

**YOU
BE THE
JUDGE 2**

A Collection of Ethical Cases and Jewish Answers

Nahum Amsef

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Foreword

The “Bet Din” process that has been captured in this book came to life as an accident in a family Torah class I was running at the University of Judaism. It was basically designed to be just a mixer with a little learning attached. It surprised all of us as it quickly became something very powerful.

It started out with circles of families gathered around and serving as juries trying to solve difficult cases. It was fun and interesting to see them try to verbalize their values and their ethics as they struggled to apply them. It was powerful to see the way they grabbed at the pieces of Jewish learning they had at their disposal and twisted them into workable answers. The creativity and the conflict were inspiring. A few have objected that we have polluted halakhah by letting the unlettered serve as legal decisors (and live with the fantasy that they can make decisions).

A few have objected that the exercise is folly—because religious law no longer has a place in a universe where every opinion is valid.

A few have objected that it was too Reform. Others that it was too Orthodox.

But the truth is, most of the time whether with kids, with families, with seniors—and then again among a broad-based electronic circle in first *Shabbas.Doc* and now *C.Ha*—the Sefat Emet has proved to be right:

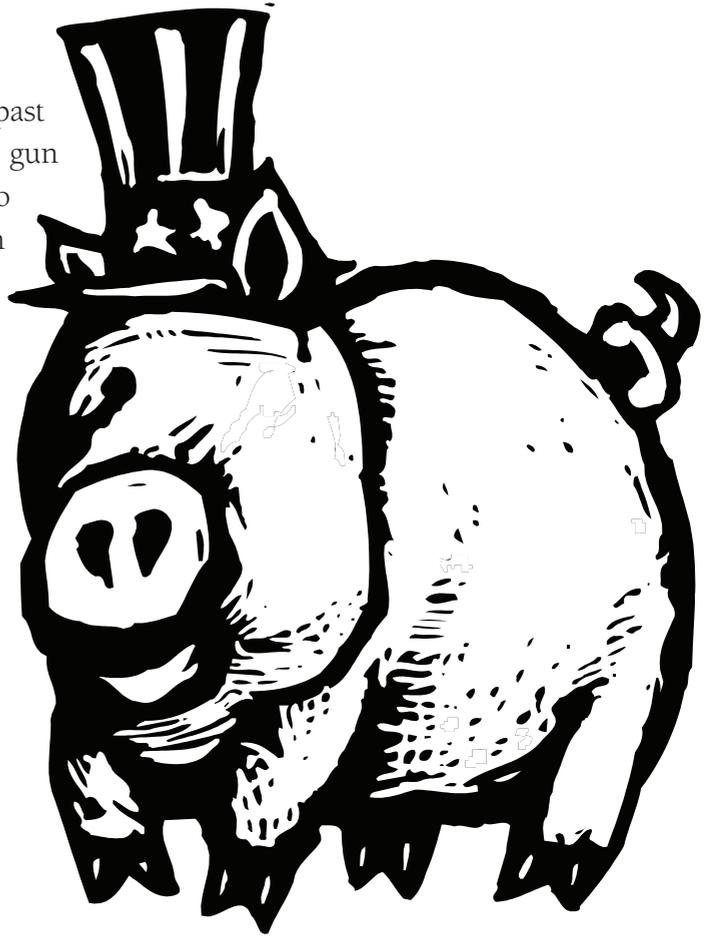
The entire Torah, God’s teaching, was given to the Jewish people.
Each person, however, has a personal Torah,
a particular life goal that is concealed in the soul.
When that particular teaching is released to the world
the person moves toward the truth of his or her being.

Joel Lurie Grishaver

[1] Your Bacon or Your Life?

A well-known Jew-hater with a violent past broke into the rabbi's house and put a gun to his head. The Jew-hater ordered the rabbi to eat a piece of pork (which he had brought with him) or else he would kill the rabbi.

YOU BE THE JUDGE: *Should the rabbi eat the pork to save his life? Also: may he still choose to die rather than eat the pork even if the Torah doesn't demand such a response?*



The Answer to Your Bacon or Your Life

The question is whether a Jew should give up his life rather than eat non-Kosher food at gunpoint.

[a] The Talmud (*Sanhedrin* 74a) says that for 610 of the 613 mitzvot (commandments), a Jew should violate the commandment and the Torah rather than die. This is based on the verse “...AND YOU SHALL LIVE BY (performing) THEM” (Leviticus 18:5), to which the Rabbis of the Talmud (*Yoma* 85b) add “and not die by observing them (the mitzvot).”

[b] The Talmud (*Sanhedrin* 74a) goes on to say that there are three exceptions in which a Jew must give up his or her life rather than commit the sin. These sins are (1) murder, (2) sexual impropriety, and (3) idol worship. Therefore, the answer to our question seems straightforward: the Rabbi must eat the non-Kosher food, rather than give up his life. However, there is an exception. When the entire society is filled with widespread and systematic anti-Semitism, a Jew may not violate even the simplest act or “minor” commandment—even at penalty of death—since this act betrays the Jewish people and desecrates God’s name.

The second part of our question, “May the Rabbi give up his life rather than eat non-Kosher food” is much more complicated. Although it seems that, based on the Talmud, a person does not have permission to decide what to do in such a case, there exist three different opinions among Jewish authorities.

[a] Maimonides (*Hilkhot Yesodai Torah* 5:1) rules that it is always forbidden to give up one’s life in such a circumstance. One who then allows him/herself to be killed rather than eat the non-Kosher food is considered to be the same as a person who committed suicide, which is a sin in Judaism.

