



Defining *Da'at*:

A Jewish Perspective on Artificial Intelligence

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Selected Sources

1. Created in God's Image

Maimonides *Guide to the Perplexed* I:1 (tr. Friedlander)

The term *zelem*... signifies the specific form, that which constitutes the essence of a thing... As a person's distinction consists in a property which no other creature on earth possesses, intellectual perception... On this account, i.e., on account of the Divine intellect with which a person has been endowed, he is said to have been made in the form and likeness of the Almighty...

2. Imperfection - an Evolutionary Perspective

Gary Marcus, *Kluge*

"...living creatures' continuous need to survive and reproduce often precludes evolution from building genuinely optimal systems... the consequences are often equally clumsy, with new technologies piled on top of old... The hindbrain... (dating back from at least half a billion years ago), controls respiration, balance, alertness, and other functions that are as critical to a dinosaur as to a human. The midbrain, layered on soon afterward, coordinates visual and auditory reflexes and controls functions such as eye movements. The forebrain, the final division to come online, governs things such as language and decision making, but in ways that often depend on older systems... Over the course of evolution our brain has become a bit like a palimpsest, an ancient manuscript with layers of text written over it many times, old bits still hiding behind new... The end product tends to be a kluge." (Ch.1)

"Memory is... the mother of all kluges, the single factor most responsible for human cognitive idiosyncrasy. Our memory is both spectacular and a constant source of disappointment... Computer memory works well because programmers organize information into what amounts to a giant map... When a computer is prompted to retrieve a particular memory, it simply goes to the relevant address. ...we wound up with what I'll call "contextual memory." (Ch. 2)

3. *Da'at* as Necessary for Legal Responsibility

Mekhilta R. Yishmael Shabbata 1

"The People of Israel shall keep the Sabbath" (Ex. 31:15) I would infer that a deaf-mute, imbecile and minor are included. The verse teaches "To know that I am God." I only said this for one who has legal competency.

Mishnah Bava Kamma 6:4

One who puts fire in the hand of a deaf-mute, an imbecile, or a minor is exempt for damage in human laws but liable in the laws of Heaven. In the hand of a legally competent person, the legally competent person is liable.

מכילתא דרבי ישמעאל שבתא א

ושמרו בני ישראל את השבת, שומע אני אפילו חרש שוטה וקטן במשמע, תלמוד לומר לדעת כי אני יי', לא אמרתי אלא במי שיש לו דעת.

בבא קמא ו:ד

השולח את הבערה ביד חרש, שוטה וקטן, פטור בדיני אדם וסבב בדיני שמים. שלח ביד פקס, הפקס סבב.



4. Da'at as Unnecessary (and Insufficient?) for Personhood

Mekhilta R. Yishmael Nezikin #4 <i>One who strikes a man [and he dies shall be put to death].</i> I only know this applies to striking a man, from where that it applies to striking a woman or a minor? The verse teaches: <i>If a man strikes any living person</i> (Lev 24:17) - to include striking a woman or child... <i>One who strikes a man.</i> It implies that this applies also to a minor [who killed someone]. The verse teaches: <i>If a man strikes any living person</i> - to exclude a minor [from punishment]. I would infer that this also applies to [killing] an eighth month [non-viable] birth. The verse teaches: <i>One who strikes a man</i> - this teaches that a person is only culpable for killing a viable being.	מכילתא דרבי ישמעאל נזיקין ד מכה איש. אין לי אלא שהכה את האיש, הכה את האשה ואת הקטן מנין, ת"ל +ויקרא כד יז+ ואיש כי יכה כל נפש אדם, להביא את שהכה את האשה ואת הקטן... מכה איש, אף הקטן במשמע, ת"ל ואיש כי יכה כל נפש אדם, להוציא את הקטן. [ואיש כי יכה כל נפש אדם] שומעני אף בן שמונה במשמע, ת"ל מכה איש, מגיד שאינו חייב עד שיהרוג בן קיימא.
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5. Violation of Will and Consent

