"If I am here, then all is here": Towards a Phenomenological Existentialism in the Rabbinic Law of Beit Hillel

By: HILLEL E. BRODER and MOSHE L. LAX

> *"Subjective reflection turns in towards subjectivity, wanting in this inner absorption to be truth's reflection, and in such a way that…where objectivity was brought forward and subjectivity disappeared, so here subjectivity itself is what is left and objectivity what vanishes."*
> *—Soren Kierkegaard*[1]
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> *"If I am here, then all is here." —Hillel*[2]

Perhaps the most central name in rabbinic antiquity, Hillel (c. 60 B.C.E. to c. 20 C.E.) and his affiliated mishnaic and talmudic school ("Beit Hillel") of nearly four centuries figure predominantly in both aggadic ideals and normative legal decisions within the rabbinic textual tradition. Hillel's school is principal in Mishnaic debates and enjoys victory as the dominant rabbinic voice in the majority of over 350 legal disputes.[3] In traditional

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1 Concluding Unscientific Postscript to the Philosophical Crumbs ed. Alastair Hannay (Cambridge: Cambridge UP, 2009), 165.

2 *bSukka,* 53a.

3 Standard readings of Beit Hillel initialize the house's genealogy and extend it through 356 C.E. with the death of Hillel II; see most recently Binyamin Lau, *The Sages, Vol. 1* (Maggid, 2010), 203–239; Alfred J. Kolatch, *Masters of the Talmud: Their Lives and Views* (JD Books, 2003), 220. Most significant scholarly opposition to such a traditional theory can be found in Louis Ginzberg "Significance of the Halacha," *On Jewish Law and Lore* (Atheneum, 1970). Ginzberg argues that Hillel and Shammai were, in fact, the final Pair (*zug*) or "preeminent figures" of legal liberalism and conservatism, respectively, who "figured as the last in the period that began with the first Pair, Jose ben Joezer and Jose ben Johanan" (90) referenced in mAbot 1:4–12. In this sense, Hillel and Shammai are not the founders of their movements, but significant inheritors and closing figures of an

Hillel Broder holds a Ph.D. in English from the CUNY Graduate Center and has taught at Fordham University, Yeshiva University High School for Boys, and SAR High School.
Moshe L. Lax is the author of *Derech Nesher* on Maimonides' *Sefer Ha-Mitzvos*. He has also published studies on neuropsychology of self and on ADHD.

and modern scholarship, his house's legal rulings have been abstracted as favoring pragmatist, liberal, rationalist, conciliatory, and/or lenient jurisprudence.[4] Historically, the person of Hillel was situated in the second temple era of Herod[5] and is often paired with and pitted against ambient

office that spanned over 200 years prior to Hillel's death.

4 See Norman Cohen *Discovery and Critical Examination of the Philosophic Assumptions of the Jurisprudential Systems of Bet Shammai and Bet Hillel* (Boston University: PhD Dissertation, 1977). In a comprehensive treatment of the two houses' legal systems through an extensive analysis of every known dispute between the houses, Cohen critiques the political, social, and economic theories advanced by Louis Ginzberg, Alexander Guttmann, and Jacob Neusner for their selectivity and oversight in favor of a highly abstract thesis that considers the rulings of Beit Hillel as one that is "this-worldly," overlooking the ideal or mystical realm. Beit Shammai, for Cohen, offers a proto-Kabbalist theory of *halakha*, one in which the law attempts to realize a "metaphysical scheme" (5). For the particular references to the subjects of Cohen's critique, see Louis Ginzberg, "Significance of the Halacha" in *On Jewish Law and Lore* (Atheneum, 1970); Alexander Guttmann, *Rabbinic Judaism in the Making* (Wayne State UP: Detroit, 1970); and Jacob Neusner "Types and Forms in Ancient Jewish Literature: Some Comparisons" *History of Religions,* 11.4 (1972), 354–390. The longer history here that Cohen does not reference is sourced in critical-historicist readings that suggest the two schools align with Saducees and Pharisees, and that Hillel invented the hermeneutic rules, an argument generated and popularized by Reform scholars, to which S.R. Hirsch offered the most cogent response. See Geiger, *Urschrift und Uebersetzungen der Bibel* (1857); Heinrich Graetz, *History of the Jews*, Vol IV (Leipzig: Leinder, 1900); S.R. Hirsch, "A Critical Examination of Dr. H. Graetz's *History of the Jews*" *Jeschurun*, Vols. II–IV (1855–8); "Articles on Dr. Z. Frankel's *Darkei Ha-Mishnah*" Vol. VII (1860-1).

5 See Aharon Kaminka, "Hillel and his Works" (Hebrew) from *Zion* 4:3, 1939, 258–266. Kaminka's essay is one of the first—but certainly not the last—to examine the polemical contrast between Hillel's pacifism and Herod's militarism.

Greek,[6] Roman,[7] and early-Christian figures and thinkers.[8]

While others have attempted to systemize either—and sometimes both—Hillel's ethics or Beit Hillel's jurisprudence, this essay suggests that the study of Hillel's Mishnaic and Talmudic personality is deeply related to the study of Beit Hillel's rulings about the *halakhic* (legal) subject. In particular, we show that this dominant rabbinic school and personality are deeply founded on a phenomenological method, existentialist principles, and an ethical orientation towards the self and others that is consistent across rabbinic genres and that is distinctly modern.[9] In what follows, we distill a philosophy of such a religious self from within normative rabbinic law and practice by examining diverse legal texts concerning individual selves' perception, memory, and narrativity, and by reading these texts through the lens of the 19th and 20th Century existentialism and phenomenology. And in demonstrating that the law suggests a phenomenology consistent with ethical and aggadic texts, we follow, too, recent scholarship that calls for a greater poetics and subsequent reassessment of traditional generic boundaries between legal and aggadic texts.[10] Before we

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6 Kaminka offers a comprehensive comparative treatment of Seneca's universalist and even creaturely (*"b'riyot"*) philosophy to Hillel's use of the word, the first mention of which in rabbinic literature regarding the creaturely aspect of all humans is made by Hillel in Avot 1:12.

7 See E.S. Rosenthal, "Tradition and Innovation in the halakha of the Sages" (Hebrew), *Tarbiz* 63 (1994), 16–18. Rosenthal argues against mapping Beit Hillel and Beit Shammai onto Roman legal schools of traditionalism (Capito) and rationalism (Labeo), as Beit Hillel frequently appeals to tradition, and Beit Shammai often invoke rationalist reasoning. See also Raphal Jospe, "Hillel's rule," *Jewish Quarterly Review* 81.1/2 (1990), 45–57. Jospe builds an argument from a suggestion made by Mordechai Kaplan that "regel" (foot) in the conversion narratives of bShabbat 31a is a bilingual pun on the Latin *regula*, or rule, which corresponds to Shammai's pushing away the foreigner with a builder's cubit.

8 See J.H. Charlesworth, "Hillel and Jesus: Why Comparisons Are Important" *Hillel and Jesus: Comparative Studies of Two Major Religious Leaders* ed. James H. Charlesworth and Loren L. Johns (Fortress Press: Minneapolis, 1992).

9 In other words, we harness contemporary continental philosophy to read, in Talmudic texts, a nascent modernity.

10 Barry Wimpfheimer's narratological work is pioneering in this regard, and is matched in precedence by Jeffrey Rubenstein's historical, cultural, and narrative readings of Talmudic stories. For Wimpheimer, see "But It Is Not So": Toward a Poetics of Legal Narrative in the Babylonian Talmud." *Prooftexts* Vo. 24, No. 1 (Winter 2004), 51–86. Wimpfheimer demonstrates how the poetics of a text perform or inform its legal meanings, a method he later amplifies in his book-

demonstrate a recovery of a phenomenological existentialism in rabbinic antiquity, however, we first contextualize such an investigation with an acknowledgment of the research in Talmudic jurisprudence related to Hillel and his house and the possibility for a recovery of an existentialist philosophy of religion founded on the law of Beit Hillel.

