

THE OPEN FORUM

TOWARDS AN AGGADIC JUDAISM

Edward Feld

READING THIS JOURNAL, one frequently gets the impression that Conservative Judaism is attempting to define itself as a halakhic movement. Discussions with Conservative rabbis have reinforced this impression: I have found even the most "leftist" rabbis including themselves within the halakhic fold (although I note that they do so only through a serious misconception of what the halakhic process is). It is therefore necessary once again to explain the position of the person who does not see himself as a halakhic Jew in the modern period (even though his religious practice may be traditional), and to show why Jewish law cannot serve any longer as the framework for Jewish religious life. There is little that I have to say here that is new; rather, I write this because there is no public voice among us enunciating the non-halakhic position.

I

Our changed concept of revelation, induced by our acceptance of modern biblical scholarship, alters the sacred character of the Bible and necessitates a new way of viewing the Halakhah. The authority of halakhah stems from its intimate connection with the Bible, which is why the Talmud went to such great lengths to link its sayings to biblical texts. The foundation of the halakhic structure is biblical; the characteristic development of any specific law is established by the biblical verse on which it is based. Ultimately, in the self-understanding of the tradition, Jewish law is meaningful because God commanded it. Thus, the Halakhah is a system of mitzvot: revealed commandments. Take away the notion of revelation, and halakhah floats like a castle built on air.

Yet we have been nurtured on an understanding of revelation that stems from a critical analysis of the biblical text, different from and more

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complex than the traditional understanding of revelation. For instance, we do not believe that the contradictions in the text of the Torah were put there to teach us a new halakhah; instead, we know that they are there because the Torah was written over a rather lengthy period of time. Thus, the very basis of talmudic exegesis is undercut. We may then relate to halakhah as tradition, but not as revelation, not as mitzvah. We ask a question of the biblical text that Rabbi Akiva would never have asked: what is divine and what is human in the commandments?

We know now that the record we have of the dialogue between God and man is not a mere transcription but a subtle mixture of the Word which is beyond words and its interpretation by men who wrote out of the spirit of the times and their own psychological perspective. Some rabbis were bold enough to take this view with regard to prophecy, but they could never hold it with regard to the law itself. That revelation had to be direct and unmediated (see Maimonides' Principles of Faith, numbers seven and eight); to question it would be to challenge the very authority of the Halakhah. But it is no longer possible for us to point to a specific passage of the Bible and say with certainty, "This is God's word to us." This new understanding of revelation undermines any simple-minded notion of mitzvah, and leaves halakhah dependent on an unsettled theological foundation.

CONSERVATIVE JUDAISM OFTEN LACKS the ideological rigor to confront these issues. Sentiment then overcomes reason, with the result that we can teach a critical understanding of the Bible and still not incorporate the conclusions of that scholarship into our religious lives. But ideology deeply affects our lives; by not confronting our intellectual situation, we allow the revival or continuation of modes of thought which essentially contradict what we most deeply believe. For the assumptions made by the Halakhah are not ours: we may observe Shabbat fully, yet we know that the seven day week is not inherently the primal order of time; we may observe kashrut because we believe that it holds Jews together and raises Jewish consciousness, that it is in part an ethical act, or even that it imparts a sense of the holy and is pleasing to God, but we do not really believe that God *commanded* us to keep kosher so that a Jew who does not keep kosher is violating God's will and cutting himself off from intimate connection with Him.

Biblical criticism, talmudic criticism—indeed, our entire newly discovered historical consciousness—have made our relationship to Jewish law relative. To simply graft the old halakhic process onto this new mode of thinking is to belie both the transformations that have occurred in our own understanding and the true underpinnings of the legal process. We may be

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traditionalist in *praxis*, but our ideology is non-halakhic in that it is not charged with the absoluteness of biblical command. And it is more than likely that this different ideological point of view changes our relation to the act. For instance, if someone is sick on Shabbat we may call a doctor even though it is clearly not a matter of life and death. This is a new, more relative relationship to Shabbat than the halakhic one. Because Torah has lost the character of absolute command, it has also lost its absolute authority, and our understanding of it is much more complex than has been the case in the past.

II

History has not dealt kindly with halakhah. Fortuitously, the conditions of modern Jewish life liberate us from the necessity to maintain religious law.

