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Rabbi Yitzchok Adlerstein

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## Lawyers, Faith, and Peacemaking: Jewish Perspectives on Peace

Rabbi Yitzchok Adlerstein\*

We can only consider the role of peacemaking in Jewish law after examining the meaning and place of peace. Accuracy prevents me from opening with some platitude about how peace occupies a central, pivotal position in Jewish thought. It doesn't. Peace and peacemaking have a curious habit of not turning up in the middle of things, but all the way at the end.

There are too many instances of this to be coincidental. There are nineteen blessings in the *Amidah*, the central (indeed!) prayer that Jews recite three times a day, every weekday of their lives. The very last blessing is about peace. *Kaddish*, the familiar prayer recited many times a day through the long period of mourning for close relatives, ends with a statement that He Who makes peace on high will bring peace to us. The Priestly Blessing, three sparse Biblical verses<sup>1</sup> used in the Jerusalem Temple and beyond to channel Divine beneficence to Man, concludes with the word *shalom*, peace. The last offering mentioned in Leviticus is the *shelamim*, or peace-offering. The Mishnah, which serves as the backbone of the Talmud from which virtually all Jewish law emanates, concludes with a thought about peace, which is also its absolutely final word.

That passage from the Mishnah<sup>2</sup> is often invoked to explain the others. "The Holy One, blessed be He, did not find a vessel to hold blessing . . . other than peace, as it is said, 'G-d will give might to His nation; G-d will bless His nation with peace.'"<sup>3</sup> Peace is not one more item on a wish-list of Divine handouts. It is, in a very real way, the *summa bonum* of Divine largesse. It is the container into which all other gifts from on high are placed and contained. Without peace, all other gifts are vulnerable, exposed and compromised.

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\* Sydney M Irmas Adjunct Chair, Jewish Law and Ethics, Loyola Law School. This article was adapted from the Keynote Address given at Pepperdine University School of Law on February 3, 2006. The speech was part of the Institute of Law, Religion and Ethics conference entitled, "Lawyers, Faith, and Peacemaking."

<sup>1</sup> *Numbers* 6:24-26.

<sup>2</sup> *Uktzin* 3:12.

<sup>3</sup> *Psalms* 29:11.

The Talmud<sup>4</sup> cautions against using the Hebrew term for peace—*shalom*—in a disrespectful manner. *Shalom* is one of G-d's Names. This is another way of saying that the source of true peace is within G-d Himself. We will return to this thought later. But it is important to realize from the outset that part of the reason that peace is seen as so important, even beyond all practical considerations, is that it is somehow related to an accomplishment beyond Man's immediate grasp. Living in peace is living within the shadow of G-d.

Judaism is largely about law and laws. It turns ethical mandates into concrete rules of conduct. It should not be surprising that peacemaking is scripted into several legal scenarios. One of these is courtroom procedure in the Jewish court, or *beit din*. While ADR has become a legal household term only recently, the Talmud<sup>5</sup> urges that the parties to a dispute consider *pesharah*<sup>6</sup> rather than pure law. According to the Code of Jewish Law<sup>7</sup> the court from the outset of every case should offer the litigants an alternative to black-letter law, by making them aware of *pesharah* solutions.

*Pesharah* is not a formulaic splitting of the difference. (Formulaic divisions work well, but only on paper. A couple celebrated their sixtieth wedding anniversary. Friends and family made a point of pulling Bill over quietly, and asking him his secret for marital bliss. He confided that his wife had come up with a formula that worked when they first tied the knot. She proposed that they avoid conflict by dividing up all areas of potential disagreement into two orbits, and each would be the recognized authority in one of them. Magnanimously, she agreed to take charge of all the "small" decisions. And so it was, Bill continued. "I decided all the large important issues: our attitude towards nuclear disarmament, what to do about global warming, how to address runaway national healthcare costs. Margie was left with the small decisions: where we should live, how we would spend our money, how to raise the kids. The division worked fine!")

