

# When the Law is Petty

by: Rabbi Jeremy Rosen

*Halacha*, is often translated as Jewish Law. But that is inadequate and misleading. Nowadays we usually use the word law, as in, say, Roman Law, American Law or Civil Law to mean Jurisprudence. Halacha however is much more than this. It is the equivalent of the generic term "Torah." It incorporates teachings as well as laws. It includes ethics, personal morality, ideas and values, with method and ritual. It is a way of living, thinking and experiencing.

The Book of Esther is the only reference in the Bible, to the idea of laws in the modern sense. It talks about the *Datot* of the Jews as being different from the *Datei* of the King. This word "*Dat*" has been adopted in modern Hebrew as a word for religion. Which usually means a system of beliefs. A concept alien to Torah which is concerned with mitzvot – commands to help people behave and grow socially and spiritually.

To this day many Christians like to say that Judaism is a religion of law, whereas they have a religion of love. Forgetting of course that the Torah itself talks about God loving us and our loving God. Not to mention loving other human beings too. But then polemic is rarely if ever true. As if only Judaism has rules and laws. Christianity has laws, rules, customs and rituals too. All religions and societies do. But we can, I think, all agree that law is important. Even if the spirit matters as much. Sometimes more.

A recent book "Halakhah: The Rabbinic Idea of Law" by Chaim N Saiman, is a great introduction to the complexities, varieties, attitudes and range of Rabbinic law and lore. It explores the various aspects and functions of *Halacha*, both practical and theoretical. And by the way, notice the different spellings of the Hebrew word *Halacha* in English transliteration as between my version and his. And there are plenty of other options too. Which only underlines the difficulty of using and spelling words in translation and transliteration that can often confuse and mislead.

I have a good friend who combines charm and healthy scepticism, with deep knowledge of the intricacies of Jewish learning and, thanks to his background, familiarity with the foibles of ultra-Orthodoxy. He recently introduced me to several publications by Orthodox publishers that made me

wonder at the sheer lunacy of some modern-day exponents of Halacha. And I must stress that I am extremely devoted to Halacha and try my best to live every aspect of my life in conformity with it. But then comes the question. Where do you draw the line?

The greatness of *Halacha* is that if you study it, you can easily determine priorities and discern nuances. For example, *Halacha*, in a way, is highly relative. It puts life above everything else. You may transgress all the laws of the Torah to save a life. Except for murder, adultery and idolatry. In addition, built into *Halacha* is a certain degree of flexibility that includes both strict and lenient interpretations and decisions. Which implies that there are choices.

Both rabbis and lay people can resolve issues of behavior and morality differently according to circumstance and personal conditions. Which is why many traditional responsa often end with the exhortation to ask one's rabbi when faced with a problem. Or indeed as the compiler of the foremost book on Jewish Law, Yosef Caro urges us, to look into the sources and decide for oneself. There is no dispensation in the sense of saying a law does not apply. But rather there is an allowance for individual cases to ignore it temporarily.

There are some drawbacks with *Halacha*, indeed with any system. There is the *reductio ad absurdum*. Taking a perfectly understandable and logical law to the point where it borders on the ridiculous. For example, one can understand not ploughing one's field or reaping one's harvest and apply it to not mowing the lawn on Shabbat. Or not going into one's store houses on Shabbat and separating different qualities or categories of produce for market. It might then make sense to apply this to not separating bad food from good to set aside for some later date or use. In contrast to picking out the good food from the spoilt in the dining table.

But then to apply these rules to not combing one's hair for fear of reaping or taking the fish off the bone, as opposed to the bone of the fish, for fear of sorting, is taking it too far. Or eating matzah on Passover over a paper bag for fear that a crumb may perhaps fall and may actually then come into contact with liquid that perchance would turn it into *hametz*, leavened bread. It is not surprising that many Orthodox people have become neurotically obsessive over minor details of Jewish Law.

And there is always the danger of following the letter more than the spirit. Someone who even the Talmud calls a pious fool. And the inevitable misuse of power and authority. But then one can find any number of examples of taking

the law to extremes of technicalities and stupidity in any system. Or as Charles Dickens's Mr. Bumble said, "The Law is an ass"! And it is with great sadness that I have to say that many amongst us, have made an ass out of *Halacha*.

A dear friend of mine, well acquainted with the Haredi world and Jewish sources, but fortunately still endowed with a sense of proportion and common sense, introduced me recently to some publications on Halacha from the Haredi world. One is beautifully produced and illustrated manual concerning how to open tins, cartons, bottles, packets and containers on Shabbat without infringing any laws designed to make one remember in every action that Shabbat should be different to other days of the week.

The law prevents one from making containers on Shabbat. If you open, say, a can of peas, you thereby create a vessel that could be used for storage. So, what you have to do is to make a hole in the can first, so that after you have removed all or some of the contents it can't be used as a storage container. The illustration given in the book is of a large kitchen knife piercing the tin lid. Now imagine a child on Shabbat looking at this and going to get a kitchen knife as illustrated, to stab into the lid and potentially slipping and causing serious injury. Clearly there are major issues of life and injury that take priority over punctilious correctness.

Another book is concerned with visiting the sick in hospitals. Gives instructions as to what happens if you go into a bath room on Shabbat and an automatic light comes on. And worse, if you leave, the light will go off on Shabbat. Does it make any sense to stay inside that toilet until Shabbat is over?

Yet another deals with snow and whether you can walk in it this creates footprints. Or beware not to shake your snowy clothes when you come inside or brush down your icy beard in case you infringe the law against melting snow on Shabbat.

There is a Biblical law against eating insects. In principle and the law, one can only be expected to be concerned with what the naked eye can see. No need to carry microscopes around every time one wants to eat a salad. But nowadays books on *Halacha* exhort us to buy under lit fluorescent magnifying contraptions. The logic of where this will lead is that soon we will not be able to breathe the air unprotected because every breath one takes, in reality brings millions of microscopic creatures into our systems.

The Torah and its laws assert important fundamentals and ideas that are of benefit and sense in more ways than most people realize – both utilitarian and mystical. But all that taken without a sense of priority or common sense can impose ludicrous burdens that may lead people to wonder what kind of person they are designed to produce. Casuistry, sophistry that leads to a very constricted perspective. Perhaps that is what they want.

The trouble is that like many modern, popular manuals, these religious manuals give no indication of priority or proportion. You might say that it is up to individuals to find out for themselves. But if one does not, and only relies on them, then like any instruction manual you will get information to get the mechanism working without learning how best to take advantage of it.

Torah is indeed intended as a guide for living. But when our way of life is entirely guided by manuals, we lose all notion of common sense and priority. We do indeed make asses of ourselves. Because we obsess over details instead of taking halacha as a guide. Halacha then, instead of being a thing of beauty and inspiration, then might become a strait jacket. And as we all know there is a connection between a strait jacket and mental imbalance.