Histories of Systems: Hillel and Beit Hillel

At the outset, we acknowledge the historical and textual impossibility for a totalizing theory treating all related Hillel-texts. Given the diverse sources and long, apocryphal history to both Hillel and his house,[11] such absolute systemization—a typical mode of traditional Talmudic study—is often selective in its source analysis and obscure in its highly abstracted, sometimes neo-Platonic or Lurianic conceptual categories of action,[12] intention,[13] or even materiality.[14] Louis Ginzberg acknowledged the historical complexity—if not impossibility—to a totalizing theory of Hillel/Beit Hillel when he wrote that "…we find in contemporary writings comparable 'systemizations' of the views of the School of Shammai and the School

length monograph on the topic, *Narrating the Law: A Poetics of Talmudic Legal Stories* (Philadelphia: U of Penn Press, 2011). For Rubenstein, see, his *Talmudic Stories: Narrative Art, Composition, and Culture* (Baltimore: Johns Hopkins UP, 2003).

11 To suggest that Hillel's personality imbues the house of Hillel's rulings is a historically fraught claim: even if Hillel is a consistent liberal, his house rules stringently in over 50 of the over 350 rulings with Shammai. Further, later members of the house of Hillel—nearly four centuries of duration—famously argued with the rulings of Hillel himself.

12 For more on Beit Hillel's legal philosophy as based in present action (*po'el*) as opposed to Beit Shammai's legal rulings based on future potentiality (*ko'aḥ*), see S.J. Zevin, "*Le-Shitot Beit Shammai u-Beit Hillel*" *le-Or ha-Halakha* (Jerusalem: 2004) and M.M. Schneerson, "Hadran" (*Torat Menachem 5748 Vol. 2,* Kehot Publishers, Brooklyn, NY: 1988).

13 See Louis Ginzberg, "Significance of the Halacha," *On Jewish Law and Lore* (Atheneum, 1970), 118.

14 C.f. Menachem M. Kasher's treatment of Yosef Dov Rosen's (the Rogatchover Gaon) conceptual categories of materiality ("*homer*") and immaterial form ("*tzurah*") onto which, respectively, the legal disputes of Beit Hillel and Beit Shammai are mapped in *Mefa'ane'aḥ Tzefunot* (Jerusalem, 2007). See also the most recent treatment of Rosen by DovBear Schwartz, *The Rogatchover Gaon* (Self-Published, 2013), in which Schwartz renders Rosen's categories of "*tzurah"* and "*homer*" in relation to the two houses as spiritual intangibility and materiality. While Schwartz is right to translate *homer* as pure material, *tzurah* translates more closely as immaterial or intangible form.

of Hillel. Not being myself a casuist, I do not believe in such 'systemizations.' It is clear to me that not one, but many, many factors caused these differences."[15] Some scholars, however, including Ginzberg, have realized success with focused, narrow readings of differences between the houses of Hillel and Shammai along the lines of sectarianism,[16] comparatively legalisms,[17] rhetoric,[18] economics, class structure, or even ethical legal philosophies.[19]

Similar to the problems of uniting the figure and thought of Hillel with his house, and of constructing a simplistic legal paradigm for Beit Hillel, the Mishnaic figure of Hillel's ethical personality has a certain Rorschach quality, both in scholarship and popular readings of select and often recycled stock texts, as an ancient progenitor of modern pragmatism, humanism, pacifism, and social justice, and an ancient archetype of modern loving-kindness, patience, forgiveness, and faith.[20]

Often, Hillel is grouped under an intellectual umbrella of polyvalent intellectualism, promoting pluralism in Jewish antiquity through his dynasty's textual practices in which "competing claims of truth coexist."[21] This is not to say that Hillel's ethics and pragmatics are not useful for the

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15 Louis Ginzberg, "Significance of the Halacha," 89.

16 Most recently, see Vered Noam's "Traces of Sectarian Halakhah in the Rabbinic World" *Rabbinic Perspectives: Rabbinic Literature and the Dead Sea Scrolls* (Brill: 2006), 67–85, in which Beit Shammai's primary scholar, Eliezer b. Hyrcanos, exhibits "Qumranic views and certain halakhic positions which probably prevailed in Pharisaic circles and still survive in early rabbinic discourse" (68). Beit Hillel, on the other hand, is the prototypical Pharisaic model. It should be noted that Jacob Neusner disputes this point strongly on the grounds of historicist revisionism in his *Eliezer ben Hyrcanus: The Tradition and the Man* (Brill: 1973).

17 See E.S. Rosenthal, "Tradition and Innovation in the Halakha of the Sages" (Hebrew), *Tarbiẓ* 63 (1994), 16–18.

18 See Haim Shapira and Menachem Fisch, "The Debates between the Houses of Shammai and Hillel—the meta-halakhic issue" (Hebrew), *Iyunei Mishpat: Tel Aviv University Law Review* 22 (1999), 461–497.

19 While Ginzberg shows that Beit Hillel and Beit Shammai do not demonstrate exclusive hermeneutical techniques, they seem to deploy particular economic agendas related to class (Hillel as legal advocate for the poor, Shammai as the conservative aristocrat) and limited ethical-legal philosophies regarding action and intention (119).

20 For the most recent full-length monographs for the popular press on the folkloric figure of Hillel, see Yitzhak Buxbaum, *The Life and Teachings of Hillel* (Aronson, 2004) and Joseph Telushkin, *If Not Now, When?* (Schocken, 2010).

21 See Reuven Kimmelman's "Judaism and Pluralism" *Modern Judaism* 7.2 (May 1987): 131–150.

modern thinker; it is only to suggest that to cast Hillel as the ideal paradigm for modern religious behavior is to acknowledge one's own political, ethical, and personal biases. Elie Wiesel makes this clear in a critique of the popular myth of Hillel's "extreme liberalism":[22] "everything he does is perfect—in line with his ideas. He does what he preaches, says what he believes." Wiesel prefers the far more counter-cultural "non-conformism"[23] and "obsession with truth"[24] that Hillel's rival, Shammai, embodies and engenders, over Hillel's perfect control of a diplomatic self through a pacifistic and centered mind and body.[25] Even so, Wiesel too, in his personal essay on the subject, falls into the same trap of abstraction and projection.

Textually speaking and bias aside, then, might we emerge, as Isaiah Sonne posits, with insight regarding the house of Hillel "from within?"[26] Indeed, Sonne's reading of Beit Hillel is unique. As a study in Talmudic jurisprudence, his essay largely suggests that "a considerable group of controversies between the two schools reflect the tendency of the Hillelites to restrict the range of causation to the immediate perceptible effect, while the Shammaites maintain a much longer range of causation as well as the inherence of the cause in the effect."[27] While Sonne does little to develop the philosophical language around such a reading of the controversy, he lays the groundwork for greater philosophical context and clearer articulation of the degree to which Beit Hillel *and* Hillel prefer a religious subjectivity that, in many ways, resists conventional subjectivity and diachronic narrativity, as will be explained below.

Towards a Phenomenology of the Religious Subject

If, as Sonne suggests, perceptible effects underlie normative rabbinic codes and religious practices (according to Beit Hillel), then to pursue this line of inquiry, we should start with a brief history and some clear defini-

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22 Elie Wiesel, "The House of Shammai and the House of Hillel," *Tradition and Transition: Essays Presented to Chief Rabbi Sir Immanuel Jakobovits to Celebrate Twenty Years in Office*, ed. Jonathan Sacks (Jews' College Publications: London, 1986), 315

23 314, ibid.

24 315, ibid.

