

Reflections on Halakha and Piety

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Amazingly, Jews have flourished for nearly two thousand years in many different lands without having a central authoritative institution of halakha. In spite of differences of custom and emphasis which have arisen among different groups of Jews, the essential unity of halakha was preserved. To this day, every Jew who adheres to halakha shares in a truly remarkable historic, religious, sociological, spiritual and national enterprise.

Some individuals have called for the establishment of a new Sanhedrin in our times. They would like a revival of a central halakhic authority for the Jewish people. The Sanhedrin would not only provide unity in halakha, but would re-institute the original methodology of the oral law--interpreting the Torah itself, applying the law to life with the freedom to overrule precedents and previous decisions.

One of those calling for a Sanhedrin was the Sephardic Chief Rabbi of Israel, Rabbi Benzion Uziel (1880-1953). In a speech delivered on 12 Kislev 5697, he called for an authoritative rabbinic body along the lines of the Great Court of Jerusalem.^[1] He viewed this effort as a continuation of the work of Rabbi Yohanan ben Zaccai, who had been instrumental in establishing a quasi-Sanhedrin in Yavneh following the destruction of Jerusalem by the Romans.

Rabbi Uziel believed it was the responsibility of the rabbinate to work to achieve this goal. Rabbis are delegated the responsibility of establishing *mishpat*, justice. This refers not only to cases between contending individuals, but also to public issues, questions of taxation and communal needs. By working for a Sanhedrin, the rabbis will be working for a unifying force in Jewish life. Rabbi Uziel argued that one who simply knew how to rule on what is permitted and what is forbidden, or on who is guilty and who is innocent is not in the category of being a *posek*, a decisor of halakha. This person is known as a *talmid* or *talmid hakham*, a student or a wise student. To be a *posek*, however, involves having the power of the Great Court. Only the Sanhedrin can serve as a real *posek*. "The responsibility of the Sanhedrin was to clarify and distinguish between true interpretations (which are true to the spirit of the Torah) and casuistic interpretations (which are erroneous)."^[2]

Rabbi Uziel writes that the *posek* draws conclusions from the Torah and the words of the prophets, as well as from the traditional oral law. "The *posek* in Israel is not bound by precedents of the *posek* who precedes him. If he was, this would lead to great damage, in that an accidental error would be fixed as a permanent halakha even though it was

erroneous in its foundation. In order to avoid this harmful eventuality, the authority of the Great Court was restricted only to the time in which it sits on the chair of judgment. But the decisions of the Great Court are not established as law and do not obligate the judges who will come after them to judge and to teach like them. "[3]

Rabbi Uziel was deeply impressed by the work of Moses Maimonides and believed that he deserved the title *posek*. Maimonides worked to make the laws of the Torah known to the general public. In his comprehensive code of Jewish law, Maimonides recorded the halakha anonymously, to signify that it represents a consensus, not just the opinion of individuals. He not only gathered his material from all rabbinic literature, but he also derived benefit from the teachings of non-Jewish thinkers. "In this matter, by the way, Maimonides has informed us that in halakhic decisions one must comprehend all things on the basis of their content and truth, and not on the authority of their authors alone. Maimonides taught a great principle: Accept the truth from those who have stated it. "[4]

In order to restore a central authority for halakha, Rabbi Uziel urged: "Let us arise and establish the Great Court in Jerusalem not in order to judge cases of fines, or capital cases and not in order to permit the firstborn because of its blemish. Rather, let us do so in order to solve the questions of life which confront us each day in our settlements and in our world, and in order to create a beginning for our destined redemption: 'And I will return your judges as in the beginning and your advisers as formerly; for out of Zion will the Torah proceed and the word of God from Jerusalem.' "[5]

Until a Great Court is re-established in Jerusalem, the halakha is taught by leading rabbinical sages who draw on the vast rabbinic literature which has developed over the past several thousand years. There are variations of opinion on details of halakha; different sages rule differently: yet, the halakhic process continues to provide the framework for religious Jewish life. In order for a sage to be recognized as authoritative, he must not only have great erudition; he must not only be personally observant of halakha; he must also be fully faithful to the idea that halakha is the expression of the will of God to the Jewish people. Halakha, therefore, must be taken seriously on its own terms.

