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Praying with Sinners: Religious Pluralism, Revisited

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society in which there must be some frontiers of freedom which nobody should be permitted to cross. Different names or natures may be given to the rules that determine these frontiers: they may be called natural rights, or the word of God, or Natural Law, or the demands of utility or of the 'permanent interests of man'; I may believe them to be valid *a priori*, or assert them to be my own ultimate ends, or the ends of my society or culture. What these rules or commandments will have in common is that they are accepted so widely, and are grounded so deeply in the actual nature of men as they have developed through history, as to be, by now, an essential part of what we mean by being a normal human being. Genuine belief in the inviolability of a minimum extent of individual liberty entails some such absolute stand. For it is clear that it has little to hope for from the rule of majorities; democracy as such is logically uncommitted to it, and historically has at times failed to protect it, while remaining faithful to its own principles. Few governments, it has been observed, have found much difficulty in causing their subjects to generate any will that the government wanted. 'The triumph of despotism is to force the slaves to declare themselves free. It may need no force; the slaves may proclaim their freedom quite sincerely: but they are none the less slaves. Perhaps the chief value for liberals of political – 'positive' – rights, of participating in the government, is as a means for protecting what they hold to be an ultimate value, namely individual – 'negative' – liberty.

But if democracies can, without ceasing to be democratic, suppress freedom, at least as liberals have used the word, what would make a society truly free? For Constant, Mill, Tocqueville, and the liberal tradition to which they belong, no society is free unless it is governed by at any rate two interrelated principles: first, that no power, but only rights, can be regarded as absolute, so that all men, whatever power governs them, have an absolute right to refuse to behave inhumanly; and, second, that there are frontiers, not artificially drawn, within which men should be inviolable, these frontiers being defined in terms of rules so long and widely accepted that their observance has entered into the very conception of what it is to be a normal human being, and, therefore, also of what it is to act inhumanly or insanely; rules of which it would be absurd to say, for example, that they could be abrogated by some formal procedure on the part of some court or sovereign body. When I speak of a man as being normal, a part of what I mean is that he could not break these rules easily, without a qualm of revulsion. It is such rules as these that are broken when a man is declared guilty without trial, or punished under a retroactive law; when children

are ordered to denounce their parents, friends to betray one another, soldiers to use methods of barbarism; when men are tortured or murdered, or minorities are massacred because they irritate a majority or a tyrant. Such acts, even if they are made legal by the sovereign, cause horror even in these days, and this springs from the recognition of the moral validity – irrespective of the laws – of some absolute barriers to the imposition of one man's will on another. The freedom of a society, or a class or a group, in this sense of freedom, is measured by the strength of these barriers, and the number and importance of the paths which they keep open for their members – if not for all, for at any rate a great number of them.¹¹

This is almost at the opposite pole from the purposes of those who believe in liberty in the 'positive' – self-directive – sense. The former want to curb authority as such. The latter want it placed in their own hands. That is a cardinal issue. These are not two different interpretations of a single concept, but two profoundly divergent and irreconcilable attitudes to the ends of life. It is as well to recognize this, even if in practice it is often necessary to strike a compromise between them. For each of them makes absolute claims. These claims cannot both be fully satisfied. But it is a profound lack of social and moral understanding not to recognize that the satisfaction that each of them seeks is an ultimate value which, both historically and morally, has an equal right to be classed among the deepest interests of mankind.

IV

THE ONE AND THE MANY

One belief, more than any other, is responsible for the slaughter of individuals on the altars of the great historical ideals – justice or progress or the happiness of future generations, or the sacred mission or emancipation of a nation or race or class, or even liberty itself, which demands the sacrifice of individuals for the freedom of society. This is the belief that somewhere, in the past or in the future, in divine revelation or in the mind of an individual thinker, in the pronouncements of history or science, or in the simple heart of an uncorrupted good man, there is a final solution. This ancient faith rests on the conviction that all the positive values in which

men have believed must, in the end, be compatible, and perhaps even entail one another. 'Nature binds truth, happiness, and virtue together as by an indissoluble chain', said one of the best men who ever lived, and spoke in similar terms of liberty, equality, and justice.¹² But is this true? It is a commonplace that neither political equality nor efficient organization nor social justice is compatible with more than a modicum of individual liberty, and certainly not with unrestricted *laissez-faire*; that justice and generosity, public and private loyalties, the demands of genius and the claims of society, can conflict violently with each other. And it is no great way from that to the generalization that not all good things are compatible, still less all the ideals of mankind. But somewhere, we shall be told, and in some way, it must be possible for all these values to live together, for unless this is so, the universe is not a cosmos, not a harmony; unless this is so, conflicts of values may be an intrinsic, irremovable element in human life. To admit that the fulfilment of some of our ideals may in principle make the fulfilment of others impossible is to say that the notion of total human fulfilment is a formal contradiction, a metaphysical chimera. For every rationalist metaphysician, from Plato to the last disciples of Hegel or Marx, this abandonment of the notion of a final harmony in which all riddles are solved, all contradictions reconciled, is a piece of crude empiricism, abdication before brute facts, intolerable bankruptcy of reason before things as they are, failure to explain and to justify, to reduce everything to a system, which 'reason' indignantly rejects. But if we are not armed with an *a priori* guarantee of the proposition that a total harmony of true values is somewhere to be found — perhaps in some ideal realm the characteristics of which we can, in our finite state, not so much as conceive — we must fall back on the ordinary resources of empirical observation and ordinary human knowledge. And these certainly give us no warrant for supposing (or even understanding what would be meant by saying) that all good things, or all bad things for that matter, are reconcilable with each other. The world that we encounter in ordinary experience is one in which we are faced with choices between ends equally ultimate, and claims equally absolute, the realization of some of which must inevitably involve the sacrifice of others. Indeed, it is because this is their situation that men place such immense value upon the freedom to choose; for if they had assurance that in some perfect state, realizable by men on earth, no ends pursued by them would ever be in conflict, the necessity and agony of choice would disappear, and with it the central importance of the freedom to choose. Any method of

