

"HOW RELEVANT SHOULD HALAKHAH BE?"

It is common today to hear demands, in all segments of the population, that religion be made relevant to the great public issues of our time. Jews have been no less insistent than others in pressing this demand upon the teachers of Judaism. Orthodox Jews too, especially the young, ask that the Halakhah be examined so that it yield decisive opinions on the critical problems of our day, from Vietnam to Black Panthers, from the World Court to Soviet Jewry. Rabbis are often berated for failing to pronounce on such issues in the name of Halakhah. The Chief Rabbinate of Israel is most often criticized, especially by Western Jews, for its failure to declare the halahkic position on issues on which other leaders of world religions have taken a stand.

It is worth studying this criticism and examining the issue as a theoretical or ideological one. Such a discussion will introduce us to a lively debate that has been going on for the past several years, mostly in Israeli journals, and the roots of which go back to differing conceptions in the early Middle

Ages and even into the classical period of Judaism.

The underlying assumption of those who press these demands might be called the "moralistic" conception of Judaism. The theory of those who advocate this approach is that Judaism is primarily a moral code, an ethic. All its laws, even those apparently remote from moral problems, can be shown to support, in the final analysis, certain ethical notions. Thus, such laws as kashrut, the ban on idolatry, family purity, etc., either can be made to yield ethical values -- such as reverence for life, prevention of pain to animals, consideration for a wife, etc. -- or they can be accepted as a form of discipline which, in its total effect upon the personality, refines us, makes us kindly, loving, charitable, righteous.

Therefore, since all of Judaism is ultimately geared to a moral value system, Judaism must have an opinion on all the great moral issues which disturb the minds of men.

At the opposite end of the spectrum is what might be called the "theocentric" conception of Judaism. Prof. Yeshayahu Leibovitz, a distinguished thinker and a maverick in the Orthodox Jewish community of Israel, is most closely identified with this position. (See, for instance, his article in the Winter 5731 issue of Deot.)

His approach, which has points of similarity with the Christian thinkers Søren Kierkegaard and Karl Barth, is that religion has no monopoly on morality. Even secularists and atheists can be and often are moral individuals, without recourse to a religious foundation. The business of religion is -- religion, God, revelation. You cannot ask of Judaism to pronounce morally on political and social and economic problems, because Judaism is not identical to ethics or morality. He does not mean to say that, Heaven forbid, Judaism is immoral; rather, there is no such separate category as ethics or morality in the world of Judaism. Judaism is Halakhah, the way to live in this life as determined by the will of God. It is a form of ה' אלהים, the service of the Lord. What appears as moral legislation -- such as the many laws in this morning's Sidra, including love of neighbor, not taking revenge, not deceiving another, telling the truth, etc. -- is simply the divine will as applied to social relationships. We follow these laws not because they are moral, but because they are halakhah, the way we serve the Lord.

The difference between morality and the Halakhah is this: morality assumes that man is the center of the world, and therefore all must be made to serve him. Thus, the statement by Kant

that man is an end in himself; he is the source of value. But Judaism holds that man, by himself, is nothing but an advanced animal who sometimes is worse than a beast. He is vanity and the striving after wind, a cipher, a nothing.

אדם אינו יותר מן החיה -- "Man is no more than an animal, for all is vanity." When does man attain value? Only when he relates to God! That is the climax of the Ne'ilah prayer on Yom Kippur:

אתה בראת את האדם והכרתו כדיוקנו ואתה בראת את האדם והכרתו כדיוקנו

"You separated man from the beginning and recognized him as worthy of standing before You." Only when man stands before God, only when he serves his Maker, does he attain his full dignity as a human being.

For the advocates of the theocentric position, therefore, morality as such is a form of idolatry, because it misuses religion to serve man instead of God. What others call "moral" legislation is observed by us not because it is moral, but because it is God's will. Thus, to take the most blatant example, we are told, *ואהבת לרעך כמוך*, "Thou shalt love thy neighbor as thyself"; but the last two words that follow are more important: *כי אני ה'*, "I am the Lord" -- and that is why

you must love your neighbor!

Hence, Halakhah has no political or social program, and while we may react to issues on the basis of intuitive moral judgment, we dare not claim for them the authority of Judaism. As religious individuals, all we can do is look for religious values and religious interests in each situation and attempt to enhance them. And this depends on each individual's own honest judgment.