A Sephardic Approach To Halakhah[\[6\]](#)

Without a Great Court in Jerusalem, it was only natural that different approaches to halakha developed among various Jewish communities during the past nearly two thousand years. Customs and practices varied from place to place and from time to time. Attitudes towards halakhic study also differed. Certainly, the basic assumptions of the divinity of the Torah and the authority of halakha were accepted: but differences in style definitely did exist among religious Jewish communities throughout the ages.

Two major streams of Jewish tradition are the Ashkenazic and the Sephardic. Ashkenazim (Ashkenaz means Germany in Hebrew) primarily lived in Europe. In the Middle Ages they were concentrated in France, Germany and Italy; gradually, the centers of Ashkenazic Jewry shifted to Poland, Russia and Eastern Europe in general. The common feature of these communities is that they existed in Christian countries. They were included within the orbit of Western civilization.

The Westernization of these communities was intensified during the eighteenth and nineteenth centuries, when European Jews were gaining rights of citizenship in the countries in which they lived. The doors of Western civilization opened to them as never before. Jews studied in European universities; and they advanced in professional, cultural and political life. Their struggles for civil rights were painful and not fully successful. Anti-Jewish attitudes and actual violence against Jews ultimately led many Ashkenazim to migrate to Israel, the United States and other safe havens. The Nazi holocaust during World War II decimated European Jewry, most of which was of Ashkenazic background. Yet, Ashkenazic Jewry today represents a large majority of world Jewry.

Ashkenazic numerical dominance has been matched by its cultural hegemony as well. Certainly, for the past three centuries and more, Ashkenazic rabbis have dominated halakha; Ashkenazic thinkers have dominated Jewish philosophy; Ashkenazic writers and artists have dominated Jewish cultural life.

The Sephardic Jews (Sepharad refers to Spain in Hebrew) enjoyed their period of dominance during the centuries prior to the expulsion of Jews from Spain in 1492. The contributions of Sephardim to all areas of Jewish scholarship and thought as well as to science, medicine, and mathematics were impressive, unequalled in the Jewish world. Even during the century following the expulsion, Sephardic Jewry maintained a dynamic spiritual and cultural life which influenced world Jewry.

The considerable majority of Sephardim who left the Iberian Peninsula settled in Muslim countries. Although Sephardim

also went to Italy, Holland. France and other Western European locations, the much greater number flourished in non-Western environments. The Ottoman Empire provided haven for Sephardic refugees. Sephardic communities developed throughout Turkey, the Balkan countries, the Middle East and North Africa. Their experience was different in many ways from that of the Ashkenazim of Europe. Indeed, the two groups of Jews--those of Christian Europe and those of the Muslim domains--lived in relative isolation from one another.

Although it is difficult to generalize about differences in the realm of halakha, it may be argued that there were different trends of halakhic thinking among the two groups, just as there were differences in world views in general. It is of interest to explore the Sephardic approach to halakha since it may serve as an antidote to the prevailing Ashkenazic approach. Since Sephardim lived among non-Western people, their perceptions and attitudes about Judaism may serve as a counter-balance to the preponderant Westernization of Judaism.

A people's attitudes are often conveyed through their words and actions when they are not self-conscious about being observed. They are implied in proverbs and songs, in the way people dress, in their gestures, in the way they express themselves. In order to comprehend a Sephardic approach to halakha, one must attempt to grasp the undocumented, non-explicit elements of Sephardic culture--elements which are known from sharing a people's mentality.

One element which needs to be considered is *joie de vivre*. While Sephardim living in Muslim lands over the past centuries were generally quite observant of halakha,

their observance did not lead them to become somber or overly serious. Pious Sephardim sang Judeo-Spanish love ballads and drinking songs at family celebrations in a natural way, without self-consciousness. Singing in a lighthearted spirit, even at public gatherings, did not strike them as being irreverent. Rather, the pleasures and aesthetics of this world were viewed in a positive light.

Sephardic holiday celebrations and life cycle observances, for example, were characterized by the preparation of elaborate delicacies to eat, the singing of songs, and a general spirit of gaiety and hospitality. Sephardim appreciated colorful fabrics, fine embroidery, excellent craftsmanship in metals.

