

Violent and Defamatory Video Games

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The Committee on Jewish Law and Standards of the Rabbinical Assembly provides guidance in matters of halakhah for the Conservative movement. The individual rabbi, however, is the authority for the interpretation and application of all matters of halakhah.

She'elah:

May Jews play violent or defamatory video games?

Te'shuvah:

The video game industry accounts for an enormous percentage of the entertainment industry today.¹ According to a September 2008 survey by the Pew Research Center, 97% of all teenagers play video games in some format.² While First Amendment rights to free speech assure that the content of these games is legal in American law, their ethical status varies widely. The variety of games available today is great, and the good to be gained from many of them may also be great. They stimulate the minds of the elderly, and they raise preparedness scores of those about to enter the Israeli army, and they help youngsters learn everything from music to mathematics.

In a portion of the games, however, the material is morally questionable and may even be harmful or immoral on other grounds. These include what we are calling “violent and defamatory games.” By “violent” we mean *gratuitous* brute force intended

¹ <http://www.mediafamily.org> the Mediawise Video Game Report Card is published periodically by the National Institute on Media and the Family. They found that 87% of young people from grades four through twelve play video games, and 96% of males in that age group play regularly.

² Cited in Melissa Slager, “Edutainment 2.0: The New Educational Video Games,” <http://encarta.msn.com/encnet/Departments/Elementary/?article=Edutainment2.0>.

to harm someone else, not the physical or military actions that are sometimes necessary to defend yourself or to take part in a justified war. Gratuitous violence is rather violence for the sake of violence. Characters in these games attack, maim, and murder other people simply because they can and for the adrenaline rush that it gives them.

The defamatory character of the games addressed in this responsum involves defaming and degrading specific groups of people. Most often these are women, police officers, and/or minority groups, including people different from the majority in ethnicity, religion, or sexual orientation. Usually the defamation is accompanied by violence against them.

In addition to the *content* of all such games, we must explore and evaluate the *context* in which violent or defamatory video games are played. Who, for example, is responsible for the minors who play these games and the effects these games have on their behavior? Their parents? The shops that sell them? The companies that produce them? Even though producers of these games have the legal right to put them on the market, they have recognized a moral duty to establish standards, similar to those used for movies, to restrict sales of some games to people over the age of eighteen. Even for adults, though, should people play immoral games for fun? If not, how should we draw the line between what is simply bad taste and what is morally unacceptable? And how is what is morally unacceptable related to Jewish law?

Finally, some introductory words about the *scope* of this responsum are in order. Jewish law clearly prohibits many of the actions depicted in these videos – murder, assault, theft, rape, etc. -- when they take place in reality. At the other end of the spectrum is passively reading a magazine or book or watching a television show or movie that depicts these actions. *This responsum does not address either of those situations*; Jewish law already amply treats these crimes when they occur in real life, and this

responsum *offers no direction on how we should treat violence or defamation in media where the observer is passive.* That is for another time and place. This responsum instead focuses solely on the middle of that spectrum, where the player is actively involved in these actions, but they are taking place only in electronic space and not in reality. They thus involve the player much more personally and intensely than a book or movie would; indeed, much of the lure of these video games is that they enable players to act out their fantasies (and not just passively imagine what it might be to act in such a way) without paying the legal price that acting in such a way in real life would entail.

As a responsum, we will try to apply Jewish moral and legal norms to these questions. In doing so, we are clearly applying classical Jewish norms to new circumstances, but we aim to do so in a way that is both a justifiable reading of the tradition and a realistic one for modern society.

The Realities of Video Games

In the early years of video games, their content posed few, if any, moral problems. The games consisted of a few colors and shapes, with very simple objectives. While some of these games involved shooting at alien invaders or asteroids, the shooting was very unrealistic and abstract. Few, if any, asked whether it is good to create games in which the objective is to shoot something, presumably because archery, bowling, and other long-established games do the same thing.

Shooting today in video games, however, is quite different. The targets are now very realistic depictions of people in the everyday world; in fact, the images are often effectively photographs of real people and things. The player has the ability to choose weapons and methods of injuring other people, and he or she is rewarded for the killing.

Quite often the player is placed in a situation where no other choice exists but to kill or to be killed and lose the game.

In conducting the research for this paper several years ago, Rabbi Hearshen went to a neighborhood Blockbuster and requested popular games that are controversial and have questionable content. The clerk produced the following games: “Backyard Wrestling,” “Playboy Mansion,” “Leisure Suit Larry: Magna Cum Laude,” “Grand Theft Auto: San Andreas,” “Max Payne,” “The Getaway: Black Monday,” and “Navy Seals.” All of these titles carried an “M” rating, which is intended for audiences 17 years of age or older.³ Here is Rabbi Hearshen’s description of the video games that the Blockbuster clerk declared the most popular at the time:

“Backyard Wrestling” is a game that was created as a result of the success of a popular DVD series by the same title. The DVD focuses on teenagers and young adults around the US wrestling in the same way that professional actors wrestle on TV, but without the training or rules. The game depicts this well, as the goal is to injure the competitor and win through any means possible. This could be throwing the opponent into a fire, hitting him or her in the head with a baseball bat, and many more such acts of violence. There was a good amount of blood and some

³ Video Games are rated in the same fashion as movies are today. They are rated by an industry sponsored group called the ESRB, Entertainment Software Rating Board. The board has the following ratings: **EARLY CHILDHOOD** Titles rated **EC (Early Childhood)** have content that may be suitable for ages 3 and older. Contains no material that parents would find inappropriate.

EVERYONE Titles rated **E (Everyone)** have content that may be suitable for ages 6 and older. Titles in this category may contain minimal cartoon, fantasy or mild violence and/or infrequent use of mild language.

EVERYONE 10+ Titles rated **E10+ (Everyone 10 and older)** have content that may be suitable for ages 10 and older. Titles in this category may contain more cartoon, fantasy or mild violence, mild language and/or minimal suggestive themes.

TEEN Titles rated **T (Teen)** have content that may be suitable for ages 13 and older. Titles in this category may contain violence, suggestive themes, crude humor, minimal blood, simulated gambling, and/or infrequent use of strong language.

MATURE Titles rated **M (Mature)** have content that may be suitable for persons ages 17 and older. Titles in this category may contain intense violence, blood and gore, sexual content and/or strong language.

ADULTS ONLY Titles rated **AO (Adults Only)** have content that should only be played by persons 18 years and older. Titles in this category may include prolonged scenes of intense violence and/or graphic sexual content and nudity.

swearing. The female competitors were dressed in very little clothing and were depicted in a very sexual manner.

“Playboy Mansion” is a new release and is exactly what the title says. The player plays the part of the CEO of the Playboy Empire by creating the magazine, courting women and having sex. When the player has sex, the controller vibrates. The player is encouraged to have multiple girlfriends and must pay attention to them by spoiling them, among other things. The player also needs to be aware of the bottom line and try to make a lot of money.⁴

“Leisure Suit Larry: Magna Cum Laude” is also a new release. This is the latest installment in a long series of games. The main character is a college student who only cares about sex and needs to compete in various competitions to find coeds who will have sex with him. The sex in this game is much more censored than the Playboy Mansion game.

“Grand Theft Auto: San Andreas” is by far one of the most popular games available today.⁵ At the same time it is one of the most controversial. It is the latest release in the Grand Theft Auto series, and the video stores have trouble keeping them in stock because the demand is so great. In this game the main character is a member of the world of organized crime, more specifically a street gang. The main character must complete a large number of tasks that include stealing cars, killing people, robbing, dealing with drugs, and much more. The majority of the women in the game are scantily clad prostitutes. Having sex with a prostitute is the method for regaining health points. There is also a well known way to cheat, which is built into the game. The player needs to pay for the prostitute to increase health points, so the player is able to pay the prostitute, have sex, and then kill her to take back the money. The game uses many racial and ethnic slurs in addition to offensively foul language. Finally, the police are portrayed in a very negative fashion, as corrupt and evil, and for all intents and purposes they are the bad guys.

“Max Payne” is a game that is also popular. It is unique in that it brings comic books to life. The main character is a police officer who has committed some crime, and it is not clear just how crooked or guilty he is. The gore factor is incredibly high, and arresting the bad guys does not

⁴ It is curious that this game was seldom checked out from Blockbuster. Rabbi Hearshen asked the clerk about this. He told him it was odd that all of the violent games were never there, but these very sexual games are never checked out. The clerk told Rabbi Hearshen that parents rent games like “Backyard Wrestling” for their six year olds because they are comical, but they refuse to rent any of the sexual ones. In other words, the violent games are being played by young children and teenagers along with adults, but the sexual ones are only being seen by adults for the most part.

Since first conducting research for this paper, Rabbi Hearshen has spoken to parents and children in his congregation about this subject on a great number of occasions. He has found it odd, and quite telling, that they are not shocked by the violent content, including the misogyny, the ethnic slurs, or the threats against police officers. They are concerned, however, about their children seeing sex in the videos and in fact requested that he censor the sexual content from the descriptions of the videos in this responsum.

⁵ The Mediawise Video Game Report Card cites a national survey that found that 70% of American teenage boys had played the previous released game in the series.

seem to be an option. The language is also extremely strong and derogatory in nature. The game basically encourages shooting at practically anything that moves.

“The Getaway: Black Monday” is a British game similar to “Grand Theft Auto” but more from the perspective of the police. The shooting is optional in that the player could instead choose to arrest the bad guy. Something odd in this game is that one scene takes place in an “adult film” studio and involves naked females and plenty of sexual innuendos. The language is dark, and many curse words are used. The driving is reckless, and many innocent pedestrians and automobiles are hit.

“Navy Seals” is a game referred to as a “first person shooter” and is based on the military. The player has the opportunity to play as a Navy Seal and to go on many missions. There is a code of conduct involved, and the player may not just randomly shoot. Since it is based on the military, there are definitive good and bad guys. The blood level in this game is not as intense as it is in other games. This game has an option in which players can play against one another in shootouts and other forms of killing or maiming each other.