In the real world, formulaic divisions rarely do more than leave both parties dissatisfied. *Pesharah* aims at the opposite—to leave both parties satisfied and at peace with each other. It requires much subtlety—much skill at peacemaking – for it to work. It cannot work by simply slicing up the pie or by calling for compromise or compassion alone. Essentially, *pesharah*

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<sup>4</sup> *Shabbat* 10A.

<sup>5</sup> *Sanhedrin* 6B.

<sup>6</sup> Literally, compromise. Practically, it is an arbitrated settlement imposed by the court once the litigants agree to be bound by the process of *pesharah*.

<sup>7</sup> *Shulchan Aruch, Choshen Mishpat* 12:2. According to *Sema* 12:6, the judges go beyond informing the litigants of the arbitration option. They are instructed to show the advantages of an arbitrated decision, and to attempt to convince the litigants to forego the pure law option in favor of *pesharah*.

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calls upon the judges to take into account recognized legal and ethical considerations that ordinarily would not be dispositive in a pure law treatment.

Truth-telling is also impacted by peacemaking. The Talmud's version of the white lie is one which brings peace between people. Avoiding gang warfare is not what the Talmud is talking about. Rather, the peace it seeks is the closeness between spouses that may have suffered from a minor spat or comment. By extension, it is about eliminating any irritation or hurt in a relationship between any two people. If it takes a bald lie to insure that one party will not consciously or subconsciously distance herself from another, the lie is justifiable.

The tension between truth and peace can be far more complex. In a way, it is the context for much of the pursuit of satisfactory solutions to conflicts, and can be shown to operate on several distinct levels.

Jewish commentators observe that the familiar "and G-d saw that it was good" refrain is missing from the Bible's account of the second day of Creation. A *midrash*<sup>8</sup> identifies the culprit. That day produced the *rakia*, the firmament, whose function was dividing between the waters above and below. Division is the root of all contention, the source of friction, the bane to peace. All was decidedly not good.

Like many sermons, it sounds pretty until you think about it, and then it doesn't hold up under fire. G-d had no compunctions about labeling the first day as good, even though it also divided – this time, between light and darkness.

A contemporary writer discovered a solution. The two kinds of division are fundamentally different. Light and darkness represent good and evil, truth and falsehood. Discerning between them is decidedly positive. We, along with G-d, can fully embrace such divisions. The *rakia*, on the other hand, divided between like objects. The waters above and below are much the same. Separating, dividing, and elevating one part at the expense of the remainder is quite a different matter, and oftentimes comes at a heavy price.

The simplest kind of peacemaking flows from seeking the truth. A colleague of mine presides over a local Jewish court. He told me about the easiest case with which he ever dealt. Two brothers disagreed about a partnership matter. Privately and independently, each brother approached my friend to express his hopes regarding the litigation. "I very much want to know what Jewish Law has to say about my claim. Frankly, I don't care so much whether I win or lose, as long as it is my brother who will gain."

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<sup>8</sup> *Bereishis Rabbah* 4:6.

Brothers – sometimes – have an easier time putting aside self-interest and seeking the truth alone. On rare occasions a higher truth allows people to find brotherhood.

There are only two companies in all of New York City wholly dedicated to manufacturing kosher ice cream – Klein’s and Mehadrin. The Great Blackout of ‘04 hit New York on a hot summer day. It was unpleasant to many New Yorkers; catastrophic to ice cream companies with inventories in their non-functioning freezers. Power came back to different neighborhoods at different times. Klein’s was lucky. When their power resumed, Mr. Klein and his sons did a quick inspection to assess the damage. Meeting back in the office, they shared the results of their inspection. Most of their stock survived the hours of lost power. Mr. Klein’s next question surprised his sons. “Did anyone check with Mehadrin to see if they got power back?” The well-being of their chief competitor was hardly on their minds. Before they could gauge their father’s intent, he continued. “Our livelihood is not of our own making. What we deserve, G-d gives us. Go call Mehadrin and see if they have power.” They didn’t. Klein arranged that Mehadrin move as much of its stock as possible to trucks, and had them drive to his plant, where he provided them with electricity that saved it until their own power was restored.