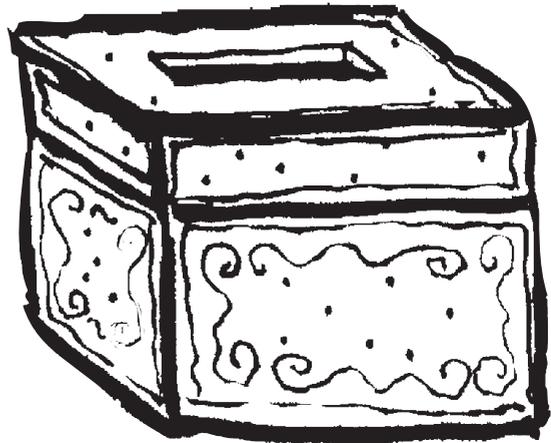
[b] Rabbi David ben Zimrah (Egypt, 1479-1573) disagrees and says, “If a person is willing to give up his or her life for Jewish principles, s/he is considered a *tzaddik*—a righteous person. That person is to be praised.”

[c] Rabbi Yehuda Rozanes (Turkey, 1658-1727), in his book *Parashat Derakhim*, offers a compromise position. He says that only an established Jewish leader may martyr him/herself when not mandated. However, a lay person or any other Jew is forbidden to accept death rather than violate any of the other 610 mitzvot.

[2] Fake Tzedakah

The Weiss family was watching television one Sunday when a man rang the doorbell. He asked for *tzedakah* (charity) for needy families in Israel who were too poor to afford food and clothing. Mr. Weiss had heard that there was a con artist collecting money around the city. That person pocketed the large sums of money that he received, rather than donating them to those in need. But Mr. Weiss was not sure if this was indeed the “faker” or, rather, a legitimate collector who helped the needy. Mr. Weiss had to make a decision on the spot.

YOU BE THE JUDGE: *Should he give money to this man or not?*



The Answer to Fake Tzedakah

Should we give *tzedakah* to someone who may be a faker?

[a] Certainly, when one is *sure* that the collector is a fake and/or is a wealthy person collecting for him/herself, one is not obligated to give.

[b] However, when one is not certain, an underlying concept of *tzedakah* giving comes into play: as important as it is to give as much as possible, Judaism also considers the feelings of the poor person and the embarrassment factor in how one gives. Refusing to give to a person who is truly in need is extremely embarrassing, and is not permitted.

Maimonides (*Hilkhot Matanot Aniyim* 10:7) lists eight levels of *tzedakah* giving. As the levels get “higher,” the amount of embarrassment felt by the person who needs to ask for help is less and less. The highest of these levels is to help someone to be independent through a job or a loan. This prevents the embarrassment of having to ask for help again in the future. Similarly, Maimonides teaches that it is a higher level to give *less* than a person asks but give it with a pleasant disposition, than to give exactly what the person asks but with a dour face (as this makes the poor person feel bad).

Based on this information, we must conclude that even if nine out of ten people asking for *tzedakah* are fakes, it is preferable in Judaism to give to nine fakes, rather than to refuse them all, and thus embarrass that tenth legitimate poor person.

[c] The Talmud and the Code of Jewish law (*Shulhan Arukh, Orekh Hayyim* 251:10) also say that if a person asks for food, one must give immediately (since the need is immediate) but for clothing (which is not immediate if the person is already clothed), it is permitted to delay.

Therefore, if a person comes to the door and there is a way to verify the situation with an appropriate authority without embarrassing the person, this should be done. If the need is not as immediate as food, it is permitted to take some time to find out whether or not the person is a fake and is dishonestly soliciting money. A homeowner can excuse him/herself for a moment, do some checking into the honesty of the claim, and then make a decision—if it can be done without arousing suspicion and embarrassment.

[B] Freedom of Speech...



Susan told Sharon a really juicy piece of information regarding the personal situation of a mutual friend, Natalie. Susan did not tell Sharon to keep the knowledge a secret, but Sharon knows that Natalie would not want this information spread around.

YOU BE THE JUDGE:

Can Sharon share this information with her best friend Elana?

The Answer to Freedom of Speech...

Should Susan tell this information about Natalie to another friend?

[a] Judaism tells us that one must never reveal *any* information spoken, and that the information must remain a secret until its originator gives specific permission allowing the contents of the conversation to be passed on to others.

[b] The book of Proverbs commands that we “...DO NOT REVEAL THE SECRET OF ANOTHER” (Proverbs 25:9)

[c] The source that teaches that one should never reveal information without permission comes from the Talmud (*Yoma* 4b). Since the Torah always says, “GOD SPOKE TO MOSES SAYING (*ley-mor*)...” and then says “SPEAK TO THE CHILDREN OF ISRAEL...” we have to ask, why all the repetition of “speaking” verbs? The Rabbis teach that the extra “SPEAK TO THE CHILDREN OF ISRAEL” tells us that we must have permission to repeat information that we hear. Otherwise, it is not permitted to pass information along, even when the original bearer did not specifically say, “Don’t repeat this.”

There are three instances, however, which are exceptions to the rule. In these situations, a person is either permitted or required to repeat information that was given to him or her:

[a] The Talmud (*Arakhin* 16a) says that if the speaker repeats the information in front of three or more people, it is assumed that this information will leak out and, thus, a person may repeat the information without permission.

[b] Based on the verse “AND IF A SOUL SINS...IF HE DOES NOT TESTIFY, THEN HE SHALL BEAR HIS INIQUITY” (Leviticus 5:1), the *Shulhan Arukh* rules (*Rema, Yoreh Deah* 228:33) that if a person is called to testify in a Jewish court, he or she *must* testify and give the pertinent information when asked. This is true *even he or she previously promised not to reveal that information*.

[c] In order to save a person in danger, one *must* break a confidence and reveal a secret (*Shulhan Arukh, Hoshen Mishpat* 426:1).