

AMIR MASHIACH

HOW TO DO THINGS WITH WORDS IN JUDAISM

Amir Mashiach

Ariel University, The School of education, Israel

Email: amirma@ariel.ac.il

Abstract: This article aims to investigate Verbal language in the relationship between man and man, and compare it to that between man and God, according to *Halakha*. I will focus on these two categories, in particular in issues dealing with Proprietary rights. Does Verbal language have any binding in *Halakha*? Can Verbal language create an actual contract between man and man or between man and God? I will make use of the theories of John Austin in his book *How To Make Things With Words*. I'll show that in Israeli Law, Verbal language indeed creates a new legal status. However, according to *Halakha*, dealing with the relationship between man and man, Verbal language has no legal binding. One must perform a physical deed such as moving or lifting the object, in order to create a commitment. According to *Halakha*, pertaining to the relationship between man and God, there is a tremendous significance to Verbal language. In such a way Austin would define it as a Performative Speech act. In order to explain the difference between the two categories, I'll turn to the idealistic philosophy of Fichte, who defined two concepts of the "Self": the realistic Self and the idealistic one. Accordingly, I'll show the dichotomy of the Performative Speech act in *Halakha*.

Key words: Halakha; Performative Speech act; realistic I; idealistic I; contracts; Israeli law; between man and God; between man and man.

1. Introduction

Verbal language has been crowned with a plethora of distinctions in different traditions. Great is the power of speech; to the point where it has been proclaimed that “death and life are both in the hands of the tongue.” (Proverbs 18:21) Language is also the primary meeting between world and God. As far back as the first day of creation, the universe-forming utterance makes its appearance, “God said, Let there be light.” Verbal language, then, is not only a basic means of communication; it is actually much more than this. (Gross 2005) Language creates the world, yet it can also destroy it. This is true of both the general cosmic universe and the private, personal or inter-personal world.

The present article sets out to trace the power of verbal language – of verbal language in particular – in inter-human dealings, while comparing this to the human-divine relationship as defined by the Halakhah when it describes verbal language. Language can obviously find its expression in writing or in other graphic forms; in the present article, I have chosen to focus on the orally worded rather than the written, insofar as points set out in writing have full effect in every normative system whatsoever, Jewish law forming no exception in this respect. The written agreement belongs to contract or negotiable instrument branches of the law; as such, it provides for a different level of commitment between the parties to the agreement. The written is established, made law, committed to a set and fixed formulation; it also resolves many of the issues bound up with laws of testimony in case any legal problem arises, including claims of incorrect interpretation of the binding relationship incurred. Written contracts appear as far back as the days of the Bible; the field continues to develop to this day.

This is the reason why I do not want to enter this area, but rather focus specifically on the power of verbal language, aiming to test whether it creates a new legal reality, a contract among human agents or binding obligation. I should add that I am not dealing with issues likely to arise in connection with one kind of mutual bond, such as proving the very fact of the ties binding the two parties to each other and other laws of testimony; these are all natural outcomes of unwritten verbal commitment. I mean to focus exclusively on verbal language, the repository of unexplored significance; not least, from the point of view of the various categories of obligations among fellow human beings as opposed to obligations binding upon a human being vis-à-vis God.

The present article concentrates on comparing these two categories, i.e., the inter-human sphere as contrasted with the relationship between humans and God, in connection with laws anchoring contractual and

proprietary rights. Does verbal language have any particular role to play in Jewish Halakhic practice, despite its importance to the overall structure of the universe and inter-personal communication? Can a verbal utterance establish a contractual obligation or transfer of right of possession from one person to another, or from a human to God?

