A PHILOSOPHY of Halachah is an integral portion of one’s worldview in general. At least, it is so in my case. I beg the reader’s indulgence for the outline form of exposition, which necessarily raises more questions than it answers.

GOD

I believe in God as the Ultimate Reality of the Cosmos, the unifying and harmonizing Principle of existence. The philosophic school which most nearly reflects my views is that of panentheism, where the cosmos is viewed as being in God. I consider that this school represents the “perennial philosophy” at which Aristotle and Maimonides aimed; Bergson reconciled it with the data of evolution; Alexander and Whitehead described it as “organismic”; and Hartshorne defended it in contemporary thought. The cosmos contains a crescendo of “wholes,” structured clusters of energy which function as if they were unitary beings. In the course of evolution, ever more elaborate organisms have evolved, with mankind representing the emergence of free personalities, capable of sensing the divine principle of organismic unity and harmony. The “image of God” in man is the fleeting, finite and fragmentary realization of the Divine creative thrust. For all its transitoriness, man’s awareness of God is certain, intuitive and a source of self-renewal.

We may speak of God as Person, in both affirmative and negative
senses. In its affirmative meaning, personhood means unity in space and
time, imposing one Law upon the whole of creation, embracing the
past in memory and the future in intention and in affirmation. In its
negative sense, personality is self-defined by that which it excludes. So,
in the case of God, while all events are His work, through the operation
of the laws of nature, not all events, taken in isolation, reveal His will.
In a work of art there is a framework, material content which may be
infinitely varied, and the intention of the artist that may be clearly
manifested or only dimly apprehended by unconscious intuition.

Personality is the highest exemplar of holistic unity that we encounter
in our human experience. Personality points to God, without de-
limiting Him. He is “the Soul of souls” (neshamah lineshamah). We dare
not attribute the merely human qualities of speech and temperament to
Him, except in a metaphoric sense. Rabbi Simlai’s restriction of divine
revelation at Sinai to the first two of the Ten Commandments is an apt
description of divine-human encounters.1 God opens ever new hori-
zons by His self-revelation in our hearts and minds. He is revealed in
man’s ascent from slavery to freedom and in the progressive rejection
of idolatry, be it gross or subtle.2 Every revelation of God’s Will in the
human soul can turn idolatrous when it is taken to be the last word of
the living God. Every step toward freedom that mankind takes is divine
in inspiration and orientation, but it is just a finite step, no more, on an
infinite road.

REVELATION

God reveals Himself to us in many different ways. His Will is manifested
at the several cutting edges of the human spirit—in the infinite out-
reach of man’s quest for understanding, in the imperative call to over-
come the ills of society, in the inspiring moments of holiness. Plato’s
triad, the True, the Good and the Beautiful, was an inspired but time-
conditioned formulation. Truth is an elusive goal and the awareness of
limitation accompanies man’s intellectual quest. Ethical imperatives are
divine, but every step of social progress uncovers new tasks. The glory
of beauty is most liable to perversion through the seduction of pleasure.
True beauty includes the dimension of the sublime or the holy—hence,
an intimation of infinity.

In each aspect, the awareness of negation, knowing that we do not
know, is integral to the experience of revelation. As in the nineteenth Psalm, day speaks unto day and night unto night but "there is no speech, there are no words." Indeed, viewed in the perspective of the history of religions, the faith of the biblical authors stresses the nega-
tional dimension of the faith-event more than the affirmative one. The Hebrew Scriptures "de-sacralized" not only nature, but also history, setting strict categories for the manifestations of the divine will.

Several modern Jewish thinkers, succumbing to the influence of German philosophy, contrasted the pagan sanctification of nature with the Jewish sacralization of history. It is true that God is revealed most clearly in the expanding domains of the human spirit, but the course of human events is not identical with the advance of ethical sensitivity and moral vision. God is revealed in history, not through it. Judaism rejects the arrogant triumphalism of the historicists, whose slogan is "world history is the world court." The God of Israel appears in history as the champion of slaves, intent on reversing the course of history. And for two millennia, and against all odds, the Jewish people cherished the hope of rebirth. Only certain events in history manifest the divine will; others are consequences of the darker side of human freedom. As the Mekhilia on the crossing of the Red Sea points out, God appears at times as a leader on the battlefield, at other times as a sage teaching in a yeshiva. As to which is which, in every instance the conscience of great and holy men must judge.

