

## **Mind Control? A Halachic and Meta-Halachic Investigation of Forbidden Thoughts<sup>1</sup>**

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During my second year of rabbinical school, one of my friends and classmates sat down for lunch in the courtyard of the Jewish Theological Seminary and reflected that, as he was going through his college alumni magazine, he felt jealous of many of his peers. As he noted, he had chosen a different path. He has a beautiful family and the love of friends, and he is engaged in a living dream as he studies Torah each day.

It was not as if he actually wanted to be at the top of a particular law firm. In fact, he had just left the law world to pursue studying Torah and becoming a rabbi! But, still, it was tough to read about the accomplishments of others and not covet their place in life.

Such is the conundrum of the tenth commandment of the Decalogue. Is it really possible ever to fulfil the mandate of not coveting? In broader terms, can thought be legislated?

Exodus 20:13 reads in full:

You shall not covet your neighbor's house; you shall not covet your neighbor's wife, nor his man-servant, nor his maid-servant, nor his ox, nor his ass, nor any thing that belongs to your neighbor.<sup>2</sup>

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<sup>1</sup> I initially began exploring this topic in 2010, culminating in a paper that I wrote in Rabbi David Golinkin's class at Machon Schechter in Jerusalem. I have since taught this content in New Jersey, New York, and Chicago and am thankful for the feedback throughout this time.

<sup>2</sup> All Biblical translations are from the New Jewish Publication Society (NJPS) unless otherwise noted.

American popular culture captured the troubling nature of this commandment, featured as a dialogue between the characters Sam Seaborn and Leo McGarry in the first season of *The West Wing*:

SAM: There's a town in Alabama that wants to abolish all laws except the Ten Commandments. . . . Well, they're going to have a problem. . . . Coveting thy neighbor's wife, for instance. How're you going to enforce that one?

And then, in a follow-up to this rhetorical monologue:

SAM: Leo, did you know there's a town in Alabama that wants to (abolish all laws except the Ten Commandments)...

LEO: Yes.

SAM: What do you think?

LEO: Coveting thy neighbor's wife's gonna cause some problems.

SAM: That's what I said. Plus, if I were arrested for coveting my neighbor's wife, I'd probably bear false witness.<sup>3</sup>

This is precisely the issue, of course – how does one mandate thought, let alone legislate against it? Do humans have control over their thoughts at all, and, if not, is legislating how people should think setting people up to fail?

This Catch-22, however, lives in tension with empirical reality – that thoughts lead to action.<sup>4</sup> “In fact,” suggests psychologist Moshe Halevi Spero:

a religious patient's claim to be unable or not allowed to

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<sup>3</sup> Aaron Sorkin (Writer), Ken Olin (Director), (26 January 2000) “Take out the Trash Day,” *The West Wing*. For a full transcript, see <http://www.twiztv.com/cgi-bin/transcript.cgi?episode=http://dmca.free.fr/scripts/thewestwing/season1/thewestwing-113.txt> (accessed 20 May 2010).

<sup>4</sup> The concluding words of *Lechah Dodi* poignantly note that the creation of the world began first with a thought, *sof ma'aseh bema'hashavah tehillah*.

discuss certain topics or think certain thoughts may be a powerful resistance through which to prevent uncomfortable yet critical therapeutic progress.<sup>5</sup>

The Rabbis' claim that *hirhur kedibbur damei* ("thoughts are similar to speech") holds legal relevance to all who hold the *halachic* system as a guide toward structuring society.<sup>6</sup> Through an analysis of the laws of *hirhurim* ("thoughts")<sup>7</sup> connected to *Orah Hayyim*,<sup>8</sup> along with the archetypal *mitzvah* of *lo tahmod* ("you shall not covet"), this paper will investigate both the evolution of the particular laws as well as the entrenched meta-halachic issues of prohibiting *hirhurim*.

### ***Hirhurim* in the Eyes of the Sages**

The *Al Het* acrostic (a litany of lines beginning with the phrase *Al Het* ["For the sin of..."]) throughout the High Holiday liturgy makes a clear ideological statement that we are responsible for our thoughts.<sup>9</sup> During Yom Kippur, Jews state "*al het shehatanu behirhur ha-lev*," ("for the sin that we have transgressed with thoughts"). In the world of the Rabbis and the prayer life of every Jew, sinful thoughts are explicitly sinful.<sup>10</sup>

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<sup>5</sup> Moshe Halevi Spero, "The Halachic Status of Hirhur Assur in Psychotherapy," in *Asya* 7 (Jerusalem: Falk Schlesinger Institute for the Study of Health and Torah, 1970), p. 25. Also see Spero, *Judaism and Psychology*, (New York: Yeshiva University Press, 1980), pp. 145–152.

<sup>6</sup> Babylonian Talmud, Berachot 20b. See further explication of this text below.

<sup>7</sup> This word does not appear in the Bible and first appears in Talmudic literature, both as a verb and as a noun. Its root is *heh-reysh-heh-reysh* (הרהרה).

<sup>8</sup> This is the first quarter of Rabbi Jacob Ben Asher's code of Jewish law, *Arba'ah Turim* (also called the *Tur*), which chronicles all of the laws related to the Jewish calendar. Joseph Caro also organizes the *Shulhan Aruch* in this fashion.

<sup>9</sup> This liturgy is also said on fast days and throughout "the Ten Days of Repentance"—the two days of Rosh HaShanah, the day of Yom Kippur, and the seven days in between these two High Holidays.

<sup>10</sup> Assuming one can be found guilty of sinful thoughts, there is one additional question at hand; is liability for mere intention to be charged in

Yet there is some ambiguity throughout rabbinic texts about whether a person is liable for these sinful thoughts. In commenting on Numbers 5:6—*i.e.*, “When a man or woman commits any of the sins that men committed by breaking faith with the Lord...” —the aggadic midrash *BeMidbar Rabbah* (edited in the Land of Israel in the 4<sup>th</sup> century C.E.<sup>11</sup>) specifies that the text refers to such unfaithful individuals “when they do it [*i.e.*, commit such a sin]—not when they intend to do it yet do not do it.”<sup>12</sup> Though not a halachic text, *BeMidbar Rabbah*’s position certainly reflects a view of the Rabbis: they do not believe that God holds humans responsible for forbidden thoughts.

