

[Rabbi Elisha Ancselovits]

**Judaism: a Democratic
Wisdom Culture**

Contemporary Judaism has reached a crisis point. It is no longer a culture of norms and discourse that makes us wiser and better. For some it is a mere label that serves at most as a cool hyphenated identity. For others it is a vitiated culture of rituals. For yet others it is a fundamentalist culture of escape from complexity into fixed and anchoring texts. Each of these approaches ignores the basic insight that law and culture on the one hand, and law and morality on the other, are inextricably linked. No culture has flourished without developing a system of norms, and no national culture has existed long without a normative system. In other words, a good society has good laws¹. Thus if Judaism is to be significant, we must create a diverse norm-based culture of Judaism(s) united by a common discourse. We must create a pan-denominational Judaism of sub-cultures with serious norms. We must create a Jewish people that is both vibrant in its diverse norms and yet connected via its common project. If we do this, we will create a people who make use of their rich detail-oriented tradition(s) in order to reach wise conclusions.

This project begins by recognizing that even involved Jews have a poor relationship with a norm-based Jewish religion. While not many Jews will say that they are ethical *despite* Halakhah, most ethically-involved Jews - who give more to charity than any other group, are active in politics, campaign for environmental responsibility, civil rights, alleviation of poverty, etc. - neither perceive their morality as Halakhah-inspired. Rather, their life choices are perceived as "extra-halakhic." Halakhah is perceived as "ritual" Judaism – dietary laws and the Sabbath. In fact where halakhic sources are concerned with wider areas – business and social relations, sex, the raising of children - those sources are often perceived to be in conflict with human needs.

I propose an alternate method of reading halakhic sources, one that views the Halakhah as a tool rather than a dictum, as a holistic means to an end rather than an end unto itself. I have been developing and teaching this methodology cross-denominationally in yeshiva, synagogue and secular kibbutz settings in Israel and the United States for eleven years. This method views the corpus of Halakhah as the record of an ongoing attempt to recognize, incorporate and balance conflicting human needs. It is a record, in a particular language, of the attempts made by various thinkers to balance human values in the best way possible. The Jew who uses this method does not see any conflict between halakhic demands and human needs, or even between halakhic demands and extra-halakhic ethical demands. S/he rather sees all human needs and demands themselves as halakhic demands– whether they are the needs of individuals, of the community at large or of specific sub-groups within the

community. These needs do not merely call for a “Jewish” values response, but rather lead to actual normative demands.

This view suggests that there are no entirely new psychological, practical or social needs; rather that the same needs have always been present (though expressed in different ways - the post-modern insight of intersubjectivity). When we read *halakhic* sources in this way, we discover that Halakhah sources are relevant. Halakhah sources are the insights of people in the past who struggled to balance the same needs that we ourselves struggle to reconcile. By learning the sources in this way – accepting that they are neither directives derived from Divine fiat nor legal precedent detached from human realities, but rather a succession of expressions of multi-voiced and sometimes contradictory insights into the human condition – we open ourselves up to recognizing the needs and values which those insights have addressed.

This, then, is the first half of my argument – that there are no extra-halakhic values. Rather, all values, including the most radical modern values, can be found in the traditional texts, though they may not be explicitly stated and though the Halakhah as it stands may have decided to foreground other, conflicting values. We, thus, may have to strain hard to listen for voices that have not been heard (or that have been misheard) for quite some time

However, there is a second element to my vision. It is related to this first argument, but is much more far-reaching. In addition to considering how to read Judaic sources, we must consider how the Judaic conversation is conducted. Let us begin with a quote from Professor Bernard Jackson's² book entitled *Making Sense in Jurisprudence*. That work is concerned with legal semiotics, and this particular passage concludes a section dealing with the theory of “ideal conversation” put forward by Jürgen Habermas:

