

למדות:

*The Conceptual
Approach to Jewish
Learning*

edited by

Yosef Blau

Robert S. Hirt, Series Editor

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THE ORTHODOX FORUM

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From Reb Hayyim and the Rav to Shi'urei ha-Rav Aharon Lichtenstein – The Evolution of a Tradition of Learning

Elyakim Krumbein

INTRODUCTION

In recent years, Yeshivat Har Etzion has published the *shi'urim* of its Rosh Yeshiva, my revered teacher Rav Aharon Lichtenstein, *shlit"á*, in three areas of Halakhah – *Taharot* (purities), *Zevahim* (sacrifices) and *Dina de-Garmi* (indirect damages).¹ Rav Lichtenstein's oral lectures were transcribed and edited by his students in order to make them available to the wider public, it being felt that their singular quality would benefit the Torah-studying community at large.²

Nobody familiar with Rav Lichtenstein's *derekh* in learning has any doubts about its uniqueness, the exceptional qualities of which I have characterized elsewhere.³ To a certain degree I will once again be dealing with the same issue, but my present aim is to examine Rav Lichtenstein's approach in relation to its breeding grounds, the classic Brisker method.

Anyone having experienced Rav Lichtenstein's teaching knows that he has at the same time entered the sanctuary of the Torah of Brisk, that school of learning that conquered the world of the Lithuanian *yeshivot*.⁴ Rav Lichtenstein is an outstanding disciple of the greatest representative of that school in the last generation, Rav Yosef Dov ha-Levi Soloveitchik, *zt"l* (henceforth: the *Rav*) and his Torah is the clear continuation of this tradition of Torah study. In the aforementioned articles,⁵ however, I have argued that Rav Lichtenstein's discourses constitute an expansion of the method founded by the *Rav's* grandfather, Reb Hayyim Brisker. I further argued that, in effect, Rav Lichtenstein combines the Brisker conceptual systems with forms of halakhic inquiry that have no parallel in Torah literature, this being true even in comparison to the classic expressions of Brisker Torah itself.

Until now, however, as I put forward these arguments, I intentionally ignored examining the *Rav's* approach to learning and its influence on Rav Lichtenstein's *shi'urim*. This is a complicated matter, requiring separate clarification. But the time has come to attempt to make good on this demanding debt within the constraints of my abilities. This requires that we examine the development of the Brisker method from its beginning down to our generation. I will be satisfied if I succeed in making a modest contribution to this difficult task, with the hope of stirring up additional interest in the issue. As is natural with regard to such a complex matter, I will focus on a number of points that I deem most important and relate to others in brief.

Before entering the thick of things, I feel obligated to express a personal reservation. When Rav Lichtenstein was asked to describe his teacher's *derekh* in learning, he introduced his words with the following:

I have not lightly accepted upon myself the task of confronting this issue. First, because even if I declare at the outset my emotional attachment to it and attempt to avoid personal interest, it will be difficult to cut myself off entirely from them. Second, I doubt that I possess the resources, when the issue is so complicated and delicate, to analyze and formulate it in the proper manner.

Indeed, I feel and see myself deeply immersed in this world, the Rav's world of learning. It is difficult for me – and I am not sure that it is desirable or appropriate – to try and raise myself above it, to define his *derekh* with the required precision and how exactly it differs from the approaches of his predecessors. All the more so when the concern exists that a small amount of my own approach will creep in.⁶

I have not merited the measure of “immersion” and personal attachment referred to here. But the rest of what is stated here is essentially correct in the present case, much more so than in the original context. I applied myself to the topic only because I recognized its importance. It is clear that I will not exhaust the topic in this framework. Others will judge the accuracy of my presentation and fill in what is missing.

We will start with an initial examination of one of the characteristic qualities of Rav Lichtenstein's *derekh*.

I

A fundamental principle in Rav Lichtenstein's approach to learning is reflected in what he says regarding the Ramban's treatise *Dina de-Garmi*. He argues that the treatise presents the student with two objectives:

The first objective – studying the Ramban's text in and of itself.

The second objective – studying the laws of *dina de-garmi* as an independent topic.⁷

Introducing his entire study with this assertion reflects Rav

Lichtenstein's point of view that it is the student's duty to persevere in constructing a wide and comprehensive picture of the topic under study. He should not content himself with a narrow understanding of the passage in question. He should strive to see it in the context of the totality of passages, to assign it to its proper place in relation to them, and to examine the connections between them.

The centrality of this matter was internalized by Rav Lichtenstein's students, who wrote:

...These *shi'urim* emphasize looking at the wide world of the Halakhah as a integrated whole, each detail enmeshed in others. We are not dealing with a collection of "vorts" or a compilation of brilliant local insights, but with a well-formed and shaped construction, which can guide the confused student through the unknown paths of the laws of Purities.⁸

Adhering consistently to this aim requires considerable effort, due to the nature of the sources upon which the integrated halakhic system is to be built. As is well known, neither the Mishnah nor the Gemara follows a rational, self-explanatory order. The principles according to which the details of the *halakhot* may be organized into conceptual structures are not spelled out. Therefore, even after one understands the source material in and of itself, additional work is still needed in two areas: 1) scrutinizing analysis directed at drawing general conclusions that transcend the narrow confines of the isolated *sugya*; 2) constant reexamination of the isolated *sugya* in light of knowledge accumulated from the outside.

All that we have said, however, still does not explain why we should regard the series of *shi'urim* before us as unique in any way. The need to impose logical order on the scattered material of the Halakhah was already felt in the days of the *Rishonim*. It brought forth, among other things, the most ambitious attempt on this objective – the Rambam's *Yad ha-Hazakah*. Other *ge'onim* and *Rishonim* contributed to this task as well, each in his own way. With Rav Lichtenstein, however, the challenge assumes a new form; one might say that it has become imbued with new meaning. The reason for this

is that Rav Lichtenstein undertook the task against the backdrop of the Torah of Brisk.

The essence of Reb Hayyim Brisker's revolution, as formulated by Rav Shelomo Yosef Zevin *zt"l*, was his attempt to find "wholeness" in every area of the Torah – wholeness that may be defined as follows:

Not wholeness in breadth and comprehensiveness, but rather wholeness that penetrates the innermost aspects of a topic, grasping its essence and uniqueness. As long as we have not comprehended the hidden depths of a matter, it is not entirely in our possession.⁹

Rav Lichtenstein, in his aforementioned article, describes the two elements that were emphasized by the adherents of the Torah of Brisk for the purpose of realizing this goal.¹⁰ First, in contrast to the practice of "ordinary *lamdanim*" who are primarily occupied with "the collection, ordering, and arrangement of data," the Briskers maintain that "one must inquire after their essence and strive to understand it. Not only is the 'what' central, but also the 'why.'" And second, with respect to the "what" as well – the halakhic phenomena themselves – the Brisker approach invented a type of description unlike anything that preceded it: "Not only understanding and recognizing a particular phenomenon, but also defining and categorizing it...For that purpose emphasis was placed on the creation of legal instruments through which it would be possible to describe, define, and categorize the various elements."¹¹

These legal instruments are abstract concepts and categories of thought. The creation of abstract concepts is perhaps the most distinctive identifying mark of Reb Hayyim's approach. His grandson, the *Rav*, described the halakhic scholar as one "who begins with a spontaneous act of creation that does not explain the concrete datum, but rather invents abstract constructions...Reb Hayyim who was gifted with blessed halakhic intuition invented conceptualization in the field of Halakhah."¹²

This concise description of the Brisker approach emphasizes

the complexity of Rav Lichtenstein's task as he comes to construct a topic through the study of Talmudic texts. The "topic" embraces not only the data of the halakhic *sugyot*, arranged and classified, but also – and perhaps primarily – the concepts that stand at the heart of that data. These abstract concepts must also be constructed as a ramified system of generalizations and particulars, each in its appropriate place and in proper relation to the rest of the components. All this must be done through the study of a text that does not openly deal with these concepts whatsoever.

Rav Lichtenstein's published *shi'urim* demonstrate in detail how he deals with this complex task. We will illustrate this below through citations from these discourses. But in order to facilitate proper understanding, let us preface the discussion with Rav Lichtenstein's own words recorded elsewhere, from which we may gain a more fundamental and comprehensive perspective.

II

In a lecture dealing with the methodological clarification of the "conceptual" approach to Torah study which he himself advocates, Rav Lichtenstein defined the task of the Torah student: to ask questions and seek answers. The conceptual approach is distinguished by the type of questions that it raises:

From *Hazal* down, the Torah world has concerned itself with two kinds of questions that, for our purposes, I will designate as primary and secondary. The first category consists of points to be determined as part of any attempt to acquire the relevant data, raw and sophisticated, requisite for knowing a given phenomenon. These include issues of source (מנא הני מילי, מנא); of scope as regards persons, objects, or circumstances; of rationale in light of general principles (מאי טעמא); or of definition, not simply lexicographic but jurisprudential. And it includes, further, their interaction – source, scope, and character often being closely and fundamentally related. Such questions are sometimes difficult to answer, but fundamentally they do not constitute difficulties. They

are not considered as problematic, nor are they generated by accident or crisis. They are intrinsic, an immanent aspect of any serious learning endeavor and neglecting them reflects superficiality and sloth.

Concurrently, the student of Torah expends much energy upon a second set of questions, which do arise as a matter of accident. These revolve around contradictions and they occupy a prominent place – far greater than in most comparable disciplines, in the world of *Talmud Torah*....

The contradiction may vary. It may be between two equal authoritative texts, as between two *beraitot* or two *pesakim* of the Rambam. Alternatively, it may pit unequal dicta – an *amora* against a Mishnah, a *Rishon* against a Gemara.... In all these cases, however, one is not dealing with intrinsic tasks, but with accidents; more with clearing a minefield than with erecting a structure

Precisely for this reason, the conceptual approach to learning is relatively less concerned with secondary questions than more textually or technically oriented approaches. Its thrust is overwhelmingly tilted toward fundamentals – above all, to the most basic of intellectual chores: definition. Armed with sets of categories, the conceptualist strives, first and foremost, to grasp the essential character of a particular element and, hence, to classify it. He seeks both to map a given subject and to probe it. The mapping is itself dual, both local and general. On one plane, he surveys the specifications of an object or an action, determining which are essential and which accidental. Is *neveilah* that becomes unfit for human consumption no longer denominated as *neveilah*, or does it retain its identity but is no longer prohibited?... On a second plane, the conceptualist will place a datum within a broader ambience, thus fleshing out the general category and sharpening understanding of a specific element by precise comparison with related phenomena...¹³

For our purposes, the important point is Rav Lichtenstein's

conclusion emphasizing the primary questions, those questions which are not “difficulties” and which establish the structure of a topic. The overweighing effort is aimed not at removing obstacles or settling difficulties, but at definition and mapping. Rav Lichtenstein clarifies the significance of this “mapping” by outlining the learner’s foci of interest in relation to the first Mishnah in tractate *Sukkah*. The Mishnah disqualifies a *sukkah* in four situations – when it is more than twenty cubits high, when it is lower than ten handbreadths, when it has less than three walls and when its sunny portion is greater than its shade:

Upon learning this Mishnah, we shall obviously want to know the source and reason for these *halakhot*; and we shall duly find them in the Gemara. But we shall not be content to do so. We shall compare the disqualifications cited and ask, with reference to each, what is its character and level? Does the preponderance of sun over shade negate the very definition of a *sukkah*, it being, quintessentially, a shady nook? Is it only rendered an invalid *sukkah*; or perhaps neither, with the *pesul* only precluding the resident’s performance of the mitzvah, even though the *sukkah* itself is kosher? And perhaps all of these are correct, but with regard to different levels of light? Analogously, how radical is the concern about excessive height? And might this be a function of the source? If the Halakhah is derived from *למען ידעו דורותיכם*, the problem being that awareness of presence in a *sukkah* is obviated by the distance from *sekhakh*, that is presumably a narrowly technical issue. If it is grounded in the fact that so high a structure constitutes a permanent edifice more than a temporary shelter – and if it is assumed that transitoriness is indeed essential – the very definition of a *sukkah* may hang in the balance, permanence being characteristic of a house, to which the *sukkah* is antithetical. At the other end, what is the requirement of ten *tefahim*? Is it an application of the general Halakhah that this is the minimal height for all *mehitzot* or a local specification for livable space – and again, possibly both, but with respect to different situations?¹⁴

If, after examining the example from tractate *Sukkah*, we go back to the collections of Rav Lichtenstein's published *shi'urim*, we will clearly discern that the aim of mapping the topic, primarily from a fundamental and conceptual perspective, is dominant and explicit. We shall suffice with a number of examples that give expression to the method and the methodicalness.

The learner who opens any one of Rav Lichtenstein's books will see that the volume opens with one or two *shi'urim* that serve as an introduction to the entire topic. In light of the principle mentioned above, we will not be surprised by the concerted effort to place the topic (or topics) of the entire series of *shi'urim* within a wider halakhic context. The opening discussion in *Taharot* exemplifies this approach, leaving no room for ambiguity:

We shall open with a basic question that relates to the very status of the laws of purity and impurity.

It is possible to understand that all the laws of purity and impurity are only relevant to matters connected to sanctity. If a person wishes to enter the Temple or to eat of sacrifices or the like, he must be ritually pure. If, however, he has no interest in the Temple or the sacrifices, there is also no reason for him to achieve ritual purity. Alternatively, it is possible to understand the matter independently, that a person should not remain in a state of ritual impurity even when there are no ritual ramifications with respect to the Temple or sacrifices (*Taharot*, 9).

Similarly, in the introductory *shi'ur* to *Zevahim*:

We shall attempt in this *shi'ur* to present a general overview of the world of the sacrifices. It should be noted at the outset that the world of the Temple and the sacrifices contains additional components that will not be of primary interest to us.

First, there is the occupation with the Temple with which the Rambam opens his *Sefer ha-Avodah*. This divides into the laws relating to the *Mishkan* and the *Mikdash* on

the one hand, and the sacred vessels and their accessories on the other...

Alongside these matters, the Rambam deals with the Temple functionaries. Here too we can point to two principle areas...(Zevahim, 9).

In between the lines lies the assumption that in order to understand the material before us, we must, first of all, see it as a **topic**. And second, we must examine the relationship between this topic and other topics that touch upon it. The question whether the state of ritual purity is halakhically preferable independent of the Temple was already discussed in the earlier halakhic literature, as it becomes clear in the continuation of the discussion in *Taharot*. What is characteristic of Rav Lichtenstein's approach is the priority given to the matter. The particular halakhic question is not the main issue. The importance of the discussion lies in the fact that through it we may understand the nature of the laws of purity and impurity, as well as the halakhic context to which they belong.

This quality is prominent even in those *shi'urim* that are not "introductory." The intention of *lishmah* comprises a central topic in the *shi'urim* in *Zevahim*. At the beginning of the discussion, Rav Lichtenstein asserts:

In general we may say that the law of *lishmah* as it pertains to sacrifices should be examined as part of a succession of stages, primarily in two contexts:

The one context – in comparison with other areas in which *lishmah* is required. **The second context** – as part of an examination of other concepts relating to the nature of man's actions, concepts like intent, *mit'asek*, and the like (*Zevahim*, 33–34).

We shall turn now to another example involving the matter of *lishmah*. This time we shall compare Rav Lichtenstein's treatment to the approach of one of the leading *aharonim*. Rav Lichtenstein notes that the law of *lishmah* also applies in the area of divorce. There it

is mentioned not only with regard to the writing of the *get*, but also to the manner in which the *get* is handed over to the woman. Are the two instances of *lishmah* similar?

It is possible to point to an essential difference between the writing and the giving [of a *get*]. When a *get* is written, something is being created and it is possible to speak of the final goal to which [the intent of] *lishmah* is directed. The goal is the creation of the *get* and the *lishmah* is meant to endow the *get* with a certain halakhic status. This is not true with regard to the giving [of the *get*], for when the *get* is given, it already exists and nothing new is being created...

This distinction between an act that creates a certain object and about which it is possible to talk about a law of *lishmah* and an act that merely gives expression to a process and about which the requirement of *lishmah* is of a lesser degree...may also be applied to the laws regarding sacrifices (*Zevahim* pp.42–46).

The question, then, is how to define the law of *lishmah* regarding sacrifices. Are we dealing here with a halakhic status – a *halot* – that must be created in the object itself by way of the intention? Or are we merely dealing with a requirement that a certain intention must accompany the sacrificial act? This question falls into the category of “primary” questions, according to Rav Lichtenstein’s classification. It is posed as an independent starting point of discussion, unconnected to any “difficulty.” In the course of his discussion, Rav Lichtenstein examines the various answers that could possibly be offered to this question. It is obviously possible to decide the matter entirely in favor of one of the two alternatives. It is also possible, however, that both answers are correct, each in a different context. For example, it is possible that “for the sake of a burnt-offering” (*le-shem olah*) defines the object, but not “for the sake of a fire-offering” (*le-shem ishim*). Perhaps both levels of *lishmah* are necessary at the outset (*lekhathilah*), but only one of them is indispensable after the fact (*bedi’aved*). Perhaps the intention of the sacrifice’s owner relates to

the definition of the sacrifice, whereas the intention of the ministering *kohen* relates only to the sacrificial act. Rav Lichtenstein does not adduce conclusive proofs and there is no need for him to do so, for his question was not prompted by a difficulty that demands resolution. The various possibilities are accepted as part of the picture of the *sugya*, as a filling in of the “map.”

