



The Art of Halakhah

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MY FATHER WAS AN ORTHODOX RABBI AND A PROFESSOR OF ENGLISH LITERATURE. HE WAS, IN OTHER WORDS, A GENUINE RELIGIOUS HUMANIST, AND IN HIS QUIET WAY, SOMETHING AKIN TO A SAINT, though he would of course have dismissed that characterization as silly. One day as we were walking to shul, I asked him how he differed from the ultra-Orthodox, or, as I uncharitably called them, the "frummies."

"To them," he said, "halakhah is a fence, and if what you're about is building fences, then the fence can never be tall enough, the moat around it can never be wide enough."

"And you, abba, what is halakhah to you?"

"To me," he said, "it's a way of life."

MY PURPOSE HERE IS TO THINK ABOUT HALAKHAH, JEWISH LAW, IN A CERTAIN way, best captured by the phrase "spiritual discipline." In using that phrase, I have in mind the arts—playing the piano or learning to dance—activities that require years of discipline, concentration. Once learned, the languages of the arts—the grammar of movement, the spectrum of tone—enable us to deepen our relation to the essentials around us, to time, sound and space.

Despite the forbidding aspects of the halakhic system, its seeming dryness and legalism, I nonetheless wish to try and explore how we might think of Jewish law as a medium through which we can deepen our relation to God, other people and the world.

I am, in a way, talking about holiness, about the sanctification of daily life. And in classic fashion, I approach it through the *via negativa*, the apprehension of the obscure transcendent through contrast with its mundane, flawed,

and hence more accessible, opposite. I can only start to think about holiness first coming to terms with defilement.

We begin with a text from *Pri Tzaddik*, a collection of sermons by Zadok HaCohen Rabinowitz of Lublin (1823-1900), a powerful, troubled man and scholar, who discussed his spiritual vicissitudes with unusual directness. In a sermon offered at the close of Yom Kippur, Reb Zadok discusses the Talmudic statement, "Rabbi Akiva said, 'Blessed are you, Israel, before whom do we purify ourselves, who purifies you? Your Father in heaven.'" [YOMA 85b]

To understand the difficult concept of purity, let us consider its opposite: impurity or defilement, *tumah*. A broadly conceived principle in Jewish law, *tumah* often jars our modern sensibilities. At times it partakes of practicality, of hygiene, mandating cleanliness and sanitation, at other times it is supernatural, attaching spiritual properties to the most mundane objects. Although these aspects of *tumah* are generally lost to us today, one of its elements still speaks to us: *tumah* largely bespeaks loss. A dead body, menstrual blood, these are archetypal bearers of *tumah*. *Tumah* represents the intrusion of death into the realm of the living.

According to Reb Zadok, the principles of Torah are meant to redress us from three kinds of *tumah*. The first is "one who does evil to other people, violating the ethical commandments;" the second is "that of worldly appetites;" and the third is *tumah* "of contact with the dead," referred to in the Bible as "the *tumah* of the dead" or in Reb Zadok's words, "when life is missing from the individual, and with it holiness..." (*Pri Tzaddik*, Sermons for after Yom Kippur, No. 4).

As I read this passage, Reb Zadok suggests three realms of impurity, an existential loss that the life of halakhah and mitzvot (the precepts of Jewish law) aims to address. The three realms touch on basic dimensions of human experience: people, things, and being.

People

A Rosh Yeshivah I know was once walking down the street when he bumped into a casual acquaintance, who launched into a strikingly exuberant greeting. "What do I do to deserve such a grand hello?" the Rosh Yeshivah asked. "Well," the acquaintance said, "the Talmud tells us it's a mitzvah to greet everybody." The Rosh Yeshivah replied: "Go do a mitzvah on somebody else."

WHAT DOES IT MEAN TO BE GOOD TO PEOPLE? WHAT IS "RELIGIOUS" ABOUT ANY ethical act?

Ethics begins with the person before us. His or her need, suffering, or despair shapes the ethical imperative. The Godly dimension of ethics reaches beyond the suffering individual, into and through me, binding me to the person before me. It commands me to act and integrates that action into my stance in the world, before God.

The ethical moment is the defiance of death. The law of this world, of *olam ha-zeh*, is death—the subjugation of the individual to the might of the powerful, to fear, to time that obliterates everything. Justice and mercy defy the forces of death, fly in the face of the inhuman logic of this world. To do good is to transcend this world, and thus to imitate God.

A well-known Talmudic passage contrasts religiously-motivated ethics to aesthetic spirituality. We read in tractate *Shabbat* (133b):

(It is written) *This is my God and I will beautify Him* [EXODUS 15:2].

Beautify him with mitzvot, with a beautiful sukkah, lulav, shofar, tzitzit, with a beautiful Torah scroll written for His sake, with beautiful ink and a beautiful stylus... Abba Shaul says: *Beautify Him* means "try to resemble Him"—just as He is gracious and merciful, so you should be gracious and merciful.

