Response to Yitzchak and Sarah

I am very grateful to Yitzchak and Sarah for taking their time to read my essay and formulating detailed and thoughtful response notes.

Recall that my paper is an argument against the following view:

> **Doctrine of Absolute Authority**: Whenever there is a course of action φ such that the Torah prescribes that you φ, that is a conclusive reason to φ.
>
> (And conversely, whenever there is a course of action φ such that the Torah prescribes that you do not φ, that is a conclusive reason not to φ).

My argument follows the following scheme:

> **Premise 1**: The Torah includes norms that we strongly judge to be immoral.
>
> **Premise 2**: If the Torah includes norms that we strongly judge to be immoral, then it does not make sense to treat the Torah as an absolute authority.
>
> **Conclusion**: Therefore, it does not make sense to treat the Torah as an absolute authority.

As a matter of logic, one must either reject one of the premises or accept the conclusion. Which of these possibilities do Yitzchak and Sarah opt for? I'm not completely sure, but here's how I understand their responses. Yitzchak accepts premise 1, he agrees that "moral conundrums exist at both the Biblical and Talmudic levels" (§6). However, he rejects premise 2 and accepts the doctrine of absolute authority of the Torah. The thrust of his argument is that indeed the Torah includes norms that we strongly judge to be immoral, but they are fewer and less severe than I suggest, and outweighed by positive epistemic reasons to accept the Torah as an absolute authority. Yitzchak does not believe that it is sufficient for there to be *some* norms in the Torah that we strongly judge to be immoral for my conclusion to be justified. Rather, as it were, we must judge the plusses and minuses of the Torah to arrive at a comprehensive judgment of whether it deserves the status of an absolute authority.

Sarah, on the other hand, accepts my argument as sound, that is, she accepts both premises and rejects the doctrine of absolute authority. Sarah suggests instead that we accept a more restricted doctrine of absolute authority that says: "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" (my emphases). That is, she draws a distinction between certain *principles* found in the Torah, very simple ones such as that we should be just and companionate, and the detailed *applications* such as, I gather, all the norms I cite as examples.

What do I think about these views? Considering Yitzchak's view, I now realize that I formulated premise 2 too strongly. If everything in the Torah seemed to me utterly brilliant, and if there were just one or two norms that seemed to be immoral, I think it would make sense to conclude, contrary to what premise 2 states, that the problem lies in me and my epistemic limitations and I should do what the Torah says even in cases that contradict my own intuitions. However, this is not at all the case. There are not just one or two norms that I judge to be abominable, there are way too many. And the parts of the Torah that seem praiseworthy or inspiring, are not all that brilliant. Not much more brilliant than the works of Plato, Confucius, Buddha or Hammurabi. Therefore, I don't think it makes sense to treat the Torah as an absolute authority.

I don't find Sarah's view attractive either. I'll start with two minor comments. First, if by the Torah's principles she just means justice and compassion, I don't think we need the Torah for those. But I gather that Sarah has in mind some additional less trivial principles that appear in the Torah, so this is not a crucial point. This leads to my second complaint. I'm not sure how she distinguishes between the general principles and the applications. From all the examples I gave one can derive general principles: that non-Jews are inferior to Jews, that homosexuality should be violently opposed and so on. I gather Sarah thinks these are applications, not principles. On what basis?

More importantly, Sarah doesn't provide any good justification for her distinction between principles and applications. If she believed that the Torah was authored by an omniscient and omnibenevolent god, then she would not think there could be any justification for deviating from anything the Torah prescribes, whether a principle or an application. So she must not believe that the Torah was authored by such a god. Then what is her justification for treating the principles as absolute authority?

One argument she seems to suggest is: -- If the Torah had not existed, we would be much worse off morally, therefore we should accept he Torah as an absolute authority. If this is her argument, I don't understand how the conclusion is supposed to follow from the premise. Consider an analogue. If it weren't for my mother caring for me as a child, I would be less moral. Therefore, I should treat my mother as an absolute authority?! I love my mother dearly, but I also think I'm right to follow my own moral beliefs, which are sometimes different from hers. Another argument Sarah seems to suggest is: We should treat the Torah as an absolute authority because it is a text that God authored to point us in the direction of the right and the good. But then, as I just argued, I don't see how this fits together with her view that certain norms, which she views as applications, should not be treated as authoritative. Furthermore, she hasn't provided any argument for the premise. And an argument is desperately needed in light of the evidence to the contrary provided by too many cases in which the Torah seems not to point us in the direction of the right and the good.

These are my main responses to Yitzchak and Sarah. Now, for those who are interested in smaller details, I move to a point by point response to each.

Yitzchak

(1) As I say in the essay, what actual Orthodox Jews believe is not the topic of my essay. Different people obviously have different beliefs, and, no doubt, all people, myself included, have some incoherent beliefs. I'd be happy if Orthodox Jews take my article as an invitation to articulate their views more explicitly and then we can better judge whether they are coherent.

(2) First, Yitzchak blurs an important distinction. DCT is consistent with ethical intuitions being good sources of moral knowledge. Likewise, the rejection of DCT is consistent with ethical intuitions being bad sources of moral knowledge. That is because DCT is a metaphysical theory, it is a theory about what it is that makes moral truths true, whereas the view that ethical intuitions are good sources of moral knowledge is an epistemic view, it's a view about how we know ethical truths. These are different questions.

