

"THE PLACE OF JEWISH LAW IN JEWISH LIFE"

I.

It is one of the most difficult tasks to explain to a modern layman the paramount importance of Jewish Law in Jewish Life. Jewish Law is known as the Halakhah, and it is derived from the word halikhah which means "going," and the very name indicates that Jewish Law is both dynamic, moving, and that it is a "way," that is: Jewish Law is the Jewish way of life.

I say that it is difficult to explain the importance of Halakhah because of the contemporary prejudice as to what is meant by "law." There are probably many who suspect that Jewish Law, like ordinary common law, is a highly specialized legal profession and is the private, sacred and exclusive domain of Jewish "lawyers" who happen to be called "Rabbis."

How far that is from the real truth. I wish I could reconstruct for you the attitude of our Jewish laymen of old towards Halakhah. I wish I could sufficiently well describe to you a typical Bet ha-midrash where Rabbis, students and laymen of all sorts delve into the great tomes of the Talmud with love, with holiness, with brilliant logic, and even with a sharp sense of humor. I wish you could hear the traditional sing-song in which the Talmud is studied. I wish some of you could enjoy the warm radiating beauty of an Halak~~h~~ic argument; the Halak~~h~~a, which encompasses every aspect of all of life; the Halak~~h~~a, which analyzes even intimate prayer with the sharp eye of legal logic, and which makes of sharp, legal logic an intimate prayer.

But barring these opportunities for personal experience with the Halak~~h~~a, let us discuss, tonight, in a very sketchy manner, some of the basic aspects of Jewish Law with which we should be acquainted. For tomorrow we shall read that portion which contains most of the civil legislation of the Torah first revealed to Moses on Mount Sinai.

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And let us do so with the mental reservation that this is only a rough beginning, that we shall come back to this important topic many a time in the future.

May I, with your indulgence, discuss three main aspects of Halakhah: The Necessity for Law, the Source and Authority of Jewish Law, and Change in Jewish Law.

- II. The Necessity for Law: One of the main functions of any system of law is to impose discipline: to curb excesses, to protect the weak, to allow for an organized society to function smoothly and, in Judaism, to raise the Jew to the highest level of G-dliness. Whatever its nature, Law means Discipline -- of the individual, community, nation -- for all people.

The necessity for Discipline^{is} recognized:

- a) in Government
- b) in Education -- even in progressive education
- c) in all of life. Illustrate from Caine Mutiny Court Martial.

Lt. Greenwald, after winning acquittal for his client by proving Queeg a sick man, gives a long and dramatic speech. Essence -- Queeg was really right -- discipline and authority must be accepted, even if at times distasteful. This is the main idea of the book. Such a book could only have been written by a man who recognizes the value of Discipline in religious and personal life as well. And Herman Wouk is a traditional, Orthodox Jew.

- III. 2nd point: Source and Authority of Jewish Law:

When talking of Jewish Law we must always beware of "taking the

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law into our own hands," of acting as if we were going to set up the law to suit ourselves, as some "Rabbinical" bodies occasionally do. For Jewish Law was not designed by man. It is higher than man, although its function is to ennoble man and raise him to even loftier heights. Jewish Law is at the heart of Jewish Religion, and it should be so respected. This is for two reasons:

- a) The source of Jewish Law is not man, but the Creator of all men -- G-d. We believe in Torah min ha-Shamayim -- i.e., that Moses received, from G-d, the Torah as we have it, the Written Law, and -- in addition -- a large body of Oral Law, called Torah she'be'al peh, which was handed down by Tradition and finally committed to writing some 2000 years ago.
- b) Where the Law -- any Law, religious or secular -- is not regarded as being higher in authority than the people it governs, then tyranny and dictatorship have fertile grounds. An eminent Philosopher of Law, Roscoe Pound, says that the Law employs "a received and ... authoritative technique by the light of received and so authoritative ideals." This idea of "received and authoritative" law has been sufficient and workable. But where Law ^{is} ~~was~~ not regarded as such, then you have a situation where tyranny breaks through and, as Pound puts it, they "would apply the term (Law) to whatever is done by those who wield the powers of a politically organized society simply because, and no matter how, they do it." In other words, where Law is not respected for its authority, where it is not "received," then anarchy, looseness, and tyranny will follow. We Jews go along with such ideas. And to the idea of the authority of Law, we add that Halakha^h is,

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in addition, sacred. Because G-d is its author.