The idea of distinguishing between the *lishmah* that defines an object and the *lishmah* that accompanies an act is also cited in the name of Reb Hayyim’s son, Rav Yitzchak Zeev Soloveitchik (Reb Velvel). The matter is cited by his disciple, Rav Baruch Dov Puvroski. *Tosafot* in *Zevahim* assert that the requirement of *lishmah* regarding sacrifices may be fulfilled through thought.¹⁵ In contrast, *Tosafot* in *Avodah Zarah* maintain that the *lishmah* regarding a *get* and a Torah scroll must be expressed verbally.¹⁶ Reb Velvel resolved the contradiction as follows:

The law of *lishmah* that is required regarding a *get* and a Torah scroll is different from the law of *lishmah* regarding sacrifices. The law requiring *lishmah* regarding a *get* and a Torah scroll is not merely a regulation concerning the act of writing, that it must be done *lishmah*. Rather, there the law of *lishmah* pertains to the object, it being necessary that a certain status be conferred upon it, apart from the act itself. That is, regarding the Torah scroll, it is a law regarding the Torah scroll itself, that in order for the sanctity of a Torah scroll to apply, one must sanctify the letters for the sake of a Torah scroll. Similarly regarding a *get*, the law of *lishmah* is not merely a regulation concerning the act of writing... Rather, it is a regulation regarding the *get* itself, that it must be endowed with the power of effecting divorce... This is not the case with sacrifices... There the law is not one of endowing the sacrifice with some additional halakhic status. Rather, it is a regulation regarding the act of the Temple service, that the service must be done with the intention of *lishmah*. Accordingly, Reb Velvel explained that even though *Tosafot* maintain that regarding the *lishmah* of a *get* and a Torah

scroll, thought alone does not suffice, but rather speech is necessary – that only applies there where a certain halakhic status is created. Speech is therefore required, just as speech is required whenever a halakhic status is created...But regarding sacrifices where the law of *lishmah* merely pertains to the act of the Temple service...thought alone suffices.¹⁷

We see, then, that both Rav Lichtenstein and Reb Velvel deal with the same distinction regarding *lishmah*. But whereas Rav Lichtenstein raises the issue as a “primary” question, for Reb Velvel it plays only a “secondary” role. It is proposed in order to resolve a difficulty. Once it accomplishes this goal, Reb Velvel feels no need to examine the matter further and consider other possible ramifications.

Reb Velvel’s approach in this case is very different from that of Rav Lichtenstein and it is far more representative of what is generally accepted and prevalent in the Torah world. In most of the theoretical Torah literature (as opposed to the practical halakhic treatises) and in the vast majority of yeshiva *shi’urim*, the “difficulty” dominates. Novel Torah insights are almost always proposed, both verbally and in written form, with the aim of resolving and settling difficulties. The tension that characterizes halakhic analysis stems from the anxious anticipation of the removal of the contradictions that disturb the harmony that should prevail among the sources.

Consider the additional example of Rav Lichtenstein’s treatment of uncertain *tum’ah* in the public and private domains (*Taharot*, 143ff.) and contrast it with the classic work, the *Shev Shema’ata*, which promises the student (at the beginning of the first *shema’ata*) “that it will explain...the matter of uncertain *tum’ah* in the private and public domains.” Such a declaration is liable to arouse the expectation of a systematic and orderly investigation of the issue, its basic concepts and principles and their manifestation in the halakhic particulars. Rav Lichtenstein, on his part, strives to fulfill this expectation. Regarding the law that in a case of uncertain *tum’ah* in the public domain the article in question is ritually pure, he opens with the question whether such a law actually exists or whether it is merely an expression of the known principle regarding

presumption – “*hazakah*” – of ritual purity. He continues with an examination and a classification of the halakhic ramifications of this question. He then turns to the question, which he defines as “basic,” whether the ritual purity here is a practical guide to behavior or a fundamental determination. From there he moves to a systematic treatment of the ramifications of this distinction. In the *Shev Shema’ata* (*shema’ata* I, 7–17), the first question is not explicitly mentioned and the discussion is based upon one opinion (that the ritual impurity is unconnected to a halakhic presumption). The second question is not addressed at all. The entire discussion is a series of what Rav Lichtenstein calls “secondary” questions – resolutions of difficulties and contradictions. Rav Lichtenstein devotes separate chapters to the public and private domains. *Shev Shema’ata* discusses the two together.

There is no need to extensively demonstrate that the prevalent approach to Torah study is as we have described it here. The case of Reb Velvel, however, arouses interest. Surely Reb Velvel is a prominent representative of the school of Brisk; to what is Rav Lichtenstein referring when he speaks of the “conceptual” approach, if not to this school, of which he himself is a member (and one might add, one of its ideologues)? Is the example that we cited, in which Reb Velvel utilizes a theoretical distinction in an attempt to resolve a contradiction, the exception?

The question that faces us may be formulated as follows: Does Rav Lichtenstein’s stated goal of mapping the conceptual contours of the topics comprising the Oral Law play a role in the classical Torah of Brisk and if so, to what extent?

III

An examination of the two most basic works authored by Brisker luminaries – *Hiddushei Rabbeinu Hayyim ha-Levi* and *Hiddushei Maran Riz ha-Levi*, both on the Rambam’s *Mishneh Torah* – reveals that the discussions are almost entirely “secondary” in nature.¹⁸ They start with a contradiction or a difficulty requiring resolution and mobilize theoretical analysis in order to harmonize the sources.

Rav Lichtenstein argues that the impression left by *Hiddushei Rabbeinu Hayyim ha-Levi* is deceptive:

Reb Hayyim's work is liable to mislead us in this context. On the surface, the starting point of each passage is a "local" difficulty, a passing contradiction between the words of the Rambam and a Talmudic passage, or between two different places in his work. In truth, however, the basic focus of Brisker Torah is fixed upon the fundamental problems, the foundations, the most basic questions: recognizing the halakhic phenomenon, analyzing, formulating, defining, classifying and categorizing it. All this, within a world paved with abstract legal and halakhic categories.¹⁹

This does not explain, however, why Reb Hayyim's work only addresses these fundamental questions within the framework of contradictions and difficulties. Rav Lichtenstein relates to the nature of Reb Hayyim's book elsewhere as well:

In this respect, primary and secondary questions are closely related. The quest for resolution serves as a powerful catalyst for renewed examination and deeper probing of halakhic material; its upshot is frequently a revised and more precise understanding of basic categories. It would, of course, be naive to assume that the whole world of *Hiddushei Rabbeinu Hayyim ha-Levi* was composed purely in order to defend the Rambam. Unquestionably, many of the seminal ideas had been developed independently, as part of the process of understanding the Gemara and here found application. But it is equally clear that much indeed was stimulated by the quest for reconciliation; and in this, as in many other respects, it typifies the conceptual approach and the benefit that its primary plane – always the prioritized focus of *lomdut* – derives from the secondary. This is reinforced by the fact that the resolving conceptualist, ideally, is not content with a distinction without a difference. He will seek to buttress his distinction with proof,

much of it in the form of the correspondence and coherence of salient points with the proposed conception...²⁰

It is difficult to know whether the expression “the resolving conceptualist” alludes to a specific type of “conceptualist,” who to a great extent is interested in resolving contradictions. In general, Rav Lichtenstein presents the conceptual approach as a single entity, at the bottom of which rests unchallenged the distinction between “primary” and “secondary” questions. In any case, even if we assume that an examination of *Hiddushei Rabbeinu Hayyim ha-Levi* is liable to “mislead us” – a proposition that I do in fact accept – that does not free us from the need to understand the nature of that “illusion.” Rav Lichtenstein’s explanation leaves unexplained the fact that Reb Hayyim’s fundamental and revolutionary work relates to the “primary” plane almost exclusively within the framework of efforts to resolve contradictions. We do not find there the comprehensive and orderly conceptual mapping that is so characteristic of Rav Lichtenstein’s own *shi’urim*. There seems to be a very significant gap between the founder of the approach and one of its leading representatives in our time. Why is Rav Lichtenstein so certain that this chasm is nothing more than an “illusion”?

IV

Before we begin to confront this question, let us first appreciate the full severity of the problem. Even though, personally, I fully agree with Rav Lichtenstein’s position, we would be denying the truth were we to ignore the fact that others disagree. Many members of the yeshiva community maintain that Reb Hayyim’s work is in no way whatsoever an “illusion.”

An interesting pamphlet by Moshe Eliezer Wachtfogel was recently published, in which the author tries to simplify the Brisker approach for Torah students by offering practical explanations and guidance.²¹ The main chapters in the pamphlet are the first two. The first chapter teaches the student how “you can create your own ‘Brisker’ *hakirot*.”²² The second chapter shows him “how *hakirot* are to be put to use.” The author’s attitude toward *hakirah* is strictly

utilitarian. In contrast to Rav Lichtenstein, who regards the *hakirah* as an independent building block in the construction of the *sugya*, Wachtfogel sees it as a tool for resolving difficulties.

Wachtfogel shows the student how to resolve problems in a well-defined three-step process, which he calls “*nitu’ah*,” analysis.²³ When we are faced with a problematic case or law, we must first remove a number of its elements until it becomes a more basic and recognizable case. The second step involves an analysis of the simple case by way of a *hakirah*. The final step requires that the elements that had been removed in the first step be restored: “The result: the problem is resolved.” For example, the Rambam rules that a person in possession of *hametz* on *Pesah* is subject to flogging, even though the prohibition appears to be a prohibition whose violation can be rectified by the fulfillment of a positive commandment (*lav ha-nitak le-aseh*) – “you shall remove leaven from your house” (*Shemot* 12:15) – and lashes are not ordinarily administered for the violation of such prohibitions. In order to resolve the difficulty, one should disregard the prohibition and consider the positive commandment of removing leaven in and of itself. A *hakirah* may be applied to this precept – does the commandment require that one destroy *hametz*, or that it not be found in his possession? Reb Hayyim proves that the Halakhah is in accordance with the second possibility. Now, we restore the prohibition, only to discover that it can no longer be rectified through the fulfillment of a positive commandment, because the positive commandment is actually a prohibition and not a positive action. The *hakirah* entered into play only at the second step and was exploited solely for the purpose of resolving a difficulty. Wachtfogel does not offer the slightest hint that there is anything else of importance that should be done with the *hakirah*, for example, that one should clarify it for its own sake and consider its possible ramifications.

The picture that emerges, according to Wachtfogel, is as follows: 1) Treating “secondary” questions is a dominant element in the Brisker approach. 2) The reason for this is that essentially the approach consists of guidance in confronting the difficulties that present themselves to the learner. Ideas and concepts are meant to

serve as a resource for resolving complications in a profound and elegant manner in order to arrive at “a resolution of the problem.”

It is my clear impression that this understanding of Reb Hayyim’s approach is the one that is most prevalent in the traditional yeshiva world that adheres to it. The same spirit leaves a strong mark on another manual, *Ve-Hagitah*, by a leading Lithuanian Rosh Yeshiva, Rav Baruch Mordechai Ezrachi.²⁴ Rav Ezrachi, who is blessed with pedagogical sense and ability, sets before the learner a large collection of passages, accompanied by precise guidance in the way of analysis which aims for clear and decisive conclusions. The starting point is always a textual difficulty, and the role of the *sevarah* is to offer a resolution. The student is not encouraged to examine *sevarot* as an independent goal or to raise questions or theoretical possibilities that cannot be proven from the source before him. Needless to say, no conceptual mapping of entire topics is found here. The implication is that such exercises are not part of this approach to learning.

Rav Simha Zissel Broide *zt”l*, head of the Hevron Yeshiva, authored a book of *shi’urim* in the standard yeshiva format, but with an explicit didactic purpose. In his introduction, the author employs the concept of “continuity” in describing the Lithuanian *lomdut* prevalent in our time, towards which he educates his students:

The approach to learning was always one of *pilpul* and *sevarah*, by way of difficulties and resolutions. This was the approach of the *tannaim* and the *Amora'im* throughout the Babylonian and Jerusalem Talmuds. This method continued in the *yeshivot* of the Babylonian *ge'onim* and the Tosafists and all the *Rishonim*.... This was accepted from the earliest generations down to our generation ...²⁵

The “Brisker revolution” does not exist here. According to Rav Broide, the method of clarifying “secondary” questions dominates today as it always has. Presumably, the author would not deny that the method was greatly refined in recent generations. But a *sevarah* is merely “ammunition” in the war of Torah, and not a goal in its own right.

V

Rav Lichtenstein's comment cited earlier, that Reb Hayyim's fundamental work is liable to "mislead" us, is problematic. Reb Hayyim's book is generally regarded as the guiding light to his entire *derekh*, which in his day was novel and revolutionary. As such, we would expect that it not hesitate or stammer, that it be formulated in such a way that leaves no room for misunderstanding. We might be ready to accept that a superficial reader may remain prone to misunderstanding. But we would expect, at the very least, that a serious learner who spares no effort to correctly understand the author should be able to understand his precise intentions from the book itself.

Whoever examines the work, however, will see that Reb Hayyim's confrontation with difficult texts is no mere external cover for the discussion and that "secondary" questions are not just the starting point or catalyst of the deliberation. For the most part, the secondary question with which Reb Hayyim opens, is the peg to which he returns at the end of each section with the characteristic expression, "as has been explained" (*kemo she-nitba'er*). The dominance of the textual difficulty is anchored in the fact that Reb Hayyim never strays far enough away from it to allow it to slip from our minds.

If we dare to simplify the "typical structure" of Reb Hayyim's discussions, we may summarize it as follows: 1) Presentation of a textual difficulty, usually a contradiction between the Rambam and the Gemara, or an internal contradiction in the Rambam himself. 2) Proposal of a way of understanding the subject of the contradiction, one that is sharper and more profound than our initial understanding. This is usually done in a dialectical manner by way of an explicit or implicit *hakirah* and is often accompanied by decisive proofs from the Gemara for the proposed understanding. 3) Exploiting step no.2 in order to resolve the contradiction. The ensuing paragraphs that conclude with the formula, "as has been explained," mostly confirm and even reinforce the solution proposed in step no.3. This is accomplished when the resolution withstands the test of additional textual difficulties – whether a frontal attack on the resolution, or a new objection that is also answered by the same resolution.

In Reb Hayyim's discussions, the goal of resolving textual

difficulties is not subordinated to that of dealing with theoretical principles. It would be correct to describe the relationship between these two components as “two lovers who do not separate,” embracing and clinging to each other. Sometimes Reb Hayyim’s efforts are directed at proving his conceptual innovation; sometimes they are pointed at applying the new concept to the task of resolving a difficulty and sometimes they are aimed at both goals. The discussion, however, is always very focused, directed at a particular goal and persevering toward its achievement. Wherever we follow Reb Hayyim in his sharp and profound analysis, we know that at the end of the section he will return to the point from which he started. The expression, “as has been explained,” serves as his anchor. The textual dilemma and the theoretical concept are inseparably bound to each other in mutual subordination. On the one hand, the idea is subordinated to the resolution of the contradiction between the sources; on the other hand, the textual difficulties prove that the idea is correct by the very fact that it brings to their resolution. This mutual subordination determines the bounds of the discussion, there being no possibility of going beyond them.

This is true despite the fact that the definition of the concept is likely to develop and change over the course of the discussion, because the formulation of the discussion is, nevertheless, always precise, minimalistic and succinct (this succinctness often contributes to a difficulty in understanding).²⁶ The reader senses that the development of the discussion is not needed in order to clarify, refine, or sharpen the theoretical principle Reb Hayyim is dealing with as an end in itself. Any expansion on the topic is aimed at proving that the principle is correct and removing objections that may be raised from other places, so that we may indeed succeed in our primary goal – resolving the difficulty with which we started. Indeed, Reb Hayyim occasionally proposes an additional course, based on an entirely different rationale. The one thing the two explanations have in common is that both resolve the difficulty. This phenomenon is only possible if we assume that the confrontation with the text serves as the axis of the discussion.

As was stated, Reb Hayyim expresses himself in minimalistic

fashion. In general, he allows his novel ideas to speak for themselves without embellishing them in any way. One exception stands out in its frequency: When the discussion is crowned with success and it becomes evident that the difficulty has been resolved, Reb Hayyim declares that the Rambam's ruling "has been settled in a fine manner" (*meyushav heitev*). The frequent use of this expression leaves no room for doubt as to the place of and importance attached to the textual factor in *Hiddushei Rabbeinu Hayyim ha-Levi*.