On every happy occasion there was bound to be the fragrance of rose water, herbs, fresh fruits. All of these accoutrements--song, food, fragrances, decorative materials--gave the specific religious observance its distinctive quality. These things were not peripheral to halakha, but gave halakha its proper context: a context of love, happiness, optimism.

This spirit carried itself even to the serious season of the High Holy Days, when self-scrutiny and repentance were expected. The travel account of Rabbi Simhah ben Joshua of Zalozhtsy (1711-1768) sheds interesting light on this fact.[\[7\]](#) He travelled to the Holy Land with a group of ascetic Hassidim in 1764, and the majority of his Jewish co-passengers on the ship were Sephardim. The rabbi noted that "the Sephardim awoke before daybreak to say penitential prayers in a congregation as is their custom in the month of Elul." He then added: "During the day they eat and rejoice and are happy at heart." For Rabbi Simhah, this behavior may have seemed paradoxical: but the Sephardim themselves did not even

realize that their behavior was in any way noteworthy. Their unstated assumption was that eating, rejoicing and being happy of heart were not in conflict with piety, even in the serious season of penitential prayers.

Alan Watts has pointed out that in Western thought the individual is "split." He is both himself and an observer of himself. Western culture teaches us to analyze ourselves, to see ourselves as though we are somehow outside of ourselves. We are both subjects and objects. Carried to an extreme, this way of viewing ourselves can be confusing and guilt inducing. It is as though we live our lives while seeing ourselves in a mirror. We are apt to become overly self-conscious, self-critical, and self-centered. Eastern culture, on the other hand, tends to be more holistic, less self-analytic. People are taught to live naturally and easily, without objectifying themselves overly much.

Watts has written: "The most spiritual people are the most human. They are natural and easy in manner: they give themselves no airs; they interest themselves in ordinary every day matters and are not forever talking and thinking about religion. For them there is no difference between spirituality and usual life, and to their awakened insight the lives of the most humdrum and earth-bound people are as much in harmony with the infinite as their own."[\[8\]](#)

The Sephardim tended to have the Eastern, rather than the Western, attitude on life. The halakha was observed naturally and easily, as a vital part of life. Andre Chouraqui, in his study of North African Jewry, has noted that the Jews of the Maghreb were quite observant of halakha, yet "the Judaism of the most conservative of the Maghreb's Jews was marked by a flexibility, a hospitality, a tolerance . . ." The Jews of North Africa had a "touching generosity of spirit and

a profound respect for meditation."^[9] These comments are equally applicable to Sephardim throughout the Mediterranean area.

These qualities were placed into halakhic terms by Rabbi Hayyim Yosef David Azulai (1724-1806), one of the leading Rabbinic figures of his time. He wrote that in matters of halakha, Sephardic sages clung to the quality of *hesed*, kindness, and tended to be lenient. Ashkenazim manifested the quality of *gevurah*, heroism, and therefore tended to be strict. Rabbi Azulai's statement--regardless of its objective truth--is a profound indication of his own self-image. He and numerous other Sephardic rabbis saw themselves as agents of *hesed*. This self-image could not but influence the manner in which they dealt with questions of halakha. *Hesed* was not merely a pleasant idea but a working principle.

H. J. Zimmels, in his book *Ashkenazim and Sephardim*, indicates that as a general rule Sephardim were more lenient than Ashkenazim in their halakhic rulings.^[10] He suggests that the Ashkenazic inclination to stringency was largely the result of centuries of persecution suffered by German Jewry. It also stemmed from the doctrines of the German Hassidim of the 12th and 13th centuries, who emphasized strictness in religious observance. Groups of Ashkenazic Jews imposed upon themselves greater stringencies than the law demanded and, in time, many of these observances became normative.

Rabbi Benzion Uziel offered an insight into the differences between Sephardic and Ashkenazic sages. Sephardic rabbis felt powerful enough in their opinion and authority to annul customs which were not based on halakhic foundations.

In contrast, Ashkenazic rabbis tended to strengthen customs and sought support for them even if they seemed strange or without halakhic basis. The rabbis of France and Germany had a negative opinion of the rabbis of Spain, feeling that the Sephardic sages were too independent and irreverent to tradition. On the other hand, the Sephardim felt that their method was correct and were quite proud of promoting it.[\[11\]](#)

Sephardic tradition stressed the idea that the halakha is a practical guide to behavior. It is not a metaphysical system set aside for an intellectual elite. On the contrary, each person was entitled and obligated to understand what the halakha requires. It is not surprising, therefore, that the classic codes of Jewish law were produced in Sephardic communities. Sephardic scholars studied texts with the goal of applying them directly to actual situations: therefore, they had to remain sensitive to the needs of people. This very sensitivity helped maintain the quality of *hesed* in halakha.

