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VAYISHLAH

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A MORE HOLISTIC HALAKHIC APPROACH  
TO VACCINE INEQUITY: A RESPONSE TO  
SHARON GALPER GROSSMAN AND SHAMAI  
GROSSMAN

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I enjoyed the article by my distinguished colleagues Sharon Galper Grossman and Shamai Grossman on the important question of whether high resource countries should provide COVID-19 vaccines to low resource countries or if they should instead use them as booster doses. For a variety of reasons, the authors conclude that Israel should focus on providing boosters to its own population instead of diverting the doses to other countries that have not yet vaccinated much of their populations at all. I have three brief comments to make in response to their essay in the spirit of *mahloket le-shem shamayim*—dispute for the sake of heaven: one halakhic, one scientific, and one moral.

First, all the *teshuvot* they quote deal with resource allocation among Jewish populations. It's not at all clear to me what these halakhic authorities would rule if the choice was between Jews and non-Jews, and thus their respective positions might be irrelevant to the current discussion. One can certainly extrapolate from these *teshuvot* to the question of vaccine inequity, but the point needs to be

clearly stated with the caveat that not everyone would agree to that extrapolation.

Second, a crucial issue in the current discussion is whether lack of vaccination in low resource countries will lead to new variants and thus long-term increased mortality in high resource countries. The authors only briefly address the question. But if this is indeed true, many of their arguments become moot because providing vaccines to low resource countries might be the right thing to do purely from a selfish perspective. In addition, there are potential global economic advantages which might be achieved if the whole world is vaccinated and can certainly impact life in Israel. Good medical ethics and medical Halakhah must begin first with the best medical evidence and scientific information and only then can we begin the ethical discussion. In the current case, we have to first determine whether ultimately we might even save more lives in Israel by providing vaccines to low resource countries rather than boosters to its own citizens.

Third, and perhaps most importantly, the authors pay little attention to the profound moral issues that even raising the question of vaccine equity entail. Why should we not start the conversation with a discussion of a Jew's responsibility to save life and the supreme value of all human life in the ethos of Judaism?

The Talmud (*Avodah Zarah* 26a) rules that one is allowed to violate Shabbat to save a non-Jew because of the principle of *eivah*, meaning, to prevent non-Jews from hating and persecuting us. Rabbi Moshe Feinstein writes that this principle even allows one to violate a Torah prohibition (*Igrot Moshe, Orah Hayyim* 4:79). And shouldn't the principle of *eivah* also apply on a national level, as the State of Israel is the homeland and representative political entity of world Jewry? Actions of the State can affect Jews around the world. For this reason

alone, Israel would need to carefully consider the implications of keeping booster doses only for its own people.

But Rav Yehuda Amital went even further than Rav Moshe and maintained that a primary responsibility of a Jew is to sanctify the name of God in the world, and that this applies even more so on a national level. In his own words:

If the state of Israel would operate according to the rules of righteousness and morality this would be a national Kiddush Hashem and would be a fulfillment of the verse in Yechezkel 36:26: "I will sanctify My great name which has been profaned among the nations—among whom you have caused it to be profaned. And the nations shall know that I am the LORD—declares the Lord GOD—when I manifest My holiness before their eyes through you."<sup>1</sup>

And what a *Kiddush Hashem* it would be in the eyes of the world if Israel took the lead by donating millions of vaccine doses to low resource countries instead of using its limited supply to provide a booster to its citizens. According to Rav Amital, the question of *Kiddush Hashem* should also be part of the halakhic discussion. In fact, it should be a factor in all of Israel's dealings (e.g., arms sales, responding to climate change, etc.) if we take seriously our charge to be "a kingdom of priests and a holy nation" and a "light to the nations" instead of just another country in the world.<sup>2</sup>

I understand these might be unrealistic and utopian expectations, but if they are not even part of the halakhic conversation, the damage is more to us than to our neighbors and says a lot about who we are and who we have become.

The authors cogently demonstrate that a government has primary responsibility to protect the lives of its citizens. But in light of our discussion above and assuming—as the authors appear to—that it is actually possible to transfer vaccines to countries which might lack a robust healthcare infrastructure, it is less clear why they so easily dismiss the potential to save

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<sup>1</sup> Yehuda Amital, *Ve-Haaretz Natan li-Vnei Adam*, 2nd ed, (Hebrew) (Alon Shvut: Yeshivat Har Etzion, 2010), 119.

