

Shylock and Jewish Law

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In Act IV of *The Merchant of Venice*, Shylock declares, “I stand here for law” (IVi 142). It is easy to read this as the stock attitude of a stock Jew, standing for the law of the Old Testament rather than the mercy of the New Testament. However, the law on which Shylock takes his stand is not the ancient, divinely ordained law handed down from Mount Sinai, but the secular law of Venice. He stands in the secular court, before the secular authority of the Duke, and cries, “If you deny me, fie upon your law!/There is no force in the decrees of Venice” (IVi 101-102).

What of that older law? Where does Shylock stand in terms of the responsibilities laid on him as a Jew? Much has been made of the unchristian ways of Shylock’s Christian neighbors, and the doom he brings on himself by imitating those ways and striving to “better the instruction” by being even more vicious. As many people have noted, the courtroom scene (IVi) reads well as the emergence of the true Christian value of mercy. Is it also possible to read it as the outcome of Shylock’s own conduct as considered under Jewish law?

In our times, we sometimes seek to understand this play as experienced by Shakespeare and his audience, with an awareness of their strong, unquestioned anti-Semitic assumptions and their lack of any experience of Jews in real life. They would not have known about Jewish law. More often, though, we set out to find the value of this play without its contemporary assumptions. This paper goes one step further, asking what the play looks like if we make the assumptions inherent in the law traditionally incumbent on a Jew’s daily life, that is, in *halakha*¹ (literally, “the way,” from the Hebrew root hei-lamed-khaf, meaning to go or to walk).

Halakha was included in the revelation at Mount Sinai. It is a complete system of laws² defining what is required and what is forbidden far beyond the limits of the secular law to which we are accustomed. It covers ritual observances, preservation of the Jewish heritage, civil law, criminal law, social conduct, family interactions, and private behavior. It applies whenever a Jew is praying, eating, playing, learning, talking, listening, bathing, changing clothes, doing business, having sex, raising children, traveling, participating in government, attending a party, appreciating nature, or even just sitting quietly at home.

On the other hand, nearly all of *halakha* applies only to Jews. There are only three Jewish characters in *The Merchant of Venice*:

Shylock, his daughter Jessica, and his colleague Tubal. Both Tubal and Jessica behave in ways unconditionally forbidden by *halakha*, but Tubal appears in only one scene (to be considered in its place), and Jessica begins by declaring her intention to become a Christian (IIIii 20). *Halakha* itself continues to consider her bound by *halakhic* requirements,³ but she does not agree, and she removes herself from its purview as completely as she can. Therefore the focus here is on Shylock.

Shylock’s very attitude toward law is un-*halakhic* throughout the play. He is passionately concerned to enforce his rights, gleefully recounts how Jacob made the most of his right to the parti-colored lambs (Iiii 73-84), and is bitterly aware of it when others exercise their rights against his interest. He hates Antonio for exercising the right to lend money without interest (Iiii 38-40). He goes to the Duke to demand enforcement of his right to apprehend his own daughter as a thief (IIvii 4-5), and in court (IVi) and out (IIIii 277-283; IIIiii) he repeatedly demands enforcement of his right to collect Antonio’s flesh. This may seem unremarkable to us, living as we do under secular law which is very careful to protect people’s rights. But *halakha* deals almost exclusively in obligations: what one must do and what one must not do. It has much less to say about rights, that is, what one may do if one chooses. Of course, one person’s legal right to demand something corresponds with another person’s legal obligation to supply what is demanded. However, Shylock does not talk about such obligations. He says not, “You cannot choose but yield me my bond,” but rather, “I’ll have my bond!...I will have my bond....I’ll have my bond....I’ll have my bond....I will have my bond” (IIIiii 5-18). This focus on rights rather than obligations suggests that his involvement in “the way” that is *halakha* is superficial at best.

His wrong-headed attitude does not in itself constitute a breach of *halakha*. In most cases, it is possible (though of course not recommended) to follow the strictures of *halakha* mechanically. Shylock does not even do that. He abrogates *halakha* whenever he is on stage, and even when he is off stage, we hear about further abrogations.