To give readers an idea of exactly how extensively games of this sort have pervaded our society, as of April, 2008, the *Grand Theft Auto* series had sold more than 65 million copies worldwide since its launch eleven years before, with each new game in the series selling more than the last. The third game, *San Andreas*, had sold more than 14 million copies since its launch in 2004.⁶ The new game, *Grand Theft Auto IV*, had \$310 million of sales on the very first day it was available in stores (April 29, 2008), and \$500 million during its first week; *Guinness World Records* named it the most profitable entertainment release of all time.⁷ Six million copies of the game were sold in its first week. Comparisons with other forms of entertainment can be difficult because of the different costs per unit at the retail level. Still, *Harry Potter and the Deathly Hollows* sold 8.3 million copies during its first week, but one must compare its cost of \$34.99 per book to the \$60 price of GTA IV, which also requires an Xbox 360 or PlayStation

⁶ Alex Pham, “Title May Drive Take-Two Bid Higher,” *Los Angeles Times*, April 28, 2008, p. C1, C4.

⁷ “Numbers,” *Time*, May 26, 2008, p. 18; Alex Pham, “‘Grand Theft Auto IV’ Steals Video Game Record,” *Los Angeles Times*, May 8, 2008, C1, C6.

3 console to play. The movie *Spider-Man 3* took in \$381.7 million during its first weekend of worldwide ticket sales, but the average ticket price was only \$6.88.

GTA IV features sexually explicit scenes involving prostitution and graphic violence, including beatings, carjackings, and drive-by shootings. Mothers Against Drunk Driving objected to the game allowing players to drive “drunk,” making it harder for them to steer accurately. The Chicago Transit Authority pulled GTA IV ads from its buses and trains, and officials in Australia and New Zealand threatened to ban the game until its producer, Take-Two, created an edited version.⁸ It was banned in Thailand after an 18-year-old robbed and murdered a taxi driver while trying to recreate a scene from the game; he said he wanted to find out if it was as easy in real life to rob a taxi as it is in the game.⁹

The Entertainment Software Rating Board, an industry-sponsored body, has an online database of all material that they have voluntarily rated. It is found at www.esrb.org. Of the games that have received the T rating (for teens 13 and older), there were over 3,734 games that were listed as containing violence, and there were 828 that contained “sexuality” material but, in the Board’s view, quite modest in nature. Of the 1,234 games that carry the M rating (Mature, for people 17 and older), 278 had sexual material, while 1,118 contained violent or defamatory material. Of the 23 games that were rated AO, Adults Only (18 years old and over), 20 contained sexual material and five contained violent or defamatory material. According to the rating system we have in place, children may experience violence and degrading of women, police, and ethnic groups, but, apparently, not sex.

⁸ All of the information in the last two paragraphs comes from Pham, *ibid.*, p. C6.

⁹ Nopporn Wong-Anan, “Thailand Halts Grand Theft Auto Sales After Murder,” Reuters, August 4, 2008, <http://www.reuters.com/articlePrint?articleId=USBKK22888820080804>.

A Jewish Legal Analysis of Violent or Defamatory Video Games

Western theories of ethics divide into three general approaches – consequentialist, deontological, and virtue (or character) ethics. This will help us identify the relevant halakhic factors and concerns, for they also are partially consequentialist and partially principled, but primarily a matter of character. This Jewish legal analysis of violent or defamatory video games, then, will be divided into those three categories.

1. Consequentialist Issues. The approach of the consequentialist is that one needs to measure the *consequences* of an action or set of actions to determine its moral quality. There are at least four different kinds of consequentialism in ethical theory, and they differ as to what you measure (individual acts or patterns of actions) and who the relevant party is for measuring the consequences (the individual or the society), but consequentialists agree that one must focus on the results of an act or a pattern of actions to determine its moral goodness or badness.¹⁰

The potential advantages of video games, even violent or defamatory ones, are primarily these: improved problem solving skills that might help in meeting the challenges posed not only by life but also by text study, increased dexterity, comfort with technology, and pleasure. The potential negative outcomes of violent or defamatory video games include these: increased propensity for violence, increased tendency to participate in crime in general, increased probability of consorting with prostitutes, and reduced respect for women, police, and minority groups by virtue of their religion, ethnicity, or sexual orientation. Setting aside the question of how likely it is that any of these potential results will occur, these lists, set side by side, clearly

¹⁰ For a summary of the major schools of ethics, including the subsets of the three general approaches described here, see Elliot N. Dorff, *Love Your Neighbor and Yourself: A Jewish Approach to Modern Personal Ethics* (Philadelphia: Jewish Publication Society, 2003), pp. 3-15.

indicate that the negatives are far more serious than the positives, particularly because the positives can be achieved in other ways.

The Torah presents a case that illustrates the destruction that fantasies can cause. When the brothers present Jacob with a bloody coat (Genesis 37:29-35), they are simulating violence, and this causes a rupture in the family. In our day, we read of marriages failing because of virtual affairs, and before modern technology marriages also failed when one partner had a “virtual” affair with someone through writing letters that the spouse discovered. Simulating sexual or violent fantasies clearly does have consequences.

Jewish law would certainly support this analysis, for Jewish law clearly prohibits and punishes murder, assault, rape, and prostitution; it values women as well as men; and it sees members of other religious and ethnic groups and people of all sexual orientations as people created in the image of God.¹¹ Because of these problems, whatever advantages playing violent or defamatory video games may have are, from a Jewish perspective, better attained in other ways. The good news is that they all can be achieved in ways consonant with Jewish law through non-violent and non-defamatory video games, through other uses of technology, through real-life games, and through other activities.

Moreover, even at their best, video games should not take over the whole of one’s life or even a significant part of it. That risks the possibility of their becoming nothing short of an idol, making them the focus of one’s life to the exclusion of all other important things. Furthermore, playing video games for hours on end deprives players of the interactions with other people that a psychologically and physically wholesome life includes, with serious deleterious consequences

¹¹Murder: Genesis 9:6; Exodus 20:13; Leviticus 24:17, 21; etc. Assault: Exodus 21:18-19, 22-25; Leviticus 24:19-20; etc. Rape: Deuteronomy 22:23-27. Prostitution: Deuteronomy 22:28-29; B. *Yevamot* 110a; B. *Ketubbot* 56b; 33a; etc. The House of Hillel was convinced that no man would want his sexual intercourse to fall to the level of prostitution: B. *Gittin* 81b; see also B. *Yevamot* 107a and B. *Ketubbot* 73a, where the position of the House of Hillel is reported anonymously and without dispute. Women as well as men are created in the image of God: Genesis 1:27; 5:1-2.

for their mental and physical health¹² -- to the point, for some people, of blurring the important distinction between virtual and real life.

The only question here is the degree to which playing violent or defamatory video games actually leads to these potential negative outcomes. On the one hand, Jewish law insists that we not put ourselves in danger.¹³ So, for example, the Torah requires that “When you build a new house, you shall make a parapet for your roof, so that you do not bring bloodguilt on your house if anyone should fall from it,”¹⁴ and the Rabbis say that *sakkanta hamira mei’issura*, “[avoiding] danger is more strongly required of us than [avoiding the transgression of] a prohibition.”¹⁵ Furthermore, on the basis of the Torah’s verse prohibiting us from putting a stumbling block in front of a blind person (Leviticus 19:14), the Rabbis determined that we may not put moral stumbling blocks like temptations in people’s way either.¹⁶ So if there are good chances that these games will lead boys and young men, in particular, to endanger themselves or others, such dangers would argue against using them.

The normal activities of life, though, involve multiple dangers, and so Jewish law had to determine the level of risk that is prohibited. It does that by maintaining that a Jew may engage in any activity whose risks people commonly take, which would include, in our day, risky activities like driving and skiing. Individuals, then, may not engage in activities that most people

¹² The National Institutes of Health recently conducted a review of 1800 studies over 30 years about the effects of media consumption on children, selecting 173 that met stringent research standards. The results of their review were this: “In a clear majority of those studies, more time with television, films, video games, magazines, music and the Internet was linked to rises in childhood obesity, tobacco use, and sexual behavior. A majority also showed strong correlations – what the researchers deemed ‘statistically significant associations’ – with drug and alcohol use and low academic achievement.” See Brian Stetler, “Report Ties Children’s Use of Media to Their Health,” *New York Times*, December 2, 2008, www.nytimes.com/2008/12/02/arts/02stud.html?_r=1&sq=video games, Ezekiel Emanuel. This study refers to children’s use of all media, not just violent video games, but it does indicate what happens when children make media the center of their lives. Another recent study showed that children who play video games for more than an hour a day increase their chances of wrist and finger pain; each additional hour of use increased the likelihood of experiencing pain by 50%, and younger children were more likely to have wrist pain than older children. “The findings add to a growing body of research showing that video games, PDAs, cell phones, and the assorted other electronic gadgets that have become part of daily life can lead to painful repetitive stress and nerve compression injuries.” “Video Games Can Play Havoc with Kids’ Joints,” www.nlm.nih.gov/medlineplus/news/fullstory_90743.html (accessed 10/27/09).

¹³B. *Shabbat* 32b.

¹⁴ Deuteronomy 22:8.

¹⁵ B. *Hullin* 10a.

¹⁶ B. *Pesahim* 22b (based on T. Demai 2); B. *Mo’ed Katan* 17a; B. *Bava Metzia* 75b.

avoid due to their dangers, but the Talmud invokes the verse from Psalms, “the Lord preserves the simple” (Psalms 116:6), to permit us to place trust in Divine providence and to ignore merely possible risks if they are generally accepted within the community.¹⁷

Whether we like it or not, the fact is that many moderns, especially young ones, have played these games for many hours, and very few of them have engaged in the violent and defamatory acts delineated above that are prohibited by Jewish law. True, a number of studies demonstrate that these games do in fact lead to violence,¹⁸ and the fact that they are used intentionally by the military to train soldiers to kill¹⁹ would argue for banning them for those not training for the military on halakhic grounds as, minimally, putting a stumbling block before the blind. That these facts have led the American Psychological Association, the American Psychiatric Association, the National Institute of Mental Health, the American Academy of Mental Health, the Surgeon General, the American Academy of Pediatrics, and the American Medical Association all to take stands opposing such games on grounds of mental and physical health²⁰ further buttresses the argument that they pose halakhically unacceptable degrees of danger.

Furthermore a consequentialist approach encourages a vision of the world where the ends sometimes justify the means, but Judaism does not share that. The Midrash teaches that a person

¹⁷B. *Shabbat* 129b; B. *Yevamot* 12b, 72a, 100b; B. *Ketubbot* 39a; B. *Niddah* 45a.