<sup>2</sup> While not exactly the same issue but certainly related, Rav Aharon Lichtenstein and Rav Dov Lior debated fiercely the issue of the responsibility of the IDF to avoid civilian casualties during wartime. Rav Lichtenstein felt strongly that Torah values and natural morality dictate that the Israeli army take the utmost care

millions of lives with the transfer of vaccines. They maintain that "a booster program that would cover roughly 155,000,000 Americans would provide vaccine coverage for 77,500,000 worldwide if the US were to divert those boosters to poor countries. This amount would not go far to protect the nearly 5,000,000,000 unvaccinated people worldwide who require 10 billion doses to achieve immunity." True, but it could protect 77 million people.

This brings to mind something Rabbi Shlomo Riskin once wrote. Many years earlier he had once asked Rav Joseph B. Soloveitchik if a Jewish physician is allowed to violate Shabbat to treat a non-Jew. The Rav answered him that a Jew certainly is required to do so based on Ramban "and a clearly stated verse in the [Torah]". Rabbi Riskin writes that though he never asked the Rav to precisely identify the sources, he felt reasonably certain he later found the passage in Ramban the Rav was referring to in his commentary to Rambam's *Sefer Hamitzvot*. There, Ramban rules based on Leviticus 25:35—which commands a Jew to look after the welfare of a resident non-Jew in the Land of Israel—that a Jew is obligated to save a righteous gentile, even on Shabbat. (Additions to Sefer Hamitzvot, "Positive Commandments that the Rambam Neglected," 16.) And Rabbi Riskin thought the verse the Rav was referring to was, "And God created man in His image, in the image of God He created him; male and female He created them." (Genesis 1:27).<sup>3</sup>

While my contentions certainly have halakhic relevance, most important is their educational message. Have we taught and modeled to our children and students the fundamental lesson of Judaism that all life is equally valued and important to our Father in Heaven? The authors write, "All governments, and especially a Jewish State, must protect against even remote risks to their citizens, and prioritize the welfare of their citizens over the welfare of those in other countries."

And yet, these days, we cannot discuss the issue without first recognizing the basic equality of all people before God. This in conclusion is what I feel is missing from the authors' illuminating presentation of a complex and crucial contemporary ethical and moral dilemma.

to avoid civilian casualties while Rav Lior felt that under no circumstances should an Israeli soldier be put at risk in order to avoid potential civilian casualties. For further discussion see "War and Morality," (Hebrew) *Tehumin* 4 (1982): 184-85.

<sup>3</sup> But see also this response to Rabbi Riskin, which questions Rabbi Riskin's understanding of the Rav's words.

## SHOULD JACOB HAVE CONQUERED CANAAN?

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The events of Genesis are so familiar to us that we seldom pause to ask, “Did they have to happen this way?” This is particularly true with the captivating drama of Jacob and his family. After Jacob returns from Haran and reconciles with his brother Esau (Genesis 32-33), he enters the land of Canaan. There are a number of shorter episodes—the capture of Dinah (Genesis 34), the birth of Benjamin and death of Rachel, the story of Reuben and Bilhah (Genesis 35)—and then we enter the final drama of the book, the brothers’ plot against Joseph and the descent of the entire family to Egypt.

However, one story that we might expect does not occur—Jacob does not conquer the land of Canaan upon his return. The conquest of Canaan was an inevitable consequence of God’s granting of the land to Abraham, Isaac, and Jacob (Genesis 15:18, 26:3, 28:13). Immediately preceding Jacob returning to Canaan (Genesis 36), we read of how Esau came to possess the land of Seir.<sup>1</sup> In Deuteronomy 2:12, a direct parallel is made between Esau and Israel conquering their respective lands: “Similarly, Seir was formerly inhabited by the Horites; but the descendants of Esau dispossessed them, wiping them out and settling in their place, just as Israel did in the land of his inheritance, which the LORD had given to them.”<sup>2</sup>

This is a difficult verse, since it uses the past tense (*asah*) to describe the conquest of the land by Israel.<sup>3</sup> Israel (Jacob) did not conquer the land, and the conquest by the nation of Israel had yet to occur. The commentators have therefore offered a variety of possible solutions: some, like Hizkuni, say the verse is referring to conquests that had already occurred in the time of Moses (Numbers 21); Rashi and others say it refers to the future conquests in the time of Joshua. Even if we accept these suggestions, the language of the verse invites a comparison between Israel and Esau. Esau had conquered their land centuries before. Why did Israel wait so long to complete its conquest? Why didn’t it occur in the past, in the days of Jacob?

God even tells Jacob to “return to the land of your fathers ... and I will be with you” (Genesis 31:3). He had no reason to fear any adversaries.<sup>4</sup> So why didn’t he choose to conquer Canaan at this point? And was that the right decision?