The anonymous voice of the Talmud urges an aestheticization of mitzvot within the confines of conventional religiosity. Abba Shaul, however, seeks something deeper and stranger. He wishes to burst the boundaries of conventional experience, to live out an ethical moment of such grace and compassion that it must be of God. In his view, Torah is not meant to prettify life, but to transform it.

Even so, Abba Shaul's language is bloodless, abstract. Elsewhere, the Talmud is far more explicit:

Rabbi Hama the son of Rabbi Hanina said: "What does the verse mean when it says, *You shall walk after God* [DEUTERONOMY 13:5]? Can a man walk after the Divine Presence? Doesn't it say, *For God is an all-consuming fire* [DEUTERONOMY 4:24]? Rather, walk in God's ways. Just as He clothes the naked—as it is written, *And God made Adam and his wife leather garments and he clothed them*—so you should clothe the naked. The Holy One Blessed Be He visited the sick—as it is written, *And God appeared to (Abraham) in Elonei Mamreh*—so you should visit the sick. The Holy One Blessed Be He comforted mourners—as it

is written, *And so after the death of Abraham, God blessed his son Isaac*—so you should comfort mourners. The Holy One Blessed buried the dead—as it is written, *And He buried him* [i.e., Moses you should bury the dead.] [SOTAH 14a]

This text presents the humblest ethical acts with a force and immediate prosaic concreteness, that makes their divine origin all the more cutting. It is an orientation rather than as merely a series of prescriptive commandments. Halakhah aims to deepen the ethical moment in the life of the individual. As Rashi, all, notes Rashi, “The Merciful One seeks the heart” [SANHEDRIN 106b].

This attempt to root moral behavior in the individual’s orientation toward other people is given concrete legal expression as well. In the “neighborhood” for example, the right of first refusal to purchase property is given to the neighbor adjoining the property. Explaining the source of this law, the Talmud [BAVA METZIA 108a] cites the verse in Deuteronomy 6:18, “And You shall do what is right and good in the eyes of God.”

Nahmanides draws out the implications of the verse in Deuteronomy for going beyond the letter of the law. He notes:

At first he [Moses] stated that you are to keep His statutes and His testimonies which He commanded you, and now he is stating that where He has not commanded you, give thought as well to do what is good and right in His eyes for He loves the good and the right. Now this is a cardinal principle, for it is impossible to mention in the Torah all aspects of man’s conduct with his neighbors and friends and all the various transactions and the ordinances of all societies and countries. But since He mentioned many of them...he [Moses] reverted to a general way that, in all matters, one should do what is good and right.

Thus, Nahmanides explains, God desires that we do what is generally “good and right,” even when it has not been explicitly commanded; that we weave not only the letter of the law but also the spirit of the good and right into the interpretive fabric of the Oral Law.

A similar point is made by the *Maggid Mishnah*, a classic commentary on Maimonides’ Code, in his discussion of the neighbor’s law [LAWS OF NEIGHBORHOOD]. The idea here is that one should perform good and just actions with one’s fellows. It would have been inappropriate for the Torah to command all the specifics, because the Torah’s commands are to be carried out at all times, and moments, and in every matter...which means that a person’s character and behavior change with time and company.

The internalization of ethics transforms the rote of prescription into the art of halakhah. Situated in a world of ceaseless flux, in selves of constant change, our attempts at justice and mercy can never be anything but partial, even as they can never be anything but imperative.

Things

My maternal grandfather was a Hasid, a cantor and a very learned man. Even so, he always insisted on having a siddur in front of him when he said Birkat Ha-Mazon and reading through the prayer word for word.

"I don't eat by heart," he used to say, "and I'm not going to bench [bless] by heart."

HALAKHAH SURROUNDS OUR RELATIONSHIPS TO THINGS WITH ALL MANNER OF commandments and prohibitions. But these highly structured relationships need to be seen as part of a broader attempt to relate to the world of things through an order of meaning generated by our deeds and words.

Brakhot, the blessings that we recite before taking a sip of water, on hearing thunder, or smelling a flower, are the speech acts that connect us to the world of things. The Talmud records a discussion of the role of *brakhot* in structuring a relationship between human beings and the world we inhabit. We read in tractate *Brakhot* 35a-b:

Our Rabbis taught: "One may not make use of this world without a blessing, and whoever does so has misappropriated holy property" ...

Rabbi Yehudah said in the name of Shmuel: "To make use of this world without a blessing is to make personal use of consecrated things; as it is written, *The earth is God's and all that is in it* [PSALMS 24:1]."