Mekhilta R. Yishmael Nezikin 17 <i>If a man seduces a young maiden.</i> The verse comes to teach that in the case seduction he must pay a penalty. Logic would dictate - since a raped maiden is in her father's domain and a seduced maiden is in her father's domain, if we learn he pays a penalty in the case of rape he should also pay a penalty in the case of seduction. No, perhaps he pays a fine in the case of rape because he violated her consent and her father's consent, but would you say the same in a case of seduction when he has only violated her father's consent? Therefore maybe he does not pay a penalty. Behold, since I am not able to derive it logically the verse had to bring it.	מכילתא דרבי ישמעאל נזיקין יז וכי יפתה איש בתולה. בא הכתוב ללמד על המפותה שישלם עליה קנס; והדין נותן, הואיל ותפוסה ברשות אביה ומפותה ברשות אביה, אם למדת על תפוסה משלם עליה קנס, אף מפותה משלם עליה קנס; לא, אם אמרת בתפוסה שעבר על דעתה ועל דעת אביה, לפיכך הוא משלם עליה קנס, תאמר במפותה שלא עבר אלא על דעת אביה, לפיכך לא ישלם עליה קנס, הא לפי שלא זכיתי מן הדין צריך הכתוב להביאו.
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6. Individuality

Sifre Zuta to Numbers 27:16 <i>May YHVH God of spirits of all flesh appoint [a leader].</i> God who knows the mind and spirit of every individual - *who is haughty and who is humble, who is reliable and who is impetuous,* as it says [God] <i>who fashions the hearts of them all, who discerns all their doings.</i> (Psalms 33:15)... *ChatGPT translation: whether high or low, whether on the right side or meticulous	ספרי זוטא פרק כז פסוק טז יפקוד י"י אלהי הרוחות לכל בשר, האל שהוא יודע דעת ורוח של כל אחד ואחד איזו בגבוה איזו בנמוכה איזו הימני' ואיזו קפדנית [וכן הוא אומר היוצר יחד לבם המבין אל כל מעשיהם (תהלים לג טו)]...
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7. Learning as Wondering: the “Four Questions”

Mishnah Pesahim 10:4 They pour a second cup and here the child asks the parent. If the child doesn't have intellectual capacity their parent teaches them: How different is this night from all other nights! On all nights we eat leavened and unleavened bread - on this night only unleavened... According to the intellectual capacity of the child their parent teaches them, beginning with the negative and concluding with the positive, and expounds from the verse <i>My father was a wandering Aramean</i> (Deut. 26:5) until finishing the entire passage.	פסחים י"ד [*] מזגו לו כוס שני וכאן הבן שואל אביו ואם אין דעת בבן אביו מלמדו מה נשתנה הלילה הזה מכל הלילות שבכל הלילות אנו אוכלין חמץ ומצה הלילה הזה כולו מצה... ולפי דעתו של בן אביו מלמדו מתחיל בגנות ומסיים בשבח ודורש מארמי אובד אבי עד שיגמור כל הפרשה כולה:
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8. Torah as Interpretation

Sifre Bemidbar Pinhas 134 <i>It shall be for the People of Israel as a code of law.</i> The Torah gave intellectual capacity for the sages to expound...	ספרי במדבר פינחס פיסקא קלד והיתה לבני ישראל לחקת משפט נתנה תורה דעת לחכמים לדרוש...
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9. Legal Significance to Unspoken Words?

Kiddushin 49b There was a man who sold his property with the intent to move to the land of Israel, but at the time of the sale he said nothing. Rava said: These are words of the heart, and words of the heart do not count as words.	קידושין מט: ההוא גברא דזבין לנכסיה אדעתא למיסק לארץ ישראל, ובעידנא דזבין לא אמר ולא מיד. אמר רבא: הוי דברים שבלב, ודברים שבלב אינם דברים.
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10. Common Sense Inferences in Communication