While most people we will meet do not share this generosity of spirit, we should not assume that it is entirely absent. Mediation professionals will testify that many people want to be part of a solution that takes into account the needs of the opposing party, especially when the disputants are individuals they know, rather than corporate entities. They are willing, at times, to compromise, to relax their own demands in service of peace and “doing the right thing.” My own experience points to two elements essential to this kind of conflict resolution.

The first is given voice by a passage in the Mishnah,<sup>9</sup> rabbinic literature almost two thousand years old. It isolates a small group of deeds so special that their Divine reward spills over into this world from the Eternal World, where Heavenly rewards are usually dispensed. One of these is peacemaking. A seventeenth century commentator<sup>10</sup> observes that the Hebrew term used is *hava’at shalom*, which properly translated does not mean making peace, but “bringing” it between people. The passage’s intent might well be illuminated by a later rabbinic *midrash* regarding Moses’ brother Aaron, who is often linked with the pursuit of peace.<sup>11</sup> Aaron, it seems, did not content himself in mediating disputes, in acting as an impartial guide or arbi-

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<sup>9</sup> *Peah* 1:1.

<sup>10</sup> Rabbi Yom Tov Lipman Heller.

<sup>11</sup> See, e.g., *Sanhedrin* 6B.

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ter to move along the process of peace to those who sought it. He actively created it – by generating interest in it to those who did not otherwise show any interest in achieving it! Knowing that Ruvain and Shimon had gotten into some sort of disagreement and were no longer speaking to each other, he would find an opportunity to engage one of them in conversation. “So you and Shimon stopped speaking to each other? What a shame! Just the other day I ran into Shimon, and he spoke about how pained he was to have lost you as a friend, what a wonderful companion you used to be, and how he longed for the days when you enjoyed each other’s company.” Ruvain would usually melt at this, and exclaim, “Really? Shimon said that?” “Absolutely!,” Aaron assured. He would then hasten to find Ruvain, and tell him the same story about Shimon. When the two chanced upon each other, they embraced like long-lost friends, putting their differences behind them.<sup>12</sup>

Peace, then, sometimes has to be brought to places that had previously sealed up against it. The religiously committed practitioner who understands how dear peace is to the Creator will employ creative stratagems to lure people into the peacemaking orbit.

The second element is ethical assurance. Willingness to achieve peace for its own sake (i.e. not for the utilitarian objectives that are the stock trade of mediators) is not an all-or-nothing proposition. Between the poles of the obvious do-gooders and the self-centered and self-absorbed lies an enormous middle ground. I would like to think that a silent majority populates this area. On the one hand, they see the value in achieving peace. On the other, they have assimilated much of a contradictory ethic: that they are duty-bound to pursue their legal rights and due; failure to do so is a sign of weakness and insecurity. The religiously committed practitioner can offer release from the horns of the dilemma, by offering reassurance that compromise and relaxing the pursuit of absolute justice are signs of spiritual strength, not weakness. This will work especially well for people respected as moral cynosures, and for members of the same faith community.

Essentially, I am arguing that we need to free our relationship to the law from the image of pursuers of justice. Justice is an important goal – and perhaps the only one that a secular system of law can deal with. Justice blindfolded, however, is not the only image that the religiously committed legal practitioner ought to have before her. We often need to help people give up the pursuit of justice, in order to pursue other goals whose importance we understand.

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<sup>12</sup> *Yalkut Shimoni, Malachi, 588.*

A *midrash*<sup>13</sup> relates that G-d's decision to create Man led to some heated exchange in the Heavens. Truth opposed Kindness; Peace, meanwhile, had it out with Righteousness; Truth argued that Man is full of falsehood. Kindness countered that he is able to perform much altruistic giving. Peace objected that Man would bring dissension to an otherwise tranquil Creation. Her opponent pointed to Man's ability to sow righteousness far and wide. The matter was brought to a conclusion only by G-d's direct intervention. He took Truth, and cast it to the ground.