Therefore, one who examines *Hiddushei Rabbeinu Hayyim ha-Levi* in order to uncover the author's *derekh* in learning is certainly likely to arrive at Wachtfogel's conclusion that *hakirot* are meant "to resolve difficulties."²⁷

The textual utilitarianism in the classical Brisker methodology is almost recognized as a matter of principle in a letter written by Reb Velvel regarding *kedushat ha-guf*. Reb Velvel's correspondent deals with the question why a meal-offering becomes endowed with *kedushat ha-guf* only when it is placed in a sacred vessel and not at the moment it is consecrated, as in the case of an animal sacrifice. He explains that since the sacred vessel is necessary for the bringing of the meal-offering, the meal-offering in its present state is still not fit for offering. Reb Velvel adduces proof to reject this understanding and proposes an alternative explanation:

...Rather, they are distinguished one from the other with respect to the very essence of their laws. For in the one case [an animal sacrifice; E.K.] its *kedushat ha-guf* takes effect through verbal consecration, whereas regarding meal- and other offerings, verbal consecration creates only *kedushat damim*. They only become consecrated with *kedushat ha-guf* when they are placed in the sacred vessels by way of the law of "whatever comes into contact with them becomes consecrated." They are truly two different types of *kedushat ha-guf* in their very objects, *kedushat ha-guf* by way of consecration and *kedushat ha-guf* by way of the sanctity of a sacred vessel. They are different in their laws in various ways.... Why would you think to compare meal-offerings to animal sacrifices in

this regard, when we do not find the whole law of *kedushat ha-guf* regarding meal and other offerings, but only with regard to animal sacrifices and birds. There is no need for any rationales or explanations regarding this, since such are the *halakhot* [emphasis mine; E.K.].²⁸

Reb Velvel implies that he sees no flaw in his correspondent's explanation, other than the fact that it is superfluous. Reb Velvel maintains that when a matter is understandable and presents no difficulty, there is no reason to propose "rationales or explanations." Every explanation must stand up to the test of need and benefit.²⁹

We can measure the distance between Reb Velvel's declaration and Rav Lichtenstein's *shi'urim* through one of the latter's discourses on *Zevahim*.³⁰ The *shi'ur* focuses on a lengthy Talmudic passage that expounds Biblical verses in order to extend the law of *lishmah* to additional sacrifices and parts of the sacrificial order, until it finally concludes that the law applies in all cases. Along each step of the way on the road to this conclusion, the Gemara explains that logically there is reason to say that a particular sacrifice does not require *lishmah* and that even after the requirement of *lishmah* is extended to that sacrifice, it does not necessarily follow that it extends to yet another sacrifice. For example, even if we know that the slaughtering of a sacrifice requires *lishmah*, this does not prove that other components of the sacrificial order require the same, because the slaughter of a paschal offering is disqualified when performed for the sake of those who will not eat of the animal. Rav Lichtenstein points out that this and similar arguments may be understood in one of two ways: On the one hand, it is possible that *lishmah* is only necessary in the slaughtering of the animal, because the law's internal logic dictates that it cannot be required in the other components of the sacrificial order. On the other hand, it is possible that a much simpler, "technical" explanation is available. There is no intrinsic connection between *lishmah* and slaughtering, the Gemara merely means to say that, in general, the Halakhah is more stringent with regard to slaughtering than with regard to the other components of the sacrificial order. It is, therefore, impossible to extend the

stringencies of slaughtering to those other components without an explicit source. Like Reb Velvel, Rav Lichtenstein also offers a general, methodological observation:

These general approaches arise wherever there is a refutation. We must clarify whether the refutation is conceptually connected to the law under study, or whether it merely raises the possibility of making a distinction, without pointing to any intrinsic connection. It is clear that logically it is preferable to seek such a connection [emphasis mine; E.K.]...(Zevahim, 92)

Rav Lichtenstein proposes that the Gemara understands that the law of *lishmah* is designed to establish the character of the sacrifice; thus, it is required only at the time of slaughter. When the Gemara cites the law regarding slaughtering the paschal offering for the sake of those who will not eat of it, it means to prove that establishing the character of a sacrifice is a role assigned to slaughter, as opposed to the other components of the sacrificial order. When, however, the Gemara finally decides that *lishmah* is required in all those components, it stands to reason that it has concluded that the law of *lishmah* is not connected to the status of the sacrifice. Rather, it comprises a requirement that accompanies the sacrificial order seen as an action.³¹

None of this interpretation is necessary. Rav Lichtenstein himself proposes it in his usual manner, prefaced by the expression “it is possible” (*yitakhen* or *efshar*). Despite the non-necessity, however, Rav Lichtenstein devotes great effort to explain the entire *sugya* in this manner, because “logically this is preferable.”

As for Reb Velvel, judging from his published *shi'urim* on *Zevahim*, it would appear that he did not dwell upon this *sugya* whatsoever. The flow of the Gemara is understandable in its plain sense. There is no difficulty pressing upon us to search beyond that, for “there is no need for any rationales or explanations.”³²

Rav Lichtenstein provides various examples of this. For example: the *Amora'im* disagree about the mode of acquisition known

as *meshikhah*, whether the article being acquired must be entirely drawn from its original place, or perhaps some minimal pulling of the object suffices. The conceptualist, argues Rav Lichtenstein, will explain the controversy using fundamental ideas: Is *meshikhah* effective because it expresses control over the article, in which case minimal pulling should suffice? Or is it valid because a change was imposed upon the object, it having been moved from its original place to a new one?

There is nothing necessary about this line of reasoning. One could contend, theoretically, that both *Amora'im* worked within the same framework and that their *mahloket* was arbitrary, intuitional, the result of psychic differences, or of varying commercial practices in Sura and Neharda'a...The conceptualist is fully aware of this...Nevertheless, his own predilection is clear...Recognizing that valid alternatives exist, he will opt, wherever possible, for theoretically oriented *lomdut* over a practical *ba'al batisher* approach.³³

It is of no importance whatsoever that this explanation of the amoraic controversy is absent from the works of Reb Hayyim or Reb Velvel.³⁴ But anyone who has studied these works may certainly raise the question: Could, theoretically, such an explanation have been found there?

This being the case, our difficulty returns in greater force. Based on the data that we have presented, should we not reconsider the position of Wachtfogel and others, that Reb Hayyim's work is not "misleading" and that *sevarot* are only significant to the degree that they "resolve problems"? What is the basis for the assertion that the focus of classical Brisker Torah "is fixed upon the fundamental problems:...recognizing the halakhic phenomenon, analyzing, formulating, defining, classifying and categorizing it. All this, within a world paved with abstract legal and halakhic categories" (*Darkah shel Torat ha-Rav*, 108)?

We appear to be faced with a paradoxical situation: The character and significance of Brisker Torah is subject to controversy. Rav

Lichtenstein expresses his point of view with clarity and absolute conviction and applies it in a systematic manner with dexterity and creativity. But “it is marvelous in our eyes” – for we have not yet uncovered its source. Where then should we search for it?

I cannot say that every word found in *Hiddushei Rabbeinu Hayyim ha-Levi* perfectly fits the mold presented above. Indeed, the exceptions have significance and I will return to them below. Quantitatively, however, their weight is meager; they do not suffice to explain “the conceptual approach” described by Rav Lichtenstein. The picture does not change when we examine other examples of Reb Hayyim’s teachings that have reached us, in addition to his major work on the Rambam. The volume of Reb Hayyim’s *shi’urim* delivered in the Volozhin Yeshiva does not reveal contours different from those drawn above.³⁵ Among the traditions collected in Reb Hayyim’s novellae to the Talmud it is possible to find a significant number of exceptions to the patterns listed above, but they too comprise a small minority.³⁶ It behooves us, therefore, to turn elsewhere.

In my opinion, we can only understand the matter if we examine the figure through whom Reb Hayyim’s Torah reached the non-Haredi yeshiva world. I speak, of course, of Rav Lichtenstein’s teacher – Rav Yosef Dov Soloveitchik *zt”l*.

VI

When Rav Lichtenstein was asked to describe the methodology of his teacher, Rav Soloveitchik, he said as follows:

This examination cannot restrict itself to the *Rav*’s four cubits, his personal and unique contribution. Were I asked to analyze the methodology of the Rash of Sens – undisputedly one of the great *Rishonim*...I would have to try and distinguish the unique contribution that he made to that world [of the Tosafists; E.K]. Indeed, there is no question that the central component of the Rash’s scholarship was the continuation of the Torah of his teachers – Rabbeinu Tam and Ri...

The same may be said when we come to analyze the

Rav's methodology. More than anything that may be said regarding his novel ideas and unique addition – and I am obviously aware that he is a brilliant innovator – the central component of his analytical and Torah world... is the Torah of Brisk and its heritage. Brisker Torah, as it was formulated and presented as an innovation, as a major breakthrough, by his grandfather, Reb Hayyim, and as it was passed down to the *Rav*, from mouth to mouth, through his father, Reb Mosheh, over the course of long years of deep and disciplined study...

I for one and I imagine that this is also the *Rav's* perception, see no diminution of respect if the study of the *Rav's* Torah be done as part of the general study of the methodology of Brisk and it not be restricted to that unique thread, that slight nuance, that characterizes the *Rav* in comparison to his colleagues, in and outside his family.³⁷

A similar opinion emerges from the writings of another one of *Rav Soloveitchik's* outstanding disciples, Rabbi Professor Isidore Twersky *zt"l*.³⁸ In a tribute to his master, Prof. Twersky gives a full description of the *Rav's* personal and intellectual uniqueness. His methodology, however, is presented as the perfect application of the classical Brisker approach.

The little finger of each of these two scholars is wider than my waist; *Rav Lichtenstein* is also my revered teacher. However, as we are dealing here with Torah, we must strive for the truth.

I wish to examine the *Rav's* halakhic teachings, a lifetime's work of immense proportions, through the two volumes of *Shi'urim le-Zekher Abba Mari zt"l* that were published in 1983 and 1985 in cooperation with *Makhon Yerushalayim*. Of all his halakhic teachings that were transmitted orally, these two volumes were the first and almost the only books to be published with the *Rav's* explicit consent and under his direction.³⁹ This undoubtedly testifies to the importance that the *Rav* attached to these *shi'urim*. The two books are comprised of twenty-six *shi'urim* that the *Rav* delivered over the years on the *yahrtzeit* of his father and teacher, Reb Mosheh *zt"l*.

We will see that the *Sh'iurim le-Zekher Abba Mari* are distinguished by methodological characteristics that are practically invisible in *Hiddushei Rabbeinu Hayyim ha-Levi*. We will first examine one important aspect that will lead us to a discussion of basic principles. Later we will consider other aspects of the *Rav's* methodology.

Let us return to the discussion that was opened earlier: Does the *Rav* deal with "primary" or "secondary" questions?

When answering this question, we must exercise caution. Most of the *Rav's shi'urim* open, not with a single difficulty, but with a series of difficulties, at times quite lengthy. For example, the *Rav's* discussion regarding the sale of *shetarot* opens with the following questions⁴⁰: Why can a person waive a debt that he sold by way of *ketivah* and *mesirah*, but not a debt sold by way of *ma'amad sheloshtam*? Why is the law regarding *matnat shekhiv mera* not like that of *ma'amad sheloshtam*? When the buyer demands payment of the debt, why do we not invoke the law of *ta'aninan*, which obligates the plaintiff to prove his claim even if the respondent makes no such demand? In total, the *Rav* raises seven questions. At first glance, it would appear that if Reb Hayyim does not allow us to forget that his aim is "to resolve a difficulty," his grandson arranges the setting so that there is no escape, "secondary questions" seizing the arena and our attention.

This impression, however, is an illusion. On the contrary, this heavy concentration of objections and contradictions teaches us that the *Rav's* primary goal cannot possibly be their resolution.

Proof to this assertion may be adduced from a passage in *Mah Dodeikh mi-Dod*, the eulogy delivered by the *Rav* for his uncle, Reb Velvel, which includes a tribute to the learning heritage of his ancestors. Among other things, the *Rav* discusses our issue, the questions which the learner must answer. What, then, are those questions?

The Halakhic Man of Reb Hayyim's school casts a bright light on each and every matter that he deals with. The truth revealed to him radiates splendor. There is truth that displays an angry face and there is truth that shows favor to man. Before the *shi'urim* of Reb Hayyim, Reb Mosheh and Reb Yitzchak

Zé'ev, the students were lost on the pathways of the Halakhah and they strayed in the primeval forest, not knowing where to turn or what to seek. They could not see a paved lane, nor did they feel themselves on a level road; they moved about in a vicious cycle, unable to free themselves from it. When Reb Hayyim or his sons would finish their *shi'urim*, the situation had entirely changed. Suddenly, a great light shone, the confusion disappeared, the paths were leveled flat and the vicious cycle was broken...Everything became so simple, so clear, so elementary, so much so that they wondered why they themselves hadn't explained the view of the Rambam or the statement of Tosafot as had their teachers. Why, they would ask, hadn't they grasped the central point of the matter? Surely, their teachers did not say anything new at all. They merely removed the veil from the pretty face of the Halakhah, and all became enchanted by its beauty.⁴¹

The *Rav* then likens the matter to a person who wakes up in the middle of the night in confusion, unable to remember the arrangement of the furniture in his room:

...Suddenly, he finds the light switch, presses against it and bright light floods his surroundings. Everything falls into place and he regains his bearings. He wonders why he had been unable to picture the room and its furnishings [in the dark]; why he had distorted the picture when surely everything is so clear and simple.⁴²

We are given here a glimpse into the stirrings of the soul of the Torah student. The *Rav's shi'urim*, however, teach us that this point comprises a fixed stage in the *Rav's* teaching, and as it appears, in his learning as well. The battery of difficulties that he amasses at the beginning of his *shi'ur* is meant to clarify a single point – how incomprehensible the *sugya* is. We grope around like that person tossing and turning in his bed at night, whose room is so familiar

to him, but he is nevertheless unable to find his way about. We go around the central point of the *sugya* in circles, without seeing it.

As opposed to those found in Reb Hayyim's work, the difficulties raised by the *Rav* may be put aside immediately after having been set before us. Reb Hayyim's objections hold us on a short and taut leash, constantly pulling us back to them with magnetic force. The *Rav's* objections, however, can be so numerous that it is almost impossible to remember them, much less to establish them as the axis of the discussion. After they have served their primary purpose – forcing us to confront the fact that we have not begun to understand the *sugya* – the *Rav* leads his audience to other places, even distant ones, where the “central point” may be found. The problems will eventually be resolved, by the way and almost by themselves.

We are dealing here with a remarkable quality that is characteristic of the *Rav's shi'urim*: The *Rav* sets our understanding on a point of “nothingness,” a state marked by helplessness and a total lack of basic understanding, a point which conceals within it, in hidden and embryonic form, the novel idea that is about to issue forth. Issues will reveal themselves to be simple only after they have been diagnosed as being absolutely inexplicable. Our understanding of the *sugya* could once have been likened to a ship securely sailing in its customary way in known waters. But the *Rav* comes and pierces our proud sails with his sharpened needle, letting out all the air and leaving them to hang in shame, unable to lead us to a safe port.

Amassing a heap of objections is just one of the means which emphasize the approach to learning found in the *Rav's shi'urim*. It cannot be denied that the nature of the *Rav's* questions is also very different from what is familiar to us from other halakhic authorities, regardless of method or approach, including *Hiddushei Rabbeinu Hayyim ha-Levi*.⁴³ For example: We know already from the days of the Babylonian Talmud that the *kiddush* recited on *Shabbat* morning consists of a single blessing, *bore peri ha-gefen*. The *Rav* is bothered by the following question⁴⁴: How can the mitzvah of “remembering *Shabbat*” be fulfilled without *Shabbat* being mentioned? It may be surmised that this difficulty prompted the Ra'avad to argue that

in truth the *bore peri ha-gefen* recited on *Shabbat* morning is not a form of *kiddush*. Thus, it is not bound by the requirement that it be recited in the place where the *Shabbat* meal will be eaten and the other laws governing *kiddush*. This explanation, however, was never stated explicitly and so it remains a conjecture. In any event, what shall we say according to the Rambam, who regards this blessing as actual *kiddush*? Generations of Torah scholars did not even raise the question. It would appear that they accepted the fact that each opinion has its strong points as well as its weak ones. The advantage of the Rambam's viewpoint is that it fits in well with the Gemara which refers to this blessing as *kiddusha rabba*. The only problem is the difficulty of its rationale. The *Rav* directs his spotlight on a point that is generally accepted, self-understood as it were. No source contradicts the Rambam's position and no "objection" can be raised against it. "There is just one problem: it simply makes no sense."⁴⁵

In similar fashion, when the *Rav* studies the issue of *kabbalat ta'anit*, he comes to the amoraic controversy, whether a fast must be accepted in the *minhah* service preceding the fast, or whether it must be accepted during the time of *minhah*, but not necessarily in the context of the service itself? Generation after generation of Torah students, traditional and critical, studied this matter and conducted themselves as if everything were clear. The *Rav*, however, insists on probing the matter:

Why should it be necessary for a person to accept a fast during the time of *minhah* on the day preceding the fast? Why should he not be able to accept the fast during the time of *shaharit* or even before? It stands to reason that as long as he accepts the fast before it begins, that should suffice... Both according to *Rav* and according to *Shemuel*, why must the fast be accepted during *minhah*? And furthermore, according to *Shemuel*, who requires that the fast be accepted during the *minhah* service itself and not merely at the time of *minhah*, as was argued by *Rav*, what is the advantage of accepting the fast during the *minhah* service as opposed to accepting it at the same time outside the context of the prayer service?⁴⁶

This approach is evident elsewhere in the *Rav's shi'urim* as well. At first glance, the *Rav* proves his novel ideas using a well-known technique: The idea is correct because it resolves difficulties. Here too, however, the "difficulties" are likely to be of the type that other scholars would not define as difficulties.⁴⁷ Why is one forbidden to taste anything, even water, before reciting *kiddush*? This stringency is very exceptional in Halakhah, but it would appear that in past generations it hardly even raised a shrug of the shoulders. The point was never even recorded as "requiring consideration," not to mention "astonishing." And similarly: Why did the Sages deem it necessary to institute *kiddush* and *havdalah* first in the prayer service and then again over a cup of wine? This difficulty does not seem to have disturbed the sleep of the *Rishonim* and *aharonim*, a fact that never deterred the *Rav*. His ability to raise questions that did not trouble his predecessors is not a sign of arrogance, God forbid. It is undoubtedly rooted in the *Rav's* capacity to approach a *sugya* with the innocent curiosity of a child. In my opinion, however, this quality alone does not fully explain the *Rav's* ability to ask the type of questions that he does.

