

# CRASH Packet

# The Five Sources of Jewish Law

Kra (קרא) Torah verse

Minhag (מנהג) Custom

Ma'aseh (מעשה) Precedent

Takanah (תקנה) Legislation

Svara (סברא) Informed moral intuition

## A Definition of Svara

*Svara*: “informed moral intuition”—a talmudic term of Jewish law that reflects the 2,000-year-old rabbinic notion that the most powerful source of truth is that insight which grows out of the experience of our own lives *informed by Jewish learning*.

According to Menachem Elon, Former Deputy President of the Supreme Court of Israel, *svara* “involves a deep and discerning probe into the essence of halakhic and legal principles, an appreciation of the characteristics of human beings in their social relationships, and a careful study of the real world and its manifestations.” *Jewish Law: History, Sources, Principles*, p. 987. Elsewhere, Elon defines the term more succinctly: “legal reasoning that penetrates into the essence of things and reflects a profound understanding of human nature.” *Jewish Law (Mishpat Ivri): Cases and Materials*, p. 97.

*Svara* is one of five sources of Jewish law, among which, of course, is a verse in the Torah itself. Just as any law which grows out of a Torah verse is understood to have the higher status of *d'oraita* (“toraitic,” or “straight from God”) rather than merely *d'rabbanan* or “rabbinic,” a law whose source is *svara* is also *d'oraita*! What’s more, when one’s *svara* and a verse in the Torah conflict, *svara* has the power to trump even Torah in the determination of law, when that *svara* is understood to more accurately reflect the deepest foundational principles of the Jewish tradition.

# Crash Theory

1. All human beings share the same basic “big questions” of life—How did we get here? Is there a God? What happens after I die? What am I here to do? How should I live my life? What is right? What is wrong? What is important? Etc.
2. Every tradition comes into existence for one and only one reason: to answer those very questions, and it does so by means of a Master Story (M.S.).
3. As long as your Master Story is working for you, you’re not even aware that you have questions—you *know* how you got here, you *know* if there is a God, you *know* what you’re here to do, etc.
4. All Master Stories will eventually, and inevitably, CRASH! Your Master Story will either come into contact with a) a conflicting Master Story, b) a historical event which makes it impossible for some of the answers in the Master Story to work, or c) one or more of your Master Story’s answers will no longer “mesh” with your internal sense of morality or of what is right, because you, yourself, have changed. *This is a crash.*
5. There are three and only three possible responses to a crash. Which you choose largely depends on your personality, your ability to tolerate uncertainty, your comfort with change, etc.
6. **Option 1:** Deny the crash and revert to your M.S. and build a strong “wall” around it—either physical, social, or otherwise—to be sure nothing challenges it.
7. **Option 2:** Accept the crash and reject your M.S. in its entirety. This is the baby-with-the-bathwater option. You are jumping off into a new story here (you always live “in a story”)—the story of the “crash material” which seems more plausible to you now. But remember: *all stories eventually crash, and this one will, too.*
8. [Both Option 1 and Option 2 are responses to the erroneous belief that Master Stories are fixed, unchanging, and immutable—and that any crack in them signals a full collapse.]
9. **Option 3:** Go back to your original questions, and *retell* the original M.S. *in light of* the crash, bringing into your retelling those parts of the M.S. that still work and innovating new components, so that you have a new set of *working* answers to those original questions.
10. The Rabbis went Option 3. A couple hundred years after the beginning of their crash (which, by the way, began well *before* the Temple was actually destroyed), their retelling became written down in what became the mishnah (and later continued in the gemara, and all the rest of what we now call “Oral Torah”).
11. The Rabbis knew that crashes were going to keep happening and embedded into their retelling *the rules for how to retell* your Jewish Master Story so that the resulting story would still be Jewish—i.e., regardless of the *forms* of practice advocated by the new story, the ultimate goals of the Jewish enterprise would still be achieved.
12. There were many “mishnahs” after the destruction of the Second Temple (including Christianity). Ours is merely one.

## Crash Principles

After a crash, most people go Option 2. The Establishment tends to go Option 1. And those who likely felt marginal *before the crash* will go Option 3. Option 3 will always be the option which the *fewest* people experiencing the crash will follow.