In addition to this general revelation, which is fleeting and unstruc-
tured, Judaism affirms the special revelation, which is embodied in its literature and its patterns of living. In the Hebrew Scriptures, the sacred tradition is mediated through the minds of three kinds of holy men—the priests, the sages and the prophets. “For Torah shall not perish from the priest, nor counsel from the wise, nor the word from the prophet” (Jer. 18, 18). (This is why we use the acrostic Tanakh—Torah, prophets, writings.) Different aspects of wisdom and piety are likely to be con-
voyed by each category of teacher. Because of the tensions resulting from these different approaches, the biblical faith was dynamic and many-sided. While archaic elements remained, countervailing influ-
ences were set in motion.

To consider matters of Halachah apart from their historic settings and deeper meanings is to follow in the wake of the ancient priests exclu-
sively. The Talmud recognized that sheer legalism was a disease of
religion. "Whoever says, 'I care only for Torah' will lack even Torah" (Yebamot 109b).

The "Sages of Israel," as the Pharisaic scholars called themselves, tried to preserve the ethical thrust of the prophets and the wisdom of the sages as well as the ritual of the priests. In the opening Mishnah of Avot, they even excluded the priests from the chain of transmission. The Aggadah contains, in gnomic form, maxims reflecting the philosophies of the ancient world, along with the impassioned ethical fervor of the prophets. Philo, the first philosophical exponent of Judaism, was a Greek-speaking Aggadist, incorporating into the tradition the so-called "beauty of Japheth."

Scholars have discerned two diverse approaches in the Palestinian schools of Rabbis Akiva and Ishmael—the former inclining toward literalism, the latter toward a reasoned interpretation. The literalist school produced also the Shiur Komah (descriptions of the Divine Glory) type of mystical literature which formed the foundation of Kabbalah, while the rationalistic school kept the gates open to the contemporary winds of philosophic speculation. Medieval Jewish philosophy, climax ed in Maimonides' Guide, was the most massive attempt to synthesize the three currents of tradition—that of priest, sage and prophet.

Maimonides effected this synthesis in three crucial ways—by viewing the tradition in the light of the history of religions and describing rituals as protests against ancient idolatries; by postulating Secondary Intention on the part of God as the source of the entire sacrificial system in the Holy Temple; and by introducing the distinction between "true doctrines" and "necessary doctrines." The former are true in themselves, the latter are affirmed by the sages in order to retain the cohesion of the community.

While lesser philosophers, both before him and after him, were content to separate and insulate the two domains of reason and religion, Maimonides insisted that worship must be whole-souled. Only if Judaism promotes philosophical piety does it have the right to demand self-sacrifice and even martyrdom. We learn from Maimonides that not all halachot are born equal. We have to study their origin in history, their justification in philosophy, their pragmatic consequences, their merit in terms of the primary intention of faith.

To be a Jew is to share in the priestly, prophetic and philosophical
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tradition of the living community of Israel (*K’lal Yisroel*), with the inevitable development of diverse schools of interpretation!

**HALACHAH**

Conservative Judaism is one such school. It seeks to be true to the *whole* of our sacred tradition, to its inner philosophy as well as to its outer expression. As Conservative Jews we accept the Halachah as a starting point, not as a blueprint. It is one of the given components of our tradition, not all of it. Torn from its context in life and thought, Halachah is meaningless. For the purpose of clarification, some negations are in order:

- We are not literalists—that is, we do not assert that the Torah was dictated to Moses, word for word, and that the Oral Law was transmitted verbally to him and to his successors. Therefore, the inner logic of a great deal of Halachah is, for us, not in itself persuasive. Nor is a custom in itself hallowed in our eyes solely because it has been practiced by many or even most of our people. For example, *shlogen kapores*. We have outgrown folkist romanticism. Nor do I and many of my colleagues follow the German super-conservative school of Savigny which idolized the institutions created by history as sacred, “positive-historical.” We know all too well how many anti-Jewish horrors were sanctioned by that attitude.