In short, the *Rav* deals with "primary" questions in an open, explicit, and comprehensive manner.⁴⁸ The dimensions of this phenomenon set him, in this sense, at a very considerable distance from his grandfather. Reb Hayyim's questions are located in the thick of the *sugya*: the basic material is understood, but how shall we reconcile a particular contradiction in the Ra'avad? When Reb Hayyim considers the principles underlying a topic, he does not even for a moment set the *sugya* on "nothingness"; he is never at a loss. He brings us straight to the *hakirah*, to the explanation, to understanding. The *Rav*, on the other hand, confronts us with the foundations of the *sugya*, his initial objective being to prove to us that we do not understand the most elementary matters.

But the question remains: What turned the *Rav* into the halakhic personality who was more troubled than any of his predecessors by the prohibition of eating before *kiddush*, by the need for a fast to be accepted during the *minhah* service and by other such matters? Is it purely a matter of coincidence that this mode of inquiry

was adopted by the most outstanding representative of the Brisker approach in his generation?

VII

In my opinion, the answer to this question is simple. No halakhic scholar ever exerted himself to resolve a particular complexity, unless he was of the opinion that the absence of an answer to that difficulty is surprising or unexpected. The halakhic world is full of unexplained laws and phenomena, which are accepted by every believing Jew in a spirit of respect and fear of Heaven. With regard to one type of difficulty – textual contradictions – there is a tradition, drawn from the earliest sources of the Oral Law and continuing through the ages, that teaches that such questions are generally resolvable. Such a tradition, however, does not exist with regard to those “primary” issues with which the *Rav* typically occupies himself. Dealing with such issues is viewed within the learning tradition as a legitimate pursuit, but they are not regarded as “difficulties” which allow us no rest. The traditional *lamdan* might occupy himself with such a question, particularly when he has a ready answer on hand, or when it has already been dealt with by earlier Talmudic authorities. But he is just as likely to withdraw from it, without feeling distressed by his lack of understanding. If, for example, he is unable to explain the two-fold enactment of *kiddush*, he will say to himself that for some reason the Sages attached particular importance to the mitzvah of *kiddush* and chose to express that importance as they did and that is all. It is possible to go on with life even without fully understanding the Sages’ thinking.⁴⁹

According to the *Rav*, however, the Brisker revolution transformed all this. Once Reb Hayyim pointed out the world of halakhic concepts, our expectations underwent a radical change. Now it is reasonable to assume that all the apparently arbitrary scriptural decrees and rabbinic enactments, whose secrets the earlier generations did not have a chance of unraveling, can in fact be understood once we recognize the abstract system underlying them. The lack of understanding that once prevailed in these matters is no wonder, for while the halakhic authorities always had the details of the textual

material under their thumbs, the ideas and concepts that lie deeply embedded in the texts remained hidden from them. Armed with this recognition, the *Rav* consciously aims at resolving problems that never before underwent significant treatment.

In order to allow for daring of this magnitude, the *Rav* must have great faith in the novelty of the Brisker methodology. He must assume that it granted the human intellect dominion over God's Torah to a degree that was previously unknown. There is no doubt that this faith and this assumption is firmly planted within him. We know this from his extensive preoccupation with explaining the act of learning, first and foremost in his *Ish ha-Halakhah* and also in his eulogy for Reb Velvel, *Mah Dodeikh mi-Dod*, mentioned above.

Halakhic man received the Torah from Sinai not as a simple recipient but as a creator of worlds, as a partner with the Almighty in the creation of the world. The power of creative interpretation (*hiddush*), is the very foundation of the received tradition...The essence of the Torah is intellectual creativity...(*Halakhic Man*, 81–82)

He describes the essence of creativity as a process that begins with intuition and continues with conscious construction:

When the *ga'on* elevates his vision to the level of logical thought, he begins with a spontaneous creative act that does not explain the concrete datum, but rather invents abstract constructions. Elevating a vision to a perception and an intuition to a concept is a creative act that builds an ideal world, which folds into itself and finds its value and purpose within its own four cubits and in the relationships between the abstract ideas. Reb Hayyim who was graced with blessed halakhic intuition, invented conceptualization in the field of Halakhah. He created a world of ideas and revealed free halakhic construction (*Mah Dodeikh mi-Dod*, 220).

This is the stringent criterion by which the *Rav* measures

hiddushei Torah: Not brilliant resolutions or ingenious inventions, but the construction of worlds. The *Rav* frequently returns to this image, perceiving Reb Hayyim, not as one who invented clever and elegant techniques (as argued by Wachtfogel),⁵⁰ nor as one who strove to understand the “wholeness” of the *halakhot* (as proposed by Rav Zevin),⁵¹ but as one who changed the very foundations of the halakhic world:

Reb Hayyim, unique in his generation and in many generations that preceded him, reshuffled the Halakhah, introducing new contents and modes of understanding and discrimination which were not previously found in the world of Torah study (*Mah Dodeikh mi-Dod*, 213).

Marking the boundaries of the Halakhah within its own unique domain, establishing its outstanding signposts and categorizing it according to the cognitive measures of other disciplines – are among Reb Hayyim’s most important achievements. He provided Halakhah with particular methodological instruments, invented a system of halakhic categories and organized a priori assumptions through pure postulation...

For example, the area of *shetarot* in Halakhah. Before Reb Hayyim, it was based, on the one hand, upon the technical principles of writing and signing, which constitute the external and formal elements of the *shetar* and on the other hand, upon presumptions rooted in the psychological patterns of reaction and behavior. What did Reb Hayyim do? He strove for full conceptualization of the entire issue. For that purpose, he shifted the technical aspects from the center stage and set in its place ideal contents and pure constructions, bringing about an all-encompassing change in the study of these *halakhot*. The *shetar* cast off its concrete reality and became a pure logical idea – a *heftza* of original testimony which does not require an act of attestation and acceptance in court and all that follows from that (Ibid, 224–225).

This fundamental perception is the energy that powers the Rav's assault on "primary" issues. The Rav's methodological practices are also a conclusion built upon his theoretical ideas regarding *lomdut*. We will further expand upon this idea below.

In the meantime, let us begin to close the circle. We opened with an examination of the Rav's Torah in order to find the source for Rav Lichtenstein's distinct perception that Brisker Torah focuses on "recognizing the halakhic phenomenon, analyzing, formulating, defining, classifying and categorizing it. All this, within a world paved with abstract legal and halakhic categories" (*Darkah shel Torat ha-Rav*, 108). We have demonstrated that the Rav preceded Rav Lichtenstein in viewing Reb Hayyim's contribution as constructing "a world of categories." The Rav also preceded Rav Lichtenstein in drawing operative conclusions. Rav Lichtenstein's *shi'urim* do not include the stage of "nothingness" as a fixed phenomenon, but in his direct approach to "primary" questions, Rav Lichtenstein follows in his teacher's footsteps. If we take the matter one step further, we will be able to hear one more important note that was sounded for the first time in *Shi'urim le-Zekher Abba Mari*, but is absent in the works of Reb Hayyim. That note also passed with slight modification from the Rav to Rav Lichtenstein.

We shall clarify the matter with an example: In the Mishnah, *Berakhot* 7:3, Rabbi Yose ha-Gelili and Rabbi Akiva disagree about *zimmun*. According to Rabbi Yose ha-Gelili, the formula changes in accordance with the number of diners, in multiples of ten. Rabbi Akiva maintains that the formula is uniform, "Let us bless our God," whether there are ten diners or a hundred thousand. Rabbi Akiva adduces the following proof: "Just as we find in the synagogue, whether there are many worshipers or only a few, he says, 'Bless God.'" How does Rabbi Yose ha-Gelili relate to this proof? *Tosafot* remark (*Berakhot* 49b, s.v. *amar*):

It seems that Rabbi Yose ha-Gelili agrees about the synagogue, as it says, "Just as we find," that is to say, you agree with me. What is the difference between the two cases that they should disagree about *birkat ha-mazon* and yet agree about

the synagogue? It may be argued that the Sages certainly did not distinguish between ten and a hundred regarding prayer, for some people enter and others exit without the prayer leader's knowledge. But regarding *birkat ha-mazon*, where the diners are appointed together and involved with each other, there is no room for error, for nobody leaves until after *birkat ha-mazon*.

This explanation appears simple, but let us hear what the *Rav* had to say:

The essence of what they [*Tosafot*; E.K.] said is that there is nothing in the synagogue to unite more than ten people and so it is impossible to talk about "congregations," for they do not merge into a homogeneous unit comprised of more than ten people. As for *birkat ha-mazon*, however, the meal joins them together, for there is a special law of "reclining for a meal" that fixes and unites all the diners into a single group. For one person cannot recite the blessing preceding the meal on behalf of all the diners unless it is an appointed meal.⁵² It follows then that the *zimmun* formula should vary in accordance with the size of the group, according to Rabbi Yose ha-Gelili, for they join together through the meal itself... (*Shi'urim le-Zekher Abba Mari*, II, 23).

Do the *Rav*'s words actually reflect the essence of what *Tosafot* say? *Tosafot* argue that there is no fundamental difference between a synagogue and *zimmun*. In both cases, the formula should, by right, vary in accordance with the size of the assembly. Regarding the synagogue, however, there is a technical problem: people are liable to enter and exit without the prayer leader's knowledge. He is, therefore, liable to err as to the number of worshippers present, which will lead to an error in the formula as well. For this reason, Rabbi Yose ha-Gelili agrees that a uniform formula was instituted to be used for any number of worshippers ten or above. The *Rav*, however, maintains that the two situations are fundamentally dif-

ferent. The meal joins all those present into a single group, so that they now comprise a group of a hundred, rather than one of ten. In a synagogue, on the other hand, there is no factor that joins the worshippers. It is, therefore, impossible to talk about a congregation of a hundred. Harmonizing the *Rav's* explanation with the words of *Tosafot*, if at all possible, can only be done with great difficulty. What could have prompted the *Rav* to propose his explanation? On the face of it, it appears to be a serious deviation from Reb Velvel's instructions to avoid adding explanations when "there is no need for any rationales or explanations."⁵³

Another example:

I have often said that the dispute between *Beit Shammai* and *Beit Hillel* whether the blessing over the wine precedes the blessing for the day, or vice versa, revolves around another problem: Does the blessing over the wine function merely as a "blessing of enjoyment" (in which case the blessing for the day should come first, because the person reciting *kiddush* does not want nor is he obligated to recite a "blessing of enjoyment")? Or is that blessing an integral part of the *kiddush* (in which case it should come first, because it is the beginning of the *kiddush*)?⁵⁴

If, however, we examine the Talmudic passage which brings the dispute between *Beit Shammai* and *Beit Hillel* concerning the order of the two blessings of *kiddush*, we will see that the dispute is explained in a *beraita* (whose source is *Tosefta Berakhot*⁵⁵) as follows:

Beit Shammai say that one should recite the blessing for the day and then the blessing over the wine, for the day causes the wine to be brought out and the day has already been sanctified and the wine has not yet been brought out. *Beit Hillel* say that one should recite the blessing over the wine and then the blessing for the day, for the wine causes the *kiddush* to be recited. Another explanation: The blessing over

the wine is recited frequently, whereas the blessing for the day is recited infrequently and the rule is that when one factor is frequent and another is infrequent, that which occurs more frequently takes precedence over that which occurs less frequently (*Berakhot* 51b).

No less than two explanations are offered for each position. What place is left for the *Rav* to add an explanation of his own? Is there any room for the *Rav*'s explanation in light of the explanations already proposed by the sources themselves?⁵⁶

The possibility of reconciling the *Rav*'s interpretation with the ancient explanations (in which the *Rav* himself undoubtedly believes) must be examined in its own right; but that is not the issue. What drives the *Rav* to search beyond the explanations offered in the classical sources is the fact that those explanations – at least in their plain sense – lie on a plane that is very different from the world of fundamental concepts, the world that was uncovered by Reb Hayyim Brisker. That world stands on its own right as an integral part of the Torah, comprising a subject that deserves independent study. It is now legitimate and obligatory to ask – what is the significance of a particular dispute or law in that world? As long as we are ignorant of the answer, we do not properly understand the material. Any other explanation, its logical possibility notwithstanding, is insufficient and does not exhaust the topic. It is liable to leave us at the point of “nothingness.”

We see then that the Reb Hayyim's revolution raises, by its very nature, two types of expectations. On the one hand, we can strive to explain halakhic phenomena that were never previously explained. On the other hand, we can go back and reinterpret *sugyot* that had already been explained in earlier generations, sometimes even in a fully adequate manner, such that no difficulty remained unresolved, but nevertheless those explanations were superficial and simplistic according to “conceptual” criteria. As long as these expectations remain unfulfilled, the *lamdan* remains at the point of “nothingness.” According to his own perception, he stands before a genuine difficulty – what is the profound meaning of the issue, what is the

principle that unquestionably lies below the surface? At times the *Rav* might feel that the very definitions that were invented by Reb Hayyim are no longer sufficiently understandable, so that he sees the need to expand upon their explanation.⁵⁷ If his intuition tells him that a certain issue requires additional explanation, that in itself proves that such an explanation exists. He will undertake the task with absolute confidence that the mission is possible.

Let us return to *Shi'urei ha-Rav Lichtenstein*. It should first be noted that Rav Lichtenstein is not fully reconciled with the degree to which text is subordinated to rationale in the *Rav's* Torah.⁵⁸ Furthermore, the phenomenon of “nothingness” does not occupy a fixed place in his *shi'urim*. However, viewing the world of concepts as a subject deserving independent investigation which cannot be confined to the boundaries of the issue as it is presented in the sources before us; a world whose importance goes well beyond its usefulness in analyzing texts and resolving difficulties; a world that raises its own questions in learning – Rav Lichtenstein derived all this from the *Rav's* Torah. This leads to an operative conclusion: Fundamental-conceptual explanations are to be preferred, even when they are not textually compelling and even when the *Rishonim* offered different explanations.⁵⁹

VIII

While tracing the *Rav's* mode of learning, we have thus far focused on one side of the coin: Learning's “agenda” – the nature of the questions and problems that are to be clarified. We have emphasized the *Rav's* tendency to point out our lack of understanding of the basic material, a feeling that creates the spiritual and intellectual impetus to continue with the investigation. We have noted the gap that exists between this practice and Reb Hayyim's preferred routine of following up a compelling textual difficulty. It would appear, however, than more than anything else that we have mentioned, it is another aspect of the *Rav's* *shi'urim* that gives explicit meaning and tangible existence to the idea of “a world paved with categories” (*Darkah shel Torat ha-Rav*, 108). I refer to the way in which ideas are developed in *Shi'urim le-Zekher Abba Mari*, as well as the way in which inferences

are derived, both of which characterize the course of the discussions subsequent to the initial setting of goals.

Here too, the main key is the perception of the world of *sevarah* as an independent component of Torah, which does not necessarily rest on difficulties presented by the text. Through the force of this approach, ideas develop and evolve out of themselves and by themselves. The *Rav* does not find it necessary to prove every novel idea of his by way of a contradiction that cannot be resolved without it. Explanations are added one after the other and one based on the other, not because otherwise the *sugya* remains difficult, but because they “appear correct.” Conclusions are expressly based on reasonableness, on the learner’s intuition.

It would appear that this approach conceals immense power, for the *Shi’urim le-Zekher Abba Mari* are much longer than Reb Hayyim’s novellae, both those that he himself committed to writing and those that were recorded by others. One explanation for this difference emerges from what we have already mentioned. Precise textual proofs are the “oxygen” in the development of Reb Hayyim’s discussion. The texts, however, were not initially written in order to conform to Reb Hayyim’s *hakirot* and when they do match, it is a matter of coincidence. And on the contrary, when Reb Hayyim bases his argument on what he views as mere straightforward reasoning, he expresses it concisely and to the point.⁶⁰ It is as if Reb Hayyim were saying to us: There is no reason to expand on this matter, it stands to reason and that is all. As a rule, the *Rav* is not dependent upon textual harmony of the sort that we have mentioned. But he makes use of “reasonableness,” in its varied forms, as a means to weave the threads of his thought until he has created entire tapestries.

The result is that more than dealing with a single task in the manner of Reb Hayyim – the resolution of a single problem, or the clarification or proof of a single principle to which we constantly return – the *Rav* paints a picture, spreading out a multicolored canvas. Indeed, “a world paved with categories.” Hence, the following symptomatic feature – the difficulties that stood before us at the beginning of the *shi’ur* are indeed resolved in what follows, though not all at

once, but rather each one in its place. The discussion constitutes a cohesive entity, but it is constructed of a graded series of concepts. The *Rav*'s explanations remind us of the midrashic description of the newly created heavens as "continuing to spread out" until they were told, "Enough." The *Rav* says, "Enough," when he senses that his explanation suffices.

For example, the *Rav* asserts that in order to fulfill the mitzvah of *zimmun*, in addition to reciting the *zimmun* blessing as a separate blessing, all the diners must recite the *birkat ha-mazon* itself together. This is accomplished by way of one person – the *mezamen* – reciting *birkat ha-mazon* on behalf of the entire group.⁶¹ The *Rav* adds another layer of explanation – there are two ways of fulfilling the mitzvah of *birkat ha-mazon*: the regular track observed by an individual diner and a second track of group *birkat ha-mazon*, a blessing that is different in nature, a *heftza* of its own. From here the *Rav* proceeds to the third level of explanation – the obligation of *zimmun* falls on the group and not on its individual members. Thus, *zimmun* belongs to the wider category of obligations that fall upon groups of people, a category which includes public Torah reading and blowing the *shofar* in the course of the *amidah*. Each level is expressly presented as an additional story of the construction, though difficulty compels its proposition. Each level follows naturally from the preceding one, because that is the way that stands to reason.