An eighteenth century Talmudic scholar rejected the notion that G-d simply threw Truth out of the ring. Rather, he argued, G-d reduced the essential tension between Truth and Peace. Casting Truth to the ground means creating an earthly truth, one that is not stuck upon the absolute understanding of all parameters. Only G-d can know the entire truth; only through such knowledge can absolute justice prevail. But Man may not require absolute truth and justice. A different kind of truth is appropriate to our humanity - to the limitations of knowledge and certainty that are part of being mortal. There is a truth of the earth that is the residence of Man and his limitations, not just one of the Heavenly abode of G-d and His perfection and limitlessness. This latter truth may be tentative and relative – but it is still truth!

In order to make room for Peace, we have to learn to free ourselves from a preoccupation with absolute Justice.

Other Jewish voices expressed this thought differently. The Bible declares, “When there be a dispute between people, and they approach [the court] for judgment.”<sup>14</sup> Rashi, the greatest of all Biblical commentators offers a puzzling comment, especially in light of his stated objective of only commenting when the plain meaning of the text is obscure. “When there be a dispute – this teaches that in the end, they will approach for judgment. From this we know that peace does not ensue from dispute.”

How does Rashi enlighten us to what we do not already know? Why else would people look for a resolution, if there were no dispute? A contemporary teacher of mine beautifully explicated this comment. Rashi sought to justify the inelegant verbosity of the verse, which could have read more simply “When people approach for judgment,” and continued apace from there. Rashi's solution is that the Bible wished to emphasize that G-d does not wish for us to go to run to court to solve interpersonal problems. The law should not be the place of first recourse. Good, reasonable people ought to be able to resolve differences by working out accommodations with each other. The court needs to intervene only when people are stuck in a dispute mode, a fixation on the primacy of their rights, rather than their

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<sup>13</sup> *Bereishis Rabbah* 8:5.

<sup>14</sup> *Deuteronomy* 25:1.

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neighborly responsibilities. Disputes are about the mutual clamoring for justice alone on both sides. Peace cannot grow from it.

I believe that decoupling justice from peace is crucial not only to effective peacemaking, but to rescuing the practice of law from some of its uglier stereotypes.

It is hard to escape the negativity associated with the practice of law by so many outside our profession. Much of it, I believe, is fueled by a misleading identity—law equals justice—in the popular mind.

Most people approach the law as consumers. They know little about the law; we have assured that by using jargon and argot that make it impossible for the non-professional to function. There are good reasons for this, but it does ensure that when people call upon us, they have definite objectives in mind. They want results, which they assume to be just. If they achieve those objectives, the law is good, the law is just, and their attorneys are paradigms of virtue. Of course, at least one side—and often both—never achieves those objectives. In the mind of legal consumers, law is then a fraud. In their minds, they have walked into a legal supermarket, chosen an item from the shelf, paid for it, taken it home, and found the product defective.

Religious practitioners can tell their clients a truth that is seldom heard in the general legal community, which so often equates goodness with legality. Within faith communities, we know the law does not at all describe the Good Life or the good person. The law often prescribes remedies and solutions for people who do not seek genuine goodness. What the law offers them is a consistent, reasonably non-arbitrary and predictable set of protocols to avoid societal havoc. The genuinely good person—in the sense understood by most Western faiths—does not comport himself by the law alone.<sup>15</sup>

Citizens who seek justice from the law are bound to become disgruntled. Justice not only belongs to G-d, but it is inherently unreasonable to expect fallible human beings to be able to arrive at it. People ought to learn from us that there are goals that ordinary human beings can achieve—but justice in the strict sense is not one of them. Rather, the religious practitioner can instruct about goals that are realizable—particularly peace.

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<sup>15</sup> One is reminded of Oliver Wendell Holmes' assessment of the place of the law. "If you want to know the law and nothing else, you must look at it as a bad man, who cares only for the material consequences which such knowledge enables him to predict, and not as a good one, who finds his reasons for conduct, whether inside the law or outside of it, in the vaguer sanctions of conscience." Oliver Wendell Holmes, *The Path of the Law*, 10 HARV. L. REV. 457, 459 (1897).



Thus far, we have considered approaches that religious practitioners might be especially motivated to implement, but are not essentially religious in nature. They could work just as well for the agnostic. A different Jewish insight into peace and peacemaking, however, will only work for practitioners with a strongly held belief in G-d. By understanding the very nature of peace, we can become much better at bringing it about.