25 313, ibid.

26 Isaiah Sonne, "The Schools of Shammai and Hillel Seen from Within" in *Louis Ginzburg: Jubilee Volume* (American Academy for Jewish Research, New York: 1945), 275.

27 283, ibid.

tions by establishing, by way of modern phenomenology, how the material of a subject's perception could champion the essential and contextualized object of perception—its *what*. As we show in our readings of various *halakhic* texts, a phenomenological religious perspective foregrounds both embodiment and presence—both in terms of space and time—and often at the expense of conventional contexts.

One contemporary existentialist and scholar of Talmud, Rabbi Joseph B. Soloveitchik (1904–1992), made possible a modern phenomenology of religion that is, too, a recovery of an ancient discourse of legal philosophy. As we show, by way of introduction, Soloveitchik's thought is critical for our project on the rabbinic conception of the religious subject: his study represents a culminating moment of critique of rationalism, idealism, and objectivism that echoes the pre-Enlightenment modes of subjectivity in rabbinic antiquity. Famous for his use of both Husserl and Kierkegaard (among others) for his existentialist and phenomenological precedent, Soloveitchik attempts a radical theology in his understudied and early work, *The Halakhic Mind* (1944)[28] described, by its early reviewers, as an "epic phenomenological study."[29] Drawing liberally on the history of both metaphysics and pragmatism, the work argues that "the central theme of the religious experience, however, is not the Absolute, but the immediate and phenomenal reality in all its variegated manifestation."[30] For Soloveitchik, the modern religious figure "must regain his position in the cognitive realm";[31] he does not accept "conceptual abstractions" or Maimonidean "negative theologies";[32] instead, he "moves in a concrete world full of color and sound";[33] he "lives in his immediate qualitative environment, not in a scientifically constructed cosmos."[34]

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28 While the work was published for the first time in 1986, an "Author's Note" that acts as an epigraph states that "this essay was written in 1944 and is being published for the first time, without any revisions or additions." All references to *The Halakhic Mind: An Essay on Jewish Tradition and Modern Thought* (Macmillan: London, 1986) will be abbreviated *HM*.

29 Jonathan Sacks, "Rabbi J.B. Soloveitchik's Early Epistemology" Tradition 23.3 (1988), 75. For a far less enthusiastic review, see David Singer, "The Halakhic Mind, by Joseph B. Soloveitchik" [Book Review], *Commentary* 38:1 (1987), 73–76. Singer is suspicious of the theological work's relevance and unreconciled dialectic between tradition and modernity.

30 *HM*, 45.

31 *HM*, 40.

32 *HM*, 39.

33 *HM*, 40.

34 *HM,* ibid.

As Aviezer Ravitzky has noted,[35] such a cognitive theory of religious experience reaches far beyond Maimonides' traditional and Aristotelian conception of religious cognition, and in particular, in relating the material of the cognizing subject to the world-object. Ravitzky cites Soloveitchik in this regard: "It follows that Creator and creature are united via their common object of knowledge—the cosmos," as "Man and God are united in their cognition of the world." As a method, Soloveitchik's philosophy is inductive and somewhat counter-intuitive: it starts with the objective ontological-cosmic reality of the legal codes—the *halakhic* framework,[36] and applies subjectivist "reconstructionism," a nearly scientific epistemology that is adapted from the language of neo-Kantianism and quantum physics, by way of an implicit critique of classical Newtonian Science that privileges objectivism and rationalism.[37] For Soloveitchik, the *halakhic* mind is reluctant "to accept Maimonidean rationalistic ideas" when determining *ta'amei ha-mitzvot*, as "such explanations neither edify nor inspire the religious consciousness" in their explanatory and rationalizing attitudes.[38] Soloveitchik ascribes such a problematic to the *Guide*; he suggests, however, that Maimonides in *Mishneh Torah* explains only the

35 Aviezer Ravitsky, "Rabbi J. B. Soloveitchik on Human Knowledge: Between Maimonidean and Neo-Kantian Philosophy," *Modern Judaism*, 6.2 (1986), 157–188.

36 In a final, concluding chapter of *The Halakhic Mind*, Soloveitchik expands his theories of sensation and phenomenology in the religious figure's act of apprehension towards a legal objectivism: his final chapter is devoted to the movement from this religious sensation to halakhic practice.

37 For more explication of this new "quantum" science of *halakha* as theorized by Soloveitchik, see William Kolbrener's useful "Towards a Genuine Jewish Philosophy: *The Halakhic Mind*'s New Philosophy of Religion," *Tradition* 30.3 (1996), 21–43.

38 *HM*, 91.

"what" of phenomenal experience and not the "how,"[39] or internal mechanism—referencing, no doubt, the phenomenological critique posited by Husserl.[40]

Such a comprehensive philosophy of religion that is at once an epistemology and a phenomenology necessitates radically differentiated and unknowable religious subjects—a critical departure for our analysis that follows.[41] Soloveitchik thus reads the religious personality as essentially subjectivist and part of a necessarily pluralistic community, engaged in an act of cognitive apprehension and phenomenal embodiment. In his own words,

> By accepting pluralistic interpretations of reality, philosophy released the *homo religiosus* from his fetters and encouraged him to interpret the polychromic and polyphonic appearances impinging upon him, the one of his psychosomatic being. In contrast with the scientist, the *homo religiosus* is unable to bifurcate reality; the world he knows is identical with the world he experiences.[42]

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[39] In his words: "The Code does not pursue the objective causation of the commandment, but attempts to reconstruct its subjective correlative." (*HM*, 94) In other words, it retains the radical subjectivity of the religious personality through retrospective reconstruction, not rational construction. In the end, however, the ritual act still retains its "full autonomy." (*HM*, 95) To substantiate this point, he offers examples in which Maimonides discusses the laws of *shofar*, *mikveh*, and *shabbat* as "Gezeirat Ha-Katuv" (divine decree), with a *remez la-davar* (lit. gesture towards meaning) as the prompt for the creative "retrospective reconstruction" of the *homo religiosus* (ibid). Read in this vein, the halakhic object retains its phenomenal and cognitive flavor for homo religiosus, as through a pre-rational engagement with the object's "what," its apprehended material, does the religious personality apprehend a radically differentiated experience.

[40] See his "Considerations Fundamental to Phenomenology" *Ideas I*, Trans. Fred Kersten (Dordrecht: Kluwer, 1982), 51–119.

[41] Jonathan Cohen observes as much in juxtaposing the halakhic philosophies of Soloveitchik with those of Eliezer Berkovitz; in a lengthy analysis he observes how, unlike Berkovitz's theories of revelation as rooted in history, Soloveitchik's ahistorical "religious inwardness" seems to suggest that the law "is a body correlate of an experience that originates in the depths of the soul." ("Incompatible Parallels: Soloveitchik and Berkovitz On Religious Experience, Commandment, and the Dimension of History" *Modern Judaism* 28.2 (2008), 173–203). Shalom Carmy, too, notes that in Soloveitchik's phenomenology the "ethical consciousness" of human subjectivity is necessarily "pluralistic," in that "legitimate desires and goals are incommensurate and […] there is no formula whereby they can be synthesized." ("Pluralism and the Category of the Ethical," *Tradition* 30.3 (1996): 145–163).

[42] *HM*, 40.

In turning to the ancient legal and ethical texts of the Talmud regarding Hillel, then, we take our cue from Soloveitchik's unique formulation of an inductive philosophy of religious practice: a phenomenology of religion, in other words, that takes seriously the subject's experience within the objective framework of the *halakha*. Just as Soloveitchik's neo-Kantian phenomenology is, too, a critique of Maimonides—and a recovery, by way of Kant, of a pre-rationalist Judaism of antiquity,[43] reading a discourse of phenomenology in texts of Hillel and Beit Hillel reclaims the nascent existentialist phenomenology in early Jewish practice.

