

The paper, “A Moral Argument against Absolute Authority of the Torah,” makes the not unfamiliar claim that if a body of sacred text includes and advocates immoral policies, then surely one ought not regard that body as absolutely authoritative. This claim is reminiscent of a similar one, cogently defended by Kai Nielsen in his well-known article, “God and the Good,” first published in 1964 in *Theology Today* 21:1, 47-58, and subsequently reprinted in a variety of readers, challenging the taking of God as one’s absolute moral authority. Nielsen, too, makes the point that if, as it must be, it is through the exercise of one’s own judgment that one determines for oneself that God is worthy of being one’s absolute moral authority, one cannot then escape the exercise of one’s own judgment when the edicts of this God strike one as immoral. The argument is not without merit, and I am sympathetic to the author’s view that injustices in the Torah judged so *by us* cannot and may not obligate or bind us. The argument neglects, however, what may well be the main reason that thinking people embrace sacred texts despite their flaws—namely, their astonishing, even breathtaking, moral insights. A text may be forgiven the flaws even in its own application of its principles if it has bequeathed to the world the very principles by which we judge it flawed.

One need only ask what our notions of morality would be like without the Torah in order to see why the Torah is rightfully revered. The Torah introduces at least three fundamental principles without which our morality would be horribly impoverished. First, the notion that all human beings are equally created in God’s image; second, that the divine image in which human beings are equally created is one of both justice and compassion, and therefore requires of us that we pursue justice (Deut. 16:20) and be compassionate, walking in God’s ways; and, third, that God himself is governed by objective standards of good and evil, right and wrong, to which He holds himself and to which He may be held by us. Deviations from these principles in their application may be cause for concern and may need to be dealt with, but without the Torah arguably all we would have would be Greek religion and Greek ethics neither of which emphasizes the equality of all human beings; posits a just *and* compassionate deity, one who does not forbid challenges to His own adherence to the objective moral code; or contains a requirement that human beings be just *and* compassionate—that we empathize with and care for the oppressed, sharing with the poor, the widow, and the orphan what is ours only by the grace of God. It is up to us to embody these ideals—not, God forbid, to fall behind the rest of the world in our ethical lives and practices. The standard of justice and right is independent of God and thus independent of Torah, and requires of the Hebrew God, no less than of human beings, proper allegiance and obedience. When God in Genesis “sees” that all that He has created *is* good,

and the world very good; when He plants in the garden a tree of the *knowledge of* good and evil; when He sees that it *is not* good for the male human being to be alone; in all these instances He looks to and recognizes a standard of good outside and even “above” himself.

Moreover, the biblical God provides for improvement in the concrete application of the Torah’s principles—in His injunction that we are to do “all that they instruct you” (Deut. 17:10). God’s moral perfection lies in His recognition of the right and the good apart from His edicts, and in His enjoining of human beings to live by the very highest moral standards, standards not confined to the letter of the law but to its spirit of justice and compassion. God is an absolute authority because He points us to the absolute authority of the right and the good; and His text is authoritative because it asks of us that we live by that authority. It is our responsibility to live up to the Torah’s principles. The applications of the Torah’s principles are not what is decisive, for it is precisely these that are subject to change. The principles themselves are immutable, and, critically, we know of them because of the Torah. In my view—though the case for this distinction must await another occasion—compassion, unlike justice, is a standard *set by* God rather than an objective one outside Him by which He too is governed. And if we indeed learn the virtue of compassion directly from the example God sets, we have yet another reason to take the Torah’s God as our absolute authority.

Although not a perfect parallel, the US Constitution might serve as a secular counterpart to Torah as “absolute authority.” It is probably fair to say that the Constitution is widely regarded by Americans as “sacred.” It is certainly revered, and it is perhaps not an overstatement to say that it is taken by many to be absolutely authoritative. The framers were not God and were not even Torah Sages but they expressed principles (indeed Torah principles) that are absolute and authoritative. Many of these principles are enshrined in the amendments, such things as due process, the prohibition on cruel and unusual punishment, and the equal protection clause. These are the things that are absolute and authoritative. In deed, as Ronald Dworkin has maintained (see his “Comment on Scalia” in Antonin Scalia, *A Matter of Interpretation: Federal Courts and the Law* (Princeton: Princeton University Press, 1997): 115-27), constitutional constructions that are “concrete and dated,” rather than “principled” are “mistranslations” of the Constitution. It is insofar as the Torah has taught us how to live as we ought—at the level of principle—that the Torah may be said to merit the status of absolute authority. To the extent that in its concrete applications of its own principles it deviates from these principles, its applications must be challenged. As Judge Earl famously said in *Riggs v Palmer* (NY Court of Appeals 1889), “. . . a thing which is within the letter of the

statute is not within the statute unless it be within the intention of the makers.” Any law in the Torah that deviates from justice and compassion is surely outside the intention of its Maker.