I begin with a brief methodological introduction to elucidate my meaning in this article concerning the prescriptive abilities of verbal language. John Austin, a philosopher of language, argues in his *How to Do Things with Words*, (Austin 1962) that philosophers of language focus mainly on utterances which he calls “constative.” As per his explanation, such an utterance may include a statement, report, description or fact. But all these, Austin claims, account for only a small part of the uses of speech. Another important category of statements, which he dubs “performative,” are not reports of fact but themselves executions of a certain action – the action of speech. The first or constative type of utterance he divides into two groups, the true and the false, seeing as the utterance deals with a pre-existent reality. The utterance can describe this reality in a more or less exact way. The description is a look from the outside, involving no possibility – and no wish – to effect any changes in the situation being described. The second type of utterance, by contrast, is of the performative kind: its objective is not to describe or to report; it is itself the performance of an action. (Austin 1962) No look from the without is involved, but an act of fashioning of reality itself.

Austin uses a number of examples to illustrate his idea of a performative utterance. For instance: (Austin 1962, 5) “‘I name this ship the *Queen Elizabeth*,’ as uttered when smashing the bottle against the stem... ‘I give and bequeath my watch to my brother’ as occurring in a will.” Performative utterances create a new legal (will) or circumstantial (naming) reality. According to Austin, we do not simply express things by means of words, but rather actually do things with words. As he puts it, “to utter the sentence (in, or course, the appropriate circumstances) is not to describe my doing... or to state that I am doing it: it is to do it.” (Austin 1962, 6) Hence the title of the book.

Distinguishing between the two types of utterance is problematic. Take, for instance, the inheritance utterance: in order to bequeath his watch as an heirloom, the person announcing this must be the owner of the watch; otherwise, how can he make someone else the heir of it? The same is true in naming: the announcer of the name must have the authority to give vessels names if his act is to be valid. Austin proceeds to demonstrate that there is some difficulty attaching to drawing a distinction between the utterance types. People can say whatever they please, obviously, but will every utterance which appears to be performative actually be this? Austin proceeds on this basis to develop a trifold distinction among the types of things we do with language: (Austin 1962)

1. A *locutionary* act (a phone, phonetic act): a speech act composed of sounds, vocabulary items associated with a certain language, which have a meaning and sense capable of transmitting content. For instance, the words “Get out of here.”
2. An *illocutionary* act (a pheme, phatic act): a speech act having a certain force, such as a question, a command, a request, a promise, a description, and so on. This category includes both the constative utterances and the performatives. For instance, “Get out of here” is an order or command to the listener to go away.
3. A *paralocutionary* act (a rheme, rhetic act): an act having an extra-linguistic outcome. If the act is effective, it impacts the other – the addressee of my speaking. For instance, “Get out of here” will cause the addressee to obey my words and go away.

Austin’s distinctions between these utterance types and others, developed in his book, leave the reader in a fog of sorts. It remains unclear which are the verbs used in the various utterances, and it appears a challenge, if at all possible, to distinguish among them.

The present article sets out not to analyze in detail the performative as opposed to the constative utterance, or to study Austin’s models. The research undertaken herein aims to test the normative capacity of verbal language in Jewish Halakhic practice, dividing obligations and property relationships among human beings as opposed to those obtaining in relations between humans and God. We will follow Austin’s primary distinction, the one between a “constative utterance” and a “performative” one, with emphasis specifically on the verbal, familiar from daily life. The performative verbal model will surface as part of the pragmatics and practice framework of “regular” or “natural” language; that is, creating a legal reality by means of verbal statements.

For purposes of the present research, verbal language is seen as a behavioral agreement among people, or a factor which mediates human needs, including behavior and thinking. As a direct sequel to seeing common natural language as a creative language, we also need to distinguish between objective and subjective wording. Natural language as used by humanity is objective; that is, it is a language understandable to the people who speak it. For instance, the word “chair” indicates an item for sitting on to all speakers of the language in which the word is used. This is in contrast to subjective language, in which the individual person gives expressions meaning which he injects into them on his own, disregarding the meaning which the same expressions may have for other people. Thus, for instance, someone may decide that, for him, a “chair” will be an object for eating on. The point can more conveniently be illustrated by examples using constatives, in Austin’s phrase, or those which describe reality from an external point of view. But the distinction between objective and

subjective may have a bearing on performative utterances. This will be made clear in what follows.

