

the Halachah, how can we say that it is authoritative for us?

Secondly, it isn't only the "building bricks" of the Halachah that are said to have the stamp of divine authority, but also the methods it uses in dealing with new circumstances. Take, for instance, the "legal fiction," the whole point of which is to change the law even while pretending that it has not been changed. How can we use such methods when there is no need to pretend since the sources are no longer sacrosanct for us?

Thirdly, just as the self-description of the rejectionists is untrue to the facts, so the self-description of the traditionalists, namely as followers of the Halachah in all but a few exceptional instances, is untrue. For the fact is that whole vast areas of the Halachah are rejected or ignored even by the most conservative Progressive Jews. As a rough estimate, I would say that applies to two-thirds of it. But how can you reject or ignore two-thirds of the Halachah and still claim to be a follower of it?

Fourth, the picture which the traditionalists like to paint of the dynamism that once characterised the Halachah and that is still inherent in it, is highly imaginative. It is based on a selective use of anthologies, not a serious study of the sources. For this is another characteristic of the traditionalists: that while they talk a great deal about the Halachah, very few of them take the trouble to study it.

What finally transpires, therefore, is that in the vocabulary of the traditionalists the word "Halachah" does not generally stand for a thought-through theological position but serves a psychological and political purpose. Psychologically, it relieves the guilt they feel about not being Orthodox. Politically, it is their way of claiming respectability, of playing to the gallery, of bidding for the allegiance of the masses by reassuring them that Progressive Judaism, contrary to its denigrators, is perfectly kosher.

A Genuinely Progressive Attitude

Paradoxically, therefore, the rejectionist and traditionalist attitudes have this in common: that they both fail to take the Halachah seriously. Consequently we need to consider a third attitude, which does take it seriously: a genuinely Progressive attitude.

On this view, the task which the Pharisees took upon themselves and which

their successors, the Rabbis, executed so brilliantly, namely to define the will of God for every human situation, is the most important of all human enterprises. Therefore the Rabbinic Halachah deserves our utmost admiration and demands our closest study.

But having said that, we must go on to say that from our point of view it is flawed. It is flawed not only because recent generations of Orthodox Rabbis have lacked the courage to make such adjustments to the system as its limited flexibility allows, though that is also true. It is flawed because it is based on a premise, namely *תורה מן השמים*, which we know to be mistaken.

Take, for example, the law forbidding Ammonites and Moabites to marry into the Jewish community, even after conversion, because of the alleged wickedness of their ancestors; or the law of the *ממזר*, penalising innocent children for the adultery of their parents; or the law of the *בן סורר ומורה*, requiring that a "rebellious and disobedient son" shall be put to death on the testimony of his parents; or the law of the *סוטה*, the woman suspected of adultery, whose guilt or innocence is to be established by the magic of the Ordeal of Jealousy; or the law of the *פרה אדומה*, the red cow whose ashes are supposed to cleanse ritual impurity; or the law of the *עזאזל*, the scapegoat that is to be pushed over a precipice to atone for the sins of the people; or the many laws of the sacrificial cult, including the burnt-offering that is to provide *ריח ניחוח*, a pleasing fragrance for the nostrils of the Almighty; or the laws of capital punishment, ordaining death by stoning, burning, decapitation or strangulation for the most serious crimes; or the matrimonial law, predicated on the superiority of men, who alone may practise polygamy and initiate marriage and divorce.

Surely it is certain — as certain as anything can be in religion — that these things, which are integral to the Scriptural basis of the Halachah and in various ways still play a role in it, are not expressions of the Divine Will but human misinterpretations of it. I mention them, not to denigrate the Torah, Heaven forbid, but because it is an elementary principle of logic that a generalisation is tested not by favourable but by unfavourable instances. By that principle, and in the light of modern factual knowledge

and ethical perception, the generalisation of *תורה מן השמים* fails the test.

That doesn't mean that the unfavourable instances are the whole of the story; on the contrary, the Torah is full of good things which have stood the test of time. Nor does it mean that we should be ashamed of the unfavourable instances, for we see them in their historical context, as part of a gigantic effort on the part of our ancestors — often but not always successful — to rise above the paganism of their time. But it does mean that we can no longer believe that whatever Scripture says on a given subject is necessarily to be accepted as divine.

Different Approach To Halachah

Therefore our approach to Halachah must necessarily be different from the Rabbinic one which Orthodoxy seeks to perpetuate. We do indeed begin where Orthodoxy begins, with the biblical and rabbinic texts. But we don't stop there. We go on to try to understand the texts historically and the evaluate them ethically, bringing to bear on the subject whatever source of knowledge may be relevant to it as well as the modern conscience.

Often our conclusions will endorse the traditional view. Sometimes they will differ from it. Always they will be offered, not dogmatically, as decrees, but humbly, as recommendations, representing the consensus of our leadership as to what, in all probability, God requires of us in our time: a consensus which may well undergo change in the future as it has in the past. For the Middle Ages, with their grand illusion of certainty, are over. Precisely that is why Rabbinic Judaism has lost its credibility and why Progressive Judaism is needed to take its place.

That, in broad outline, is what a serious approach to Halachah, in the context of Progressive Judaism, involves: not the cavalier repudiation of the rejectionists, nor the sycophantic lip-service of the traditionalists, but a self-respecting, principled attempt to construct an alternative Halachah, responsive both to the values of the past and to the insights of the present: in short, a Progressive Halachah.

Much of it exists already in resolutions, platforms, responsa and prayerbooks, but much of it has yet to
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