When halakha is studied as an intellectual system divorced from actual life situations, it may follow the dictates of logic and intricate reasoning rather than the dictates of human kindness. A legal conclusion might be reached in the abstract and then be applied to human conditions as a derrick operation from above. This approach is contrary to the overall spirit of Sephardic halakhic thought.

Although it is incumbent upon each Jew to study Torah and halakha, difficult questions and disputes cannot always be solved by the individuals involved. Thus, over the past centuries, Sephardic communities normally appointed a chief rabbi, often referred to as *haham*, sage. He had the

final word in matters of halakha for his community. The institution of *haham* provided the Jews with a recognized authority who could resolve their questions. When the Sephardim of the Island of Rhodes wanted to appoint a chief rabbi in the early 17th century, for example, they agreed that no one had the right to contest the *haham's* rulings. "All which he will decide will be correct and acceptable as the law which was determined by the Court of Rabban Gamliel. . . . All which he will decide ... will be correct and acceptable as a law of God's Torah as it was given at Sinai."[\[12\]](#)

The Jews of Rhodes linked their *haham's* authority to that of the powerful court of Rabban Gamliel and to the Torah itself. Other Sephardic communities did likewise. This was a way of restoring, at least on a communal level, the original function of the Great Court in Jerusalem which, according to Maimonides, was the essential institution of the halakha.

Rabbi Joseph Taitasak (16th century, Salonika) expressed this idea clearly: "Know that each and every community has authority over its members, for every community may legislate in its city just as the Great Court could legislate for all Israel."[\[13\]](#)

Law and Life

Since halakha is an all-encompassing guide to life that describes what God wants us to do, it is essential that we understand its role in our lives. Observing the mitzvot is a Jew's way of connecting with the eternal reality of God. To treat halakha as a mechanical system of laws is to miss its meaning and significance. Halakha provides the framework for spiritual awareness, religious insight, and even spontaneity.

At the root of halakha is the awareness that God is overwhelmingly great and that human beings are overwhelmingly limited. Humility is the hallmark of the truly religious person. One must be receptive to the spirit of God which flows through the halakha and to the religious experience that it generates.

A true sage must be humble; arrogance is a sign of not understanding the real lesson of halakha. Solomon Schechter, in his beautiful essay about the mystics of Safed of the 16th century, quotes Shlomo of Moravia who described the scholars, saints and men of good deeds of Safed, indicating that many of them were worthy of receiving the Divine Spirit. "None among them is ashamed to go to the well and draw water and carry home the pitcher on his shoulders, or go to the market to buy bread, oil and vegetables. All the work in the house is done by themselves."^[14] These sages followed the model of Talmudic rabbis who also did not find it beneath their dignity to work at menial tasks. Egotism and a sense of inflated self-importance are contrary to the spirit of Jewish religiosity.

It is interesting to note how this ideal has been somewhat diminished among Western Jews. Isidore Epstein, in his study of the responsa of Rabbi Simon Duran, displays a Western bias when he writes that "the multifarious functions of the rabbis [of North Africa] also testify to the low standards of Jewish culture of North African Jewry. In advertent to Jewish past and present day history, we cannot fail to notice that wherever there is a strong, virile and advanced Jewish life, there is the tendency to keep the rabbinical office distinct from other callings: and the combination of rabbinical charges with other functions is a sign of decadence and of

lack of appreciation of learning as such. North Africa in our period exhibited that characteristic system of cultural decline. There the rabbi was not 'rabbi' in the understood sense of the word, but combined with that office the functions of school teacher, slaughterer, and reader to the consequent lowering in his prestige and rabbinical authority." [\[15\]](#)

Epstein's assumption that it is a sign of decadence when rabbis assume responsibilities other than purely academic is quite absurd. The contrary seems much truer. The Talmudic sages assumed other responsibilities as did the outstanding sages of the Sephardic world: and they did not feel demeaned thereby. It is precisely when rabbis relegate to themselves purely academic functions and when they consider it undignified to meet other communal needs that egotism and pettiness arise. It is actually to the credit of North African Jewry and many other Sephardic communities as well, that rabbis often served in practical capacities, participating more fully in the life of their communities. This was not at all a shame for them or a reflection of cultural decadence for the communities.

