

LETTERS TO THE EDITOR

To Stay or to Flee

FROM THE MOMENT the Nazis, *yemach shemum*, marched into Poland I could no longer sleep through the night; they were shooting Jews in the street.

I remember asking my uncles, all pious Gerer Chasidim: "Should I try to flee?" They discouraged me, saying: "Where would you go? How would you remain a *frimmer yid*?" But I was overcome with fear and decided to flee. I said good-bye to my parents and made my way to the border with Russia. Many people were milling around, and on either side you could see soldiers ready to shoot anyone who dared to cross the border. In my exhaustion I fell asleep at the border. When I awoke the next morning I noticed there were fewer people there. I asked various people what was going on. One individual finally told me: "Don't you understand? At night, when it is dark, people get down on their hands and knees and crawl across the border." That night, that is what I did, and the next morning I was in Russia. I was immediately arrested and sent to Siberia; but at least in Russia, Jews were not

being shot in the street.

After the war I learned that a sister of mine, who tried escaping with her friends to the forest, was caught and shot. My other two sisters and my parents were taken to Auschwitz. My parents were killed immediately but those two sisters miraculously survived.

Throughout my life the events of the war and my decision to flee were never far from my mind. In my sefer *Ner l'Meah* on Torah (p. 252) on *parshas Netzavim* I discuss this:

In the *Ohr haChaim* (*Devairim* 29:19) there is a solution to the pressing question that was asked during the war when the Jews were under Nazi occupation: Is it proper to attempt to flee and save oneself, or perhaps, if permission was granted for evil to destroy, no effort could possibly succeed? As is well known, there were many righteous people who refused to flee, saying if, G-d forbid, there is a decree from *Hashem*, we must accept it. Others argued that perhaps the decree was only for a certain location, and that if one were to flee to a different location

the decree could be avoided. I myself discussed this with members of my family, who unanimously felt that if there is a decree then nothing would help. And yet the *Ohr haChaim* states explicitly¹ that a decree might be for only a specific location and therefore if one flees to a different location he can be saved.

The words of *Pirkei d-Rabi Eliezer* are worth noting:

ועמד אליהו ז"ל וקנא קנאה גדולה ונשבע על השמים שלא להוריד טל ומטר על הארץ ושמעה איזבל ובקשה להרוג אותו. עמד אליהו והיה מתפלל לפני הקב"ה. אמר לו הקב"ה טוב אתה מאבותיך? יעקב ברח ונמלט שנאמר (הושע יב יג) ויברח יעקב שדה ארם. משה ברח ונמלט שנאמר (שמות ב) ויברח משה מפני פרעה. דוד ברח ונמלט שנאמר (שמואל א) ודוד ברח וימלט. עמד אליהו וברח מארץ ישראל ונמלט שנאמר (מלכים א יט) ויקם ויאכל וישתה (פרקי דר"א כט: נה-נט).

Rachmiel Zelcer
Brooklyn, NY

*The above letter was translated
from the Yiddish and Hebrew. Ed.*

¹ וכן היא מדה ה' כשנתן רשות למחבל מגביל לו מקום אשר ישלוט בו וצא ולמד ממעשה רבא כשהטריח לה' כביכול לעשות נס שצוה עליו אביו לבל יישן במקומו ושלטו המחבלים במטתו ולא חוץ ממנה (אור החיים דברים כט:יט).

WHILE I ALWAYS look forward to receiving *Hakirah*, the various articles in the past issue made for an especially stimulating and relevant read. I am writing, however, specifically in response to Joe Bobker's interesting piece, "To Flee or to Stay?" I agree with the author that the general portrait of an Eastern European rabbinate that fled Europe, while misleading their followers into the throes of death, paints a non-nuanced, inaccurate, and injudicious representation of the various rabbinic responses to the Holocaust. Still, I would like to raise three related issues that warrant concern.