Over time, the areas of life encompassed by Jewish law have continued to narrow: with the destruction of the Temple, the laws of sacrifice and ritual purity became inoperative (no one in Israel today seeks to reinstate this part of Jewish law—the Orthodox party seeks only to circumvent it); and with the Enlightenment and the breakdown of the Jewish community, the civil code became inoperative. When we speak of the Halakhah, then, we speak of a law which has been reduced from its almost totally life-encompassing base to one that speaks only to very restricted areas: laws of marriage and divorce and religious ritual.

The laws of marriage and divorce are becoming increasingly problematic for the Jewish community. Certainly, outside the state of Israel these areas of life are essentially ruled by the civil sector. The *ketubah*, for example, is meaningless in a society in which alimony and marital property relationships are fixed by the secular authorities. Religious divorce has only a residual and atavistic value when secular divorce is what is truly decisive for the dissolution of a marriage. With regard to Israel, the one country where halakhic marriage and divorce still possess the force of law, it is interesting that most of us are upset by the judicial practice there, and advocate the introduction of civil marriage and divorce in that country too.

Most important, the essential concept underlying religious marriage is that of *kinyan*, property acquisition. Surely this way of looking at marriage is not very helpful to us, and will justifiably come under increasing attack in an age which is sensitive to feminist issues and challenges. In practice, we do not take the halakhot of Jewish marriage and divorce seriously. We might retain them for sentimental reasons or for aesthetic ones, but they do not have an absolute character for us. Rather, Jewish marriage and divorce are largely ceremonial, for the consequences of our taking these aspects of the Halakhah seriously would be disturbing, if not unacceptable.

WHEN WE SAY WE ARE HALAKHIC JEWS, it is in the area of ritual that we most often maintain the primacy of Jewish law. Yet we must ask whether a legal structure for religious ritual is relevant to the changed condition of modern Jewish life. The most characteristic element of post-Enlightenment Jewish life is its voluntaristic nature. We have developed an attitude of religious pluralism; there are many different legitimate Jewish paths. The Halakhah, of necessity, had to define one unified religious path—Shammai was to have his day only in messianic times—but post-Enlightenment Judaism can afford to rejoice in the freedom of diversity. Our current pluralistic Judaism should not be viewed with regret for the loss of Jewish unity but should be welcomed as liberating. The modern Jew can choose the kind of religious life he wants; if he practices a religious act, he does so out of choice, not out of pressure from a tightly knit community.

I would think very few of us want to return to the enforced discipline of Jewish medieval religious life, but it is constraint that sustains the rule of law. If constraint is no longer needed, then is it a legal formulation of our religious life that is most relevant? Perhaps a more midrashic framework for Jewish ritual is most appropriate today.

For example, the traditional definition of work on the Sabbath was established in the classic thirty-nine categories of labor. It was necessary to define work in a formalistic framework so that its authority could be invoked to punish violators. In order to be enforced, a system of law has to be explicit, clear and objective, not subjective. Yet this can lead to religious absurdities: for example, one may carry a five hundred pound stone up and down in one's house and still not violate the law of work. Such absurdities necessarily arise from setting down any system of rules. In a voluntaristic Jewish community, however, might it not be more meaningful to talk about subjective categories of work?

The full force of this argument was brought home to me the first Shabbat of my married life. On Shabbat morning my wife went around the house watering the plants. I told her to stop, since it was a violation of the law. She replied that the plants should not have to suffer because it was Shabbat, and that she was not a farmer so the agricultural laws of Shabbat were just not relevant to what she was doing. It dawned on me that for urban Jews it might be a mitzvah to water plants on Shabbat. Surely, if we did this, a Jewish farmer would not assume that his working the farm was also in keeping with Shabbat?

III

What does it mean to be both traditional and non-halakhic? Let me attempt to answer by another example.

My wife, Merle, and I celebrate Shabbat in a way which is fairly in-

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tense, and which others perceive as being fairly traditional. We usually invite guests for Friday night and try to have them come around sunset. Sometimes they are late or we are late and we start shortly after sunset. We sit down to the meal. Merle lights candles. We sing some *zemirot* and I make kiddush. Except for singing, we try to continue in reflective silence and darkness for a part of the mealtime.