bringing this final state nearer would then seem fully justified, no matter how much freedom were sacrificed to forward its advance. It is, I have no doubt, some such dogmatic certainty that has been responsible for the deep, serene, unshakable conviction in the minds of some of the most merciless tyrants and persecutors in history that what they did was fully justified by its purpose. I do not say that the ideal of self-perfection — whether for individuals or nations or churches or classes — is to be condemned in itself, or that the language which was used in its defence was in all cases the result of a confused or fraudulent use of words, or of moral or intellectual perversity. Indeed, I have tried to show that it is the notion of freedom in its 'positive' sense that is at the heart of the demands for national or social self-direction which animate the most powerful and morally just public movements of our time, and that not to recognize this is to misunderstand the most vital facts and ideas of our age. But equally it seems to me that the belief that some single formula can in principle be found whereby all the diverse ends of men can be harmoniously realized is demonstrably false. If, as I believe, the ends of men are many, and not all of them are in principle compatible with each other, then the possibility of conflict — and of tragedy — can never wholly be eliminated from human life, either personal or social. The necessity of choosing between absolute claims is then an inescapable characteristic of the human condition. This gives its value to freedom as Acton had conceived of it — as an end in itself, and not as a temporary need, arising out of our confused notions and irrational and disordered lives, a predicament which a panacea could one day put right.

I do not wish to say that individual freedom is, even in the most liberal societies, the sole, or even the dominant, criterion of social action. We compel children to be educated, and we forbid public executions. These are certainly curbs to freedom. We justify them on the grounds that ignorance, or a barbarian upbringing, or cruel pleasures and excitements are worse for us than the amount of restraint needed to repress them. This judgement in turn depends on how we determine good and evil, that is to say, on our moral, religious, intellectual, economic, and aesthetic values; which are, in their turn, bound up with our conception of man, and of the basic demands of his nature. In other words, our solution of such problems is based on our vision, by which we are consciously or unconsciously guided, of what constitutes a fulfilled human life, as contrasted with Mill's 'cramped and warped', 'pinched and hide-bound' natures. To protest against the laws governing censorship or personal morals as intolerable infringements of personal liberty

presupposes a belief that the activities which such laws forbid are fundamental needs of men as men, in a good (or, indeed, any) society. To defend such laws is to hold that these needs are not essential, or that they cannot be satisfied without sacrificing other values which come higher – satisfy deeper needs – than individual freedom, determined by some standard that is not merely subjective, a standard for which some objective status – empirical or *a priori* – is claimed.

The extent of a man's, or a people's, liberty to choose to live as they desire must be weighed against the claims of many other values, of which equality, or justice, or happiness, or security, or public order are perhaps the most obvious examples. For this reason, it cannot be unlimited. We are rightly reminded by R. H. Tawney that the liberty of the strong, whether their strength is physical or economic, must be restrained. This maxim claims respect, not as a consequence of some *a priori* rule, whereby the respect for the liberty of one man logically entails respect for the liberty of others like him; but simply because respect for the principles of justice, or shame at gross inequality of treatment, is as basic in men as the desire for liberty. That we cannot have everything is a necessary, not a contingent, truth. Burke's plea for the constant need to compensate, to reconcile, to balance; Mill's plea for novel 'experiments in living' with their permanent possibility of error, the knowledge that it is not merely in practice but in principle impossible to reach clear-cut and certain answers, even in an ideal world of wholly good and rational men and wholly clear ideas – may madden those who seek for final solutions and single, all-embracing systems, guaranteed to be eternal. Nevertheless, it is a conclusion that cannot be escaped by those who, with Kant, have learnt the truth that out of the crooked timber of humanity no straight thing was ever made.

There is little need to stress the fact that monism, and faith in a single criterion, has always proved a deep source of satisfaction both to the intellect and to the emotions. Whether the standard of judgement derives from the vision of some future perfection, as in the minds of the *philosophes* in the eighteenth century and their technocratic successors in our own day, or is rooted in the past – *la terre et les morts* – as maintained by German historicists or French theocrats, or neo-Conservatives in English-speaking countries, it is bound, provided it is inflexible enough, to encounter some unforeseen and unforeseeable human development, which it will not fit; and will then be used to justify the *a priori* barbarities of Procrustes – the vivisection of actual human societies into some

fixed pattern dictated by our fallible understanding of a largely imaginary past or a wholly imaginary future. To preserve our absolute categories or ideals at the expense of human lives offends equally against the principles of science and of history; it is an attitude found in equal measure on the right and left wings in our days, and is not reconcilable with the principles accepted by those who respect the facts.