Firstly, Bobker's treatment of the response of Rabbi Aharon Rokeach (then rebbe of Belz) to the Holocaust seems misleading. Bobker notes that Mendel Piekarz quotes the late Rebbetzin Eva Halberstam of Kosice's remarks, which accused the hassidic leadership of having "saved themselves but abandoned the people like lambs to the slaughter!" Specifically in her remarks (and this is the quote I am concerned with in this critique), Halberstam accused the Belzer Rebbe of having "said that in Hungary we could get away with mere anxiety." Bobker writes in a footnote there (fn. 68) that "Esther Farberstein and others (for example, Rabbi Na-

tan Ortner, *a Belzer Chassid*) call Piekarz's claim historically 'dubious and unreliable... [emphasis mine]'" That is not to say that Bobker claims infallibility on behalf of the Belzer Rebbe. In an earlier footnote (fn. 8) Bobker writes how "before the War started, the Belzer Rebbe had told a Polish family in the process of fleeing to Palestine that they need not leave Europe. Many years later, the rebbe... admitted he had made a mistake... by not encouraging all his Chassidim to leave Europe *earlier* [emphasis mine]." Still, Bobker writes elsewhere that "the idea that major rabbinical figures (Ger, Belz, Satmar, Lubavitch) escaped... while thousands of their loyal followers were misled into meeting horrible fiery deaths, is an indictment grounded more in anguish and anger than in facts." Thus, the portrait that emerges is one of the Belzer Rebbe having made a mistake in not directing his followers to Palestine early—one that he later regretted—but not of his ever delivering the false message Halberstam attributes to him to a large group of Jews in Hungary. Such a representation ignores the infamous speech of Rabbi Mordechai Rokeach delivered on behalf of his brother in 1944. While I will not unnecessarily quote said speech here, it is

clear that it delivered the message about which Halberstam complained. I believe this misrepresentation was completely accidental, but it nevertheless deserves to be corrected.

Secondly, Bobker writes how it was proven that "the most distinguished of Torah leaders were fallible" but he asks, "how could it be otherwise?" After all, "from within the European inferno none could foresee the future, nor is there anything in Torah or Chassidic doctrine to suggest they could." However, your excellent journal featured an article in Volume 7 by Elijah Judah Schochet providing numerous examples of important texts that credit Hassidic rabbis with the specific power of predicting the future; to those references many others could be adduced. I am thus confounded by Bobker's claim.

Finally, I was concerned by how some rather startling quotes and historical claims appear in the article and footnotes without citing sources. Credulity is stretched by the author's occasional citing of unreliable chareidi hagiographies; particularly striking was the citation of two such hagiographic treatments for the broad claim that the Hazon Ish was "the universally recognized *posek aharon*."

Bobker's portrait is *far* more

nuanced and judicious than the one he set out to (in my opinion, successfully) demolish. Still, I think examining historical events that many may find uncomfortable (e.g., Rabbi Mordechai Rokeach's speech and Hasidic sources that rabbis can divine the future), as well as being skeptical of hagiographic material that seeks to spin non-Zionist Orthodox action in the most positive light, would lead to a more accurate portrait.

Baruch Pelta
Miami Beach, FL

The author responds:

Mr. Pelta's claim that I "misrepresented" Rabbi Aharon Rokeach's position on the dangers facing the Jews of Europe is incorrect, but I understand how he could reach this conclusion. Remember: The essay in *Hakirah* was only an excerpt from a rather lengthy book to be published next year. Obviously, in such a short "snapshot," Mr. Pelta is at a disadvantage by not having read the entire manuscript.

In fact, my book does tackle the unfortunate *d'var Torah* of *chizuk* that Rabbi Mordechai ("Reb Mottele") of Bilgoraj, the Belzer Rebbe's energetic right-hand man and younger step-

brother, in Budapest gave the day before they left for Palestine in early 1944.

This incident is highly sensitive and heartbreaking in chasidic historiography, but it lends support to my position of rabbinic fallibility during the Third Reich, in that no one, not even such extraordinary pious rebbes as Rav Rokeach, were able to make any sense of Hitler's chaos.

The Belzer Rebbe's farewell was delivered at a *siyum* (the completion of Tractate *Sukkah*) to the *Tiferet Bachurim* Society, which was run by Rabbi Yonason Steif, the highest *posek* in Budapest, and heard by thousands of local Hungarian and refugee Polish Jews.

Rav Mordechai's audience was anxious, apprehensive, and fearful. He assured them that they were not being "abandoned [and that] my great brother [the Rebbe] is not fleeing hastily, [he simply] has had a long desire to live in the holy land." Rav Mordechai went on to assure his audience that "the power of a *tzaddik* [to pray for their welfare] is greater [in *Eretz Yisrael*]," and that no harm would befall them in the safety of Hungary where they would have "repose and tranquility."

But it was not to be. Less than ninety days later, on March 3rd, Adolf Eichmann savagely

and swiftly reduced nearly 500,000 Hungarian Jews to charred remains in Auschwitz.