The *Rav* continues to spin his threads: "Based upon these assumptions, we may propose an important new idea."⁶² This declaration typifies the direction of his thought. His framework is not one of confrontation with the sources, but smooth conceptual transition from one stage to the next. What is the *Rav*'s novel idea? That the fulfillment of *birkat ha-mazon* on the part of the diners listening to the *mezamen* is not based on the halakhic principle of *shome'a ke-oneh*. This insight is extremely significant, but its essential strength, according to the *Rav*, stems from its reasonableness. The *Rav* uses it to develop an entire category of halakhic dicta governed by this principle. For example, the *Rav* concludes that the principle of *shome'a ke-oneh* does not apply to blessings over enjoyment. This

idea radically alters our understanding of a well-known *sugya* in tractate *Rosh Hashanah*, but we come to this as well, first and foremost because this way is “very simple.”

I do not mean to suggest that the *Rav* does not adduce proofs from the sources. Every stage in the discussion that I have mentioned is confirmed by way of Talmudic citations. Two things, however, distinguish between the *Rav*'s method and that of Reb Hayyim. First, the framework of the presentation, which as we have stated is based upon what seems to be reasonable (*ve-nir'eh*), and not on a textual difficulty (*tzarikh iyyun*). Second, the many proofs from the sources are not irrefutable, quasi-mathematical proofs. Indeed, Reb Hayyim adduced such proofs, and they are an important source of the concentrated power of his creative spirit. For the *Rav*, however, the proofs themselves are based, in the final analysis on reasonableness. In order to prove that the law of *zimmun* is not based on *shome'a ke-oneh*, the *Rav* cites various halakhic anomalies regarding *zimmun*: if two people eat together, the one cannot discharge his obligation by listening to the other (unless he is an ignoramus and the other learned); according to some, *zimmun* does not apply unless one of the diners is more distinguished than the others; in a case where the group divides the role of *mezamen* among its members, each one must recite at least one entire blessing. These are indeed anomalies, but does the requirement of reciting an entire blessing necessarily prove that the mechanism is not *shome'a ke-oneh*?⁶³ The *Rav* persuades us by way of the cumulative force of the entire picture. The idea itself is reasonable, and it explains many *halakhot*. We accept it because we prefer a clear *sugya* that is understandable in all its details to a *sugya* composed of elements that cannot be understood.

The type of discussion that we have illustrated here is very dominant in *Shi'urim le-Zekher Abba Mari*. In the present framework we cannot portray the conceptual wealth that the *Rav* reaches through it, *shi'ur* after *shi'ur*. The *Rav* does not limit himself to a basic principle that he uncovers, but rather he explains and clarifies entire areas of Halakhah.⁶⁴

We can also see a difference between Reb Hayyim and the *Rav* in their respective reactions to the following, not infrequent, situ-

ation: A new principle has been proposed, resolving the problem before us or explaining the *sugya*; proofs and supports have been adduced; and then we hit upon a difficulty which casts doubt upon what has been said, or even threatens to topple over the entire construction. How does Reb Hayyim deal with this? He perceives the textual difficulty as the test which his novel idea must withstand and so he directs his efforts at reconciling the contradiction. For the most part, Reb Hayyim succeeds to show by way of precise and diligent analysis that there is no difficulty. Occasionally, the textual problem necessitates renewed thinking, which leads to a new, more refined and precise version of the principle, through which all the difficulties are answered.⁶⁵

The *Rav*'s general tendency is altogether different. In such situations, he rarely looks back at all. The problem that has arisen is not a test, but a stimulus. The difficulty may be reconciled by way of a new principle. The problem acts as an accelerator, propelling the process by which the heavens "continue to spread out."

For example, the *Rav* proves that according to the Rambam, the essence of the mitzvah of honoring *Shabbat* involves "longing to receive the king," namely, the *Shekhinah*.⁶⁶ This longing takes shape in the form of concrete actions, e.g., washing and dressing. Festivals are different, there being no obligation to "receive the festival." The difficulty is that this distinction stands in total contradiction to another difference between *Shabbat* and the festivals, that only with regard to the latter is there a duty of "joy." The *Rav* is of the firm belief that the duty of rejoicing on a festival, as in other halakhic contexts, is rooted in the idea of "the presence of the *Shekhinah*." Thus, it would appear that it is the festivals and not *Shabbat*, which is characterized by the *Shekhinah*'s presence. This question seems also to be of the type that only the *Rav* could have raised, but for now our concern is its resolution. In order to reconcile this contradiction, from which there seems to be no escape, the *Rav* proposes a brilliant distinction between two types of the *Shekhinah*'s presence. Sometimes the Almighty visits man in his home and sometimes man goes and stands before the *Shekhinah* in His dwelling place. The source of this distinction is found in the difference between the sanctity of

the synagogue and that of the Temple. In explaining this difference, the *Rav* does not content himself with a general distinction regarding the level of sanctity, but arrives at a qualitative difference. He applies this qualitative distinction to the difference between *Shabbat* and the festivals. The idea of “receiving *Shabbat*” reflects the fact that on *Shabbat*, the *Shekhinah* comes to man. But there can be no “receiving a festival,” for man does not receive the King on that day, but rather he goes to visit Him in His palace.

This example demonstrates another typical difference between Reb Hayyim and the *Rav*. The grandson’s expansive tendency inclines him to join together topics, which at first glance we would never have thought to connect. In order to explain the difference between *Shabbat* and the festivals, who would have thought to reach out to the laws pertaining to the synagogue? The *Rav* does this naturally; we are not left with the feeling that his words are forced. Broadening the picture to this degree is not characteristic of *Hiddushei Rabbeinu Hayyim ha-Levi*.⁶⁷

Let us bring another example:⁶⁸ According to the Ra’avad, the possibility of fasting on *Shabbat* depends on the manner in which the fast was accepted. Fasting is possible if the fast was accepted with the formula, *harei alai*, but not if the formula used was *hareini be-ta’anit*. How are we to understand the difference? It would seem that we should exploit for this purpose the well-known distinction regarding vows and oaths: A *neder* can nullify a mitzvah, while a *shevu’ah* cannot, because a person is “under oath from Sinai.” This seems to be the way to understand the Ra’avad’s position. Indeed, this explanation fits the ruling regarding *harei alai*, which is a formula of *neder*. *Hareini be-ta’anit*, however, is not a formula of *shevu’ah*. Why then should a fast accepted with those words not take effect on *Shabbat*? The *Rav* makes no attempt to explain why the formula is nevertheless regarded as a *shevu’ah* for this purpose. Rather, he establishes a new principle. A fast cannot take effect on *Shabbat*, even if there is no problem of being “under oath from Sinai,” for the simple reason that there is an internal contradiction in the very idea of fasting on *Shabbat*.⁶⁹

Needless to say, this aspect of the discussion as well allows us

to understand the source of Rav Lichtenstein's point of view. Even though Rav Lichtenstein's manner of presentation is totally different from the *Rav's*,⁷⁰ it is the assumptions that he received from his teacher that make his approach at all possible. The *Rav* creates a total picture by way of an organic conceptual continuum, the correctness of which is proven by its reasonableness. Rav Lichtenstein's formation is built of a series of branching alternatives that extend out in many directions. This also contains a certain type of certainty, for one cannot argue with "possible alternatives." In any event, common to both is the perception of Halakhah as being constructed out of a rich succession of concepts, developing of itself as an essential component of the *sugya*.

I shall conclude our examination of *Shi'urim le-Zekher Abba Mari* with the following remark. It is possible that I will be criticized for my exaggerated reliance on these discourses, it being argued that the *Rav's* regular *shi'urim* were different. While a difference may exist, I do not accept this critique. To the best of my knowledge and experience, the materials we have focused upon do in fact establish the basic tendencies that animate the *Rav's lomdut*, the spirit of which hovers over all his teachings.⁷¹

IX

As stated above, our analysis of *Shi'urim le-Zekher Abba Mari* aimed to close the circle opened by our examination of *Shi'urei ha-Rav Lichtenstein*. Our understanding of that which is common to Rav Soloveitchik and Rav Lichtenstein leaves us still with the great gap that exists between the founding generation of the Brisker approach and the generations that followed. The only thing new in our presentation is that the gap came into being with the *Rav*. It was he who had the insight that the basic assumptions of Brisk raise expectations and invite the mode of thought described above. They give rise to new options, not only ways of resolving problems and analyzing issues, but also tools that allow us to define anew the entire agenda of Talmud study.

Indeed, early buds testifying to the *Rav's* perception appear already here and there in the works of Reb Hayyim and Reb Velvel.

Hints are dropped in *Hiddushei Rabbeinu Hayyim ha-Levi* that the Brisker manner of thought is likely to flourish even when it is free of meticulous textual discipline. After Reb Hayyim cites the dispute between the Rambam and the *Ge'onim* regarding *orlah* outside the land of Israel, he opens with the words: "It would appear with regard to the dispute between the Rambam and the *Ge'onim*."⁷² This is not a case of inconsistency between sources that requires reconciliation, but a phenomenon that stands on its own. The Rambam maintains one position, and the *Ge'onim* another – what does this mean? The *Rishonim* disagree whether or not an earthenware utensil contracts ritual impurity when a *zav* inserts his hand in it. Reb Hayyim explains the dispute, even though there is no difficulty compelling him to do so.⁷³ Elsewhere, we find that Reb Hayyim's opening question consists of "we must understand the basis of this dispute between the Rambam and the Ra'avad."⁷⁴ In the course of resolving a certain contradiction in the Rambam, Reb Hayyim says that the relevant Gemara, which states that the monetary ownership of a slave prevents his conversion, is incomprehensible. "How is [ownership] relevant that it should prevent conversion; is conversion dependant upon monetary factors?"⁷⁵ The doubts and the novel explanation that followed in their wake were certainly not raised in order to reconcile a difficulty in the Rambam. In light of the *Rav's* position, such cases seem to be the cracks through which the true nature of the approach may be glimpsed.

Similarly, when we consider the oral traditions recorded in *Hiddushei ha-Grah al ha-Shas*, we see that some of the passages – most of them relatively short – comprise explanations that stand on their reasonableness alone, without having been "mathematically" proven by way of a discussion of the sources.⁷⁶

Hiddushei Maran Riz ha-Levi exhibits a certain liberation from the mold cast by *Hiddushei Rabbeinu Hayyim ha-Levi*. Even though the tools of *lomdut* found in this book are only activated "when needed," there is greater freedom in defining "need." Reb Velvel is more likely than Reb Hayyim to sense intuitively that a dispute between the early authorities has not been understood and requires explanation. He sometimes takes as his point of departure not a dif-

faculty, but some unclear point in the Gemara or the Rambam that needs to be clarified. In such cases, he writes: “This matter requires examination” (*ve-tzarikh iyyun ba-zeh*).

In the end, however, the passages dealing with the reconciliation of textual difficulties comprise the greater portion of the works of both Reb Hayyim and Reb Velvel; the sheer quantity speaks for itself. The *Rav* was the first to infer from “the world of categories” those far-reaching conclusions that we have mentioned, incorporating them as the mainstay of his learning.

The unique aspect of the *Rav*’s brilliance, however, is reflected not only in the patterns of his learning that we have examined, and not only in his ability to explain the act of *lomdut*, but in his very understanding of that act. The *Rav*’s capacity to make new inroads into Halakhah stems from the fact that he made a unique breakthrough in his understanding and appreciation of the Brisker approach.

I shall try to make this matter of the *Rav*’s “breakthrough” a bit more intelligible. There is one area regarding which all agree that the *Rav* created, in a most original and comprehensive manner, “a world paved with categories” that had never existed before. Rav Lichtenstein relates that when the *Rav* first arrived in the United States, his father, Reb Mosheh, invited him to deliver *shi’urim* in New York, “all of which were on topics discussed in tractate *Bera-khot*. The *Rav*’s Torah in these areas, in that rich world of blessings and prayers, Torah reading and fasts, is utterly novel and a genuine breakthrough.”⁷⁷

The *Rav*’s innovation regarding these topics is clearly evidenced by their massive presence in *Shi’urim le-Zekher Abba Mari*. The significance of his novel ideas is felt by anyone who is familiar with what has been written, and more importantly with what has not been written, on these topics by others.

Pay attention, however, to the *Rav*’s own words that follow:

...The laws of prayer, *birkat ha-mazon*, blessings over enjoyment – what existed before Reb Hayyim? Who occupied themselves with them? Who delved into them? Surely they were relegated to the level of practical laws for *ba’alei batim*,

whose place is in the *Kitzur Shulhan Arukh*, the *Hayyei Adam* and the synagogue almanac. Who took an interest in the texts of prayer? Who felt that fundamental halakhic principles are embedded in the formulations found in the *shemoneh esreh* and the blessings? And then the great revolution was brought about by Reb Hayyim. All of a sudden prayer ceased to be a technical *ba'al batisher* topic...or one for Hasidic-pietistic enthusiasts...and it evolved into a system of halakhic ideas born out of an immensely powerful act of postulation. A wide expanse of halakhic thinking, the most subtle abstraction, precise definition and meticulous formulations spreads out before us. The great number of formulas used in blessings and prayers reflect basic differences in halakhic concepts. New categories, terms that were never heard of before, burst forth from Halakhah's kiln – the act of prayer, the fulfillment of prayer, fulfillment through an act and fulfillment in the heart, the intention of prayer which constitutes prayer itself, as opposed to intention in other mitzvot, which is merely an external phenomenon, a *heftza* of prayer that is obligatory, permitted, or voluntary, communal prayer and individual prayers as separate entities...(Mah Dodeikh mi-Dod, 226).

Was, in fact, “a great revolution brought about by Reb Hayyim”? It is true that Reb Hayyim did not shy away from dealing with these areas and some of the concepts mentioned by the *Rav* are indeed found in his grandfather's opus, though perhaps in a different formulation.⁷⁸ Quantitatively, however, the topics relating to prayer occupy less than one per cent of Reb Hayyim's book. On the other hand, at least one of the principles appearing on this list – *kiyyum she-ba-lev* – is known as one of the basic concepts developed by the *Rav* himself, to the point that Rav Lichtenstein wondered about the relationship between this principle and the philosophical ideas with which his teacher was engrossed.⁷⁹ The description of the multi-dimensional revolution that altered halakhic sensitivity in an entire area of law also clearly refers to the *Rav's* own achievement. And yet he attributes everything to Reb Hayyim.

This example reinforces and sharpens our finding that the *Rav's* achievement lies in his identifying that which is latent in the Brisker approach and making it known to a wide audience, finding that which was left unclear in order to explain it. The *Rav's* entire explanation of the ways of his progenitors is an act of interpretation. And like all interpretation, it contains an element of revelation and one of creation.⁸⁰ Like all interpretation, it invites questions: Is the interpretation correct? Authentic? Does it reflect authorial intent? Are these questions themselves important or meaningful? Even if we decide that dealing with these questions is a waste of time and therefore accept the interpretation as a given, we will still have to deal with a practical issue: What are the practical implications of this interpretation? We dealt earlier with this last question and we will not dwell upon it any further in this context. I wish, however, to linger a bit on the fundamental issues, not in order to decide about them one way or the other, but in order to examine their ramifications.

X

The *Rav's* revelation that the Brisker approach involves “creating worlds” may be examined in relation to what came before him and to what followed. What is the relationship between his discovery and the Brisker Torah that was fashioned before him? And how did the *Rav's* revelation affect that which came after him? I will begin with the first question and deal with it briefly.

We have seen earlier that the Brisker approach as it is reflected in the *Rav's* learning differs significantly from the image presented in the basic work of Reb Hayyim, which preserves the principle of textual usefulness. What would the *Rav* say were we to ask him about this matter? It seems that he would have no other choice but to rely on Rav Lichtenstein's answer on the subject, cited above (section III): Let us not allow Reb Hayyim's book to “mislead us.” The external form is not the determining factor. The soul of the approach is what counts: “the free halakhic construction” which creates a world paved with concepts.

Another question remains, however, one to which we have also alluded above. If we are truly dealing with the “creation of worlds,”

why then does Reb Hayyim cling to the textual test, and with such consistency? Why did the founder of this approach cast his novel ideas in a form that appears to be restrictive and unnecessary? I have no intention of proposing an answer to this important question, one that lurks behind our entire discussion and for that I beg the reader's forgiveness. A number of answers come to mind, but I allow myself to avoid such speculation and leave the question open.

But the fact that this question exists must cast a certain shadow on the *Rav's* theory. This leads to a second question, one of greater interest to me: How did the *Rav's* discovery affect the world of *lom-dut* after him?

The *Rav* merited that his halakhic thought was avidly heard by students of all levels, *lamdanim*, *ba'alei-batim* and the entire range between them. His most outstanding disciples themselves became disseminators of Torah and broadened the influence of their master's Torah. It would appear, as was stated above, that these students do not attribute to the *Rav* any significant methodological innovation. They fully recognize his remarkable pedagogic ability, the comparisons between halakhic thought and scientific and mathematical inquiry. In their eyes, however, this is merely a description of what existed before him. They even view the *Rav's* manner of learning as merely an application – certainly virtuosic – of that which already existed. From Reb Hayyim to the *Rav*, the method was one and the same.