He appears first in Iiii, and in his first speech longer than ten words, he violates the *halakhic* injunction against *lashon hara*. Specifically, *lashon hara* refers to communicating something about one or more people which is true, but denigrates them or operates to their disadvantage.^{4*} Saying untrue negative things

¹ Many thanks to Yaakov Watkins for his exacting and patient research of *halakha*, without which this paper could not have been written.

However, it is important to note that this paper discusses fictional situations, not real ones. This is especially important because *halakha* is in active use in real life today. **DO NOT USE THIS PAPER** to determine how to follow *halakha* in any real situation! Making such determinations requires a long and exacting course of study. The only shortcut is to ask a rabbi who has completed such study.

² While *halakha* provides for a system of courts to adjudicate disputes and to administer various sanctions to those who do not comply with it, its force derives rather from its divine origin than from any human enforcement. It has provided the norms of acceptable behavior throughout Jewish history.

³ As explained in detail later in this paper, non-Jewish worship is one of the three things which *halakha* requires Jews to avoid even at the cost of their lives. However, just as a criminal is still subject to secular law, abrogating this requirement does not free one from the obligation to follow *halakha*.

⁴ *Mishneh Torah*, Laws of Knowledge 7:1-2 states that the prohibition in Leviticus 19:16, “You shall not go about as a talebearer,” includes prohibition of *lashon hara*. *Tosefta* says (*Erichin* 15b), “...wrongful worship, forbidden sexual relations, and murder—*lashon hara* is equivalent to all of them.” *Halakha* concedes the existence of circumstances in which true but negative statements are not *lashon hara* because they are the only way to achieve something required, but it defines such circumstances very strictly, based on the second half of

about someone is also forbidden, of course. That is called *motsi shem ra*, defamation of character; in essence, it combines *lashon hara* and lying.

Shylock commits them both frequently from the moment he comes on stage. For instance, he declares that Antonio's "means are in supposition" (16). That fact is relevant to his mental calculations, but he need not mention it aloud. Still worse, he says that Antonio's many ventures are not merely abroad, but "squand' red abroad" (20), a completely gratuitous slur. Similarly, he calls Launcelot Gobbo "an unthrifty knave" (171) when there is no need to mention Gobbo at all. He moves beyond *lashon hara* into *motsi shem ra* when, knowing full well that Bassanio's suspicion of his merry bond is wise, he cries, "what these Christians are, / Whose own hard dealings teaches them suspect / The thoughts of others!" (156-158).

In his first scene he also abrogates *halakhic* prohibitions against holding a grudge and against deceit, and entirely disregards the requirements for a valid contract, in order to pursue his own goals. He is eager for a chance to "feed fat the ancient grudge" he bears Antonio, despite the injunction, "You shall not take revenge and you shall not bear a grudge."⁵ The specific *halakhic* definition of bearing a grudge becomes important: it consists of obliging someone who has disobliged oneself, but reminding the other, "I am not like you who would not oblige me."⁶ This is exactly what Shylock says to Antonio (134-137):

I would be friends with you and have your love,
Forget the shames that you have stained me with,
Supply your present wants, and take no doyt
Of usance for my moneys.

Of course, he is not sincere in saying so; and in lying he goes against the *halakha* which says, "A person is forbidden to act in a smooth-tongued and luring manner....What he feels in his heart should be the same as the words on his lips. It is forbidden to deceive people....It is forbidden to utter a single word of deception or fraud."⁷

Moreover, he proposes a fraudulent contract (taking fraud to be deception for the sake of personal gain). He defines the contract, or "bond," as an effort on his part to buy Antonio's friendship; and he describes the gruesome penalty if Antonio should default as worth too little to bother with exacting (158-164). Yet his true hope in seeking the contract is to get rid of the damage Antonio does his business by granting free loans and railing against Shylock and his practices (40-47), for which purpose Shylock would benefit greatly by exacting the penalty for defaulting.

He continues his falsehoods in his next scene, IIv, commencing (3-4) with the fiction that Launcelot Gobbo, who

Leviticus 19:16, "you shall not stand aside while your fellow's blood is shed."

* For discussion of the sources cited for specific *halakhas*, please see Works Cited.