¹⁸ So, for example, the American Psychological Association has found in studies that violent or defamatory television and movies have historically had an adverse effect on the nature of the viewer. Children were more likely to engage in aggressive behavior when they were exposed to violent or defamatory media. Researchers have now found that this tendency is much more pronounced when the media is video games because of their interactive nature, where the player is the actual person perpetrating violence, albeit in electronic space. The findings of the APA are that exposure to violent or defamatory video games yields more aggressive thoughts, feelings and behavior. Furthermore, the child playing the game is less likely to be willing to help and care for peers. See <http://www.psychologymatters.org/videogames.html> for a summary of the findings of the APA. See also <http://www.ericdigests.org/1999-2/video.htm>.

¹⁹ See Lieutenant Colonel Dave Grossman’s book, *On Killing: The Psychological Cost of Learning to Kill in War and Society* (Boston: Little Brown and Company, 1995), esp. pp. 312-316, where he describes how video games have transformed weapons training for soldiers and have made them much more willing actually to shoot at an enemy. We would like to thank Rabbi Pamela Barmash for calling this to our attention.

²⁰ See statement of Lieutenant Colonel Dave Grossman, www.fradical.com/statement_of_lieutenant_dave_grossman.htm, who cites these statements.

who “steals with one hand and gives charity with the other will not be forgiven.”²¹ The Talmud similarly states that we do not count the positive done by means of a transgression.²² So whatever positive effects violent and defamatory video games may have on their players cannot justify the negative consequences they have, especially because the positive effects can be achieved in other, morally better, ways.

Still, one must face the fact that the vast majority of people who play these games do not engage in criminal or defamatory acts. Thus although they may be ill-advised on consequentialist grounds, as asserted by all the professional organizations enumerated above, they may not reach the level of risk that would make them halakhically forbidden.

2. *Deontological Concerns.* Deontology determines the moral quality of an act by the degree that it accords with moral principles embedded in some aspect of existence, whether it is the human mind (e.g., Kant), intuition (e.g., Ross), nature (e.g., Aristotle, Aquinas), or God (e.g., classical Judaism). For this school of thought, the intentions of those involved play an important role in evaluating the moral status of an act in preference to its consequences; as Kant, for example, put it, “Nothing can possibly be conceived in the world, or even out of it, which can be called good without qualification, except a Good Will.”²³ Furthermore, in contrast to consequentialists, who seek the greatest good for the greatest number and who therefore have no room for considering individual rights, deontologists strongly affirm such rights. Again to use Kant as our example, one must treat each and every human being as an end in him/herself and never as merely a means to an end (the second version of his categorical imperative),²⁴ and so

²¹Midrash Mishlei 11:2; see also Midrash Tanhuma Buber, Vayigash, Chapter 8.

²² This concept is found in a number of places. One is the case of a stolen *lulav*, that, as “a commandment fulfilled through a transgression,” does not fulfill the duty : B. *Sukkah* 29b-30a. Similarly, one may not bless God for eating something forbidden (B. *Berakhot* 45b; B. *Bava Kamma* 94a; J. *Hallah* 1:5.; M.T. *Laws of Blessings* 1:19; S.A. *Orah Hayyim* 196:1).

²³Immanuel Kant, *Fundamental Principles of the Metaphysic of Morals*, T.K. Abbott, trans., from *Kant's Critique of Practical Reason and Other Works on the Theory of Ethics* (London: Longmans, Green, 1898), 1st section, p. 9.

²⁴ *Ibid.*, 2nd section, pp. 46-47.

communal concerns cannot ride roughshod over concern for the individual. Finally, because this school roots values in an aspect of reality, it asserts that values are absolute and universal, applying to everyone at all times and places. The main problem inherent in this approach is epistemological – namely, how do I know what the norms are that are built into the human mind, intuition, or nature or given by God? In addition, how should I adjudicate conflicts among principles? Each philosophy of this sort has answers to these questions, but they are often fraught with difficulties.

As applied to our question, deontology raises a number of contradictory considerations. On the one hand, the Kantian demand not to treat another person merely as a means would argue that games that do precisely that for one's own entertainment are immoral. Kant, however, was talking about actual persons, not depictions of persons, and it is not clear that he himself would argue that we have the same principled moral duties to representations of persons as we have to actual persons. Furthermore, deontology asserts the importance of intention, and few, if any, of the players of video games actually intend to carry out in practice the actions depicted in the games. They simply intend to live out their fantasies in a way that does not harm anyone in the real world. Furthermore, deontology valorizes individual freedom, including free speech – and the Eighth Circuit Court of Appeals has specifically affirmed that playing these games is covered by Constitutional guarantees of free speech.²⁵ So from a deontological perspective the weight of contrary principles would have to be very heavy to warrant taking away the freedom to watch these games – too heavy to justify doing so, especially since it is hard to argue for principled protection of electronic images in the first place (except as the copyrighted property of real people).

Further, although American law and Jewish law both consider intentions in evaluating a person's culpability or punishment, the United States and Western nations generally place a high

²⁵ http://money.cnn.com/2003/06/03/technology/games_firstamendment/ (Article from CNN.com).

value on protecting the right to free speech, the right that argues most strongly for permitting violent or defamatory video games. Jewish law thrives on vigorous debate, but it also includes far stricter limitations on what is appropriate speech than American law does.²⁶ This is part of a larger picture: although Western cultures certainly value groups like families, communities, and nations,²⁷ they emphasize the individual and his/her rights. In contrast, classical Judaism focuses on group ethics.²⁸

Even so, deontological concerns are not absent from Jewish thought and law, either generally or as applied to our topic. An important part of Jewish communal ethics and law, in fact, are moral principles announced in Rabbinic texts. Relevant to our question, for instance, is the principle that hypocrites should be exposed to prevent the profanation of the Name.²⁹ When people assert that they play these games for fun, are they telling the truth as they understand themselves, or are they instead providing a socially acceptable explanation for what they know to be unacceptable? Similarly, consider the following selections from *Pirkei Avot*:

Rabbi Joshua said: the evil eye, the impulse to evil, and hatred of God's creatures put a man out of the world.³⁰

Rabbi Eleazar ha—Kappar said: Envy, lust, and ambition put a man out of the world.³¹

Rabbi Dossa ben Horkinas said: sleep into the morning, wine at midday, childish chatter, and sitting in at gatherings of the ignorant put a man out of the world.³²

Note that Rabbi Joshua speaks of the “impulse” to do evil (*yetzer ha-ra*), and these games certainly express that impulse. Indeed, in defense of these games, some people have asserted that the games are a release of violent and sexual inclinations in the player, and that without the

²⁶ For a description of Jewish laws regarding speech, see Elliot N. Dorff, *The Way Into Tikkun Olam (Repairing the World)* (Woodstock, VT: Jewish Lights, 2005), Chapter 4.

²⁷ For an especially eloquent statement of this balance in American life, see Barack Obama, *The Audacity of Hope: Thoughts on Reclaiming the American Dream* (New York: Crown, 2006), p. 55.

²⁸ For a comparison of Jewish, Christian, and secular American values and approaches to making moral decisions, see Elliot N. Dorff, *To Do the Right and the Good* (Philadelphia: Jewish Publication Society, 2002), pp. 1-35, 262 - 282.

²⁹ B. *Yoma* 86b.

³⁰ M. *Avot* 2:11 (2:16 in *Sim Shalom*).

³¹ M. *Avot* 4:21 (4:28 in *Sim Shalom*).

³² M. *Avot* 3:10 (3:14 in *Sim Shalom*).

game they would be doing these things in real life. However one evaluates this argument, they surely intend to, and succeed at, expressing our inclinations to berate and harm people.

Rabbi Eleazar says that envy, lust, and ambition are the culprits that drive a man out of the world, and the plots of these games glory in all three of those. Many of the games are built around attaining money and the things other people have at any cost. They also push sexual lust to the extreme.

When Rabbi Dosa speaks about the lazy person in this negative way, it all too closely describes people playing these games for hours on end. If he knew about video games, he surely would have said that excessive video game playing takes a person out of the world. In fact, the act of imitating them through games actually does make a person lazier. Studies have demonstrated a link between the rise in obesity in the younger population groups and the rise in the popularity of video games.^{33 34}

Still, the fact of the matter is that people playing violent and defamatory video games are not actually engaged in those acts in real life. If they did, of course, they would be liable under the law as it stands.

The question, though, is the status of one's fantasy life in Jewish law. Does it violate Jewish law to fantasize about murder or rape? If so, does one violate Jewish law when one intentionally plays video games that one knows will stimulate one's fantasies about committing such acts and perhaps plays those games specifically for that purpose?

The evidence here is mixed. On the one hand, Jewish law does prohibit fantasizing about committing illegal acts. Moshe Halevi Spero describes them in the chapter of his book, *Judaism and Psychology: Halakhic Perspectives*. In Chapter Ten of that book, he addresses the serious question of whether observant Jews may engage in the techniques that psychoanalysts and even

³³ <http://www.ericdigests.org/1999-2/video.htm>

³⁴ http://www.mediafamily.org/research/report_vgrc_2003-2.shtml. See also footnote 12 above.

behavioral therapists use to get patients to describe their fantasies so that they can confront them and learn how to deal with them properly. He asks how that can be justified in light of the following prohibitions:

Our analysis begins with the biblical imperatives which explicitly or implicitly govern the sanctity of thought. At least five passages are utilized to determine the parameters of the prohibition against *hirhur davar ha-asur*, thoughts or fantasies about forbidden acts in general, and *hirhur arayot*, thoughts or fantasies of sexual content in specific....”Do not come close to uncover [their] nakedness” – *lo tikrevu* [Leviticus 18:6]. “Do not follow after your hearts and after your eyes” – *lo tasuru* [Numbers 15:39]. “Sanctified you shall be” – *kedoshim ti’heyu* [Leviticus 11:44-45; 20:7, 26; Numbers 15:40]. “And you shall be perfect...before the Lord – *ve’heyitem nekiim* [Numbers 32:22]. “And guard yourself from all evil things” – *ve’nishmarta* [Deuteronomy 23:10].

The passages *ve’heyitem nekiim* and *kedoshim ti’heyu* have been utilized extensively by *Musar* authors (a genre of ethical perfectionists writing from ca. 1700) to emphasize the degree of holiness necessary in thought and speech. *Kedoshim ti’heyu* is a particularly powerful ethos as the Talmud bases all of man’s behavior as modeled after God’s own “behavior” on this passage: “As He is holy [*kadosh*], so must you be holy; as He is merciful, so must you be merciful” [B *Shabbat* 133b]. However, the specific halakhic discussion of *hirhur aveirah* is based on the other three passages, which, in turn, are the foundation for all subsequent *Musar* writing.

