



## How Inclusive is Judaism?

Parashat Va-yishlah, Genesis 32:4-36:43 | By Mark Greenspan

“**Individuals with Disabilities**” by Edward M. Friedman (pp. 831) in *The Observant Life*

### Introduction

Rabbi Edward Friedman opens his thoughtful discussion of disabilities in *The Observant Life*: “If we live long enough most of us will eventually acquire some sort of physical or mental disability.” Some of these ‘disabilities’ are characteristics we take for granted, such as wearing glasses or putting braces on our teeth. Others are the inevitable product of age such as taking medicine or walking with a cane. Whatever disabilities we may have (I’m not certain that ‘disability’ is the proper word to describe such mental and physical conditions), they often become physical barriers twice: first, in our ability to function in society, and second, in how others see and treat us. Rabbi Friedman argues we have a double responsibility as Jews - to make it more convenient for people to function within the framework of society and to remove the pejorative attitudes of others to those who live with so-called disabilities.

Friedman’s point is that individuals with disabilities are not the “other;” they are you and me. In the Bible, disabilities are taken for granted and ubiquitous: Isaac goes blind in his old age, Jacob walks with a limp after his wrestling match, Moses struggles with a speech impediment, and King Saul suffers from mental illness (he was bipolar). There is no judgment implied in the way these characteristics are described, though these qualities influence our ancestors’ life stories. That is not to say that the Bible and the Jewish tradition is non-judgmental in the way it views disabilities. There are as many statements in rabbinic literature that appear to exclude those with disabilities as there are statements that promote inclusiveness. So how are we to make a judgment about where Judaism stands on these issues? What role should *halakhah* play in shaping our attitudes toward disabilities?

*Jacob was left alone. And a man wrestled with him until the break of dawn. When he saw he had not prevailed against him, he touched Jacob’s hip socket, so that the socket was wrenched as he wrestled with him... The sun rose upon him as he passed Peniel and he was limping on his hip. That is why the children of Israel to this day do not eat the thigh that is on the hip socket, since Jacobs hip socket was wrenched at the thigh muscle.*

- Genesis 32:21-29

### Sources and Resources

- a. *He touched his hip socket: The inclination of modern translations to render the verb as “struck” is unwarranted, being influenced either by the context or by the cognate noun nega’, which means “plague” or “affliction.” But the verb naga’ in the qal conjugation always means “to touch,” even “to barely touch,” and only in the pi’el conjugation can it mean to afflict. The adversary maims Jacob with a magic touch, or if one prefers, by skillful pressure on a pressure point.*  
- Robert Alter, *The Five Books of Moses*, pp. 179-80
- b. *He was limping on his hip: The encounter with the unfathomable Other leaves a lasting mark on Jacob. The physical note resonates with the larger sense of a man’s life powerfully recorded in the story: experience exacts many prices, and he bears his inward scars as he lives onward - his memory of fleeing alone across the Jordan, his fear of the brother he has wronged, and before long, his grief for the beloved wife he loses, and then, for the beloved son he thinks he has lost.*  
- Robert Alter, *The Five Books of Moses*, pp. 182

- c. *He touched his hip socket: He touched (injured) the righteous people who would descend from him, viz: the generation of the destruction (the Hadrianic persecutions, 132-135 CE)...so that the socket was wrenched (va-teka): Rabbi Berechiah and Rabbi Eliezer said: It means that he flattened the thigh bone down. In Rabbi Assi's name, they said: He split it open like a fish. Rabbi Nachman ben Yaakov said: He dislocated it, as in the verse (Ezekiel 23:18), "Then my soul was alienated (va-teka) from her."*

- Bereshit Rabbah 77:3

- d. *Levi ben Sisi fasted and prayed for rain in vain. He said; "Master of the world! You have gone up and taken your seat in heaven and shown no consideration for the suffering of your children. Rain fell but Lev became unable to walk. Rabbi Elazar once said: "One must never reproach God."*

- BT Ta'anit 25a

- e. *If one sees an Ethiopian (one with dark skin), a gichor (one with very red skin), an albino, a bent-over person (person with a large belly, whose height appears bent over because of his portliness), a dwarf, a drakona (a person who is full of warts), a dwarf, who has all his hairs stuck to each other, an elephant or a monkey, he should say "You are Blessed, Lord our God, King of the universe, Who varies the creatures." If one sees a lame person, a person with stumps, a blind person, a person who is afflicted with boils or a glistening person, (a person who is mottled with tiny spots); if they have been like this from the time they were born one should make the blessing "Who varies the creatures." If they underwent a change and became like this after they were born, one should make the blessing "God is a true judge." One should only make the blessing the first time he sees such a person, when he is very struck by the variation.*