Pluralism, with the measure of 'negative' liberty that it entails, seems to me a truer and more human ideal than the goals of those who seek in the great, disciplined, authoritarian structures the ideal of 'positive' self-mastery by classes, or peoples, or the whole of mankind. It is truer, because it does, at least, recognize the fact that human goals are many, not all of them commensurable, and in perpetual rivalry with one another. To assume that all values can be graded on one scale, so that it is a mere matter of inspection to determine the highest, seems to me to falsify our knowledge that men are free agents, to represent moral decision as an operation which a slide-rule could, in principle, perform. To say that in some ultimate, all-reconciling, yet realizable synthesis, duty is interest, or individual freedom is pure democracy or an authoritarian state, is to throw a metaphysical blanket over either self-deceit or deliberate hypocrisy. It is more humane because it does not (as the system builders do) deprive men, in the name of some remote, or incoherent, ideal, of much that they have found to be indispensable to their life as unpredictably self-transforming human beings.¹³ In the end, men choose between ultimate values; they choose as they do, because their life and thought are determined by fundamental moral categories and concepts that are, at any rate over large stretches of time and space, a part of their being and thought and sense of their own identity; part of what makes them human.

It may be that the ideal of freedom to choose ends without claiming eternal validity for them, and the pluralism of values connected with this, is only the late fruit of our declining capitalist civilization: an ideal which remote ages and primitive societies have not recognized, and one which posterity will regard with curiosity, even sympathy, but little comprehension. This may be so; but no sceptical conclusions seem to me to follow. Principles are not less sacred because their duration cannot be guaranteed. Indeed, the very desire for guarantees that our values are eternal and secure in some objective heaven is perhaps only a craving for the certainties of childhood or the absolute values of our primitive past. To realise the relative validity of one's convictions', said an admirable writer of our time, 'and yet stand for them unflinchingly, is what

distinguishes a civilised man from a barbarian.' To demand more than this is perhaps a deep and incurable metaphysical need; but to allow it to determine one's practice is a symptom of an equally deep, and more dangerous, moral and political immaturity.

NOTES

- ¹ I do not, of course, mean to imply the truth of the converse.
- ² Helvétius made this point very clearly: 'The free man is the man who is not in irons, nor imprisoned in a gaol, nor terrorized like a slave by the fear of punishment . . . it is not lack of freedom not to fly like an eagle or swim like a whale.'
- ³ The Marxist conception of social laws is, of course, the best-known version of this theory, but it forms a large element in some Christian and utilitarian, and all socialist, doctrines.
- ⁴ 'A free man', said Hobbes, 'is he that . . . is not hindered to do what he hath the will to do.' Law is always a 'fetter', even if it protects you from being bound in chains that are heavier than those of the law, say, some more repressive law or custom, or arbitrary despotism or chaos. Bentham says much the same.
- ⁵ This is but another illustration of the natural tendency of all but a very few thinkers to believe that all the things they hold good must be intimately connected, or at least compatible, with one another. The history of thought, like the history of nations, is strewn with examples of inconsistent, or at least disparate, elements artificially yoked together in a despotic system, or held together by the danger of some common enemy. In due course the danger passes, and conflicts between the allies arise, which often disrupt the system, sometimes to the great benefit of mankind.
- ⁶ See the valuable discussion of this in Michel Villey, *Leçons d'histoire de la philosophie du droit*, who traces the embryo of the notion of subjective rights to Occam.
- ⁷ Christian (and Jewish or Moslem) belief in the absolute authority of divine or natural laws, or in the equality of all men in the sight of God, is very different from belief in freedom to live as one prefers.
- ⁸ Indeed, it is arguable that in the Prussia of Frederick the Great or in the Austria of Josef II men of imagination, originality, and creative genius, and, indeed, minorities of all kinds, were less persecuted and felt the pressure, both of institutions and custom, less heavy upon them than in many an earlier or later democracy.
- ⁹ 'Negative liberty' is something the extent of which, in a given case, it is difficult to estimate. It might, *prima facie*, seem to depend simply on the power to choose between at any rate two alternatives. Nevertheless, not all choices are equally free, or free at all. If in a totalitarian state I betray my friend under threat of torture, perhaps even if I act from

fear of losing my job, I can reasonably say that I did not act freely. Nevertheless, I did, of course, make a choice, and could, at any rate in theory, have chosen to be killed or tortured or imprisoned. The mere existence of alternatives is not, therefore, enough to make my action free (although it may be voluntary) in the normal sense of the word. The extent of my freedom seems to depend on (a) how many possibilities are open to me (although the method of counting these can never be more than impressionistic. Possibilities of action are not discrete entities like apples, which can be exhaustively enumerated); (b) how easy or difficult each of these possibilities is to actualize; (c) how important in my plan of life, given my character and circumstances, these possibilities are when compared with each other; (d) how far they are closed and opened by deliberate human acts; (e) what value not merely the agent, but the general sentiment of the society in which he lives, puts on the various possibilities. All these magnitudes must be 'integrated', and a conclusion, necessarily never precise, or indisputable, drawn from this process. It may well be that there are many incommensurable kinds and degrees of freedom, and that they cannot be drawn up on any single scale of magnitude. Moreover, in the case of societies, we are faced by such (logically absurd) questions as 'Would arrangement X increase the liberty of Mr A more than it would that of Messrs B, C, and D between them, added together?' The same difficulties arise in applying utilitarian criteria. Nevertheless, provided we do not demand precise measurement, we can give valid reasons for saying that the average subject of the King of Sweden is, on the whole, a good deal freer today than the average citizen of Spain or Albania. Total patterns of life must be compared directly as wholes, although the method by which we make the comparison, and the truth of the conclusions, are difficult or impossible to demonstrate. But the vagueness of the concepts, and the multiplicity of the criteria involved, is an attribute of the subject-matter itself, not of our imperfect methods of measurement, or incapacity for precise thought.