The clause *lo tasuru* is subdivided into two derivations by the Talmud and is recorded by numerous halakhic codifiers: “‘After your eyes,’ this refers to *hirhur aveirah*; ‘to which you turn,’ this refers to *hirhur avodah zarah* [idol worship]” [B. *Berakhot* 12b]

....³⁵

³⁵ Moshe Halevi Spero, *Judaism and Psychology: Halakhic Perspectives* (New York: Ktav and Yeshiva, 1980), p. 147.

As Spero goes on to explain, thought preoccupied with idol worship, which Jewish law assumes will lead to actual idol worship, is enumerated by Maimonides and others as one of the 365 prohibitions of the Torah.³⁶ With regard specifically to fantasies of sexual infractions (*hirhur arayot*), Rabbi Pinchas ben Ya'ir is quoted in the Talmud as banning such thoughts for fear of arousing a man to seminal emission: “Do not think [illicit thoughts] in the day and come to nocturnal emission of seed.”³⁷ Later authorities argue whether this concern produces a ban with biblical authority or whether it is a rabbinic precaution (“fence”) to protect people from actually acting illegally.

With regard to the larger category of fantasizing violating any of the commandments (*hirhur davar ha-asur*), however, Maimonides sees the ban as fully biblical, linking it to *lo tasuru*. He then uses this verse to prohibit not only experiencing such fantasies but also doing anything that is likely to cause such fantasies³⁸ -- exactly our case, of course, with violent and defamatory video games. Having such fantasies required a guilt offering. In additional rulings, the Rabbis prohibited a number of other activities as measures to ensure that people would not violate the law, such as prohibiting men from observing animals copulating or women washing clothes.

In addition to these explicit legal prohibitions, Spero notes that the Rabbis inveighed against illicit fantasies in a number of homiletical ways:

Ample rabbinic sentiment further reinforced the need for protecting the realm of thought. *Hirhur* is one of the experiences from which no individual is spared [B. *Bava Batra* 164b], and with excessive preoccupation it prevents repentance [M.T. Laws of Repentance 4:4; Laws of Forbidden Intercourse 22:18-20]. “All who stimulate

³⁶ Maimonides, *Sefer Ha-Mitzvot*, Negative 47, 353; *SmaG*, Negative 15; *Smak*, 30; *Sefer Ha-Hinukh*, #387.

³⁷ B. *Ketubbot* 46a; *Avodah Zarah* 20b.

³⁸ M.T. Laws of Forbidden Intercourse (*Hilkhot Issurei Bi'ah*) 21:19 (based on B. *Niddah* 13b). *Tzaphnat Paneah* 1:90 (1900 edition) notes that fantasy is prohibited as *grama*, a predisposing factor to committing the illicit act.

themselves to evil thought do not enter the Divine presence” [B. *Niddah* 13b on Genesis 38:10]. “The beginning of sin is the murmuring of the heart (*hirhur ha-lev*)” [Tanna D’bei Rabbi Eliezer Zuta 6]. “The thought of sin is worse than the actual sin” [B. *Yoma* 29a]. Ezekiel, on one tradition, is praised for having never experienced *hirhur asur* [B. *Hullin* 37b on Ezekiel 4:14]. Elsewhere, the Talmud notes that one is not suspected of iniquity unless he actually commits a sin, or commits it partly, or thought about committing it, or saw others commit the sin and experienced joy in that [B. *Mo’ed Katan* 18b; cf. B. *Zevahim* 46b, “*Ein ha-mahshavah holekhet ela ahar ha-oved*; B. *Megillah* 20a, *ahar kavvanat ha-lev hen hen ha-devarim*; and see B. *Kiddushin* 59b]. The Talmud forbids sexual relations with one’s wife while thinking at the same time of another woman [B. *Nedarim* 20b; B. *Pesahim* 112a]....³⁹

These sentiments are based on underlying Rabbinic views of the *yetzer ha-ra*, the inclination to do evil. Unlike classical Christian doctrine, we are not born with Original Sin for which we can compensate not by our deeds but only through faith in a supernatural intercessor, Jesus. On the contrary, for the Rabbis we have both an inclination to do evil (*yetzer ha-ra*) and an inclination to do good (*yetzer ha-tov*); if we are born with original sin, we are also born with original virtue. Indeed, in one place the Rabbis say this about the evil impulse: “Were it not for that impulse, a man would not build a house, marry a wife, beget children, or conduct business affairs.”⁴⁰ Thus the very term “*yetzer ha-ra*” means not so much the inclination to do evil as the self-directed inclination, while the “*yetzer ha-tov*” is the other-directed inclination. It is just that ordinarily our other-directed actions are morally good and our self-directed ones, while necessary and even good in certain respects, are more likely to be selfish and uncaring and therefore morally bad. The Torah asserts that “the inclination of a person’s heart is evil from his youth”

³⁹ Spero, *Judaism and Psychology* (at note 35 above), p. 149.

⁴⁰ *Bereishit (Genesis) Rabbah* 9:7.

(Genesis 8:21), and Rabbinic doctrine explains that the self-directed inclination is in full force at birth (think of how infants care only for themselves) and is dominant until age thirteen. At that point the moral experience and education the child has received enables the *yetzer ha-tov* to balance the *yetzer ha-ra*. From that point on, life is an eternal battle between the two inclinations.⁴¹

In this battle, temptation is a constant danger. Rabbinic literature is rife with statements warning us against the lures of the *yetzer ha-ra* and with advice about how to combat it.⁴² One of the oft-repeated insights of the Rabbis is that the more real the temptation becomes and the more often one yields to it, the more likely it will lead to the illegal action that is alluring. “The evil impulse is at first like a passer-by, then like a lodger, and finally like the master of the house.”⁴³ “Such is the device of the evil impulse: today it tells a man to do something trivial; tomorrow it tells him to do something more serious; finally it tells him to go and serve idols, and he will go and serve them.”⁴⁴ Similarly, “The evil impulse is at first like a [thin] spider’s web, but in the end it is like [thick] cart-ropes.”⁴⁵ Conversely, the less often one has the temptation or resists it, the easier it is avoid following its lead. “Ben Azzai taught: Pursue even a minor commandment and flee from a sin; for [performing] one commandment causes [one to perform] another, and one sins generates another. Thus the reward for [fulfilling] a commandment is [the opportunity to fulfill] another commandment, and the penalty for [committing] a sin is [the likelihood of committing] another sin.”⁴⁶ The Rabbinic laws and homiletic texts that Spero is quoting all flow out of this approach to sin, recognizing that the stronger one’s fantasies about illegal activities are, the more likely that one will act on them – and hence the need to ban the fantasies and the activities that produce them in the first place.

⁴¹ *Kohelet (Ecclesiastes) Rabbah* on Ecclesiastes 4:13; *Avot D’Rabbi Natan* 16.

⁴² For a summary of such statements, see C. G. Montefiore and H. Loewe, *A Rabbinic Anthology* (Cleveland and New York: World Publishing Company, and Philadelphia: Jewish Publication Society, 1960), Chapter XI, pp. 295-314..

⁴³ B. *Sukkah* 52a.

⁴⁴ B. *Shabbat* 105b.

⁴⁵ B. *Sukkah* 52a.

⁴⁶ M. *Avot (Ethics of the Fathers)* 4:2.

Spero is interested in describing and explaining these prohibitions in order to ask whether they effectively prohibit methodologies in psychological analysis and counseling that seek to get patients to reveal their fantasies in order to learn how to respond to them in a healthy way. He maintains that despite these bans, such psychological methodologies can be justified as a form of confession (*viddui*) that is required for successful repentance (*teshuvah*). Another way he suggests to justify such psychological methods is to see them as a part of *hokhakhah*, of rebuke, for the therapist is ultimately aiming to help the patient change his or her ways.⁴⁷ These factors are not, however, part of the context of playing violent or defamatory video games. As a result, the prohibitions he mentions would seem to prohibit playing such games. After all, their primary purpose is precisely to evoke fantasies of engaging in activities that are banned by Jewish law, and, as we have seen, having such fantasies, and engaging in activities designed to arouse such fantasies, are forbidden by Jewish law.

On the other hand, though, there is a strain in Rabbinic tradition that makes a sharp distinction between one's liability for thoughts and for actions. So, for example, the Talmud (B. *Kiddushin* 40a) says that God rewards us for our good intentions even if we have not been able to carry them out, but God does not link our evil intentions to action to punish us as if we had committed the actions. Also, the Rabbis transformed the coveting prohibited in the last of the Ten Commandments to action:

**אפי' חומד בדבור ת"ל לא תחמוד כסף וזהב עליהם מה להלן עד
שעושה מעשה אף כאן עד שעושה מעשה:**

You might think that [one is liable for violating the tenth of the Ten Commandments] even if one covets through words [he *says* that we wants X. That, however, is not the case for] the Torah says, “You shall not covet the silver and gold on them [the images of

⁴⁷ *Ibid.*, pp. 150-152, including the footnote at the bottom of p. 152.

their gods]” (Deuteronomy 7:25). Just as there [in the case of idolatry, the person is not liable] until he engages in an act, so too here [he is not liable] until he engages in an act.⁴⁸

On the positive side, to fulfill one’s duty to pray Jewish law does not require the proper intention (*kavvanah*) except for the first line of the *Shema* and the first blessing of the *Amidah*.⁴⁹ It thus distinguishes between intention and action in judging only our actions with regard to the rest of the service, not our intentions or attention.

After writing all of the above, Rabbi Dorff had the good fortune on December 21, 2009 to attend a session of the annual conference of the Association of Jewish Studies, held in Los Angeles that year, in which Dr. David Brodsky of the Reconstructionist College⁵⁰ demonstrated that the sources in our tradition that equate intention with action are predominantly Babylonian (and so it is Rav, Rav Nahman, Rava, and Ravina who assert this).⁵¹ This, he claimed, is the result of influence from Zoroastrian sources, which also equate intention with action.⁵² In

⁴⁸ Mekhilta, Bahodesh, section 8 (end), interpreting Exodus 20:14. The Talmud (B. *Bava Metzia* 5b, end) interprets this commandment to apply only to longing for that for which one is not prepared to pay. Maimonides (M.T. Laws of Robbery and Loss 1:9, 12) interprets it to prohibit action that could be the result of coveting, such as pressuring a person to sell you something you desire. Many medieval interpreters (e.g., Ibn Ezra here; Nahmanides on Exodus 20:12) nevertheless understand Exodus 20:14 to prohibit covetous thoughts alone, lest they lead you to steal. That, however, involves major legal and theological problems, as Ibn Ezra himself notes (even though he seeks to answer them), and so we can and should rely on the Mekhilta, the Talmud, and Maimonides to understand the Tenth Commandment to prohibit actions, not just thoughts.

