

TIKKUN

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Letters

Tikkun reserves the right to select, edit, and shorten all submissions to the Letters section.

SINGLES

To the Editor:

I am writing to you to ask you to consider publishing a special section devoted to Jewish singles in each issue of *Tikkun*. Besides the obvious topics available for feature articles, some space could be dedicated to personal ads—similar to the *New York Review of Books* and *New York* magazine.

Your readership is unique; *Tikkun* covers areas of concern that no other publication of which I am aware dares to cover, with depth and thoughtfulness. It attracts thinking, caring people who are not afraid to take unconventional stands on ethical and moral issues of Jewish relevance. By creating a singles focus, you would be allowing your readership to select those of like inclinations.

There is a growing number of Jewish singles who are not meeting their appropriate counterparts through traditional methods of social interchange.

People are marrying later; relationships are more unstable; people are living longer and becoming widowed; there are a lot of people who are searching, and re-searching, and searching again for their own special person. Bars, introduction services, and temple- and community-sponsored programs leave much to be desired and are not facilitating acceptable matches.

The frustration and disappointment that intelligent Jewish progressive singles of all ages feel when they cannot connect with potential partners (except on a superficial or "meat-market" approach) is extremely high.

The anonymity and feeling of control that personal ads give to people, as well as the social acceptance that has come about in recent years for this way of connecting, leads me to believe this idea is ripe for *Tikkun*.

As you might surmise, I am not a disinterested observer. After many years of happy marriage, I found myself thrust into the singles world again. No one who knows me would dream that I do not often meet eligible single men.

It would indeed be foolish to think that any one avenue of socializing will

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be a panacea, or to think that there are no risks involved, or to think that any one connecting resource will bring forth renaissance man on a silver platter. But *Tikkun* would surely fill a widening social Jewish need if it offered another respectable, imaginative, thoughtful, relatively safe option for people to connect for a long-term, committed, and caring Jewish relationship.

Yael Frimstein
New York, New York

Michael Lerner responds:

We would be happy to hear our readers' reactions to these suggestions. We have not run any form of classified ads. Would our readers find this offensive and undignified or a useful service?

INTERSUBJECTIVE ZAP

To the Editor:

As a psychiatrist, I found Peter Gabel's provocative and evocative article on "Dukakis's Defeat and the Transformative Possibilities of Legal Culture" (*Tikkun*, March/April 1989) tellingly accurate and powerful in addressing the mechanisms of the need for, and the denial of the need for, social connection and meaning both in the world of work and in family life. Most of my patients work in Silicon Valley companies—generally as executives or managers. They universally care deeply about social connection and meaning in their jobs. If they can't help develop connection and meaning (and often they discover they really can), they seek out other divisions of the company or other companies where they can. The money doesn't hold them. The social connection and meaning does.

I see Gabel's message confirmed in my work with couples where the core problem is this deep need for recognition and validation by the other.

Imagine what would have happened if Dukakis had articulated a moral vision of the sort Gabel suggests, if Dukakis had defined the context and spoken to our needs for connection and community. The truly powerful leaders always do. TR, FDR, JFK, Churchill did do just that. Otherwise, as Gabel points out, the Democrats seem to be presenting a laundry list of programs with no deeper community or personal appeal.

Edward M. Kovachy, Jr.
Menlo Park, California

To the Editor:

Peter Gabel brilliantly and passionately exposes the alienation of modern social life. I thoroughly agree that people have a basic need for mutual recognition and confirmation that is unrealized in social existence, that we collectively deny alienation by reifying the alienating aspects of social life as objective structures seemingly beyond human control, and that progressive social change demands an evocative and disalienating moral vision of a community whose transcendent social purpose is to make mutual confirmation an achievable reality.

It is important, though, not to be overly reductionist in our analysis of social life. To privilege the subjective and intersubjective aspects of life over the objective and individualistic is also reductionist. Life is neither objective nor subjective, neither atomized nor communal, but all at the same time. There *is* a physical world out there that conditions our subjective interpretations and circumscribes our ability to create the world in accordance with our moral vision of it. There *is* exploitation and oppression which must be overcome if the possibility of intersubjective connection and mutual confirmation is to be realized. And it *is* necessary to analyze the ways in which exploitation and oppression work to some extent to reify its forms, in order to develop a moral vision of a re-formed social order. Analysis necessarily reifies because objectification is to some degree endemic to language and to the very process of conceptualizing. But like Gabel we can and must also use language to dereify our reifications, lest we delude ourselves into thinking that they are fixed and immutable and that we lack the power to change them.