2. The Performative Utterance in Israeli Law

Curious that, like in modern Western legal systems, the law in the State of Israel has internalized the notion of verbal language as a creator of valid legal reality. According to Israeli civil law, an unwritten oral agreement is valid in all respects. This is in exact keeping with the performative utterance model elaborated by Austin. This contractual principle is established in the law; Contract Law specifies definitively in Article 23: “A contract may be concluded orally, in writing, or in any other way except cases where the manner of its expression is a pre-condition for the contract’s being in effect according to the law or an agreement between the parties” (Contract Law (General Section), 5733 (1973), Article 23) That is, words alone suffice to provide for a contractual obligation binding in all respects. It is of no significance whether the agreement is made orally or in writing. In the absence of a written document, the utterance concluding the agreement becomes performative.

3. The Verbal-Performative Utterance in Jewish Civil Law Pertaining to Dealings among Fellow Human Beings

Unlike the view which assigns full force to verbal-performative utterances in validating contracts and property obligations in Israeli law, we will shortly see that in traditional Jewish civil law, unwritten verbal language is of no significance in inter-human regulations. (Mashiach 2013-2014; Mashiach 2016; Mashiach 2020; Mashiach 2021) According to the Halachah, one person’s verbal obligation to another entails no authority to exact payment or to demand enforcement vis-a-vis the person making the unwritten verbal commitment. That is, someone who makes a promise orally to give an object to a particular individual – or commits to performing some action – is not considered legally obligated to do as he has said; no court can coerce him to fulfill what he has promised. The duty to fulfill unwritten verbal obligations is rooted in ethics, not in the law. People are required to live up to their words, and even commanded to do this: “he shall not desecrate his word” (Num 30:3). That is, it is forbidden to violate one’s word, or one’s promise, regardless of whether a religious oath is involved or whether what is at stake are values of truth and fairness. This has been called “natural ethics” by some; it has also been dubbed the “autonomy of the will.” Yet insofar as the basis for the obligation is subject to ethical considerations, it is evident that the legal

duty derivative from this is voluntary. I.e., there is no way legally to enforce this, using means of lawful coercion. (Brand 2008)

Acquisition can take place in a number of ways in traditional Jewish civil law. This depends on the nature of the object, whether it is movable property or real estate. The ways of effecting sale, in brief, are: taking the object into one's own possession, raising it in the air, paying money for it, retaining it in one's possession, or exchanging another object for the object obtained. Speech alone is not one of the ways to perform a sale.

The Halachah accepted in practice, as stated in the *Shulkhan 'arukh*, is that verbal obligation accomplishes no transfer of ownership until an act of acquisition is performed. (*Shulkhan 'arukh, Choshen mishpat* 189:1)

4. Exceptions in Laws Pertaining to Inter-Human Relations

4.1 "Items Acquired by Means of Speech"

One of the cases Halachically providing for acquisition, even though only verbal action is involved, is the following: "items acquired by means of speech," or through "conclusive agreement." As the Bavli elaborates:

Said Rav Gidel, said Rav: "How much will you give for your son? So-and-so much, and how much will you give for your daughter? So-and-so much. If the betrothal takes place then and there, the deal is complete; such are the things acquired through speech... except through the benefit they derive from that they become related to each other through marriage, they complete and so conclude the acquisition the one for the other". (Bavli, Ketubot 102a)

It then follows that even though any obligation requires an act of acquisition in order to be valid, in matchmaking it is still true that immediately upon the proclamation of the deal, the groom is betrothed to the bride in the presence of the parents and this constitutes acquisition; such are the "things acquired by means of speech." Even if the father makes the arrangement on behalf of his grown daughter, in which case, according to the Halachah, he does not enjoy the marriage money, it is still he that concludes and provides for the acquisition through words. This is made evident by the fact that the Sages state the same of the father of the son, who does not enjoy the marriage money, either. How can a spoken utterance perform acquisition? The Halachic conclusion is rather that the profit and pleasure which the two parties derive from becoming related through marriage make them definitively decide to conclude the deal for each other's benefit.