This is not at all surprising. Students devoted to their teacher and his Torah adopt his perceptions without question. This is natural, expected and altogether as it should be. And the *Rav*, in his fundamental humility, rolled in the dust at the feet of his teachers, casting off all presumption of methodological innovation.

We must add here that the *Rav's* force and credibility as an interpreter developed out of his great stature and on the basis of the assumption that it was specifically into his hands that his teachers had deposited the task of continuing their tradition. This is what his father, Reb Mosheh, wrote about him:

From his earliest childhood, he exhibited awesome intellectual ability, by no means whatsoever commonplace. My

father and master, teacher and spiritual guide, the righteous Torah genius, spiritual guide of Israel, of righteous and blessed memory, prophesied regarding him that he was for greatness and that he was destined to become a mighty and overarching tree. And when once my father came across a notebook containing my son's original Torah insights, his wonderment was indescribable. He declared that the insights recorded were true Torah ideas... In previous generations, it was considered a practical impossibility for Torah knowledge and general knowledge to be combined. However, in this generation, it is already possible to find Torah and general wisdom connected to each other symbiotically in certain great individuals. And this is the manner in which this phenomenon has occurred: The level of Torah knowledge attained by the greatest Torah scholar of the generation is transcendent and comparable to the Torah knowledge of the greatest of earlier generations... There is no doubt that he is presently singular in this generation in his understanding of Torah. His level of understanding is such that it is the counterweight and his opinion is decisive in all the laws of the Torah, the lighter ones and the more stringent. Many years ago, the Torah genius, the head of the Religious Court of Kovno, wrote concerning him that the Law is in accordance with his opinion in all areas of the Torah... He is the solitary figure in the generation in innovation and insight into the conceptual structure of the Torah.⁸¹

Should we then be astonished that the *Rav's* perception was simply passed on to his students and that they apparently perceive his unique qualities as mere external matters of style?⁸² Is it not obvious that they would be satisfied with the assertion that Reb Hayyim's *hiddushim* are "liable to mislead us"? I, who aspire to be counted among the students of one of the *Rav's* outstanding disciples, can personally attest to the pangs of conscience that accompanied my present efforts to try and view things as would an "outsider." I did this because I believed it to be essential in order to gain a better

understanding of the *Rav*'s enterprise and the nature of the debt we all owe him.

On the other hand, there are many others who also fail to attribute any methodological innovation to the *Rav*, but for the opposite reason. I refer to those belonging to the *haredi* yeshiva world, if I may use the prevalent sociological term. For reasons that are not relevant to the present discussion, this world refrained from maintaining any connections with the *Rav* during his lifetime, despite their great interest in Brisker Torah. They perceive "Brisk" in the forms, emphases and proportions emanating from all its sources both written and oral, with the exception of the *Rav*'s insights. Between them and the *Rav* there is a gap in both perception and *lomdut*, the possibility of bridging appearing highly doubtful.

In 2000, *Rav* Michel Zalman Shurkin, one of the *Rav*'s devoted students, published a book, *Harerei Kedem*,⁸³ containing, according to what is stated on the title page, "*hiddushim* and explanations...relating to *sugyot*...in *Seder Mo'ed*...that which he heard and transcribed of the *hiddushei Torah* of the *Gaon* Rabbi Yosef Baer ha-Levi Soloveitchik, *zt"l*, the *Gaon*, *Av Beit Din* of Boston" – that is, the *Rav*. The *Rav*'s name is rendered in its Yiddish form and with Yiddish spelling, for reasons that will be explained below. In the introduction appearing at the beginning of the volume, the author explains the purpose of his book by way of the following story: During the period that the author was a student in the Brooklyn yeshiva, *Beis ha-Talmud*, he happened one *Shabbat* to hear one of the *Rav*'s *hiddushim* regarding a tree planted outside of Jerusalem, the boughs of which extend into the city, or vice versa. The question arises as to the law governing the tree with respect to the eating of *ma'aser sheni* (*Makkot* 12a). The *sugya* deals with the parallel situation in the case of an *ir miklat*, whether such a tree is regarded as situated inside or outside the city. The *Rav* raised a question from a passage in *Shabbat* 4b, which implies that regarding a tree planted in *reshut ha-yahid*, the boughs of which extend into *reshut ha-rabbim*, the boughs are not considered *reshut ha-yahid*. The discussion there is limited to the question whether the bough is regarded as if it had four *tefahim*, the minimal measure of halakhic significance.

The *Ga'on* ha-Rav Yosef Baer *zt"l* explained that the law regarding Jerusalem and an *ir miklat* is different than that regarding *reshut ha-yahid* on *Shabbat*. For regarding Jerusalem and an *ir miklat* there is a *halot shem* of a place. Even though partitions are required, that is only to render it a place. Therefore we apply the principle of casting the bough after the trunk. This is not the case regarding a *reshut ha-yahid* where there is no *halot shem* of a place. The law depends entirely on whether the object rests between the partitions. Therefore the principle of casting the bough after the trunk is not effective in rendering an article resting outside the partitions as if it were inside the partitions. I very much enjoyed the substance of these words. And when I returned to the yeshiva on Sunday, I shared them with the *Ga'on* Rav Shmuel Charkover *zt"l*, who also enjoyed this *hiddush* very much. Rav Charkover then added [in Yiddish; E.K.]: “O, that someone would rise up and hear Rav Yosef Baer’s *hiddushim* and bring them before the yeshiva world.” Perhaps, this book will fulfill in part the wishes of that righteous man. (*Devarim Ahadim*, beginning of *Harerei Kedem*).

We see then that it was the author’s intention to be the “infiltrator,” so to speak, who would “spy” on the *Rav* and expose his *hiddushim* to the *haredi* yeshiva world (this also explains the “*haredi*” garb given to the *Rav*’s name and position). Disseminating the *Rav*’s Torah is a desirable project in its own right,⁸⁴ but it would appear that the chances of successfully penetrating the *haredi* world are limited, as is made clear in the anecdote cited above. The *haredi* world is capable of and perhaps even interested in adopting the *Rav*’s *hiddushim*, but only when they appear in formats with which it is familiar. The pleasure that is emphasized in the story results from a distinction that successfully resolves a textual problem – the apparent contradiction between two *sugyot* which seem to be dealing with the same issue. Let us also remember that *Harerei Kedem* was published about fifteen years after *Shi'urim le-Zekher Abba Mari*, the work in which the *Rav*’s creative prowess is revealed at its finest. Our author, how-

ever, ignores these volumes, for he sees his book as a breakthrough. This seems to imply that to the best of his knowledge (and I believe it is well-founded), not only did *Shi'urim le-Zekher Abba Mari* fail to take the “yeshiva world” by storm but they were not even known there. Why not? And why didn't Rav Shurkin, interested as he was in spreading his teacher's Torah, refer those volumes to the *lamdanim* to whom he thought *Harerei Kedem* would appeal?⁸⁵

The world which failed to recognize the *Rav* during his lifetime and even ostracized him, does not now have the tools to absorb the full significance and grandeur of his Torah.⁸⁶ It is easy to imagine that in that public's eyes, the *Shi'urim le-Zekher Abba Mari* constitute a strange combination of Brisker ideas in the midst of tiresome discussions based on problems that one could easily “live with,” non-compelling proofs, scattered and undisciplined discussions, which proceed from one step to the next according to unknown principles and ignore the accepted signposts that usually direct the halakhic give-and-take. True, there is a common language of learning between the *Rav* and the “yeshiva world,” but the over-arching dimension is missing from this dialogue. *Harerei Kedem* contains insights of the *Rav* that, judging by their external form, could have been proposed and received in any *beit midrash*. However, it camouflages the grand perception upon which they are based, a perception that is unknown to the book's targeted audience.⁸⁷

In the final analysis, it is difficult to see how the *Rav's* Torah may be “sent abroad” in its full strength, as displayed prominently in his great *shi'urim*. In my humble opinion, it will remain the heritage of his students, for better or worse.⁸⁸

Returning to the *Rav's* students, let us conclude with the following: When the *Rav* made his discovery regarding his ancestral tradition, he paved the way for Rav Lichtenstein to build upon this foundation and prove its fertility with new learning habits. The paradoxical combination found in *Shi'urei ha-Rav Aharon Lichtenstein* – novelty and uniqueness merged with devotion to an old tradition of learning – cannot be conceived, nor can it make any sense, without recognizing its source in the *Rav*. It is precisely through an examination of the independent path taken by the disciple that we

will come to an appreciation of the vitality and truth of his master's Torah.

NOTES

1. *Shi'urei ha-Rav Aharon Lichtenstein – Taharot* (Alon Shevut, 1997), henceforth referred to as *Taharot*; *Zevahim* (1999); *Dina de-Garmi* (2000).
2. See the brief comments of the editors in the introductions to *Taharot* (7), *Zevahim* (7), and *Dina deGarmi* (5).
3. See my two articles: “‘Peritzat Derekh’ bi-Tehumei Kodashim ve-Taharot,” *Ma’alin ba-Kodesh* 1 (1999), 171–178; “Al ‘Shi’urei ha-Rav Aharon Lichtenstein – Dina de-Garmi,” *Alon Shevut* 158 (2001), 115–129, reprinted in English in *Alei Etzion* 12 (Summer 5763).
4. The great influence of that school spread via the disciples of Reb Hayyim Brisker, reaching other circles of Torah study in Eastern Europe outside of Lithuania, though in somewhat less unequivocal form. Even in the Lithuanian world influenced by Reb Hayyim, there were various gradations, owing to the individual approaches and styles of the learners themselves and also to the persistence of the existing methods of study, against which the Briskers never mounted a frontal campaign. Despite the broad range of this influence, however, this article will to a great extent relate to the Brisker tradition as a “dynastic” phenomenon, meticulously passed down from father to son and preserved by a relatively narrow circle of Torah scholars who were imbued with a profound sense of mission. This approach is justified by the fact that for three or four generations, the family viewed itself and so was it also viewed by the Torah-studying community at large, as the representatives and guardians of the new method. This was all by virtue of their talents, their sense of responsibility, and their devotion to the cause. This perception is particularly prominent in the writings of Rabbi Yosef Dov Soloveitchik, from which we will cite below. There is also a clear stylistic affinity between the works of the various family members, one that is not shared even by those counted among Reb Hayyim's most outstanding students, like Rav Baruch Baer Leibowitz (*Birkat Shemu'el*) or Rav Shlomo Poliachek (*Hiddushei ha-Illui mi-Maitchet*, Jerusalem: 1974). Another quality that distinguishes the nucleus, centering around the family and those closest to it, is their qualified attitude (sometimes verging on disrespect) toward various Lithuanian Torah personalities, like Rav Shimon Shkop and the heads of the Telz yeshiva, whom they viewed as having strayed from the path of sound reasoning and healthy halakhic intuition. A story is told of a certain student of Rav Shimon Shkop who went to study with Reb Hayyim Brisker's son, Reb Velvel. When Reb Velvel later met Rav Shimon, he said to him, “I uprooted your *sevarot* from him.” (This story was reported to me in the name of the Jerusalem *dayyan*, Rav Shlomo Fischer, *shlit"á*, by his son-in-law, Rav Baruch Kehat.) However, the wider circles of learners influenced by the Brisker *derekh* did not absorb this sensitivity, and Rav

- Shkop's insights occupy a respectable place in the anthologies of halakhic works with a Lithuanian orientation. See, for example, M.D. Kohen, *Edut u-Shetarot* (Jerusalem: 1983), index, 409, 418 (*Hiddushei Rav Shim'on Shkop, Sha'arei Yosher*); Y.Y. Aharonson, *Ya'ir Netivim* (Bnei Brak, Isreal: 1995).
5. *Supra*, note 3.
 6. Rav Aharon Lichtenstein, "Kakh Hi Darkah Shel Torat ha-Rav – le-Derekh Limudo Shel ha-Grid Soloveitchik," *Alon Shevut Bogrim* 2 (1994), 105 [henceforth: "Darkah Shel Torat ha-Rav"].
 7. *Dina de-Garmi*, 47 (emphasis in the original).
 8. *Taharot*, 7. See also *Dina de-Garmi*, 5, where Rav Lichtenstein's students write (in bold): "The *shu'rim* analyze the principles of *dinei garmi* in a fundamental manner and present these *halakhot* in an orderly and well-arranged form."
 9. Rav S.Y. Zevin, *Ishim ve-Shitot* (Tel Aviv: 1967), 46.
 10. "Darkah Shel Torat ha-Rav," 107.
 11. Rav Mosheh Lichtenstein (Rav Aharon's son) defines the turn taken by the Briskers as follows: "The core of the method consists in shifting the center of interest from the intent and goal of the halakhic ruling to its actual manifestation in practical terms (*nafka minah*)... The student places his interest in the fruit of the tree rather than its roots." See M. Lichtenstein, "For My Grandfather Has Left Me ...," *Tradition* 30:4 (1996), 64. Elsewhere, he writes in the same spirit: "The loss of the 'why' is the price paid by the Briskers for restricting their focus exclusively to the 'what.'" He then draws a parallel between this innovation and the scientific revolution in modern times: "Here, as there, a shift was effected from the 'why' to the 'what'... No longer is it the task of the learner to ascertain why a certain Halakhah is as it is, any more than it is the role of the scientist to determine why nature behaves as it does... With the introduction of the Brisker approach, practical implications (*nafka minot*) became the standard by which opinions (*sevarot*) could be examined" ("What Hath Brisk Wrought': The Brisker Derekh Revisited," *The Torah u-Madda Journal* 9 (2000): 3–4 [reprinted in this volume]). Compare this with what he says in "For My Grandfather Has Left Me," 64–65. It seems, however, that this picture is not entirely balanced, and that Rav Aharon Lichtenstein's description (brought in the text) is closer to the mark. Compare this with the famous story told about Reb Hayyim, who when he was asked about a certain *hakirah*, "What is the *nafka minah*?" answered, "The *nafka minah* is how to understand the Gemara" (cited by Rav Lichtenstein, "Darkah Shel Torat ha-Rav," 106). See also our discussion of the phenomenon of "primary questions" with respect to the *Rav* (below, section VI).
 12. *Mah Dodeikh mi-Dod*, 220. The *Rav* explains the matter there at length, offering examples. We shall return to what he says there below.
 13. Rav Lichtenstein's lecture, originally delivered in Hebrew, was translated and recently published as "The Conceptual Approach to Torah Learning: The Method and Its Prospects," in his *Leaves of Faith: The World of Jewish Learning* (Hoboken, NJ: Ktav, 2003), 26–27 [reprinted in this volume][henceforth: "The Conceptual Approach"]. See also "Darkah Shel Torat ha-Rav," 108. It may be noted that the posi-

- tion of several kabbalists contrasts with the “conceptual approach” described here. They maintain that raising objections and offering resolutions constitute the center of Torah study, for esoteric reasons. See Rabbi Hayyim Vital, *Sha’ar ha-Mitzvot* (Jerusalem: 1974), 33a, (“*gam be-inyan esek ha-halakhah*) in the name of the Ari; and at greater length, Rabbi Avraham Azulai, *Hesed le-Avraham* (Jerusalem: 1991), *ma’ayan 2, nahar 28*.
14. “The Conceptual Approach,” 27–28.
 15. *Zevahim 2b*, s.v. *itanu*.
 16. *Avodah Zarah 27a*, s.v. *ve-khi*.
 17. Yehoshua Dov Feldstein, *Hiddushim u-Be’urim be-Masekhet Zevahim Shel ha-Rav Barukh Dov Povraski* (Bnei Brak, Israel: 1989), 35:36. I have not found Reb Velvel’s *hiddush* in his published novellae to *Zevahim* (Jerusalem: 1972). No explanation is attributed to Reb Velvel as to why the *lishmah* in *kodshim* should not be understood as bestowing a halakhic status on an object. The reason would appear to be that the sanctity of the sacrifice already exists by virtue of the act of consecration. As for Reb Velvel’s distinction, it should be noted that Reb Hayyim proposed that the speech requirement regarding *lishmah* depends upon a different standard. See *Hiddushei Rabbeinu Hayyim ha-Levi, Hilkhhot Tefilin 1:15*, s.v. *ha-omnam*. Reb Hayyim explains there why the Divine names in a Torah scroll become sanctified even without speech, even though we are undoubtedly dealing with the creation of a halakhic status in an object. Reb Hayyim, however, is discussing the position of the Tur, who appears to disagree with the Tosafot discussed by Reb Velvel.
 18. Our investigation will focus on *Hiddushei Rabbeinu Hayyim ha-Levi*. In general, I believe that our conclusions are equally valid with respect to *Hiddushei Maran Riz ha-Levi*, though certain differences do exist, to which we shall relate in brief below.
 19. “*Darkah Shel Torat ha-Rav*,” 108.
 20. “The Conceptual Approach,” 34–35.
 21. M.E. Wachtfogel, *The Brisker Derekh – A Practical Guide* (New York: 1993).
 22. *Ibid*, from the summary, 15.
 23. *Ibid*, 16 ff.
 24. Published by *Yad Meir, Yeshivat Ateret Yisrael* (Jerusalem: 1995).
 25. Rav Simcha Zissel Broide, *Sam Derekh – Shi’urim be-Masekhet Bava Kama* (Jerusalem, 1995), 6. According to what is stated in the book’s introduction, the didactic element expresses itself in the order and arrangement of the *shi’urim*, which are meant to emphasize the author’s processes of thought and analysis.
 26. It seems reasonable that this phenomenon is part of an intended literary point of view regarding the manner in which Torah *hiddushim* should be written. Reb Hayyim’s sons write in the introduction to *Hiddushei Rabbeinu Hayyim ha-Levi*: “Just as our father’s approach was marvelous with regard to his method of study and innovation...so in the very same measure did he conduct himself with regard to writing his novel insights and putting them down on paper. For to him this too was a chapter of learning, so that he delved into it as he did with regard to the

learning itself. Using the scales of his great and profound understanding, he literally weighed each and every word, refining them seven times over, so that they be to the point, precise, and concise as a hair... In his great humility, he taught everything in a concise manner and with few words, so that he often included great and venerable insights into one or two words... For this book is unlike others which may be acquired through superficial reading and study. Rather, it is a book which must be studied, which can only be acquired through exertion and great toil, as is the way of the Torah. Happy is he who understands the book's truth and profundity even if only after exertion and careful study." It seems that many learners will affirm that this is true.