Domination...involves relationships of incomplete reciprocity...Disputes are resolved through the deployment of power rather than consensually and through the exercise of “interactive competence for consciously processing morally relevant conflicts of action”. The ideal speech situation, for Habermas, is one in which all participants have equal rights and competences to argue issues out on the basis of generalisable moral principles. Habermas[’s]...social criticism is directed towards removing those impediments [to] the development of our full inter-actional competence and thus ... the ideal of full, conscious moral evaluation. *A legal system manifesting this ideal would function in a very different way from our own...*³

The domination that Jackson describes is precisely the imbalanced relationship between rabbis and the Jewish community at large. This relationship between those who have the power of Judaic knowledge and the lay community leads to two contradictory phenomena: In Israel, disputes (in areas of life over which the Rabbinate has power – marriage, divorce, personal status) might well be described as settled “through the deployment of power rather than consensually”. In the Diaspora, the Rabbinic “authorities” and their sources are

dismissed completely, at least when they are intrusive. Thus what may once have been a satisfactory, effective and justifiable mode of leadership is unworkable in an age of democracy and individual autonomy. That mode leads to the loss of Halakhah as a vehicle for guiding and discussing life, both in specifically Jewish contexts and in the wider world.

It does not have to be this way. The book that I have begun to write, and which I would continue as part of this project, attempts to outline a new method for learning *and teaching* Halakhah along the lines of the “ideal conversation”. First, those who are currently being educated to be the intellectuals (those who have mastered the culture’s wisdom resources) of the halakhic community (usually rabbis) will learn to discover the fixed (yet infinitely transmutable) range of human needs that have always motivated halakhic decisions. They will be trained to perceive these human needs as “legitimate” – the *raison d’etre* of Halakhah, and not as a disruption that must be overcome. Training in this method of Halakhah (norms) study will help them to become more nuanced in balancing the needs of their “conversation partners”, the lay-people in their congregations whose lives they seek to inform.

However, influencing the leaders is merely a small first step. The more important goal is that the conversation partners themselves, the lay people, will come to a greater “interactional competence”. It is a cliché — but true nonetheless — that democracy can only function when those who participate in it are sufficiently well educated to understand the issues at stake, and have the requisite judgment to make responsible decisions. The alienation of the Jewish people from Halakhah as norms and insights has meant that few Jews have the cultural resources that help one be aware of the both short term and long term consequences of his or her choices.

My belief is that once Halakhah is no longer locked in the synagogue, relegated to purely ritual matters, no longer the preserve of an elite who are divorced from real life, and no longer locked into a professional jargon - when Halakhah is recognized as an attempt to balance the needs and desires of “normal” people, then a greater number of Jews will be moved to acquire the education necessary to participate in the halakhic conversation. If you cannot vote, you cannot be a citizen. If an individual cannot interpret Halakhah he or she cannot discuss his or her problems via the wisdom of yesterday’s and yesteryear’s norms. If, however, one can read, then one can discuss, and Jews the world over can join in a conversation that learns from the insights of old norms and realizes a diverse yet righteous range of contemporary norms.

Thus, rather than ignoring or reifying Halakhah, my ideal is that all those who care about Judaism should be enabled to reclaim it. All will have “equal rights” and will acquire greater “interactional competence” in order to live a fully Jewish life, in which they lead themselves. They do not merely ask for a legal decision or distilled Jewish wisdom but become competent

to make richly informed decisions. They become responsible for their own ethical life, become Judaically response-able.

This approach offers a third option to the poor choice between either being bound by halakhot and applying them imperfectly to contemporary life (despite the anachronisms), or instead ignoring Halakhah and being cast adrift in an ever more morally complex modern world, cut off from spiritual and ethical sustenance. In this third choice, Halakhah is a universal yet individualistic process of self-evaluation, of exploring one's own moral stances. Social conservatives need not blindly adopt Halakhic directives against "simplistic or pernicious innovations", and liberals need not blindly reject or ignore Halakhic insights against "fossilized or evil values".⁴ After all, the range of contradictory human needs and desires has been framed as legitimate - to varying degrees - in the long and international history of the Jewish people and their.⁵