IV. 3rd topic: Change in Jewish Law:

a) Let me first state that it is impossible, within the time limits of this lecture, to give a fair treatment of the problem of if and when and how change takes place in Jewish Law. That requires a series of lectures in its own right. Let us, at the present time, give only the most rudimentary facts.

b) The first fact to keep in mind is that essentially the Torah is everlasting, eternal, immutable. The essentials can never and will never change. Ninth in the list of Maimonides' 13 Principles of Faith is *אני מאמין שהתורה אינה תשונה*
 "I believe with perfect faith that this Torah will not be changed." Never will it be permitted to murder or to worship idols; to steal or desecrate the Sabbath; to lie or to eat non-kosher food. The essentials of Torah are blessed with eternity and fortified with permanence. And this must be so -- for G-d is eternal, and if He enunciated principles by which men should live, then these principles -- Jewish Law -- are also eternal.

c) But does that mean that change is absolutely impossible?

No, it does not. In tomorrow's reading *אשר יצונו* is interpreted by the Lubliner Rabbi as: *אשר יצונו אלהים*.

Excuse me if I present myself as Exhibit A. My grandfather, *רבי*, was a great and learned Rabbi -- but we look different. He preached in Yiddish, I in English. His delivery and style were different from mine. "Zeide" had a beard, I am clean-shaven. He wore a Prince Albert, I wear striped pants. His formal secular education was very

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limited, mine less so. And yet the content of our messages is the same. We studied the same Torah, observed Shabbat and Kashruth in the same way, and worked towards identical Jewish goals. Sure there is change. But -- and this is important -- the change is in form and periphery, never in essentials.

- d) Examples: *לפיכך (לפנינו) ; Fr. G. etc.*
- e) But any change must be legal. That is, the Halakhah itself gives the methods for change. You do not change the Constitution by violating it or just voting a change in any which way. You amend according to legal procedure, according to ways already provided for in the Constitution. The same certainly holds true for Jewish law.
- f) But, friends, until now we have been speaking in vacuo, that is, theoretically and academically, about the elasticity or changeability of Jewish Law. Let us now face the facts: changes have been made in the Law. Changes which we do not recognize, and changes which did violence to Torah and Halakhah. They were changes made by people without piety, people who set themselves up as the arbiters of what is good and what can be discarded.

What I refer to specifically is Reform Judaism and to an extent, its diluted other self, Conservatism. What distinguishes Reform from Traditional Judaism is the place that Jewish Law holds in the scheme of Jewish life.

Reform told us that we were losing our youth and educated classes. It told us that we were alienating Jews of the modern world. It told us that by its policy of indiscriminate and reckless change it would bring back the

7:45 } 20 min.
8:05 }
8:55 }
9:01 }
Total 25 min.

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Reform told us that we were losing our youth and educated classes. It told us that we were alienating Jews of the modern world. It told us that by its policy of indiscriminate & reckless change it would bring back the sheep into the fold, it would draw back the great majority of straying Jews, and so it cast away

Shabbos, dropped off Kashuth, decremented the second day of Yom Tov, threw out the Hebrew language. ^{shiny in melachah} And ask you, my friends, where are these multitudes that the changes?

Reform was supposed to attract? where are
 the masses that were supposed to crowd the
 Temples of Reform? Let history be witness to
 the catastrophic failure of unthinking change,
 and let the records prove the classic flop
 of Reform! The youth of American Jewry is anywhere
 but in the Temples. The educated classes are now
 more in the orthodox camp and have always
 ridiculed watered-down, ungentle religion.
 They are empty, these Reform Temples, perhaps they
 have the wealth but not the people! Sabbath,
 Kashuth, Family Purity, Jewish Marriage,
 have been ~~offer~~ brought up as burnt offerings
 on the altar of change, but they are still empty,
 these Reform Temples, as empty & hollow & barren as
 ghost cathedrals! Jewish Law was tampered with,
 the sacred was profaned, and so the results are
 cataclysmic. Perhaps Reform and all those who
 clamor for change in the essentials of Torah should
 take to heart Abraham Lincoln's famous statement,
 "Let us never mistake change for progress". Progress
 there is in Jewish Law. Halakkeh and haliphah - going,
 rising, climbing. But there are legal Jewish ways of doing things.