- We see the Jewish global community as centered in its religious life around sages—more exactly, priests, prophets and teachers of wisdom. In contemporary life, those categories do not coincide with any particular organized group. The rabbinate, in its totality, does not today exhaust the category of the ancient *hakhamim*. There are academic philosophers, individual scholars, educators and social workers, journalists and authors, who, in diverse ways, contribute to the making of the Jewish mentality. Associations of synagogues come closest, perhaps, to the representation of *Kenesset Yisroel*, the religious fellowship of Israel. With the progressive contraction of the domain of religious life to the precincts of the Synagogue, the norms and standards adopted by congregations will be decisive in molding the Halachah of the future.
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TAKKANOT

The Talmud speaks of those who violate an ordinance of the sacred tradition as rebellious children, disobeying their Father, who is God, and their Mother, the Congregation of Israel. Every ordinance is a product of both parents. We recognize the work of God in the living people, molded as it is by its historical institutions and guided by its spiritual leaders.

Therefore, in our view, the tradition develops by way of new takkanot, new aggadot and new minhagim. Takkanot are ordinances of conduct initiated by the spiritual elite; aggadot are new ideas that arise either out of Judaism or out of universal culture; minhagim are customs initiated by the people and concurred in by the elite. No strict lines of demarcation can be drawn between these several instruments of halachic development. Scholars used to draw absolute distinctions between the imposition of dogmas upon the free mind, which is intolerable, and the imposition of ordinances of conduct upon a free people, which is acceptable. The distinction is only partially valid, for there is no conduct that causes mighty changes in society, which does not imply certain ideas, and there are no ideas of consequence which do not affect the lives of people.

Takkanot, aggadot and minhagim aim to affect all concerned Jews, but they are usually initiated by individual congregations (takkanot hakehillot).

K'NAL YISROEL

The Conservative movement focused attention on the concept of K'nal Yisroel. I accept Dr. Gordis' interpretation of the term as the consensus of the concerned. In a free society, agreement will be gradational. In regard to essentials there will be a consensus, while there will be ample room for variations in ideology and practice.

A new factor of uncertain character is likely to modify the impact of K'nal Yisroel—namely, the government of Israel. Its relation to matters of personal status is well-known. Orthodox pressure in regard to Sabbath observance is also a factor. But, social issues are even more significant, if we think of Halachah in its ethical dimensions. We have to take account of questions in the realm of political science that our predeces-
sors could comfortably ignore. What is the ideal relation of the Jewish religion, its Aggadah and its Halachah, to the Jewish state? Is the citizen of such a state ipso facto a member of the Jewish people? Should such a state be structured in keeping with the laws of Torah, or the principles of Torah, or the concepts of liberal democracy, the *hokhmah* of our time? Will the equality of the *ger*, affirmed thirty-six times in the Torah, apply to all the non-Jews in a Jewish state? Is a Jewish state conceivable that is not democratic? Shall Israel follow the model of western democracies, separating religion from government, or the model of an "Islamic state," à la Ayatollah Khomeini?

Manifestly, the character of Halachah in Judaism will be powerfully affected by the extent of its involvement with the government of Israel. Laws of religion and of government are different in essence. To make governmental privileges dependent on the practice of religious rituals and on the *kashrut* of those who administer them is a horrendous requirement in a western society. We cannot tell how Israel will develop in the future. So much depends upon whether a large Arab minority, consisting of the residents of the West Bank and Gaza as well as Israel proper, is embraced within the boundaries of the state. With a non-Jewish minority of nearly 40%, a new constitution may evolve, definitely separating religion from government. Also, spiritual forces emerging from grass-roots Israeli life may well lead to an acceptance of religious pluralism.

