intelligent person. A person who was created to serve the Creator should not debase himself by such vile acts.” Etc.


Mishnah Bava Batra 3:7

Bava Batra 60a

Hoshen Mishpat 1547, see Rema in Mah Pah also

Hoshen Mishpat 154:3


No Hidushim are personally offered in this section. Rather I must acknowledge and give credit that this section is totally dependent upon the work of poskim whose study of the subject is found in the following 4 works:

Rav Zalman Nechemia Goldberg, “Copying a Cassette Without the Owner’s Permission,” Techumin 6, pp. 185-207

English:-- Rabbi Israel Schneider, “Jewish Law and Copyright,” Journal of Halakha and Contemporary Society, -- Rabbi J. David Bleich, “Copyright,” in Contemporary Halakhic Problems pp. 121-130; and

See: Rabbi Israel Schneider - Member of Kolel, Teishe Yeshiva; Researcher, Ofeq Institute at: http://www.jlaw.com/Articles/copyright3.html and The Jewish Virtual Library by R. Israel Schneider at: http://www.jewishvirtuallibrary.org/jsource/Judaism/copyright.html

See: Weinbeg, Bella Haas, Citation, Obliteration and Plagerism as discussed in Ancient Jewish Sources, Journal of the American Society for Information, Science and Technology, 2010; ASIS$T., DOI: 10.1002/asi.21392; Kehati in his pirush on the mishnah of P.A. 6:6 notes the 48 th quality of fortifying one’s mind in memory is citing one’s source referring to Kohelet Rabbah 2: 1 Unless a disciple quotes the teaching in the name of his master, his torah is consigned to oblivion the following day (p.209). R. Ya’akov bar Idi defended R. Elazar by saying, “Joshua received torah from Moses. Every time Joshua conveyed a law to Klal yisrael did he say, “I heard this law from Moses. In Ketubbot 25b, “Resh Lakish…. Turned and looked at R. Elazar crossly saying, “you heard these words of bar Napacha i.e. R. Yochanan- and you did not say them to me in his name?

See: See: Weinbeg, Bella Haas, Citation, Obliteration and Plagerism, as Discussed in Ancient Jewish Sources, Journal of the American Society for Information Science and Technology, 2010, ASIS$T., DOI: 10.1002/asi.21392; Weinberg sleuths and engages in detective wrk. To uncover that the 18 th C. Sefer Devek Tov offers apology for not citing all sources in name of Rabbi Yohanan in the Yerushalmi, criticizing Rabbi Elazar for not crediting him for an idea, but ironically was itself obliterated by being incorporated into a later commentary on the Humas. Weinberg notes that the Maharal’s pirush on Avot (Derekh Hayim) notes on P.A. 6:6 that a middot tovot to say,
“This is not mine; I got it from someone else”. Further the Ben Ish Chai on P.A. 6:6 notes, “Lack of citations demonstrates conceit (ga’avah) while crediting sources indicates that one is learning for its own sake (lishmah). If one adds the letter lamed of lishmah to ga’avah one gets ge’ulah. Pirke de-Rabbi Eliezer notes it is meritorious to cite sources even when one is studying by himself. Rabbi David Luria derives this from the wording of Esther 2:22 i.e. a v-a-tomer rather than va-taged. Rabbi Luria notes that citing while studying ensures acquisition dass torah. Reb Shmelke of Nikolsburg notes that when rabbis use novellae of others without citing their sources, they hold up the redemption. Further “and the sages said, ‘anyone who does not cite a source for his statement, it is as if he kills people, and because she [Queen Esther] told the king [of a plot to kill him] in the name of Mordecai he was saved [Kasher, Torah Shelema, Megilat Esther, Jerusalem: ABS, 1994, p.88, ft.162]. Kasher also brings on Mishle 22:22 the following emphasizing importance of noting chain of transmission: .... When a person hears an idea, he should say it is in the name of the one who said it, even from a 3 rd source, according to Jewish law, as our Rabbis taught: R. Nahum ha-Lavir said, ‘I received the tradition from the Zugot, who got it from the Z ekanim, it is the law according to Moses mi Sinai (p.88. note 162, Kasher, 1994 citing midrashic source in commentary on Mishle).

