The Responsa of Rabbi Solomon Judah Rapoport and Rabbi Samson Raphael Hirsch on the Proposed Judah Touro Monument: A Translation of Two Texts

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In his book *The Good Society: Jewish Ethics in Action*, Rabbi Norman Lamm offered a number of translated selections by different Jewish sages throughout history on a whole host of issues confronting the Jewish people and humanity. In providing these translations, Rabbi Lamm demonstrated the wisdom and inspiration the Jewish tradition could provide on these issues so that his readers could seek guidance from Judaism in dealing with the problems life presents. In his chapter on “Leadership,” Rabbi Lamm focused on “the relationship between established power and the community,” and in a translation of a passage from Rabbi Tavi Hirsch Kaidnower’s 1705 *Kav ha-Yashar*, he presented the following insight on leadership:

I shall now offer a reason for the term nesiim, which the Bible used to describe the leaders and heads of the people. If a man is worthy and conducts himself in a God-fearing manner, he is elevated or raised high. Naso means to elevate, and nesiim therefore means “those whose are elevated.”

Rabbi Lamm himself has been the embodiment of this passage. He has conducted himself in a “worthy and God-fearing manner,” and his leadership of Yeshiva University was surely exemplary in so many ways. As one who has served as president of a sister institution for more than a dozen years, I consistently look to the example Rabbi Lamm set in my own efforts, and I have always possessed untold admiration for the manner in which he was able as president of Yeshiva University to combine superb scholarship with outstanding administrative acumen and fundraising talents. Rabbi Lamm provided me with counsel and advice in all these areas when I first assumed my current office, and I appreciate greatly the kindness and warmth he displayed toward me then and thereafter.

It is small wonder in light of the admiration I feel for Rabbi Lamm and in view of our personal encounters that, in preparing for my inauguration as president of Hebrew Union College-Jewish Institute of Religion in 2002, one year after I was selected for this post, I consulted what Rabbi Lamm,
when he assumed the presidency of Yeshiva University in 1978, had said when he delivered his own inaugural address. I observed that he had concluded his own inaugural speech with the following prayer:

יְהוָה רְאוּז מָלְפָּרִים, וּדְאֵלֵה, שֶלָּא יִאֶפֶר דָּבָר תַּכָּלָה עַל יִדָּא אֶאֱשֶׁלוּ בִּרְבֵּר
הלָהָה. יַשְׁפֹּחַ בִּרְבֵּר, וַלּא אָנּוּר עַל טְמוּאָה טָוֹרִי עַל טָוֹרִי טְמֵא, וַלּא
יַשְׁפֹּחַ בִּרְבֵּר הַלָּהָה, יַשְׁפֹּחַ בִּרְבֵּר.

May it be Your will, O Lord my God, that no mishap occur because of me; that I not pronounce as acceptable and pure that which is unacceptable and impure, and that I not condemn as wrong that which is right; that I not err in any matter of principle.

Indeed, in offering my own remarks at my inauguration, I cited these words and stated:

No more suitable words capture the sentiments and hopes that are in my heart on this day. The words of this prayer are taken from the Talmud, and they were first uttered by Rabbi Neḥunyah ben Hakkanah when he entered the house of study. At those times, he would ask for divine guidance, and it is his prayer and the translation offered by Rabbi Lamm that I now recite as I accept the presidency of Hebrew Union College."

I then concluded, after reading the Hebrew and English Rabbi Lamm offered, in the spirit and words of Rabbi Neḥunyah ben Hakkanah:

May my colleagues—governors, administrators, faculty, staff, students, supporters, and the community at large—have reason to be happy with me, and may I be privileged to be happy and fulfilled working with them.