V-

for summary, then, Jewish law - or ^{Halakha} - stands at the very summit of Jewish life, and it is that which gives us our distinction. The necessity of J. law lies in the need, by man, for Discipline. The source of the Halakha is G-d Himself, Authority Author of all life. Where the supremacy of Law is discounted, all man opens himself to the tyranny of his fellow-men. The Torah is essentially unchangeable. But in part of its forms, in its minor aspects or periphery, change is possible, but it must be accomplished ⁱⁿ avoidance with recognized legal methods. And, finally, experience has proven that indiscriminate change is most harmful to J. life.

VI-

Let us conclude our discussion with the remark from Talmudic Sages, quoted by Rosin on Tannaitic Scriptures that the beginning of this portion dealing with the Law follows upon the Mitzvah of constructing the ^{Mizbeach} ~~Altar~~ or altar, and this indicates that the Sanhedrin, Supreme court of J. law, sat in session next to the altar in the Temple. For with us Jews, adherence to Law is worthy of sacrifice; Law is Holiness; students of the Law are its High Priests; and a court of J. Law or a school of J. Law is a ~~mere~~ true Sanctuary.

"Change in Jewish Law" - Fri Nite 11:30 1954

(2nd half of "Place of J. Law in J. Life", given 2 weeks ago)

I - Summarize last lecture -

- A - J. Law dynamic - $\rightarrow \rightarrow \rightarrow = \rightarrow \rightarrow \rightarrow$
- B - Necessity of Traditional Law - Discipline
- C - Source of J. Law - YON N'SM - oral + written
- D - Authority " " " - \therefore from G-d.

Roscoe Pound on need for authoritative Traditional Law - prevention of tyranny.

II - Change in J. Law

- A - only sketchily, outline form
- B - will discuss from legal-philosophic, Psychological and Historical aspects.

III - Philosophical + Legal -

A - The Eternity + Immutability of Torah.

1. Essentials can never + will never change
2. This is logically sound - since they come from ETERNAL G-d.
3. 9th in Maimonides' 13 Principles - $\rightarrow \rightarrow \rightarrow \rightarrow \rightarrow \rightarrow \rightarrow \rightarrow \rightarrow \rightarrow$

B - But does not mean that all change ruled out.

- 1 - Lubliner on $\rightarrow \rightarrow \rightarrow \rightarrow \rightarrow$ - "according to times"
- 2 - Zeide + Me, [myself as Exhibit A]
- 3 - Babek + Mindy
- 4 - Periphery - in form, not in essentials.

- 2 -
Change

✓ C- Method of change must be Legal.

- 1- Halacha provides method for its own change.
2. analogy: Bricker Amendment.

IV- Psychological - the reasoning + psychology of the demand for change.

A- Change would make it easier to be a good Jew.

- 1- Change, if to be discriminative, must be an unprejudiced evaluation. Will they accept ^{or if - 1/1/1, will they observe the word?} _{it's not, → plan!}
- 2- if not, is this "change" merely not a conscience-soother for de-facto changes already made in violation of the Law?
- 3- Are we really aiming at convenience - faith?
- 4- There are so many who observe (without change) and still "survive".

B- J. Law is not modern - because it is so very old.

- 1- psychology of that statement - modern generation feel spiritual vacuum, religious sterility. No really great religious mass-movement or individual personalities - ∴ wants to feel superior at least in matter of living later.
- 2- is J. Law really unmodern? ... Nonsense!
 - a) Problem of 2-headed child - agadda - Solomon
 - b) Dean Griswold: 5th amend - Magna Carta of 12th cent. No! - Tal. + Bib. _{vs ind p 18 p 31/14}

II. Historical

A- Face facts: changes have been made in J. Law - violently, impiously, indiscriminately. Refer to Reform & its diluted alter ego, Conservation. Main dif. - theoretical - bet. Trad. & Ref. is J. Law in scheme J. life.