According to this approach, the act of acquisition is supposed to express the definitiveness of the intention, or, as per Austin's model, this is a "constative utterance" expressed in action, not verbally or in writing, to describe the definitiveness of the intentions on both sides. Insofar as

any sale involves giving and taking, we might have supposed that no perfectly definitive intention is involved. To rebut this supposition, a purchasing act is set up which shows clearly that definitive intention is at work here.

To sum up: the issue of “things acquired by means of speech,” which involves verbal-performative utterances, forms an exception to the notion of verbal obligation which, as I have shown previously, has no force in Jewish law when unaccompanied by an act of acquisition.

4.2 Odeita - Admission

Another exception to acquisition, executed by means of speech and words unaccompanied by any act of acquisition is acquisition by admission, or *odeita*, as the term has been preserved in Aramaic. The term refers to someone’s admitting that a certain item belongs to someone else, or that there is a debt outstanding to another person. The general rule at the root of this Halakhic-legal principle is that “a plaintiff’s admission is good like a hundred witnesses.” (Bavli, Gittin 40b) As per this general rule, a proprietor’s admission has the capacity to bestow ownership on the person the admission is made in favor of. (Bavli, Bava Batra 149a)

In that case, not words achieve the acquisition, but the principle equating the plaintiff’s admission with the legal institution of bearing witness. It then becomes clear that the performative-literal utterance as a force making obligation a reality by means of wording alone remains void of content in inter-human dealings, the principle of admission or other exceptions mentioned above notwithstanding.

5. The Performative Utterance between Man and His God in Jewish Traditional Law

5.1 Consecrated Property

As I have shown above, verbal-performative utterances are of no legal-Halakhic consequence in contracts among people, except for a number of exceptional cases. While orally established contracts uncommitted to writing remain valid and binding in all respects in civil law, in Jewish traditional law this is not the case. However, all this is true as long as inter-human relations are under consideration; as soon as we come to the relationship between man and God, an oral contract – something apparently made by means of verbal obligation alone – totally binding; violators are penalized. This is due to that there is no room for violating contracts between man and God, even though they are

concluded by means of speech alone. It follows that verbal-performative utterances in human-divine dealings do establish binding obligation.

A situation to flesh out the substantial difference between contractual law in inter-human and human-divine relations is one involving consecrated property or goods. This takes its beginning from the verses “And if a man consecrate his house to make it holy unto God” (Lev 27:14) and “that which issues from your lips shall you observe and fulfill.” (Deut 23:24; Rashbam, Bava Batra 133b, s.v. “And not appraised it”) The Halakhah recognizes two types of consecration: what is consecrated “for the Upkeep of the House” and what is consecrated “for the Altar.” The former is used for maintenance of the Temple building, while the latter pays for purchasing sacrificial animals, meal offerings, and drink offerings to be brought on the Temple altar. In Halakhic terminology, what is consecrated for “Upkeep” attains the status of “monetary sanctification,” (Bavli, Chulin 139a) even if the donor quite literally contributes stones which he intends to become part of the building. If he subsequently decides to redeem them, he can do so, and if this takes place after the building’s collapse, he can still redeem the stones themselves. By contrast, something not available for sale, even if it does not bodily go on the altar, itself attains physical sanctity. (Tosafot, Arakhin 28a, s.v. “For the Rabbis have taught”) What is consecrated for the altar is bodily sanctified, unless it is consecrated conditionally – so as to buy it out and then provide for offerings to be brought upon the altar using the purchasing money, in which case this becomes a case of “monetary sanctification.” (Bavli, Me’ilah 12b)