Halakhic Subjectivity as Phenomenal Apprehension

We proceed, then, with an analysis of disputes between the houses of Shammai and Hillel in relation to perception and legal articulation and action; here, we demonstrate how, for Beit Hillel, subjectivist perception determines the objective *halakha*. Even further, access to some objective, essentialist truth by the *Halakhic* subject's mind and experience is bracketed in favor of the recognition of the other's relative perception and epistemological impenetrability.

Both of the opening cases relate to one's perception of a spouse at the moments of marriage and divorce—and how such perception relates to *halakhic* fixity. We start with a dispute in bKetubot 16b-17a between Beit Shammai and Beit Hillel regarding the proper praise for the wedding party to recite in the presence of the bride. The question is asked: *keitzad m'rakdin lifnei ha-kallah?*—"how do we praise (lit. how do we dance before) the bride?" The response is recorded in the following exchange:

> Beit Shammai say: [Praise] the bride as she is. And Beit Hillel say: [Praise to every bride:] 'Beautiful and graceful bride'! Beit Shammai said to Beit Hillel: If she were lame or blind, does one say of her: 'Beautiful and graceful bride'? Has not the Torah said, 'Keep thee far from a false matter.' (Exodus 23:7) Said Beit Hillel to Beit Shammai: According to your words, if one has made a bad purchase in the market, should one praise it in his eyes or depreciate it? Surely, one should praise it in his eyes. Therefore, the Sages said: Always should the mind of man be mixed with other beings.[44]

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43 See our earlier references to Aviezer Ravitsky, 157–188.

44 Translation is ours. Compare the Talmud's resolution with *Masekhet Derekh Eretz ben Azai* 4:4 for a comparable version; contrast both, on the other hand, with the elaborate inquiry into the nature and ethics of truth surrounding this dispute in *Masekhet Kalah Rabati* 9:1.

At stake, in this instance, is a legal dispute that hinges on nothing less than the virtues and problematics of truth-telling pertaining to interpersonal, communal relations. Beit Shammai prefers objective accuracy and protests Beit Hillel's universal complimentary formulation for praising all brides; Beit Shammai initiates the dispute with a proof-text that is, also, an admonition to Beit Hillel against perpetuating definitional falsehoods. Beit Hillel's response is not one of humanitarianism or compassion; instead, they position themselves as perpetuating a phenomenal truth: while an objective perspective might evaluate a bad purchase in a critical light, telling the subjectivist truth means adapting the favorable perspective of another in possession of that experience. Such empathic articulation and participatory co-existence is nothing less than truth-telling, for Beit Hillel.[45]

Thus, the Sages conclude from Hillel's teaching, one's mind should be radically interwoven with the minds of other beings, a suggestion that affirms the subject's determining power and extends well into the social and inter-personal, an existentialist psychological ethic that we will take up later. Taken in isolation, then, Beit Hillel advocates here a subject-oriented relativistic perspective of *halakhic* value assessment. They are suggesting not only that beauty is in the eye of the beholder, but that the eye of the beholder determines *halakhic* reality through its phenomenal recognition of beauty. Shammai, on the other hand, would demand far more obeisance to an objective assessment of aesthetics, and so to betray such an objective assessment would be to tell a falsehood.[46]

If this theory regarding Beit Hillel's position were to hold true, then the converse should be the case—namely, that Beit Hillel honor a subject's phenomenal experience even if it is far more negative than an objective value assessment. And in fact, such is the case in a Mishnaic dispute

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45 See Ritva, ad loc.: "there is no concern in such an act with the violation of 'distance yourself from a false thing" ("*ein bo mishum devar sheker tirḥak*"); c.f Meiri, ad loc. "there is nothing in this that disgraces God's name" ("*ein be-kakh ḥilul Hashem*"). Others, including Tosafot ad loc. and Piskei Ha-Rid ad loc. see Beit Hillel's position as an ethical one that overrides but does not extinguish the presence of a falsehood. It is notable that no medievalists defend Beit Hillel's position by affirming the implications of his argument; instead, each defends Beit Hillel only as involving no transgression.

46 We should note, too, the inter-subjective transformation that many medieval rabbinic commentators note here: even if the bride is objectively ugly, the gift that such guests offer the groom in their praise transforms his objective perspective, through their suggestive praise, into a subjectively endearing one. See Meiri, ad loc., in this vein.

recorded in mGittin 9:10 regarding the volitional end of domestic life. Here, Beit Hillel allow for any matter (*davar*) to determine grounds for divorce, whereas Beit Shammai demand a much higher bar of illicit (*ervah*), extra-marital transgression:

> Beit Shammai say, "No man may divorce his wife, unless he found in her an illicit matter (*d'var ervah*), as it is written, "As he found in her an illicit matter" (Deuteronomy 24:1). And Beit Hillel say, even if she scorched his dish, as it is written, "As he found in her an illicit matter" (ibid.) R. Akiva says, even if he found another more favorable than her, as it is written, "and it will be, if she doesn't find favor in his eyes" (ibid.)[47]

While Beit Hillel is popularly typified as the liberal, rationalist, and forgiving house, here Beit Hillel rules in favor of the husband's subjective standards and against the forgiveness of domestic neglect. Notably, both Beit Shammai and Beit Hillel justify their rulings from the same prooftext, but the two key Scriptural words "illicit matter" (*devar ervah*) receive differing emphases in their respective exegeses: for Beit Shammai, the matter in question must be halakhically illicit; for Beit Hillel, conversely, all significant domestic failures as determined by the husband are matters weighty enough for him to initiate a marriage's termination. Again, in Beit Hillel's *halakhic* framework, objectivity makes room for the subjective experience without compromising its own skeletal structure of the male-initiated divorce process of rabbinic law and antiquity.[48]

The phenomenal existence of the acting, to reference Soloveitchik's phenomenology, is both privileged and primary. If the matter of scorching a dish is enough of an illicit violation of the husband's marriage, then for Beit Hillel, the champion of the *halakhic* subject's experience, it is a sufficient violation for divorce.[49] The *halakhic* self that emerges from such experience, in other words, is articulated by experience becoming manifest within *halakhic* forms.

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47 Translation ours. Compare this source with *Midrash Tanna'im*, Deuteronomy 24.

48 We acknowledge, of course, that counter to any sort of universalist or pluralist claim of subjectivity, Beit Hillel maintains the normative *halakhic* standpoint that men play the active or dominant role in divorce procedures.

49 We should note that it is sufficient for divorce, though the Talmud reads Beit Hillel's stance as far more flexible and perhaps less binding—and less finalizing—than Beit Shammai's. See, for example, yGittin 8:9 and 48a, in which the question of a secluded divorced couple requires a second *get*, according to Beit Hillel, as the initial impulse for their divorce made possible a reassessment—whereas for Beit Shammai, such seclusion does not require a second *get*, as the law assumes far more illicit repulsion—and finality—to the decoupling attitude underlying their divorce.

Beit Hillel's Discontinuous *Halakhic* Subject

Let us extend the claim for a phenomenological reading of Beit Hillel by situating the subject of such halakhic experience in an existentialist temporality that is uniquely episodic—that is, a subjectivity that emerges from the particular moment, decontextualized from a greater history. Here, we draw on Soloveitchik's final, conclusive chapter of *The Halakhic Mind* where he expands his theories of sensation and phenomenology in the religious figure's act of sensory apprehension towards a fixed legal objectivism: his study is devoted to the movement from this elusive, transient religious sensation to its articulation via *halakhic* practice. Unlike the unfixed subjectivity experienced by the *homo religiosus*,

> objectification reaches its highest expression in the Halakhah. Halakhah is the act of seizing the subjective flow and converting it into enduring and tangible magnitudes. It is the crystallization of the fleeting individual experience into fixed principles and universal norms. In short, Halakhah is the objectifying instrument of our religious consciousness, the form principle of the transcendental act, the matrix in which the amorphous religious hylo is cast.[50]

If the religious personality is a subject that is in temporal flux and necessarily unfixed, the *halakha*'s objectivism proffers a matrix of praxis in which such a self is realized, albeit momentarily, as a self.