Similarly, in the collection *Mishnat Rabbi Eli’ezer*, one is liable only for an intention that is combined with an act.<sup>13</sup> In this case, the text does not refer to thoughts, but rather to unfulfilled spoken intentions. Clearly, with this understanding, one would not be liable for a mere thought. In the words of *Mishnat Rabbi Eli’ezer*:

There are two [kinds of] intentions. An intention combined with an act is [legally treated] like an act. But an intention not combined with an act is not [legally treated] like an act. For example, if he took up his weapon and went out [to search] but did not meet his fellow, that is an intention combined with an act. One regards him as if he has killed. But if he [*i.e.*, the murderer] intended but did not take up his weapon, that is an intention not combined with an act and is not [legally treated] like an

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a divine or human court? Bernard Jackson notes that “there is no evidence that liability for mere intention was ever tried in human court” and that “equally significantly, the idea did exist that merely to intend a wrong was wrong itself.” See Bernard Jackson, “Liability for Mere Intention in Early Jewish Law,” in *Hebrew Union College Annual* 42 (1972), p. 212.

<sup>11</sup> Note that this text was expanded and codified as late as the 10<sup>th</sup> century. For more information on dating, see H. L. Strack and Günter Stemberger, *Introduction to the Talmud and Midrash*, tr. Markus Bockmuehl (Minneapolis: Fortress Press, 1996 edition), pp. 310–311.

<sup>12</sup> *BeMidbar Rabbah* (Vilna) Parashat Naso, Parasha 8, cited in Jackson, p. 212.

<sup>13</sup> The dating of this text is disputed, with H. G. Enelow dating it to the Tannaitic era, with other scholars suggesting it dates to the Geonim, and others still to the time of Heraclius, or the 8<sup>th</sup> century. For more information, see Strack and Stemberger, pp. 22–23.

act.<sup>14</sup>

Contemporary scholar Bernard Jackson distinguishes between the arguments of Beit Shammai and Beit Hillel<sup>15</sup> on the subject of liability for incitement; Beit Shammai consistently declares a person liable for incitement while Beit Hillel declares somebody liable only after an action.<sup>16</sup>

Yet, while one is not liable in a human court for thoughts, the Rabbis nonetheless give particular credence to the power of thought and its potential to lead to action.<sup>17</sup> For example, in Tractate Berachot in the Babylonian Talmud, the seventh-generation Amoraic sage Ravina and third-generation Amoraic sage Rav H̄isda argue whether a person who has had a seminal emission (*a ba'al kerī*) should think about the words of the *Shema* (and not immediately say them). Ravina claims that one should think about the words of the *Shema* instead of stating them aloud, for “thinking is the same as speech;” thus, these thoughts count equally as saying the words out loud.<sup>18</sup> However, the *sugya* rejects this statement and declares that thoughts are not the same as speech. Indeed the *halachah* in other cases comes to this conclusion, such as the case of thinking about non-Shabbat topics on Shabbat.<sup>19</sup> Yet Ravina's viewpoint indicates a common perspective

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<sup>14</sup> Translation from *The Mishnah of Rabbi Eliezer*, ed. H. G. Enelow (New York, 1933), p. 163; in Jackson, p. 215.

<sup>15</sup> These schools of Rabbis represent “two scholastic tendencies in first-century Pharisaism and in the period of Yabneh, in which the halakhic controversies of the two schools are already largely recorded in fixed literary forms.” See Strack and Steinberger, p. 68.

<sup>16</sup> See, for example Babylonian Talmud, *Kiddushin* 42b-43a, Mishnah, *Bava Metzi'a* 3:12. Vered Noam also speaks about this issue of intention in the eyes of Beit Shammai and Beit Hillel in “Ritual Purity in Tannaitic Literature: Two Opposing Perspectives,” *Journal of Ancient Judaism* I (2010): 65-103.

<sup>17</sup> I think particularly of one of the *midrashim* relating the different activities that God did on the first day of creation. During the first hour, God thought. For every action, certainly every action that has potential, careful thought preceeds actions. See *Vayyikra Rabbah* 29.

<sup>18</sup> Rav H̄isda, in turn, notes that with this logic, if thoughts are truly the same as speech, then there would be no need to differ from the norm of saying the *Shema* out loud when one is impure. Babylonian Talmud, *Berachot* 20b.

<sup>19</sup> I explore this later in this paper.

during the time of the Rabbis.

While the Rabbis do not declare thoughts *synonymous* with action, the thoughts certainly *are* one step away from action. A text in Tractate Avodah Zarah, for example, draws a direct connection between impure thoughts during the day leading to impurity at night. Conversely, Torah thoughts bring one closer to God.<sup>20</sup>

In Tractate Yoma, the third-generation Amoraic rabbi, Rav Nahman, states that uncontrolled thoughts are more dangerous even than the sin itself (toward which the thoughts are inclined), noting that the smell of roasting meat is often more appetizing than actually eating the meat itself.<sup>21</sup> On first glance, this case seems to suggest that indeed the thought is as bad as action. But in context, by way of the analogy, we see that the thoughts are temptations toward something else, and thus the ill from thinking about a sin actually comes from the inevitable outcome of those thoughts.

Throughout each of these texts sits a decided tension between the fact that thoughts lead to action and the reality that humans are flawed creatures, perhaps incapable of controlling thoughts in many cases. The first-generation *amora* Rav acknowledges this psychological reality: no human is spared from *hirhur*.<sup>22</sup> Humans sin, with regard to both thoughts and actions. *Teshuvah* (repentance) thus remains one of the key components of human interactions with God and each other.

In his edited collection, Judah David Eisenstein (1854–1956, Poland/America) brings a *midrash* which summarizes the Rabbinic opinion that thoughts have great power, in the form of advice from father to son:

Son, when you stand from your sleep in the middle of the night, speak to your wife with holiness. Do not let your mouth slip, even to say a joke, for you will be liable in the

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<sup>20</sup> Babylonian Talmud, Avodah Zarah, 20b.

<sup>21</sup> Babylonian Talmud, Yoma 29a.