In other words, the world properly belongs to God. By saying *brakhot* we manifest an awareness of God's ownership of the world that entitles us to make use of it. The Talmud continues, amplifying the point by interpreting a seeming contradiction between two verses from Psalms:

Rabbi Levi asked: "It is written, *The earth is God's and all that is in it* [PSALMS 24:1], yet it is also written, *The Heaven is God's and the earth He has given to humanity* [PSALMS 115:16]." This can be easily answered—the former refers to before the blessing, the latter to after the blessing.

Brakhot function as a kind of currency, if you will, with which we obtain the right to make use of the things of this world, transforming our relationships from the merely useful and exploitative to enactments of celebrations of connection with the whole of life. This world, in its pristine holiness, is holy, distinct, untouched by human cycles of loss and irresponsibility. To separate this world without a *brakhah* is to wrench it out of its holiness and into the human world. This violates the natural world's own relationship to its Creator and distorts the creaturely dimension that the natural world shares with humanity. The *brakhah* restores that relationship.

Justice and mercy connect us through God to other people. *Mitzvot* connect us through God to the things of this world. These connections are the pathways of holiness.

Being

I once knew a politician who was an exceptionally thoughtful and well-read man. One day he told me that, though he was not Jewish himself, he had read and thought a great deal about Jewish customs and spirituality and decided to try to observe his Sunday Sabbaths in the traditional Jewish manner.

I decided to have some malicious fun with my politician friend and told him that I often think of Sabbath-observance as kind of like being Amish for one day and he smilingly agreed.

"You know," I said, "that means no telephone."

A look of guilty panic spread across his face.

"No telephone?"

MITZVOT HELP US ARTICULATE A STANCE TOWARD BEING—TOWARD THE FUTURE OF our existence and eventual non-existence. *Mitzvot* attempt to arrest both fate and join them in an eternal present, lived in God's presence. What makes this approach specifically Jewish is that it takes shape through the details of *mitzvot* and halakha.

Nothing exemplifies this better than the observance of Shabbat. Shabbat is an interval of deep grace and beauty, of restoration and hope, created by a myriad of concrete actions, some grand and others trivial.

The Ten Commandments are written twice in the Torah. In the second version we are told to "Keep the Sabbath day" [DEUTERONOMY 5:12], and

other to "Remember the Sabbath day" [EXODUS 20:8]. The Talmud made much of these two iterations; keeping Shabbat was generally taken to refer to the prohibition on work, while remembering Shabbat was taken to refer to the affirmative acts that sanctify the day, like reciting Kiddush.

Shabbat is thus a synthesis of action and understanding, a cleansing of deeds and an apotheosis of memory. For one day a week, we try to live a Torah life. Now, by "Torah life" I do not mean a metaphor or slogan. I mean a day's time that is structured by Torah's remaking of the human condition.

The best description of this that I know of is provided by Yehudah Leib Alter, the third Gerer rebbe (1847-1905), in his magnificent work, *Sefat Emet*. A collection of some three decades of sermons, *Sefat Emet* is a long meditation on the meaning of Shabbat. In a sermon delivered on Shavuot 1879, the *Sefat Emet* comments on the Midrashic tradition [SHABBAT 86b] that the revelation at Sinai took place on Shabbat:

The essence of the reception of the Torah was the return of the souls of the Jewish people to their place and root..and this indeed is the dimension of Shabbat, which is rest and the return of every thing/word (*davar*) to its place and root. It is written [in the Ten Commandments]: *Remember the Sabbath day* and it makes no sense to speak of remembering something that was only understood once. Thus it is that because the time of the revelation of the Torah partook of the dimension of Shabbat they were commanded to remember it always.

Memory is being used here not in its archival sense but as a category of being. Every day, some half-remembered but deeply essential part of ourselves recedes further and further into the background. Existence is loss, a great forgetfulness, a slipping away.

Elsewhere the *Sefat Emet* refers to Shabbat as "the day of no forgetting." Such a day is the redemption of time. In our daily lives, time is the great devourer. We forge memory to stave off its depredations, as it relentlessly, mercilessly turns the present into the past.

Shabbat offers us a glimpse of a different order of life. The fullness of the "memory" called forth on Shabbat is entirely different from the uncertain and deceptive memory of the everyday. It is the memory of the world, the memory of God, uniting past, present and future, paradoxically annihilating the present moment so as to endow it with eternal life.

The Talmud says that if the Jewish people were to perfectly observe two Shabbatot in a row the Messiah would immediately come [SHABBAT]. Indeed, one would have to say that the Messiah would have already come and worldly time would have been so transfigured as to never be the same.

Menachem Mendl of Kotzk is said to have asked: Why does the verse in the Shema prayer say, "And you shall place these words...on your heart"? Why not "in your heart?" The reason, he said, is that you can't always put something in your heart; sometimes the heart is simply closed. Most of the time all you can do is place your heart in the hope that one day your heart will open and all the words will



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