¹⁰ The ideal of true freedom is the maximum of power for all the members of human society alike to make the best of themselves', said T. H. Green in 1881. Apart from the confusion of freedom with equality, this entails that if a man chose some immediate pleasure – which (in whose view?) would not enable him to make the best of himself (what self?) – what he was exercising was not 'true' freedom: and if deprived of it, would not lose anything that mattered. Green was a genuine liberal: but many a tyrant could use this formula to justify his worst acts of oppression.

¹¹ In Great Britain such legal power is, of course, constitutionally vested in the absolute sovereign – the King in Parliament. What makes this country comparatively free, therefore, is the fact that this theoretically omnipotent entity is restrained by custom or opinion from behaving as such. It is clear that what matters is not the form of these restraints on power – whether they are legal, or moral, or constitutional – but their effectiveness.

2. a. Babylonian Talmud Sanhedrin 23a

סנהדרין כ"ג א

מתני' דיני ממונות בשלשה זה בורר לו אחד וזה בורר לו אחד ושניהן בוררין להן עוד אחד דברי ר"מ וחכמים אומרים שני דיינין בוררין להן עוד אחד זה פוסל דיינו של זה וזה פוסל דיינו של זה דברי ר' מאיר וחכמים אומרים אימתי בזמן שמביא עליהן ראיה שהן קרובין או פסולין אבל אם היו כשרין או מומחין מפי בית דין אינו יכול לפוסלן זה פוסל עדיו של זה וזה פוסל עדיו של זה דברי רבי מאיר וחכמים אומרים אימתי בזמן שמביא עליהן ראיה שהן קרובין או פסולין אבל אם היו כשרין אינו יכול לפוסלן :

גמ' מאי זה בורר לו אחד וזה בורר לו אחד בתלתא סגי הכי קאמר כשזה בורר לו ב"ד אחד וזה בורר לו ב"ד אחד שניהן בוררין להן עוד אחד ואפילו לזה מצי מעכב והאמר ר' אלעזר לא שנו אלא מלוה אבל לזה כופין אותו ודן בעירו כדאמר רבי יוחנן בערכאות שבסוריא שנו הכא נמי בערכאות שבסוריא שנו אבל מומחין לא רב פפא אמר אפילו תימא מומחין כגון בי דינא דרב הונא ודרב חסדא דקאמר ליה מי קא מטרחנא לך תנן וחכ"א שני דיינין בוררין להן עוד אחד ואי ס"ד כדקאמרינן ב"ד בית דין בתר דפסלי להו אזלו ובררו להו בי דינא אחריני ועוד מאי זה בורר לו אחד וזה בורר לו אחד אלא ה"ק כשזה בורר לו דין אחד וזה בורר לו דין אחד שניהן בוררין להן עוד אחד מאי שנא דעבדי הכי אמרי במערבא משמיה דר' זירא מתוך שזה בורר לו דין אחד וזה בורר לו דין אחד ושניהן בוררין להן עוד אחד יצא הדין לאמיתו :

MISHNA: Cases of monetary law are adjudicated by three. They are chosen in the following manner: This litigant chooses one for himself and that litigant chooses one for himself, and the two of them choose one more for themselves; this is the statement of Rabbi Meir. And the Rabbis say: The two judges that were chosen choose one more judge for themselves. This litigant can disqualify the judge chosen by that litigant and that litigant can disqualify the judge chosen by this litigant; this is the statement of Rabbi Meir. And the Rabbis say: When can one of the litigants disqualify the judges? Only when he brings evidence about them that they are related to one of the litigants or to each other, or that they are disqualified from serving as judges for another reason. But if they are fit to serve as judges or are experts ordained by the court, he cannot disqualify them. This litigant can disqualify the witnesses of that litigant and that litigant can disqualify the witnesses of this litigant; this is the statement of Rabbi Meir. And the Rabbis say: When can one litigant disqualify the other's witnesses? Only when he brings evidence about them that they are related to one of the litigants or to each other, or that they are disqualified from bearing witness for another reason. But if they are fit to serve as witnesses, he cannot disqualify them.