We continue our argument, then, for Beit Hillel's phenomenological existentialism by furthering it on this very premise: that for Beit Hillel, the *halakhic* subject exists in a temporal flux, and only realizes itself temporally at the moment of *halakhic* actualization—though even in such a crystallized moment of obligation, such a subject's experience is the culmination, as Sartre suggests, of his own choices. It might be said, in other words, that Beit Hillel's conception of the *halakhic* self is uniquely episodic in its realization of distinct selves in discrete, non-continuous (and non-linear) presents.

As evidence, first consider a dispute between the houses of Shammai and Hillel regarding the subject's perception of a material that should exist, at first glance, in a continuous temporality with a diachronic self. The particular dispute is first recorded in a series of Mishnaic disputes between the two houses in the eighth chapter of mBerakhot. The subject is a technical one: what is the proper formulation for the blessing on the flame that is used as part of the *Havdala* service? The difference of opinion is subtle:

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50 P. 85, *HM.*

> Beit Shammai say: "[Blessed art Thou] Who created the light of the fire."
> Beit Hillel say: "[Blessed art Thou] Who creates the lights of the fire."[51]

Talmud bBerakhot 52b first suggests that Beit Shammai disputes the presentist—"who creates"—formulation that Beit Hillel proposes, but concludes, interestingly, that both "created" and "who creates" connote *past* creation:

> Rava said, "He created" is not a matter of dispute as such a formulation connotes past creation; the two parties differ regarding "Who creates": Beit Shammai argue that [the present tense of] "Who creates" connotes future creation, while Beit Hillel argue that [the present tense of] "Who creates" also connotes the past tense. R. Yosef asked: [the following prooftexts suggest that the present tense connotes the past tense] "I form light and create darkness" (Isaiah 45:7), "I form mountains and create wind" (Amos 4:13), "Creator of the heavens and their reach" (Isaiah 42:5)? Rather, R. Yosef said: all agree that "He created" and "He creates" connote past creation.

What emerges from such a dispute—and the Talmudic interpretation of the dispute—is nothing less than a fundamental distinction between the temporality of an object and its perceiving subject in the moment of linguistic, *halakhic* objectification. In Rava's reading, the source of the dispute relates to creation of fire in the present tense: according to Beit Hillel, such creation is synonymous—or at least as temporally significant—with creation in the past tense. In other words, the only form of creation that fire undergoes, for the phenomenological self, is the creation of fire in the present tense, as there is only the present tense in which creation is realized. For Beit Shammai, on the other hand, the past tense is a discrete time that can be recalled in memory and that exists, from the present perspective, in the past—and in a far more privileged position in relation to the present.[52]

Even according to R. Yosef's conclusion that both schools agree that both "he created" and "he creates" connote past creation, the choice for Beit Hillel to adopt such a linguistic formulation highlights the continuous creation of fire from the perspective of both its Creator and the perceiving subject. According to R. Yosef, however, Beit Shammai concede to Beit

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51 mBerakhot 8:5.

52 For a related intertext, see yBerakhot 8:5: "Beit Shammai say *barah meor ha-esh*; Beit Hillel say *borei meorei ha-esh*. According to Beit Shammai [then, the formula of the blessing on wine should read] 'that he created the fruits of the vine'? Rather, wine is renewed each year, but fire is not renewed each moment."

Hillel given the abundance of prooftexts from the Creator's perspective of presentism. God is a continuous Creator, present consistently and unified across time, according to Beit Shammai—but man is not. This plays out clearly in R. Yosef's understanding of the dispute in the subsequent text of bBerakhot 52b:

> [R. Yosef said:] The two houses argue with regard to the [blessing's formulation of] "light" (*me'or*) or "lights" (*me'orei*) [of the fire]; Beit Shammai argue that there exists one light [lit. color] in a flame, while Beit Hillel argue that there are multiple lights in a flame. A supporting baraita: Beit Hillel said to Beit Shammai that there are many lights in a flame.

Thus, even if Beit Shammai concede that from the Creator's perspective—and via various prooftexts—the present creation of light is ongoing, from the subject's perspective, according to Beit Shammai, there is only one objective perception of a flame. According to Beit Hillel, however, the perception of light varies based on the existing subject, and so the formulation of the blessing, then, must take such variance into account.

In summary, then: according to Rava, Beit Hillel suggest that the presentist perception of the Creator is synonymous with the presentist perception of the human subject, whereas Beit Shammai read past creation as a meaningful reference to the present action. In R. Yosef's reading, such an argument is challenged by prooftexts that limit an ongoing present creation to the Creator's perspective alone. Instead, R. Yosef reads the dispute in relation to the subject's perception of fire's material: according to Beit Shammai, only one perception of the flame exists; according to Beit Hillel, the flame's variance necessitates a more inclusive and pluralistic formulation of the blessing, given the diversity of existing subjects and the complexity of its phenomenal medium.

If such a thesis regarding Hillel's existentialist phenomenology of *halakha* is correct, then other instances of legal dispute should emerge in which Beit Shammai favor the essentially unified and temporalized self and Beit Hillel favor the most immediate perception of the present, existing subject over its relative context and objective memory. Indeed, in the following three examples, Beit Hillel seem to understand the *halakhic* subject as realized only at the moment of *halakhic* objectification—and distinctly apart from its past experiences. First, take the well-known dispute between the two houses regarding the rabbinic commandment of lighting *Ḥanukka* candles recorded in the Talmud bShabbat 21b, another phenomenology related to fire's relation to its perceiving subject:

> Our Rabbis taught: The mitzvah of *Ḥanukka* is one candle for a man and his household; those who wish to beautify (*m'hadrin*) [kindle] a

> light for each member [of the household]; and with regard to the exceptional beautifiers of this commandment (*M'hadrin min ha-M'hadrin*) Beit Shammai say: On the first day eight lights are lit and thereafter they are reduced [by one candle each night]; but Beit Hillel say: On the first day one is lit and [one candle] is increased.

After recording the dispute, the Talmud proffers two amoraic readings of this dispute: according to Beit Shammai, the mitzvah commemorates the days to come, according to Beit Hillel, the mitzvah commemorates the days that have passed; alternatively, Beit Shammai found their reasoning on the gradual reduction of holiday offerings described in Numbers 28-29, while Beit Hillel, it is suggested, promote a gradual addition based on the principle of "we increase in holiness, not decrease." While Maharal and others reference this particular dispute as evidence of a universal distinction between the two houses of Shammai and Hillel with regard to potentiality and actuality,[53] we offer a far more nuanced understanding of this dispute given our current analysis related to memory and narrativity.