See: Rabbi Israel Schneider - Member of Kolel, Teishe Yeshiva; Researcher, Ofeq Institute at: http://www.jewishvirtuallibrary.org/jsource/Judaism/copyright.html and The Jewish Virtual Library by R. Israel Schneider at: http://www.jewishvirtuallibrary.org/jsource/Judaism/copyright.html

Rabbi David Bleich: Contemporary Halakhic Problems (1983) on 3 rd law of ch. 7 of Tosefta 62a on Bava Kama; N.B. for. Of the Tosefta the Lieberman Tosefta is less preferred than the even greater sought out Zuckermandel Tosefta which Shmuel Rosenblatt advocated for as a more reliable text. Neusser’s trans. Differs from Rabbi Bleich due to Zuckermandel Tosefta followed by R. Shmuel Rosenblatt vs. Lieberman Tosefta.

Weisfish, Nachum Menashe, Copyright in Jewish Law, NY: Feldheim publishers, 2010, 1:60

Bava Kamma 113a

Choshen Mishpa

Bava Kamma 113a

Moses Mendelsohn’s Choshen Mishpat and John Locke’s Two treatises of government, set out the modern Enlightenment and Haskalah’s insistence on separation between Church and State. However the Rambam in Sefer Shoftim of the MT. predicts that once a median yrsela is reestablished (1948) the state will eventually become a theocracy under the rule of Rabbinic authority with the reconstitution of a Sanhedrin. The Rambam writes Hilchot Melachim u’Milchamoteihem, perek 11, halakhah aleph-daleth):

Weisfish, Nachum Menashe, Copyright in Jewish Law, NY: Feldheim publishers, 2010, 3:1,6,20, 5:2,7,18,16

Weisfish, Nachum Menashe, Copyright in Jewish Law, NY: Feldheim publishers, 2010, p.1:3,4, 5, 6,14, 7,33-34, 36, 44,46, 65

Cited by Schneider, see: Schneider, Israel, Jewish Law and Copyright, Journal of Halacha and Cont. Society 21 (1991), 84-96