R. Nissim on R. Alfasi to Kiddushin 49b Even though we establish in many places that we follow an inferential estimation...In all of these kinds of cases since the matter is obvious in itself they are not considered “words of the heart”. Rather, it is as if he said these explicitly. It is obvious - since nobody would give all of their property to someone else, leaving them to beg on doorsteps...where the matter is obvious in itself these are not words of the heart but “words in the mouth and heart of the entire world.” But in the case at hand, the matter is not so obvious, for one could think that he needed cash and therefore sold... ...But anyone who errs in their speech, that speech act does NOT count, for we require that the mouth and heart be aligned	ר"ן (על הרי"ף) מסכת קידושין כ: ואף על גב דקי"ל בדוכתי טובא דאזלינן בתר אומדנא ... דכל כה"ג כיון שהענין מוכיח מתוכו לאו דברים שבלב נינהו אלא הרי הוא כאילו נאמר בפירוש דמברחת מוכחא מילתא משום דליכא דיהבה כולהו נכסי לאחריני והיא תשאל על הפתח...דכל כה"ג שהענין מוכיח מתוכו לאו דברים שבלב הם אלא דברים שבפי כל העולם ובלבם אבל הא דשמעתין לאו מוכחא מילתא כולי האי דאימור זוזי איצטריכו ליה
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when it comes to expressing words...	וזבין... אבל כל שהוא טועה בדבורו כי התם לאו כלום הוא דבעינן שיהו פיו ולבו שוין להוציא מה שהוא מוציא ... בשפתיו...
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11. Lack of Common Sense in AI

Rebooting AI by Gary Marcus and Ernest David “Happy Birthday dead Theo” (AI generated prompt for text message)
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12. Children - Taking Responsibility for Imperfect/Immature Offspring

Dr. David Zvi Kalman, “Jews Aren’t Loud Enough About AI” Mosaic, March 26, 2024. “The notion of AI as a type of god, which one today hears sometimes from the technology’s secular boosters, is both dangerous and literally idolatrous... This sentiment must be forcefully repudiated. Instead, it is far more appropriate to treat AI as a kind of child: one that is growing in power and resembles its “parents” but mimics them to a fault. This idea, which can easily be connected to Judaism’s vast stores of wisdom on parent-child relationships (and even descriptions of humanity as God’s children) sets forth a path that emphasizes our long-term duty of care.”
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13. Origins of Proxy in Shared Community

Mekhilta R. Yishmael Pisha #5 <i>They shall slaughter it [the Passover Sacrifice].</i> Would they all slaughter it? Rather, to make a person’s proxy like themselves. From here they derived, a person’s proxy is like himself...	מכילתא דרבי ישמעאל פסחא ה ושחטו אותו. וכי כלן שוחטין אותו אלא לעשות שלוחו של אדם כמותו מכאן אמרו שלוחו של אדם כמותו...
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14. Proxy and Reasoning

Mishnah Terumot 4:4 One who says to their agent: Go and give the priestly gift. They should give according to the intent of the homeowner. If they don’t know the intent of the homeowner, they should give an average amount - one fiftieth. If they gave ten less or ten more it counts as the priestly gift. If they intended an additional amount, even just one, it does not count as the priestly gift.	תרומות ד:ד האומר לשלוחו צא ותרום תורם כדעתו של בעל הבית אם אינו יודע דעתו של בעל הבית תורם כבינונית אחת מחמשים פחת עשרה או הוסיף עשרה תרומתו תרומה אם נתכוין להוסיף אפילו אחת אין תרומתו תרומה:
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15. Limitations of a Proxy: Beneficial v. Harmful Outcomes