Humility is a virtue which halakha fosters for sages and laymen alike. Rabbi David Ibn Zimra (16th century) offered an explanation of a rabbinic dictum that one is not supposed to argue with the greatest of the judges who has made a ruling on a legal question. Yet, what if that judge is wrong? Shouldn't the lesser judges have the right and responsibility to dissent? Rabbi David Ibn Zimra explains that the dictum was not intended as a warning for the lesser judges but rather for the greatest judge. The judge occupying the highest position should not give his decision first because others will be afraid to argue with him. His decision will intimidate the others. Therefore, true justice demands that the greater judges withhold their opinions until the lesser ones have had their say. In

this way, all opinions can be evaluated fairly and without intimidation or arrogance.[\[16\]](#)

In a similar spirit, Rabbi Hayyim Yosef David Azulai comments on a passage in the Ethics of the Fathers which teaches that each person should prepare himself to study Torah since it does not come to him as an inheritance. Rabbi Azulai notes that each sage received his specific portion from Sinai and therefore even a great sage needs to learn from others. No scholar is self-sufficient, no sage inherits all wisdom. It is necessary for everyone to be humble, to be open to the opinions of others, to try to learn from everyone.[\[17\]](#)

Piety

Many wonderful and horrible things have been done in the name of religion. George Bernard Shaw once wrote: "Beware of a man whose God is in Heaven." It is difficult, perhaps impossible, to have reasonable communication with someone who feels that he knows Truth, that only he and those who share his beliefs are absolutely right.

There have been great prophets, mystics and pietists who have lived their lives in relationship with God. There have also been inquisitors, murderers and arrogant criminals who have thought that they acted according to the will of God. If religion attracts the most sensitive and thoughtful people, it also draws those who wish to seem important and holy in the eyes of others, who use the cloak of religion to hide their own egocentric purposes.

Since the Jewish religious tradition is deeply tied to halakha, it is not surprising that there have been people who have found their self-importance in legalism. There is a fine line between pious devotion and misguided asceticism.

Rabbi Hayyim Yosef David Azulai has taught that one should not follow unnecessary stringencies in law. Even in private, one should not be overly stringent, unless he is motivated by pure and humble piety.^[18] Those who do accept additional obligations upon themselves should not consider themselves superior to others who do not accept such stringencies. A truly pious person feels no need to compare his piety to that of others; his life is lived in relationship to God; he lives with humility and equanimity.

Jewish history has witnessed the honest spirituality of innumerable pious men and women who have sincerely served God through their observance of halakha. It has also witnessed pietistic movements, where groups of people observed Jewish law with intensity and introduced pious customs into Jewish religious life. Such movements include the German Hassidim of the 13th century; the Sephardic mystical schools of the 16th century; the Hassidic movement of the 18th century; the Musar movement of the 19th century. These and other religious movements called on Jews to deepen their religious experience by intensifying their observance of halakha and by adopting additional pious practices.

Rabbi Moshe Cordovero of 16th century Safed, for example, composed a list of rules for Jews to observe. The following are some of his recommendations.^[19]

One should not turn his heart from meditating on Torah and holiness, so that his heart will constantly be a sanctuary for the Divine Presence. He should never allow himself to become angry. One should always be concerned about the needs of his fellow beings and should behave kindly to them. One should behave nicely, even with those who transgress the laws of the Torah. One should not drink wine except on Shabbat and holy

days. One should pray with concentration. One should not speak badly about any person or any other living creation of God. One should never speak falsehood or even imply falsehood. One should meet with a friend each Friday evening to review what has occurred during the course of the past week. One should recite the afternoon prayer with a prayer shawl and tefillin. One should chant the Grace after Meals aloud. Each night, one should sit on the ground and lament the destruction of the Temple in Jerusalem, and should also cry over his own sins which lengthen the time before our ultimate redemption.