Bava Kamma 113a

Choshen Mishpat 73:39

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""
The following meditative riff has to do not with my ethical position regarding citing sources, but the intellectual trajectories of 2 major philosophers (Kant and Rambam) and 1 ideological social reformer. I think the Rambam is a Tzadik, mimoshe limoshe lokam kimoshe, and if the Rambam were present the Rambam would justify very convincingly and well why the Rambam does not cite his sources in the Mishnveh Torah, MT. This has ultimately to do with the Rambam’s commitment to substance/content over form. That is why the Rambam is more an Aristotelian than a Platonist. Aristotle rejected Plato’s notion of eidos. We are form all the way up and matter all the way down. When form trumps substance the possibility for totalitarianism is real, i.e. what Leo Strauss calls rhetoric trumping substance (ousia) that is art trumping content, that is poetry trumping philosophy, for as Strauss knew the Nazis came to power for their ability to marshal poetic forms, i.e. the cadences of the fuhrer’s speeches and Goebel’s propaganda could control the masses by deployment of metonymy, symbol, metaphor and all the elements that contribute to great Art. The Nazis in fact rejected that poetry be subservient to philosophy and this led to totalitarianism. This is found in Strauss’ thought and convincingly demonstrated as obtaining truth, much beyond Karl Popper’s critique of Platonism leading to totalitarianism. Strauss called Popper a pseudo-intellectual in the way this argument is layed out. Nazism masterfully deployed "Gestel" enframement, i.e. putting a limit/boundary around a picture, to manipulate mass opinion according to its sinister intent. This intent was a political reality from the writing of Mein Kampf and enacted at Wansee, where the logistics of mass murder were coordinated for future deployment. To play the devil’s advocate the Marxist critique of bourgeois education is that bourgeois culture commodifies education to everyone’s detriment. Ergo grades/credit/prizes have cash value in bourgeois culture, as in a game show, where answering a question is immediately converted into monetary rewards. Marx felt this petty mentality to be very vulgar. Marx argued that eventually in bourgeois cultures the consumer (i.e. students and their parents) would control the sellers/teachers. However ideally conceived teachers are not sellers, and education is the ultimate redemptive purpose for all human beings. Indeed Marx’s prediction is often the case in Jewish day schools where teachers are forced not to assign much homework, but are told by administrators "just keep the kids happy with glitzy power points to entertain them." The dictum, lifum zarah agrah (according to the effort is the reward) is an ethical “work ethic” often lost on the new technological generations that have been conditioned by technology to feel learning is easy and that their assignments are over with a few clicks of the mouse, when in fact the real thinking and tough work has not begun. The new technological generation has been conditioned to lack sitz fleish. Marx thought that in a capitalist bourgeois culture the consumers/students would be "the tail that wags the dog." As this applies to copyright law, Marx also felt that bourgeois cultures also would fetishize "intellectual property" in ways that reveal that bourgeois cultures reduce and homogenize everything down to the bottom line i.e. economics and cost. Yet true educational enlightenment, seeing the the truth as the rare philosopher does in cave #7 of Plato’s Republic has no cost. Thus for Marx the bourgeois capitalist employers would not only exploit their workers (teachers) terribly but would denude the essence of what education is about when this area too is commercialized i.e. ideas are owned in the same way that any commodity i.e. furniture is owned etc. Thus for Marxists psychology, and psychoanalysis are also bourgeois forms of control i.e. ways the bourgeois have relegated the "secular priests" (the shrinks) in last ditch efforts of late stage capitalism.... putting their victims on the couch to fit all labeled neuroses into neat commodified categories of the DSM IV, the same way a shopkeeper might itemize his retail inventory etc. Frederick Jameson, Adorno, Herbert Marcuse, Jurgen Habermas, Michel Foucault, and many other philosophers have shown that psychoanalysis often is about control of its subjects, and in essence...
denudes what true philosophy is. This became real to me after volunteering in a homeless shelter for a number of years, where a shrink (who told me he was just making an extra buck from the govt. that paid him to "control this potentially dangerous population") was mandated by law to overprescribe very heavy drugs with terrible side effects. These side effects on the homeless did not stop with tardive disconesia, but they were carrying about 3 people out in plastic bags, each week from liver failure, due to the mandate the shrink was under to overprescribe medicine to prevent this "potentially dangerous group from rioting." I also served this population across the street at a public library and found them not dangerous, but lacking opportunities, and many could have been rocket scientists given the right chances, although the liberal politics kept them in a cycle of poverty by making it more lucrative to not get a job, have children out of wedlock (more money for each child born), because govt. food stamps and welfare proved more enticing than getting a job flipping burgers, because educationally many of them could not read nor write, nor do basic arithmetic, etc. The point is that this group of homeless is what Marx identified and predicted would grow as the "lumpen proletariat", for Marx predicted the following as the consequence of bourgeois capitalism: (1) comaditization and vulgarization of education, (2) rise in gap between very wealthy and very poor, (3) make cars in Michegan with robots, (3) A communist country i.e. China would buy up CREDIT of banks in America, (4) outsourcing i.e. today to India and