- Joseph Karo, Shulhan Arukh, Orach Hayim 225:8-9

- f. *In our tradition, certain halakhot develop out of sensitivity to the deaf, while other halakhot display attitudes and approaches that the deaf experience as regarding them with indifference and disregard. These attitudes and approaches stem from an inability to determine whether a deaf person who did not speak had a mental capacity along the lines of an individual without disabilities. This inability caused the rabbis that rule that the deaf lacked not only hearing but cognitive ability and to correlate them with the mentally incapacitated. However, in the modern period, significant innovations in the education of the deaf and in the attitudes of the hearing have demonstrated their full mental capacity, yet halakhic authorities have been hesitant to apply this recognition to altering the halakhic determination of the mental capacity of the deaf. The Committee on Jewish Law and Standards rules therefore that the deaf are of the same ability as those without disabilities and that the terrible categorization of the deaf as mentally incapacitated be reversed. Sign language is undoubtedly a language, a means of communication equal to speech and satisfies what halakha needs to have communicated in matters of personal status. The requirement that certain liturgical units, such the Sh'ma, must be articulated is met by the physical motions of sign language. The Committee on Jewish Law and Standards rules that the deaf who communicate via sign language and do not speak are no longer to be considered mentally incapacitated:*

1. *Jews who are deaf are responsible for the mitzvot.*

2. *Our communities, synagogues, schools, and camps must strive to be welcoming, accessible, and inclusive.*

3. *Sign language may be used in matters of personal status (weddings and divorce proceedings) and may be used in rituals such as britmilah by the parents or mohel (and kehillah) and pidyon ha-ben by the parents or kohen.*

4. *Sign language may be used in liturgy. A deaf person called to the Torah who does not speak may recite the berakhot via sign language. A deaf person may serve as shaliach tzibbur in sign language in a minyan whose medium of communication is sign language. Furthermore, since sign language can be used to fulfill a halakhic requirement, those who hear and use speech and who also know sign language may join a minyan of deaf Jews*

*who are using sign language and fulfill the liturgical mitzvot via sign language without having to repeat the prayers orally.*

5. *Sign language may be used for tefillot, such as the Sh'ma and Shmoneh Esreh, that must be articulated.*

- Pamela Barmash, 'The Status of the Heresh and Sign Language,' Committee on Jewish Law and Standards of the Rabbinical Assembly

## Reflections

One might argue that 'inclusivity' is a core value of Conservative Judaism. From its earliest history, Conservative rabbis and leaders have sought to find ways to include those who were traditionally excluded from communal religious life. The most dramatic examples of this are the role of women in Jewish life and the treatment of those with disabilities. But a commitment to inclusivity is not unconditional for us as Conservative Jews; it must be defined by, and based in, our fundamental commitment to the *halakhi* process. If our primary concern was to be as inclusive as possible, we could simply throw open the doors and welcome all into the synagogue. Rabbi Friedman's essay shows how Conservative Jews continue to wrestle with traditional sources while maintaining a modern sensibility and a respect for our changing understanding of the medical, social and scientific insights of the modern world. As Conservative Jews we believe that inclusivity can be found within *halakhab* and that the *halakhi* process is strong enough to address our new insights and knowledge.

But that is not to say that there isn't a certain amount of ambivalence with regard to physical and mental disabilities in the Jewish tradition. On the one hand, the Torah commands us, "You shall neither insult the deaf nor place a stumbling block before the blind." (Leviticus 19:14) Friedman claims that the rationale for this commandment lies in the fundamental teaching of Judaism: "Love your neighbor as yourself." (Leviticus 19:18) He writes that we must learn "to treat people with disabilities as we would wish to be treated ourselves if and when we develop a disability." On the other hand, we are troubled by statements in the *Torah* and in *Halakhab* such as the story of Rabbi Levi ben Sisi. What are we to do with the claim that a *kohen* who has a physical blemish is disqualified from serving in the Temple? Or, Rabbi Judah's statement that, "The blind are exempt from the commandments," and Rabbi David HaLevi who writes in his commentary on the *Shulchan Aruch* that one may not count a deaf person in a *minyán*. Such statements cannot be so easily dismissed in the interest of 'inclusion.' If *halakhab* is a way of life, on the other hand, it must be defined not just by history but by our changing knowledge of the physical and social universe.

This ambivalence regarding disabilities in the Jewish tradition is captured in the discussion of Jacob's nocturnal wrestling match. On the night before his encounter with Esau, Jacob finds himself wrestling with a mysterious stranger. That this is more than a dream is suggested by his injury. When the *ish*, the man, is unable to defeat Jacob, he 'touches' our forefather's hip socket and injures him. The following day, Jacob comes to meet his brother with a limp. Does God allow the angel/assailant to smite Jacob, suggested by the use of the word *va-yiga*, to touch or afflict? Alter suggests that there was something magical about the touch, but the correlation of illness and affliction both in Hebrew and in English suggests that we still see illness as a punishment. What is the meaning of Jacob's injury? It is fascinating and suggestive of something more profound that it is only when Jacob's is injured that he finds his true self. Alter suggests that the outer injury is somehow symbolic of inner wholeness. The injury is a metaphor. In the *midrash* we find both points of view: disability as a metaphor and disability as a physical injury, nothing more and nothing less.

