

## ***A Note on the Original Title for “The Halakhic Mind”***

**By: HESHEY ZELCER and M. ZELCER**

Rabbi Dr. Joseph B. Soloveitchik’s *The Halakhic Mind*<sup>1</sup> is a notoriously difficult essay written in the style of pre-war German academic philosophy. It is a dense, jargon-laden, tightly reasoned work that draws on a dizzying array of scientific, psychological, and philosophical ideas, concepts, and principles prevalent in the 1930s. Unpacking this work is a popular and scholarly desideratum that we hope to undertake fully in a forthcoming work. Here, however, we provide a brief summary of both the book and R. Soloveitchik’s broader philosophical project so that those interested in the essay can appreciate what he was trying to accomplish. We do so as an exposition of what we believe is R. Soloveitchik’s intended title for the work.

Ideally, a title tells the reader what the work is about. The title, *The Halakhic Mind: An Essay on Jewish Tradition and Modern Thought*, however, was likely given by its publisher, not its author. As any reader of the work quickly realizes, the essay is not about a halakhic mind. Apparently, the title was chosen for its similarity to *Halakhic Man*, R. Soloveitchik’s most famous work.<sup>2</sup> Unfortunately, this title, *The Halakhic Mind*, is nei-

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<sup>1</sup> *The Halakhic Mind: An Essay on Jewish Tradition and Modern Thought* (New York: Free Press; London: Collier Macmillan Publishers, 1986).

<sup>2</sup> Other titles have been suggested. It appears that the work was to be published as *Is a Philosophy of Halakhah Possible?*, but never was. (The title appears advertised after Eliezer Berkovits’ *A Jewish Critique of the Philosophy of Martin Buber*, 1962 (New York: Yeshiva University), on what would be page 110.) In 1987, Lawrence Kaplan suggests, correctly, that a more appropriate title would have been *A Prolegomenon to the Halakhah as a Source for a New World View: On the method of reconstruction in the philosophy of religion*. See Lawrence Kaplan, “Rabbi Joseph B. Soloveitchik’s Philosophy of Halakhah,” *The Jewish Law Annual* 7 (1987), p. 143.

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Heshey Zelcer is on the editorial board of *Hakirah* and has published books and articles on Jewish law, philosophy, history and liturgy. Meir Zelcer is Assistant Professor of Philosophy at SUNY Oswego. Heshey and Meir Zelcer are coauthoring a book on the philosophy of Rabbi Dr. Joseph B. Soloveitchik.

ther accurate<sup>3</sup> nor descriptive of its content.

Some chronology at this point is helpful. R. Soloveitchik completed writing this work around 1944,<sup>4</sup> the same year *Halakhic Man* was published, though *The Halakhic Mind* would not appear in print until 1986. This forty-two-year gap apparently caused R. Soloveitchik's intended title—as we argue—to be forgotten.<sup>5</sup>

Fortunately, we have evidence suggesting the author's intended title. In 1939 R. Soloveitchik replied in writing to a request from Leo Jung to submit an essay on the *Musar* movement for a series he was editing. R. Soloveitchik declined, but volunteered instead to contribute an essay exploiting Hermann Cohen's theoretical philosophy (not his philosophy of religion) in the service of modern Jewish thought. He writes that he would rather choose as his subject "The Neo-Kantian conception of subjectivity and objectification of the act and its application to the analysis of the *ta'amei ha-mitzvot* problem."<sup>6</sup> We believe this is the intended title or at least a description of the book that would eventually be published as *The Halakhic Mind*.<sup>7</sup> No other work of R. Soloveitchik fits this description. This title describes the text quite well and it resembles a standard academic title of the period.<sup>8</sup> What does this rather bulky title mean? First, we define some of its terminology. We then put it all together and outline R. Soloveitchik's philosophy of the Jewish religion as it emerges from the book itself.

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<sup>3</sup> Lawrence Kaplan *ibid.* 143n7.

<sup>4</sup> See "Author's Note" at the beginning of *The Halakhic Mind*, though Kaplan, *ibid.*, dates the work to at least August 1945.

<sup>5</sup> It is conceivable that the publisher deemed R. Soloveitchik's title unsuitable and replaced it. The work was published the same year that R. Soloveitchik's illness began to take its toll and compelled him to retire. He clearly did not exert (full) editorial command of the work throughout the publication process. See Mark Zelcer, "Errata for R. Joseph B. Soloveitchik's *The Halakhic Mind*" available at [www.Hakirah.org/VOL23ZelcerMErrataTheHalakhicMind.pdf](http://www.Hakirah.org/VOL23ZelcerMErrataTheHalakhicMind.pdf).