It is in a spirit of gratitude for the connection between us as well as the model Rabbi Lamm has provided me that I now participate in this volume in his honor by offering translations of two responsa issued by Rabbi Solomon Judah Rapoport (1790–1867) of Prague and Rabbi Samson Raphael Hirsch (1808–1888) of Frankfurt on a question sent them in 1860 by the Judah Touro Monument Association of New Orleans asking whether it was appropriate and permitted by Jewish law and tradition to erect a monument in memory of this great American Jewish philanthropist. The translation of the Rapoport responsum is based on the Hebrew text contained in Israel Joseph Benjamin, Three Years in America, 1859–1862 while the Hirsch text is found in his responsa collection, Shemesh Marpe. Providing these texts allows me to emulate a small element of the scholarship in which Rabbi Lamm himself has engaged and in so doing thank him for his worthy accomplishments and deeds.
Introduction and Context

Judah Touro (1775–1854) was born in Newport, Rhode Island, and settled in New Orleans in 1802. There he opened a business selling products from New England and ultimately amassed a fortune through shipping and real estate. Generous throughout his lifetime to Jewish and non-Jewish causes alike, Touro left the then-enormous sum of approximately $500,000 to numerous charities of all types after his death.4 Several years after his death, as I.J. Benjamin describes in his autobiographical Three Years in America, “the Portuguese congregation” of New Orleans proposed erecting “a statue of Judah Touro to the lasting memory of the man who had been a benefactor of so many congregations and they sought the assistance of other congregations of New Orleans in the project in the hope that other congregations in America would also join in.” This statue of Touro “would be cast in bronze and was to be set up in the outer court of the Portuguese synagogue.” Benjamin reports that he then went to see the “hazzan and preacher of the Portuguese synagogue, Mr. J.K. Guthem,” to protest the erection of such a statue, inasmuch as he believed that “it was clear from our books of religious law that setting up a statue was clearly forbidden.” Guthem disagreed and a major controversy then ensued, causing “a great sensation among the Jews of New Orleans.” Indeed, the controversy spilled out beyond the borders of New Orleans and prominent Jews throughout the United States—including Reform Rabbis Isaac Mayer Wise and Moses Lilienthal of Cincinnati and Isaac Leeser of Philadelphia—all sided with Mr. Benjamin. As a result, “the committee that had been appointed in New Orleans to set up the Touro statue could not continue with its plan,” and “it saw itself compelled to obtain the opinion of important European authorities as to whether the project was permissible according to Jewish religious law and usage.” Rabbi Rapoport and Rabbi Hirsch were among the authorities to whom the Touro Monument Committee turned. It is their responses that I now present.5

Translation of Selections of a Letter Written by Rabbi Solomon Judah Rapoport of Prague on the Proposed Touro Monument

And I have another matter to address to you, dear sages, as you, through the goodness of your heart, honored me through my exchange of letters with you. Behold, there is before me an important matter about which I was asked by several rabbinic sages there. If my memory does not deceive me, Rabbi Bernard Ilowy [of New Orleans] was among them. Their inclination is to prohibit those who would engage in building [a monument
to the deceased]. In their opinion, this is forbidden, and this judgment is proper.

On the other hand, I was also sought out by those rabbis whose inclination was to grant permission on the construction of [a monument] like this. This is the subject of the question: A very wealthy man among our brothers in the Household of Israel died in the New World. His name was known to all of us in Europe, and he went to a better place and left a great fortune after him—charity funds (ぜだか) for the poor, and not only to his countrymen, but also for those in other lands, and even more significantly, a great sum to the poor of the Land of Israel. And now, those who knew him and members of his family wish to erect an eternal memorial for him on this earth on account of the portion he shared with the poor, so that his righteousness will stand forever. And it seemed obvious to them that they should request permission from the rabbis and teachers on the basis of our Torah and our teachings about erecting a statue of stone bearing his likeness and then placing it on his grave. Even though such a thing had never been done among the people Israel, they imagined that in our time in several places a number of new customs not conceived of by our forefathers had arisen, e.g. mixed choirs of men and women in synagogues singing brazen love songs or persons leaving the synagogue abruptly on Yom Kippur after the morning prayers at any time that they desired. And they neither know nor understand the great difference between these things that are both foreign and strange. Nonetheless, these are minor issues in comparison to this proposed major innovation. If they would have dared to do this in the previous generation, all would have protested and cried out: “Such a thing as this has never appeared since the days of the Hasmoneans, when the wicked of our people praised and honored the gods of the Greeks.” We thought such an evil inclination had been blotted out among the people of the nation of Israel. And now, they are again attempting to reappear from the dust of the earth through the image of this exalted and righteous man. And this is my answer to the aforementioned who asked this question:

Truly, to the lovers of Israel and to those who love us—be righteous in your words and meritorious in your judgment, because from the vantage point of our religious law and tradition in whose judgments and laws you completely believe [this is completely forbidden]. There is no need to be embarrassed by
this ruling. For the construction of a statue of a man is forbidden by the Torah and this is elucidated in a lengthy baraita (BT Rosh ha-Shanah 24b and BT Avodah Zarah 43b)—all profiles are permitted with the exception of the profile of a man. And as is explained there, this is if the image protrudes. And Rashi explains, even if it is not for idol worship. This prohibition is also found in Maimonides, Mishneh Torah (Laws of Idolatry 3:5). And it is written there that one who transgresses this prohibition should receive stripes (Shulḥan Arukh, Yoreh De’ah 141:4).