By contrast with verbal obligation among individuals, which is of no consequence unless accompanied by an act of acquisition, of verbal obligation between man and God it is said that a man’s “utterance made to the Most High is the same as his handing the item over to a simple person.” These words indicate that “the act of speech” is the same as an act of acquisition vis-à-vis God. The Bavli explicates the substantial difference between a verbal obligation assumed toward humans (“to a simple person”) and one assumed toward God: “*Mishnah*. Ownership for the Most High is through money, and for the simple person – through taking possession. His spoken statement made to the Most High is like his handing it [the item] over to a simple person. *Gemara*. The Rabbis have taught: How is it that ownership for the Most High is through money? A Temple treasurer who has given money for an animal, even if the animal should be at the farthest end of the world – he has thus purchased it, while a simple person in the same situation is not considered as having bought anything until he takes possession of the object. How is it that a man’s spoken statement made to the Most High is like his handing it [the item] over to a simple person? One who says, This ox is a burnt-offering, this house is consecrated property, even if the object be at the farthest end of

the world – he has acquired it; and a simple person in the same situation – does not become the possessor”. (Bavli, Kiddushin 28b)

As elaborated upon above, the principle in inter-human relations is that an obvious act of acquisition is required to achieve the transfer of ownership of an object, real estate, or an animal. The Sages of the Talmud stressed the difference between this and transfer of ownership between man and God, when no act of acquisition is required, but the statement alone is apparently sufficient as a contract.

5.2. Property Consecrated in One’s Thought

As I have shown, a verbal utterance is required for a bond of obligation to be established between an individual and God; thought alone does not suffice. Even so, there is a legal category in which consecrated property regulations apply based on thought alone. This holds when the donor has the definitive intention of consecrating a burnt-offering: the intention suffices even in the absence of an utterance. The principle is derived from the verse “Any that is generous of heart...” (Ex 35:22; Bavli, Shevu’ot 26b) That is, generosity taking its source from the heart of man and his thought at the same time makes human action take on the import of property acquisition.

5.3. Almsgiving in One’s Thought

As a sequel to the issue of consecration in thought comes the discussion of almsgiving in one’s thought; this remains a debated issue. The Rama resolved that the positive commandment of almsgiving applies even if one has merely thought about giving alms. He rules: “If one has thought in one’s heart to give some particular thing to charity, he must fulfill his thought and needs no speech, but if he has said it – he is to be forced to fulfill it. And some say that if he has not uttered it, it is as nothing. But the principle of the matter is as the former opinion.” (Shulchan ‘arukh, Yore de’ah 258:13)

The Rama thus cites the two central views on the issue of almsgiving by means of thought alone, while himself ruling in favor of the approach which would require fulfillment, even by force, from a person who has resolved to give alms in thought alone. Here, too, we see that generosity of the heart has the significance of accomplishing acquisition for non-mundane goals.

6. Discussion

In Franz Rosenzweig’s view, language is a first symbolization of reality. (Rosenzweig, 1971) Given a physical-realistic notion of an agree-

ment, Jewish traditional civil law sees no agreement in existence where such a physical-realistic element is lacking. It now becomes clear why according to the Halakhah a symbolization of reality emerges which suffices as grounding for obligation in human-divine dealings. This also holds for thought, of which Rosenzweig writes, “Thought is mute in the individual, and yet is common to all. This commonality enables it to ground the real commonality of speech. But thought is not speech, but rather speech preceding speech; it is the hidden discourses of speech.” (Rosenzweig 1971, Part II, Books 1-2)

Thought is then the discourse preceding speech, secret wording; this seems to explain why God understands and listens to it even before people can enunciate it. It now becomes clear why the intention to engage in idolatrous worship is sufficiently real to be considered and coped with in earnest. In this situation, the tie binding people to God is being done away with by a thought-performative utterance.

The essential difference between inter-human and human-divine relations in the significance attributed to words as creators of obligation leads to considerations of the definition of the I. Hegel, a German philosopher of the 19th century, considers the I from a number of different angles, including bodily being, consciousness, will, and more. (Hegel 1991, 37-57, 78-79, 86-88, 149-152)