B- Ref told us: losing youth, & educ. & prof. classes

" " " : alienating J's w. mod. outlook

" " " : ^{J. Law} causing us to be ridiculed by gentile world.

" " " : by indiscrim. & reckless change would bring back sheep-fold, reestablish our respect & prestige... millennium.

C- and so - cast away: Shabbos, Kashruth, 2nd day vii, Hebrew...

D- Enough change? I ask you - where are the multitudes the changes of Reform were supposed to attract? where are masses supposed to crowd Temples? - Let history be witness to catastroph. failure in thinking change.

YOUTH - any place but temples

ED. CLASSES - mostly returning Orthod. Riddle watered-down...

GENTILE WORLD - either indifferent or hostile because of our supposed lack religiosity

They are empty - Ref. Temples - perhaps not of wealth, but of Jews.

Shab, Kash, Fam. Purity, J. Marriage, all brought up as burnt offerings on the altar of change - but Ref. Temples still empty, as empty & hollow & barren as ghost cathedrals. J. Law tampered, sacred was profaned, so results - cataclysmic!

E- Ref. & all those clamoring for change - should heed Ab.

Lincoln (today - birthday) that "Let us never mistake change for Progress". [say here Zaid's interpretation of Moses' 2nd side 2nd side when approaching burning bush (over)]

VI - Conclusion -

A. We have investigated, then, the Philosophical-legal possibility of change, the psychology of the demand for it, and our historical experience with it. The attitude of Traditional Judaism - of Torah - is that Halacha is not a reactionary, inert, lifeless mass of laws. It is progressive, dynamic & self-perpetuating - but that changes in Law must be approached with moderation, piety, and a profound reverence for Law itself.

B. Best summary of our attitude - in anonymous poet's poetic summary of Maimonides' 13 principles - the Yigdal we sing:

לֹא אֵין לַיהוָה אֱלֹהֵינוּ אֵין אֱלֹהִים אַחֵרִים - a Law of Truth did G-d give to His people,
וְאֵין לַיהוָה אֱלֹהֵינוּ אֵין אֱלֹהִים אַחֵרִים - through his loyal Prophet Moses
וְאֵין לַיהוָה אֱלֹהֵינוּ אֵין אֱלֹהִים אַחֵרִים - G-d will never change it, nor will
He ever deny it
וְאֵין לַיהוָה אֱלֹהֵינוּ אֵין אֱלֹהִים אַחֵרִים - for He, the author of our Law,
is Eternal, & there is none other than Him.

Benediction -

יְהוָה אֱלֹהֵינוּ יְהוָה אֱלֹהֵינוּ יְהוָה אֱלֹהֵינוּ יְהוָה אֱלֹהֵינוּ יְהוָה אֱלֹהֵינוּ

addendum

add- too after saying that Reform Temples
are empty, like giant, hollow, cavernous ghost cathedrals.

[Based on Springfield Union article Feb. 12 that Sinai
Temple + Trinity church will exchange services - not only
pulpits - on Fri. + Sun. in weeks as observing Brotherhood]

1- Perhaps I should correct myself - for in two weeks time
brings one partic. **Ref.** Temple will have increased attendance.
On that night - or weekend - exchange services

2- Good Lord, what blasphemy, what sacrilege, what
desecration! can it? No shame left?

3- I wonder what Moses would have said had he known
that his mountain, mt. on which gave Torah,
mt. on which declared Oneness + Unity of G-d, + to which
Israel ascribed Yahweh, that the name of that
holy mt. - which is SINAI - will some day be
linked w. the name TRINITY, a concept so alien,
so strange, so absolutely irreconcilable with Judaism,
as to be the ~~st~~ exact antithesis of all SINAI stands for!

4- what Morbid depths have we reached; how low
have we sunk! -

5- And yet this, friends, is where reckless change leads...

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