Shelomoh Yehudah Leib Rapoport
Rav and Av Be’it Din of Prague
3 Tammuz 5621

Selection from Shemesh Marpe, by Rabbi Samson Raphael Hirsch, #47 (summer 1860), “Concerning the Erection of a Stone or Metal Statue in Memory of a Distinguished Man”

To the Touro Monument Association in New Orleans, United States:

Your desire is to erect a stone or metal monument in memory of such a distinguished man, on the condition that this deed does not run contrary to the laws of Torah or the customs of Israel, and you have honored me by asking me to express my opinion on this matter.

Behold, the erection of a monument in the image of a man, whether from stone or metal or any other material, in whatever place or for whatever purpose, is forbidden by the Torah. Therefore, it is forbidden to erect a statue, even if it has no form or image, in a place where the public gathers for the worship of the Creator, may His name be blessed (see Maimonides, Laws of Idolatry 6:6).

However, the law concerning the erection of a monument that is not intended for the worship of God is not completely clear. According to many rabbinic decisors (Rabbi Shelomoh Luria [Maharshal—1510–1573] on Sefer Mitzvot Gadol of Rabbi Moshe ben Ya’akov of Coucy [first half of the thirteenth century], Negative Commandment 42), it is forbidden to erect a statue altogether, even when it is not intended for religious purposes. And if this is so, then the words of the Rambam mentioned above indicate that the erection of a statue is forbidden by the Torah in all circumstances, even if the statue is erected for the purpose of worshipping God. However, from
the words of the prophets, it seems at first glance that the construction of a monument for secular purposes does not fall under the prohibition: “Do not erect a monument for yourself” (see Joshua 24:26–27 and I Samuel 7:12). Since your question was whether this proposal was contrary to the laws of Torah and the customs of Israel, we therefore need to examine and clarify how our ancestors throughout the generations conducted themselves in this matter.

According to our knowledge, there were occasions when monuments to events or important places were erected. However, no place do we find the erection of monuments in memory of a special man, even the most important. There is only one instance of a monument's being erected in memory of a special man. And that was Absalom, a man who pursued glory, who built his “Absalom's Shrine – yad Avshalom” while he was still alive (II Samuel 18:18). In the history of our people there have been great men beyond number and there is no nation that honors her heroes of the spirit more than ours, and we have honored their memory in diverse ways. However, never has this been done through statues of stone or metal. We do not normally draw conclusions from that which we have not seen, for what we have not witnessed does not constitute proof. The rejection of this custom constitutes evidence of its prohibition (see Shakh on Ḥoshen Mishpat 37). After all, had this matter been permitted, it is impossible that we would not have seen one instance where someone would have acted so as to permit [the construction of such a monument]. Instead, it is certain [that the lack of such a monument or statue throughout Jewish history demonstrates] that this custom to prohibit [such construction] was enacted intentionally.

And you should not contend that on account of persecution during our long exile there was not a fit hour for the erection of statues, for during the Golden Age of Spain absolute freedom reigned and many [Jews] were distinguished and noble among the nation. Several were even princes and officers, and despite all this, no one thought to honor their memory through the erection of a statue. More significantly, even during the Second Temple Period in the days of the Hasmonean Kingdom and the House of Herod, when everyone pursued honor and adulation and loved to follow the customs of Rome and Greece, we find no one who dared to build monuments for the memory of persons, even though they built towers, fortresses, and cities and named
them after persons. In view of all this, erecting a monument in memory of a man is in opposition to the customs of Israel.

In posing your question, you said that you wanted to consider the laws of Torah and also the customs of Israel. However, we have a law that obligates us to observe the customs of Israel, “for the custom of Israel is law—minhag Yisra’el din hu” (Naḥ manides, commentary to BT Pesāḥim 7b). And if this is so, there is no need to distinguish between custom and law at all. Violating a custom constitutes a violation of the Torah itself.