⁴⁹ S.A. *Orah Hayyim* 60:5; 101:1; see also 63:4; 98:2.

⁵⁰ His paper is entitled “*Hirhur ke-ma’aseh damei* – ‘Thought Is Akin to Action’: The Importance of Zoroastrianism and the Development of a Babylonian Rabbinic Motif.” As an interesting side issue that arose in his paper and in the subsequent discussion, he pointed out that the root *hirhar* in its various forms in Tanna’itic and Amoraic sources means to think about something, and so rabbis in those sources ask whether it is permissible to have *hirhurim* about the Shema or the Torah in the bathroom. In contrast, the root *hashav* in its various forms in that literature means to intend. Later on, possibly under the influence of Christian monks who worried about sexual thoughts (cf. Matthew 10), the root *hirhar* was used exclusively in sexual contexts and denoted lusts for sex, and so the root *hashav* changed from intention to thought.

⁵¹ The Babylonian sources he cited are these: B. *Berakhot* 20b; B. *Shabbat* 64a-64b; B. *Yoma* 28b-29a; *Genesis Rabbah* 19; *Kallah Rabbati* 1:5 and 2:6; B. *Bava Batra* 16a; and especially B. *Bava Batra* 164b, which, he pointed out, is the closest Jewish sources ever get to asserting something akin to President Jimmy Carter’s famous admission in a 1976 interview in *Playboy* that he “lusted in his heart”: even though that source does not make one legally culpable for only thinking of improper sexual relations, nevertheless Rav Amram there says in the name of Rav that “A person is not saved from three sins every day: thought of sin, [the lack of] focusing on prayer, and gossip,” thus making thought alone sinful in God’s eyes but not legally actionable. See the discussion of legal vs. religious legal systems below for further amplification of this point.

⁵² The Zoroastrian sources he cited are these: Denkart 6:227, 6:236, 6:1a, and 6:101; Dadestan i Denig 13:3; and Dadestan I Denig.

contrast, Tannaitic sources require action for legal culpability.⁵³ The Palestinian Amora'im manifest a mix of these positions, probably because of some influence from their Babylonian confreres.⁵⁴

In addition to the historical background that Dr. Brodsky provided for this debate, we would maintain that one should also understand the question about the ontological and legal status of thought and intention in its philosophical context. With a few exceptions, secular law enforces only actions, largely because of the philosophical problem of the “privacy of the mind” – that is, that one can only make a reasonable guess of another person’s thoughts and intentions retroactively, based on what that person said and did. Thus levels of homicide, where both the infraction and the penalties are severe, are differentiated by what the court determines to have been the state of mind and intentions of the perpetrator, but culpability for violations of other criminal laws and virtually all civil laws are determined exclusively by what the parties involved said and did. That is necessary because we simply cannot know for sure what another person is thinking or intending; indeed, given what we learned from Freud and his disciples, we cannot always know even our own minds. In a religious legal system, however, although human courts applying religious law are in no better position to know what other people thought or intended than human courts applying secular law, God presumably knows “the secrets of the world,” as the High Holy Day liturgy attests. Thus in Jewish law some acts are not culpable in human courts but are culpable in God’s court – as, for example, killing a person with an incurable illness, for which a person is free of liability in human courts but liable in God’s court – and one is also culpable for all kinds of thoughts and intentions that cannot be regulated by human courts, as the long list of such thoughts and intentions in the *al het* prayer of Yom Kippur demonstrates.

⁵³ The Tanna'itic sources he cited are these: *Mekhilta de-Rashbi* 22:7; *M. Bava Metzia* 3:12; *M. Sanhedrin* 8:5-7; *M. Kelim* 25:9; *M. Miqva'ot* 8:3; *M. Zavim* 2:2; *T. Pe'ah* 1:4; *T. Zevahim* 5:5 and 5:13.

⁵⁴ The Palestinian Amoraic sources that he cited are these: *Y. Yoma* 45b (8:7) = *Y. Shevu'ot* 33b (1:6); *Leviticus Rabbah* 7:3.

Where does this leave us with these deontological concerns about intention? The ultra-Orthodox community uses the prohibitions that Spero cites to ban television, some books, and pornography as a way of avoiding temptations to act in the ways they portray in real life.

We in the Conservative movement, however, have interpreted and applied Jewish law differently. We certainly understand that there is often a connection between what one feels and thinks and what one ultimately does. We must therefore take seriously the advice of the many health organizations listed above to limit the time that both we and our children spend on media entertainment in general and in actively playing video games in particular. Indeed, in probably the most articulate phrasing of the prohibition to intend to engage in illegal activities, Maimonides maintains that the reason for it is because such thoughts may lead to prohibited actions:

המסתכל בעריות מעלה על דעתו שאין בכך כלום שהוא אומר וכי בעלתי או קרבתי אצלה, והוא אינו יודע שראיית העינים עון גדול שהיא גורמת לגופן של עריות שנאמר ולא תתורו אחרי לבבכם ואחרי עיניכם

One who looks at sexual acts thinks that there is nothing wrong with that in that he says “Did I engage in sexual intercourse with her or come close to her (sexually)?” But he does not know that seeing [sexual acts] with one’s eyes is a great sin, *for it leads [one to commit] the actual sexual acts that are prohibited*, as the Torah says, “Do not follow your heart and eyes in your lustful urge” (Numbers 15:39).⁵⁵ Furthermore, as noted above, video games are especially problematic in this regard because, unlike television or movies, video games require players not only to identify with the characters on the screen, but to act out their fantasies. Thus if the game is violent or defamatory, the player is actively involved in perpetrating such acts rather than passively watching them play out on the screen.

⁵⁵ M.T. Laws of Repentance [Teshuvah] 4:4.

Maimonides' consequentialist claim, however, like that of the mental health organizations that warn against engaging in violent video games, is, as we have seen, not in evidence, for very few people who play these games then engage in the equivalent actions in real life.

Thus even though we certainly appreciate the importance of thought and action, in our practice as Conservative Jews and in our legal rulings we have held, along with the second strain of rulings described above, that the line between fantasy and reality is an important one, one that we should not blur in our moral thought or our legal rulings. As a result, in practice, the vast majority of Conservative Jews watch television and movies from time to time, and many of us play video games – and we allow our children to do likewise within reasonable limits of time and content.

In our legal rulings, we have similarly maintained this distinction. So, for example, although Rabbi Joel Roth prohibits homosexual acts, he does not prohibit homosexual fantasies.⁵⁶ In this responsum, we are taking a similar stand in asserting that the actions taken by players of video games do not violate Judaism's deontological principles precisely because Judaism's principles apply to the real world and not to the world of fantasy.

Again, this is not meant to minimize the importance of thought, imagination, or feeling. On the contrary, it is precisely because they are so important that we distinguish them from actions. In addition, we urge that adults and their children pay attention to the advice of mental and physical health authorities to limit one's exposure to electronic entertainment and especially interactive and violent or defamatory video games so as to minimize their deleterious effects on our mental and physical health. At the same time, however, we affirm that in both moral theory and in law we must maintain a sharp distinction between our fantasies and our real lives. Such a distinction is intellectually and morally justified, for we can control our actions much more than

⁵⁶ See Joel Roth, "Homosexuality," in *Responsa 1991-2000*, Kassel Abelson and David J. Fine, eds. (New York: Rabbinical Assembly, 2002), pp. 613-675, esp. pp. 619-621, 667, available at www.rabbinicalassembly.org under the link "Contemporary Halakhah."

we can control our thoughts or feelings. It is also evident in the empirical world, where the vast majority of players of violent or defamatory video games do not then replicate in real life their acts in those games.

In sum, then, playing violent or defamatory video games cannot be banned altogether on these deontological grounds, for we follow the second stream of Jewish legal thought discussed above, according to which Jewish law prohibits or requires actions, not thoughts or feelings.

3. *Concerns of Character.* This leaves us with the virtue ethics strain of Jewish law, which we think is the most compelling Jewish argument against playing violent and defamatory video games.

Jewish law most commonly uses deontological terms – *assur* (forbidden), *muttar* (permitted), and *hayyav* (required). It is *not*, however, limited to such black-and-white categories. There is a rich strain of Jewish law that speaks the language of virtue ethics, where actions are not clearly forbidden or permitted but rather are encouraged or discouraged. This is not the morality or the law of rules; it is rather the morality and law of aspiration. This is the ethic portrayed by the biblical Prophets and the books of Psalms and Proverbs,⁵⁷ perhaps most famously in Isaiah’s call for us to be “a light of nations.”⁵⁸ Moreover, it is the ethic inherent in the Torah’s overarching demand, “You shall be holy for I, the Lord your God, am holy.”⁵⁹

The Rabbis expanded on this theme. So, for example, one of Hillel’s favorite sayings was: “Where there are no men, strive to be a man.”⁶⁰ This is a simple articulation of the concept of virtue ethics. We should do only that which we construe to be consistent with our moral ideals; we must all strive to attain the highest level of moral behavior.

⁵⁷ For example, Jeremiah 9:23; Micah 6:8; Psalms 1; 15; 34:13-15; 112; Proverbs 31.

⁵⁸ Isaiah 49:6; see also 42:1-4 and 51:4-5.

⁵⁹ Leviticus 19:2.

⁶⁰ M. *Avot* 2:5 (2:6 in *Sim Shalom*).