Here, the two houses reflect on the rabbinic act of invoking a collective memory of the *Ḥanukka* miracle as embodied in the subject's practice of lighting a commemorative menorah. According to Beit Shammai, a historical commemoration has to anticipate the completion of the miracle as it historically occurred—in which case the first day looks forward to all subsequent days of the recollected miracle, while the last day looks forward to only one. Such a practice coheres with a historical commemoration that acknowledges retrospectively the historical length of the miracle. It adopts a unified and objective point of view, one that transcends the year's commemoration and that acknowledges, at the commemoration's outset, the duration of the commemoration. According to Beit Hillel, on the other hand, the present moment of the ritual is the primary celebration, and so the subject experiences the miracle for the first, as it were, in a present commemoration, adding a day in a present that builds to the completion of a (now unknown, but later known) end. Of course, the

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53 "Ko'aḥ"—potentiality is contrasted with "po'el"—actuality: in this reading, Beit Shammai assess the *halakha* based on an object's futurity across multiple spatial forms, whereas Beit Hillel determine the *halakha* based only on the object's present state. Thus, Beit Shammai see the days that are to come, whereas Beit Hillel see only the days that have passed. See Maharal, *Ḥidushei Aggadot* ad loc. See also M.M. Schneerson, "Hadran" (*Torat Menachem 5748 Vol. 2,* Kehot Publishers, Brooklyn, NY: 1988). Schneerson offers a similar totalizing system for the two schools' legal disputes along similar lines.

essence of the holiday, in a way, precedes this emerging existential apprehension—every subject knows that the holiday will endure for eight days. The experience of the subject, however, brackets this objective knowledge in favor of an emerging existence, even as a performance.

Thus, Beit Hillel offer an innovative and nearly paradoxical approach to a historical commemoration: since the existential self that emerges is realized in each moment of the phenomenal recognition of both the *halakhic* object and its own subjective self, commemorating a miracle is actually realizing it anew, within a present history, each year. Instead of recalling history, Beit Hillel apprehends history as that which is remembered, paradoxically, in the future. In contemporary terms of memory research, Beit Hillel affirms Richard Semon's theory of memory: memory is an act of present recollected in which an environmental cue constellates with an "engram," or episodic fragment or fossil of individual or collective memory. Thus, the recollection, each year, of the *Ḥanukka* miracle is a relation completed in the present, even as it is triggered by environmental cues and collective, reiterative memory.[54]

A second comparable dispute between the two houses, though this time with regard to *personal* memory and existential, phenomenal experience emerges in mBerakhot 8:7 and then is fully explored in bBerakhot 53a. The initial mishnaic dispute is with regard to one who ate a meal and neglected to conclude the meal with an after-blessing before he traveled from the meal's original site. Beit Shammai say: he must return to the site of his meal and recite; Beit Hillel say: he should recite an after-blessing at the site of remembering. The Talmudic sages expand on the dispute as follows:

> R. Zvid says, and some say it was R. Dimi B. Aba: the [aforementioned] dispute is only in the event that the individual forgot [mistakenly], but if he intentionally omitted his benediction, then all agree that he should return to his original site… A baraita: Beit Hillel said to Beit Shammai: according to you, if one ate on the top of a mountain and forgot [to bless] and descended without blessing, should he have to return to the mountain top and bless? Beit Shammai responded to Beit Hillel: according to you, one who forgot a purse at the top of a mountain, would he not return to the mountain top?

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[54] See Richard Semon, *The Mneme* (London: George Allen, 1921). Daniel Schacter is responsible for popularizing Semon's research and theory in his recent *Forgotten Ideas, Neglected Pioneers: Richard Semon and the Story of Memory* (Philadelphia: Psychology Press, 1921).

> For his own honor he would ascend the mountain, should it not be the case, even more so, for the honor of Heaven?

Thus, all Talmudic readers of this mishnaic dispute[55] seem to agree that Beit Hillel would require an individual to return to the meal's original site if his omission of the benediction were intentional. The dispute holds only if the individual genuinely—and mistakenly—forgets to bless before departing. A supporting *baraita* proffers reasoning for both schools: according to Beit Shammai, the retrieval of a precious object, even if the journey is arduous, is easily accomplished—and what is more precious than the retrieval of the original site of obligation? According to Beit Hillel, returning to the site of one's original meal is comparable to returning to an unreachable site and irretrievable experience—and certainly no motivating reward or incentive might be achieved through the temporal imaginary of a spatialized return.

If we are to read this Talmudic text in relation to the two houses' philosophy of the *halakhic* subject, we might say that Beit Shammai believe that the existence of a temporalized self allows for the cognitive recall of a previous state of being in a past history. According to Beit Hillel, though, a past self is as distant, irretrievable, and useless as a distant mountain top. For Beit Hillel, the existential self is realized in its phenomenal recognition of the *halakhic* objective and, in turn, in its cognition of its present self. And though a past self's experience is irrelevant, according to Beit Hillel, such a *halakhic* subject can still bless—albeit in his present site—because his *present* self is still satiated with the past meal.[56] Much like Henri Bergson's conception of embodied, durational memory—a sustained consciousness of present time—Beit Hillel's subject maintains consciousness of its meal in an incorporated, embodied manner.[57] In this cognitively embodied and phenomenally attuned manner, Beit Hillel's philosophy anticipates T.S. Eliot's presentist phenomenology of subjective memory: "you are the music / while the music lasts."[58]

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55 Some readers of this dispute argue that Beit Hillel would commend one who behaves like Beit Shammai in this regard, though according to Beit Hillel, such behavior is not necessary to fulfill the letter of the law. See Tosefot Rid and Piskei Rosh, ad loc.

56 Indeed, the conclusion of mBerakhot 8:7 reads: "Until when can he bless? Until the food is fully digested in his stomach." This conclusion of the mishna is read by the Talmud bBerakhot 53a as a commentary to both houses in the dispute.

57 Henri Bergson, from "Matter and Memory," *Theories of Memory: A Reader* ed. Michael Rossington and Anne Whitehead (Baltimore: Johns Hopkins UP, 2007), 111.

58 "The Dry Salvages," Part V, ll 28-29.

Hybrid Texts: Parallels Between Hillel and Beit Hillel

In what follows, we suggest that this thesis regarding Beit Hillel's privileging of the subject in religious law sheds light on not just Beit Hillel but *Hillel*'s phenomenological existentialism in various assorted mishnaic and talmudic legal texts. Historically, as noted above, it is difficult to argue that Hillel and Beit Hillel might encapsulate a totalizing system. We concede, as scholars have shown, that the figures of Hillel and Beit Hillel have varying histories, and even varying legal visions (there are textual records, for example, where the actual school of Hillel or Shammai differ in opinion with its eponymous figure). Still, there are certain hybrid texts in which both the figure of Hillel and the school of Hillel are featured propounding a singular vision, from which we can argue that the talmudic persona of Hillel, too, might embody and perform this very phenomenology of religion discussed thus far.

One such hybrid text is the following distinction between the figures of Hillel and Shammai themselves with regard to their commemoration of the Sabbath during the week, a distinction to which a prooftext is offered from later, comparable practices of the two figures' houses. The site for this text is bBetzah 16a, though its tradition is mishnaic and predates the Talmud, and its effects are played out in disputes of canonical medieval figures regarding the 4th commandment—the obligation to remember the Sabbath:[59]

> It was taught: They related concerning Shammai, the Elder [that] all his life he ate in honor of the Sabbath. [Thus] if he found a well-favored animal, he said, "Let this be for the Sabbath." [If afterwards] he found one better favored he put aside the second [for the Sabbath] and ate the first. But Hillel the Elder had a different trait, for all his works were for the sake of Heaven, for it is said: Blessed be the Lord, day by day (Psalms 68:20). It was likewise taught: Beit Shammai say: From the first day of the week [prepare] for the Sabbath; but Beit Hillel say: Blessed be the Lord, day by day.[60]

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[59] See Rashi and Ramban on Exodus 20:8–11. There, Rashi seems to adapt Beit Shammai's opinion of what follows, while Ramban argues from the normative legal stance that adopts Beit Hillel's position. *Siftei Ḥakhamim* (ad loc.) suggests that the two personalities and their related schools are not disputing here—Beit Hillel suggests an exceptional degree of faith that exceeds but also agrees with Beit Shammai's normative practice. Such a suggestion undoes Ramban's premise, though defends Rashi's suggestion to act like Beit Shammai.

[60] Trans. and Ed. I. Epstein (London: Soncino Press, 1952).