Second, he attributes to me the claim that ethical intuitions must always trump religious intuitions. However, I made no such claim. I claimed (end of section "In the name of which morality do you speak?") that ethical intuitions should be treated as at least as good as religious intuitions, not that they are superior. Recall that the doctrine of absolute authority says that the Torah *always* trumps other considerations. If one thinks that, even just sometimes, other considerations, such as moral intuitions, trump the Torah, that amounts to rejecting the doctrine of absolute authority. Saying that religious intuitions should be taken into consideration in addition to moral intuitions is therefore far from enough to support absolute authority. It more likely supports a more moderate view.

(3) I do not think the fact that I only consider negative aspects of the Torah is a flaw in the essay. I'm not trying to make an overall assessment of how good, inspiring or praiseworthy the Torah is. I'm arguing that it has enough bad that it should not be treated as an absolute authority.

Regarding women's testimony, I was being brief (and in line with a traditional way of putting things, see for instance Maimonides, Edut 9:2; Rashi Sh'vuot 30A). Women's issues are discussed in depth by others, such as Tamar Ross who I cite in the footnote. I don't think the fact that a women's testimony is accepted in some instances changes much of the gloomy picture. (If I recall correctly, women's testimony is accepted only in cases where the type of testimony needed is considered to be of an inferior type, where circumstantial evidence would be accepted as well, not when witnesses per se are required).

(4) I agree that circumstances change and sometimes an action that is inappropriate in some circumstance is appropriate in another. But does Yitzchak honestly believe this works for all or even most of the ostensibly immoral norms in the Torah? Finding one or two examples where one thinks it works is not enough.

Regarding the specific example of the father marrying off the daughter: First, I was citing this as part of a whole list of norms that reveal that women are considered inferior to men in Halakha. Notice that even if Yitzchak is right that there are circumstances in which marrying off young daughters is the right thing to do, there is a further problem with the Halakha in that the mother's opinion counts for nothing in this decision. Second, even if marrying off young daughters is discouraged by the Talmud, it is still something the father has the power to do, *even in contemporary Halakha*. That it's discouraged, is simply not enough to make this Halakha just.

(5-6) I'm unimpressed by the examples Yitzchak gives. They don't seem brilliant. Some I agree are nice. Others I judge differently than Yitzchak. But I'll let the readers judge for themselves and won't get into details.

Recall that what is at stake here is not whether the Torah should serve as a source of inspiration or even a modest authority. Some inspiring norms may be enough for those. What we're debating is whether the Torah should be regarded as an absolute authority. This also shows a weakness in the doctor analogy, a weakness that works against Yitzchak's claims. Nobody treats any doctor as an absolute authority. We all know that doctors are fallible human beings, and for this reason, it makes perfect sense to seek a second opinion for critical medical issues. This is part of why we shouldn't treat a doctor differently if she messes up once or twice. Such a doctor can still be treated as a weak authority. However, if a doctor messes up frequently, then we'd likely look for another doctor. The Torah messes up frequently. And yet Yitzchak is defending the view that the Torah should be treated as a much stronger kind of authority than a doctor. Whether the Torah messes up most of the time or a smaller portion of the time is beside the point. It is not just once or twice.

(7) Regarding Rabbi Lichtenstein's views, the quote is consistent with everything I said about his views. He accepts the doctrine of absolute authority, and that's what I claimed. That he thinks moral considerations should be taken into account when interpreting Halakha is consistent with that. (I was aware that this was his view. Autobiographical note: I studied with Rabbi Lichtenstein for a few years).

(8) "Baras writes that a command that depends upon interpretation is automatically undermined as a command". No, I did not make this claim. Those interested in what I did claim should look at the section titled "It's all a matter of interpretation".

"[H]e cannot analyze the nature of divine command in Judaism without some discussion of them." I didn't take myself to be offering an analysis of the nature of divine command in Judaism. Recall, what I'm doing is arguing against the doctrine of absolute authority.

Sarah

I said most of what I have to say above. I'll just add a note on Nielsen. Nielsen's argument is substantially different from mine, and it's for a different conclusion. Sarah claims that "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". I could not find such a claim in Nielsen's article. Maybe it's implied by Nielsen's view, maybe it's something he says elsewhere, I don't know.

Nielsen argues that "the fact that God wills something…cannot be a fundamental criterion for its being morally good or obligatory and thus it cannot be the only criterion or the only adequate criterion for moral goodness or obligation." Later he clarifies that by criterion he means "the measure we use for determining the value or worth of an action or attitude". Neither Nielsen's conclusion nor its negation implies anything about the doctrine of absolute authority. While Nielsen's conclusion might not be the most favorable to the doctrine of absolute authority, it is consistent with the doctrine. One way this can be is that, in theory, one might think that the Torah is, as far as one can judge, so morally impressive, that it deserves to be treated as an absolute authority. Likewise, the rejection of Nielsen's conclusion is consistent with rejecting the doctrine of absolute authority. One might think that the fact that God wills something fundamentally makes it good or obligatory, and yet think that the Torah does not accurately reveal God's will, so it should not be treated as an absolute authority. So, Nielsen's article doesn't make mine redundant.