I agree, as Gabel implies, that all too often Marxism has been reduced to a crude determinism which loses sight of human agency and intersubjectivity. But we must also guard against the countertendency to make everything a matter of subjective interpretation. For to do so tends to create the fantasy that alienation is simply a figment of our imagination which we can overcome by willing it away. What we must do, rather, is to actively change the social conditions which produce alien-

ation as both an objective aspect of material life and a subjective aspect of mental life. In short, while we must not overly objectify the world, we must not overly subjectify it either.

Professor Thomas Kleven
Thurgood Marshall School of Law
Houston, Texas

To the Editor:

Peter Gabel's article "Dukakis's Defeat and the Transformative Possibilities of Legal Culture" was a brilliant statement of what is new in *Tikkun's* approach—and also reveals what is weak about your approach.

Tikkun avoids the old-fashioned reductionism that sees human beings as motivated by nothing more than economic necessity. Gabel is eloquent when he talks about the way that human beings seek mutual recognition and confirmation that is unrealized in their daily social existence.

But from this correct insight Gabel and *Tikkun* proceed to suggest that the Democratic party and liberal politics should be built around this insight and that this should be the center of their political program. In effect, this means replacing a focus on concrete programs with a focus on building a political party that resembles a church or a therapy community. To my way of thinking, the Democrats are failing not because they are too different from the right wing but because they are too much like it. They really present no program alternatives. If the Democrats were to build on the openings created by Gorbachev—offering dramatic reductions in arms spending and diverting those funds to badly needed social programs—they would recapture the old flame. Dukakis's suggestions for student loans, health care, and child care were moving in the right direction—but they were too timid: they didn't go far enough. But I see no need to raise issues about social connectedness and meaning—they are too abstract and would appeal only to the kinds of intellectuals who already support progressive causes.

And this leads to my second point. There's much to change in the law. As a progressive lawyer myself, I am constantly fighting to change the laws to make them reflect the liberal values that many of us hold. And I defend clients

who are fighting for social change, or clients whose cases allow me to challenge oppressive laws. But Gabel wants something more—he wants us to contest who we are as social beings and how we are constituted as a political community. He wants us to tell the truth about the vision of social life that we are trying to make real as progressive lawyers. Now, this is an admirable goal—but it makes sense only in a law school classroom, not in the actual practice of the law—which is exactly why so many of the people attracted to Gabel's organization, Critical Legal Studies, are law professors and not practicing lawyers.

So get real, *Tikkun*. Get your theory out of the sky and into the reality of daily life in America, where things are far more right-wing than you folks seem to realize. But keep up the good work—I love reading the magazine, and in some funny way it gives me hope that everything I stand for is still possible. There's something to be said for keeping the vision alive.

Howard Levi
New York, New York

Peter Gabel responds:

Thomas Kleven and Howard Levi are right to emphasize the objective causes of the pain that people face in American society, and it would certainly be a mistake for *Tikkun* to be calling for an approach to politics that valued social connection and meaning at the expense of concrete programs addressing people's need for health care, child care, jobs, and housing. The last thing we need is to replace the technocratic and narrow policy-oriented thinking of today's liberals and radicals with New Age fantasies about creating community that ignore the real conditions of people's lives.

The point of my article was not to downplay the importance of economic suffering and injustice, but to emphasize that people's social and psychological needs are just as real and "objective" as the need for food, shelter, and medical care. Contrary to the implication in Howard Levi's letter, it is not primarily intellectuals and professors who are in a frenzy about the sanctity of the flag, but working-class people who see it as a symbol of passionate social connection that is otherwise largely lacking in their lives. My claim is that concrete proposals like

the call for universal health care, for example, must be framed within a moral vision that embodies the same desire for social connection that the flag embodies—but in a way that could really generate this sense of connection between self and others instead of relegating people to the fantasized community symbolized by the flag.