The Belzer's fiery speech was published² and served only to inflame opinions. When the Belz community later reprinted the booklet, its author, Rabbi Natan Ortner, deleted twenty-two controversial lines that, in hindsight, were highly incendiary and controversial. The Belzer Rebbe's optimism had been choked by the clouds of Jewish ashes. Was Rav Ortner attempting to "cover up" any "abandonment" by the Belzer Rebbe? No. As a loyal *chassid*, his desire was to sweep aside the embarrassment that a rebbe's prediction could prove to be wrong, and so quickly.

In regard to Mr. Pelta's quote of Elijah Judah Schochet's article that provides "numerous examples... which credit hassidic rabbis with the specific power of predicting the future," I must confess that I haven't read it. However, I know Rav Schochet and he is a first-class scholar. All I can say is this: one need look no further than to the Jewish history of the 20th century to forever dispel that notion.

² *Ha-Derekh*, "The Way," in *The Farewell Discourse of our Rabbi and Teacher, Rabbi Mordecai Rokeach*, Budapest, 1944; also see N.Z. Friedman, *Mashmia Yeshua*

Finally, I don't see how my statement that "the Hazon Ish was 'the universally recognized *posek abaron*' stretches credulity," since, in the decade immediately following the Holocaust, Rabbi Avraham Yeshayahu Karelitz was the most influential halachic authority at the time in the holy land. So much so that Rabbi Chaim Ozer Grodzinsky in Vilna, Lithuania, stopped answering questions from Palestine in 1933. Why? Because that was the year the Chazon Ish arrived in Bnei Brak and Rav Grodzinsky advised the Yishuv that, with Rav Karelitz in their midst, they no longer needed to consult him.

For the Sake of our Children

WHILE I ENJOYED the other articles in volume 9 of *Hakirah*, it was Rabbi Dr. Aharon Hersh Fried's article ("The Respect We Owe Each Other—For the Sake of Our Children") that caused me to reminisce.

In his article, Rabbi Fried shared a number of beautiful incidents regarding the successful manner in which other educators worked well with the parents of their students. I'd like to share one such story involving Rabbi Fried's own work in the

field of Jewish education.

During the school year of 1987-88, I was a somewhat rambunctious 7th grade student at the Hebrew Academy of Cleveland. That same year was the first of the two years Rabbi Fried served as school principal.

At some point during the year, Rabbi Fried noticed a clear pattern in my being sent to his office for poor behavior. Those visits always occurred during the weekly period when a guest instructor visited my classroom to supplement the class' *Limudei Kodesh* curriculum.

Realizing the poor chemistry that existed between that teacher and me, Rabbi Fried chose an innovative way to deal with the situation. I was sent home with a note for my parents to sign stating that they allowed me to join Rabbi Fried in office to study *Mishnayos* with him each week when the guest instructor would visit. My parents were quick to agree to this solution, and I can only imagine how pleased the visiting teacher was with the plan.

What makes this story even more special is the fact that the first time I showed up to learn *Mishnayos* with Rabbi Fried, I discovered he was already using the time period to study *Mishnayos* with another student—one of his sons from a class other

than mine.

I realized that Rabbi Fried had managed to carve out precious time from his busy schedule in order to learn with one of his sons. Seeing that I could also benefit from that study, he chose to share his time with me as well.

While I cannot recall which tractate of *Mishnayos* the three of us studied together that year, I can state that Rabbi Fried's love and understanding made a profound and lasting impression on me.

Though I have only bumped into Rabbi Fried infrequently in the years since, each time we met I felt compelled to express my appreciation to him again. Inevitably, he felt compelled to give me another warm hug.

Rabbi Fried, thanks again.

Akiva Males

Kesher Israel Congregation
Harrisburg, PA

Rashi and Corporealism

I WOULD LIKE to express my gratitude and appreciation to Rabbi Slifkin for his extensive response to my article; discussing the ideas of any area in an open way can only benefit the general readership. For providing this forum to the Jewish community I thank the editors of *Hakirah* whose care, wisdom, and passion

are the hallmark of true *melamdim*. In addition, I would like to thank Rabbi Gil Student for his review (<http://hirhurim.Blogs.pot.com/2010/02/new-periodical-hakirah-vol-9-winter.html>) of my discussion with Rabbi Slifkin. Finally, I welcome the participation of the readership in this discussion; please feel free to be in touch with comments and questions at ZuckerS@ou.org. Again, thank you for this opportunity to examine and analyze Rashi's stance of incorporealism.