For Shammai, setting aside a sequential progression of favorable animals honors the Sabbath in its future vision for the most favorable experience on the Sabbath—and in its present consumption of the now less favorable object.[61] Hillel, on the other hand, exclusively focuses on the present possibilities for sanctification,[62] and finds no need, therefore, to engage in a hierarchy of valuation with regard to the preparing for future, more sublime divine pleasures. Ritva and others note that Hillel is also committed to honoring the Sabbath, but he does so through a faith that the Sabbath's arrival will bring with it a present that is, too, a possibility for honor. Not planning for such an honor, in other words, does not exclude its possibility in a future present. Instead, the responsibility to the present is to honor each day with a certain faith in its bounty—a faith that the Sabbath receives, as well, upon its arrival.[63] This teaching is distilled to serve as the conclusive dispute[64] between the two houses of Shammai and Hillel: Beit Shammai is forward looking, aware of the future as such, and preparing for the concrete, upcoming time accordingly; Beit Hillel, on the other hand, stress an alternate temporality, one in which each day is the only sublime moment for which to live, celebrate, and sanctify.[65]

Once again, we argue, Hillel and Beit Hillel foreshadow existentialist thinking within a phenomenological framework: Time fully realized, for Kierkegaard, is in the *Augenblick*, or the "blinking of an eye." Whereas

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61 Rashi, ad loc., notes that such an action is, also, "eating in honor of the Sabbath," as the Talmud prescribes.

62 Significantly, Maharsha ad loc. notes that Hillel's behavior should not be read as a form of epicureanism, materialism, or a philosophy of *carpe diem*. On the contrary, his philosophy is a form of sanctification of the present moment through faith that the future will bring comparably honorable moments.

63 See Rashi ad loc.

64 Others read this "dispute" as one of inclination and preference, the prooftext of "Hillel the elder had a different trait" suggesting that this theoretical dispute is one expressing various attitudes and degrees of faith. See Bach on Tur 242, where such a suggestion is made, though a conclusion regarding normative behavior is firmly in favor of Beit Shammai—with Rashi (Exodus 20:8) cited as proof.

65 Later Hasidic and mystical readers of this legal practice that is at the same time a far-reaching behavioral philosophy note that for Beit Hillel, the experience of the Sabbath is one that might be realized at each moment, regardless of the day of the week (see *Imrei Emet*, *Parashat Yitro*, 5692/1932). Others note that while Beit Shammai may privilege the futurity of the world to come through the metaphor of the Sabbath, Beit Hillel is far more this-worldly, focused on the potential for human transformation and realization (see Ḥatam Sofer ad loc.).

traditional psychology attempts an analysis of the complex historical determinism in relation to the subject, existentialist psychologies realize the subject's complexity through the subject's freedom of choice, and phenomenological methods recognize the primacy of the subject's present cognition. For Beit Hillel, the singular present and presence of self-acknowledge the past and future, as well as past and future opportunities, but Beit Hillel also challenges the subject to affirm and choose the phenomena offered in the present.[66]

Our current reading of Beit Hillel's legal stances suggests an episodic self, one situated temporally in its emergent moment of action to which the law responds and in which the subject is hailed. And as we have seen, for Hillel and Beit Hillel the religious self is anchored in this fluidity of subjective narrativity, experiencing both liberation and great responsibility in its willful and fragmentarily episodic form.

Hillel, Beit Hillel, and the Pre-Recognition of the Other

Such a modern—and ancient—philosophy is furthered and fully realized by the phenomenological ethics of Emmanuel Levinas. As a response to Heidegger's fascist existentialism, Levinas reclaimed the precedence of others'—beings'—phenomenal existence prior to statement of the subject's ontology that existence makes possible.[67] In his great critique of philosophy's tendency towards totalization, Levinas warns how "Heideggerian ontology, which subordinates the relationship with the Other to the relation with Being in general, remains under obedience to the anonymous, and leads inevitably to another power, to imperialist domination, to tyranny."[68] Levinas's entire oeuvre, it may be said, is a critique of Heidegger's existentialism and the potentially violent political, social, and ethical fallout of such extreme theories of ontology. For Levinas,

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66 Compare this teaching with mSukka 1:1, in which Beit Hillel rules that an old Sukka is not prohibited for use. Again, objects don't possess history in relation to episodic subjects.

67 Historically, it would be an understatement to stress how Levinas, a Jewish prisoner of the second world war, read Heidegger's existentialism as making an extreme, fascist subjectivity possible at the expense of other beings. For more on Levinas's historical relation to Heidegger, the strain of militarism that Levinas detects in Heidegger's early existential thought, and the corrective, ethical phenomenology that Levinas presents, see Adriaan T. Peperzak's critical preface to *Emmanuel Levinas: Basic Philosophical Writings* ed. Peperzak, Critchley, and Bernasconi (Bloominton: Indiana UP, 1996)

68 *Totality and Infinity*, p. 47

it is not enough to exist as "being" or as "being-in-the-world"—as a subjectivity or as part of a whole via inter-subjectivity; instead, Levinas foregrounds a phenomenology that is also an inter-phenomenology, a paradoxical phenomenology that is, too, an epistemology, a "recognition without prior cognition" [*reconnaissance sans préalable connaissance*].[69]

The phenomenon of recognition, for Levinas, becomes an ethical encounter that is also a recovery of a new "Jewish Science."[70] Michael Sohn[71] shows that such an encounter emerges as "a primordial ethical relation":

> The recognition of the other is not recognition of merely one object or thing among others nor is it the identification of a fact according to its qualities. Rather it is the radical encounter wherein one's primordial subjectivity is individuated into a call for responsibility.[72]

Thus, one's existence is called into its own subjectivity only through an *encounter* with responsibility, and such an existence is also a recognition of one's existence through the phenomenal reception of such a call. Levinas makes possible, much like Soloveitchik, a phenomenal experience in the religious subject. Yet for Levinas, the character of such cognition is determined through its encounter and call for responsibility.

If phenomenology, then, has a necessarily ethical base, then Beit Hillel's legal teachings regarding inter-personal action should recommend a Levinasian ethic, one that demands a cognition that is pre-re-cognition. Certainly, the *halakhic* insistence to honor a husband's interpretive perspective of his spouse or divorcee speaks to the desire for privatization of another's thoughts; one must be "mixed with the minds of others," attentive to the needs and alterity of others, in an ethically mindful and precognitive manner.

Likewise, Hillel performs the law that speaks to such an ethic towards the other; in this case the impoverished man who was once wealthy and whose general expectations have fallen a greater degree than others:

> Our rabbis taught: "[give to him] that which is sufficient for his loss" (Deuteronomy 15:8), you are commanded to sustain him, and you

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69 "Socialité et argent," In *Emmanuel Lévinas*, ed. Catherine Chalier and Miguel Abensour (Paris: Editions de l'Herne, 1991), 107.

70 Levinas phrased the question, in positing a phenomenological base to an ethico-religious theory: "In which sense do we need a Jewish science?"; see his "Dans quel sens il nous faut une haute science juive?" in *Difficile liberté*, 317–320. Originally published in *Information Juive* 65, n.3 (1955): 1, 4.

71 Michael Sohn, *The Good of Recognition: Phenomenology, Ethics, and Religion in the Thought of Levinas and Ricouer* (PhD Dissertation: U. of Chicago, 2012), 63.