I do strongly disagree with Levi's defense of conventional nuts-and-bolts law practice. The legal arena should be an important public context in which lawyers and clients argue with passion and moral vision for the creation of a more humane society. As long as progressive lawyers see themselves as technical rule-manipulators fighting for good causes, without understanding how they re-create the very thing they want to change by deferring to existing assumptions about how to act, think, and speak in their role as lawyers, they will never be a real threat to the system of existing power relations. There is real value in the work that Levi and other liberal lawyers perform on behalf of the oppressed, but to make that work socially transformative they must also challenge the ways that the existing legal system narrows (really flattens) the meaning of important social debates and blocks the expression of the desire for mutual confirmation that is at the heart of every vital movement for social change.

AFFIRMATIVE ACTION

To the Editor:

The recent articles on affirmative action and quotas (*Tikkun*, Jan./Feb. 1989) raised a number of important questions. On the factual level, the writers fail to note that both surveys and official "establishment" Jewish organizations see a difference between affirmative action and quotas, adopting a generally favorable attitude to what the 1987-88 *Joint Program Plan* of the National Jewish Community Relations Advisory Council called "carefully constructed affirmative action programs as a means to remedy past discrimination." While not a major part of the organizational agenda, the 1988-89 *Program Plan* is also critical of the administration's "narrow interpretation of longstanding civil rights policies . . . [by] insisting on proof of the intent to discriminate rather than the traditional

consideration of the effects of such policies as a measure of discrimination."

The quotation on intent raises serious questions about the response by Josh Henkin. I do not endorse the angry claims by Michael Levin, who handily ignores the gains made by Jewish women under civil rights and affirmative action laws. But the argument in response that discriminatory intent is needed is a weak and essentially insupportable position, as Alan Freeman and Betty Mensch briefly note. Though Henkin is right that merit cannot be equated with a test score, he is mistaken when he urges that we consider the "purpose or aim of these policies. . . . [They] do not aim to deny Jewish men admission or employment. That is simply the unfortunate but necessary consequence of accepting blacks and women, given the relatively small number of spots available [Henkin's emphases]."

Let me draw a few examples from Jewish experience in America. In correspondence revealed on the front page of the *New York Times* of June 17, 1922, Harvard's President Lowell defended a Jewish quota. As Jewish enrollment approached 20 percent, Lowell justified the quota as a means to reduce anti-Semitism caused by the rising Jewish enrollment. More recently, universities have used "geographic diversity" as a flimsy cloak over quotas against Jews, who tend to live in major urban areas. In 1967, the University of Wisconsin adopted a ten-state "hold" on admissions from states "overrepresented" (states such as New York, New Jersey, Illinois): no additional students from these states would be admitted, while students from other states would be accepted. Henkin's standard of intention would seemingly require that Jews and others concerned with fair admittance not protest if intentions were actually pure, though misguided.

The point of these examples (there are others like them) is that, in general, results matter more than reasons. (See Marian Henriquez Neudel's article "Being 'Only Human' vs. Being a Mensch," *Tikkun*, Nov./Dec. 1988.) It is true the Mishna and other Jewish works place a significant value on *kavana* (intention). Nonetheless, if we consider an example such as Maimonides' well-known eight levels of *tzedaka* (charity), we learn that someone who gives grudgingly or seeking public acclaim has still done a *mitzva*,

even if it is not at the highest level. We must look at the *effects* of policies that restrict access to opportunities by Jews, Blacks, women, and the disabled.

Rabbi Robert P. Tabak
Temple Beth Shalom
Spokane, Washington

Josh Henkin responds:

I'm not sure what it means to say that "results matter more than reasons." But if all Rabbi Tabak wishes to argue is that we ought to be concerned about the consequences of our decisions, I'll gladly grant him that.

I'm afraid, however, that Tabak's point doesn't shed much light on the question of affirmative action. Though he dissociates himself from Michael Levin's splenetic outburst, Tabak seems to agree with Levin that, when it comes to affirmative action, there is such a thing as inadvertent discrimination, or "discrimination-in-effect." This I simply don't understand.

Take, for example, a medical school that receives 1000 applications for 300 spots. Any way you slice it, 700 applicants are not going to get in. Those are the "results," plain and simple. The relevant question is *which* three hundred to admit.