South America for credit cards, because owners could not afford to deal with economic standards of "simpson" like Unions, corrupted by mob money like Jimmy Hoffa, (5) Communist nations i.e. china today, will make consumer products from chotkas to VCRS, to cars, (6) Marx felt Capitalism with its corrosive lack of ideals that obscure the purpose of education would lead, as De Toqueville argued in his work, America to a despot/tyrant/demagogue being elected that would be a reaction to the liberal corruption i.e. Weimar Republic and there would be a terrible "potch" from the right wing extremist totalitarianism (in many ways this was a partial prediction of the rise of the Nazis), (7) Marx had a low regard for the corrosive effects of lack of values amongst the bourgeois and felt that "Americans are spoiled, that they feel that everything is coming to them, so that if they want it they must have it" and this can be applied to the mortgage crisis in America, that because people wanted nice houses they knew they could not afford, they defaulted on their mortgages, (8) Marx predicted the hedge fund phenomena of extremely wealthy individuals destabilizing the stock market by trading billions in split seconds, a phenomena Wall street had not experienced before individuals like George Sorris, etc, (9) Marx would view Freud and subsequent history of psychoanalysis (Jung, Adler, Ellis, etc.) as petty bourgeois pseudo-intellectuals, (10) Marx viewed religion as the opiate of the masses, and was not quite wrong about this. Except that if anyone has been on a Yeshiva campus on Shabbos and seen 2000 rabbis singing, indeed it appears that many going into xt. are indeed imbibing some form of opiate, however Marx should have recognized this is a good natural high, and the side effects truly realized are righteousness, justice, gemilut hasidim, intellectual attainment by honing logical reasoning skills in learning gemarah, and spiritual virtue, etc. To return to the subject above, Marx was not not wrong about the bourgeois fetishization of copyright law. However let me confess I am no friend to Marx or Marxism. I consider his ideology a false messianism. George ORwell has shown it does not work in Animal Farm. However Orwell's work 1984 shows the dangers of despotism on the right or left. And in fact Stalin murdered more Jews than the Nazi Furhrer, and the the Russian Bourecracy was so corrupt! Stalin's brutality is demonstrated in the cruel and inhuman way Trotsky was assisinated, while fleeing to Mexico Trotsky was hacked to death by an icepick. Clearly any extreme on the right or left is dangerous. That is why my grandmother (zl) told me there is nothing to be ashamed about being bourgeois, and reading bourgeois novelists like Balzac! In fact my grandfather's uncle Rav Gluskin (ztsl) was imprisoned 2x by the Communists who tortured him for over 48 hours. The communists stole all the Rav's assets (his apt.
and bank account) and persecuted his haredi religious way of life. A recent autobiography by Rabbi Yitzchak Zilber documents some of the horrors of persecution of religion under the radical communist left. In fact since many on the left have embraced a world secularism... religion is superfluous, and governmentally that is what Napolean after the French Enlightenment represented saying and mandating effectively to the Jews, "abandon your narrow particular superstitious religious and become a frenchman and citizen of the world, etc' In fact my ancestor the Baal HaTanya, Rabbi Shneur Zalman of Liadi died fleeing from Napolean's troops. History waits to see who was right: Marx or the true religionists. What is clear that economically (as noted above) Marx seems to be right on in his analysis in Das Kapital of the 3 Estates: (1) Aristocrats in power followed by (2) Bourgeois in power after french Revolution and Bizmark giving rights to Jews in German speaking lands, and this will be followed by the 3rd Estate of the proletariat. In many ways the Nazis were this rise of the 3rd Reich, i.e. their ideology was of the proletariat i.e. celebration of Blut und Boden, boy scout troops called HitlerJugend, the celebrated car wa the Volkswagen (Volk.....) used to pump gas to effixiate victims before the gas ovens were invented, they made Wagner their poster child at Beureit, and Wagner's Ring Cycle recuperates a proletariat mythology, and its overuse of wind instruments (high class band music) is very proletariat. Ergo what we saw in Nazi Europe was the proletariat coming to power. Certainly all economic classes are implicated in Nazi genocide, however the outward ideology of propaganda of the Nazis was proletariat via Goebels. The rise of Communist Russia (the former Soviet Union, which Heidegger said would have the same fate as America) and Communist Russia are the other side of Marx's prediction. The cultural revolution in Communist China, is a clear prediction of Marx. The Confucian wealthy Mandarins, were replaced by the culture of the proletariat. Let me confess I am not a Marxist. I am neged Marxism. However as an economic historian I am aware of the Marxian dialectical analysis that stems from Hegel, and find this method of analysis not only powerful (I have applied it myself in analyzing the history of Jewish philosophy i.e. thesis= faith, anti-thesis= reason and rationalism, aufhebung is transcendent mystical thought, etc. To return to copyright issues: I am a Struassian. That means I am committed to the great books which Strauss convincingly shows contains eternal verities true for all peoples regardless of geographical-economic-cultural differences. For the bourgeois who fetishizes ideas as "intellectual property," the aspect of the eternality of ideas is robbed and vulgarized, for no one in truth can own eternally true ideas that are true for all persons, at all times in history, for all people of geographical-economic-sociological differences. Thus when David HaMelekh says, "your thoughts are very precious to me Hashem," King david speaks of ideas that are true, that express the whole gamut and spectrum of the human emotions and theological assertions