⁵ Leviticus 19:18. *Mishneh Torah*, Laws of Knowledge 7:8, adds, "the Torah condemns holding a grudge, requiring one to wipe the wrong from his heart entirely, without remembering it at all."

⁶ Babylonian Talmud, *Yoma* 22b-23a.

⁷ *Mishneh Torah*, Laws of Knowledge 2:6.

says, "I am famished in his service" (IIiii 989-99), has "gourmandized" in his house more than will be possible in Bassanio's. He repeats this notion at the end of the scene, saying that Gobbo is "a huge feeder, / Snail-slow in profit, and he sleeps by day / More than the wildcat" (44-46)—a statement which, since he makes it to Jessica, also constitutes more *motsi shem ra*.

This scene also reveals that his word is unreliable, which results in further falsehood. In his first scene he rejects an invitation to dinner with Bassanio because it will mean "to smell pork, to eat of the habitation which your prophet the Nazarite conjured the devil into!" and says most convincingly, "I will not eat with you, drink with you, nor pray with you" (Iiii 30-34). Yet here in IIv he accepts the identical invitation. True, he accepts with misgivings, but even those misgivings have nothing to do with his original objections. Rather, he dislikes knowing that "I am not bid for love—they flatter me" (13), and is "loath to go" because of an ill-omened dream (16-18). He shows no regard for the *halakhas* that forbid him to participate in any such meal: "It is forbidden to eat their [non-Jews'] bread or their cooked food,"⁸ and "the pig...is unclean to you."⁹

As he goes back and forth about accepting the invitation, he makes an oath: "By Jacob's staff I swear / I have no mind of feasting forth tonight" (35-36). The *halakha* concerning oaths is extensive and complex.¹⁰ To summarize a few basic points: *Halakha* does not actually forbid swearing an oath; it is only a bad idea. This is because whatever one has sworn to becomes required, as if it were another *halakha*. If one keeps the oath, one has avoided wrongdoing, but that would also have been true if one had never sworn. On the other hand, not keeping the oath means not only that one has abrogated the "*halakha*" which it established, but also that the oath itself was a lie. Since an oath that "I have no mind of feasting forth tonight" is no sooner uttered than kept, Shylock is not at risk here; he is only foolish to accustom himself to saying such things, because the next time he may not be so fortunate.

After this scene, Shylock is off stage for the remainder of Act II, but that does not prevent him from offending against *halakha*. In particular, *halakha* rejects the use of non-Jewish legal systems between Jews.¹¹ Of course Jews must follow the law of the government under which they live; "the law of the land is the law."¹² That law is also appropriate for regulating any conflicts that may arise with non-Jews. In case of conflicts among themselves, however, Jews must turn to their own laws. *Halakha* provides for ample redress when Jessica steals her father's money and gems. But Shylock turns instead to the law of Venice. In IIviii, Solanio recounts Shylock's public outcry (17-22):

Justice! the law! my ducats and my daughter!
A sealèd bag, two sealèd bags of ducats,
Of double ducats, stol'n from me by my daughter!
And jewels—two stones, two rich and precious stones,
Stol'n by my daughter! Justice! Find the girl!
She hath the stones upon her, and the ducats!

⁸ *Mishneh Torah*, Laws of Forbidden Food 17:9.

⁹ Leviticus 11:7.

¹⁰ *Mishneh Torah*, Laws of Vows and Laws of Oaths.

¹¹ *Mishneh Torah*, Laws of Sanhedrin 26:7.

¹² Babylonian Talmud, *Nedarim* 28a.

His outrage is understandable, but he goes beyond what *halakha* permits by invoking secular law against Jessica, a fellow Jew.