A key to answering this can be found in the verse that first describes Jacob’s return to Canaan: “Jacob arrived safe in the city of Shekhem which is in the land of Canaan—having come thus from Paddan-Aram—and he encamped before the city” (Genesis 33:18).

The use of the word “encamped”—*vayihan* in Hebrew—is rather curious. The verb appears in various forms close to 150 times in the Bible.<sup>5</sup> In about half of those, it simply means to set up camp, to stop walking. However, in the other half, it has a clear military connotation: it refers to setting up a camp with the intention of besieging and conquering a site. The usage in this verse is unclear,<sup>6</sup> encouraging either interpretation. Jacob clearly fulfills the “civilian” sense of the word,<sup>7</sup> for in the following verse (33:19) he purchases the parcel of land where he pitched his tent.

But by using a word that so frequently indicates the beginning of conquest, it appears to me that the Torah is implying that Jacob should have taken military action at this junction. This was anticipated of him, and he did not comply with these expectations.

Admittedly, there are several possible objections to this claim:

1. Jacob did not have enough people to conquer the land of Canaan;
2. He had no divine command to engage in the conquest;
3. This was not the right time for conquest, for according to the prophecy to Abraham (Genesis 15), the conquest would only happen after the exodus from Egypt;
4. If he was expected to conquer the land of Canaan, where are the negative consequences from his abstaining?

These are legitimate questions, but all can be answered from a close look at the text.

### Number of people

This is Jacob’s argument against the aggression of Simeon and Levi: “Jacob said to Simeon and Levi, ‘You have brought trouble on me, making me odious among the inhabitants of the land, the Canaanites and the Perizzites; my men are few in number, so that if they unite against me and attack me, I and my house will be destroyed’” (Genesis 34:30).

Aside from the fact that this assertion was rejected by Simeon and Levi in the next verse—in which they answered, “Should our sister be treated like a whore?”—I will show that Jacob’s concern with numbers runs counter to one of the overall themes of the Bible, namely that with help from God, numbers are not a consideration. God’s involvement is apparent immediately. Just a few verses later, we read: “As they set out, a terror from God fell on the cities round about, so that they did not pursue the sons of Jacob” (Genesis 35:5).

The same tension appears in later episodes. After the spies returned from their mission and said that the Canaanites could not be conquered (Numbers 13), Joshua and Caleb respond:

If the LORD is pleased with us, He will bring us into that land, a land that flows with milk and honey, and give it to us; only you must not rebel against the LORD. Have no fear then of the people of the country, for they are our prey: their protection has departed from them, but the LORD is with us. Have no fear of them! (Numbers 14:9)

Jonathan makes the same case even more explicitly in the book of Samuel: “Jonathan said to the attendant who carried his arms, ‘Come, let us cross over to the outpost of those uncircumcised fellows. Perhaps the LORD will act on our behalf, for nothing prevents the LORD from winning a victory by many or by few’” (Samuel I 14:6).

Additionally, we see that in a relatively short amount of time, Esau was able to gather a force of 400 men (Genesis 32:7). Abraham is able to recruit 318 men (Genesis 14:14) and then defeats a much larger army. Neither of those groups were made up of their children, so Jacob also could presumably have arranged the necessary numbers.<sup>8</sup>

#### **Lack of divine command**

It is true that God does not explicitly command Jacob to conquer the land. However, Genesis is not a book of commandments. Throughout the book, God punishes and rewards people for acting justly, even without a codified set of laws. So even without a divine command, God can expect proper behavior from the forefathers, without which they will pay a price.

The Torah directly links the need for vanquishing the Canaanites with the risk of them staying in the land, intermarrying with the Israelites, and becoming a dangerous moral influence:

You must not make a covenant with the inhabitants of the land, for they will lust after their gods and sacrifice to their gods and invite you, and you will eat of their sacrifices. You must not make a covenant with the inhabitants of the land, for they will lust after their gods and sacrifice to their gods and invite you, and you will eat of their sacrifices. (Exodus 34:15-16)

But if you do not dispossess the inhabitants of the land, those whom you allow to remain shall be stings in your eyes and thorns in your sides, and they shall harass you in the land in which you live. (Numbers 33:55)

When the LORD your God brings you to the land that you are about to enter and possess, and He dislodges many nations before you—the Hittites, Girgashites, Amorites, Canaanites, Perizzites, Hivites, and Jebusites, seven nations much larger than you—and the LORD your God delivers them to you and you defeat them, you must doom them to destruction: grant them no terms and give them no quarter. You shall not intermarry with them: do not give your daughters to their sons or take their daughters for your sons. For they will turn your children away from Me to worship other gods, and the LORD’s anger will blaze forth against you and He will promptly wipe you out. (Deuteronomy 7:1-4)