GEMARA: The Gemara assumes that the statement: This litigant chooses one and that litigant chooses one and the two of them choose one more, means that each litigant chooses a court of three judges and the two courts together choose one more court, for a total of nine judges. The Gemara asks: For what purpose does this litigant choose one court for himself and that litigant choose one court for himself; isn't it sufficient to judge the case with three judges? The Gemara answers: This is what the mishna is saying: In a case where this litigant chooses one court for himself, i.e., he requests to be judged before three specific judges, and that litigant chooses one other court of three judges for himself, as he does not wish to be judged before the court

that the first litigant requested, in this case, both of them choose one more court for themselves, i.e., they must reach a compromise and decide about the composition of the court that will judge them. The Gemara asks: And can even a debtor restrict the choice of the court? But doesn't Rabbi Elazar say: The Sages taught that only a creditor can refuse a court chosen by the debtor, due to his desire to be judged by a prominent court, but that as for a debtor, they compel him to appear in the court that presides in his own city. The Gemara answers: It is as Rabbi Yoḥanan says concerning a different matter, that the Sages taught that other matter with regard to the laymen's courts [*be'arkaot*] in Syria. Here too, the Sages taught the *halakha* in the mishna with regard to the laymen's courts in Syria, which allow even the debtor to refuse to be judged before the court chosen by the creditor, claiming that they are not worthy judges. But if the creditor chooses a court of experts, the debtor does not have the right to refuse to be judged before them. Rav Pappa said: You may even say that the mishna is referring to courts of experts in the same city, such as the courts of Rav Huna and of Rav Ḥisda. As in that case, each litigant can say to the other: Am I burdening you by requesting that you be judged by a different court? We learned in the mishna: And the Rabbis say: The two judges that were chosen choose one more for themselves. And if it enters your mind to interpret the mishna as we said before, that each litigant chose a court of three judges, this statement is difficult; after each court was disqualified by one of the litigants, shall the members of both courts go and choose another court for themselves? And furthermore, for what reason would the mishna state that the standard procedure for choosing judges is that this litigant chooses one court for himself and that litigant chooses one court for himself, each disqualifying the court that the other chose? Rather, this is what the mishna is saying: When this litigant chooses one judge for himself before whom he requests to be judged, and that litigant chooses one other judge for him-self before whom he requests to be judged, the two litigants then choose one more judge for themselves, and the case is adjudicated by these three judges. The Gemara asks: What is different about this procedure; i.e., that the selection of the judges is performed specifically in this manner? The Sages in the West, Eretz Yisrael, say in the name of Rabbi Zeira: As result of the fact that this litigant chooses one judge for himself, and that litigant chooses one judge for himself, and the two litigants choose one more judge for themselves, the true judgment will emerge. Each litigant assumes that the judges he chose do not bear a grudge against him, and he will accept their ruling.

b. Maimonides, Mishneh Torah, The Sanhedrin and the Penalties within their Jurisdiction 22:10

משנה תורה, הלכות סנהדרין והעונשין המסורין להם כ"ב:י'
 (י) דִּין שֶׁהוּא יוֹדֵעַ בְּחִבְרוֹ שֶׁהוּא גִּזְלוֹן אוֹ רֹשֶׁעַ אֲסוּר לְהַצְטִיף עִמּוֹ שְׁנֵאֲמַר (שמות כג ז) "מִדְּבַר שֶׁקָּרַתְּ חֶק". וְכָךְ הָיוּ נִקְיֵי הַדַּעַת שֶׁבִּירוּשָׁלַיִם עוֹשִׂין אֵין יוֹשְׁבֵין בְּדִין עַד שֶׁיִּדְעוּ עִם מִי הֵם יוֹשְׁבִים וְלֹא חוֹתְמִים אֶת הַשֹּׁטֶר עַד שֶׁיִּדְעוּ מִי חוֹתֵם עִמָּהֶם וְלֹא נִכְנָסִים לְסִעוּדָה עַד שֶׁיִּדְעוּ מִי מִסֵּב עִמָּהֶן :

When a judge knows that a colleague is a robber or a wicked person, it is forbidden for him to sit in judgment with him, as it is stated: "Keep distant from words of falsehood." This is the practice that would be followed by Jerusalem's men of refined character: They would not sit to participate in a judgment unless they knew who would sit with them. They would not sign a legal document unless they knew who would sign with them. And they would not enter a feast until they knew who would be joining them.

c. Maimonides, Mishneh Torah, The Sanhedrin and the Penalties within their Jurisdiction 23:7

משנה תורה, הלכות סנהדרין והעונשין המסורין להם כ"ג:ז'
(ז) כָּל שְׁנֵי תַלְמִידֵי חֻכְמִים שֶׁשׂוֹנְאִים זֶה אֶת זֶה אֲסוּרִין לִישֵׁב בְּדִין זֶה עִם זֶה. שֶׁדָּבָר זֶה גּוֹרֵם לִיצִיאַת מִשְׁפָּט מֵעֵקֶל. מִפְּנֵי הַשְּׂנְאָה שֶׁבִּינֵיהֶן דַּעַת כָּל אֶחָד נוֹטָה לְסַתֵּר דְּבָרֵי חֲבֵרוֹ:

(7) Two scholars who dislike each other must not act as judges together, since this might result in perverted justice. Owing to the hostility between them, each will be inclined to refute the other.

3. a. Exodus 30:34-35

שמות ל': ל"ד-ל"ה
לד וַיֹּאמֶר יְהוָה אֶל-מֹשֶׁה קַח-לָךְ סַמִּים, נָטָף וּשְׁחָלֶת וְחִלְבֹנָה, סַמִּים, וּלְבָנָה זָכָה: בַּד בָּבֶד, יִהְיֶה. לֹה וַעֲשִׂיתָ אֹתָהּ קֹטֶרֶת, רִקְחַ מַעֲשֵׂה רוּקַח, מִמֶּלֶח, טָהוֹר קָדָשׁ.

