

Halakhah as Ideology

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The effective communication of halakhic material, particularly in the area of ritual, requires sensitizing the student's mind to the conceptual dimension of the halakhic system — both ideological (*ta'amei ha-mitzvot*) and methodological (*derekh pesikah*). The subtle dynamics of legal reasoning shaping a given body of halakhot must be appreciated along with its underlying rationale. The interrelationship of the two — methodology and ideology — is critical. Only once the thrust of the halakhah is clear — what it is, ultimately, that a particular set of regulations is trying to convey — do the nuances of halakhic detail become intelligible.

Let us illustrate our point with several examples drawn from the area of *hilkhot Shabbat*.

MELAKHAH: The Concept

An appreciation of the dynamics of *hilkhot Shabbat* requires an incisive definition of the term *melakhah*, describing the type of activity Biblically forbidden on Shabbat (Ex. 20:10; Deut. 5:14). *Melakhah* is not necessarily a laborious act — as in the proverbial rubbing together of sticks to produce fire — a misguided assumption which would justify an effortless flick of the switch today, activating a mechanized energy system. To the contrary, the *melakhah* concept must be taken with greater sensitivity as referring to a productive act, a man's creative processing of the materials of his physical environment (harvesting a crop, cooking, building, programming computer data, etc.), his exploitation of nature's latent energy potential — an initiative all the more offensive on Shabbat to the extent of its technological sophistication. For while entitled, even encouraged, throughout his weekday pursuit, to develop his environment, on Shabbat a man must withdraw his controlling hand in deference to G-d's supremacy.

EFFICIENCY: The Logic of Shinnui

A conceptual appreciation of the *melakhah* principle yields insight into the notion of *shinnui*. This halakhic provision

absolves from guilt (*mi-de'oraita*) particular acts that might otherwise have been classified as *melakhah* — possibly even permitting them in specific cases of need — provided certain standard aspects of their procedure were altered. If one discovers, for example, on a Seder night which happens to have fallen on *leil Shabbat*, that he has not put together the *haroset* (a dough-like mixture subject to the restrictions of *melekhet lash* — kneading), he may nonetheless prepare the required delicacy, even to *thick* consistency according to many *posekim* (see *Mishnah Berurah* 321:68), through recourse to *shinnui*. The order in which the solid particles and liquid are normally combined would be reversed (*Arukh ha-Shulhan*, O.H. 473:17) and the stirring would be accomplished with individual criss-cross strokes rather than an intensive circular movement (as in the case of *mursan*, O.H. 324:3). Critics fault this "fiction," arguing that if the results are nonetheless achieved, why should such bizarre antics justify the procedure?

The point is, though, that the phenomenon of *melakhah* restriction is as much a question of *form* as result. A *melakhah* awkwardly executed, notwithstanding the unimpaired quality of the product (see *Eglei Tal*, *Petihah* 3), is no *melakhah*. This follows from the very rationale implicit in the Biblical prohibition, namely that man, in deference to G-d's supremacy, must refrain on Shabbat from an exercise of mastery over his environment. Now if such is the basis for the *issur melakhah*, only a procedurally-efficient act (*melekhet mahshevet*, intelligently executed), reflecting man at his masterful best, would violate the day. A haltingly executed act, on the other hand, encumbered by the restraints of *shinnui*, would pose no rivalry to the Divine supremacy and would be restricted only *miderabbanan* as a precautionary measure — permissible *entirely* in particular cases of need.

MELAKHAH and MALAKH: Analogous Terms

The *efficiency* notion is reflected, as well, in a revealing association of terms — *melakhah* and *malakh* (sharing a common root and formative letter *mem*). By analogy, *melakhah* is to man what *malakh* is to G-d — a dynamically productive potency. Now, since angelic forces (see *Moreh Nevukhim* 2:6), as expressions of the creative Divine will, neither err nor falter in their course of execution, similarly, a creative *human* initiative would qualify as *melakhah* only when efficiently productive of its objective.

PRODUCTION vs. CONSUMPTION

Melakhah as a physically *productive* act does not rule out physically *indulgent* gratification. While prohibiting the *processing* of one's material resources — whether harvesting a vast crop or cooking even a single meal — the halakhah permits, in fact encourages, the *enjoyment* on Shabbat of the fruits of the weekday initiative. Tradition accentuates this distinction when it describes the "blessing" of Shabbat ("*va-yevarekh*") as the *availability* of tasty dishes, while identifying the "sanctity" of the day ("*va-yekadesh*") with their *advance preparation* (see Rashi, Gen. 2:3).

The gratification of the five physical senses is provided for on Shabbat. The festive appearance of the home bathed in the glow of the Shabbat candles (*Shabbat* 119b), with the family members freshly adorned in their finery (*ibid.* 113a, 119a), delights the eye. The melodic strains of the *kiddush* and *zemirot*, with the special Shabbat synagogue *nussah*, appeal to the appreciative ear (*Midrash Tehillim* 92:3; *Megillah* 12b — cf. *Shir ha-Shirim Rabbah* 8:16). Tasty dishes indulge the anxious palate (*Shabbat* 118b), while their pungent aroma (*ibid.* 119a), together with the scent of flowers (*Shir ha-Shirim Rabbah* 2:9) and selected spices (*Shabbat* 33b; *Menahot* 43b), produce a variety of distinctive Shabbat fragrances. And marital sex, associated particularly with *leil Shabbat*, consummates the sense of touch (*Ketubbot* 62b;

Rambam, *Hilkhot Shabbat* 30:14).