Most people who have been present at our Shabbat table have felt something religiously meaningful communicated to them. Many have tried to incorporate elements of our Shabbat into their own lives. From a halakhic point of view, however, we are violators of the Shabbat. After all, we often light candles after sunset! Yet it is important for us to light candles after the guests have arrived so that they can fully participate in welcoming the Shabbat, for it is in the context of this community that we feel Shabbat. Moreover, Merle and I feel it is important that we both have an active role in the ritual of beginning the meal. By the different acts of lighting candles and making kiddush we establish both our equal and our individualized participation. While from a halakhic stance what we do is a desecration of Shabbat, it is our non-halakhic point of view that gives our home its religious tone and mood on Shabbat.

TOO OFTEN THERE IS A SENTIMENTAL ATTACHMENT to the "total" halakhah based on a feeling that if we give it up, then we will plunge into an anarchic religious life in which all of tradition will be lost. On the contrary, rejecting halakhah can be a religiously liberating process through which new criteria of meaning are established and one's ritual life made holy.

One who is non-halakhic looks at traditional ritual, seeks to find the spiritual meaning in its essence, and then tries to fashion the details of the religious action out of this aggadah. To be sure, this approach is personally more difficult than the halakhic system. One has to examine; one has to make decisions; nothing is given. But ultimately, this methodology is close to the needs of our age. We are a generation that questions all received tradition; everything has to be relearned; we glory in our own autonomy.

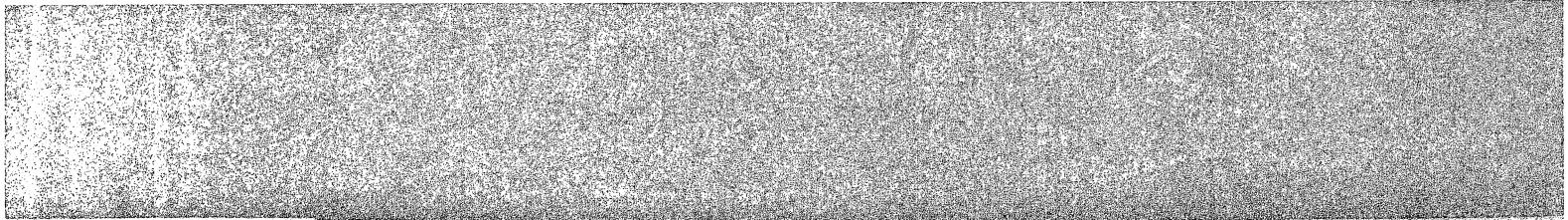
Classical Reform Judaism also challenged the supremacy of the Halakhah. Its mistake was that it soon transformed the changes it had made into a new halakhah. Once I was planning a service with a woman from a Reform background. When I argued for the inclusion of a traditional Amidah, she turned to a Reform Rabbi who was there and asked, "Are Reform allowed to say this?" That kind of Reform Judaism is really nothing but a new Orthodoxy. We need instead a dynamic system which should never become ossified into law. Halakhah of any kind, whether Reform or Orthodox, is no longer necessary in our community.

WE HAVE BEEN LIVING IN A PLURALISTIC COMMUNITY for more than a hundred years, yet the ultimate unity at the core of Jewish life has not been lost. We are all tempered by the same history; even our secular literature is nurtured by traditional religious texts. The overwhelming majority of Jews celebrate a seder of some kind. We now know that a Jewish Sabbath will be observed on Saturday, not Sunday, and that if we are to have a Jewish state it will be in Israel, not Uganda. What we have in common, then, is not established by the Halakhah but by our joint history, literature and set of symbols.

Over the generations Judaism became increasingly rigid as law was built to protect the Law, and the internal meaning of religious acts was frequently lost. The great danger of Orthodoxy is that it can make Torah, not God, the supreme god, and thus create a new heresy. If Jews are to find holiness once again, they must strip away the encrustations of the law and find the Divine within it. Religious ritual must be infused with religious meaning, or there will be no Jewish renaissance.

Law as a religious form is necessary in a community which needs to have standards in order to compel obedience to them. It may also be necessary in a community which needs common rules for people to be able to live together at close quarters. It is not necessary in the changed condition of modern Jewish life—that is, in a voluntaristic, pluralistic community.

Halakhah, like any legal system, must *objectify* universal standards. We are lucky to have arrived at a point where we can allow *subjective* religious standards—a new aggadic Judaism.



The main body of the page contains several paragraphs of text. The text is extremely faint and blurry, making it largely illegible. It appears to be a standard document layout with multiple lines of text per paragraph. The overall quality of the scan is poor, with significant noise and low contrast.