Moreover, the Rabbis insist that we behave morally beyond the strict requirements of the law, *lifnim m'shurat ha-din*. Indeed, Rabbi Yohanan asserted that Jerusalem was destroyed by the Romans in 70 C.E. because Jews “based their judgments solely on the law of the Torah and did not act beyond the requirements of the law.”⁶¹ Nahmanides attaches the requirement that we exhibit exemplary character to the verse, “Do what is right and good in the sight of the Lord” (Deuteronomy 6:18), thus making it a demand of the Torah itself:

This refers to compromise [rather than judgment according to strict law] and conduct beyond the limits of the law [*lifnim m'shurat ha-din*]. The intent of this verse is that initially [in Deuteronomy 6:17] God has said that you should observe the laws and statutes that He had commanded you. Now He says that, with respect to what He has not commanded you, you should likewise take heed to do the right and the good in His eyes, for He loves the good and the right. This is a great matter, for it is impossible to mention in the Torah all of a person's actions toward his neighbors and acquaintances, all of his commercial activity, and all social and political institutions. So, after He had mentioned many of them...He later says generally that one should do the right and the good in all matters through compromise and conduct beyond the limit of the law.⁶²

In line with this, the Talmud actually legislated two rules on the basis of the duty “to do the right and the good in the eyes of God” – namely, that if a bailee loses the object deposited with him, pays the owner for it, and then finds it, he may return the object to the owner and always get his money back⁶³; and a variety of cases that enable people who own land adjacent to another piece of land that becomes available to have first right to buy the adjacent piece and even to evict someone who already paid the land tax and took possession of it.⁶⁴

Other Rabbinic concepts that, on the negative side, discourage us from kinds of conduct include these: *kofin al middat s'dom*, we coerce (a person not to act according to) the trait of [the people of] Sodom,” who care only for themselves and not for others⁶⁵; *mi-she-para*, cursing people publicly in court who renege on their agreements, even if those agreements have not

⁶¹ B. *Bava Metzia* 30b.

⁶² Nahmanides, *Perush La-Torah*, comment on Deuteronomy 6:18.

⁶³ B. *Bava Metzia* 35a. The same law may apply to creditors and debtors; see B. *Bava Metzia* 16b-17a, also on the basis of Deuteronomy 6:18.

⁶⁴ B. *Bava Metzia* 108a-108b.

⁶⁵ B. *Eruvin* 49a; B. *Ketubbot* 103a; B. *Bava Batra* 12b, 59a, 168a...See M. *Avot* 5:10, where this is portrayed as the attitude of ordinary person – “Mine is mine, and yours is yours” – but which clearly is not the exemplary behavior that the Rabbis wanted us to exhibit.

reached the stage where they can be enforced legally⁶⁶; *hillul ha-shem*, a profanation of the Divine Name, and, by extension, of the Jewish people who worship God⁶⁷; and, perhaps most relevant to our own case, *ru'ah hakhamim 'aina nohah haymenu*, “the spirit of the Sages is not pleased with him.” The Rabbis apply that disparaging remark to all of the following: those who do not fulfill their verbal agreements⁶⁸; those who leave their children no inheritance, instead assigning it by will to others⁶⁹; those who accept money from a thief or a lender on interest who repented, lest people who commit these crimes in the future be discouraged from repenting⁷⁰; those who kill snakes and scorpions on the Sabbath⁷¹; and those who return money loaned from a convert, who has since died, to his children – although a conflicting opinion asserts that that is an honorable thing to do, and the spirit of the Sages is pleased with him.⁷² Other such derogatory categories include *minhag rama'ut*, the behavior of a cheat,⁷³ and *yesh bahem mishum mehusarai emunah* (they are untrustworthy, dishonest.⁷⁴ Later, Nahmanides introduces the category of *naval b'rshut ha-Torah*, a scoundrel within the bounds (or, possibly, with the permission) of the Torah.⁷⁵

On the other hand, Rabbinic concepts that express pleasure at exemplary behavior include *ru'ah hakhamim nohah heimenu*, the spirit of the Sages is pleased with him⁷⁶; *kiddush hashem*, a sanctification of the Divine Name and, by extension, of the Jewish people associated with worshiping God⁷⁷; *middat hassidut*, (the person is exemplifying) the virtue of loyalty (or, possibly, loving kindness), in that he does not keep for himself another person's food that he

⁶⁶ M. *Bava Metzia* 4:1 (44a).

⁶⁷ B. *Eruvin* 63a; B. *Yoma* 86a-b; B. *Mo'ed Katan* 17a; B. *Bava Kamma* 113b; B. *Sanhedrin* 82a; B. *Avodah Zarah* 28a.

⁶⁸ T. *Bava Metzia* 3:7; B. *Bava Metzia* 48a.

⁶⁹ M. *Bava Batra* 8:5 (133b).

⁷⁰ T. *Shevi'it* 8:12; B. *Bava Kamma* 94b.

⁷¹ B. *Shabbat* 121b.

⁷² M. *Shevi'it* 10:9; B. *Kiddushin* 17-18a.

⁷³ B. *Kiddushin* 59a.

⁷⁴ B. *Bava Metzia* 49a; B. *Bekhorot* 13b.

⁷⁵ Nahmanides, *Commentary on the Torah*, on Leviticus 19:2.

⁷⁶ *Ibid.*

⁷⁷ B. *Bava Kamma* 113a.

saved from a fire on the Sabbath⁷⁸ or that he pays the first poor man he sees for the produce he ate on the journey to Jerusalem from what was owing to the poor,⁷⁹ even though by law he needs to do neither of these things; *lifnim m'shurat ha-din*, going beyond the requirements of the law, as discussed earlier; and *derekh erez*, a term sometimes used to mean a job,⁸⁰ but sometimes it refers to decency and right living, as, for example, in this source:

כי למדה תורה דרך ארץ נתמנתה לאדם פרנס יקח לו בית חזר
נתמנתה
לו יקח לו שדה חזר נתמנתה יקח לו אשה שנאמר שם כי מי האיש
אשר בנה ומי האיש אשר נטע ומי האיש אשר ארש אשה
וכן שלמה אמר בחכמתו משלי כד(הכן בחוץ מלאכתך וגו' הכן בחוץ
מלאכתך זה בית ועתדה בשדה זה שדה אחר ובנית ביתך זו אשה

The Torah has taught us proper conduct, that if a man acquires sustenance, he should buy a house; if he acquires more, he should buy a field; if he acquires more, he should take a wife, as the Torah says, “Is there anyone who has built a new house ... Is there anyone who has planted a vineyard... Is there anyone who has paid a bride-price for a wife...” (Deuteronomy 20:5-7). Similarly, Solomon said, “Put your external affairs in order, get ready what you have in the field, then build yourself a home” (Proverbs 24:27): “Put your external affairs in order,” this means a house; “get ready what you have in the field,” this means a field; “then build yourself a home,” this is a wife.⁸¹

Finally, we should remember that the Rabbis explicitly assert that the whole point of the commandments is to purify us:

⁷⁸ B. *Shabbat* 120a.

⁷⁹ B. *Hullin* 130b; see also B. *Bava Metzia* 52b.

⁸⁰ For example, M. *Avot* 2:2; 3:5; 6:6. In Rabbi Elazar ben Azariah’s comment, “No Torah, no *derekh erez*, No *derekh erez*, no Torah” (3:17; 3:21 in some editions), the term may mean gainful employment, but it may mean ethics.

⁸¹ T. *Sotah* 7:13; see B. *Sotah* 44a. This text’s specific role identity of the woman as the maker of one’s home or, in another interpretation, its objectification of the woman as a home, are clearly not what this responsum wants to perpetuate. On the contrary, the aim of this responsum is to object to such treatment of women in video games and, even more, in life.

Other examples of *derekh erez* meaning proper behavior include B. *Berakhot* 22a, 35a, 61a; B. *Shabbat* 114a; B. *Eruvin* 100b; B. *Yoma* 4b, 75a; B. *Betzah* 25a-25b. For a general discussion of Jewish law and morals outside and within the law, see Elliot N. Dorff, “The Interaction of Jewish Law with Morality,” *Judaism* 26:4 (Fall, 1977), pp. 455-466; and Elliot N. Dorff, *For the Love of God and People: A Philosophy of Jewish Law* (Philadelphia: Jewish Publication Society, 2007), Chapter Six.

רב אמר לא נתנו המצות אלא לצרף בהן את הבריות, וכי מה איכפת ליה להקב"ה למי ששוחט מן הצואר, או מי ששוחט מן העורף, הוי לא נתנו המצות אלא לצרף בהם את הבריות,

Rav said: The commandments were given to Israel only in order that people should be purified through them. For what can it matter to God whether a beast is slain at the throat or at the neck? Therefore the commandments were given only in order that people should be purified through them.⁸²

There is thus a plethora of terms that the Rabbis used to express approval and praise of conduct that the law did not require or displeasure with acts that the law did not expressly forbid. They further saw a life of fulfilling the commandments as aimed at making us better, “purified” human beings.

This heuristic function of law, while more prevalent in religious legal systems like Jewish law, is not totally absent from secular law. One good example of that in the American context is smoking. According to the 2009 report of the Centers for Disease Control,⁸³ the state with lowest smoking rate is Utah, a result of Mormon religious bans on smoking. The state with the second-lowest smoking rate is California, which has a much more diverse and a much larger population than Utah. It accomplished this goal through several laws. It was the first state in the nation to ban smoking not only in public places but also in restaurants and bars. Proposition 99, adopted as law in November 1988, raised the tax on cigarettes and other tobacco products from 10 cents to 35 cents per pack and specified how the money was to be used, including 20% (\$125 million per year in the first three years) for media and other educational campaigns to prevent and reduce tobacco use. As a result, smoking rates dropped 9.5% within a year, and that

⁸² *Genesis Rabbah*, Lekh Lekha 44:1; see also *Leviticus Rabbah*, Shemini 13:3 and *Midrash Tanhuma*, Shemini (ed. Buber, 15b).

⁸³ “State-Specific Prevalence and Trends in Adult Cigarette Smoking – United States, 1998-2007,” *MMWR*, March 13, 2009, 58 (09), 221-226, www.cdc.gov/mmwr/preview/mmwrhtml.mm5809a1.htm.

reduction has remained permanent.⁸⁴ Jewish law clearly does not have the authority to tax, but we do regularly prohibit smoking in our synagogues, at least on Shabbat and Festivals, and we thus model part of how a Jew should behave on such days (at least) not only there but elsewhere as well. Utah law is not nearly as restrictive on smoking as California law is, and yet the Mormon religious ban has been enough to teach adherents what is, and what is not, appropriate behavior. The Rabbis themselves demonstrate that they understood the law to function in this educational role by inserting the tractate *Avot (Ethics of the Fathers)* in the Mishnah.

Maimonides does the same when he includes *Hilkhot De'ot (Laws of Ethics)* in his code of Jewish law, the Mishneh Torah. Thus law in general, and religious law in particular, has the ability to function in a heuristic capacity, serving not only to require, permit, or prohibit various activities, but also to educate adherents as to what is appropriate and inappropriate behavior.