that abtain about G-d's essence and being in Tehillim. King David did not say "I authored these Psalms" but rather all 150 Psalms are just called Tehillim (praises), although in fact many are ascribed to King David's Levitical scribes: Heman, Assaf, some back to Moshe Rabbenu even. Rambam also does not cite his sources in the Mishneh Torah, and this led to much critique of the MT. It was not because Rambam did not know the sources i.e. which rabbis viewed a certain opinion that the Rambam classifies across 14 sections of the yad Hazakah. Rambam doesn't cite his sources because content/substance was more important to the Rambam than form. Later Rabbi Yosef Karo picked up the names of the Rabbis whose opinions are voiced without their names being cited, in the Mehaber's work, _Kesef Mishneh_. Rambam and Marx understood the dangers of arrogance, lest anyone think they actually "own" eternal ideas. Most people according to the rambam voice opinions that are false, or if true, only accidentally true, however when we consider eternal ideas, eternal verities, then one wonders if anyone outside of Hashem is the ultimate AUTHOR of these ideas. That is to say these ideas obtain as TRUE whether there are people on the planet or not. In mathematics for instance we ascribe Euclid with certain mathematical formulas that describe spacial relationships. i.e. 2pieR =
circumferance of a circle, \( a^2 + b^2 = c^2 \) for a certain type of isoscles triangle, etc. However these truth propositions exist as true whether the mathematicians Euclid formulate them or not. That is an understanding that surpasses bourgeois notions that fetishize "intellectual property" and that is a truth that obtains even with life after people on the planet. Yet Ben Zoma as Rambam notes in the Moreh Neuvkhim doing mathematics "is still outside" for higher than mathematical truths are metaphysical truths, which Rambam calls ma'aseh merkavah! Thus Marx and Rambam are asking us to understand something beyond the "bottom line" something in the realm of epistemology, "how do we know anything? What are the limits of human knowledge? and what really is worth knowing" and what constitutes true knowledge? These philosophic questions are outside bourgeois notions of copyright law, which are strictly contingent like most secular law, that is these philosophic questions are caught up in divinely revealed law and truths. The essoteric aspect of those divinely revealed truths is beyond measurement. i.e. Moshe Rabbenu did not sleep or eat or drink for 40 days and nights, he was a malakh. And essoteric truths of ma'aseh hamerkavah, ma'aseh bereshit, the sefirot, the mystery of the tetragramaton, angeology, prophetology, are caught up in eternal ideas noone technically "owns" as intellectual property etc. Rambam in the realm of ethics is a Kantian deontologist. Rambam is concerned about the motivation for doing the right thing for the right reasons. In that sense Rambam would not be overly impressed with this video clip, for it does not get at the essence why one "SHOULD" in a Kantian moral imperative cite their sources. Rambam himself in the MT. does not cite his sources as The Mehaber picks up in Kesef Mishneh. Rambam, Kant, and even the secular messianist Marx are interest in the reason for things beyond the contingent. That is they are committed and devoted to finding out the ultimate redemptive truth(s), although all 3 of these thinkers (the last one an ideologue and not really a thinker because for Marx the point of thought was not to think about the world but to change it through political revolutionary praxis) all might not be impressed by such a video clip, as a little below avg., a product of Garisson Keiler's "Lake Woebegon." All three Rambam, Kant, and Marx would want to know the true reasons why citing sources is important, what really matters ultimately for such a question, can anything be original at all? not being homogenized into contingencies of meeting monetary objectives, that are contingent on the rise and fall of civilizations. T.S. Elliot was once asked, "Are your poems original" to which he replied, "one has more chance of being hit by a meteorite than being original, the Wasteland is merely a poem that gathers sources, as the fragmented detritus of a civilization that has become myopic, and is hemorging from the cultural crisis predicted by Nietzsche." In Rabbinic thought, many rabbis are much too modest to claim that they are offering a Hiddush (a new interpretation). As Ben Bag bag says, turn it turn it everything is in it. A tradition where the intellectual elite of the Jewish people have interpreted and interpreted with supercommentary on supercommentary, is less interested in being original for the source of all creation is from Hashem. With such great rabbis over 3000 yrs. it is almost impossible to say anything new. There is nothing new under the sun, which is only the sun in this galaxy, the galaxies which Hashem created in Yesh miayin. A native Indian once remarked, "no one owns the horizon" and a truly original idea that may be represented in a bk. or article, has horizon altering consequences. All eternal ideas are from Hashem. All contingent opinions may be voiced by human beings with their limits, and of course these limited humans should receive "credit" for their "class work." We must remember that it is G-d who created the horizon, and therefore even the most original ideas are from Hashem. This is not Hegel’s “bad receding infinite regress” but derives from Eyn Sof itself. Citing sources, yes is an important duty in attributing "credit" for "classes" but this must be understood not as an Kantian obligation to avoid "point pentalities" but because Hashem is a moral Deity who demands honesty and more importantly truth, however each person in their limits will understand what ultimate truth is, was, and will be caught up by definition in eternity, eternal verities for all people, at all times,
regardless of class-economic-social-cultural differences. No one owns eternal ideas, as King David notes, "your (eternal) thoughts are very precious to me Hashem:"