<sup>22</sup> Babylonian Talmud, Bava Batra 164b:

Rav Amram said in the name of Rav, “On a daily basis, there are three things that no human is saved from: forbidden thoughts, sins regarding deliberating in prayer, and malicious speech.”

future for this conversation between you and your wife.  
And when you wake up from your sleep, *do not turn your heart to bad thoughts, because thoughts lead to action.*<sup>23</sup>

## The Commandment of *Lo Tahmod* (Do Not Covet)

The notion of restraining thought, or more accurately restricting it, is at the forefront of the tenth statement of the Decalogue.<sup>24</sup> Abraham ibn Ezra (1089-1167, Spain) introduces his commentary to the Exodus version<sup>25</sup> of the text with a self-reflective question: “Many people are astonished about this *mitzvah*! How is it possible that one can restrain coveting something beautiful in his heart if it is so beautiful in his eyes?!”<sup>26</sup>

Such a rhetorical introduction to the comment notes the inherent difficulty in following this *mitzvah* and elucidates the underlying debate about the meaning of the text: does it refer to a sin of thoughts or of actions? In this comment, ibn Ezra clearly suggests that the commandment forbids thoughts, while also noting just how difficult this law is to fulfil; this tension suggests how Jewish law could possibly restrict thinking.<sup>27</sup>

The Hellenistic philosopher Philo (20 BCE-50 CE, Alexandria) similarly suggests that this law prohibits thoughts, proposing that the previous four laws of the Decalogue all stem from this one—if one does not covet, he or she will not murder, commit adultery, steal, or bear false witness.<sup>28</sup> As Leonard Greenspoon suggests, “for Philo,

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<sup>23</sup> *Otzar HaMidrashim*, Vol. 1, ed. J.D. Eisenstein (New York, 1915), p. 29. Emphasis is mine. Unless otherwise indicated, all translations are mine.

<sup>24</sup> Exodus 20:14; Deuteronomy 5:18.

<sup>25</sup> There is a version of the Decalogue in Deuteronomy 5, as well, with one main difference in the 10<sup>th</sup> statement. I cover this later in this paper.

<sup>26</sup> Ibn Ezra on Exodus 20:14.

<sup>27</sup> Ibn Ezra concludes this comment by suggesting that one can train oneself to suppress these feelings through psychological training. See Leonard Greenspoon, “Do not Covet: Is it a Feeling or an Action?” at [www.thetorah.com](http://www.thetorah.com) (as accessed at <https://www.thetorah.com/article/do-not-covet-is-it-a-feeling-or-an-action> on October 20, 2019).

<sup>28</sup> *Ibid.*.

coveting is the root of all social evil.”<sup>29</sup>

The Bible uses the verb *hamad* many times beyond the two occurrences of the Decalogue, some of which feature both thought and action, and others which seem to refer exclusively to internal desire.<sup>30</sup>

Scholar Bernard Jackson illustrates that Biblical critics also argued over the contextual understanding of *hamad* in the Decalogue, many following twentieth-century scholar J. Hermann’s view that the verb means something more than ‘covet’ “and approaches the meaning of an actual appropriation.”<sup>31</sup> But, through all of the examples of the verb root *h-m-d*, Jackson proves that—while there are examples where the verb form means “to take” as it does in Deuteronomy 7—ultimately, “there is no reason to doubt the traditional meaning of the tenth commandment, (to covet with thoughts).”<sup>32</sup>

Similarly, modern biblical translator Robert Alter notes that the Hebrew word *hamad*

exhibits a range of meaning from “yearn for,” “desire,” even “lust after” to simply “want.” But here [in the Decalogue] it clearly suggests wanting to possess something that belongs to someone else and so the King James version rendering of “covet” still seems the best

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<sup>29</sup> Greenspoon cites Philo’s “On the Ten Commandments” (*De Decalogo*, XXXII, 1.173–174, translation by Charles Duke Yonge):

The fifth [in the second list, which equals the tenth in the full listing] is that which cuts off desire, the fountain of all iniquity, from which flow all the most unlawful actions, whether of individuals or of states, whether important or trivial, whether sacred or profane, whether they relate to one’s life and soul, or to what are called external things; for, as I have said before, nothing ever escapes desire, but, like a fire in a wood, it proceeds onward, consuming and destroying everything.

<sup>30</sup> For example, see Exodus 34:24, Deuteronomy 7:25, Micah 2:2, and Psalms 68:17.

<sup>31</sup> Jackson, p. 198

<sup>32</sup> Jackson, p. 205. Ibn Ezra, a *pashtan* fits this paradigm, as seen above. As a *pashtan*, Ibn Ezra seeks to understand the meaning of a verse in relation to the surrounding context of verses.



English equivalent.<sup>33</sup>

Rabbi Moses Maimonides (1135-1204, Spain/Egypt) and Rabbi Avraham ben David (1125-1198, Provence) (hereafter referred to by their acronyms, the *Rambam* and the *Ra'avad*, respectively) debate how to understand the commandment by exploring when a person is liable for transgressing the commandment “do not covet.” This, in turn, reflects their understanding of the meaning of the verse. The *Rambam* says that the individual does not get the punishment for violating *lo tahmod* unless he or she actually obtains an object he craves, and he or she is subsequently retrospectively punished for the thoughts that led to that act.<sup>34</sup> Before the transaction takes place, there is no violation of the law in question—one is not liable for thought. Thought is legislated, but only when connected to tangible action.

The *Ra'avad*, who often speaks in hyperbolic terms to dispute the *Rambam*, in this case goes as far to say that “he has never seen something more shocking” than the *Rambam*’s decision. Similar to the perspective of ibn Ezra, the *Ra'avad* says that, through coveting thoughts, a prospective buyer is deemed to be “like a thief” and is thus responsible to pay a sum.<sup>35</sup>

Indeed, the *Rambam*’s claim directly parallels American hate crimes legislation. In American law, one receives a harsher penalty for a crime conceived and executed with hatred against a minority group than if the criminal did not have these thoughts.<sup>36</sup>

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<sup>33</sup> Robert Alter, *The Five Books of Moses: A Translation with Commentary*. (New York: W.W. Norton, 2004), p. 432 in Seth Aaronson, “The Problem of Desire: Psychoanalysis as a Jewish Wisdom Tradition,” in *Answering a Question with a Question*, eds. Lewis Aron and Libby Henik, (Boston: Academic Studies Press, 2010).