But when Jewish law seeks to “purify” us, what does that mean? Purified toward what end? That is, what is the ideal person that Judaism would have us strive to become? After all, the description of the ideal person and the ideal community differs from one religion to another and from one philosophy to another. Thus we need to describe the specifically Jewish conception of the ideal person and community in order to evaluate the role of playing violent or defamatory video games vis-à-vis that ideal.

What is the ideal that emerges from the Jewish tradition? The Jewish tradition does not synthesize the picture of the ideal person, and, in fact, different strands of Judaism paint somewhat different pictures. So, for example, the ideal person in Deuteronomy is one who obeys Jewish law. The ideal person in the view of Micah and many of the other Prophets is the one who goes beyond the demands of the law to reach the moral ideal: “He has told you, O man, what is good, and what the Lord requires of you: Only to do justice, and to love goodness, and to

⁸⁴ The-Wei Hu, Jushan Bai, Theodore E. Keeler, Paul G. Barnett, and Hai-Yen Sung, “The Impact of California Proposition 99, A Major Anti-Smoking Law, on Cigarette Consumption,” *Journal of Public Health Policy*, vol. 15, no. 1 (Spring, 1994), pp. 26-36. The article documents the reduction only through 1991, but the recent CDC results, cited in the previous note, confirm that the reduction has indeed remained permanent.

walk modestly with your God” (Micah 6:8). The ideal person according to Kohelet (Ecclesiastes) is the one who is not too righteous or too wicked but rather follows a moderate path in life and enjoys it with his wife.⁸⁵ The ideal person in Rabbinic literature is much more studious than any of the above depictions. There is yet more variation in the depiction of the ideal Jew in later Jewish writers, such as Maimonides’ *Mishneh Torah* (especially *Hilkhot De’ot*, often translated as the “Laws of Ethics”) and the works of Bahya ibn Pakuda, Moshe Hayyim Luzzato, Israel Salanter, and others.

Still, even with all this variation, it is possible to locate reasonably centrist depictions of the ideal person in biblical and rabbinic literature a variety of texts. These include: Psalms 1, 15, and 112; the Book of Proverbs generally, including the ode to the ideal woman that we use on Friday nights (31:10-31); and the Mishnah’s tractate *Avot* (*Ethics of the Fathers*). Another place to locate what classical Judaism ultimately wants of us is in the Talmud’s description of what God asks of us when we die:

**אמר רבא: בשעה שמכניסין אדם לדין אומרים לו: נשאת ונתת
באמונה, קבעת עתים לתורה, עסקת בפריה ורביה, צפית לישועה,
פלפלת בחכמה, הבנת דבר מתוך דבר? ואפילו הכי: אי יראת ה' היא
אוצרו - אין, אי לא - לא.**

Rava said: At the time that they bring a person before the [Heavenly] court, they say to him: Did you transact your business honestly? Did you fix times for the study of the Torah? Did you fulfill your duty to procreate? Did you hope for the salvation [of the Messiah]? Did you search for wisdom? Did you try to derive one law from another [in study]? Even should all these questions be answered affirmatively, only if “the fear of the Lord is his treasure” (Isaiah 33:6) will it avail; otherwise it will not.⁸⁶

If I were to try to synthesize these and other materials, the ideal person in classical Judaism, as described in biblical and rabbinic sources, is a person who honors and respects his or her parents;

⁸⁵ Kohelet 3:12-13; 22; 4:9-12; 5:17-19; 7:15-18

⁸⁶ B. *Shabbat* 31a.

who cares for others and demonstrates that caring through concrete actions to help others; who abides by Jewish laws intended to regulate our interactions with each other and with God; who marries and has children, if possible, and who then carries out the duties of parenthood faithfully; who is educated and educates his or her children in both Judaism and a profession; who takes an active role in his or her community; who lives in Israel; and who hopes and works for a Messianic future in which there is peace and all of the other features of God's kingdom on earth.

If this is at least a substantially accurate picture of the ideal person classical Judaism is trying to create, how does playing violent or defamatory video games match up with these goals? It is the answer to this question that will give us classical Judaism's moral evaluation of playing such games. Nobody in real life lives up to the full picture of Judaism's ideal person, of course, but the virtue ethics stream in Jewish law would ask how a particular action or set of actions fits or fails to fit the ideal – and thus the degree to which that action or set of actions contributes to a person's ability to get further along the path toward becoming the ideal or, conversely, the degree to which the action or set of actions moves a person further away from that ideal.

How, then, do violent and defamatory video games fare in such an evaluation? Not well. First, although sometimes killing someone is the right thing to do (as, for example, in self-defense, where no alternative for saving your own life exists), it is decidedly not virtuous to kill someone over and over again in a plethora of ways. Similarly, it is decidedly not virtuous for a man to have sex, even virtual sex, with multiple girlfriends without even a pretense that the sex is an expression of an ongoing relationship. Rape and other forms of physical and sexual assault are explicitly outlawed by the Jewish tradition and thus are surely not the behavior of an ideal person. It is also decidedly not virtuous to drive dangerously and to neglect to stop when you run over multiple pedestrians. Robbing people of their cars or other possessions is also not virtuous. Thus the virtue ethics strand of Jewish law, using the requirements and prohibitions of Jewish law as well as the Jewish vision of the ideal as the basis for evaluating actions, would

find problems in both the lack of choices presented the player in violent and defamatory video games and the encouragement they provide to make negative choices.

It is this kind of virtue ethics language that we think is most appropriate to our case. Specifically, viewing violent or defamatory video games may not be expressly forbidden, given that they do not involve the players in prohibited acts in the real world and may not even make such acts more likely, but it still may be – and, we think, is – much less than the ideal, something that is displeasing to the Sages of today and that undermines our mandate to strive to be a holy people. The proper adjectives for such decisions are thus not “required,” “prohibited,” or their synonyms, but rather “appropriate,” “inappropriate,” “encouraged,” “discouraged,” and the like; and the apposite verbs are “should” and “should not” or “ought” and “ought not” rather than “must” or “must not.”

Finally, the virtue ethics category begs people to ask themselves: Would this be something that someone I hold up as being virtuous would do? More directly, is this how I want to see myself and how I want others to see me? The classical Rabbis valued study of Torah and a life of living by the commandments rather than a life of games, but assuming that, like most people, they sometimes played games, it is hard to imagine that they would approve playing violent or defamatory games, for these games radically conflict with the fundamental values that our tradition holds. There is no way we could imagine publicizing a USY event as one in which these games would be played. These games simply fail the test known by various names, such as the newspaper test: they are not what you would want published about yourself on the front page of the newspaper. And if that is the case, they are not worthy of someone who is trying to live by Jewish standards, to be, indeed, a part of “a kingdom of priests and a holy people.”⁸⁷

The Jewish tradition certainly does not expect us to be perfect, to be holy in all of our actions; hence it bids us ask for God’s forgiveness three times each day in the *Amidah*, and it

⁸⁷Exodus 19:6.

forces us to focus on the need for changing our ways during the High Holy Day season. Still, it is one thing not to succeed in achieving the ultimate character to which the Jewish tradition asks us to aspire in our mind and actions; it is another to engage in activities that undermine central Jewish values, as playing violent and defamatory video games does.

This, of course, is using Jewish law to express aspirations, and some understand Jewish law to be more limited in its scope, articulating only what is minimally required. Our philosophy, however, along with that of the Bible and the Rabbis, is that Jewish law can and should speak to what we need to do in order to avoid harm to the divine spark within each one of us and instead to cultivate that spark. It includes ideal standards as well as minimal norms, as one of the authors of this responsum, Elliot Dorff, has argued for extensively in his book, *For the Love of God and People: A Philosophy of Jewish Law*.⁸⁸ This follows the lead in moral theory of J. O. Urmson, who pointed out in 1958 that morality itself is concerned not only with minimal standards but with shaping “saints and heroes.”⁸⁹ It also follows the lead of Rabbi Abraham Joshua Heschel, who in 1956 made a similar point about Jewish law:

Jewish thinking and living can only be adequately understood in terms of a dialectical pattern, containing opposite or contrasted properties. As in a magnet, the ends of which have opposite magnetic qualities, these terms are opposite to one another and exemplify a *polarity* which lies at the very heart of Judaism, the polarity of ideas and events, of mitzvah and sin, of kavanah and deed, of regularity and spontaneity, of uniformity and individuality, of halacha and agada, of law and inwardness. . . . Taken abstractedly, all these terms seem to be mutually exclusive, yet in actual living they involve each other; the separation of the two is fatal to both. There is no halacha without agada, and no agada without halacha. We must neither disparage the body, nor sacrifice the spirit. The body is the discipline, the pattern, the law; the spirit is inner devotion, spontaneity, freedom. The body without the spirit is a corpse; the spirit without the body is a ghost.⁹⁰

⁸⁸ Elliot N. Dorff, *For the Love of God and People: A Philosophy of Jewish Law* (Philadelphia: Jewish Publication Society, 2007), esp. Chapter Six.

⁸⁹ J. O. Urmson, “Saints and Heroes,” in *Essays in Moral Philosophy*, Abraham Irving Melden, ed., Seattle: University of Washington Press, 1958, pp. 198-216. Reprinted in many texts for courses in moral philosophy.

⁹⁰ Abraham Joshua Heschel, *God in Search of Man: A Philosophy of Judaism* (New York: Harper and Row, 1955), p. 341.

In line with this, we maintain that Jews should avoid violent and defamatory video games because they violate some deep Jewish commitments. The Jewish tradition calls us to see each person as being created in the image of God, and this minimally means that we may not harm other people unless attacked ourselves. We must strive to be “a kingdom of priests and a holy nation.” As fallible human beings, we certainly do not succeed in following the divine challenge to be as holy as God is, but we are called by our tradition to try. Watching violence, sex, and injuries in R-rated movies or some sporting events is also not virtuous, but violent video games go one important step further away from the standards of virtue with which our tradition challenges us in that they involve us actively in perpetrating the violence rather than just passively watching it unfold. Violence in some movies or sports⁹¹ may excite and even please us emotionally, which is certainly not ideal, but enjoying the spectacle of others inflicting pain, while definitely not something to be proud of, is ultimately a less serious affront to our ideals and character than causing the harm oneself, even if only in cyberspace.