There are many sources that can be quoted in wrestling with the Jewish attitude toward disability. For Rabbi Levi ben Sisi, his disability is a sign of divine displeasure. God answers his righteous prayer but cripples him. In the *halakhab* of blessings, we find that there are blessings when we encounter someone with a physical

characteristic that makes them different. What does it mean to say a blessing when we meet someone with a physical blemish? Are these blessings exclusionary or inclusionary? And what does it mean to say a different blessing for a congenital condition as opposed to one that occurred after birth? Should we still say such blessings today? Finally, I have included the final statement from Rabbi Pamela Barmash's *steshuvah* on the attitudes of Jewish law to sign language in the context of the synagogue. Much as she might like to conclude that Judaism does not differentiate between those who communicate with sign language and those who are hearing, she confronts the diverse sources and draws conclusions from the diversity of opinions expressed in Jewish law, and our changing understanding of the nature of deafness. One caveat to this discussion: I do not know what Rabbi Barmash's experience has been with the deaf, but what I have learned over the years is that our willingness to be more flexible in *halakhic* matters is often a product of personal experience. It is one thing to speak of deafness as a theoretical issue and another matter to encounter the deaf and discover the person who is affected by the *halakhab*.

### **Halakhah L'ma-aseh**

- a. *It is important that we strive to break down the physical and social barriers that often exclude people with disabilities from participating in Shabbat and festival celebrations...In Deuteronomy 16:11 the Torah teaches us to include the Levite, the stranger, the orphan and the widow in our festival celebrations. As regards the stranger (or the estranged as the text could be translated) the teachings of the Torah ordain that we not forget people with disabilities...*  
- *The Observant Life*, pp. 831
- b. *Whether or not obligated in law...Jewish congregations should feel obligated both legally and obligated to go beyond the requirements of civil law. We should work toward removing all physical barriers that prevent people from entering our buildings and sanctuaries...*  
- *The Observant Life*, pp. 831
- c. *Providing access, however, is only the first step. Jewish law speaks of the importance of k'vodhaberiyot, the dignity of all God's creatures. Therefore when we provide access, it should be in ways that preserve the dignity of individuals gaining access to our institutions...*  
- *The Observant Life*, pp. 831
- d. *Deaf people are, however, exempt from mitzvot that require hearing a particular sound, such as hearing the shofar...One might ask: may deaf people who can feel the vibrations of the shofar fulfill the obligations of hearing in that way, or can hearing only be accomplished through one's ears?*  
- *The Observant Life*, pp. 831
- e. *People who can neither hear nor speak have traditionally been supposed to be mentally incompetent, and it has followed logically from that supposition that such people should not be counted in a minyan. In more recent times, the initial supposition has been proven categorically untrue (by) authorities such as Rabbi Ovadiah Yosef...*  
- *The Observant Life*, pp. 831
- f. *Blind people are permitted to lead the prayers in the synagogue by heart (SA Orech Chaim 53:14), which permission would certainly apply as well to a blind individual using a Braille prayer book.*  
- *The Observant Life*, pp. 831
- g. *It is not enough to rule that people with disabilities are permitted to lead our worship services. We must make proactive efforts to see that people who are blind or deaf, particularly children, receive a Jewish education...*  
- *The Observant Life*, pp. 831
- h. *In a responsum adopted by the Committee on Jewish Law and Standards in 2003...Rabbi Danny Nevins considers the issue of a blind person reading the Torah publicly for the congregation. The author demonstrates that the reading of*

*the Torah is an obligation upon the congregation, not the individual, and that a Jew who is blind is therefore sufficiently obligated according to all opinions to fulfill this obligation on behalf of others.*

- *The Observant Life*, pp. 831

- i. *There is a long history mentioned in the Talmud and in later literature of blind individuals who served as rabbis and teachers.*

- *The Observant Life*, pp. 831

- j. *The words of Maimonides found in the Mishnah Torah should be our guide in these matters: "Let not human dignity be light in your eyes," the greatest halakhist wrote, "For the respect due a person supersedes a negative commandment... a judge must be careful not to do anything calculated to destroy someone's self respect."*

- *The Observant Life*, pp. 831

### **Questions to Ponder**

1. Why does the Torah bother to mention that Jacob was injured in his wrestling match and that he limped afterwards? What does this add to the narrative?
2. How does the blessing, "who varies God's creatures" impact the person who says the blessing? In what way does it have an impact upon the person about whom the blessing is said?
3. The blessing that is recited for a congenital deformity is the same blessing one recites upon hearing the death of a loved one. What is the connection between these two situations?
4. What would an inclusive congregation look like? What limits might the Jewish tradition place on the synagogue or the practice of ritual in its inclusiveness?
5. If the whole point of Torah reading is reading from the scroll, should a blind person be allowed to read the Torah publicly since he/she cannot actually read the scroll?

*Adapted from Torah Table Talk by Mark Greenspan*