Actually, these two opposing interpretations -- one that Judaism is morality, and the other that Judaism has no relation to morality -- were anticipated or prefigured by two differing interpretations of the opening words of this week's Sidra,

וְיִשְׁמְרוּ אֶת-בְּרִיתִי, "Ye shall be holy." Rashi, quoting a Tannaitic Midrash, interprets those words as וְיִשְׁמְרוּ אֶת-בְּרִיתִי לְיִשְׁרָאֵל
"Separate yourselves from sexual immorality." Holiness is defined as a deepening moral awareness and practice. Here we have the seeds of the moral conception. There are others who interpret the words וְיִשְׁמְרוּ אֶת-בְּרִיתִי, and the concept of kedushah or holiness, in a theocentric fashion. Thus, Rudolf Otto, in his The Idea of the Holy, interprets holiness as the "numinous," the feeling of utter dread and creatureliness in the face of the infinite Lord of the Universe. God's holiness means that He

is totally beyond us, utterly transcendent, that He is absolutely independent of anyone or anything or any values, including moral or ethical values. His commandments are the expression of His will, unfettered by any previous considerations that may appeal to us. It is not that God commands that which is moral, but that that which He commands becomes the right. (Many great Halakhists have implicitly accepted this interpretation.)

Both views, the moralistic and the theocentric, polarize Judaism; they split the indivisible into two parts: pure religion (including revelation, halakhah) and ethics or morals. One school prefers one, the other prefers the other.

I believe that both of these extreme interpretations are mistaken in their failure to do justice to the comprehensive nature of Judaism.

The theocentrists err when they deny the existence of Jewish morality as such. The Torah itself often appeals to our conscience and our intuitive moral judgments. Thus, *אלוהים צדק*, "Ye shall do that which is right and that which is good." *דבר צדק*, "Justice, justice shall thou pursue" -- this is not a specific law, but a general principle of morality. We are told that the other nations

will envy us because of our "righteous laws and ordinances." God reveals Himself in the thirteen attributes of mercy and love. And *קדוש ברוך הוא*, "The holy God is sanctified through righteousness." So the moral impulse certainly is recognized by the Torah.

However, the moralists too are wrong. Even if they do not realize it, they tend to secularize religion, and to use it as a *דבר*, as a form of approval, for the simplistic morality to which they are precommitted. More often than not, their so-called demand for relevance of Halakhah is not a quest for guidance, but for a rubber-stamp on the latest political fashions. Is it not true that most of those who demand that Halakhah be relevant to the issues expect a particular answer on the questions of Vietnam or civil rights or ecology?

There is always a danger that those who identify religion with morality will sooner or later cast away those aspects of religion which are not immediately moral or didactic in nature. The casuistry with which they reinterpret non-moral material to yield moral values, soon withers away and they are left only with what is immediately moral in nature. That is what happened with Christianity -- the "ritual" material vanished, and they were left only with the obviously moral. That is why they

maintain that the Ten Commandments are to be accepted, the rest may be ignored. It is for this reason that the Sages abandoned the custom of reading the Ten Commandments together with the Sh'ma in the Temple: *פירוש המשנה לרמב"ם*, "They abolished the custom of reading the Ten Commandments because of the murmuring of the heretics," i.e., the heresy of the early Christians. Reform did the same thing when they presumed to accept of the Torah only that which fit in with their conception of "Prophetic Judaism." Even today I am amused when people tell me, "Rabbi, I observe only the Ten Commandments." The man who tells that to me may be a total stranger, but I am prepared to take an oath that it is not, strictly speaking, true. In order to observe the Ten Commandments, you must observe the Sabbath as well; and I have never met a Sabbath-observer who is satisfied only with the Ten Commandments...

The either-or choice between religion and morality is a form of spiritual schizophrenia. It results in a truncated Judaism which cannot survive.

What then? Halakhah contains both moral and non-moral material. I prefer the interpretation of Ramban (Nachmanides) of the commandment to be holy. For him, the two words at the beginning of this morning's Sidra are a commandment to

אדם צדיק , not to take full advantage of all permissions the Torah gives us. He believes that it is possible for a man to observe the Halakhah strictly, and yet to be a אדם צדיק -- observant, yet not a mentsch; morally degraded even while technically or conventionally observant. What he means to say is that Judaism is more than the sum of its parts, there is an integrating quality that includes and comprehends all elements that go into the make-up of Judaism.

So, Judaism contains but is not identical with morality. In addition to ethical material there are the elements of submission to the divine will even when we do not understand; renunciation; a sense of the mystery of God and the world; spiritual striving; and the contemplation of destiny. Kedushah or holiness, as today's Sidra amply illustrates, covers the whole range of values that man can ever hope to know.