These same risks of moral corruption were just as prevalent in Jacob’s time. The story of Dinah can be viewed as a cautionary tale to the Israelites against the temptation to “make covenants with the inhabitants of the land” or to “intermarry with them,” lest they become “stings in your eyes and thorns in your sides.” Jacob should have been aware of these concerns and taken decisive action. But even after the Shekhem episode, Jacob never warns his children against the dangers of marrying Canaanites, in the way his father Isaac (Genesis 26:35, 28:1) and grandfather Abraham (Genesis 24:3) did. Judah goes on to marry a Canaanite woman (Genesis 38:2), and apparently Simeon does as well (Genesis 46:10).<sup>9</sup> Sforno (on Genesis 46:3) says that had Jacob’s family remained in Canaan, they would have fully intermarried with the Canaanites and assimilated with them.

Jacob had spent twenty years dealing with the unethical behavior of Laban. He knew the risks of the influence of immoral people. While Jacob did not receive a command to vanquish the Canaanites, he should have been aware of the dangers from them on his own.

#### **Not the right time for conquest**

In the “Covenant Between the Parts,” God informs Abraham of what will happen to his descendants:

And He said to Abram, “Know well that your offspring shall be strangers in a land not theirs, and they shall be enslaved and oppressed for four hundred years; but I will execute judgment on the nation they shall serve, and in the end they shall go free with great wealth. As for you, you shall go to your fathers in peace; You shall be buried at a ripe old age. And they shall return here in

the fourth generation, for the iniquity of the Amorites is not yet complete.” (Genesis 15:13-16)

This prophecy seems to directly predict the events as they unfolded: Jacob’s family descends to Egypt, where they would be enslaved for hundreds of years. God then punishes the Egyptians and frees the Israelites.

However, many of these understandings do not actually appear in the text. As Rabbi Joseph B. Soloveitchik points out,<sup>10</sup> there is no mention that the exile will be in Egypt. It only says that his descendants will be servants in a foreign land, and the fourth generation will return to the land of Canaan. Rabbi Soloveitchik proposes that the descendant in a foreign land was initially intended to be Jacob in Haran, and the fourth generation to return should have been Abraham’s great-grandchildren, born in Haran.

Why then do we see the events predicted in the prophecy play out again, this time with the slavery in Egypt and subsequent redemption from there? According to Rabbi Soloveitchik, this is due to what the Midrash calls Jacob’s “wish to live at ease.”<sup>11</sup> Having fulfilled the steps enumerated in the covenant, Jacob should have conquered Canaan, in the same way his brother Esau conquered Seir.

It was not too early for Jacob to conquer the land. He had returned from Haran with great wealth. The abduction of Dinah demonstrated the complete “iniquity of the Amorites”. The prophecy had been fulfilled, and Jacob should have leaped to action. Refraining from doing so was a missed opportunity.

### **Negative consequences**

In the Torah, we generally see direct consequences for choices—for good or for bad. If Jacob chose poorly, we would expect to see an associated penalty.

As it turns out, a direct connection can be made between Jacob’s approach to conquest and the tragedy of Joseph’s “disappearance” and subsequent exile of the family to Egypt.<sup>12</sup>

After returning to Canaan, Jacob arrives at Shekhem. Instead of conquering it, he purchases the land there. When the Canaanites in Shekhem show their moral depravity by kidnapping and raping his daughter Dinah, he is content with negotiating a pact with them, even allowing intermarriage between the families. His sons (particularly Simeon and Levi), however, are not satisfied with this approach. In an act of rebellion against Jacob (who they suspect favors Rachel’s children over them),<sup>13</sup> they proceed to conquer Shekhem.<sup>14</sup>

When Jacob moves to Hebron, these brothers continue to dwell in their conquered city, Shekhem (Genesis 37:12). Nearly

fifty miles away, this is a sign of them having seceded to some degree from their father’s authority.<sup>15</sup> When Joseph arrives in nearby Dothan, they can complete their coup—initially with the plan to murder him, and later by selling him into slavery, with no anticipation of ever seeing him again.

Joseph survives and the coup does not succeed, but this is not the end of the story. At the end of his life, Jacob still objects to the challenge to his authority. He transfers the role of firstborn (with the double portion) from Reuben to Joseph. In doing so, he says that Joseph’s sons, Ephraim and Manasseh will be like Reuben and Simeon (Genesis 48:5). Reuben had challenged his authority in the story with Bilhah (Genesis 35:22), and Simeon (with Levi) had challenged Jacob’s authority at Shekhem.