Saul Zucker
Teaneck, New Jersey

Editor's Note: Rabbi Zucker has posted a response to Rabbi Slifkin's article on corporealism at www.corporealismdiscussion.com and he can be contacted for comments and questions at ZuckerS@ou.org.

LONG BEFORE Rabbi Natan Slifkin's books were banned by *Chareidi* rabbis, my *Torah and Science* (Ktav 1991) was similarly declared *non grata* by prominent rabbis of that community, albeit with less fanfare and publicity. *The Jewish Observer* (May 1992) exhorted all *chareidi* institutions to shun the book, condemning it as beyond the pale of what orthodox Jews ought to be considering.

A few years later my *In the Beginning Of, A New Look At Old Words* (Jay-El Publications, 2004) fared no better. The common denominator of all these books, mine and Slifkin's, is the "consider the evidence" theme they espouse. The attitude of these rabbis can be summarized as such: "our minds are made up, indeed set in concrete; don't bother us with the (supposed) facts."

Writing *Torah and Science* and *In the Beginning Of* was my way of battling forces that, in my view, were weakening Torah observance. How many millions of our brethren are secular because they are convinced that science and history contradict the Torah, thereby discrediting it? And who can guarantee that those raised in the insular *chareidi* world will one day not be coaxed out of that world and then be unprepared to confront those forces? In the face of this, is it not our duty to grapple with these issues?

So I viewed Slifkin, up to now, as a comrade-in-arms. That is, until his recent foray into the domain of corporealism (*Hakirah*, vols. 8, 9; and various websites). I not only must now part company with him on this, I feel strongly enough about it to take precious time to write to you about it.

Slifkin may not realize this, but more likely he does and is being coy about it; he is playing with fire. Let us look at the “fire” aspect first, then we will turn to the “playing” component.

Let there be no misunderstanding as to what is at stake here. Slifkin’s argument is not merely about *Rashi*, it is aimed at the essence of the Torah and Judaism. Follow the line of reasoning that inevitably flows from Slifkin’s discourse. If *Rashi* was a corporealist, then the great *Rashi* must have viewed the Torah itself as being corporealist. And so did all the others who, according to Slifkin, shared this view, of which Slifkin can name, by his own admission (*Hakirah*, vol. 9, p. 67), only five scholars from all of Jewish history. This number tended downward, says Slifkin, over the course of time after *Rashi*, until it became extinct, so that we cannot today believe it ever existed. This implies that the number must increase as we extrapolate backward in time, to before *Rashi*, as Slifkin realizes (p. 67). We thus conclude that originally many Jews, if not most or all, were corporealists. Thus the Torah writer himself is highly likely to have been a corporealist.

This is also one step away from asking: How are Judaism

and the Torah different from any of the many pagan religions that surrounded ancient Israel? That there is one body-god as opposed to two, three or more? Is this what the Torah is reduced to—a numbers game? And since those primitive religions are beyond the pale of what enlightened contemporaries can consider as viable belief systems, why should anyone in his right mind today entertain a document (the Torah) written in support of just such a paradigm?

And what is the evidence for Slifkin’s position? This is where the “playing” component comes in. Slifkin seems not to recognize that there exist standards for evidence. And extraordinary claims require extraordinary evidence. All Slifkin offers is speculation, assertion and disingenuous sophistry. If I would submit a physics paper with his quality of evidence, my colleagues would run me out of town.

Theories tend to develop legs, especially about the Bible. Consider the Documentary Hypothesis. Read Wellhausen’s *Prolegomena*, cover to cover, and you find nothing but theories, claims and agenda-driven suppositions. Yet the Bible critics have latched on to it, to the detriment of Torah observance. Even Kitchen’s *On the Reliability of the Old Testament*, filled to the brim as it is

with solid evidence that the Torah was written in the second millennium BCE, can barely be heard above the din of the DH supporters.

As evidence, Slifkin essentially offers his interpretation of *Rashi's* words and even *Rashi's* silence in places where Slifkin thinks *Rashi* should have spoken. This despite the fact that *Rashi* and the Torah itself make it abundantly clear, if their words are read without convoluted, jump-through-hoops contortions, that God has no form. Thus any reference to a body or body parts must be anthropomorphic since there is no alternative—the Torah is written for human consumption. This goes hand-in-hand with monotheism and forms a package of ideas that in ancient times was unique to the Torah and its adherents, the Jews.