He reappears on stage in IIIi, interacting with both Solanio and Salerio, who taunt him about Jessica and ask him about Antonio, and Tubal, who has been looking for Jessica at his request. This gives him a great deal of opportunity to abrogate *halakha*, of which he does not hesitate to avail himself. (It is true that he does so under considerable provocation, but *halakha* obtains even then.) He continues to speak *lashon hara* about Antonio, calling him “A bankrout, a prodigal, who dare scarce show his head on the Rialto, a beggar that was used to come so smug upon the mart!” (38-40) and crying, “He hath disgraced me and hind’red me half a million, laughed at my losses, mocked at my gains, scorned my nation, thwarted my bargains, cooled my friends, heated mine enemies” (47-50). He speaks *lashon hara* against Jessica as well, apparently merely for the sake of achieving a minor word play, responding to Solanio’s remark that it is normal for grown children such as Jessica to “leave the dam” by saying, “She is damned for it” (27-28).

He also emerges in his true colors with respect to his contract with Antonio. Salerio repeats the understanding which Shylock was at such pains to produce in Iiii, “Why, I am sure if he forfeit thou wilt not take his flesh. What’s that good for?” But now Shylock snaps, “To bait fish withal. If it will feed nothing else, it will feed my revenge” (44-47). One might imagine that this honesty is to his credit, but in fact it mires him in additional offenses.

Halakha does not permit seeking revenge, as we have already seen: “You shall not take revenge and you shall not bear a grudge.” Shylock makes it very clear that revenge is his intention (58-64):

...if you wrong us, shall we not revenge? If we are like you in the rest, we will resemble you in that. If a Jew wrong a Christian, what is his humility? Revenge. If a Christian wrong a Jew, what should his sufferance be by Christian example? Why, revenge! The villainy you teach me I will execute, and it shall go hard but I will better the instruction.

In saying this, he not only speaks *lashon hara* and *motsi shem ra* about Christians, but also comes quite close to the specific *halakhic* definition of revenge: giving someone at whose hands one has suffered the same treatment in return.¹³ In addition, he is once again abrogating the *halakhic* principle that Jews must adhere to their own laws. An appeal to the norms of non-Jewish behavior is not acceptable.

Moreover, he interprets his contract with Antonio in literal terms. He intends to take Antonio’s actual flesh. *Halakha* does not permit any such thing. It interprets such penalties strictly in financial terms.¹⁴ Thus *halakha* declares (or would declare if the contract were valid) that the penalty which Shylock may collect when Antonio defaults is only the financial equivalent of a pound

¹³ Babylonian Talmud, *Yoma* 22b-23a.

¹⁴ Babylonian Talmud, *Baba Kama* 84a ff. This is a central tenet of *halakhic* jurisprudence, with complex ramifications beyond the scope of this paper. However, the basic principle is sufficient for purposes of the present discussion.

of human flesh. What is that equivalent? Shylock himself identifies it: “A pound of man’s flesh taken from a man / Is not so estimable, profitable neither, / As flesh of muttons, beefs, or goats” (Iiii 161-163). It is good “to bait fish withal” (46). Thus Shylock may collect the current price of a pound of fish bait on the open market.

This conclusion relies on seeing the pound of flesh as a penalty agreed upon for failure to fulfill a contract. It is also possible to view it as the collateral which Antonio pledged to secure the loan from Shylock. In that case, *halakha* is even less favorable to Shylock’s true goals. The lender of an overdue, collateralized debt has two options: either forgive the debt, or hold the collateral until the borrower discharges the debt.¹⁵

Holding collateral is not a simple thing. One may not withhold from the borrower collateral which the borrower needs in order to live: “One shall not take an upper or lower millstone as a pledge, for he would be taking a life as a pledge.”¹⁶ In order to ensure both survival to the borrower and collateral to the lender, *halakha* decrees that the lender hold the borrower’s bed (or some equivalent) by day and the millstones (or some equivalent) by night.¹⁷ Since the pound of flesh is obviously necessary for Antonio’s survival by both day and night, the worst Shylock could do is seize some less deadly, alternative collateral and hold it until Antonio’s natural demise, at which point the original collateral—or perhaps its market value as fish food—would fall to his share. Meanwhile, if Antonio pays off the debt, Shylock must return even the alternative collateral, and that ends the matter.

Clearly, if Shylock had analyzed the matter in *halakhic* terms, he could never have hoped that his transaction with Antonio might result in eliminating Antonio. But he never considers it in that light. In his interaction with Tubal, he continues his gloating anticipation of exacting the literal pound of flesh.