INDULGENT GRATIFICATION, DYNAMIC REFLECTION

The point is that on Shabbat the material dimension of one's life *is* celebrated, but subordinate to the prevailing spiritual thrust of the day. One may *indulge* his body in pleasure, but such interests are permitted no claim on his *creative* ingenuity. While he may relish a savory delicacy at the dinner table, the culinary skills invested in its preparation must be completed by sundown. While he may enjoy the pleasure of his family's company at a weekend retreat, he must make sure to pile them in for the drive in advance of Shabbat. Restrained from applying himself on Shabbat to productive mechanics, he must commit himself and his family, dynamically, to the realm of spirit — prayer, Torah study and an introspective assessment of life's direction. Thus Rashi's definition (*Betzah* 16a) of *neshamah yeterah*, that special quality of soul with which we are imbued on Shabbat: A spiritual perspective endowing even one's physical appetite with a gratifying sense of purpose.

This exclusive claim of the *spirit* to our productive energies on Shabbat accounts for the fundamental halakhic objection to taking the car to the synagogue, despite its noble purpose. Driving to *shul* may be a fitting *weekday* blend of dynamic technology (automobile) and applied theology (prayer), but on Shabbat productive initiative must be committed *exclusively* to the world of spirit. One's creative energies on the way to *shul* must be invested totally in the anticipated experience of prayer, not

the classic case, a mass of grain kernels may not be cleared of pebbles with which they have become mixed following threshing and winnowing — since such would constitute a processing procedure. It is obvious, on the other hand, that the typical act of eating, certainly permissible on Shabbat, likewise involves a discard of waste elements (pits, bones, etc.). How then are we to distinguish the objectionable from permissible act? The halakhah establishes criteria, therefore, discriminating between an act of differentiation *primarily intended as such* (thus a productive initiative) and that only *incidental* to the ordinary consumptive act (a simple indulgence).

Essentially, the permissible act is identified by three considerations. a) *Sequence*. Drawing the food element from the waste (*okhel mi-tokh pesolet*) rather than vice versa. b) *Timing*. Intending the imminent consumption of the food element (at the ensuing meal) rather than preparing it for later use. c) *Technique*. Employing the hand — or ordinary eating utensil — rather than a tool or appliance. Meeting these three criteria assures the *consumptive* character of the act (see *Shuihan Arukh, O.H.* 319:1-4).

The "sequence" stipulation, however, raises the curious problem of eating a slice of watermelon on Shabbat, considering the seeds that one would normally first separate from the fruit. The more popular halakhic opinion brooks no compromise, requiring that the bite be taken *with* the seeds, which would only subsequently be spit out (delicately, one would hope). Some *posekim*, however (permit-

course, in the case of the watermelon slice the flesh of the fruit *is* available; nevertheless, reason the above *posekim*, the act of nicking aside the seeds *at the very moment* the bite is taken is a normal consumptive reflex, and as such acceptable. (The principle of *mi-yad le-feh*; see *Mishnah Berurah* 321:84; also *Shemirat Shabbat ke-Hilkhatah* [New Edition], 3:16 and note 32.)

While a tempest over a few scattered seeds may seem slightly exaggerated, we have here a case in point accentuating the symbolic significance even of trivial acts, which assume meaning in larger conceptual terms.

TOWARD A PHILOSOPHY OF HALAKHAH

The fine technicalities of halakhic distinction — the subtle differentiation of permissible and impermissible — must never be allowed to pass arbitrarily. Methodology is rooted in ideology. Conceptual structures underly the mechanics of detail, and the student of halakhah must be encouraged to discover them. Particularly in an age of intellectual sophistication, the halakhah must be permitted to speak its *mind!* — to articulate the rich inner substance of its ritual as well as ethical demands. It is not sufficient for the committed Jew to be *conditioned* in piety. Halakhic *regulation* must be accompanied by halakhic *reflection*, so that the ultimate thrust of the Torah system — its wealth of ideas — might reveal itself to the intellect. One need but consider the words of the Torah (Deut. 4:5-6) — reflective of Rambam's fundamental argument (see *Moreh* 3:31) — depicting the *intellectual* impact one day of the *mitzvot* (*hukkim* as well as *mishpatim!*) on the general society. The Torah will be celebrated, asserts the passage, for its *insight* — "its *wisdom* and *perception* before the eyes of the nations." Thus the urgency of a conceptual perspective.

The traditional community is passing presently through a phase where the sense of reverence (*yirat ha-Shem*) prevails over the quest for reason (*yedi'at ha-Shem*). The premium placed on halakhic *authority* has rendered superfluous the recourse to incisive *inquiry*. A reversal of this trend must be encouraged. The Divine *wisdom* underlying the Divine *will*, the intelligibility of the halakhah ennobling its obedience, must be permitted to surface, so that *avodat ha-Shem* be reconstituted in proper balance as an integration of heart and mind.

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at all in the mechanical diversion of the ignition key and accelerator. Only as a *receptive beneficiary* of a technological system, set into play in advance of Shabbat (thermostat control of building heat; lighting set by the "Shabbos clock"), may one relate to the mechanized world on the day itself.

MELEKHET BORER: A Case in Point

The distinction between productive *process* and indulgent *benefit* accounts for the dynamics of *melekheth borer*, prohibiting acts of differentiation on Shabbat. In

ting greater finesse!), argue in favor of nicking away the seeds *immediately* prior to taking the bite. Not with standing a reversal of sequence (*pesolet mi-tokh okhel*), an initial involvement with the element to be *discarded*, the procedure is considered by these *posekim* perfectly consistent with the consumptive principle. After all, a related line of reasoning is generally adopted permitting the peeling of an orange preparatory to an ensuing meal *despite preoccupation with the rind*, since the fruit is otherwise inaccessible (see *Bi'ur Halakhah, O.H.* 321:19). Of