(34) And the LORD said to Moses: Take the herbs stacte, onycha, and galbanum—these herbs together with pure frankincense; let there be an equal part of each. (35) Make them into incense, a compound expertly blended, refined, pure, sacred.

b. Keritot 6b 65-66

כריתות ו' ב: ס"ה-ס"ו
א"ר חנא בר בזנא א"ר שמעון חסידא כל תענית שאין בה מפושעי ישראל אינה תענית שהרי חלבנה ריחה רע ומנאה הכתוב עם סממני קטרת

Rabbi Chana bar Bizna said in the name of Rabbi Shimon Chasida, any fast that doesn't include the sinners of Israel is not a true fast. For behold galbanum has a foul smell and yet the Scripture counts it among the ingredients of incense.

c. Rashi on Exodus 30:34: 3

רש"י על שמות ל':ל"ד:ג'

(ג) וחלבנה. בשם שריחו רע, וקורין לו גלבנא, ומנאה הכתוב בין סמני הקטרת ללמדנו שלא יקל בעינינו לצרף עמנו באגדת תעניותינו ותפלותינו את פושעי ישראל שיהיו נמנין עמנו:

(3) — This is a malodorous spice which is called galbanum. Scripture enumerates it among the spices of the incense to teach us that we should not regard as a light thing the duty of associating with ourselves when we band together for fasts and prayers Israelites who are transgressors — that they should be counted as ourselves (Keritot 6b).

4. Jerusalem Talmud Ta'anit 64b

תלמוד ירושלמי תענית סד ע"ג

איתחמי לרבי אבהו פנטקקה יצלי ואתי מיטרא נחית מיטרא שלח ר' אבהו ואייתיה שא"ל חמר עבין ההוא גוברא עביד בכל יום מוגר זנייתה משפר תייטרון מעיל מניהון לבני מטפח ומרקד קדמיהון ומקיש בבבויא קדמיהון. א"ל ומה טיבו עבדת א"ל חד זמן הוה ההוא גברא משפט תייטרון אתא חדא איתא וקמת לה חורי עמודא בכיי 'ואמרית ליה מה ליך ואמרה לי בעלה דההיא איתתא חביש ואנא בעיא מיחמי מה מעביד ומפנינה וזבנת ערסי ופרוס ערסי ויהבית לה טימיתיה ואמרת לה הא ליך פניי בעליך ולא תיחטיי א"ל כדאי את מצליא ומתעניא.

It appeared to R. Abbahu [in a dream] that Pantokakos [=Mr. Completely Evil] should pray so that rain would come down.

R. Abbahu sent and had him brought before him. He said, "What is your profession?" He said, "I commit five sins every day. I sweep the theater. I hire out prostitutes. I carry their [the prostitutes'] garments to the baths. I clap and dance before them. And I clash the cymbals before them.

He said to him, "What good deed have you done?" He said to him, "One day when I was sweeping the theater, a certain woman entered. She stood behind a column [posing as a prostitute] and wept. I said to her, 'What is the matter?' She said, 'My husband is incarcerated and I want to see what I can do to free him.' I sold my bed and bedding and gave her its cost, and I said to her, 'This is for you. Free your husband and do not sin.'"

He [R. Abbahu] said to him, "You are worthy to pray and to be answered."

like angels on Yom Kippur, as the Midrash expresses it; and it is written of the angels that they each had six wings (Isa. 6:2).

In Lithuania it is the custom on the eve of Yom Kippur to decorate the loaves with the figure of a ladder, as an allusion to the ascent of the prayers, after the hymn beginning, "Let our supplication ascend." The piece of bread over which the blessing is recited is then dipped in honey, and the same is true at the beginning of the Concluding Meal.

It is right to eat fish. [Tur Orah Hayyim, No. 603]

Despite the fact that eating on the eve of Yom Kippur has been praised as a virtue, one ought to eat only light dishes that are easy to digest, so as not to be full and in high spirits during the prayer on Yom Kippur [Levush; Ture Zahav]

Every man ought to sit down to this meal with great humility, and not allow himself to become angry at anything, in order not to come into temptation. Rather, one ought to prepare calmly for the holy day, and beseech compassion and help from the Holy One, blessed be he; for if he does not help, one cannot succeed.

APPEASING ONE'S FELLOW

Yom Kippur makes atonement for transgressions committed in man's relations with the Omnipresent; Yom Kippur does not make atonement for transgressions in men's relationships with one another, until the transgressor has appeased his fellow. This was expounded by Rabbi Eleazar ben Azariah, who said, "It is written, 'From all your sins before the Lord shall you be clean' (Lev. 16:30). Yom Kippur makes atonement for transgressions committed in man's relations with the Omnipresent. But Yom Kippur does not make

atonement for transgressions in men's relationships with one another, until the transgressor has appeased his fellow." [Mishnah Yoma VIII.9]

Rabbi Isaac said: He who has caused his comrade vexation, even if only by speech, must appease him, as it is said, "My son, if thou art become surety for thy neighbor, if thou hast struck thy hands for a stranger—thou art snared by the words of thy mouth . . .—do this now, my son, and deliver thyself, seeing thou art come into the hand of thy neighbor; go, humble thyself, and urge thy neighbor" (Prov. 6:1-3). The meaning is: If he has a money claim on you open the palm of your hand to him, and if not, send many friends to speak to him for you.