The interaction with Tubal brings out yet more abrogations of *halakha*. Shylock has sent Tubal to inquire after Jessica, and he eagerly demands any information Tubal may have about Antonio as well. Thereby he abrogates the prohibition, “you shall not place a stumbling block before the blind,”¹⁸ which, in addition to its literal meaning, prohibits causing someone else to abrogate *halakha*.¹⁹ Shylock successfully urges Tubal to speak *lashon hara* about both Jessica and Antonio: Tubal recounts Jessica’s profligacy with what she stole from Shylock, and passes along information about the failure of Antonio’s ventures (87-109).

Tubal’s *lashon hara* in turn provides the occasion for new infractions on Shylock’s part. He speaks hatefully of Jessica, whom he is obligated to love in spite of everything: “You shall love your fellow as yourself.”²⁰ This specifically applies to “each and every one of the Children of Israel,”²¹ and certainly to his own daughter, whatever she may have done. He even curses her: “I would my daughter were dead at my foot, and the jewels in her

¹⁵ *Mishneh Torah*, Laws of Lending 3:5.

¹⁶ Deuteronomy 24:6.

¹⁷ *Mishneh Torah*, Laws of Lending 3:5.

¹⁸ Leviticus 19:14.

¹⁹ *Mishneh Torah*, Book of Commandments, negative commandment 299.

²⁰ Leviticus 19:18.

²¹ *Mishneh Torah*, Laws of Knowledge 6:3.

ear! Would she were hearsed at my foot, and the ducats in her coffin!" (78-80). This too is forbidden: "You shall not curse the deaf,"²² that is, not even the deaf who cannot hear the curse; how much more so those who can hear!²³ Particularly applicable to Shylock's relationship with Jessica is the additional injunction, "Do not curse a person known to have wronged you," because you thereby make it less likely that such a person will ask your forgiveness.²⁴

Shylock has a different attitude about a curse applied to himself. In bewailing the jewels which Jessica stole, he cries, "The curse never fell upon our nation till now; I never felt it till now" (75-77). This is an astonishing statement in light of *halakha*, which requires him to "Remember what Amalek did to you, on the way when you were leaving Egypt, that he happened upon you on the way, and he struck those of you who were hindmost, all the weaklings at your rear, when you were faint and exhausted, and he did not fear G-d."²⁵ That was a far more horrible experience than being robbed of some portion of considerable wealth; if Shylock does not feel accursed until the robbery, he cannot be remembering that experience. Indeed, "you are commanded to remember the going out of Egypt day and night," that is, twice each day in the prayers he is required to say.²⁶ If he has not repeatedly felt the many fears and dangers (as well as the wondrous miracles) of the Exodus, he has not fulfilled this obligation; he must be saying his prayers mechanically, or perhaps not at all. Throughout history, Jews have endured innumerable hardships, and *halakha* declares, "All Jews are responsible for one another";²⁷ but Shylock is apparently unaffected except by his own personal troubles: "no ill luck stirring but what lights o' my shoulders, no sighs but o' my breathing, no tears but o' my shedding" (84-86).

By the next scene, the three months of the bond are up, and Antonio cannot repay Shylock's three thousand ducats: "my ships have all miscarried, my creditors grow cruel, my estate is very low, my bond to the Jew is forfeit" (IIIii 315-317). From here on, Shylock focuses exclusively on claiming his pound of flesh, in continuing disregard of the *halakha* concerning contracts and loans. Salerio reports that "if he [Antonio] had / The present money to discharge the Jew, / He would not take it" (IIIii 272-274) and Jessica confirms (IIIii 284-288) that she has

heard him swear
To Tubal and to Chus, his countrymen,
That he would rather have Antonio's flesh
Than twenty times the value of the sum
That he did owe him.

This oath is another instance of Shylock's carelessness about swearing. As in IIv, what he swears is no sooner spoken than fulfilled; but in permitting himself the habit, he ignores the danger of abrogating *halakha*.

He appears on stage only once more before his final day in

²² Leviticus 19:14.

²³ *Mishneh Torah*, Book of Commandments, negative commandment 317.

²⁴ *Mishneh Torah*, Laws of Repentance 4:3.