Why then does not the Halakhah make "relevant" pronouncements? My answer is based upon a certain insight into the nature of Halakhah. (See the article by Prof. David Flusser in the same issue of Deot mentioned above). Halakhah touches every area of life, and offers its judgments in an attempt to sanctify life by making man God-conscious. However, it does not presume

to cover all of life and every aspect of it. Most of the specific decisions that you and I will make within the next few days are neutral or indifferent to Halakhah: the decision whether you will take a bus or a taxi to work, what you will sell or buy, the color suit you will wear, whether you will stroll up Central Park or Riverside Drive, whether your children will join one youth group or another or neither. You make hundreds of decisions every day which are not germane or of concern to the Halakhah. This is the way it is -- and this is the way it should be.

For Jews, then, to speak in the name of Halakhah officially on specific political or economic or social issues is wrong because, first, it is presumptuous. There is nothing I have been able to find in the classical Halakhah or in the modern expositors of Halakhah on Vietnam, the two-China policy, or the desirability of ping-pong as a diplomatic technique. Second, it is dangerous. The Halakhah, when it does pronounce, sets a legal precedent, and legal precedents are soon invested with emotion and tradition and become fixed, which is as it should be. However, once we pronounce halakhically on such issues of the day, we find that the issues change quite rapidly, and then we are caught in the dilemma of an obsolete halakhic decision. For example, the Boers fought against the Englishmen and they sought

independence; the Halakhah should have supported them. But now the Boers persecute the Africans, and we should be against the Boers. With the speed of modern life and changing political conditions, all we can accomplish by tying Halakhah to politics is to entrap the Halakhah in a hopeless maze. Third, many of the great issues of our day are unclear. They are so enormously complex that they defy simplistic decisions. If one wishes to hold on to a primitive morality which sees issues in black and white and discounts complexities as the work of some demon in the Pentagon, that is his privilege. But Halakhah cannot operate that way. Everyone agrees that we ought to have peace in the world; some think we ought to have it by rushing out of Vietnam, others by staying there to avoid a later conflagration. Everyone agrees that we ought to help Soviet Jewry; some think we can do it by protest, and others by keeping absolutely quiet and working behind the scenes. Halakhah cannot decide on such techniques.

So, Judaism which is not only a form of morality, should not risk official stand or piskei halakhah. And rabbis and professors of religion should not assume that they are the Jewish oracles of our day.

However, since many of these issues do present moral questions, can Judaism remain indifferent as to the choice between good and evil?

No, but here the answer must come not from religion officially, but from the religious personality. The response must issue from a person as a personal decision, but one that is informed by religious experience, knowledge, and living. It must be not din Torah, but da'at Torah.

Hence, we must be careful to distinguish between cases where Judaism may have a direct judgment -- such as the advisability of abortion, in most cases; exploitation of underprivileged; euthanasia -- and those where no clear judgment can be expected from Halakhah, and where the answer must therefore come from a person with religious orientation rather than as an official religious answer, such as the problems of Vietnam or economy.

I respect Christian clergymen and rabbis who manage to have fiery judgments and passionate opinions on every great issue of the day, whether Vietnam, Kent, abortion, public aid to private schools, or civil rights. Sometimes I wish I could be as well-informed and as single-minded and passionate on all these issues. I respect them for their personal opinions, and I will consider them. But I challenge any Jew to become a dogmatic spokesman for Judaism or Halakhah on such complicated issues where Halakhah itself, in reality, has said nothing.

To conclude, the answer must be a personal one, informed by religion, but not an institutional one.

Torah means guidance. And it is to Torah that the Jew must look for guidance. Halakhah means a way in life, and that is the way that the Jew must seek for himself. But it is dangerous and treacherous to misuse that guidance for something for which it was not meant, and to presume to follow that "way" to a goal to which it does not seek to lead us. We must use extreme caution before venturing to speak authoritatively in the name of Torah or Halakhah or Judaism.

It would do well for all of us to remember the prayer recited by Rabbi Neḥunya b. Hakanah

הביתא דרבי נחמיה

as he entered the academy where momentous decisions awaited him.

יהי רצון מלפניך יהוה אלוקינו שיהיה רצונך עלי ויהי רצון
אלהינו שיהיה רצונך עלי ויהי רצון עלינו ויהי רצון עלינו ויהי רצון עלינו.

"May it be Thy will, O Lord my God, that no mishap occur because of me -- that I not be guilty of misapplication and misleading in my decisions -- and that I do not fail in any manner of halakhah -- by rendering a wrong decision, or pretending to render a decision in its name when it is not applicable ... and that my

friends and colleagues do not err in their interpretation of Halakhah. So I will be happy in them, and they will be happy with me."