<sup>6</sup> The letter is reprinted in *Community, Covenant and Commitment: Selected Letters and Communications*, Nathaniel Helfgot (ed.), (Ktav, 2005) 271-2. We do not have the response from Jung; apparently, he did not accept R. Soloveitchik's offer, as no essay by him appeared in Jung's Jewish Library series.

<sup>7</sup> Yonatan Yisrael Brafman reaches the same conclusion. See his *Critical Philosophy of Halakha (Jewish Law): The Justification of Halakhic Norms and Authority*. PhD Thesis; Columbia University, 2014; p. 143.

<sup>8</sup> Cf. Alan Turing's seminal 1937 article "On Computable Numbers, with an application to the Entscheidungsproblem."

## **Neo-Kantian**

Neo-Kantianism was the dominant philosophical movement in German universities from the 1870s until the First World War. It refers to the philosophical thought of those who engaged with Immanuel Kant's ideas and defined their own thought using Kant's general framework. There are two main neo-Kantian Schools of thought: The Marburg School (as represented by such figures as Hermann Cohen, Paul Natorp, and Ernst Cassirer) and the Baden School (Wilhelm Windelband, Heinrich Rickert, etc.). Each school is multifaceted and represents different areas of interest in Kantianism as well as different methodological starting points.

In his title, R. Soloveitchik is referring to the Marburg neo-Kantian School, in whose tradition he worked, especially in his dissertation on Hermann Cohen and Paul Natorp.<sup>9</sup> He is specifically concerned with understanding how human experience proceeds. While Kant believed that human experience proceeds from the subjective to the objective, the Marburg neo-Kantians believed the reverse, that experience proceeds from the objective to the subjective. For Kant, in other words, human minds come to the world with certain pre-wired categories and they can't help but see the world through the lens of these categories. When one experiences the world, she imposes these categories on her experiences. Members of the Marburg school argue that the reverse is occurring: the world dictates the experience to a subjective mind. What is in question then is ultimately the relationship between the world and human subjective perception of it.

## **Subjectivity**

An **act** is an internal experience of imagination, memory, conception or sense perception, which is directed at an object. Subjectivity is how a person experiences such an act.

## **Objectification of the Act**

This is a term of art derived from the neo-Kantians and the early phenomenological school of philosophy, whose main figures (as far as we are concerned) are Edmund Husserl and Paul Natorp. R. Soloveitchik

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<sup>9</sup> For relevant background on Natorp see Sebastian Luft, "Reconstruction and Reduction: Natorp and Husserl on Method and The Question of Subjectivity," in *Neo-Kantianism in Contemporary Philosophy*, Rudolf A. Makkreel and Sebastian Luft (eds.), (Bloomington and Indianapolis: Indiana University Press, 2010; 59–91) and the works cited in footnote 11 below.

knew their works well. The “objectification of an act” is first an act of cognition—imagination, memory, conception, or sense perception—to conceive of an object and its aspects. This mental experience about the aspects of an object in the external world creates objects. It creates them not in the *yesh me-ayin* sense that nothing exists until someone focuses their attention at it. Rather, it creates objects in the following sense: The physical world contains matter. When we perceive that matter our brains can’t help but impose a structure upon it. The structure we impose creates the objects. By carving the world up as it does, our act of cognition makes *objects* out of the matter we perceive—we have objectified our acts of cognition. The neo-Kantians sought to logically justify, *a priori*, the laws used to create objects, i.e., to explain why we use this particular set of laws.

A halakhic person approaches the world with halakhic laws, *a priori*, to determine how to structure his reality. Imagine a man as steeped in the Halakhah as R. Soloveitchik, standing in the wilderness. This halakhic man looks around. All sorts of sensory input enter his eyes, ears, and nose. His halakhic mind takes this all in. As he does so, he makes the groupings and distinctions his mind knows how to make: halakhic groupings and distinctions. He first notices that there is no trace of an artificially constructed boundary. So he mentally “creates” a *reshut ha-rabbim* by understanding that this *reshut ha-rabbim*, this public domain, is a space that is distinct from other spaces that adjoin it. A *reshut ha-rabbim* is not, however, a thing found in objective nature until there is an “act” that objectifies it. The act of objectification makes a halakhic object, a *reshut ha-rabbim* (i.e., an object with halakhic ramifications), out of the landscape he sees. He then notices water collected in the expanse before him. It is of a certain size and it also seems to exhibit no trace of having been artificially amassed. He assesses its volume. He correlates the information the Halakhah gives him about bodies of water, with the water he sees. There is enough water! Lo, this act of assessment creates a *mikveh*, a ritual bath, as his halakhic mind has surmised that it meets all the requirements. A *mikveh* does not exist independent of a structure of Halakhah that is imposed by the halakhic mind. Similarly, for the objects that are attached to nearby trees. They may be kosher fruits (as opposed to *orlah*) not because there are objectively kosher fruits in nature, but because they are material objects that have been cognized by someone who can impose halakhic structure upon them.