Slifkin's discussion of the number of corporealists among the *Rishonim* blissfully ignores the complexities of the issue. There is a rather wide continuum of possible views between the oversimplified labels of corporealist and incorporealist. One can, for example, accept that God is entirely beyond the physical realm, yet speak of God as "seeing" in the sense that, well, He really sees in His own inimitable, incomprehensible way.

Or, one can believe that the concept of seeing is not applicable to God at all and the term can be used only anthropomorphically.

The matter is further complicated by the fact that delving into these issues has always been frowned upon in Judaism. Even *Rambam*, who does expound upon the subject at some length, admonishes us not to do so (*Yesodai Ha-Torah* 2:12). The vast majority of Torah scholars have always avoided the subject, and even avoid those chapters in the *Rambam*. Many of the *chachmei tzarfas* (scholars of France) that Slifkin claims were purported to be *magschimim* (engaging in corporealist talk) were ordinary students of the Torah (most Torah scholars of today never heard of them) who focused only superficially on the subject, and accepted the concept of an incorporeal God as a fundamental of the faith, which it is, but were comfortable with the idea of God engaging in human activities, such as seeing and hearing, while realizing that God is different and these activities are in some manner merely equivalent to corresponding human activities.

Slifkin seems to think that corporealism became extinct due to the influence of the *Rambam* and the Spanish school of Torah scholars. This despite the fact that we today ignore the *Ram-*

bam's position on many *halachic* issues when others disagree with him (except in certain communities). How then did the *Rambam* succeed in so thoroughly slaying the monster of corporealism? What accounts for this singular achievement on his part? I submit that real corporealism was always extinct in the Torah community. Not even the "Slifkin five" can truly be counted as bona-fide adherents. There was nothing for the *Rambam* to banish; his task was to educate the unlearned masses in the ways of the Torah.

I can fathom no good reason for an Orthodox rabbi, such as Slifkin claims to be, to take on this esoteric issue at this time, when nobody out there was demanding that it be addressed, and take a baseless stand that can only harm the cause of Torah observance. I am saddened to conclude that this can be attributed only to a quest for publicity. And *Hakirah* fell victim to it.

Judah Landa
East Brunswick, NJ

The author responds:

I consider Dr. Landa's description of the Charedi approach as being that "our minds are made up, indeed set in concrete, don't bother us with the facts," while

others (presumably himself and the Modern Orthodox world in general) are open-minded and willing to re-evaluate cherished beliefs based upon evidence, to be grossly inaccurate. Rather, there are simply fewer cherished beliefs amongst the Modern Orthodox. For someone to accept that the universe is billions of years old, or that Chazal erred in some of their statements about the natural world, does not necessarily indicate that they are open-minded; rather, it more often simply means that they grew up in a society where such beliefs were normative. Such people can often also be closed-minded when it comes to reevaluating their own cherished beliefs.

This sheds light on why, in contrast to Dr. Landa, I never considered that he and I were partners-in-arms with our respective books on these matters. In his addressing the contradictions between modern science and the Genesis account, Dr. Landa insists that the Torah's account of creation is actually perfectly synchronous with modern science, and he therefore need not reevaluate any cherished beliefs. But in order to make the two accounts correlate, he has to translate many of the words in ways that no Biblical scholar of any denomination has

ever or would ever suggest, and ignore many of the contradictions that I pointed out in *The Challenge of Creation*. My own conclusion is that we must acknowledge that Genesis is not consistent with modern science, and it should rather be accepted as an extraordinary theological text instead of being read as a scientific account. But this goes against the cherished beliefs of many, even in the allegedly “open-minded” Modern Orthodox camp.

Dr. Landa makes it abundantly clear that a similar phenomenon lies behind his rejection of my thesis that Rashi was a corporealist. His first claim is that it threatens the very “essence of Torah and Judaism,” and proceeds to argue that the consequences of such a notion are disastrous for his faith. Is it any wonder, then, that when he arrives at evaluating my arguments, he finds them unconvincing? Incredibly, Dr. Landa later establishes that he cannot accept that *any* Torah scholar or student was a genuine corporealist, thereby revealing that he is blinding himself to the completely unambiguous and undisputed testimony of several Rishonim that I cited in my article. Can there be any stronger evidence that he himself is guilty of the very charge that he makes

against others—that “our minds are made up, indeed set in concrete, don’t bother us with the facts”?