Suppose, for the moment, that the decision were based solely on MCAT scores. And suppose, further, that the students who were rejected (those with insufficiently high MCATs) complained that they were discriminated against. What would Tabak say to these jilted applicants? I imagine something like, "Your scores weren't good enough." To which they might respond: "Reasons don't matter; results do."

Well, that claim obviously isn't up to snuff. The mere fact that someone gets rejected by medical school doesn't mean he has been a victim of discrimination.

I'm afraid I confused matters by using the loaded term "intent," despite my carefully worded qualification of the concept. So let me try again. The *reasons* for admitting the particular 300 applicants are all-important. In other words, a student, in order to justifiably holler "discrimination," must prove that she was judged unfairly, that her interests were not treated with concern and respect.

An admissions committee that chooses not to admit a Black applicant because it simply doesn't like

Blacks is discriminating against that applicant. But the discrimination has to do with the *reason*, not the *result*. Another Black student, rejected for legitimate reasons, is not a victim of discrimination.

Of course, the appropriate criteria for medical school (or any other) admissions are open to discussion. In fact, that was the main point of my article: we need to abandon our unreflective admissions standards and engage in debate about how to admit doctors who will most benefit society. One—though not the only—thing society needs is more Black and women doctors, lawyers, candlestick makers. That much is hard to debate.

To the Editor:

The reference to Felix Frankfurter by Alan Freeman and Betty Mensch (*Tikkun*, Jan./Feb. 1989) in an article on affirmative action is gratuitous and irrelevant; in at least one major respect it is also profoundly false. Felix Frankfurter was not assimilated and surely was not an "assimilationist." He did not seek to hide his Jewishness and indeed insisted on it throughout his life—when, early in his career, he refused "wise" counsel from professional superiors that he change his name; when he played a leading role in the Zionist movement; when he publicly and proudly identified with the State of Israel; and, at the end, when he planned his own funeral and asked that the Kaddish be recited.

There is more yet to be learned and understood about Frankfurter, but not much of it is to be found in Hirsch's work, which Freeman and Mensch cite. I regret to see ignorance pooled and distortion compounded in your pages.

Louis Henkin
Columbia University
New York, New York

To the Editor:

I was disappointed that *Tikkun's* chosen representatives did such a poor job of answering Michael Levin's argument about affirmative action. Henkin and Mensch and Freeman fail to acknowledge what is right about Levin's claims.

The fact of the matter is that every Jewish male who has entered the professional job market in the last twenty years has felt the discriminating effects of affirmative action. To these people,

לְשָׁנָה
טוֹבָה
תְּכַתְּבוּ

May you be
inscribed for a year
of peace, joy,
and fulfillment
—the *Tikkun* Staff

the academic refutations of Levin by *Tikkun's* respondents are irrelevant. What do Henkin and Mensch and Freeman have to offer these people? Henkin calls them ungrateful, and Mensch and Freeman call them, by the latest fashion in Jewish sectarian smears, "assimilationist." Is it any wonder Jews feel more comfortable with the neoconservatives these days? Such name-calling is a helluva way to practice the politics of inclusion, not to mention the politics of compassion.

Affirmative action is a bad solution to a bad problem. A viable left solution would unite those constituencies that affirmative action sets against one another. It would look not at who gets into medical school, but at the role of doctors and the administration of health care; not at who gets into law school, but at the role of lawyers and access to the justice system. It would see these issues as inseparable from questions about how many professionals we need to do what, how they get educated, and how they get paid. But people on the left are timid about asking large questions and pessimistic about the possibility of creating mass movements to press the point, preferring opportunistic solutions like affirmative action.

Charles E. Berezin
Los Angeles, California

Mensch and Freeman respond:

Given Felix Frankfurter's role as guru to an entire generation of American legal scholars, knowledge of his cultural orientation may serve to

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LETTERS

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clarify the legal consciousness that he engendered. One need not rely solely on the Hirsch biography (apparently despised by Professor Henkin) to gain such insight. There is plenty of evidence to suggest that (even if he did not go all the way) Frankfurter distanced himself from his "alien" Jewishness in fervent pursuit of an idealized assimilationist Americanism, with direct consequences for his judicial performance and philosophy.