1. Crashes create a proliferation of Option 3's. This is good. This is what you want. You want to encourage, *not close down*, new retellings in a time of crash. You don't know which ones are going to work. These new retellings are Innovation 1.0.
2. Innovation 2.0 happens when *some* of these Innovation 1.0 enterprises "thicken" (become more deeply rooted in Judaism), and expand, diversify, and begin to serve more functions and meet more of your needs (think: the move from iPod to iPhone).
3. When people go Option 2, *but then come back to Judaism* and go Option 3...you get...Yoga Minyans! That is, they bring with them ideas and practices from the external culture that work for them (and will inevitably work for others!), that they then Judaize and work into their new Jewish story.
4. No tradition that lasts any length of time really ever goes Option 1. Option 1 is actually more of a mindset and a myth than a reality. All lasting traditions evolve. The question is whether your community is willing to acknowledge this or not. If not, they're an Option 1 community.
5. You can move from one Option to another, serially, in response to the same crash. Ex: Coming out.  
Option 1: Denial. Try to be or pretend to be straight. Keep the "goodies" straight people get.  
Option 2: Accept you're gay and reject your former Jewish life and community.  
Option 3: Join a gay shul, an LGBTQ-inclusive synagogue, learn in a queer yeshiva, find another nice Jewish boy or girl and have a lovely huppa, invite your entire family, and you and your partner have a Jewish life and raise Jewish kids.
6. Crashes happen in every generation. They can be individual or communal.
7. Crashes are "part of the plan."
8. Our "original" Master Story was, itself, a retelling of a previous Master Story.
9. *Every* retelling (Option 3) feels thin, inauthentic, and "made up" to the generation experiencing the crash...but it won't to their grandchildren!
10. Important questions: What are the components of authentic and "thick enough" new Master Stories? What are the qualities of Option 3 leaders? What do the Option 3 leaders need to know and do to increase the likelihood that their new Master Story will a) *attract* crash-experiencers, and b) be "thick enough" to create new Judaisms that will achieve the tradition's ultimate goals?

## The Requirements for Being a “Player”

Hint: Rabbinic ordination is *not* one of them. Many of the “Rabbis” of the talmudic era were never ordained and had no titles. In fact, the only thing the title “Rabbi” grants is indemnity against financial damages in the event that you make a halachic decision that turns out to be wrong. In that event, you are protected against being sued. Sanhedrin 5a

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### GAMIRNA AND SAVIRNA

The two requirements for being a “player” in the game of interpreting Jewish law and transforming the tradition are: being “gamirna” and being “savrna.” Sanhedrin 5a. Horayot 2b. For a detailed explanation of what each term means, see Sota 20a and Eruvin 13a, particularly Rashi, d.h. “gamar gemara” and d.h. “savar svara.”

Being “gamirna” means knowing your “learning”—the root gimel/mem/resh, in Aramaic, means “to learn.” In the Talmudic era, it meant, simply, knowing your mishnahs backward and forward, word for word, just as they had been passed down to you from your teacher and to your teacher from his (it was always a “he” back then) teacher, etc. To be “gamirna” in the Talmudic era didn’t require even knowing gemara/Talmud—because, of course, it hadn’t been written yet! So being gamirna required mastery of a relatively small canon of Jewish knowledge. [An important question for us today is: what does it mean today for someone to be gamirna? How much would they have to know? And of which genres of Jewish literature? All of them? Only some of them? How much Talmud would I need to know to be gamirna? How much midrash? Codes, etc., etc. Are there other things, expertise in which, would make me gamirna? I don’t know the answer to this... but I think it’s an interesting and very important question.]

“Savrna” refers to the acknowledgement that one possesses svara. And, paraphrasing Menachem Elon’s definition: svara is one’s informed moral intuition, based on a broad range of experience, exposure to people different from yourself, insight into human nature and an understanding of the human condition. It is *what your kishkes tell you is right* if, and only if, you are steeped in Jewish values and principles, and an understanding of Jewish texts—i.e., if you are gamirna.

Being gamirna is a prerequisite to being savirna (although the opposite is not true). In other words, you can be full of “gemara”/Jewish learning, but have no insight into human nature, no empathy, no experience with people different from yourself, etc. You would then be gamirna, but not savirna. But you cannot be savirna unless you are already gamirna. In other words: you can’t be an ignoramus and claim that “what your kishkes tell you” is svara. It isn’t.

Svara implies a profound sensitivity to and deep moral empathy toward others, the courage to take action on an issue even when it is not popular or might cost you, and the knowledge and confidence to carry it out *in a Jewish way*—i.e., playing by the rules of the Jewish game, basing yourself on the sources of Jewish law, and the mechanisms of authentic Jewish change.