²⁵ Deuteronomy 25:17-18.

²⁶ *Mishneh Torah*, Laws of Reading Shema 1:3.

²⁷ Babylonian Talmud, *Shevuos* 39a.

court, when Antonio tries fruitlessly to persuade him to relent (IIIiii). At this point his habit of making oaths brings him into an untenable *halakhic* position. He emphatically refuses to have anything to do with such pleas: "I have sworn an oath that I will have my bond" (6). This oath is not so innocent as his earlier ones. He has sworn to do something which *halakha* forbids, and thereby created a situation in which, whatever he does, he must abrogate *halakha*. If he keeps the oath, he abrogates the *halakhas* which deny him the pound of flesh, but if he does not keep it, then he lied when he swore it, and moreover he abrogates the requirement which he made binding on himself by swearing it.

In addition, this scene contains the strongest instance yet of Shylock's persistent abrogation of the requirement to imitate G-d: "You shall walk in His ways."²⁸ To identify "His ways," *halakha* turns first to G-d's self-description upon giving Moses the Tablets of the Law for the second time: "The Lord, the Lord, G-d, merciful and gracious, slow to anger, and abundant in kindness and truth; preserver of kindness for thousands of generations, forgiver of iniquity, willful sin, and error, and who cleanses."²⁹ *Halakha* explains, "Just as He is called gracious, you shall be gracious; just as He is called merciful, you shall be merciful; just as He is called holy, you shall be holy. In a similar manner, the prophets called G-d by other titles—slow to anger and abundant in kindness, righteous and just, complete, enduring and strong, and the like—in order to inform us that these are good and upright paths. A person is obligated to accustom himself to these paths and resemble G-d to the extent of his ability."³⁰

All along, Shylock has failed to imitate the qualities of graciousness, kindness, truth, forgiveness, and general righteousness. Now, in rejecting Antonio's humble pleas, he reaches new depths in his failure to live up to the fact that he is *tselem HaShem*, a being created in the image of G-d. Over and over, people offend against G-d and then appeal to Him to save them from evil which He has decreed; and He listens and relents "in accordance with His abundant kindness."³¹ For instance, He rescinded the punishment for the Golden Calf in response to Moses' pleas,³² prevented the destruction of Jerusalem foretold by Micah at the supplication of King Hezekiah and his people,³³ averted first a swarm of locusts and then a firestorm when Amos cried out, "Please refrain!"³⁴ and withheld the destruction of Nineveh when its inhabitants begged for compassion.³⁵ He is *Nachum Al HaRa*, the Relenter from Evil.³⁶ Shylock, instead of imitating this as best he can, will not even listen to supplications: "Speak not against my bond!...I will not hear thee speak....I'll have no speaking; I will have my bond" (4, 12, 17). He not only refuses to relent, but also is contemptuous of this divine attribute, declaring, "I'll not be made a soft and dull-eyed fool, / to shake the head, relent, and sigh, and yield" (14-15).

Ultimately, in order to go beyond all this railing and actually collect his bond, Shylock takes Antonio to the court of Venice.

²⁸ Deuteronomy 28:9.

²⁹ Exodus 34:6-7.

³⁰ *Mishneh Torah*, Laws of Knowledge 1:6.

³¹ Psalms 106:43-45.

³² Exodus 32:12, 14.

³³ Jeremiah 26:18-19.

³⁴ Amos 7:1-6.

³⁵ Jonah 3:10.

³⁶ Jonah 4:2.

This scene (IVi) is the culmination of Shylock's part of the play. His old failings under *halakha* are still with him, and he goes beyond them to commit more and worse.

He continues to speak *lashon hara*, calling Antonio "that bankrupt there" (122), and to lie (59-62):

So can I give no reason, nor I will not,
More than a lodged hate and a certain loathing
I bear Antonio, that I follow thus
A losing suit against him.