As it happens, Dr. Landa’s concerns about the consequences for Judaism are misplaced. While I would certainly not side with the corporealist viewpoint, I can accept that there were *Rishonim* who did so as part of their Torah worldview. Dr. Landa’s protest that corporealism reduces Jewish belief to a mere “numbers game—one body-god as opposed to two, three or more” is in error; the contrast between one all-powerful God, Who created and controls everything, and two or more gods of limited power, does indeed make all the difference in the world—just as there is a world of difference between one incorporeal God and two or three incorporeal gods.

But regarding Dr. Landa’s claim that if Rashi and others possessed corporealist beliefs that have since declined, this would necessarily mean that in earlier times everyone was a corporealist—historical forces are complicated and such extrapolation is not so simple. After all, many of Rambam’s beliefs have also been on the decline, but this does not mean that they used to be universal! Dr. Landa claims that if Rashi and other northern European Rishonim were corporeal-

ists, then the “Torah writer himself [*sic*] is likely to have been a corporealist.” Yet Rambam, Ra’avad, and the numerous other Rishonim who believed northern European Rishonim to be corporealists did not at all draw that conclusion.

Furthermore, how does following all these Rishonim in finding evidence that some great medieval Torah scholars adopted a literal understanding of various *pesukim* and *ma’amarei Chazal* make me an unscrupulous villain who is willing to destroy Judaism for the sake of publicity? *Baruch Hashem*, I certainly don’t need the publicity! And I don’t see how situating Rashi within the intellectual framework of contemporary northern European Rishonim (such as the Tosafist R. Moshe Taku) is destroying Judaism. My desire is to seek the truth and share it with like-minded others. Furthermore, the importance of this topic is that it forces us to reevaluate the popular definition of heresy, which was the subject of my second article.

Dr. Landa claims that arguments such as mine would not be taken seriously by physicists. I don’t know how his credentials as a physicist qualify him to pass judgment on my arguments, but I suggest that he does what I did, which is to show my article to

numerous (Orthodox) academics who specialize in the Jewish intellectual history of the medieval period. None of them considered it out of the question that a prestigious Rishon would be a corporealist, all of them considered my arguments and evidence to be weighty, and many of them agreed with my conclusions. In fact, just a few weeks ago, there was a symposium on Rashi held in Jerusalem, in which one of the lecturers spoke on the same topic and came to the same conclusion.

Every Orthodox Jew today grows up with the cherished belief in a transcendent, incorporeal God, and every Orthodox Jew cherishes Rashi as a towering Torah scholar. It is not easy for any Orthodox Jew to be open to the idea that Rashi was a corporealist. I thank Dr. Landa for illustrating this so powerfully.

We welcome Dr. Shlomo Sprecher to Hakirah’s editorial board. In his article Rabbi Slifkin thanked Dr. Sprecher for his assistance. Below Dr. Sprecher responds to Dr. Landa’s assertion that Hakirah “fell victim” to a quest for publicity.

Dr. Landa wishes to burnish the authoritative nature of his analysis by invoking the purported

support his reading of the sources would receive from his colleagues, i.e., the community of physicists. I would remind him that the first principle of any scientific endeavor is to accept, without any preconceived bias, the collected data “as is.” His approach in this matter of wrenching the data, i.e., the clear implications of the words of the cited Rishonim, from their stated meaning, in order to get them to fit his ideology, is certainly a violation of the scientific method of either the “hard” or “soft” sciences. As for his accusation that “real corporealism was always extinct in the Torah community” and that Slifkin is merely engaged in a publicity stunt, would he so accuse the Rambam himself for writing in *Ma’amar Techiyat Ha-Metim* Paragraphs 3-4?:

We have met an individual who was considered one of the wise men of Israel and who, may G-d be my witness, was well versed in the law and in the intricacies of the Torah according to his conceptions (inculcated unto him) from an early age, yet **he was still in doubt as to whether G-d is corporeal with eyes, hands, feet and intestines** as He is depicted in Scriptures, or whether He is

not corporeal. Indeed, other people I met from distant lands unequivocally proclaimed Him to be corporeal and denounced as a heretic anyone who believes the opposite, and they call such a one a sectarian and an epicurean, and they cite many passages (in their support, which they understand) literally. And I have heard similar things about some people that I have not met. And when I realized, in regard to these (people) who had totally gone astray, that they were elderly and thought that they were wise men of Israel but were, in fact, the most ignorant of all human beings and more perverse in their ways than animals, and their minds were already filled with the senseless prattle of doting old women and with worthless ideas like (those of) young children and women, we saw that we must elucidate, in our theological writings, fundamental Torah principles in (simple) narrative form and not in the form of citing proofs. For the citation of proofs in regard to those fundamental principles requires expertise in many sciences of which the Talmudists know none at all, as we have explained in *The Guide of the*

Perplexed. We have chosen (this approach) so that the truths (of our Torah) will at least be accepted by the masses.