In other words, this method calls on each one of us to (1) read every position (whether found in traditional norms or held by a living fellow person) for its insights, and (2) create wise norms that incorporate conflicting insights. This method serves to improve (*tikkun olam*) democratic states and democratic cultures (such as contemporary Judaism). The success of democracy has long been recognized to be dependent on the wisdom of its voters.⁶ There is, therefore, a need for a method that moves us beyond merely intelligently noticing the biases behind all political positions, editorials and articles. We need a method that allows us to wisely notice and incorporate their insights so that we may make better decisions; we need a method that allows us to dismiss the other's bias without dismissing their insight.⁷ By learning this method it will be easier for people to modify their own political and cultural positions. None of us has to reject our insights; we can each keep our first insights while improving our positions through our expanding collection of insights.⁸ Individuals will thus have a discourse that allows them to become dialectically wiser by freeing them from the either/or choice of changing themselves or manipulating/ignoring the discourse.⁹ Democratic states will be improved and a democratic Judaism will flourish.

Most of us are wise sometimes. Thus sharing wisdom is the beginning of being a good person (*a mentsch*) and of being one's own teacher to live a better life.

¹ "As *prima philosophia*, ethics cannot itself legislate for society or produce rules of conduct whereby society might be revolutionized or transformed." (Emmanuel Levinas and Richard Kearney, 'Dialogue with Emmanuel Levinas', in *Face to Face with Levinas*, ed. Richard A. Cohen (Albany: State University of New York Press, 1986), 30.) Furthermore, the ability to maintain ethical rules is connected to possessing ritual rules: "The ritual transgression is the source of my cruelty, my harmfulness, my self-indulgences." (Emmanuel Levinas, *Nine Talmudic Readings*. Trans. Annette Aronowicz (Bloomington: Indiana University Press, 1990), 17.)

² Currently Alliance Professor of Jewish Law at Manchester University, England

³ Bernard S. Jackson: *Making Sense in Jurisprudence*. Liverpool, U.K. : Deborah Charles Publications, 1996.

⁴ These absolutist positions do not acknowledge the need to expand one's personal political and social inclinations in light of others' opposing concerns and needs; they do not make one wiser.

⁵ To clarify, a *means* is not a need. Thus democracy or family, for example, will not be viewed as needs. Only the human needs and concerns that people wish to achieve through democratic societies or family structures will be labeled needs. This is unclear

⁶ For an example of such recognition by a democratic thinker: "I know of no safe repository of the ultimate power of society but the people. And if we think them not enlightened enough, the remedy is not to take power from them, but to inform them by education." (Thomas Jefferson in a letter to James Madison on December 20, 1787 - cited in Hofstadter 1958,115.)

⁷ "I am always for the builders who bring some addition to our knowledge, or, at least, some new thing to our thoughts. The finders of faults, the confutera and pullers down, do not only erect a barren and useless triumph upon human ignorance, but advance us nothing" (Locke 1824,8:397).

⁸ As I mentioned earlier, wise individuals have always used this method (throughout human history) regardless of their specific languages and epistemologies. This is because new methods end up allowing merely repeating the same range of human thinking styles that always exist (as I discuss in the book). Thus, there should be no epistemological crisis and no need to present this "new" insight-as-wisdom approach. Unfortunately, due to factors I will discuss in the introduction, MacIntyre is correct in pointing out that *perceived* epistemological crises do develop and that those in turn birth "new methods and languages" - in spite of the fact that the crisis is not truly epistemological.

⁹ Even a cynical reader, who (following Plato, Aristotle, etc.) does not trust that mass wisdom can be achieved, must admit that this is the best *propaganda program* in a voluntary culture. The less that people are attacked, the more readily they will change their attitudes and accept new values. After all, "attitude" depends on a person's categorization of the various stimuli of life.

Unfortunately for the cynic, if people's insights are not honestly recognized as true, the plan will fail on two levels. First, said people will finally notice and will cease to incorporate the insights of the dismissive group/culture. Second and most important, the dismissive culture/group itself will fail to fine-tune and improve its own positions by incorporating insights that may be harder to notice from within its own power.