⁹¹ Spectators for most sports are attracted by the skill, speed, strength, courage, perseverance, and/or grace of the athletes, who are barred by the rules of the game from intentionally hurting other players. They also enjoy seeing those attributes tested in competition against others with similarly honed skills and character traits. Thus that fact that one might get excited and gain pleasure in watching most sports events poses no moral problem at all. Sports that involve direct body contact are an exception because the intent to harm in such sports as boxing and the actual harm that commonly results even without that intention in sports like tackle football do raise moral concerns. This, in fact, is the topic of a recent cover story of *Time* magazine, Sean Gregory and Buzz Bissinger, “The Most Dangerous Game: How to Fix Football” (*Time*, February 8, 2010, pp. 36-45), which reports that 6.3% of college football players suffered concussions, 70.4% of players suffered concussion-like symptoms, and football players are much more likely (1 in 53 rather than 1 in 1,000 in the general male population) to receive a diagnosis of dementia, Alzheimer’s, or another memory-related disease between ages 30 to 49 (*ibid.*, p. 40). At the far end of this spectrum are those sports that are intended to be lethal, like the ancient Roman gladiator games, and the Rabbis specifically have us thank God for “making my lot among those who attend schools and synagogues and not among those who go to the theaters and circuses” (J. *Berakhot* 4:2 [7d in the printed, one-volume texts of the Jerusalem Talmud, 33a in the Judaic Classics electronic version], used also in the *siyyum* ceremony upon completing the study of a tractate of Mishnah or Talmud). It is precisely the same kind of response to violent video games that this responsum articulates – that Jews should not take part in them and should be thankful that the Jewish tradition trains us to stay away from them. For most sports, though, which are rarely harmful and certainly not intentionally so, the excitement and pleasure of watching the sport itself raises no moral concerns. The joy that some spectators take in watching a fight that sometimes breaks out on the baseball diamond or hockey rink is morally wrong, but even that is less objectionable than actively engaging in such a fight, which playing violent video games entails, even though it is only in cyberspace.

In light of these values, then, we see avoiding violent or defamatory video games as a mandate of the Jewish tradition for both individual Jews and for Jewish institutions. Playing these games may not be legally forbidden, but it is not what Jews should do.⁹²

The duty of parents to teach their children to love God and follow the commandments appears several times in the Torah and is further expanded by the Rabbis.⁹³ The Rabbis make it clear that this duty includes not only teaching our children the specific acts that are required or forbidden by Jewish law, but also instilling the character traits that a good person has. So, for example, they say that children must not only carry out the specific acts demanded by the duty to honor parents, but also have the appropriate attitude in carrying out these duties:

יש שהוא מאכיל את אביו פטומות ויורש גיהנם ויש שהוא כודנו
ברחיים ויורש גן עדן כיצד מאכיל את אביו פטומות ויורש גיהנם חד בר
נש הוה מייכיל את אביו תרנגולים פטומים חד זמן אמר ליה אביו ברי
אילין מנן ליק אמר ליה סבא סבא אכול ואדיש דכלבין אכלין ואדשין
ונמצא מאכיל את אביו פטומין ויורש גיהנם כיצד כודנו ברחיים ויורש
גן עדן חד בר נש איטחין ברחיים אתית מצוות' לטיחנייא א"ל אבא
עול טחון תחתי אין מטת מבזיית טב לי אנא ולא את אין מטת מילקי
טבל לי אנא ולא את נמצא כודנו ברחיית ויורש גן עדן

A man may feed his father on fattened chickens and inherit Hell [as his reward],
and another may put his father to work in a mill and inherit Paradise.

How is it possible that a man might feed his father fattened chickens and inherit
Hell? It once happened that a man used to feed his father fattened chickens. Once his

⁹² Rabbi Elie Spitz has pointed out that in this way playing violent or defamatory video games is like the way Rabbi David Weiss Halivni views hunting: it is not formally forbidden by Jewish law, but it is not an activity in which Jews should engage. Rabbi Alan Lucas quotes Rabbi Weiss Halivni to this effect in a lecture he gave at the Seminary when discussing the permission to hunt offered in a teshuvah of the *Noda B'yehudah* (Rabbi Ezekiel Landau) to Yoreh De'ah 10; see Alan Lucas, "Tattooing and Body Piercing," in *Responsa 1991-2000 of the Committee on Jewish Law and Standards*, Kassel Abelson and David J. Fine, eds. (New York: Rabbinical Assembly, 2002), pp. 115-120, esp. pp. 119-120,

⁹³ For example, Deuteronomy 6:7 and 11:19, both of which the Rabbis made part of the Shema prayer, said each morning and evening, thus reinforcing this duty through daily reminders of it. The central Rabbinic discussion of this duty is in B. *Kiddushin* 29a and following.

father said to him: “My son, where did you get these?” He answered: “Old man, old man, eat and be silent, just as dogs eat and are silent.” In such an instance, he feeds his father fattened chickens, but he inherits Hell.

How is it possible that a man might put his father to work in a mill and inherit Paradise? It once happened that a man was working in a mill. The king decreed that his aged father should be brought to work for him. The son said to his father: “Father, go and work in the mill in place of me [and I will go to work for the king]. For it may be [that the workers for the king will be] ill-treated, in which case let me be ill-treated instead of you. And it may be [that the workers for the king will be] beaten, in which case let me be beaten instead of you.” In such an instance, he puts his father to work in a mill, but he inherits Paradise.⁹⁴

To carry out the parental duty of education, then, parents and Jewish educational institutions that are acting as the parents’ agents in fulfilling this duty must ban the use of violent or defamatory video games as part of their duty to educate the children in their charge.

Summary

We have demonstrated that there are some significant negative consequences to playing violent or defamatory video games. Wise people will heed the advice of most of the major health organizations to limit use of such games among both adults and children to avoid those consequences. The dangers involved, though, do not rise to the level that Jewish law would ban because a large percentage of Jews play such games and accept the risks involved, just as they do

⁹⁴ J. *Pe’ah* 1:1 (15c); J. *Kiddushin* 1:7 (61b); cf. B. *Kiddushin* 31a-31b; S.A. *Yoreh De’ah* 240:4. The text in the Jerusalem Talmud does not make it completely clear that the king specifically demanded that the father come to work for him, but that is the only way that the story works, as the commentators say there and as Rashi says with reference to the abbreviated version of the story in the Babylonian Talmud.

in driving or skiing. Furthermore, very, very few people who play violent or defamatory video games proceed to translate those fantasies from cyberspace to actions in real life.

The deontological strain of Jewish law calls our attention to the importance of principles and intention in our lives. One strain of Jewish law bans fantasies that depict us engaging in illegal acts based, at least in Maimonides' formulation of it, on the theory that such fantasies will lead to similar actions, a theory not borne out in fact. Another strain of Jewish law distinguishes between our fantasies and our actions, making us responsible only for the latter. On this view, although it clearly is illegal to engage in murder, mayhem, sex, and rape, fantasizing about doing such things is not prohibited by Jewish law. In our practice as Conservative Jews and in our legal rulings, including this one, we follow this latter strain of Jewish law, according to which we are morally and legally responsible only for our actions and not for our intentions, thoughts, or fantasies. Thus neither the consequentialist nor the deontological strain of Jewish law, as we interpret the latter, provides sufficient grounds to prohibit playing violent or defamatory video games outright.

The character ethics strain of Jewish law, however, leads us to maintain that Jews should not play violent or defamatory video games. It is simply not fitting for Jews to do so; as the Yiddish would have it, *es past nisht*. Thus on a personal level, playing violent or defamatory video games is inappropriate, not in keeping with the Jewish ideals to which all Jews should aspire. This is not, therefore, a prohibition that is derived from established law or precedent; it rather is a ban that derives from the moral norms and theology that are the underlying context of Jewish law. Thus in one's personal life, playing violent or defamatory video games is inappropriate, not in keeping with the Jewish ideals to which all Jews should aspire. This is not a legal prohibition; it is rather a moral one in the realm of what one should not, or ought not, do rather than what one must not do.

This applies especially to impressionable and vulnerable children and teenagers. Such games, after all, glorify violent attitudes towards others, especially women, police, and minority groups, thus teaching players values that are contrary to core Jewish commitments. Thus in fulfillment of their duty to educate their children, parents and those charged with helping them fulfill this duty (teachers, camp counselors, youth group leaders) have a Jewish legal duty to avoid such games, at least in the times and places in which they interact with children and teenagers. After all, adults are models for children, and children learn at least as much from what adults do as from what they say.

Similarly, Jewish institutions affiliated with the Conservative movement, while not subject to parental duties vis-à-vis the adults involved, nevertheless serve as models for what the Jewish tradition would teach adults as well as children. Therefore violent and defamatory video games should not be part of any programming of Conservative institutions for people of any age.

It is important to clarify that we are not suggesting a ban against all video games available today. On the contrary, we are maintaining that just a few games that violate Jewish moral and legal standards are inappropriate for Jews to play. Video games involving sports, fantasy, driving, flight simulators, educational challenges, and many other topics are acceptable. Indeed, as long as players do not spend inordinate amounts of time with these games, they even have some benefits to the person playing them and thus to society.

Conclusions (*piskei halakhah*)

1) “To do the right and the good in God’s eyes” (Deuteronomy 6:18) and to help us make progress toward fulfilling our aspiration to be “a kingdom of priests and a holy people” (Exodus 19:6), Jews of all ages ought not play violent or defamatory video games. The games that are inappropriate are any that have the following in them: coercive sex, violence and encouragement to kill in settings where those are not required for self-defense, or negative portrayals of women,

police officers, or minority groups, whether of religion, ethnicity, race, or sexual orientation. In addition, children and teenagers ought not play sex or war games that are rated “M” for mature. Video games with other themes may be played but, like all games, should not occupy so much time that the player ceases to engage in the other worthwhile activities of life. As a matter of aspiring to be a holy people and in recognition that we are all created in the image of God, we must examine the games that we and our children play to determine what they say about us as individual Jews and as a people, and we must then select only those games that are not violent or defamatory. Parents are asked to reinforce these goals by modeling the same standards in their homes and in their own lives.

2) On an institutional level, Jewish goals of character development require that violent or defamatory video games, as defined in (1) above, not be allowed at any program of any Conservative/Masorti movement-affiliated institution. This includes, but is not limited to: Camp Ramah, United Synagogue Youth, day schools, supplementary schools, and any social events or parties held at a synagogue or under synagogue auspices, whether for children, teenagers, or adults.