These unequivocal words of Rambam make clear that “real corporealism” did in fact exist in his day. The quote also makes risible Landa’s citation of *Hilkhot Yesodei Ha-Torah* 2:12 to establish “that delving into these issues has always been frowned upon in Judaism” as somehow relevant to the Rambam’s position on Anthropomorphism. Rambam there speaks of “very deep matters which not every intellect is capable of mastering,” whereas an unequivocal rejection of corporealism is required of every Jew.

Get Refusal

IN RESPONSE TO your recent article on the Agunah problem by Attorney Levmore, we would like to bring to your readers’ attention that the Chief Rabbinate and the National Bet Din of the Israeli Rabbinical Courts has just completed and published the most definitive and scientific analysis of the State of Jewish Divorce in Israel. Under the editorship of Av Bet Din and Head of the Rabbinical Court Rav Eli

Ben Dahan, the official report recently submitted to the Knesset noted the following data:

- Jewish Divorces in Israel dropped in 2009 from 2008 by 2.3%, for a total of 9,986 divorces out of a population of approximately 5.5 million.
- Certain affluent Anglo-Saxon communities saw significant increases in divorce, ascribed to significant downward economic mobility, including the Efrat and Ramot suburbs of Jerusalem and the Raanana suburb of Tel Aviv. The only major urban center with a significant increase in divorce was Beer Sheva.
- Average time of adjudication of a divorce claim was 138 days uncontested, with 99% of all claims closed within 2 years’ time. These results are slightly better than the published averages for New York and California. Including mandatory legal separation in certain American states prior to divorce filings, these time periods are significantly faster than many American alternatives.
- 71% of cases were contested and required adjudication; 29% were agreements by mutual consent of parties to pre-negotiated terms.
- There was a significant reduction in the number of Aguna

cases declared by the Bet Din, dropping to only 44 legitimate claims from 73 in 2008, representing less than one half of one percent of the divorce cases.

- Of these 44 cases, only 10 required actual ruling of financial sanction by the court to secure resolution.
- The Bet Din continued to impose its “No Fault Divorce Does Not Mean No Try Marriage” posture when the marriage exceeds ten years or children are involved, usually insisting on a minimum 90 days of couples therapy before accepting the petition for divorce. Many American states have now imposed similar minimum hurdles.
- The total number of active Aguna cases remains steady at 180; the total number of cases of women refusing to accept a written Get as a strategy to secure improved financial and visitation terms from the husband (Agun, the male equivalent of an Aguna), rose to at least 201 identified cases. This marks the fourth consecutive year that cases of women refusing to accept a written Get as a financial strategy exceeded the number of women denied a Get by the husband.

The facts and conclusions published by the Rabbanut and the Israeli Government Central Bureau of Statistics prove that

there is no need in Israel to reinvent the millennia-old halachic process of Jewish divorce under the pretense of voluntary prenuptial terms of agreement.

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The author responds:

Despite the listing of statistics selected from a report of the Directorate of the Israeli Rabbinical Courts (and not of the Chief Rabbinate nor the National Beit Din [sic] as claimed), the Executive Committee’s conclusion demonstrated a deep misunderstanding of the article as well as of the purpose and process of prenuptial agreements for the prevention of *get*-refusal:

1. The choice of the only relevant statistic—that demonstrating the almost equal numbers of victims of *get*-refusal between men and women—just serves to demonstrate the need for protection for both women and men in Israel. The Agreement for Mutual Respect (found on the site of the Council of Young Israel Rabbis in Israel at <http://www.youngisraelrabbis.org.il/prenup>).

htm) serves exactly that purpose. It is a mutual, reciprocal agreement that aims to **prevent both men and women** from using the withholding of a *get* as a tool for other issues. It protects **both men and women**.

2. The prenuptial Agreement for Mutual Respect obligates the couple to attend marital therapy if one of the spouses requests it. This happens before the couple even reaches the Rabbinical Court and finds itself in adversarial positions.