Kiddushin 42b ...A person's proxy is like themselves... Rav Nahman says: Brothers who divided property...If there was an error of less than one-sixth in the distribution, the transaction is valid... Rava says: ...But if he appointed an agent, he can say: I sent you to act for my benefit and not to my detriment... There is a difficulty from that which we learned in a mishnah: In the case of one who sends an item that causes a fire in the hands of a deaf-mute, an imbecile, or a minor, the one who sent it is exempt according to human laws but liable according to the laws of Heaven. If he sent it in the hands of a legally competent person, only the competent agent is liable. But why? Let us say a person's agent is like themselves. There it is different, there is no agency for transgression, as we say: When there is a conflict between the words of the Master [God] and the words of the student [human emissary] whose words should be listened to?	קידושין מב: ...שלוחו של אדם כמותו... אמר רב נחמן: האחין שחלקו... פחות משתות – נקנה מקח. יתר על שתות – בטל מקח. שתות – קנה, ומחזיר אונאה. אמר רבא: ... אבל שויה שליח, אמר: לתקוני שדרתיך ולא לעוותי... והא דתנן: השולח את הבעירה ביד חרש שוטה וקטן – פטור מדיני אדם, וחייב בדיני שמים. שילח ביד פיקה – פיקה חייב. ואמאי? נימא: שלוחו של אדם כמותו! שאני התם דאין שליח לדבר עבירה. דאמרינן: דברי הרב ודברי תלמיד – דברי מי שומעים?
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16. Limitations of a Proxy: Intelligence and Shared Commitments

Mishnah Gittin 2:5-6 Anyone is qualified to write a bill of divorce, even a deaf-mute, an imbecile, or a minor... Because the ratification of a bill of divorce is only through its signatories. Anyone is fit to serve as an agent to bring a bill of divorce except for a deaf-mute, an imbecile, or a minor, or a blind person, or a gentile... This is the principle: Anyone who is legally competent in the beginning and in the end is fit...	גיטין ב:ה - ו הכל כשרין לכתוב את הגט אפילו חרש שוטה וקטן... שאין קיום הגט אלא בחותמיו הכל כשרין להביא את הגט חוץ מחרש שוטה וקטן וסומא ונכרי: ... זה הכלל כל שתחלתו וסופו בדעת כשר:
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17. Working within Limitations of Proxy: Isolating "Low-Trust" Tasks

R. Asher Gittin 2:27 ...But here since the gentile only did what even a monkey could do, and the husband in writing appointed a Jew in that place to be the agent, why should the bill of divorce be invalid? And so is the practice of the people of Germany and France, following R. Tam, to send bills of divorce and marriage with gentiles, and in writing appoint a Jew in that place to be the agent.	רא"ש גיטין ב:כז אבל הכא כיון דלא עשה העובד כוכבים אלא מעשה קוף בעלמא ומינה הבעל בכתבו את ישראל שבאותו מקום שליח למה יפסל הגט וכן נוהגין באשכנז ובצרפת ע"פ דברי ר"ת לשלוח גט וקידושין על ידי עובד כוכבים וממנה בכתבו ישראל שבאותו מקום שליח
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18. Insurmountable Limitations of Proxy: Personal Integrity

Sefer Ta'amei ha-Minhagim u-Mekorei ha-Dinim, #106 Because it is not the way of a servant to thank their master... by means of a messenger. Rather, each person must, with their own mouth, accept the sovereignty of Heaven.	ספר טעמי המנהגים ומקורי הדינים, קו מפני שאין דרך העבד להודות לרבו... ע"י שליח. אלא כל אדם צריך לקבל בפיו עול מלכות שמים.
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19. Alignment as Life-Long Learning, Not a Code

Sifre Deuteronomy Eikev #41 From where do you know that if someone learns something from a child in Israel it should be like learning from a sage? The verse teaches: <i>Which I am commanding you today.</i> Not from the mouth of a sage but really like from the mouth of many sages, as it says: <i>The sayings of the wise are like goads</i>(Eccl. 12:11) Just as this goad directs the cow to its furrow to bring sustenance to its masters - so too words of Torah align a person's intellect with the Divine Intellect...	ספרי דברים עקב מא מנין אתה אומר שאם שמע אדם דבר מפי קטן שבישראל יהא בעיניו כשומע מפי חכם תלמוד לומר אשר אנכי מצוה אתכם, ולא כשומע מפי חכם אלא כשומע מפי חכמים שנאמר +קהלת יב יא+ דברי חכמים כדרבנות מה דרבן זה מכוין את הפרה לתלמיה להביא חיים לבעליה כך דברי תורה מכוונים דעתו של אדם לדעת המקום...
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