Rav Hisda said: He ought to appease his fellow before three rows of three men each, as it is said (Job 33:27): "He cometh before men, and saith: I have sinned, and perverted that which was right, and it profited me not."

Rabbi Yose bar Hanina said: He who beseeches his injured fellow to pardon him ought not to beseech him more than three times, as it is said, "I pray thee, forgive, I pray thee now, the transgression of the servant of the God of thy father" (Gen. 50:17). If his fellow has died, he shall bring ten men and stand them at the grave, and say, "I have sinned to the Lord, the God of Israel, and to this man [so and so] whom I have injured." [Yoma 87a]

Rabbi Eleazar said in the name of Rabbi Hoshaya: "From all your sins shall ye be clean before the Lord" (Lev. 16:30). Yom Kippur makes atonement for the sin which only God can recognize. [Keritot 25b]

Blessed be his Name and exalted the remembrance of him who holds Israel dear, and who gave them the ten days of Teshuvah. For even the Teshuvah which an individual does

during that period is accepted as a community Teshuvah. Therefore, all Israel must employ Teshuvah and make peace with and pardon one another on the eve of Yom Kippur, that their Teshuvah and their prayer may be accepted by the Holy One, blessed be he, in peace and with affection. For we find that great is the power of peace; for even the Holy One, blessed be he, paraphrased for its sake, as it is said, "And Sarah laughed within herself, saying; 'After I am waxed old shall I have pleasure, my lord being old?'" (cf. Gen. 18:12). "And the Lord said unto Abraham: Wherefore did Sarah laugh, saying: Shall I of a surety bear a child, who am old?" (Gen. 18:12-13). She said "my lord being old," and the Holy One, blessed be he, paraphrased: "I . . . who am old." He said this in order not to cause enmity between Abraham and Sarah.

Rabbi Eleazar said: Great is peace, for even if Israel is worshipping idols, if they keep the peace and are united, the quality of divine justice will not touch them, as it is said, "Ephraim is a company of idolators, let them alone" (Hos. 4:17). Rabbi Eleazar also said: Great is peace, for even the blessing of the priests concludes with peace, as it is said, "And give thee peace" (Num. 6:26). Even in the world to come, when the Holy One, blessed be he, will return to Jerusalem and will return all the exiled into her midst, he will return them for peace, as it is said, "Pray for the peace of Jerusalem" (Ps. 122:6). The Writ also says (Isa. 68:12): "Behold, I will extend peace to her like a river."

See how great is the reward of him who makes peace between men. It is written, "Thou shalt build the altar of the Lord thy God of unhewn stones" (Deut. 27:6). Now, if stones that cannot hear and cannot see and cannot smell and cannot speak are saved by the Writ from the sword, because

they make peace between men through the sacrifices which are offered upon them, and it is proclaimed of them, "Thou shalt lift up no iron tool upon them" (Deut. 27:5)—how much more is this true of man, who can hear and see and smell and speak, when he makes peace among his fellow men! [Pesikta Rabbati, Shuvah Yisrael, addendum]

Let our master teach us: If one has quarreled with his comrade, how can he make atonement on Yom Kippur?

Thus have our masters taught (Mishnah Yoma VIII.9): "Yom Kippur makes atonement for transgressions committed in man's relationship with the Omnipresent; Yom Kippur does not make atonement for transgressions in men's relationships with one another, until the transgressor has appeased his fellow." Now if a man goes to appease his fellow, and his fellow will not be appeased, what shall he do? Rabbi Samuel bar Nahman said, Let him bring ten men, and stand them in a line, and say before them, "There was a quarrel between so and so and myself, and I have tried to appease him, but he has obstinately not wished to be appeased. I now beg his pardon." And whence do we learn that this is what he has to say? From the verse: "He cometh before men, and saith: I have sinned, and perverted that which was right, and it profited me not" (Job 33:27). Then the Holy One, blessed be he, seeing him humble himself, makes atonement for his transgressions. For as long as a man continues in his willfulness he is not pardoned. You must know that so long as Job held out against his comrades, and his comrades against him, the quality of divine justice was directed against him. We find that Job said to them, "But now they that are younger than I have me in derision" (Job 30:1). And they said to him, "With us are both the gray-headed and the very aged men" (Job 15:10). But when he appeased them and be-

sought compassion upon them, the Holy One, blessed be he, returned to him in that hour, as it is said, "And the Lord returned the fortune of Job" (Job 42:10). When? "When he prayed for his friends" (*ibid.*). Thus says the verse (Deut. 13:18): "And He will show thee mercy, and will have compassion upon thee."