Halachah as religious law can be perverted into secular law, but, ideally, the two domains must be kept apart. For secular law takes no account of intention or relegates it to the background, while, in religion, the demands of spirit and piety are all important. In any case, the import and orientation of the *K'lat Yisroel* ideal is certain to be affected by developments in Israel, which cannot now be foreseen.

The negative implication of *K'lat Yisroel* is the refusal to read out of Jewish life those who differ from the majority in their interpretation of Judaism. A blurring of the lines of ideology within the Jewish community is the inevitable consequence of such a policy. There may not even be complete consistency within the Conservative movement, because of the need to reconcile the imperatives of progress with reverence for unity.

A case in point is the enfranchisement of women within congregational life. The first step was to institute *Bat Mitzvah* observances as part of the Sabbath services. The next step was to grant *aliyot* and other
honors to women, and to count them as part of a minyan. Once these steps have been accepted by the overwhelming majority of Conservative congregations, others, such as the ordination of women, might well be in order.

The gradational pace of change is itself part of the Conservative approach. In our endeavor to be faithful to the whole of our tradition, we need to shun the broad decisiveness of the ideologues.

ECUMENISM

If the rise of Israel is bound to affect the course of Halachah by changing the objective circumstances of Jewish life in Israel and by adding a fresh and triumphant note to our aggadot, the ecumenical movement is also likely to introduce new patterns of Jewish-Christian-Moslem relations. Like the State of Israel, the interfaith movement, involving Judaism, was a delayed reaction to the Holocaust.

It is important to recognize that the Halachah in regard to non-Jews was frozen in the form that it assumed at Yavneh at the end of the first century. Some general principles were enunciated—such as the Noachide laws, in all their ambiguities, the recognition that not all Gentiles are worshippers of "strange gods," etc. But, the relevance and application of these laws to Christians and, later, to Moslems, was left undetermined and was vitiated by the demands of apologetics. The times were not suitable for a positive evaluation.

In our day, the interfaith movement has already resulted in the breaking down of barriers in the field of learning and teaching. The old prohibition of "teaching Torah to Gentiles" is no longer taken seriously. In the field of gemilut hasadim there is bound to be increasing cooperation. Joint religious services to celebrate great national events are becoming the norm, rather than the exception, in American public life. What shall be the governing principles of such interfaith activities?

Other issues in this field have already moved to the forefront of our agenda. Can we continue to close our eyes to intermarriages and refuse to participate in their sacralization? Can we refuse to acknowledge the Jewishness in potentia of the child of a Jewish father and a Christian mother?

Must we regard intermarriage always as a loss, instead of as a potential gain? If the living faith of liberal Christians is close to our "sacred tradition," where is the line to be drawn? Has the time come to revive
the category of *yirai hashem*, the Fearers of the Lord, insofar as Christian spouses of Jews are concerned? What are the parameters of the obligation to welcome strangers into our religious fellowship in our day?

These and similar questions are bound to open up new areas for the different philosophies of Jewish law.

**SUMMATION**

In sum, Halachah is intimately related to the contemporary forms of wisdom and the unfolding vistas of personal and social ethics. Hence, our critical understanding of Bible and Talmud enters into our interpretation of the dynamics of Jewish law, as well as our philosophical conception of the nature of the divine thrust in history. Halachah must be responsive to the best ideals of every age. To be sure, “whatever needs not to be changed, needs not to be changed.” Advances should be made with due regard to contemporary sensibilities, to the lessons of history and to the visions of the future. In our age, the emergence of the State of Israel and of the interfaith movement present fresh challenges to the making of Jewish law.

**NOTES**

2. Philo interprets “the image of God” in man to be the capacity for freedom.
4. In this sense, the Midrash speaks of Torah as “the decayed fruit of the wisdom that is above” (*Genesis Rabbah* 17, 5, 44, 17).