Others will experience the world differently because they come to the world with different categories of experience. They may be completely unaware of the distinction between one fruit and another, where one may be kosher and another *orlah*, and thus forbidden. They will im-

pose no such structure of kashrut on any object they see attached to a tree. For them there is literally no kosher object or *treif* object. If they want to eat something, they may just see a shiny red edible thing, on a tree, near a pond in a field. For some, the branches that fall from the tree are sticks. For a halakhic man, they are kosher *sekhakh*, roofing branches for a *sukkah*. Other people's mental acts create different objects than the mental acts of our halakhic man. When the halakhic man talks about the objectification of an act, he is talking about the mental experience that creates (structures) objects of his universe.

### **The *Ta'amei ha-Mitzvot* Problem**

A central problem of Jewish philosophy is articulating the reasons for the mitzvot (commandments): Why were they commanded? What purpose do they serve? Most famously, Maimonides in his *Guide of the Perplexed* (though not in his *Mishneh Torah*) attributes moral, ethical, or scientific considerations to individual mitzvot in an attempt to explain that God was rationally justified in commanding them.

R. Soloveitchik argues in the *The Halakhic Mind*, and he is not the first to do so, that such an approach is misguided. If every mitzvah has a moral, ethical, or scientific purpose then we have reduced Judaism to a set of moral, ethical, or scientific ideals. Our religion thereby becomes a mere 'handmaiden' to these ideals. R. Soloveitchik argues that we should not try to identify how a mitzvah came about or why it was commanded. Looking for a reason or rationale for commandments is the wrong way to look at the goal of the *ta'amei ha-mitzvot* problem. Since all we can do is describe the 'what' of a mitzvah, we have no reason to try to look for its 'why.' The 'what' is the mitzvah and the objects it creates. We can align the subjective experience of one who performs the mitzvah with the objective content of the mitzvah, and then describe the halakhic man's experiences. We can match up the performance of the mitzvah using the objects that a halakhic man 'creates' by his acts of objectification, with his subjective experience of performing the mitzvah. We can hope to describe the relationship between the world of a halakhic man and the subjective experience of his mind.

Thus for Soloveitchik, *ta'amei ha-mitzvot* refers not to the reason God caused the mitzvah to be commanded (such as adherence to some theory of rationality) but rather to the effect the mitzvah has on the person fulfilling it. What is the experience of one who performs the mitzvah? How does performing the mitzvah impact him or change him?

### Putting it All Together

We are now in a position to explain the original title, “The Neo-Kantian conception of subjectivity and objectification of the act and its application to the analysis of the *ta’amei ha-mitzvot* problem.” *The Halakhic Mind*, like R. Soloveitchik’s dissertation, takes as its starting point the neo-Kantian interest in the relationship between the subjective and objective world, and uses it to show that Jewish philosophy has not been looking at *ta’amei ha-mitzvot* properly. An ‘analysis of the *ta’amei ha-mitzvot* problem’ reveals that the question must not be: Can we give ‘reasons’ for the commandments, but rather, we are being challenged to think about the *ta’am* of the mitzvah, its ‘taste,’<sup>10</sup> the experience evoked within the person performing it.

*The Halakhic Mind* articulates a new program of Jewish philosophy of religion. It does so by insisting that we must: 1) understand how Halakhah and halakhic minds literally create objects; 2) appreciate that it is possible to articulate the subjective worldview and experience—the phenomenology—of a set of people whose outlook on life is solely halakhic; and 3) correlate the objects (1) and the subjective experience (2).<sup>11</sup>

A halakhic person performs a mitzvah. 1) This mitzvah is dependent on many things, including the objects with which he interacts, say an *etrog*, a *meito mutal le-fanav* (a deceased relative not yet buried), a *sukkah*, a menorah, etc. The mitzvah also forces the person to perform some ac-

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<sup>10</sup> Although *ta’am* translated as “taste” would flow naturally from Soloveitchik’s understanding of the *ta’amei ha-mitzvot* problem, he does not articulate it this way.