תהלים פרק קלט

(א)لامצית לזרד מומר יכ וק חקרוני והדר
(ב)אתה ידעה שבית קוממי בנתה לער מחרון
(ג)ארתי ורבע וירית וכל זכרתי הסכנה
(ד)כי אניを選ぶוותך כי אני ידעה כל
(ה)אחור וחקם צרתי והשת עליככאת
(ו)פליאה פליאה דעת ממונת נשגה לא ואוכל ול
(ז)אנה אליך מחרון ואנה מסכיך אברת
(ח)אם אסק שמיים כן אתה ואני ברעה שואל נבר
(ט)אשא כנפי שחר אשככה באחרית ימ
(ו)זגב שמיقدر違反ים ולא חונית ימי
(כא)ואמר זה י בבקותו וילה אזור בכבדת
(כ)זגח ושר לא יחשיך ממליך ימי וצאיר חתיכה באיכרה
(כב)כתי אתך קוני כל כי חסיני במב שמי
(כג)אודר על כי נראת נפלת ינפליים מעשיר ו杲 עדן ד
(כג)אכתי עדנא מקר אמר ראש העשורי ב,eg ימחית ימחית
(כד)ג WARNING: This line was broken between the two numbers.
(כה)זילמה רוא עניין על ספרך כלמ יחבו ימי יצור וינ הל אוחד הבט
(כו)זילמה יקרו עירא לא את אעמנא ראשה
(כז)אספרא מחול ירוב חושי כי ועדעי עמק
(כח)זאמ תקט לאלוהי אשיש דימוקו מורי
(כט)אשר יאמרך להמות נשיא לשוב עריך
(כבי)הלוול משניאי יכ וקאשאображен אהבתם יתקוע
(כבי)תקילת שמות שנותינו לאובימי ויי לי
(כבי)תקון אל דרך לברב החגנ נוא שפירע
(כבי)וראה אם עקרן עכ בתי ותני שכר עלי