72 Sohn, ibid.

> are not commanded to enrich him. [However, the verse concludes,] "which he had lost" [to teach that if he were accustomed to it, then you should give him] a horse to ride upon and a servant to run before him. They say about Hillel the elder that he took to a pauper, the son of wealthy parents, a horse to ride upon and a slave to run before him. Once, he could not locate a slave to run before [this individual], so he [Hillel] ran before the pauper for three *milin*.[73]

Hillel is both a religious teacher and exemplum in his performance of the law—teaching and practice are one and the same. It is significant, too, that Hillel is the paradigmatic figure to perform this charity. Contrary to the popular abstraction of such a narrative that Hillel was profoundly humble, we might say that such a performance is more in line with a phenomenological responsibility towards the other: it is to see the other as a party to which one is entirely responsible, and towards whom one cannot assimilate through context and objective assessment. Such is a responsibility that is absolute and entirely limited in its acknowledgment of the unfathomable depth of the other. On the one hand, Levinas writes, the "face of the other refuses to be contained";[74] on the other hand, "the Other faces me…and obliges me."[75] Wolfson, too, reminds us that for Levinas, "the sense of being chosen 'expresses less the pride of someone who has been called than the humility of someone who serves. Being chosen is no more appalling as a condition than being the place for all moral consciousness."[76] The moral obligation in Hillel's response, therefore, is nothing less than a response to chosenness.

Hillel's understanding of the Other is epistemically limited, yet it is sustained by a basic orientation of trust in—and responsibility towards—the Other. Moreover, Hillel and his house both acknowledge the great possibility for the becoming[77] and futurity of the other's self, much as he holds such existential possibility for his own self. Such philosophy translated into an ethic—in its critique of totalization—plays out in Beit Hillel's prescription for their students:

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73 Talmud bKetubot 67b, translation ours.

74 *Totality and Infinity*, 147.

75 *Totality and Infinity*, 207.

76 Quoted in Wolfson, *Venturing Beyond: Law and Morality in Kabbalistic Mysticism* (Oxford: Oxford UP, 2006), 19.

77 "To be what one is, is to fully enter into being a process," Carl Rogers *On Becoming a Person: A Therapist's View of Psychotherapy* (Boston: Houghton Mifflin, 1961), 176.

> Beit Shammai say that one should instruct only a wise, humble, pedigreed, and wealthy student. Beit Hillel say that one should teach every individual, as there are many sinners in Israel who became close to Torah study and from whom righteous individuals were born.[78]

All students, even if sinners, might repent. And like his house, Hillel famously encourages all interested gentiles, even if presently cynical, to enter the fold through conversion. While the series of conversion narratives in bShabbat 31a reads as a tribute to Hillel's patience, humanism, or universalism, seen in the light of our theory, we might say that the series of conversions are simply an abdication of pre-judging a future self of an Other when presented with a present self's intentions, best or otherwise. Carl Rogers, a founder of existential psychology, likewise suggests that to accept "separate persons in their own right" and on their own terms, then the basic directionality, even for persons in distress, is positive and aspirational towards self-actualization.[79] To see such possibility in the present, therefore, is the existential psychotherapist's prerogative, as it is Beit Hillel's great philosophical and pedagogical orientation.[80]

As we have said, such emphasis on the present self—be it within one's self or in another—over a future self allows for the liberation that accompanies existentialist thinking and the weight of responsibility to each episodic self, present and future—within or towards another. Perhaps such a profound inter-weaving of the self's responsibilities towards itself—and the placement of such responsibilities both in and for another—is succinctly summarized in our reading of Ethics of our Fathers, 2:4: "Hillel says:…don't believe in yourself until the day of your death, don't judge your friend until you reach his place…"[81] Here, the present self is related to an unknown future self in a positively empowering but powerfully denying stance. Thus, self-doubt for Hillel is not skepticism; it is, rather, an affirmation of one's existentialist becoming. Further, such constructive self-doubt is the flipside of other-doubt, as it is coupled with uncertainty—and openness—towards an Other.

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78 *Avot d-Rabbi Natan* 2:9.

79 Carl Rogers, On Becoming a Person, 26-27.

80 Compare such a teaching with *bErwin* 13b. There, we are taught that the law is like Beit Hillel because they quote the words of Beit Shammai before their own, thus arguing both from a place of academic humility and from an admission of truth to an Other that is, also, a radical ethics towards an unknowable Other.

81 Translation ours.

Towards a Legal Ethics and Transcendent Subjectivity

To conclude, perhaps there is no greater relation in Hillel texts between the self's experience of time and the ethical demands upon that self as expressed in the oft-cited ethical phrase for which Hillel is most recognized: "He [Hillel] would also say: If I am not for myself, who is for me? And if I am only for myself, what am I? And if not now, when?"[82] Medieval commentators read this aphorism as cautionary—no one else can affect change for one's self other than one's self, one's purpose will remain unrealized if separate from the community, and one must act while young or even alive ("now," instead of old age or in death).[83] Certainly this pithy formulation is memorable for its concrete language, direct address, sharp tone, and dialectical, perhaps poetic phrasing. However, an often overlooked feature of this joint aphorism is the extreme nature of the relationship that the self posits to both itself and the world in relation to time. Edith Wyschograd has suggested, for example, that these adages form the structural groundwork of Levinas's *Totality and Infinity*, in their progression from a self to an Other, and with a distinct orientation of opportunity towards becoming, with the deferral of Death: "one has time to be for the Other,"[84] for Levinas, with the postponement of Death.[85] Given the existentialist psychology derived from legal and meta-legal religious considerations explored above, it is certainly not incidental that this aphorism regarding action for one's self and another concludes with the demand to act *now*—in the most immediate present. The now-ness of such action is restricting—the only possibility for action is realized in the present—but also liberating in its great affirmation. It is at once the only method of ethical being that is, also, truth known in action—it is an attitude towards human psychology that is reduced to the singular, living, existing being.

Such an affirmation of existentialist presence is also now easily apprehended in Hillel's ecstatic and reflexive declaration at the peak of the celebration at the Temple's water libations, and especially in context—and in contrast—with the responses of other rabbinic figures:

> …[on that joyous occasion], there were those who said, "fortunate is our younger years that did not disgrace our older years"—these were [the words of] the righteous and active ones. And there were those who said, "fortunate is our older years that they atoned for

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82 mAbot 1:14.

83 See Rashi, Rambam, and Rabeinu Yonah ad loc. Bartenura ad loc phrases such concern positively: one must merit for one's self, for the world, and in this life.

84 *Temporality and Infinity*, 236.

85 See Edith Wyschogrod, *Dwelling with Negatives, Embodying Philosophy's Others* (New York: Fordham UP, 2006), 61–75.

> [the sins] of our younger years"—these were [the words of] the masters of repentance [i.e. those who had sinned and repented]. It was taught that they said about Hillel the Elder, when he was rejoicing at the *simḥat beit ha-shoeva*, he said, "*im ani kan, ha-kol kan*" [if I am here, then all is here], "*v-im eini kan, mi kan?*" [if I am not here, who is here?] He would say, "to the place that I love, that is where my legs lead me; if you come to my house, I will come to your house; if you do not come to my house, I will not come to your house, as it is written "in all of the places that I mention my name, I will come to you and bless you."[86]

Unlike the other figures who would celebrate their old age as commensurate with or atoning of their youth, Hillel offers another way. "*Im ani kan, ha-kol kan"*—If I am present, if I am here, if I affirm my existence and choice for this moment, then all that is necessary is here. Further, Hillel continues, if I am absent, then nothing has occurred, as my totality is my world alone. Taken in context, it is possible to read such ecstatic rejoicing as speaking in the voice, as it were, of God's presence. Rashi and others note that Hillel's central space in the Temple, when declaring these words, likely indicates such ventriloquism—and the aphorisms that follow, with regard to reciprocal meetings in others "houses," likely refers to a reciprocally shared meeting between God and Man. In this coinciding of opposites, a reciprocity of binaries (Hillel/God, Presence/Absence) not only coexists, but are spatially and temporally simultaneous. At this moment of nearly kabbalistic ecstasy, Hillel speaks both for himself and for God, as man's and God's cognition of the world converge into a single point. ☙

86 *bSukka* 53a.