A person should avoid being part of four groups which do not receive the Divine Presence: hypocrites, liars, idlers and those who speak evil about others. One should give charity each day in order to atone for his sins. One should pay his pledges immediately and not postpone them. One should confess his sins prior to eating and prior to going to sleep. A person should fast as often as his health allows.

These rules, and other similar ones, stem from the overwhelming desire of religiously sensitive people to serve God in fullness. The more they can do, the closer they feel to the Almighty. When their deeds are performed in the spirit of love and selflessness, they are spiritually meaningful. The problem, of course, is that these rules of piety may themselves become merely mechanical observances.

The genius of halakha is that it provides Jews with a medium for approaching God on a constant basis. Each law, each observance is a link between the human and the Divine. But the power of halakha cannot be appreciated without spiritual sensitivity, openness and--above all--humility.

Saintliness

It is a rare experience to be in the presence of a truly saintly person who lives in a deep relationship with God. We might describe such a person as having wisdom, humility, inner peace, tranquility. The saintly person lives life on a different plane from most other people.

One cannot attain saintliness as the result of following any specific prescriptions. There are no schools to educate and graduate saints. There are no rituals or techniques which, if followed, will result automatically in the creation of a genuinely pious person.

In describing the actions and observances of deeply pious people, we only describe the evident and superficial aspect of their lives. Their inner lives remain a secret to us. We are intrigued with such people because we do not understand their inner beings.

Following the external dictates of halakha does not guarantee the quality of saintliness. Without mystical insight, without an all-encompassing love, the practitioner of halakha mimics saintliness. Halakha must be experienced as a fulfillment of the will of God if it is to generate spirituality.

Modern Western society does not place a particularly high premium on saintliness. Our society is achievement oriented, pragmatic, material-centered. Even religion is profoundly influenced by these values. Religious institutions are concerned with perpetuating themselves-- raising money, obtaining members, providing services. Prayer services might pass for good (or not so good) theater. They may provide parodies of prayer where people appear to be praying while having no sense of the presence of God. It is difficult to preach about God and mystical saintliness except to

unusual individuals.

The ideal of halakha is to create righteous, pious people. Even those who may never attain this spiritual level still need to know what the goal is.

In describing the religious life of North African Jewry, Andre Chouraqui has noted that the Jews of the Maghreb valued saintliness as the ultimate quality.^[20] They expected that their rabbis be well-versed in Torah and rabbinic literature: but more than this, they expected them to be able to pray with sincerity and real devotion. By being in the presence of saintly teachers, the average people could be raised in their own spiritual life.

In summation, halakha is the ever-present link between God and the Jewish people. Through observance of halakha in the spirit of humility, the Jew has the opportunity to live life on a deep spiritual level.

[1] *Mikhmanei Uziel*, Tel Aviv, 1939, p. 358.

[2] *Ibid.*, p. 371.

[3] *Ibid.*, p. 376.

[4] *Ibid.*, p. 382.

[5] *Ibid.*, p. 391.

[6] This material is drawn from my article, "A Sephardic Approach to Halakha," *Midstream*, August/September 1975, pp. 66-69.

[7] The travel account is found in J. D. Eisenstein, *Ozar HaMasaot*, Tel Aviv, 1969. See page 241.

[8] Alan Watts, *The Supreme Identity*, New York, 1972, p. 128.

[9] Andre Chouraqui, *Between East and West*, Philadelphia, 1968, p. 61.

[10] London, 1969, pp. 128f.

[11] *Mikhmanei Uziel*, p. 407.

[12] The text of this contract is found in Yehoshua Benveniste, *Sha'ar Yehoshua*, Husiatyn, 1904, no. 2.

[13] Tam ben Yahya, *Tumat Yesharim*, Venice, 1622, no. 213, p.112b.

[14] Solomon Schechter, *Studies in Judaism* (second series), Philadelphia, 1908, p. 208.

[15] Isidore Epstein, *The Responsa of Rabbi Simon Duran as a Source of History of the Jews of North Africa*, New York, 1968, pp. 58-59.

[16] David Ibn Zimra, *Responsa*, New York, 5727, vol. 1, no. 308.

[17] See his commentary on *Pirkei Avot*, p. 103b.

[18] *Ibid.*, p. 97b.

[19] Appendix A to Schechter's article, p. 292.

[\[20\]](#) Chouraqui, p. 63. See also p. 71f, on the veneration of tombs.