But the description does not extend to the categorial difference in Halakhah which we are facing. We will resort to the idealistic philosophy of Fichte, who, seeing human nature dualistically, defines two notions of the Self: the real and the ideal I. (Fichte, 1848) True enough, he had his many predecessors in this dual vision of the human being, including the monotheistic thinkers who defined man as the union of body and soul, as well as the many philosophers who have tended toward the same view ever since ancient times. Plato was the leader among these; in a number of his Dialogues – consider the *Meno*, the *Phaedo*, and others – he describes the I based on a dualistic scheme. But I think it most appropriate for us now to turn to Fichte, who defines the distinction in a way which makes it possible to understand the difference in the role ascribed to verbal-performative utterances in inter-human and human-divine relations. This is because normally dualistic thought breaks the human being into body and soul – not exactly the foundational normative elements of legal-Halakhic deliberation. Fichte’s distinction between the real and the ideal I can help appreciate the ambivalence in the treatment of verbal-performative utterances.

I should add that, besides the assumption concerning the similarity between Fichte’s and the Jewish-monotheistic ideas, Jewish thought also appeals to two distinctly different approaches to the I. This appears in the *Zohar*, (Genesis, Noah 59:2 in the thought of Rabbi Nachman of Breslav (Likutei Moharan 1808, 66), and in Rabbi Avraham Yitzhak Hacohen Kook.

(Kook 1985, Part III, 140-141) Fichte's thought thus forms a natural fit with the other elements of our discussion.

Fichte takes on the question, "What am I in myself, and what is my vocation?" (Fichte 1848, Book I) If the 17th century witnessed Descartes' "Cogito ergo sum," (Descartes 1637, Part 4) then Fichte asked, "Do I really think in truth, or do I but think that I think? Do I really think in reality that I think, or do I only think of thought about thought? What is to keep me from asking this, continuing to repeat the same question unto infinity?" (Fichte 1848, Book I)

Fichte goes on to determine a starting point for himself, situating this in "absolute reason," or the "absolute I." A different expression may shed further light on this: the "absolute I" is what Fichte calls the ideational I, or "the I in the idea." This I is all-powerful. (Fichte 1848, Books I-II, 100ff) For some reason which remains unclear, this "absolute I" is restricted to a finite, real I. But we are capable of knowing that by means of this restriction, the real, limited I strives to return to what it was originally, the ideal, infinite I. This striving finds its expression in every person as yearning for improvement relative to the self and the conditions in which the self exists at the moment in the present.

Fichte sees real human ethical action in this world as a restoration of the ideal, infinite I. Humanity needs to achieve absolute dominion of reason, something that finds its expression in ethical action: "To hearken to this voice, to obey it faithfully, honestly, without fear or deliberation, is my vocation. This is the total purpose of my being... What conscience requires of me in this condition should be done – it should be done, and this is all that I was created for". (Fichte 1848)

Only a short distance separates this from the concept of the I as two distinct beings, the real and the ideal, the physical-sensual and the spiritual: "This, then, is my lofty vocation, my true essence. I am part of two arranged systems: one perfectly spiritual, in which I rule by means of pure will alone, and one sensual, in which I act through my deeds." (Fichte 1848, Book III) In the end, Fichte defines his "double" life, the real and the ideal I, in this way: "I stand at the center of two completely mutually opposed worlds. The visible world, in which action is decisive, and the world concealed from view and utterly incomprehensible, in which the will rules; I am one of the primary forces in both worlds. My will encompasses both. This will in itself is part of the world which is above the senses; when I set it in motion by means of some decision, I set in motion and change something in this world. My action pervades everything, achieving new results which last forever, lasting from now and not needing to be performed anew. This will breaks forth in material action, the action belonging to the world of the senses and achieving within it whatever it can". (Fichte 1848, Book II)

Fichte's model can help elucidate the Halakhic difference between inter-human and human-divine relations in connection with the function

ascribed to the spoken word, or the verbal-performative utterance, as we have been referring to it throughout the present article. Jewish traditional law hails from Jewish theology, which also dualistically espouses two approaches to the I. The imperative understanding of verbalization is what defines and distinguishes between them.