<sup>34</sup> He comes to the same conclusions in his *Sefer HaMitzvot* as well. See *Sefer HaMitzvot LaRambam, Mitzvat Lo Ta'aseh* (“Negative Commandment”) 265.

<sup>35</sup> Maimonides’ *Mishneh Torah, Hilchot Gezeilah Va’Avedah* (“Laws of Theft and Loss”) 1:9. With no ruling by the *Rif* or the *Rosh* on the subject, the *Shulhan Aruch* naturally sides with the *Rambam* on this issue. The *Shulhan Aruch* also rules with the *Rambam* with regards to the tenth commandment of the decalogue—that one is not liable until he thinks a thought that will inevitably lead to action. See *Shulhan Aruch, Hoshen Mishpat, Hilchot Gezeilah* (“Laws of Theft”) 359.

<sup>36</sup> See, for example, the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009, The United States Department of Justice, 18 U.S.C.:

Citing the argument between the *Rambam* and *Ra'avad*, Rabbi Yosef Chayyim of Baghdad, the *Ben Ish Hai*, seeks to identify a further trait that defines this commandment: when does the prohibition on coveting begin to take effect?<sup>37</sup> He also draws a fundamental distinction between two adjacent commandments in the Deuteronomic version of the Decalogue (Deuteronomy 5:18), namely the two verbs that are used, *lo tahmod* and *lo tit'avveh* ("you shall not desire"). He elaborates on the *Rambam*, stating that one is guilty of *lo tahmod* if the buyer manipulates a seller into a transaction. But he is only liable for the sin if there is action.

In turn, one is liable for *lo tit'avveh* when he or she begins to think of a scheme to attain the coveted object. This differs with regard to *lo tahmod* because there is no tangible action. Rather, one is liable when there is *inevitable* action, marked through manipulation. Simple wishes in one's heart do not make one liable. Thus, according to this understanding, if one manipulated a store owner into selling an object, the buyer would be guilty of violating both *lo tahmod* and *lo tit'avveh*—the first for beginning the manipulation process in his head and the second for going through with the action.

The *Rambam* takes his definition of *lo tahmod* directly from the the Midrashic commentary on Exodus, the *Mechilta deRabbi Yishma'el*. In this case, the text draws from a text in Deuteronomy that also speaks about coveting property:

Perhaps even the mere expressing of one's desire for the neighbor's things in words is also meant? But it says: "Thou shalt not covet the silver or the gold that is on them so that thou take it unto thee" (Deuteronomy 7:25). Just as [in Deuteronomy] it is only the carrying out of one's desire into practice that is forbidden, so, also here, it is forbidden [in the case of *lo tahmod*] only to carry out the desire into practice.<sup>38</sup>

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249, as accessed at <https://www.justice.gov/crt/matthew-shepard-and-james-byrd-jr-hate-crimes-prevention-act-2009> on December 21, 2019.

<sup>37</sup> See *Ben Ish Hai* on *Ki Tavo*, chapter 17.

<sup>38</sup> *Mechilta DeRabbi Yishma'el* on *Yitro* (*Massehta DeVaHodesh Parasha*) 8. Translation from J. Z. Lauterbach, *Mekilta de Rabbi Ishmael* (Philadelphia, 1933–1935), vol. II, p. 266—as cited in Jackson, p. 209.

Indeed, as Bernard Jackson notes, this proof of the Tannaitic *midrash* is the very same one that Biblical critic J. Hermann would use at the beginning of the twentieth century.<sup>39</sup> It differs, however, in that the question at hand “is whether or not the expression of one’s desire involves liability, and not whether the mere existence of one’s desire involves liability.”<sup>40</sup> Yet, through an *a fortiori* argument, the reader understands that there would be no penalty for casual, unexpressed desires, for there is already no liability for expressed ones.

No examples explicate the tenth statement of the Decalogue in Tannaitic literature other than in the aforementioned Midrash. The Babylonian Talmud has only one short reference to the topic at hand: “‘Thou shalt not covet’ is understood by people to apply only to what one is not prepared to pay.”<sup>41</sup> Here, too, the Talmud finds a person liable only for thought that will lead to an inevitable action: *i.e.*, that one is not liable for casual thoughts.

With this understanding, it seems clear that the *halachah* follows the opinion outlined in the *Mechilta*: while thought can make someone liable in the divine court, liability is only present in the case where the thought *inevitably* leads to action. Thus, only action deems somebody responsible for the initial thoughts.<sup>42</sup> This disagreement of the *Rambam* and *Ra’avad* illustrates a fundamental difference-in-worldview about culpability based on intention.

A clear evolution advances from a biblical understanding of the law to the one codified in Jewish law. But in structuring a society according to the divine code, the *posekim* retain a taste of the original intent of the contextual understanding of *lo tahmod*. Citing Pirkei Avot, in his opening *se’if* (‘article’) to the *Tur*, Rabbi Ya’akov ben Asher asserts that a person must “conquer like a lion in the morning.”<sup>43</sup> Why?

Because the eye sees and the heart covets and the tools of

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<sup>39</sup> This will be discussed later in the paper.

<sup>40</sup> Jackson, p. 210.

<sup>41</sup> Babylonian Talmud, Bava Metz’i’a 5b (following the Soncino translation). *The Soncino Talmud*, ed. Isidore Epstein, (London: Soncino Press, 1961).

<sup>42</sup> Despite rabbinic texts which lead a different way, the *Ra’avad* cannot go against the *peshat* (contextual reading) of the Torah, codifying the principle that one is liable for thoughts.

<sup>43</sup> Mishnah, Avot 5:20.

action are at that point submitted to being done. And it says [in *Pirkei Avot, ibid.,*] “be mighty like a lion against the heart,” because mightiness for the sake of worshipping the Creator resides in the heart.<sup>44</sup>

Particularly in the morning, one must be strong and assertive like a lion, because this is a time when one’s heart covets. The *Tur* turns the negative commandment of “do not covet” into a positive invocation that will prevent sinful thoughts of lusting after what does not belong to the individual. If one fulfils the mitzvah of “conquer like a lion,” he in turn will not fail at “*lo tahmod!*”

Is controlling one’s thoughts possible? While there are different voices present in the tradition, the halachic literature certainly does not find one culpable for thought with regard to *lo tahmod*; instead, the law punishes action, or, at least, inevitable action.