27. This description corresponds to the words of Rabbi Professor Isidore Twersky, *zt"l*, cited by Rav Mosheh Lichtenstein ("What Hath Brisk Wrought," above, note 11), but not to the surprising position of Rav Mosheh Lichtenstein himself (see the aforementioned article, pp. 2–4, and especially note 3). Rav Mosheh Lichtenstein greatly downplays the part of interpreting the nitty-gritty of the *sugyot* in Reb Hayyim's *hiddushim*. He argues that "the Brisker approach shifted the learner's interest from the Talmudic discussion itself (*shakla ve-tarya*) to the practical implications thereof (*nafka minot*)... The raw material for conceptualization is neither the theoretical discussion nor the twists and turns of the *sugya* as it winds its way downstream, but rather the halakhic dicta which emerge from it..." (2). "Reconstruction of Rambam's interpretation of a particular *sugya* is not a hallmark of *Hiddushei Rabbeinu Hayyim ha-Levi*. The conceptualization of Rambam's ruling is.... Therefore, he axiomatically accepts both sides of a dispute as legitimate if the debate is among recognized authorities and does not concern himself with the merits of the respective interpretations" (14 note 3). In my opinion, anyone who examines Reb Hayyim's work will see on almost every page how he uses the "twists and turns" of the *sugyot* as the raw material of his discussions and how he attaches great importance to the success of the Rambam and other *Rishonim* in reconciling the sources. For the reader's benefit, we note the examples offered by *Hilkhot Tefilin* 1:11, s.v. *u-be-ikar*, and *Hilkhot Terumot* 1:10, s.v. *ve-hineh kasheh*.

There is no reason to go on about this matter; the reader may open the book and judge for himself. Briefly touching upon several points mentioned by Rav Mosheh Lichtenstein, however, may contribute to our understanding of the topic: 1) The author contrasts the *Sha'agat Aryeh* with Reb Hayyim, noting that the former, driven by his normative interest, systematically examines how the positions of the *Rishonim* fit in with the Gemara, which is not the case with Reb Hayyim. With all their differences, however, it seems to me that they completely agree that the reliability of any particular position is conditional upon its compatibility with the sources and that such compatibility is not self-evident, but must be meticulously examined. Moreover, both of them engaged in such inspection at great length. The main difference between them regarding this issue lies in the fact that the *Sha'agat Aryeh* is prepared to "rank" the various opinions as to their compatibility with the *sugyot*. He is almost in need of such ranking in order to arrive at the desired

halakhic decision. In contrast, Reb Hayyim is guided by the principle that all the positions must fit in perfectly with the sources, leaving no difficulties. There is also a quantitative difference between the *Sha'agat Aryeh* and Reb Hayyim: The former must conduct a systematic and comprehensive inspection in order to reach a decision, whereas the latter can be selective and choose the difficulties with which he wishes to deal.

2) The author also mentions that Reb Hayyim does not relate to the striking difficulty with the Rambam's position regarding *bi'at kulkhem*, even though he was greatly occupied with the Rambam's view on the matter. However, in light of the countless cases in which Reb Hayyim reconciled difficulties rising from the Gemara against the Rambam's position, it is difficult to prove anything from this instance in which he failed to do so. As I have already mentioned, *Hiddushei Rabbeinu Hayyim ha-Levi* is not a systematic work along the lines of a work like the *Lehem Mishneh*, which goes through the Rambam in order, reconciling every difficulty. Reb Hayyim determines his agenda from the outset, and sticks to it. He may ignore a relevant *sugya*, or the existence of the Ra'avad's stricture to the very *halakhah* with which he is dealing (*Hilkhot Gerushin* 8:13), or even the second half of the Rambam's own ruling (*Hilkhot Ishut* 7:16). Moreover, he generally does not raise questions to which he does not have persuasive answers.

The bottom line is that I find it very difficult to accept the position described here, but nevertheless, I do not treat it lightly at all. The fact that this is the way the Brisker tradition is perceived – in the face of all the facts to the contrary – by a Torah scholar deeply rooted in it, is instructive and demands our attention. We shall return to this point below.

28. *Hiddushei Maran Riz ha-Levi*, 162, s.v. *hineh ra'iti*.

29. In my opinion, this is what Reb Velvel means to say. Rav Mosheh Lichtenstein ("What Hath Brisk Wrought," above, note 11, pp. 3–4), however, understands the matter differently. He maintains that Reb Velvel disapproved of the type of explanation proposed by his correspondent, because it relates to the "why" and not the "what." For a fuller discussion, see above, note 11. It may be noted that Reb Velvel's position as stated here may be used to criticize himself and, for that matter, the entire mode of Brisker learning. Brisker questions may be resolved without all the conceptual baggage; why then is all that baggage needed? For example, Reb Hayyim's proof (*Hilkhot Tefilah* 4:1) that there are two types of *kavanah* in prayer is based on a contradiction in the Rambam, which can be resolved by assuming that an introductory statement is followed by a specific application (regarding this example and the entire matter, see: S. Carmy, "Polyphonic Diversity and Military Music," *Tradition* 34:4 (2000): 10 [reprinted in this volume]). It seems that such an argument lies behind some of the Hazon Ish's strictures on *Hiddushei Rabbeinu Hayyim ha-Levi*. See for example: *Gilyonot ha-Hazon Ish le-Hiddushei ha-Grah* (published together with *Hiddushei Rabbeinu Hayyim ha-Levi*, in an edition that does not mention the place or year of publication), *Hilkhot Tum'at Met* 7:4, s.v. *hu mishum ha-hilkheta*. (Regarding the Hazon Ish's approach as compared to that

- prevailing in the *yeshivot*, see Rav Zevin [*supra*, note 9], 315 ff; and the *Hazon Ish's* letter printed at the end of Rav E. M. Shakh's *Avi Ezri – Be'urim be-Inyanim Shonim Lefi Seder ha-Rambam* (Bnei Brak: 1976). Obviously, however, Reb Velvel's position, that when there is a clear textual difficulty, a new explanation may be proposed in accordance with the principles of Brisk, remains tenable.
30. Pages 91–93. The passage under discussion is found in *Zevachim* 4a – 5b.
 31. This is the same theoretical question that Rav Lichtenstein raised earlier in a different context. See *supra*, section II.
 32. See *supra*, note 28. I believe that in a case like this, absence is proof. Rev Velvel's *shi'urim* follow the order of the tractate and it seems that he dwelt only on those points that he felt were deserving of his attention. In this way, he is different than Reb Hayyim. See Rav Zevin (above, note 9), 78 ff, and especially 80–81, regarding the difference between *shi'ur* and *limud*.
 33. “The Conceptual Approach,” 31.
 34. This is confirmed by an examination of, (no author) *Maft'e'ah Batei ha-Leviyyim* (Bnei Brak, Israel: 1986), an index of Brisker literature.
 35. Rav Hayyim ha-Levi Soloveitchik, *Shi'urei Rabbeinu Hayyim ha-Levi al Masekhtot Bava Kama, Bava Metz'ia, Bava Batra – Shenat 5641*, (Jerusalem and New York: 1998).
 36. See *Hiddushei ha-Grah al ha-Shas mi-Maran ha-Grah ha-Levi zt"l – 359 Inyanim Lefi Seder ha-Shas*, ed. Y. Cohen (Otzar Hasefarim, Jerusalem: 1969). As was stated, we shall return below to these exceptions. Here is the place to mention the book, *Mi-Ginzei ha-Grah – Hiddushim u-Be'urim* (Johannesburg: 1989). The book contains the notes of Rav Yisrael Soloveitchik, *zt"l*, Reb Hayyim's nephew, which “he copied from Reb Hayyim's notebooks, which were known by the designation ‘tagbuch’ (diary). We assume that he also recorded teachings that he had heard orally” (from the publisher's introduction). The book contains a number of short passages which give the impression that they were recorded by Reb Hayyim as points for future study and contemplation. It is reasonable to assume that such passages may indicate something about Reb Hayyim's working methods and about the “seeds” that gave rise to his book and set it in motion. One might have expected that these kernels would appear in the form of theoretical *hakirot*. And, indeed, according to the superficial examination that I conducted (and it is not always clear what should be included in such an examination), there are passages that constitute “*hakirot*” (nos. 47, 57). For the most part, however, they are simply “*kushiyot*” (e.g., nos. 16, 46, 64, 74, 76, 80).
 37. “*Darkah Shel Torat ha-Rav*,” 105–106. Later (115–117), Rav Lichtenstein deals with three matters – relatively marginal in his eyes – which distinguish the *Rav's* Torah: his occupation with areas of the Torah which, relatively speaking, had previously been neglected, such as prayer and blessings; his readiness to interrupt his advance across a *masekhet* in order to discuss a “topic”; and his awareness of the fructifying force of various fields of secular knowledge in relation to Torah study. Rav Lichtenstein repeated the essential points in an article included in M.D. Genack

- ed., *Rabbi Joseph B. Soloveitchik – Man of Halakhah, Man of Faith* (Hoboken, N.J.: Ktav 1998), 48.
38. In his article, “The Rov,” included in *Rabbi Joseph B. Soloveitchik* (see previous note), particularly, 16–23. In this regard, see also the recent article of Rav Yesha’ya Steinberger in the supplement to *Hatzofeh*, 18 – 25 Tishrei 5762 (2001). He too maintains that the *Rav’s lomdut* is absolutely classical, an assumption which according to him teaches us about the relatively marginal place accorded to secular studies in the *Rav’s* outlook. I shall argue that this assumption requires reexamination. It is not my intention, however, to relate directly to the implications of such an examination regarding the issue of general education (see in this regard what was cited in the previous note in the name of Rav Lichtenstein and also notes 79 and 86 below).
39. As is stated explicitly in the opening pages of the volumes. The exception is *Kuntrus be-Inyan Avodat Yom ha-Kippurim* (Jerusalem, 1986), which was also published with the *Rav’s* consent and edited by Rav Lichtenstein. Our examination of the *Rav’s* Torah must perforce be based on a sampling; *Shi’urim le-Zekher Abba Mari* appears to be the right choice for our purposes. There is no doubt that the *Rav* felt a special connection to these *shi’urim*, and that his audience of students valued them, then and still today, accordingly. See the comment made in passing by Rav Twersky (*Rabbi Joseph B. Soloveitchik*, 23): “the topics of his celebrated *Yahrtzeit Shi’urim*.” It is clear to all that an extraordinary concentration of analytic and creative powers was invested in them. For our purposes, they seem to be preferable to the *Rav’s* halakhic articles collected in *Kovetz Hiddushei Torah* (Jerusalem, 1983), most of which were written prior to the period in which the *Yahrtzeit Shi’urim* were delivered (these *shi’urim* were delivered only after 1941, the year of Reb Mosheh’s passing). Rav Twersky (*ibid.*) distinguished between the *Rav’s* creative periods with respect to his areas of interest, implying that he was also aware of methodological differences: “The *Rov’s* early *hiddushei Torah* deal with themes of *zera’im* and *kodashim*; they were markedly original and completely classical in theme and format. He has appropriated Reb Hayyim’s approach and individualized it...” (23). *Hiddushei Torah* written by the *Rav* himself were also collected in *Hiddushei ha-Gram ve-ha-Grid*, as well as in *Iggerot ha-Grid ha-Levi*. These two volumes also belong to the period preceding that of *Shi’urim le-Zekher Abba Mari*. An objection may be raised against my approach here that the uniqueness of this collection of *shi’urim*, which constitute some of the finest of the *Rav’s* work, is liable to form a distorted picture of the *Rav’s lomdut* in general. In my opinion, however, this criticism is in the main unjustified, as I will state below at the end of section VIII.
40. *Shi’urim le-Zekher Abba Mari*, vol. 1, 260–265.
41. *Mah Dodeikh mi-Dod*, 230–231.
42. *Ibid*, 231.
43. More than once I heard the *Rav* comment to his students while struggling with some complex matter: “This *kashya* you won’t find anywhere.” The *Rav’s* remark was not accompanied by an explanation and those present did not seem to require any.

44. *Shi'urim le-Zekher Abba Mari*, vol. 2, 124.
45. This ironic formulation as well I heard from the *Rav* on more than one occasion. An early expression of this thought is found at the beginning of *Iggerot ha-Grid ha-Levi*, 2 no.1. Regarding the law of *avizrai hu* found in *Sanhedrin* 75a, the *Rav* writes: "...In truth, for a long time I have not understood the entire matter of *avizrai hu*. For regarding the law of *kiddush hashem*, mention is made of the prohibitions of idolatry, incest, and murder. As for the *avizrai hu* under discussion, either way is difficult: If they constitute a *heftza* of the sins of idolatry, incest and the like, then it is not *avizrai hu*; and if it is not a *heftza* of a sin of idolatry, then what is the law of *avizrai hu*..."
46. *Shi'urim le-Zekher Abba Mari*, vol. 1, 71.
47. *Ibid*, 132–133.
48. It is important to compare the phenomenon with *Rav* Lichtenstein's classification (*supra*, beginning of section II, and note 13). According to *Rav* Lichtenstein, "primary questions," as opposed to "secondary questions," are not really "difficulties." These questions of the *Rav* are "primary," but nevertheless they are definitely "difficulties."
49. I would be overstating my case if I were to argue that the *aharonim* never raised such questions. See, for example, the famous explanation given by the *Penei Yehoshu'a*, *Kiddushin* 65b, s.v. *Gemara*, regarding the requirement of witnesses to establish *kiddushin*, a law that, according to the author's best knowledge, was never previously explained, neither in the *Gemara* nor by the *Rishonim* (*Rashba*, *Kiddushin*, ad loc., s.v. *amar leh Rav Ashi*, brings a proof-text, but offers no explanation. The *Penei Yehoshu'a's* *hiddush* is already found in the *Ramban's* novellae [*Kiddushin*, ad loc., s.v. *ha de-amrinan*], but that work had not yet been published in his day). See also the explanation offered in *Netivot ha-Mishpat*, *Hoshen Mishpat*, 195 no.18, regarding the difference between the rules of nuisance and the laws of tort. But the scope of the phenomenon in the case of the *Rav* is far broader than anything that preceded him.
50. *Supra*, section IV.
51. *Supra*, note 7.
52. That is to say, in order for all the diners to discharge their obligation with the blessing recited before the meal by one person on behalf of the entire group, joint "appointment" expressed through the bodily position of reclining is required. This law proves that the diners are defined as comprising a single unit.
53. *Supra*, note 28.
54. *Shi'urim le-Zekher Abba Mari*, vol. 2, 134.
55. 5:25, ed. Lieberman, 29.
56. See also *Shi'urim le-Zekher Abba Mari*, vol. 2, 197, in the *Rav's* introduction to a discussion regarding an objection raised against the *Rambam* that was already resolved by the *Kesef Mishneh*: "But there remain something to be done here, the matter still requiring clarification." See also 165–166.
57. *Shi'urim le-Zekher Abba Mari*, vol. 1, 240–241.