According to the Halakhah, as I have shown above, when human interaction assumes the form of a deal, the conclusion of this must be accompanied by an “act of acquisition.” This is due to that in the real world, when the real I wants to express its inner will, this cannot be done except by means of real action. This is part of functioning in “the visible world, in which action rules,” as Fichte puts it. This is the same as the physical foundation of an agreement which we referred to earlier. The literal word, or the verbal-performative utterance, has no binding effect in reality – in the world of real action – and cannot create an obligation or a bond of a contractual nature among individual people.

By contrast with interpersonal human relations, dealings between humanity and God which concern transfer of property ownership – such as when consecration of property is involved – are about deliberation going on in a different consciousness of the I. This means referring to the ideal world and the ideal I active in it. According to Jewish traditional law, no physical act is required in dealings between man and God in order to make for binding obligation. The ideal world is the “world concealed from view and utterly incomprehensible, in which the will rules,” as Fichte writes, and “whereof one cannot speak, thereof one must be silent,” in the words often cited from Wittgenstein. That is, speech – even inner speech, or perfectly complete thought, which finds its expression in silence – is what makes contractual ties and obligation totally binding. Therefore, in human-divine relations, where everything works based on the consciousness of the ideal I, speech or thought has the performative capacity to establish binding obligation. This is the same as verbal-performative utterances, which at times work so that words pronounced only in one’s thought create binding obligation. This is what I have shown concerning consecrated property, where wording creates obligation, parallel to the physical basis of a contractual agreement, with the key Halakhic principle being that one’s “saying it to the Most High is like one’s handing it over to a simple person.” This goes so far as to make property consecrated in thought alone establish a binding commitment. Moreover, not only does creation of contractual obligation between man and God take place by means of speech or thought alone, but dissolving the bond between a human being and God is achieved in the same way, as I have shown in connection with idolatrous intention, where there is no need for realization in practice.

It becomes clear, then, that in human-divine dealings, verbal-performative utterances bring about both constructive and destructive

results; the rules adhered to by the ideal I are different from the ones which the real I must follow.

References:

- Austin, John L. 1962. *How to Do Things with Words*. Oxford: Clarendon Press.
- Brand, Yitzhak. 2008. “‘*Ha-nose ve-noten bi-devarim*’ – *ben hitchayvut chozit le-histamchut nezikit*” “Deliberating in Words: Between Contractual Obligation and Torts Reliability”. *Mechkare mishpat* 24, 1: 5-57.
- Descartes, Rene. 1637. *Discourse on the Method*. Part 4. London: Orion Publishing Group.
- Fichte, Johann Gottlieb. 1848. *The Vocation of Man*. London: Facsimile Publisher, 1848.
- Gross, Benyamin. 2005. *Brit ha-lashon [Language Covenant]*. Jerusalem: Reuven Mass Publishers.
- Hegel, G.W.F. 1991. *The Elements of the Philosophy of Right*. Glasgow: Cambridge University Press.
- Kook, Avraham Yitzkhak. 1985. *Orot ha-kodesh [Lights of Holiness]*. Jerusalem: Rav Kook Institute.
- Likutei Moharan*. 1808. Rabbi Nachman of Breslav. *Likutei Moharan*. Ostraha: Halter Press.
- Mashiach, Amir. 2013-2014. “The Performative Speech-Act in Jewish Law Interpersonal vs. Human-Divine Speech”. *Hebrew Union College Annual*, 84-85: 173-206.
- Mashiach, Amir. 2016. “The Ethos of Masada in Halakhic Literature”. *Review of Rabbinic Judaism*, 19: 54-77.
- Mashiach, Amir. 2020. "The Failure of the Major Revolts and its Impact on Jewish Identity". *Journal for the Study of Religions and Ideologies*, vol. 19, issue 56: 96-109.
- Mashiach, Amir and Nitza Davidovich. 2021. "Between tradition and modernity: on Judaism and an old-new pedagogy". *Laplage em Revista (International)*, vol.7, n. Extra B: 111-124.
- <https://laplageemrevista.editorialaar.com/index.php/lpg1/article/view/1116>
- Rosenzweig, Franz. 1971. *The Star of Redemption*. New York: Holt, Rinehart and Winston.