Rabbi Yose ben Durmaskit said: Take as your guiding sign: Whenever you have compassion on your fellow, the Holy One, blessed be he, has compassion on you. Abraham, because he sought compassion for Abimelech and prayed in his behalf, at once took his reward, as it is said: "And Abraham prayed unto God; and God healed Abimelech, and his wife, and his maid-servants; and they bore children" (Gen. 20:17). And what was the reward he took? That his wife was remembered and gave birth to a son, as it is said (Gen. 21:1): "And the Lord remembered Sarah as He had said, and the Lord did unto Sarah as He had spoken." [Pesikta Rabbati, Harninu]

All Israel must appease one another, for if they do not, the Holy One, blessed be he, will not forgive them. For lo, we have learned: Despite the fact that he brought his fellow all the sheep of Kedar, he will not be forgiven until he appeases him. If his fellow will not forgive him, he is called cruel, as it is said (Gen. 20:17), "And Abraham prayed unto God" (Baba Kamma 92a). We know that Abraham was a compassionate man, and he who does not act as Abraham did does not come of Abraham's seed, and, not being of Abraham's seed, is a cruel man in truth, as it is said, "And He will give thee mercy, and will have compassion upon thee" (Deut. 13:18). That is to say, when God will give you mercy so that you will have mercy on his creatures, he will have mercy on you, "as He hath sworn unto thy fathers" (*ibid.*), who were

merciful men. And every man must further appease his fellow after his fellow has forgiven him, beseeching him to pray before the Creator, be exalted, to forgive him, as Abraham did for Abimelech. [Sefer ha-Minhagot]

"Yom Kippur does not make atonement for transgressions committed in men's relationships with one another." Our teacher, Rabbi Samuel Garmison [18th cent.], wrote that the Omnipresent shares in the transgressions that men commit in their relationships with one another which are also in part transgressions against the Omnipresent. For example, if a man insults his fellow, lo, he has transgressed against the commandment, "Thou shalt love thy neighbor as thyself" (Lev. 19:18). There are many such examples. So long as a man has not appeased his fellow, even that part of the transgression which is a transgression in his relationship with God is not atoned for. [Birke Yosef]

The Kabbalists wrote: "The prayer of him who does not banish hatred on Yom Kippur is not heard." [Kaf ha-Hayyim, Jerusalem]

Let not this matter be light in the eyes of any man in Israel, for it is the cornerstone of atonement on Yom Kippur, and of the acceptance of prayers, and of our own speedy redemption. The same is true of its opposite, God keep us from it, enmity, that is, which is like gall and wormwood. For, there is no doubt that this quality, enmity, hinders the coming of our Messiah, and is the reason why our prayers are not accepted, while we remain in exile, where there is no peace in our midst. For in truth, it is because of our iniquities which are great that many evils and misfortunes daily fall on our heads, there being none who seek to know why God acted thus to his preferred people whom he chose for his inheritance. It is because of this that we pass from downfall to down-

fall, and every day is more accursed than that which comes before it. There is no doubt that God is righteous and it is we who have done wickedly; our sufferings proceed from our own hand, and not God's. For every man walks after the stubbornness of his own heart and does what is right in his own eyes, the righteous and the wicked, the great and the small alike. The divisions and cleavages that exist among us are public and well known.

For we do not behave like members of one nation, having one tongue, as we should; for indeed do we not all have one Father, and did not one God create us all? Then why are we not united, all the seed of Israel? How much more ought we to be one, dwelling as we do in the land of our foes, literally like one lamb among thousands and tens of thousands of wolves! Is it not enough that all the peoples hate us—why should we hate one another too? Now a fire doth issue from the rock of our division, and there is none to extinguish. On the contrary; every man hastens to add fuel to it until it grows into a great consuming fire. May God who is good make atonement for us and remove our heart of stone and renew a steadfast spirit in our midst and remove hatred and contention from us, until we be united in the land. [Hemdat Yamim]

It is the custom to go to visit one's friends on the eve of Yom Kippur to beseech their forgiveness, though there is generally no need to do so, for one has not sinned against one's friends, and even if one has sinned against them, it was unintentional, and love covers all sins; their enmity must certainly have left them already. Yet being an ancient custom, it is worthy of respect, for there is no knowing what feelings are stored up in the hearts of one's friends.

I do not say that one ought not to go to visit one's friends,

but rather that people ought not to neglect an act that is both proper and an obligation, to wit, that of visiting the person whom one knows for a certainty one has sinned against. And if he will not do so, you ought to send many friends to plead with him. Even if it is the other person who has sinned, one ought to go to that person and make peace with him.

But people who turn what is nonessential into the essential, and repudiate the essential, the forgiving and being forgiven by one's enemies, are, I think, in the wrong. [Yosif Ometz]

IMMERSTON

It is a fine custom to immerse oneself on the eve of Yom Kippur, in order to be clean on Yom Kippur both within and without; within, by doing Teshuvah and confessing one's sins, in order to be acceptable before our Father who is in heaven, and without, by washing and bathing, as it is said (Isa. 1:16), "Wash you, make you clean, put away the evil of your doings from before mine eyes" [Israel al-Nakawa, Menorat ha-Maor, Hilkhos Yom ha-Kippurim]. We have already learned in the Zohar [III. 214b] that we must bathe in a stream on the ninth of the month to purify ourselves.

Those who believe that the essential purpose of the ritual bath is purity do not require a confession before immersion, but those who believe that the purpose is Teshuvah do require such confession. Rabbi David ben Samuel ha-Levi [17th cent.], the author of Ture Zahav, wrote that it is the custom to do as Rabbi Isaac Luria [16th cent.] did, and make confession in the ritual bathhouse before immersion.

AT THE AFTERNOON PRAYER

After having immersed, one returns home, and puts on one's Sabbath clothes, and goes to the House of Prayer to pray the