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Study Guide for Chapter 1
Artificial Intelligence, Autonomous Machines and Halakhah

In this responsum we consider three broad questions: Are people responsible for the actions taken by their machines? Should Jewish moral and ritual values be integrated into AI driven systems? Might an advanced machine endowed with AI ever be considered a person? A Jew?

I. Agency: May a non-human agent represent a person?
Bavli Bava Metzia 10b

אמר רבינא: היכא אמרינן דאין שליח לדבר עבירה - היכא דשליח בר חיובא הוא, אבל בחצר דלאו בר חיובא הוא - מיחייב שולחן. - אלא מעתה, האומר לאשה ועבד צאו גנבו לי דלאו בני חיובא נינהו הכי נמי דמיחייב שולחן? - אמרת: אשה ועבד בני חיובא נינהו, והשתא מיהא לית להו לשלומי. דתנן: נתגרשה האשה, נשתחרר העבד - חייבין לשלם.

רב סמא אמר: היכא אמרינן אין שליח לדבר עבירה - היכא דאי בעי עביה, ואי בעי לא עביה. אבל חצר, דבעל כרחיה מוטיב בה - מיחייב שולחן.

Ravina says, when we said that “there is no agency for a transgression,” that was **only when the agent themselves was obligated** [for that transgression]. But as for a courtyard, which is not itself obligated, the principal is liable. If so, when a man tells his wife or slave, “go steal for me,” since they are not obligated to pay [the “double” penalty] shall we say that the principal is liable? You could say, wives and slaves are [after all] responsible [not to steal] but are not obligated [to pay the fine for theft, since they do not control their own assets]. For it is taught in a Mishnah, if the woman is divorced or the slave is freed, then they become liable to pay [their own fines].

Rav Sama says, when we said that “there is no agency for a transgression,” that was **only in the case when if [the agent] wanted, he acted, and if [the agent] didn’t want, he didn’t have to act.** But as for a courtyard, where items are placed without its consent, the principal is liable. [Emphasis added in both quotes]

II. **Responsibility: Are humans liable for damage caused by their property?** **Ramban, Hiddushim to Bavli Shabbat 153a.**

ונאמר בזה שמפני שהחורש בבהמה הוא נותן עליה עול והוא כובש אותה תחת ידו וברשותו היא עומדת, כל המלאכה על שם האדם היא ובו היא תלול' ואין הבהמה אלא ככלי ביד אומן, ואינו דומה למחמר שהבהמה היא הולכת לנפשה אלא שיש לה התעוררות מעט מן המחמר.

This [liability] is stated because when a person plows with his animal, he places a yoke on it, and he controls it by force of his hands, and it remains under his control. Any labor is done for the person, and it depends on him, and the animal is no more than a tool in the hands of an artisan. This is not comparable to the donkey driver, because the animal walks of its own accord, even if it is somewhat mindful of the donkey driver.

III. **Prioritization: Whose Life Comes First?** **a. Bavli Bava Metzia 62a.**

שנים שהיו מהלכין בדרך, וביד אחד מהן קיתון של מים, אם שותין שניהם - מתים, ואם שותה אחד מהן - מגיע לשוב. דרש בן פטורא: מוטב שישתו שניהם וימותו, ואל יראה אחד מהם במיתתו של חברו. עד שבא רבי עקיבא ולימד: וחי אחיך עמך - חייך קודמים לחיי חבריך.

Two people were walking on the path, and one held in his hand a canteen of water. If they both drink from it, they will die, but if one of them drinks it s/he may reach the settled area. Ben Petora explained—Better that they both drink and die, that one not (passively) observe the death of the other. But then Rabbi Akiva came and taught that the verse, *Let him live by your side* (Lev. 25:36) means that your life precedes the life of your fellow.

b. Bavli Pesahim 25b

ושפיכות דמים גופיה מנלן? - סברא הוא; כי ההוא דאתא לקמיה דרבא, אמר ליה: מרי דוראי אמר לי זיל קטליה לפלניא, ואי לא - קטלינא לך. - אמר ליה: ליקטלוך ולא תיקטול. מאי חזית דדמא דידך סומק טפי? דילמא דמא דההוא גברא סומק טפי?

How do we know that murder is forbidden, [even if necessary to save one's own life]? It is logical, as seen in the case of one who came before Rava, saying, "the lord of my town told me to kill so-and-so or if not, I will kill you." [Rava] said to him, "Let him murder you, but you must not murder. Why do you think that your blood is redder than his? Perhaps that fellow's blood is redder than yours!"

IV. Personhood: May a Golem Count in the Minyan?

a. Bavli Sanhedrin 65b

אמר רבא: אי בעו צדיקי ברו עלמא, שנאמר כי עונותיכם היו מבדלים וגו'. רבא ברא גברא, שדריה לקמיה דרבי זירא. הוה קא משתעי בהדיה, ולא הוה קא מהדר ליה. אמר ליה: מן חבריא את, הדר לעפריך. רב חנינא ורב אושעיא הוו יתבי כל מעלי שבתא ועסקי בספר יצירה, ומיברו להו עיגלא תילתא, ואכלי ליה.

Rava said, if they wished, the righteous could create a world, for it says, *But your iniquities have been a barrier [between you and your God]* (Isaiah 59:2). Rava created a man and sent him [to appear] before Rabbi Ze'era. He [Rabbi Ze'era] spoke to him, but he [the man] did not reply to him. [Rabbi Ze'era] said to him: You came from the fellowship [of magicians], return to your dust! Rabbi Ḥanina and Rav Hoshaya used to sit each Sabbath eve and study the Book of Creation, and created for themselves a third grown calf, and they ate it.

b. Rabbi Zvi Ashkenazi, Responsa “Ḥakham Tzvi” #93

I have wondered regarding a person created by means of the Sefer Yetzira—such as that one mentioned in Sanhedrin [65b], “Rava created a man,” and also such as the one attested to my [great] grandfather our teacher Rabbi Elijah, Chief Justice of the holy community of Chelm—whether [such a man] could be included in the [minyan] of ten for matters which require ten such as kaddish, kedushah. Do we say that since it is written [Lev. 22:32], *I shall be sanctified amongst the children of Israel*, that he may not be counted [since he is not a descendant of Israel]? Or perhaps, considering the statement in Sanhedrin [19b] that “whoever raises an orphan in his home is considered as if he gave birth to him” the scripture would raise up [the golem] to the status of one born to him? For Scripture mentions the five children of Michal—but did Michal give birth to them? Didn't Meirav give birth to them? Rather Meirav gave birth and Michal raised them etc. Here too, since [the man] is the handiwork of the righteous he [might be considered part of] Israel, for [we learn that] “the handiwork of the righteous is their progeny” [if so, the golem might be counted]. It seems to me that since Rabbi Ze'era said, “you are from the fellowship of magicians—return to your earth,” that he killed him. And if it had occurred to him that [the golem] could be included among the ten needed for matters of sanctification, Rabbi Ze'era would not have removed him from the world. Even though [killing the golem] is not considered murder, for we explain [the verse, Gen. 9:6] *Whoever spills the blood of a person by a person his blood shall be spilled*—this means a person who was formed in a person, namely a fetus in his mother. Only killing such a person would be considered murder, thus excluding the man made by Rava, who was not formed in his mother's womb. Nevertheless, since the [golem] had some utility, [Rabbi Ze'era] should not have removed him from the world. But certainly, he would not count among the ten. Thus, it seems to me, Zvi Ashkenazi, a pure Sephardi [ט"ס perhaps, “good to the end”].