However, these abrogations of *halakha* are incidental. His whole focus is on achieving the "legal" murder of Antonio by enforcing the literal terms of the bond: "The pound of flesh which I demand of him / Is dearly bought, is mine, and I will have it" (100-101). He insists repeatedly on his *halakhically*-impermissible oath to collect it (36-37, 226), impatiently rejecting increasingly extravagant attempts to reach a financial settlement such as *halakha* might accept—six thousand ducats (84), nine thousand (208), thirty thousand (209). He even adds a new oath, intended to hasten the proceedings: "By my soul I swear / There is no power in the tongue of man / To alter me" (238-240). This oath too should never have been sworn; when he finally withdraws his claim, he is breaking this oath and turning it into a lie.

Both the Duke (88) and Portia (198-200) urge Shylock to recognize that he himself stands in need of the divine mercy which mitigates each person's just deserts. Portia makes more overt than ever Shylock's failure to imitate G-d as *halakha* requires. "Then must the Jew be merciful," she says (180). "It is an attribute to G-d Himself" (193). Shylock remains unimpressed. "What judgment shall I dread, doing no wrong?" he retorts (90). "My deeds upon my head!" (204). Saying such things would be unthinkable for one who follows *halakha*. If he says his daily prayers, he acknowledges his imperfections there: "I have sinned before You."³⁷ Moreover, *halakha* requires him to devote part of every day to the study of Torah,³⁸ and to integrate what he learns into his life.³⁹ No one who fulfills these obligations could have the arrogance to imagine that he is "doing no wrong."

We need not conclude that Shylock entirely neglects the requirement to study. His image of generosity with slaves (IVi 94-98) might have come directly from *halakha*:

Let them be free! marry them to your heirs!
Why sweat they under burdens? Let their beds
Be made as soft as yours, and let their palates
Be seasoned with such viands!

This sounds like a direct reference to the detailed *halakhas* governing relations between Jews when one is the slave of the other.⁴⁰ Such a slave must go free after a certain period of time; the owner is strongly encouraged to marry a female slave when she comes of age, or else marry her to his son; one may not require the slave to do unlimited or unreasonable work; and the

³⁷ Morning and afternoon prayer service, *Tachanun* (Supplication) section, recited morning and afternoon on most weekdays.

³⁸ *Mishneh Torah*, Laws of Learning Torah 1:8.

³⁹ Babylonian Talmud, *Baba Kama* 17a: "[proper] Torah study leads to action."

⁴⁰ *Mishneh Torah*, Laws of Slavery 1.

slave must have bed and board at least as good as the owner's.

But if we take these lines to demonstrate Shylock has sometimes fulfilled his obligation to study, they also show that he does not integrate his learning into his life. He cites these *halakhas*, not to acknowledge or commend them, but as an instance of unreasonable demands.

He does not learn from the Torah study which *halakha* requires; and no more does he learn from experience. The Venetian law on which he has relied, to the neglect of *halakha*, proves to repay careful study too. His deceits turn on him: in place of the vengeful victory he has pursued so single-mindedly, Portia gives him the justice under Venetian law which he has hypocritically demanded (101, 142, 204, 235-236). Even when she has stripped him step by step of his revenge, his profit, and his original three thousand ducats (304-342), he does not re-evaluate or take stock. He merely falls to cursing again: "the devil give him good of it!" (343).

The progression from victory to defeat continues. Venetian law deprives him of his entire fortune, fully half of it going to Antonio, the beggared enemy he meant to kill, and puts his very life into the hands of the Duke (345-355). When the Duke spares his life, and even offers him some degree of financial respite if he will only humble himself (367-70), he cries out not in remorse, but in horror at finding himself in what is, after all, the very position where he placed Antonio: sorely impoverished and faced with death at the hands of the law. He howls that he prefers death to losing his wealth (372) and ironically claims protection under the principle which *halakha* vainly required him to apply to Antonio: "You do take my life / When you do take the means whereby I live" (374-375).