We should differentiate between two kinds of peace: pragmatic and essential. Pragmatic peacemaking removes causes of conflict and hostility. Reflecting upon it, we often conclude that conflict resolution is a final recourse, but by no means the best or most effective strategy for the peacemaker. We might do far better by looking proactively for ways to avoid future strain and tension. We can do a better job in crafting contracts that minimize the possibility of dispute. We can do the same in drafting statutes. We can anticipate community hot-points, and address problems before they become larger issues. These are all welcome contributions that a peace-minded practitioner might be motivated to pursue by her religious commitment.

Another kind of peace concerns itself less with what we do, than with what who are. We could call it essential peace, because it captures the qualities within people that make harmony more likely. Seen from this perspective, peace is the presence of some element or aspect of living, rather than the absence of irritants and disturbances.

Peace, Jewish tradition teaches,<sup>16</sup> is one of G-d's Names. Names in Jewish thought do not tell us so much as to how to address G-d, but express some part of His reality. Why would "Peace" get at the very essence of G-d as understood by man? The Hebrew term for peace—*shalom*—illuminates the path towards discovery. Biblical Hebrew, as well as the Hebrew most commonly used by Hebrew speakers today, uses consonant letters only. Vowels tag along for the ride, inserted by the reader. The same letters that spell *shalom*—שלום—also produce *shalem*, which means (depending on context) whole, or even perfect.

On one level, we become peace-people when we are more complete and integrated. Firstly, we are less prone to conflict with others when there are fewer conflicts—conscious and otherwise—churning away inside us. Secondly, we are far better at influencing others when we are whole. Any fault line, any incompleteness, and any deficiency becomes a road hazard for those who travel along the contours of our personalities.

Most importantly, though, the religious practitioner understands that "completeness" and "perfection" are terms borrowed from the single instance of their occurrence. There is only one Being Who is absolutely com-

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<sup>16</sup> Talmud, *Shabbat* 10A.

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plete and perfect, in the sense of containing everything, and thus knowing of no deficiency. In the human sphere, we use the terms only relatively. We have some idealized image of what something should be or look like. If we quantify the qualities that we are interested in and plot them as a curve, then the closer a real object's properties approach that curve, the more "perfect" we declare it to be. We can speak of a perfect diamond in terms of shape, clarity, and brilliance. No diamond, however, can play Mozart. We don't expect one to. We choose to define a diamond's perfection by narrowly focusing on a small number of parameters, ignoring all others. In an absolute sense, however, if musical accomplishment is a positive value, then no gem can be said to be perfect. *Mutatis mutandis*, there are no perfect friends or spouses or athletes or attorneys. There is, however, the Perfect One, who indeed knows no deficiency because all is in Him. Included in this understanding is that all disparity and division – the cause for all contention and dispute – melt within the Oneness of G-d.<sup>17</sup> Where we see difference, G-d sees, as it were, everything coming together.

Shalom is a Name of G-d because true peace is contingent upon true perfection, which exists only in G-d. Peace is a Divine attribute, a component,<sup>18</sup> so to speak, of His essence. This aspect of peace is initially beyond our grasp, as surely as we cannot turn ourselves into G-d. We can make good use of practical tools to promote peace, but a dimension of peace evades us, simply because we are human, rather than Divine. We can take our journey towards peace into overdrive only by accessing this higher dimension, only by exercising our ability to draw from Him what would be impossible, left to our own devices.<sup>19</sup> When we do access this as-

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<sup>17</sup> R. JUDAH LOEWE OF PRAGUE, NETIVOT OLAM, *Netiv HaShalom*, chap. 1; R. JUDAH LOEWE, DE-RECH, *Chaim* 5:17.

<sup>18</sup> We speak of "components," of course, only from a human vantage point. In Jewish thought, G-d has no parts or components, but is a perfect Oneness. Nothing that is not G-d shares that Oneness, or is even capable of fathoming that Uniqueness. We find ourselves experientially very much in a world of dynamic difference and complexity, rather than utter simplicity. The monotheistic religions nonetheless affirm a Oneness of G-d's despite our ability to fully grasp or articulate it.