Therefore, it is clear that you have refrained from acting on your intention and moving from planning into action [because such a deed would constitute a violation of the Torah], even though your intention to honor the memory of a precious and distinguished man is good and proper. Despite your good intentions, we are glad that the custom of Israel [also] forbids monuments like these as a sign of honor and esteem, inasmuch as they are forbidden by the laws of the Torah itself. In accord with this custom, observed [by Jewish communities] over thousands of years despite thousands of opportunities, the proposal to pay tribute to the deceased philanthropist Judah Touro by erecting a statue or monument in his memory [is surely forbidden].

[Inasmuch as the Touro Monument] Association was unsure of whether such a statue or monument would be in accord with Jewish tradition or law, the president of the association [rightfully] turned to a number of distinguished European rabbis to receive their answers to the question. Each one of the rabbis they approached responded negatively to this proposal, maintaining—based on the prohibition found in the Babylonian Talmud, Rosh ha-Shanah 24b—that Judaism prohibited the erection of any statue of a human figure.

Let us now examine our custom not to erect even a simple stone on the graves of our great Sages. As it states in JT Shekalim 5:2: “One does not erect monuments for the righteous. Their words constitute their memorial.” Their words and their deeds constitute their unforgettable “monument.” Therefore, let us maintain the holy custom of honoring the memory of distinguished persons through good and beneficent deeds, for in this way the memory of the righteous will be for a blessing—that is to say, a blessing for those who yet live. And let us not forget that according to the Torah, any palace or building that is put up unnecessarily and for no real benefit is a structure of conceit.
And the story is told at the end of Chapter 5 of JT Shekalim that once Rabbi Ḥama bar Ḥanina and Rabbi Hoshaya his teacher were strolling before a magnificent synagogue in Lod when Rabbi Ḥama bar Ḥanina said to Rabbi Hoshaya: “How much money my ancestors invested here!” Rabbi Hoshaya then said to him: “In how many souls did your ancestors invest here? Did they not have children who labored in Torah?” Therefore, gentlemen, and perhaps you will thank me [for this suggestion], it would be advisable for you to establish a foundation from the funds that you would have taken for the creation of a memorial, and take the yearly proceeds to assist a deserving man for his benefit and elevation. In this way you will honor the memory of a precious man more than through the finest statue of marble and bronze.

**Concluding Words**

Rabbi Norman Lamm has enjoyed a distinguished career. His service to the Jewish people and the Jewish religion is virtually unsurpassed. To paraphrase the words of Rabbi Hoshaya, if Rabbi Lamm were asked: “How many souls did you invest in here? How many of your children labored in Torah?” the response would be: “Thousands and thousands.” I hope that my translations of the Rapoport and Hirsch writings presented in this paper pay proper respect to his enduring legacy.

*Rabbi Dr. David Ellenson is the president of Hebrew Union College-Jewish Institute of Religion. He is internationally recognized for his extensive publications and research in the areas of Jewish religious thought, ethics, and modern Jewish history, and is a recipient of the National Jewish Book Council Award.*

**(Endnotes)**

5. All the descriptions and citations cited in this paragraph are taken from Benjamin, *Three Years in America* (see note 2 above) 321–324.
6. An earlier English version of the Hirsch responsa may be found in the nineteenth-century American Jewish periodical *The Occident* 19: 55–58. This version is reprinted in Benjamin, *Three Years in America* (see note 2 above) 327–329. The Hebrew version of the text found in *Shemesh Marpe* differs in some places from the Hirsch text published in *The Occident*. I offer the current translation in honor of Rabbi Lamm inasmuch as Hebrew readers of the Hirsch legacy are more likely to read the *Shemesh Marpe* text than the one contained in *The Occident* and insofar as this translation is rendered in a more colloquial, twenty-first-century English than the previous, nineteenth-century translation.
7. In addition to the opinion of Rabbi Rapoport translated above, see the opinions of Rabbi N.M. Adler, then chief rabbi of England, and Rabbi Zacharias Frankel, then head of the Jewish Theological Seminary in Breslau. These responsa are found in Benjamin, *Three Years in America* (see note 2 above) 330–333.
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