58. “*Darkah Shel Torat ha-Rav*,” 112: “We find ourselves before a phenomenon well-known to anyone who sat many years in the *Rav’s shi’urim*...He had the ability to take hold of a written text, and ‘subordinate’ the written word to its ‘proper meaning.’ This point of view is problematic from the perspective of the need to cling to the Torah as it is. If, however, we are interested in a description of the way things are in the world of Brisker Torah, this certainly exists...” It is my impression, however, that this phenomenon is more evident in the work of the *Rav* than in that of Reb Hayyim. For an example of problematic interpretation found in *Hiddushei Rabbeinu Hayyim ha-Levi*, see *Hilkhot Gerushin* 8:13, s.v. *ve-hineh* (end). Reb Hayyim proposes that the Rambam used the formulation “as we have explained” with regard to something which he was to write later. This, however, is an exceptional case.
59. See *supra*, end of section V. For additional examples in *Shi’urei ha-Rav Aharon Lichtenstein*, see “*Pritzat Derekh*” (*supra*, note 3), 175; “*Al ‘Shi’urei ha-Rav Aharon Lichtenstein*” (*supra*, note 3), 119, 122 (regarding *davar ha-gorem le-mamon*).
60. We refer primarily to what is found in *Hiddushei ha-Gra’h al ha-Shas*; see below, note 76.
61. *Shi’urim le-Zekher Abba Mari*, vol. 2, 88ff.
62. *Ibid*, 91.
63. This matter requires further study, for it would appear that the requirement of reciting a blessing in its entirety is not limited to the case of group *zimmun*. Even an individual who errs in his prayer must go back to the beginning of the blessing; see *Berakhot* 34a, and *Tosafot*, s.v. *emtza’iyot*.
64. 1) In order to sharpen our point regarding the “entire picture,” let us compare the *Rav’s* Torah with the *hiddushim* of one of the leading Torah scholars of the last generation, ha-Rav Aharon Kotler *zt”l*. His *shi’urim* were published in *Mishnat Rabbi Aharon* (1, *Hiddushim u-Be’urim al ha-Rambam Hilkhot Shekhenim*, Lakewood and Jerusalem, 1997), and they stand out in their extraordinary breadth. All of his concerted efforts, however, are directed at understanding the relationships between the various *sugyot*, the different readings and the positions of the *Rishonim*, for the purpose of establishing harmony and agreement (in a style reminiscent of Rabbi Akiva Eiger’s *Derush ve-Hiddush*; see the description of Rav Kotler’s *derekh* in learning in the introduction to the volume authored by his son). If we try to extract the matters of principle from the textual discussion, we are left with very little. In sharp contrast, Gerald Blidstein has demonstrated how to reconstruct the *Rav’s* thinking regarding the laws of mourning, when the discussion of the sources is of secondary importance. See G. Blidstein, “On the Halakhic Thought of Rabbi Joseph B. Soloveitchik: the Norms and Nature of Mourning,” in *Rabbi Joseph B. Soloveitchik*, 139ff. In his summary, he writes (151): “What I think has been made clear, though, is that Rabbi Soloveitchik mounts questions which penetrate to the heart of the topic discussed and molds the myriad particulars of halakhic discussion into a broad, synthetic structure.” See also 154–155, where he describes the “normative coherence” that is achieved thereby: “Rules and the supporting discussion are integrated with other rules; consistency is achieved; broad over-arching patterns of

meaning emerge; straggling trees are shaped into a clearly discernible forest; and phenomena become a cosmos. Each individual detail gains depth, coherence, and conviction; each is rooted in a significant generalization.”

2) This quality seems to be connected to another phenomenon that is characteristic of the *Rav*, different treatments of the same *sugya* on different occasions. For example, in *Shi'urim le-Zekher Abba Mari*, vol. 2, there are two different explanations of the prohibition of eating before *kiddush* (112 and 129). If our goal is to arrive at irrefutable conclusions through direct proofs from the sources, there is little room for maneuvering. This is the message rising, for example, from the work of Rav Ezrachi (above, section 4, text to note 24). Anyone who examines a particular *sugya*, employing proper methods of analysis, should arrive at the same conclusion. If, however, the explanation is based on the integration of many details into one entire picture, there can be more than one way of constructing that picture. Regarding this aspect of the *Rav's shi'urim*, Rabbi Carmy writes (above, note 29, pp. 21–23): “... His distaste for routine repetition, so that reliance on what he had worked out last week, or last year, struck him almost as a form of dishonesty...”

65. Examples of the two types of reaction: *Hiddushei Rabbeinu Hayyim ha-Levi, Hilkhot Korban Pesah* 5:7, s.v. *ela*; *Hilkhot Mekhirah* 23:3, s.v. *ela*.
66. *Shi'urim le-Zekher Abba Mari*, vol. 1, 64ff.
67. This quality is particularly developed in Polish-Hassidic *lomdut*. For a methodological explanation, see: Rav Shabtai Avraham ha-kohen Rappoport, “*Hiddush Torah, Mahu?*”, *Kovetz Siftei Kohen* (no place of publication, Nisan 5760), 14, where he uses the “*Avnei Nezer*” as his model. With the *Rav*, however, the phenomenon does not assume such proportions.
68. *Shi'urim le-Zekher Abba Mari*, vol. 1, 72 – 73.
69. The *Rav* explains there why this principle does not apply in the case of “*harei alai*.” In truth, further along in the *shi'ur* (p. 79), the initial explanation of “*harei alai*” is found to be invalid, at which point a new principle is proposed, according to which “*harei alai*” and “*hareini*” constitute two different types of fast. This stage is another example of the phenomenon under discussion.
70. Anyone wishing to understand these differences in greater detail may assist himself with what I wrote about Rav Lichtenstein’s *shi'urim* elsewhere (see *supra*, note 3) and draw the comparisons. In any case, I will summarize a number of general points for comparison, in addition to what is mentioned in the body of this article. As stated above, both the *Rav* and Rav Lichtenstein share an approach that is directly interested in the “primary” principles. The *Rav*, however, makes great use of objections, whereas they are hard to find in the works of Rav Lichtenstein. He does not raise objections, but rather asks, what are the basic directions of understanding a particular law (see also *supra*, note 48). A second difference: the goal of constructing an “entire topic,” while central in *Shi'urim le-Zekher Abba Mari*, stands out less in the *Rav's* regular *shi'urim*. This objective, however, occupies Rav Lichtenstein’s attention in a fixed manner and with great emphasis. I sense that this difference exists, though

it should be noted that, according to Rav Lichtenstein, the *Rav* also dealt with “topics” to an impressive degree: “It is necessary to emphasize the *Rav*’s readiness, both in the course of his personal learning and while engaged in the dissemination of Torah, to present a particular issue as a “topic” of learning. In the tradition of the Torah of the school of Brisk, this was not done in a formal manner... This tendency, however, exists in the *Rav*’s Torah, and it is possible that it characterizes a slightly more academic approach to the world of learning...” (“*Darkah Shel Torat ha-Rav*,” 115–116). This testimony to the unique aspects of the *Rav*’s Torah in comparison to the tradition of his fathers’ complements the description proposed here.

71. I think that the *Rav*’s students would agree with this claim. In the notes above (and below as well), support was occasionally brought from sources other than *Shi’urim le-Zekher Abba Mari*. The main difference between the two types of *shi’urim* relates to the diligence with which he would construct “entire topics,” as was mentioned in the previous note.
72. *Hiddushei Rabbeinu Hayyim ha-Levi, Hilkhhot Ma’akhalot Asurot* 10:15.
73. *Ibid, Hilkhhot Metamei Mishkav u-Moshav*, 8:4, s.v. *ve-nir’eh de-ha-Rambam ve-ha-Ra’avad*.
74. *Ibid, Hilkhhot Tum’at Met* 19:11. Reb Hayyim’s explanation of the dispute does not reach the level of “primacy” that we have identified in *Shi’urim le-Zekher Abba Mari* – basic undisputed halakhic phenomena, which the *Rav* claims have not been understood and therefore require explanation – but it is step in that direction. It should be noted that according to Wachtfogel (*supra*, note 21, 16), “the questions which a *lamdan* may ask” include the question of what is the explanation of a particular controversy. The answer to such a question requires that “a Brisker *hakirah*” be employed. However, only the first two of Wachtfogel’s examples relate to the use of such a *hakirah* as an independent endeavor. The many examples that follow all show how a *hakirah* can resolve a real “difficulty.” It would appear that “explaining a controversy” as an act of learning, is needed primarily for the purpose of resolving problems and difficulties.
75. *Hiddushei Rabbeinu Hayyim ha-Levi, Hilkhhot Issurei Bi’ah* 13:11, s.v. *ve-nir’eh*.
76. *Supra*, note 36. See, for example, 259, regarding *rubo ke-kulo*. See also *Ishim ve-Shitot* (*supra*, note 9), 60, where note is taken of the stylistic difference between Reb Hayyim’s written and oral teachings.
77. “*Darkah Shel Torat ha-Rav*,” 115.
78. See *Hiddushei Rabbeinu Hayyim ha-Levi, Hilkhhot Tefilah*.
79. “*Darkah Shel Torat ha-Rav*,” 116: “In contrast to the accepted point of view that sees the dualism of duties of the limbs on the one hand and duties of the heart on the other, the *Rav* spoke of mitzvot, whose act is one of the limbs, but whose fulfillment is in the heart. As is well known, the *Rav* applied this perception in many areas and we have here what is undoubtedly one of his most striking *hiddushim*. (It is certainly legitimate to raise a question regarding the degree to which the *Rav*’s relating to the connection between man’s inner and outer worlds is perhaps bound to the parallels

found in Kantian philosophy or in the world of Protestant theology, issues which were of great interest to the *Rav* during the thirties.” It may be added that based on what was said above, it stands to reason that the *Rav*’s breakthrough precisely in this area was not based merely on the fact that he found one more area in which to distinguish himself, nor only on his background in general philosophy. Rather, precisely because this area of Halakhah, more than any other, is characterized as being “self-understood,” the *Rav* viewed it as one that is not understood in the least. In my opinion, only the *Rav* could have implemented the Brisker revolution in this area. Regarding the significance of the *Rav*’s philosophical background for understanding his approach to Halakhah, see also: A. Rosenack, “*Mi-Brisk le-Marburg u-be-Hazarah*,” *Akdmut* IX (2000), 34–39. It remains questionable whether it is legitimate to go as far in this direction as did Rosenack, particularly in light of the *Rav*’s clear position regarding Halakhah’s independence and severance from external modes of thought. Regarding this last issue, see A.R. Besdin, *Reflections of the Rav* (Jerusalem, 1979), 146–147; and Rosenack’s article, 15.

80. This paradoxical pairing lies at the foundation of the *Rav*’s thought. On the one hand, we have seen the degree to which he glorifies his grandfather’s innovative thinking. Nevertheless, he is far from viewing it as “reform.” “Two main acts epitomize the essence of this Judaism: First, the act of pure halakhic thinking (*midrash*); and second, the act of halakhic realization...As for the first, its place is in an ideal world...of pure Torah rolled up entirely in precise thinking...that same Halakhah was studied by Rabbi Akiva, Rabbi Yehoshua ben Hananyah, and Shmuel *ha-Katan*, by Abaye and Rava, by Rashi and the Rambam, by Rabbi Yosef Karo and the Rema, by the Vilna Gaon, the *Ketzot*, and the *Netivot*, by Reb Hayyim Brisker and his sons, my father and my uncle, Reb Velvel *zt”l* (*Mah Dodeikh mi-Dod*, 229). Compare this with the words of Rav Broide (*supra*, section IV), who describes *lomdut* as a phenomenon embodying continuity.
81. See Michael A. Bierman, ed., *Memories of a Giant – Eulogies in Memory of Rabbi Dr. Joseph B. Soloveitchik zt”l* (Jerusalem and New York: 2003), 358–359. [*Sefer Yovel li-Khevod Moreinu ha-Gaon Rabbi Yosef Dov ha-Levi Soloveitchik, shelit”a*, I (Jerusalem and New York, 1984), letter at the end of the volume (no page given).
82. We are better able now to understand the sources of Rav Mosheh Lichtenstein’s point of view, discussed above (note 27). There I argued that it is very difficult to justify his claims on the basis of an examination of *Hiddushei Rabbeinu Hayyim ha-Levi*. If we examine what he says, however, we see that he also relies on his personal experience hearing the *Rav*’s *shi’urim*. He writes that the *Rav* spent almost all of his energy attempting to clarify the Rambam’s position itself, whereas reconciling that position with the Talmudic passage assumed secondary importance and in practice he did not invest great effort in it. Indeed, this is correct with regard to the *Rav*. Judging on the basis of Reb Hayyim’s published work, however, it is clear that his grandfather did not act in similar manner. Viewing the Brisker tradition through the eyes of the *Rav* is common to anyone who was brought up on his Torah. Here it would appear that this way of looking at things led to a perception of Reb

Hayyim's work that does not follow from the book itself. In this context, attention should be paid to another point noted by Rav Mosheh Lichtenstein: According to him, the Brisker method must be supplemented by a "return to the text," that is, examining the significance of the proposed *sevarot* in the framework of the steps in the Talmudic discussion. See his aforementioned article, p. 13. A similar (though not identical) idea was suggested by another disciple of the *Rav*; See S. Carmy's article (above, note 29), p. 24: "From our present tendency to concentrate primarily on the *Rishonim*, we may be impelled to study more carefully the structure of the Talmudic *sugyot*, the manner in which various Talmudic sources interpret the tannaitic sources before them and similar problems." See also, *ibid.*, pp. 9–12, regarding establishing a textual basis for *sevarot*. Rabbi Carmy's inclination may be, in part, the product of the atmosphere that has become prevalent in our times, not necessarily in the *beit midrash*. Nevertheless, it would appear to me that the *Rav's* Torah, by virtue of its conceptual elementariness, is liable to be perceived as being too far detached from the sources themselves. One who is sensitive to this danger is likely to stir himself to undertake a more serious investigation of the data found in the sources, and thus to create a *derekh* in learning that is more balanced in his eyes.

83. Rav M.Z. Shurkin, *Harerei Kedem* (Jerusalem, 2000).
84. Though one must consider the moral problem raised by the publication of the *Rav's* Torah at the cost of distorting his public image ("*Gaon, Av Beit Din* of Boston"). Rav Shlomo Zeev Pick noted this issue in the supplement to *Hatzofeh*, 2 Adar II, 5760 (2000), 11.
85. There was no concern of "political" problems, as the publisher, *Makhon Yerushalayim*, is accepted in all circles.
86. Two points are made in Carmy's article (above, note 29), which if accepted, may shed light on the gap that exists between the *Rav* and the "yeshiva world." I will summarize them in brief, even at the cost of precision. The first point (21–23) is the distinction between two approaches to *lomdut* – one that values complexity and "polyphonic diversity" and one that constantly expects that learning will lead to a single, absolute and unambiguous truth. These points of view are related to general approaches to life, and are not restricted to the question of *lomdut* (22–23). This distinction is relevant in great measure to our discussion: While *Hiddushei Rabbeinu Hayyim ha-Levi* are indeed complex, it would appear that the way the work sticks fast to its primary goal is a quality that may be appealing to the single-faceted *lamdan*. The capacity to find interest and satisfaction in the *Rav's shi'urim* is conditional on a marked propensity for complexity. The second point (22–23 note 8) – the author considers the type of personal background that is likely to lead to self-consciousness relating to *lomdut*: "It may be that methodological self-consciousness, in this area, is correlated with a liberal arts education. Certainly it seems that the articulation of these insights is facilitated by educational breadth. Yet I am reluctant to deny self-understanding to *lamdanim* innocent of a thorough secular education." Continuing this line of thought, I find it inconceivable that

the great masters of Lithuanian *lomdut* were unaware of the significance of their achievements. Nobody before the *Rav*, however, expressed his awareness in such a clear and comprehensive manner and this phenomenon may be explained in the spirit of Carmy's words. The result, however, is that it was only the *lomdut* itself and not its accompanying baggage, that penetrated that community which remained unconnected to the *Rav*.

87. See, for example, *Harerei Kedem* (*supra*, note 83), no.73, 74, 78 (b), and compare with the parallel discussions in *Kuntrus be-Inyan Avodat Yom ha-Kippurim* (*supra*, note 39), 33, 41, 46 (respectively). There is no doubt that the "primal" style that dominates the *Kuntrus*, a style marked by its flowing and coherent presentation, reflects the manner in which the *Rav* delivered the *shi'urim* in 1964 (see the *Rav's* introduction, 6). One can see how the *shi'urim* were edited in order to fit them in with what is expected in the "yeshiva world," where the format of "this matter requires further study" is the rule. *Rav* Shurkin executed this task with great dexterity, but did not succeed in all cases. For example, section no.3 in *Harerei Kedem* deals with the obligation to appoint a prayer leader, about whom "no evil word spread in his youth." The *Rav* struggles with the essential difficulty: How can it be that a repentant sinner is disqualified from serving as a prayer leader? As a result, he proposes a new explanation of the Gemara, one that is not found in the *Rishonim*. *Harerei Kedem*, however, in this case as well, falls in line with the accepted convention that one may only propose such an explanation in order to resolve a textual difficulty. Thus, the "problematic" point here is that the Rambam wrote "in his youth," and not "even in his youth," as we find in the *Shulhan Arukh* (following Rashi). There being no genuine difficulty, the editor formulates the question in a minor mode: "It is slightly difficult why the Rambam did not write 'even in his youth,' as did Rashi and the *Shulhan Arukh*." In truth, however, this question is also baseless, for the Rambam merely cites the wording of the Gemara. This notwithstanding, it should be noted that one of the *Rav's* *hiddushim* cited above, appears in *Hiddushei ha-Gram ve-ha-Grid* in a style very similar to *Harerei Kedem*, no.73 (the author may have made use of this source). See *Hiddushei ha-Gram ve-ha-Grid*, 50. This seems to reflect the difference in the *Rav's* earlier and later styles, as we mentioned above (notes 38, 39) in the name of Prof. Twersky. We have not dealt here at length with a comparison of the *Rav's* earlier and later Torah.
88. It seems to me that in addition to methodological matters, the mental distance between the *Rav* and the "yeshiva world" expresses itself in the *sevarot* themselves. The *Rav* deals with the Rambam's position that the writing of a Torah scroll does not require *lishmah*, as opposed to the tanning of the hide, which does (*Shi'urim le-Zekher Abba Mari*, vol. 1, 254–259). He explains that a Torah scroll is sanctified, not by a formal act of writing, but by the personal and unique handwriting of a scribe. The *Rav* borrows this concept from the laws relating to the witnesses' signature on a *get*, about which it is stated that the witnesses cannot sign their names by filling in grooves made in the document, because the handwriting itself must be their own personal creation. Thus, writing is different from tanning, "because *lishmah*

is required only in a mechanical process, but not in a personal one and we have no need for it when the sanctifying act is a personal-exclusive act.” Is this distinction between a “mechanical” act and a “personal-exclusive” one found in the lexicon of the “yeshiva world”? Can it be translated into its language? I have my doubts.