But the ideals of the contextual meaning of the tenth commandment of the Decalogue remains in the first *simman* of the *Tur* and *Shulḥan Aruch*. Through a positive commandment, one can prevent transgressing this commandment and thus protect the integrity of society. Simultaneously, following the commandment fosters a world where people do not covet others’ property and can live in psychological peace.<sup>45</sup>

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<sup>44</sup> *Tur, Oraḥ Ḥayyim* 1.

<sup>45</sup> Chancellor Arnold Eisen of the Jewish Theological Seminary posits a similar thesis with regard to Ben Zoma’s statement in *Pirkei Avot* of “Who is happy? The one who is happy in their portion” (4:1). One will live without coveting only if he or she is comfortable with her portion in life. For more on Eisen’s talk, see, from my blog, *Magash Hakesef*, as accessed at <http://magashhakesef.blogspot.com/2010/01/return-to-mind-control-comfort-with.html> on May 20, 2017. Rabbi Shai Held similarly suggests this in his commentary on *Parashat Va’etchannan*:

The words of the tenth commandment challenge us to purify our inner life, both for its own sake and in order that we not deprive others of what is rightfully theirs. We are taught not to pressure other people to let go of what they have, not to scheme to acquire their things, and not even to fantasize about possessing what they do. We are warned about the dangers of greed, especially when coupled with the power to inflict great harm. And we are reminded that real, deep freedom is not a

## Torah Thoughts In the Bathroom

Where do people do their best thinking? For most people, it is the bathroom.<sup>46</sup> For students of Torah, a significant halachic problem arises from this reality – namely, that Torah thoughts are traditionally forbidden in the bathroom.<sup>47</sup> If I am thinking about Torah all day, it is only natural, perhaps even productive, that this thinking continues when I am alone and thinking.<sup>48</sup>

The law that prohibits Torah thoughts in the bathroom originates in the Babylonian Talmud, Kiddushin 33a. In this case, the *Gemara*<sup>49</sup> itself notes a difference between voluntary and involuntary thoughts, but, as will be discussed, the *posekim* do not codify the law as such:

For Rabbah bar Bar Hanah said: One may meditate [on learning] everywhere except at the baths and in the toilet. [That however does not follow:] maybe it is different

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one-time gift but a hard-won struggle. God gives us political freedom at least in part so that we can embark on achieving inner freedom as well.

See Shai Held, *The Heart of Torah: Volume 2* (Philadelphia: Jewish Publication Society, 2017), p. 214.

<sup>46</sup> Jacquelyn Smith, “72% of people get their best ideas in the shower – here’s why,” *Business Insider*, <http://www.businessinsider.com/why-people-get-their-best-ideas-in-the-shower-2016-1>, as accessed on 23 July 2017.

<sup>47</sup> As I will elaborate, this law technically applies to *beit hakhkisse*, ‘the toilet room.’ While the law certainly applies to the toilet, in modern bathrooms, the toilet is almost always in the same room as the shower, and may also apply to when someone is in the shower.

<sup>48</sup> The Rabbis of the Talmud were particularly sensitive to the bathhouse both because of the need to maintain modesty when studying Torah, but also because the bathhouse is a Greco-Roman institution with visual depictions of Greek and Roman gods. For more information, see Burt Visotsky, *Aphrodite and the Rabbis: How the Jews Adapted Roman Culture to Create Judaism as We Know It*, (New York: St. Martin’s Press, 2016), pp. 125–130.

<sup>49</sup> The *Gemara* is the expositional layer of the Talmud’s comments deriving from relating to and debating the meaning of the Mishnah.

when [done] involuntarily.<sup>50</sup>

There is a parallel text in Tractate Berachot as well:

Who said that Rabbi Yochanan spoke thusly? Rabbah bar Bar Chana said in the name of Rabbi Yochanan: In every place it is permissible to think words of Torah—except for the bathhouse and the toilet.<sup>51</sup>

Commenting on the Kiddushin text, Rabbi Shlomo Yitzhaki (1040-1105, France, hereafter referred to as Rashi) explains that people often accidentally think about certain subjects. Even when one specifically decides at the entrance to the bathhouse/modern bathroom that he or she is not going to think about such topics, sometimes the thoughts *force* their way into a person's mind.

Immediately after concluding that *hirhurim* are permitted on Shabbat,<sup>52</sup> the *Gemara* engages the topic of thinking about Torah in the bathroom, giving a biblical proof for why such thoughts are forbidden:

For the Lord your God walks in the midst of your camp, to deliver you, and to give your enemies to you; therefore your camp will be holy; that He sees no unseemly thing in you, and turn away from you.<sup>53</sup>

Israel must keep the “camp” holy, and holiness should not reside in dirty places. Rashi notes that Jews always think about Torah, and thus Jews' thoughts naturally travel toward holiness in unholy places.<sup>54</sup>

Rabbi Yizhak Alfasi (b. 1013 Algeria, d. 1103 Spain, hereafter referred to by the acronym for his name, the *Rif*) codifies Rabbi Yoḥanan's statement in Tractate Berachot, that it is forbidden to have

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<sup>50</sup> Babylonian Talmud, Kiddushin 33a (Soncino translation).

<sup>51</sup> Babylonian Talmud, Berachot 24b, (Soncino Translation).

<sup>52</sup> Babylonian Talmud, Shabbat 150a.

<sup>53</sup> Deuteronomy 23:15.

<sup>54</sup> Rashi on Shabbat 150, *s.v.*, *vehayah mahanecha*.

*hirhurim* in the bathroom, particularly for a wise person, for, existentially, he or she<sup>55</sup> always thinks about Torah:

Rav Huna said: A Torah scholar is forbidden to stand in a place of excrement, because it is impossible for him to be without Torah. And Rabbi Yochanan said: In all places, one is allowed to have *hirhurim*—except in the bathhouse and toilet room.<sup>56</sup>

The *Rambam* codifies the laws about proper intention while in the bathroom within *Hilchot Keri'at Shema* (“The Laws of Reciting the *Shema*) because the *Shema* requires particular intention in its recitation. The *Rambam* codifies the stringent opinion in the *Gemara*, which forbids even thinking “Torah thoughts” while in the bathroom, or in the vicinity of it, for that matter.