3. As the Director of the Israeli Rabbinical Courts admits himself, The Rabbinical Courts can count a case only if a file has been opened. The system cannot possibly be aware and cannot be expected to be aware of a woman or man who has not filed for divorce. It is unfair for the *Executive Committee* to even imply that the Directorate can supply statistics as to the number of women or men who are too frightened to turn to the court for relief and so do not exist statistically from the Court's point of view. Likewise the Court cannot be aware of an underlying situation of *get*-refusal, such as cases where a person is willing to pay any price—even forfeiting her legal rights financially and custodial rights to children—to gain her freedom through the *get*, thus coming before the court

in a supposed “amicable divorce” with a prepared agreement.

4. The very source on whom the *Executive Committee* relies, Rabbi Eliyahu Ben Dahan, director of the Israeli Rabbinical Courts (he is not an Av Bet Din [sic] as claimed), supports the signing of prenuptial agreements and explains that not in all cases can a Rabbinic Court issue a ruling of “obligation” to divorce—yet in those very cases a prenuptial agreement would be very helpful had it been signed. Rabbi Ben Dahan was quoted in the *Jerusalem Post*. See: Matthew Wagner, “Rabbinic Court head supports use of prenuptial agreements,” *The Jerusalem Post*, June 2, 2008:

Rabbi Eliyahu Ben-Dahan, administrative head of the Rabbinic Courts, **recently expressed his support for prenuptial agreements as a potentially important remedy to the tragic situation of agunot** (“chained women”—women who are denied a divorce).

Ben-Dahan also said that the Rabbinic Courts have in the past upheld prenuptial agreements. “Prenuptials can be very helpful in expediting divorce procedures,” said Ben-Dahan in a telephone interview over the weekend.

“Especially in cases where it

is clear that the couple's divorce is unavoidable, but where halacha does not give the Rabbinic Court judges the power to obligate the husband to give a get [writ of divorce]."

5. Again, Rabbi Ben Dahan's position contradicts the conclusion of the *Executive Committee* in that he supports the signing of prenuptial agreements for the prevention of *get*-refusal, specifically the Agreement for Mutual Respect discussed in this article. See: Susan H. Sachs, "Strong Bonds," *Jerusalem Post* Oct 4, 2007:

When asked about prenuptial agreements as a solution for difficulties associated with *get*-refusal, Ben-Dahan says that "on principle" he approves, and that "many dayanim and rabbanim accept them—if they are according to Halacha."

There are many kinds of agreements, he explains, and not all meet the requirements, though he would not specify which do not. He did, however, designate one in particular that is halachically valid: the "prenuptial agreement for the prevention of *get*-refusal," developed by rabbinical court advocate Rachel Levmore, Rabbi Eliashiv Knohl and Rabbi David Ben-

Zazzon, in consultation with many experts in the field.

This agreement is known as *Heskem Lekavod Hadadi*, or the *Agreement for Mutual Respect*, and can be found at www.youngisraelrabbis.org.il.

While the question of numbers succeeds in engendering controversy, it also serves to deflect the point: The focus should be on the principle, the actual suffering witnessed by rabbinic and lay people alike and the potential for harm that may worsen from generation to generation. We would all do well to heed the words of some of the contemporary Rabbis mentioned in this exchange, who deal with the *aguna* situation on the deepest levels and who publicly support the signing of prenuptial agreements for the prevention of *get*-refusal: Rabbi Eliyahu Ben Dahan, Director of the Israeli Rabbinical Courts; Rabbi Shear-Yeshuv Cohen, Chief Rabbi of Haifa and *Ra'avad* of the Haifa District Rabbinical Court; and the *Roshei Yeshiva* of the Rabbi Isaac Elchanan Theological Seminary of Yeshiva University, namely—Rabbi Norman Lamm, Rabbi Zevulun Charlap, Rabbi Herschel Schachter, Rabbi Moshe Dovid Tendler, Rabbi Mordechai Willig, Rabbi Yosef Blau, Rabbi Michael Rosensweig,

Rabbi Yaakov Neuburger, Rabbi Yonason Sacks, Rabbi Meir Goldwicht, Rabbi Jeremy Weider.

Therefore, be it resolved that every member of the Rabbinical Council of America will utilize prenuptial agreements, which will aid in our com-

munity's efforts to guarantee that the *get* will not be used as a negotiating tool in divorce procedures. (Resolution of the Rabbinical Council of America, June 1, 1993)

