

At least since the time of Moses Mendelssohn, Jewish modernists have de-centered Jewish law and emphasized ethics as the salient category of Jewish representation both to insiders and outsiders. In German speaking lands, Judaism was construed as a religion and religion was construed, following Kant, as a phenomenon of practical (ethical) reason. Judaism became an adjunct to *Bildung* (moral self-development). This development was exemplified both by modernists, such as Moritz Lazarus and Hermann Cohen, but also by traditionalists, such as Samson Raphael Hirsch. The latter, while resisting any diminution of the central role of halakha, also sought to constitute the relation between halakha and ethics. Arguably, such a project goes back at least to thinkers such as Saadya, Bachya ibn Pakuda and Rambam. In modernity, however, the stakes were higher. As Leora Batnitzky has shown in her recent book, the transformation of Judaism into a (moral) religion destabilized the self-understanding of the Jews as an exilic nation, with a distinct legal culture, and a quasi-political, national identity. Ethics became a threat, in a sense; a marker of failed resistance to an assimilatory process. Getting the relationship between ethics and halakha right was (is) urgent.

In modern debates over the role of ethics in Judaism vis-à-vis halakha, what is at stake is more than traditionalist Jews continuing to assert the *necessity* of halakha. Some traditionalists, sensing the depth of the challenge, argue that halakha is not only necessary but *sufficient*; that halakha comprises *all* norms relevant to human conduct, at least for Jews. To assert that some other body of norms pertains, indeed, that some non-halakhic ways of thinking about norms are required is to detract from the omni-sufficiency of halakha. The omni-sufficient view is not just about how we categorize those norms which govern Jewish conduct. It is about the origin of such putative norms; the metaphysical background from which normativity per se emerges. The partisans of an omni-sufficient halakha claim, of course, that the halakha is God-given. Mere

ethics seems to have a lesser pedigree or at least a more circuitous one. At issue are old and weighty controversies about revelation, reason, and nature. In an age of robust secularity, when reason is naturalized and nature is everything, the partisans of revelation must radicalize their claim. Issues of moral anthropology and moral epistemology come into play. How are we to constitute human nature? In light of that constitution, how does the human being become the subject of norms? Why is such a subject so bound? What relation does the subject's own reason and will have vis-à-vis norms? How do we, how can we know what is legitimately normative? If there is an independently cognizable realm of moral normativity over and against the halakha, then what do we need halakha for?

Those who argue for what I am calling the omni-sufficiency of halakha worry that if ethics is available to critique halakha or if it serves as the telos of halakha, then the majesty and sovereignty of halakha is impugned. Perhaps halakha, while irrefragably central, is not sufficient. Perhaps it recognizes its own insufficiency by commanding ethical counterweights, balances, and corrections. That appears to be the Ramban's view. Halakha, one might say, needs ethics as a supererogatory modality; the two complement one another. But then again, the omni-sufficient view could argue, if the halakha stipulates a need for a normative framework in excess of its own standards, ethics remains a creature of the halakha. If Jews are commanded (as they are) to go beyond the letter of the law (*lifnim me-shurat ha-din*), and the latter is thought to constitute ethics, then in what sense is ethics really separate from law? Ethics would be a moment internal to halakha.

In the view of Rabbi Soloveitchik—at least the Soloveitchik of *Halakhic Man*—the ethical has no independent standing. (The posthumously published *Emergence of Ethical Man* might complicate this picture.) It animates the halakha but it is also sublated within the halakha.

A similar view is found in his son-in-law, Rabbi Aharon Lichtenstein's important essay, "Does Jewish Tradition Recognize an Ethic Independent of Halakha?" Lichtenstein's argument is highly nuanced. He acknowledges that the rabbinic tradition recognizes a *lex naturalis* or, more minimally, a natural morality. The question is whether that independent pre-Sinaitic ethic has any relevance, legitimacy or authority for a post-Sinaitic Jew. Lichtenstein's position is that this independent ethic is effectively absorbed by the halakha. His question is whether "the demands or guidelines of Halakha are both so definitive and so comprehensive as to preclude the necessity for—and therefore, in a sense, the legitimacy of—any other ethic." The answer is yes, given a suitably capacious conception of the halakha. The phrase "any other ethic" is quite deliberate. For Lichtenstein at once asserts that "Halakha constitutes—or at least contains—an ethical system." He categorically rejects views such as those of Yeshayahu Leibowitz, which anchor halakha in pure divine command. Such "quasi-fideistic voluntarism" is not consonant with the "main thrust of the tradition" in Lichtenstein's view. Halakha must not be divorced from a recognizable morality. Is halakha then parallel to morality; is morality a complement or an alternative to halakha? Lichtenstein rejects this line of thinking. The fact is that the "Halakha is multiplanar and many dimensional; that, properly conceived, it includes much more than is explicitly required or permitted by specific rules." And thus, "we shall realize that the ethical moment we are seeking is itself an aspect of halakha." Those elements of supra-legal obligation in the halakha, such as acting *lifnim me-shurat ha-din*, are themselves parts of halakha. A highly textured, "multiplanar" halakha leaves no conceptual space for Jewish ethics. Thus, on the view of the omni-sufficiency of halakha ethical considerations are not absent, bracketed, or neglected. They are firmly subordinated to an expansive conception of Jewish law which deprives them of any independent standing.

This is a theological story. It is addressed primarily to Jews. It leaves open, I think, the availability of moral normativity for non-Jews. *But it cuts moral normativity, independent of halakha, off at the roots, as far as Jews are concerned.* Does this story actually make sense? Does an exclusive dependence on revelation—which is entailed by the omni-sufficiency position—make sense in light of our growing knowledge about the evolutionary history of morality? If it turns out to be true as evolutionary biologists and psychologists claim that our repertoire of moral responses root back to the social emotions and behaviors of our hominid ancestors, visible today in our chimpanzee cousins, what standing will an account such as Rabbi Lichtenstein's have? If Jewish ethics, wholly comprised by halakha, has no essential link to a natural, evolved history of primate reciprocal altruism, fairness, communal concern, and reconciliation behavior can we affirm it within reason? And if we lose the possibility of rational justification, haven't we slipped into the "quasi-fideistic voluntarism" that Rabbi Lichtenstein himself rejects?

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