This does not apply only to reciting the *Shema*, rather any aspect [which could apply as] “Holy words” is forbidden to say in the bath house and in the toilet room. And it is even forbidden to say it in a mundane language [anything other than Hebrew]. *And not only is saying it forbidden, but even to think words of Torah in his heart while in the bathhouse or toilet room is forbidden...*<sup>57</sup>

The *Shulḥan Aruch* rules identically to the *Rambam*—thought is forbidden:

Even thinking about words of Torah is forbidden in the toilet room and in the bath house and in a place of refuse, defined as a place where there is feces and urine. REMA: And even the laws of the bath house are forbidden to learn in the bath house.<sup>58</sup>

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<sup>55</sup> The Rabbis of the Talmud always assumed that only men would study Torah. In today’s world where women study and teach Torah, these laws and teachings readily apply to all people.

<sup>56</sup> *Rif* on the Babylonian Talmud, *Berachot*, chapter 3..

<sup>57</sup> *Rambam*, *Hilchot Keri'at Shema*, 3:4. Emphasis added.

<sup>58</sup> *Shulḥan Aruch*, *Oraḥ Ḥayim*, 85:2.

But what exactly defines “Torah?” The 24 books in the *TaNaCh*? Halachic texts? The gamut of philosophy in the Jewish tradition? Hebrew grammar?

In his commentary on the *Shulḥan Aruch*, the *Mishnah Berurah* says that one may not think about Hebrew grammatical details, such as verb tables, because that might lead the individual to think of a biblical verse with similar constructs.

It is forbidden to study Hebrew noun and verb tables in the bathroom, because there is no way to prevent one from *only* thinking about the Writings and he will come to think about the Torah...<sup>59</sup>

How are humans supposed to prevent Torah thoughts from entering their minds, particularly if Rashi’s statement is true, that Jews always think about the Torah?

Both the *Magen Avraham* (Abraham Abele Gombiner, 1633–1688, Poland) and *Sefer Hasidim* (Judah ben Samuel of Regensburg, 1150–1217) bring a positive suggestion of thinking about business matters, which could prevent transgressing the *mitzvah* in question.<sup>60</sup> After all, if one is concentrating on *something else*, he or she will not think of prohibited Torah thoughts. The suggestion is particularly important because one must not think about business matters during Torah study and, thus, in order to prevent proscribed thoughts about Torah study, he thinks about business matters.

Similarly, both the *Shulḥan Aruch HaRav* (by Shneuer Zalman of Liadi, 1745–1812) and the *Mishnah Berurah* suggest that one think of “beautiful pictures,” or “nice buildings,” or other such facets of the aesthetic imagination, in order **not** to think about Torah thoughts in a prohibited place.<sup>61</sup>

The halachic system attempts to echo the biblical imperative of “your camp shall be holy.” A necessary tension exists between

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<sup>59</sup> *Mishnah Berurah*, 85:5. Note that the *Mishnah Berurah* suggests that thinking about the Writings (*Ketuvim*) would be permitted, but not the Torah (Five Books of Moses). Thus, not studying verb tables is a fence around the law/Law?, preventing Torah thoughts in the bathroom.

<sup>60</sup> *Sefer Hasidim*, *Simman* 546; *Magen Avraham*, 75:1.

<sup>61</sup> *Mishnah Berurah*, *Simman* 75, *Se’if Katan* 6 and *Shulḥan Aruch HaRav*, *Orah Hayyim*, *Hilchot Keri’at Shema*, *Simman* 65, *Se’if Katan* 1.



creating an “ideal community,” where God can dwell, and the fact that humans have natural flaws that prevent this from happening.

Are thoughts preventable from a psychological perspective? The answer by the aforementioned *Aḥaronim* (Jewish legal commentators writing after the codification of the *Shulḥan Aruch*) seem to be an enthusiastic “no.” One cannot help but think about Torah matters as a person is going through life. Yet if he or she actively thinks about a mundane topic, he or she prevents transgressing this negative commandment, indeed helping to protect the very fabric of a worldly community where God dwells.

### **Not thinking about Weekly Activities on Shabbat**

Jewish law emphasizes not bringing God’s presence into spaces that are unclean, and thus unfit, for God. And it even suggests that one must not think about God in the bathroom.

But do these values apply to time, as well? On days when Jews sanctify time, specifically the Sabbath, can they speak about activities that are inimical to the holy time? Can they even think about them? Do they have an obligation to sanctify time by focusing *only* on the day itself?

Philo of Alexandria suggests that even the “mental consideration of considered prohibited labor” is prohibited, because the purpose of the day is to allow people exclusively to pursue wisdom.<sup>62</sup> Scholar Alex Jassen elaborates:

Philo’s statement on cessation from action and thought on the Sabbath is far-reaching. One should not only abstain from prescribed labor on the Sabbath but also refrain even from mental consideration of it.<sup>63</sup>

Yet the dominant Rabbinic tradition comes to a very different

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<sup>62</sup> Jassen notes that the Dead Sea Scrolls have a similar philosophy about thinking about prohibited activities on Shabbat. See Alex Jassen, *Scripture and Law in the Dead Sea Scrolls*, (New York: Cambridge University Press, 2014), pp. 152-154.

<sup>63</sup> Jassen, p. 154.

conclusion than those suggested during the Second Temple Period.<sup>64</sup> The original Talmudic discussion of this subject appears in Tractate Shabbat of the Babylonian Talmud.<sup>65</sup> The give-and-take of the *Gemara* is quite clear: the law follows the view of Rabbi Yehoshua ben Korḥa, that speech about labor-related (*melachah*) activities is forbidden, but thoughts are permitted. The Mishnah's statement that one may not instruct his neighbors to hire laborers applies to all cases where a person speaks about doing an activity that would transgress Shabbat.

The *Rif* codifies the view of Rabbi Yehoshua ben Korḥa, namely, that one may not speak about labor-related activities on Shabbat but one may think thoughts about them.