Antonio takes him at his word, arranging to leave him with not only his life but also half his assets—the wealth for which he was ready to die. Instead he takes Shylock's identity as a Jew, requiring him both to make his apostate daughter and her non-Jewish husband his heirs (386-388), and to follow Jessica into apostasy (385). He could not demand worse under *halakha*: "If a non-Jew arises and forces a Jew to violate a commandment of the Torah on pain of death, he should violate the commandment rather than be killed...with the exception of wrongful worship, forbidden sexual relations, and murder. However, with regard to these three sins, if one is ordered: 'Transgress one of them or be killed,' one should sacrifice his life rather than transgress."⁴¹

Shylock, indifferent as ever to the requirements of *halakha*, miserably declares himself "content" with Antonio's stipulations (392). He was willing to die rather than lose his wealth, but not when *halakha* requires it. His ultimate disaster of forced conversion to Christianity, which many modern audiences regard with horror, is in fact the rejection of his final opportunity to return to the *halakha* which should govern his actions as a Jew. His wretched acceptance of Antonio's conditions is of a piece with his behavior throughout the play. His un-*halakhic* values are unaltered.

Many attempts exist, especially in the light of the rejection of anti-Semitism in modern scholarly circles, to rescue Shylock from ignominy and present him as a tragic figure, even if not entirely justified in his actions. He is certainly more complex than a stock

⁴¹ *Mishneh Torah*, Laws [which are] the Foundation of Torah 5:1-2.

villain or a simple figure of fun. In performance, he can be horrible, humorous, pathetic, or indeed all of them by turns. He does have humorous moments, but they fail to mitigate his viciousness, as when he alternates absurdly between bewailing the wrongs Jessica has done him and gloating over the wrongs he seeks to inflict on Antonio (IIIi 71-115). He even has his moments of dignity, most notably in his speeches “I will not eat with you” (Iiii 32-34) and “Hath not a Jew eyes” (IIIi 50-64), but one turns out to be a lie and the other is all in service of his revenge.

Nevertheless it is difficult to see how he attains to tragedy. The stuff of tragedy is great potential gone awry and important lessons learned at too high a price. Shylock is no such honorable failure. He shows no particular potential to have been a better person; the misery of his fate is not out of proportion to his misdeeds; and above all he does not learn. Whatever complexities Shylock may exhibit, the play unremittingly presents him as an undesirable character who personifies what one should not be; and *halakha* emphatically concurs.

Works Cited

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Halakhic Sources

Tanakh, ed. Nosson Scherman. Mesorah Publications, Ltd., 1996.

Tanakh is the Jewish Bible, whose content is quite similar to the Christian Old Testament. It consists of twenty-four books grouped into three sections: *Khumash* (the five “Books of Moses”), *Nevi'im* (Prophets), and *Kesuvim* (Writings). Most citations relevant to discussions of *halakha* come from *Khumash*.

Babylonian Talmud

The Talmud records centuries of discussion aiming to clarify *halakha* and other elements of the Jewish tradition. Indeed, it is considered the embodiment of the Oral Tradition received at Mount Sinai, just as *Khumash* is the embodiment of the Written Tradition. The Jerusalem Talmud closed in the second half of the third century, and the larger Babylonian Talmud near the end of the fifth century.

Tosefta, though it is usually published with the Babylonian Talmud in a format normally used for commentaries, in fact precedes it, having been compiled in the third century.

Khumash and Talmud together are the ultimate written source for *halakha*. For nearly a millennium, however, *halakhic* decision makers have frequently availed themselves of compendia intended to extract the information needed for such decisions and lay it out for easier reference.

Maimonides, Moses. *Mishneh Torah [Review of the Torah]*. Egypt, 1180s.

Mishneh Torah is the first great compendium of *halakha*. As such, it forms the foundation for all following compendia. It was the primary *halakhic* summary of Shakespeare’s time and is still in active use for making *halakhic* decisions today, although more recent compendia such as *Shulkhan Arukh [The Set Table]* (Yosef Caro, Venice, 1565) and *Mishnah Berurah [Clarified Teaching]* (Israel Meyer Kagan, Poland, 1894-1907) often cover present-day situations more thoroughly. It was tempting to use *Shulkhan Arukh* as the primary source of *halakhic* information for this paper, as it was published in the city where *The Merchant of Venice* is supposed to take place. However, it seemed more appropriate to use *Mishneh Torah*. New *halakhic* compendia gain authority only slowly. *Shulkhan Arukh* became available only four decades or so before the time of the play, and had not yet superseded *Mishneh Torah* as a popular summary.