<sup>11</sup> The following is from Paul Natorp’s 1912 *Allgemeine Psychologie nach kritischer Methode*, a work R. Soloveitchik draws upon significantly in his dissertation: “... scheint aber noch eine weitere Frage sich zu verbergen, nämlich die nach dem Ich (oder Du oder Er usw.), dem etwas bewußt sei. Es wären demnach im ganzen drei Momente, die in dem Ausdruck „Bewußtsein“ eng in Eins gefaßt, aber durch Abstraktion doch auseinanderzuhalten sind: 1. das Etwas, das einem bewußt ist; 2. das, welchem etwas oder das sich dessen bewußt ist; 3. die Beziehung zwischen beiden: daß irgend etwas irgendwem bewußt ist. Ich nenne, lediglich der Kürze der Bezeichnung halber, das Erste den Inhalt, das Zweite das Ich, das Dritte die Bewußtheit. (24).” Daniel O. Dahlstrom paraphrases: “consciousness includes a threefold structure: (1) a content (that of which one is conscious...), (2) the ego, the subject (who is conscious), and (3) the relation between the content and the subject of consciousness.” (“Natorp’s Psychology” in Andrea Staiti and Nicolas de Warren, *New approaches to Neo-Kantianism*. Cambridge University Press, 2015; p 242.) See also Luft, *loc. cit.*, 87n23.

tions in a very specific way. 2) The whole set of performed actions, in conjunction with the whole set of halakhic objects, creates a very specific set of mental and emotional constructs in the halakhic person. It shapes his worldview, his sense of what objects exist, his sense of time, space, matter, motion, community, his sense of how those objects interact with one another, and how they (and he) interact with the rest of the universe. 3) Hardest to understand, however, is how each mitzvah—its objects and performance—shapes the subjective phenomenological character of the halakhic man. And therein lies the task of Jewish philosophy.

Here is a quick sketch of an example. When a halakhic man experiences the loss of a close relative, 1) both the deceased and the relationship between him and the deceased constitute halakhic objects. He then proceeds, carrying out the extensive rituals of the halakhic laws of mourning which he has internalized. 2) These rituals, if done properly, cause him to experience a range of emotions that change his attitude and his behavior and ultimately lead to new practices, new behaviors, a new worldview, and even a renewal of the person himself. 3) The task of a Jewish philosophy of religion is to explore the mechanisms of this dynamic of transformation.

When we look at the sum total of R. Soloveitchik's work, we see that *The Halakhic Mind* presents a framework for a new conception of Jewish philosophy that is articulated over scores of essays and lectures that do what we just described.

By examining the details of all halakhot (the objective data of Judaism) we could in theory reconstruct the entire subjective religious experience of a halakhic man. This is all we can say about the 'reason' for the commandments: we can align the subjective experience with the objective Halakhic constructs in his mind and thereby describe the subjective religious experience—the phenomenology—of a halakhic man.

In *The Halakhic Mind*, R. Soloveitchik does not reconstruct the actual subjective religious experiences of a halakhic man. There he gives us only the philosophical outline, the foundation for a philosophy of religion as it can emerge from the Halakhah and its objects, data indigenous to Judaism. 1) The Halakhah itself provides us with the raw data for constructing the objects in the world of the halakhic man. 2) Many of R. Soloveitchik's essays articulate the end product of being such a halakhic man. This is the "personality literature." The most famous of the essays in this set is *Halakhic Man*. Reading that, we find out what it is like to be a halakhic man and what his subjective phenomenological perception of

the world is like. 3) In what we call the “development literature”<sup>12</sup> R. Soloveitchik gives us a taste of how the Halakhah shapes the religious consciousness of a halakhic man, most prominently in his essay “And From There You Shall Seek.” These three essays, all written around the same time, articulate a whole program of R. Soloveitchik’s understanding of Jewish thought.

Throughout his life, R. Soloveitchik enlarged this literature by: 1) lecturing on and writing about the Halakhah, the distinctions it makes, and the constructs that emerge from it; 2) giving us a greater sense of the complex dialectical character of the inner phenomenology of the halakhic personality as is done in works such as “The Lonely Man of Faith”; and 3) filling in details about how the halakhic consciousness develops as a function of individual halakhot such as the laws of prayer, repentance, and mourning.

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*We lovingly dedicate this essay on the Jewish subjective religious experience to our dear friend Dr. Shlomo Sprecher, ז"ל. Shlomo imbued his life with Torah and mitzvot, and enthusiastically fulfilled its ideals. His passion for knowledge, his caring for the sick and his compassion for others were exceeded only by his yir'at Shamayim. May his memory always be a blessing, and may his kind and righteous acts help bring solace to his dear family.*

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<sup>12</sup> Dividing R. Soloveitchik’s literature in this way follows H. Zelcer’s “Review Essay: Rabbi Soloveitchik’s Lectures on the Guide,” this *Journal*, Vol 22. See also Lawrence Kaplan, “Joseph Soloveitchik and Halakhic Man,” *The Cambridge Companion to Modern Jewish Philosophy* (Cambridge Univ. Press, 2007) pp. 211ff, which alludes to a similar structure.