Rabbah bar bar Hannah said in the name of Rabbi Yohanan: The *halachah* is in the name of R. Yehoshua ben Korḥa. As scripture states, "From seeking your own pleasure and speaking your own word" (Isaiah 58:13) – *your* own pleasure is forbidden (my emphasis). (But) the pleasure of God is permitted.<sup>66</sup>

Regarding controlling one's thoughts on Shabbat, the *Rambam* also says that one may not speak about mundane actions of the week, such as business matters that he/she will undergo the next day or how a person will build his or her house, plans for what people will do on Saturday night, and so on (*Hilchot Shabbat* 24:1). However, thinking about these actions is permitted:

There are things that are forbidden on Shabbat despite the fact that they are not *melachah* (forbidden work on Shabbat) and they also do not bring one to do *melachah*. And why was this forbidden? Because it says, "If you refrain from trampling the sabbath, From pursuing your affairs on My holy day; If you call the sabbath 'delight,' The Lord's holy day 'honored'; And if you honor it and go not your ways Nor look to your affairs, nor strike bargains, nor speaking thereof..." (Isaiah 58:13).

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<sup>64</sup> Jassen notes that this is the perspective of the Dead Sea Scrolls as well. See *ibid.*, chapter 7.

<sup>65</sup> Babylonian Talmud, Shabbat 150a.

<sup>66</sup> *Rif* on Babylonian Talmud, Shabbat 64a.

Therefore it is forbidden for a person to go through with these business actions on Shabbat, and even to speak about them, such as speaking with his roommate what he will sell or buy tomorrow, or how he will build this and go about with this business, go to a particular location—all of this, and things like it, are forbidden, as it says, “Speaking thereof” (Isaiah 58:13).<sup>67</sup>

As expressed in the *Gemara* and throughout the *posekim*, on a fundamental level, words are *as* important as the very actions that constitute our modern understanding of work, and the more nuanced understanding of *melachah* (“work”).

So why not legislate against thoughts, as well? Menachem Meiri (Southern France, 1249-1306) poignantly points out the obvious, that God did not give the Torah to angels.<sup>68</sup> Thus, humans are not mandated to control their thoughts on Shabbat, nor could they, even if they wanted to do so.

Yet while thinking about non-Shabbat matters is permitted during Shabbat, because human beings are (by definition) not angels, it remains only an ideal to create a world that is “entirely Shabbat.”<sup>69</sup> Such a vision enters the legal codes in the name of a suggestion. The *Shulḥan Aruch* permits non-Shabbat thoughts, yet discourages them:

Thinking about business matters is permitted; despite this fact, because of *oneg shabbat*, (finding joy on Shabbat) it is a *mitzvah* not to think about them (business matters) at all, and to envision for himself as if the actions have been completed.<sup>70</sup>

Citing Rabbeinu Yonah’s *Iggeret HaTeshuvah*, Joseph Caro explains this suggestion, perhaps overly stringently, in the *Beit Yosef*, Caro’s own commentary to the *Tur* of Jacob ben Asher (d. 1306 Toledo, Spain):

Despite this, it is a *mitzvah*, because of the concept of *oneg*

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<sup>67</sup> All translations of *posekim* are mine, unless noted otherwise

<sup>68</sup> *Beit HaBehirah LaMe’iri* on the Babylonian Talmud, Shabbat, 113b.

<sup>69</sup> This idea first appears as an ideal for Shabbat in Mishnah, Tamid 7:4.

<sup>70</sup> *Shulḥan Aruch, Oraḥ Ḥayyim*, 306:8.

*shabbat*, not to think about those [non-Shabbat topics]. Thus wrote Rabbeinu Yonah in *Iggeret HaTeshuvah*:  
“It is forbidden for a person’s heart to be worried with business activities on Shabbat, even though the Rabbis wrote that ‘thoughts are permitted.’ If these thoughts include worrying/pain of the heart or back-and-forth worrying, it is forbidden because it says “And you shall complete all of your *melachah*” (Exodus 20:10). And it is said . . . that all of your *melachah* will appear in your eyes as if it is complete, so you don't think about it. And we also say in the Amidah on Shabbat, ‘The rest of peace, the quite and assurance, a complete rest that you want during the day.’ And in *Birkat HaMazon* (the blessing of sustenance said after eating a meal), we say ‘that there will be no distress or sadness on our day of rest.’”<sup>71</sup>

Rabbeinu Yonah’s position emphasizes the psychological reality that work-related thoughts cause stress and that stress has the opportunity to consume a person during Shabbat. Thus, during a day which emphasizes a complete rest, that rest should also include a rest of the individual’s mind. For one day, one should leave these thoughts behind, view the world completely in the moment.

In explaining the strict ruling, the *Mishnah Berurah* (by Yisra’el Meir Kagan, who lived 1839–1939, predominantly in Poland) gives a more technical answer, that one must particularly be aware of his or her “worries of the heart and mind” –lest they lead to prohibited action. There is no assurance that these thoughts will lead to action, but there is certainly a worry that this will be the case:

Thinking about his own actions is permitted: As scripture states, “speaking a word” (Isaiah 58:13). Speaking is forbidden, thinking is permitted.

It is a *mitzvah* not to think [about weekday activities]...: Despite this, the individual will have a troubled heart because of his thoughts, and there is concern such that he should be careful with this. See the Beit Yosef.<sup>72</sup>

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<sup>71</sup> Beit Yosef, *Orah Hayim*, *Simman* 306.

<sup>72</sup> *Mishnah Berurah*, *Siman* 306, *Seif Katan* 37–38.

A verse from the Shabbat song “*Mah Yedidut*” summarizes the *halachot* relating to *hirhurim* through (Hebrew) rhymes:

Business matters are forbidden, as are calculations.  
Musings are permitted, and matchmaking, as are  
teaching a child, singing melodies, and contemplating  
the beautiful words, in all corners and places.<sup>73</sup>

Is there a takeaway from this? The *Me'iri's* comments enlighten a fundamental spirit of Shabbat and, indeed, a tension that arises from it. While humans are not angels, and, thus, the *halachah* does not, indeed cannot, legislate against forbidden thoughts on Shabbat – the evolving commentary suggests that in a world of angels, *hirhurim* would be forbidden on Shabbat. As Rabbeinu Yonah suggests, thoughts are more than fleeting bursts – they have a tangible effect on behavior and inner peace. There is an ideal to create a world where there is a day that is entirely Shabbat – and humans should get as close as they can.