Jacob decrees that Simeon and Levi will receive no inheritance of land (Genesis 49:5-7), unlike Joseph whose sons each receive a large portion. And right before he does so, he grants the city of Shekhem to Joseph and ironically adds, “...which I wrested from the Amorites with my sword and bow” (Genesis 48:22). We might have assumed that Shekhem belonged to Simeon and Levi, since they captured it (and continued to reside there).<sup>16</sup> To solidify his authority, Jacob claimed that any territory captured by his sons (in his name<sup>17</sup>) was his own. Soldiers in an army do not take possession of the land they conquer; the bounty belongs to the sovereign. Since Shekhem belonged to Jacob, he had the full authority to grant it to Joseph.

And yet, despite having put down the coup, he realizes that his life ended in tragedy (Genesis 47:9). God had promised the land of Canaan to him (Genesis 48:4), but he did not even merit to die in it like his forefathers.

Had Jacob taken a more aggressive approach against the Canaanites, the brothers would have followed him loyally, and the nation of Israel could have begun the settlement in Jacob’s time.

### **Israel’s mission**

Jacob had spent much of his life as a passive person, either following orders from his mother or reacting to the challenges from Esau or Laban. Before his summit with Esau, Jacob famously wrestles with an angel. After defeating the angel in combat, the angel blesses him, saying, “Your name shall no longer be Jacob, but Israel, for you have striven with beings divine and human and have prevailed” (Genesis 32:29).

Jacob may have been afraid and conciliatory, but Israel was able to fight. In the critical test of willingness to conquer the land, he remained the old Jacob instead of the new Israel. It would therefore be the task of future generations to take on the name Israel and complete the conquest that Jacob did not.

<sup>1</sup> While Genesis 36 doesn't mention military conquest, Netziv (on Deuteronomy 2:12) and R. David Zvi Hoffman (on Deuteronomy 2:1) explain that after first marrying into the family of Seir, Esau later completes the takeover by conquest.

<sup>2</sup> Biblical translations are taken from NJPS, with some modifications.

<sup>3</sup> While it is possible to translate the verb in the future perfect tense ("will have done"), the fact that so many commentators find the need to explain the phrase is a sign that such a reading is far from the obvious one. Moreover, the entire section (Deuteronomy 2:9-12) is a review of events that happened in the past. The only other verse talking about a future event uses the future tense explicitly: "I will not give you [eten] any of their land as a possession" (2:9).

<sup>4</sup> See Ralbag on this verse.

<sup>5</sup> These numbers are from the Even-Shoshan concordance.

<sup>6</sup> The particular phrasing "*vayihān et*" is not found in any other biblical verses.

<sup>7</sup> See how the rabbis interpret *vayihān* as fully civilian in *Shabbat* 33b: "And he graced the countenance of the city; [he performed gracious acts to benefit the city]. Rav said: [Jacob] established a currency for them. And Shmuel said: He established marketplaces for them. And Rabbi Yoḥanan said: He established bathhouses for them."

<sup>8</sup> Comparing the descriptions of the Canaanites in the report of the spies and in Joshua's conquest to their descriptions in Genesis, it appears they were far fewer (or weaker) in the earlier period.

Perhaps this was due to the invasion of Chedorlaomer and the other kings, who "subdued ... the Amorites" (Genesis 14:7).

<sup>9</sup> Ibn Ezra and Radak say this is the plain meaning of "Saul the son of a Canaanite woman," as compared to Rashi who says that Simeon married his sister Dinah, who was called a Canaanite woman after her capture by Shekhem.

<sup>10</sup> See my essay, "Could It Have Been Different? History According to the Rabbis Joseph Soloveitchik," also written for The Lehrhaus in April, 2020.

<sup>11</sup> *Bereishit Rabbah* 84:3

<sup>12</sup> This is mentioned by the midrash above, which states that "Jacob wished to live at ease, but the trouble in connection with Joseph suddenly came upon him."

<sup>13</sup> See Jonathan Grossman, *Jacob: The Story of a Family* (Hebrew) (Rishon Letzion: Yediot, 2019), 425-428.

<sup>14</sup> See Rashi on Genesis 34:25, "They were his sons, but they acted as any man named Simeon and Levi would do—as other people would do who were not his sons—for they did not take counsel with him."

<sup>15</sup> See R. Samson Raphael Hirsch on Genesis 37:11.

<sup>16</sup> See Numbers 32:39-40 – "The descendants of Makhir son of Manasseh went to Gilead and captured it, dispossessing the Amorites who were there; so Moses gave Gilead to Makhir son of Manasseh, and he settled there." Gilead belonged to the family of Makhir because they were responsible for capturing it.

<sup>17</sup> Genesis 34:7

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