<sup>19</sup> Different faiths have very different conceptions as to how to draw from G-d, whether through study and contemplation, prayer, or His freely-offered grace. Judaism underscores the role of experiencing Him through the performance of the commandments. In Jewish thought, the complex demands of *halacha* – the Jewish legal system – are seen by some as discreet pathways to becoming more G-d-like by imitating what He is. Additionally, our capacity to respond to these characteristics increases with our awareness and understanding of them, and degree to which we have integrated them within ourselves. In other words, we take the first steps by utilizing the bit of awareness we have of a particular attribute. By binding ourselves to it through the performance of particular commandments that are refractions of that attribute, we gain further awareness, which in turn allows us to draw closer yet, and draw even greater appreciation and understanding.

pect of Divinity, we are far more capable of sharing its benefits with us. We become, in a way, pathways through which a Divine influence of His peace can be channeled.

The great twentieth century rabbinic thinker Rabbi Abraham Isaac Ha-Kohen Kook beautifully deepens our understanding of the relationship between the deepest strata of peace and the reality of G-d by giving free rein to his significant kabbalistic leanings. He comments upon a puzzling passage in the Talmud<sup>20</sup> that prohibits offering the familiar greeting to a friend "Peace be upon you!" in a bathhouse. Because Peace is a Name of G-d, it should not be uttered in a place of nakedness and foul vapors. If so, counters the Talmud, it should be forbidden to speak of Faith, for G-d is described as the Faithful G-d.<sup>21</sup> We know that this is not true. What is the difference? Simple, replies the Talmud. Peace is a Name of G-d; Faithful is adjectival. It only describes something about G-d, but not what He essentially is.

The foundation of Peace is that the internal longing and desire of each individual being in Creation be in complete synchrony with the global desire, which flows directly from the general goal and purpose of all things. The Master of all things, Blessed be He, includes within Him everything in the universe, both in the general sense of the goal that all things will lead to, as well as every single detail of existence. Just as He is One, so too there is a unity to all of His creation. Specifically, this includes all the myriad details of existence, including what seem to be the competing and opposing tendencies and wills of different beings, which often seem so terribly distant from the ultimate goal of bringing all things to complete fulfillment on a lofty and elevated plane. This can take place only after many deeds, and many convoluted epochs of history, in which light and darkness, good and evil, all reign together in confusion. In the end, they all support the final telos. In truth, it can be stated that every individual object fits into this scheme, even though each player is not conscious of where his own nature will actually lead him. This is the foundation of Peace. Peace's opposite is always caused by individuals whose desires and wants do not dovetail with the general goal of all things.<sup>22</sup>

Only immersion in the holiness of G-d's Torah, His teaching to Man, can bring us to such a lofty understanding. There are two reasons why people fail to achieve it. Some treat peace pragmatically. They look to living in peace and harmony as a potent strategy to achieving their individual goals, abstracting themselves from the process of elevating and uniting all of mankind and creation. Others simply do not understand this profound teaching

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<sup>20</sup> Talmud, *Shabbat* 10B.

<sup>21</sup> *Deuteronomy* 7:9.

<sup>22</sup> *Eyn Aya'h, Shabbat* 10B.

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that in the end all things will flow together. To both of these, our occupation with peace is utilitarian, and lies squarely within the human sphere of influence. There could be nothing wrong with talking about it in a bathhouse, where man's physicality is most pronounced, reminding him of how far he is from ethereal, spiritual existence. Faith, too, is utilitarian. It is a means to an end. We cannot learn anything about G-d without first having faith in Who He is. There is nothing so terrible in speaking of faith in the bathhouse.

We will never make real progress towards the ultimate peace if we treat it pragmatically as a wonderful way to reduce conflict, hostility, and tension. We will be shortchanging ourselves – and our clients as well – if we fail to comprehend that Peace is indeed one of the Names of G-d. Peace, in the final analysis, tells us about the nature of G-d, about the ultimate unity of all things, and where we are all headed.

Understanding peace is the gift that only the religious practitioner can offer the rest of the world.