In a 1988 book about Frankfurter and Brandeis (*Two Jewish Justices: Outcasts in the Promised Land*), Professor Robert Burt of Yale Law School reports that Frankfurter "embraced American citizenship with an almost religious fervor, so that ... he was 'no longer an exile' but 'at home.'" Burt feels that Frankfurter

believed his successful passage from alien to fully assimilated citizen gave him special insight as a judge into fundamental American values because he embodied those values in his own experience. He

drew no protective mandate or special sympathy for outsiders, however, from this experience. He instead derived a mandate zealously to protect the values and status of insiders, such as he had become.

We suggested in our essay that there is a direct relationship between that assimilationist perspective and Jewish opposition to affirmative action. It surprises us not at all, then, that the first Supreme Court opinion denouncing affirmative action and invoking the model of "ethnic fungibility" characteristic of today's "reverse discrimination" charges was written in 1950 by Felix Frankfurter (*Hughes v. Superior Court*, 339 U.S. 460). In upholding the illegality of a demand by civil rights activists for proportional hiring of Blacks, Frankfurter suggested that to allow such a request would lead to similar claims on behalf "of Hungarians in Cleveland, of Poles in Buffalo, of Germans in Milwaukee..." To allow Blacks to assert the oppressive specificity of their American experience would, Frankfurter feared, exacerbate "community tensions and conflicts" to

the point where "differences in cultural traditions instead of adding flavor and variety to our common citizenry might well be hardened into hostilities..." To have quelled the aspirations of Blacks in 1950 America in the name of a melting-pot ideology seems more than a little disingenuous, or self-deluded.

This is not to engage in "name-calling," which, as Charles Berezin says, is not productive. The real problem lies with an American culture that holds constant, as objective and neutral, standards of merit that are rooted in and serve to perpetuate an entrenched class structure, and that relegate persons of color to the very bottom of the hierarchy. Levin's opposition to affirmative action is based on the assumed objectivity of those standards; that assumption led us to charge him with assimilationism. Berezin calls for political unity on broader issues such as the role of the professions. (We would add the entire structure of American education.) We agree. Affirmative action is not a transformative solution—just a partial step that will be divisive so long as people remain wedded to the false ideology of equality of opportunity. □

EDITORIAL

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perfectly suited for such simmering—it can drag on for years, appearing to be a solution without actually forcing anyone to deal with the fundamental issue of self-determination for the Palestinians. Here Shamir's and Bush's interests overlap. It may be only in Bush's second term that the U.S. might seriously pressure Israel toward peace talks—and then only if enough American Jews are willing to support such an effort.

Meanwhile, facing Yom Kippur this year will be harder than ever. We have to deal not only with our own personal issues, but also with our collective responsibility for Israel and for the Jewish people in this second year of the Palestinian uprising. May you and yours be inscribed for a year of peace. □

BLUE SKIES

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block. On the other hand, while my schoolmates had never learned Emerson's pretty rhyme ("Nor knowest thou what argument / Thy life to thy neighbor's creed has lent"), I knew what a kike was. Thus I went home, as commanded, from which sanctuary Arthur drove me to school in the Buick.

Once a year far-flung branches of the family gathered for the Passover Seder at my grandfather's house in Santa Monica, a time warp away from Bialystok. "Say, der!" we called it, gazing with some dismay at these strange, gawky relations, mole-covered, all thumbs. The only cousins who counted were Jimmy and Lizzie, who, since they were Julie's children, and because Julie and Phil—bald from their college days, two eggs in a carton, peas in a pod—were identical twins, were therefore my genetic half-brother and sister. Jim (later a starter at Stanford) and I made a point of throwing the football around the backyard and bowling over the pale kinkfolk as if they were candlepins. During the ceremony itself, which droned on forever, Jim and I would sit at the far end of the table, arm wrestling amidst the lit candles, the bowls of hot soup, the plates of bitter herbs. The empty chair, we were told, the untouched glass of wine, were not for yet more distant cousins, missing in Europe, unheard from since the start of the war, but for Elijah, who was fed by ravens and departed the earth in a chariot of fire.

That was the extent of my religious knowledge. Not once had I set foot in a synagogue or been exposed to so much as a page of the Bible. I knew more about gospel music and Christmas hymns—