### Forbidden Thoughts: Another Model

As we have seen, a fundamental tension pertains with regard to laws related to forbidden thoughts, or between crafting an ideal world for God's imminent presence and the fundamental fact that “humans are not angels.” As Moshe Halevi Spero states:

there is an ethical and clinical conflict... between the demand of many forms of psychotherapy that patient fantasies and verbalizations be expressed freely and without censorship versus the carefully safeguarded halachic domain of purity and sanctity in thought and speech.<sup>74</sup>

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<sup>73</sup> Translation from the *Yedid Nefesh bentscher* (i.e., book of [table-related] blessings). See *Yedid Nefesh*, ed. Joshua Cahan (2009): p. 76.

<sup>74</sup> Spero, *Judaism and Psychotherapy*, p. 64.

A look at Asian meditation practices enlightens many of these same issues—what to do with unwanted thoughts? Jewish legal authorities suggest focusing on a specific mundane subject, whether business, pictures, or buildings, in order to avoid thinking about forbidden Torah topics. This approach parallels the track of mantra meditation. By concentrating on this subject, a mantra, one puts his mind at ease and does not allow random thoughts, sinful or otherwise, to enter the mind.

Yet another contemporary meditation practice teaches the model of “mindfulness meditation,” of the Vipassana tradition.<sup>75</sup> During meditation, one concentrates on breathing, at which point thoughts inevitably enter the mind. Yet the practice teaches that people should not push the thoughts away to maintain the peace—that would be impossible and counterproductive to the ultimate goals of the practice. Rather, the practitioner labels the thought as an emotional category; he or she recognizes its place in his or her mind at that particular moment, and lets it pass. When another thought arises, he or she again places a title on the thought, notices it, and lets it pass.

The eighteenth-century ḥasidic *rebbe* Rabbi Ze’ev Wolf of Zhitomir (in modern Ukraine), posits nearly an identical theory to such a vision of labelling thoughts that one should not be thinking. He explains that one should not be ashamed of untamed thoughts, of quests toward the material, or of sexual thoughts, among others. But rather, recognize them as part of the world that God has created, and then subsequently rise to a higher plane of worshipping and praising God, the ultimate purpose in life.<sup>76</sup> With this understanding, Wolf, known by his pen name, *Or HaMe’ir*, explicitly disagrees with banishing particular thoughts from life. Yes, there are different planes of thought, those that elevate one toward God and those that do not.

But, according to the *Or HaMe’ir*, censoring the mind, even thinking about engaging a mantra approach toward controlling

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<sup>75</sup> For more information on the topic, see “Plum Village,” as accessed at <http://www.plumvillage.org/> on May 20, 2015. Thich Nhat Hanh, a Buddhist monk and Zen master also spoke about this on National Public Radio’s “Speaking of Faith,” with Krista Tippett. See <http://speakingoffaith.publicradio.org/programs/thichnhathanh/> as accessed on May 20, 2017.

<sup>76</sup> *Or HaMe’ir* on *Parashat Tetzaveh*.

particular thoughts, runs contrary to seeing God as the creator of heaven and earth. This is not to say that there are times when certain thoughts are not appropriate, as *Or HaMe'ir* posits with regard to prayer in this case. But one must recognize these thoughts as part of a larger framework of being human, in a world that recognizes the sovereignty of God. Thus, for example, one should not enter the bathroom actively thinking about the Torah. But, if such a thought comes to mind while there, then the individual can find a way to refocus attention toward an appropriate topic.

## Conclusion

The laws relating to controlling the mind provide certain ethical challenges through their very existence. Is this task possible? Even if it is, *should* humans censor their thoughts?

While the Rabbinic statement that “thoughts are similar to speech” is certainly true, and attests to the creative power of humans, thoughts still are not identical to speech, either. In the words of the 19<sup>th</sup>-century German folk song, “Die Gedanken sind frei” (“thoughts are free”).<sup>77</sup> Thus, the *halachah* does not forbid thinking about business on Shabbat. Nor does it find a person liable for *lo tahmod* until that person undertakes an action. But in turn, the system does provide certain restrictions to thought, seen in the prohibitions against thinking about Torah in the bathroom. Here, Jewish law seeks to provide a system where God can dwell on Earth. One should not bring God into the bathroom.

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<sup>77</sup> The original lyricist and composer are unknown, and the most popular version was rendered by Hoffman von Fallleben in 1842. American Pete Seeger wrote his own version of the song in 1966 as part of his album *Dangerous Songs!?*. The chorus of the original song translates as:

Thoughts are free, who can guess them?  
They flee by like nocturnal shadows.  
No man can know them, no hunter can shoot them,  
with powder and lead: Thoughts are free!

See [www.mythoughtsarefree.com/bookclubguide.html](http://www.mythoughtsarefree.com/bookclubguide.html) as accessed on October 20, 2019.

Though not investigated here, the laws of thinking about idolatry are the strictest category of *hirhur asur* (“forbidden thought”); one must not think about idolatry, lest one be led to commit one of the several offenses that can bring the death penalty, and also because the thought itself is a sin. Thus, this category serves both to protect the individual from one of the cardinal sins in Jewish tradition and also to assure preserving the space where God’s presence can dwell on Earth.

Ben Zoma’s famous statement—“Who is rich? One who is happy with his portion”—reflects an ideal for how to fulfill the mitzvah of not coveting, indeed not thinking about prohibited thoughts more generally.<sup>78</sup> If I am existentially happy with my condition, I will never covet what others have or want to be in another place or position.<sup>79</sup> Yet, humans are not angels. *Teshuvah* remains an integral part of the human condition. One will never completely rid himself of “coveting” or of the need to purge certain thoughts at particular times. By recognizing urges, humans strive to create a world suitable for God’s presence on Earth.

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<sup>78</sup> Mishnah, Avot 4:1.

<sup>79</sup> Aaronson offers a similar conclusion in his piece (at p. 14):

What, then, might be a modern proscription for the individual who covets? The ancient categorical—and seemingly behavioral—prohibition of desire, coveting, and envy does not seem to make sense, given our modern sensibilities. What we can do is to proscribe a good internal object relationship for the individual plagued by destructive envy, a relationship in which projected hateful, envious, destructive experiences are contained, made sense of, and transformed, ultimately being returned to the individual in more palatable form. Ultimately, this allows the person to withstand the temporary bouts of envy and hatred, and recover and regain his equilibrium (temporarily lost in these dark moments). Intense coveting can be mitigated and managed with the help of a good internal object.



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